

**MEETING OF THE
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
WEDNESDAY, AUGUST 25, 2021 – 5:15 P.M.
VIA ELECTRONIC MEANS PURSUANT TO MINNESOTA STATUTES
SECTION 13D.021
AGENDA**

Please take notice that the Duluth Economic Development Authority will hold a public hearing by other electronic means pursuant to Minnesota Statutes Section 13D.021 on Wednesday, August 25, 2021, at 5:15 p.m. All persons interested may monitor and participate in the hearing by visiting: <http://dulutheda.org/live-meeting> promptly at 5:15 p.m. on Wednesday, August 25, 2021, and written comments may be submitted to DEDA in advance of the meeting via the DEDA's web site at <http://dulutheda.org/contact-us/> or via email at cfleege@duluthmn.gov, and DEDA will decide if the conveyance is advisable.

The regular meeting place of DEDA is the Duluth City Council Chambers at City Hall, 411 West First Street, in Duluth, Minnesota. At this time board members of DEDA do not intend to attend the meeting in person; due to continually evolving restrictions and guidance from state and federal officials and agencies, the board members of DEDA will attend the meeting remotely via telephone or other electronic means pursuant to Minnesota Statutes Section 13D.021.

1. CALL TO ORDER

2. PUBLIC TO ADDRESS THE COMMISSION

3. PUBLIC HEARINGS

4. APPROVAL OF MEETING MINUTES

- **MINUTES FROM JUNE 23, 2021 REGULAR MEETING**
- **MINUTES FROM JULY 12, 2021 SPECIAL MEETING**

**5. APPROVAL OF CASH TRANSACTIONS
JULY 1, 2021 TO JULY 31, 2021**

6. NEW BUSINESS

7. RESOLUTIONS FOR APPROVAL

RESOLUTION 21D-30: RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE LAND SALE AGREEMENT WITH SIMPLY TINY DEVELOPMENT, LLC RELATED TO THE REBUILD DULUTH PROGRAM.

RESOLUTION 21D-31: RESOLUTION AUTHORIZING A REDEVELOPMENT GRANT APPLICATION IN AN AMOUNT NOT EXCEED \$167,514 TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO PROPERTY LOCATED AT 521 WEST 2ND STREET AND COMMITTING A MATCH OF NOT LESS THAN FIFTY PERCENT OF THE AWARDED AMOUNT.

RESOLUTION 21D-33: RESOLUTION APPROVING A SIXTH AMENDMENT TO THE AGREEMENT WITH STAR NW LIMITED LIABILITY COMPANY FOR DEDA TO LEASE PROPERTY IN THE NORTHWEST IRON LOT FOR PUBLIC PARKING PURPOSES

RESOLUTION 21D-34: RESOLUTION AUTHORIZING A LICENSE AGREEMENT FOR BAYFRONT PROPERTY BETWEEN DEDA AND CITY OF DULUTH RELATED TO VEHICULAR PARKING AND BAYFRONT PARK RELATED PURPOSES

RESOLUTION 21D-35: RESOLUTION AUTHORIZING A SHORT TERM LEASE AGREEMENT WITH LAKE SUPERIOR HELICOPTERS LLC FOR USE OF THE MRO.

8. DISCUSSION

DIRECTORS REPORT

-NorthForce

-Northland Connection

-Northland SBDC-\$25K

-Entrypoint-\$25K

9. ADJOURN

Duluth Economic Development Authority

July 2021 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 7/01/21 -7/31/21 (as of 08/18/21)

G/L Date	Journal Number	Sub Ledg	Name	Net Amount	Description
FUND 860 - OPERATING FUND				Beginning Balance	\$ 2,640,680.41
07/01/21	2021-00000028	GL	Cost Allocation - DEDA	(33,333.33)	Cost Allocation - DEDA July
07/02/21	2021-00004437	GL	Reimburse City Contingent Account - Checks #38654 - 39006	(425.00)	Contingent Account
07/02/21	2021-00004444	RA	Pay Group O'Reilly LLC	450.20	Building Rent
07/06/21	2021-00004387	AP	Beauty Lawn Care Service	(75.00)	5907 Grand Ave Mowing 5/25/21
07/06/21	2021-00004387	AP	Ellie Ann Just	(35.00)	DEDA Meeting 6/23/2021
07/06/21	2021-00004387	AP	ChaQuana McEntyre	(35.00)	DEDA Meeting 6/23/2021
07/06/21	2021-00004387	AP	Derek Medved	(35.00)	DEDA Meeting 6/23/2021
07/06/21	2021-00004387	AP	Minnesota State Auditor	(3,298.00)	DEDA Auditing Services 2/17/21-5/25/2021
07/06/21	2021-00004387	AP	Northspan Group Inc	(15,000.00)	C21-860-112 Northland Connection 2021 Work Plan
07/06/21	2021-00004387	AP	Rozalind Randorf	(35.00)	DEDA Meeting 6/23/2021
07/06/21	2021-00004387	AP	Ricks Tree & Stump Removal	(290.00)	Stump Grinding - 301 S 58th Ave W
07/06/21	2021-00004387	AP	LHB Engineers & Architects	(163.50)	L30321 - Demolition of RR Bridge L8493 - Oneota St
07/06/21	2021-00004387	AP	Duluth News Tribune	(30.85)	DEDA Ad 6/11/2021
07/06/21	2021-00004387	AP	Duluth News Tribune	(51.41)	DEDA Ad 6-11/2021
07/06/21	2021-00004387	AP	Zack Filipovich	(35.00)	DEDA Meeting 6/23/2021
07/08/21	2021-00004567	RA	MBJ Development Corporation	637.50	Invoice #2021-00000115
07/13/21	2021-00004668	RA	MN State-MMB ACH	114,469.02	DEED Grants/Loans
07/15/21	2021-00004767	RA	Red Wagon Popcorn LLC	1,416.82	June 2021 rent and electrical usage
07/15/21	2021-00004767	RA	Passport Inc	3,841.29	Parking Ramps revenue
07/15/21	2021-00004771	GL	Reimburse City Contingent Account - Checks #38863 - 39061	(850.00)	
07/16/21	2021-00004796	RA	Interstate Parking	58,156.41	Parking Revenue
07/16/21	2021-00004796	RA	Benedictine Health System	279,262.50	IDB Fee Revenue
07/19/21	2021-00004745	AP	Duluth News Tribune	(52.56)	DEDA Ad 6/21/21
07/19/21	2021-00004745	AP	Duluth News Tribune	(61.70)	DEDA Ad 6/15/21
07/19/21	2021-00004745	AP	Duluth News Tribune	(47.99)	DEDA Ad 6/24/21
07/19/21	2021-00004745	AP	Duluth News Tribune	(25.14)	DEDA Ad 6/24/2021
07/19/21	2021-00004745	AP	Duluth News Tribune	(66.27)	DEDA Ad 6/24/2021
07/26/21	2021-00004922	AP	Duluth Airport Authority	(2,025.00)	Plowing 2/1 2/9 2/22
07/26/21	2021-00004922	AP	Duluth Lincoln Park1 LLC	(114,469.02)	Remediation of Roberts Home Furniture Site
07/26/21	2021-00005028	GL	JE to Allocate 2021 DEDA/1200 Fund Annual IT Maintenance Costs	(6,289.47)	Annual IT Costs
07/31/21	2021-00005173	GL	Investment Earnings for July	1,296.00	Investment Earnings for July
FUND 860 - OPERATING FUND				Ending Balance: 7-31-2021	2,923,480.91 TB
FUND 861 - DEBT SERVICE				Beginning Balance	1,050.90
07/08/21	2021-00004576	GL	Receipt 1st Half 2021 Tax Payment	1,632,926.56	Receipt 1st Half 2021 Tax Payment
07/27/21	2021-00005034	GL	Transfer TIF #22-Ramp Debt PMT for 1st half 2021 to Fund 505	(199,180.37)	Transfer TIF #22-Ramp Debt PMT for 1st half 2021 to Fund 505
07/27/21	2021-00005037	GL	Transfer Dist 23 TIF 2021 1st Half to Fund 264 Sec 108 Loan	(194.86)	Transfer Dist 23 TIF 2021 1st Half to Fund 264 Sec 108 Loan
07/31/21	2021-00005173	GL	Investment Earnings for July	430.00	Investment Earnings for July
FUND 861 - DEBT SERVICE				Ending Balance: 7-31-2021	1,435,032.23 TB
FUND 865 - CAPITAL PROJECTS				Beginning Balance	4,087,081.81
07/31/21	2021-00005173	GL	Investment Earnings for July	1,878.00	Investment Earnings for July
FUND 865 - CAPITAL PROJECTS				Ending Balance: 7-31-2021	4,088,959.81 TB

FUND 866 - MRO FACILITY**Beginning Balance 683,188.80**

07/06/21	2021-00004387	AP	Jamar Company	(7,725.00)	20 860 982 MRO Facility Maintenance
07/06/21	2021-00004387	AP	CenturyLink - Phoenix	(199.68)	Data Services
07/19/21	2021-00004745	AP	Duluth Public Utilities - Comfort Systems	(494.46)	4600 Stebner Rd 5/4/21-6/2/21 Gas
07/19/21	2021-00004745	AP	Duluth Public Utilities - Comfort Systems	(99.16)	4600 Stebner Rd 6/3/21-7/1/21 Gas
07/19/21	2021-00004745	AP	Duluth Public Utilities - Comfort Systems	(501.47)	4600 Stebner Rd 5/4/21-6/2/21 Water/Sewer
07/19/21	2021-00004745	AP	Duluth Public Utilities - Comfort Systems	(511.16)	4600 Stebner Rd 6/3/21-7/1/21 Water/Sewer
07/19/21	2021-00004745	AP	Duluth Public Utilities - Comfort Systems	(822.15)	335 W Superior St 5/28/21-6/29/21
07/26/21	2021-00005020	RA	AeroFlite, Inc	3,000.00	Invoice #2021-00000181
07/31/21	2021-00005173	GL	Investment Earnings for July	310.00	Investment Earnings for July

FUND 866 - MRO FACILITY**Ending Balance: 7-31-2021 676,145.72****TB****FUND 867 - STOREFRONT LOANS****Beginning Balance 261,176.95**

07/20/21	2021-00004869	RA	Alerus Financial	1,037.10	Old City Hall Payment
07/31/21	2021-00005173	GL	Investment Earnings for July	120.00	Investment Earnings for July

FUND 867 - STOREFRONT LOANS**Ending Balance: 7-31-2021 262,334.05****TB**

RESOLUTION 21D-30

RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE LAND SALE AGREEMENT WITH SIMPLY TINY DEVELOPMENT, LLC RELATED TO THE REBUILD DULUTH PROGRAM.

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that the proper DEDA officials are hereby authorized to enter into a First Amendment to the Land Sale Agreement (DEDA Contract No. 20-860-965), substantially in the form attached hereto, with Simply Tiny Development, LLC.

Approved by the Duluth Economic Development Authority this 25th day of August 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The resolution authorizes a First Amendment to the Land Sale Agreement with Simply Tiny Development, LLC (Buyer) for conveyance of property related to the Rebuild Duluth Program. The Buyer applied to acquire a DEDA- owned vacant lot legally described as N 30 FT OF S 75 FT OF LOTS 1 AND 2, BLOCK 014, NORTONS DIVISION OF DULUTH, upon which to construct a housing unit for an estimated total construction cost of \$168,429.46. On April 22, 2020, DEDA and the Buyer entered into a Land Sale Agreement pursuant to which DEDA agreed to convey the Property to Buyer. Due to schedule delays and rising labor and material costs associated with the COVID-19 pandemic, the Developer has requested to extend the project completion date to allow additional time for financing. The Amendment authorizes an extended construction completion date from December 31, 2021 to December 31, 2022 to accommodate construction commencing in the spring of 2022.

**REBUILD DULUTH
LAND SALE AGREEMENT
SIMPLY TINY DEVELOPMENT LLC
FIRST AMENDMENT**

THIS FIRST AMENDMENT TO LAND SALE AGREEMENT (this “First Amendment”) is made as of the last date of signature acknowledgement below by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, a public body, corporate and politic and a political subdivision under Minnesota Statutes Chapter 469, hereinafter referred to as "DEDA," and Simply Tiny Development LLC, a Minnesota Limited Liability Company, hereinafter referred to as "Buyer".

RECITALS:

- A. Pursuant to DEDA’s Rebuild Duluth: Program (the “Program”), Buyer applied to acquire a vacant lot in St. Louis County, Minnesota, legally described as N 30 FT OF S 75 FT OF LOTS 1 AND 2, Block 014, NORTONS DIVISION OF DULUTH (the “Property”), upon which Buyer committed to construct a Housing Unit and an Accessory Dwelling Unit (the “Project”) pursuant to the Program for an estimated total construction cost of \$168,429.46, as set forth in the Buyer’s application on file in the DEDA office (the “Application”).
- B. On April 22, 2020, DEDA and Buyer entered into a Land Sale Agreement bearing DEDA Contract No. 20 0860 965 (the “Agreement”) pursuant to which DEDA agreed to convey the Property to Buyer for construction the Project on the Property under the terms and conditions set forth in the Agreement.
- C. Buyer needs to eliminate the accessory dwelling unit (ADU) from the Project (the “Amended Project”)and DEDA is willing to amend the Agreement under the terms and conditions below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the receipt and sufficiency of which are hereby acknowledged,

the parties hereto agree as follows:

1. The Second Whereas clause is hereby amended to read:

WHEREAS, Buyer applied to acquire a vacant lot upon which to construct the “Amended Project”) for an estimated total construction cost of \$199,900.00 ~~\$250,451.44 as set forth in the Buyer’s application on file in the DEDA office (the “Application”); and~~

2. Section 2, Use of the Property, is hereby amended as follows:

The intended use for the Property is the construction of the Amended Project pursuant to the ~~Application~~ and in accordance with the requirements of the Program and the Plans and Specifications (defined below).

3.. Section 13, Deadlines, is hereby amended as follows:

Except as extended by DEDA for good cause shown, within One year from the Closing Date, Buyer shall have devoted the Property to its intended use by commencing construction on the Project in accordance with the approved Plans and Specifications as evidenced by the issuance of a building permit and the filing of an affidavit with the Executive Director, executed by Buyer, to which are attached pictures of commenced construction.

On or before December 31, 2022 ~~December 31, 2024~~, Buyer shall have devoted the Property to its intended use by completing construction on the Amended Project as evidenced by (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications; and (ii) the issuance of the Certificate of Occupancy and shall have provided evidence thereof to the Executive Director. If Buyer fails to meet either the one-year deadline or the December 31, 2022 ~~December 31, 2024~~ deadline as stated above, DEDA may cancel the sale and title to the Property shall revert to DEDA. Buyer may transfer title to the Property to a third party within one year of the Closing Date without first obtaining the written consent of DEDA if Buyer has completed construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications, and a Certificate of Occupancy has been issued as set forth above.

4. Buyer agrees to pay all costs, including but not limited to recording fees, associated with the recording of this First Amendment in the office of the St. Louis County Recorder.
5. Except as provided in this First Amendment, all terms and conditions of the Agreement shall remain in force and effect.
6. This First Amendment may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first below shown.

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

By _____
Its President

SIMPLY TINY DEVELOPMENT LLC

By _____

Its _____

STATE OF MINNESOTA)

) ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____, the _____ of Simply Tiny Development, a Minnesota Limited Liability Company, on behalf of the Company.

Notary Public

This Instrument Drafted By:
Robert Asleson
Assistant City Attorney
440 City Hall
Duluth, Minnesota 55802
(218) 730-5490

RESOLUTION 21D-31

RESOLUTION AUTHORIZING A REDEVELOPMENT GRANT APPLICATION IN AN AMOUNT NOT EXCEED \$167,514 TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO PROPERTY LOCATED AT 521 WEST 2ND STREET AND COMMITTING A MATCH OF NOT LESS THAN FIFTY PERCENT OF THE AWARDED AMOUNT.

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that DEDA act as the legal sponsor, subject to the receipt of legally required approvals, for the project contained in the Redevelopment Grant Program Application for a project redeveloping a residential structure, resulting in 32 apartment units, not less than four of which will be rented at rates affordable to people earning 60% or less of the Area Median Income in an amount not to exceed \$167,514 to be submitted on September 1, 2021, and that the President and Secretary of DEDA are hereby authorized to apply to the Department of Employment and Economic Development (DEED) for funding of this project on behalf of DEDA.

BE IT FURTHER RESOLVED, that DEDA has the legal authority to apply for financial assistance and the institutional, managerial and financial capability to ensure adequate project administration.

BE IT FURTHER RESOLVED, that the sources and amounts of DEDA match identified in the application in the amount of not less than fifty (50) percent of the grant award are committed to the project identified, subject to the foregoing.

BE IT FURTHER RESOLVED, that if the project identified in the application fails to substantially provide the public benefits listed in the application within five years from the date of the grant award, DEDA may be required to repay 100 percent of the grant awarded per Minn. Stat. § 116J.575 Subd. 4;

BE IT FURTHER RESOLVED, that DEDA has not violated any Federal, State or local laws pertaining to fraud, bribery, graft, kick-back, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED, that upon approval of its application by the state, DEDA may enter into an agreement with the State of Minnesota for the above referenced project, and that DEDA certifies that it will comply with all applicable laws and regulations as stated in all contract agreements so entered into.

BE IT FURTHER RESOLVED, that the president and secretary are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant subject to the foregoing.

Approved by the Duluth Economic Development Authority this 25th day of August 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: New Burnham LLC (Developer) intends to work with the current property owner, Jail Holding LLC to redevelop the former St. Louis County Jail site at 521 West 2nd Street, on which it will redevelop into a 32-unit apartment building. The Developer has agreed to lease at least four of the units at rates that are at or below 60% of Area Median Income.

The purpose of this resolution is to authorize DEDA to submit a Minnesota DEED Redevelopment Grant application to assist the Developer with costs associated with building rehabilitation, including demolition of the non-historic annex portion of the structure and environmental abatement. The Developer has secured initial approval of State and Federal Historic Tax Credits to assist with redevelopment.

The DEED Redevelopment Grant provides a grant award for up to 50% of the estimated total cost of the redevelopment work and requires a local match of not less than 50% of the total costs. This resolution also commits the DEDA to support the project through the provision of the local share, subject to the approvals required from the City Council, and to potentially repay the amount of the state grant in the event that the project should fail to meet its objectives.

RESOLUTION 21D-33

RESOLUTION APPROVING A SIXTH AMENDMENT TO THE AGREEMENT WITH STAR NW LIMITED LIABILITY COMPANY FOR DEDA TO LEASE PROPERTY IN THE NORTHWEST IRON LOT FOR PUBLIC PARKING PURPOSES

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that the proper DEDA officials are hereby authorized to enter into a sixth amendment, substantially in the form of that attached hereto, to the agreement with Star NW LLC, to lease the portion of the Northwest Iron Lot owned by Star NW LLC for public parking purposes, extending the term of the agreement and modifying terms for payments.

Approved by the Duluth Economic Development Authority this 25th day of August, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this Resolution is to approve an extension to the lease between DEDA and Star NW LLC for the portion of the Northwest Iron Lot owned by Star NW LLC in Canal Park. This amendment continues DEDA’s management of the property for public parking, and clarifies the process for payments between the parties.

**CANAL PARK PARKING AGREEMENT
NORTHWEST IRON LOT
SIXTH AMENDMENT**

THIS SIXTH AMENDMENT, entered into this _____ day of _____, 2021, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority existing under the laws of the State of Minnesota, hereinafter referred to as "DEDA," and STAR NW, LLC, a limited liability company under the laws of the State of Minnesota, hereinafter referred to as "Owner.

WHEREAS, on March 14, 2011, DEDA and ETOR Properties Limited Liability Partnership ("ETOR") entered into an agreement which provided for DEDA to lease a portion of property generally known as the Northwest Iron Lot (the "Leased Premises") from ETOR for the purpose of providing public parking in the Canal Park area; and

WHEREAS, since execution of the original agreement, the DEDA and ETOR have entered into five amendments extending the term of said agreement through March 31, 2021, which agreement and amendments are hereinafter referred to as the "Agreement"; and

WHEREAS, ETOR has conveyed the Leased Premises described in the Agreement to Owner, thereby rendering Owner as the lessor of the Leased Premises leased to DEDA; and

WHEREAS, DEDA and Owner desire to further amend the Agreement in order to extend the term of the Agreement on a month-to-month basis, effective as of March 31, 2021.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The term of the Agreement is hereby extended on a month-to-month basis, effective as of March 31, 2021 until terminated as hereinafter provided for.

2. This Agreement may be terminated by either party without cause by giving Ninety (90) days advance notice to the other party as provided for the Agreement. In the event of termination pursuant to this Paragraph and if expenses for the operating year have exceeded operating income under the Agreement for the current operating year, the parties agree that the any expenses in excess of income shall be split between

the parties as provided for in the Agreement and the party which has paid expenses in excess of its share thereof shall be reimbursed by the other party.

3. Paragraph 5 of the Agreement is hereby amended by the addition of the following language at the end of said Paragraph:

Notwithstanding the foregoing, effective as of January 1, 2022, payments of Net Income/Loss shall be made on a monthly basis as hereinafter described.

Commencing on November 1, 2021 and annually thereafter each November 1, the DEDA Executive Director (the "Director") shall prepare and transmit to Owner an estimate of monthly Net Income/Loss projected for the following year.

Thereafter, commencing on January 1, 2022 and monthly thereafter, DEDA and Owner payments to one another shall be made in accordance with the following terms:

1. If projected net income for the subject year is projected to exceed expenses for that year, DEDA shall pay to Owner an amount equal to 1/12th of 65% of said excess income; or
2. If projected expenses for the subject year are projected to exceed net income for that year, Owner shall pay to DEDA 1/12th of 35% of said excess expenses;
3. By January 30th of the succeeding year, the Director shall cause to be prepared and sent to Owner an accounting of actual net income and expenses for the prior year and if actual net income for the subject year exceeded expenses for that year, DEDA shall pay to Owner an amount equal to 65% of said excess income, but if actual expenses for the subject year exceeded net income for that year, Owner shall pay to DEDA 35% said excess expenses.

4. Except as provided for in this Sixth Amendment, all terms and provisions of the Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the parties hereto have signed this Fourth Amendment as of the day and year first above written.

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

STAR NW LLC.

By _____
Its President

By _____
Its _____

By _____
Its Secretary

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RESOLUTION 21D-34

**RESOLUTION AUTHORIZING A LICENSE AGREEMENT FOR BAYFRONT
PROPERTY BETWEEN DEDA AND CITY OF DULUTH RELATED TO
VEHICULAR PARKING AND BAYFRONT PARK RELATED PURPOSES**

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into a License Agreement for the DEDA parking lot property adjacent to Bayfront Festival Park, a copy of which is attached hereto as Exhibit A, with the City of Duluth for parking and other uses consistent with activities typically held at and associated with Bayfront Festival Park at no cost to the city.

Approved by the Duluth Economic Development Authority this 25th day of August, 2021.

Attest:

Executive Director

STATEMENT OF PURPOSE:

The purpose of this resolution is to authorize a license agreement for use of the DEDA parking lot property adjacent to Bayfront Festival Park by the City of Duluth. The license agreement between DEDA and the City will be authorized through May 31, 2024 or until the property conveyance authorized by DEDA Resolution 19D-24 can be completed. The conveyance of the property from DEDA to the City is still intended to proceed, but is pending due to continued evaluation of title issues on the DEDA property.

The permitted uses for the DEDA property are parking and other uses compatible with Bayfront Festival Park. A graphic depicting the property is included as part of the License Agreement.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is entered into by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created and existing under the laws of the State of Minnesota, (“DEDA”), and the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota, (“City”).

The parties acknowledge the following:

A. The City owns certain property located in the Bayfront area of the City of Duluth known as Bayfront Festival Park upon which various festivals and activities occur (“Bayfront Festival Park”).

B. DEDA owns certain property located in the Bayfront area of the City of Duluth indicated as DEDA Parking Lot B (the “DEDA Lot”) and certain property adjacent to the DEDA Lot (the “Adjoining DEDA Property”), as outlined in yellow and red, respectively, on the attached Exhibit A.

C. DEDA and the City desire to enter into this License Agreement to allow the City to use or permit others to use the DEDA Lot for vehicular parking only and to allow the City use of the Adjoining DEDA Property for Bayfront Festival Park-related purposes.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. THE LICENSE. Subject to the terms and conditions set forth herein, DEDA grants to the City an exclusive license for use, during the term set forth below, of the DEDA Lot and the Adjoining DEDA Property (collectively, the “Licensed Premises”).

2. USE OF THE LICENSED PREMISES. The DEDA Lot shall be used for the purpose of vehicular parking. Notwithstanding the above, in addition to the use of the DEDA Lot for vehicular parking, at the sole discretion and upon the prior written approval of the Executive Director, the City may use the DEDA Lot for other approved uses. The Adjoining DEDA Property shall be used solely for purposes consistent with the use of the remainder of Bayfront Festival Park.

3. THIRD PARTY AGREEMENTS. If the City enters into third party agreements for vehicular parking or other approved uses with respect to the DEDA Lot B or for purposes consistent with the use of the remainder of Bayfront Festival Park with respect to the Adjoining DEDA Property, such third party agreements shall require that the third party indemnify DEDA as described in Section 10 below and name DEDA as an additional insured on its commercial general liability insurance and, if appropriate, its automobile insurance policies, and, unless otherwise agreed to in writing by the

Executive Director, shall further require insurance limits of not less than \$1.5 million and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance or such increased liability limits as set forth in Minnesota Statutes Section 466.04. An executed copy of each agreement, along with evidence of insurance, shall be provided to the Executive Director prior to each such third party use of the DEDA Lot or the Adjoining DED Property.

4. TERM OF THE AGREEMENT. Notwithstanding the date of execution of this Agreement, this Agreement shall be deemed to commence on June 1, 2021, and shall continue through May 31, 2024, or until such time as the Licensed Premises are conveyed to the City, whichever is earlier.

5. LICENSE FEE. The City shall have the use of the Licensed Premises for no cost except as herein specifically provided for.

6. DEDA WARRANTY. DEDA makes no representation that the Licensed Premises are suitable for any specific uses and the City accepts the Licensed Premises in an "as is" condition without representations or warranties of any kind. The operation of parking and all other activities on the Licensed Premises shall be at the sole risk of the City. DEDA shall not be obligated to make any alterations or improvements on or to the Licensed Premises.

7. MAINTENANCE. The City agrees to exercise reasonable care in the maintenance of the Licensed Premises during the term of this Agreement. The City shall not make any alterations or improvements to the Licensed Premises without the prior written consent of the Executive Director and upon the terms and conditions which may be imposed by the Executive Director in his/her sole discretion. The City shall plow snow from the Licensed Premises and provide for litter clean up and trash removal on the Licensed Premises, in the quality and quantity as the City performs these duties to Bayfront Festival Park. The City shall surrender the Licensed Premises at the termination of this Agreement in the condition found prior to the commencement of this Agreement at no expense to DEDA, reasonable wear and tear excepted. The City agrees to pay upon demand any damage done to the Licensed Premises by the City, its employees, servants, agents, contractors, invitees and licensees during the term of this Agreement.

8. UTILITIES. The City shall be responsible for the cost of all utilities to the Licensed Premises.

9. ACCESS. DEDA expressly reserves the right to the unlimited access to the Licensed Premises for authorized personnel at any time while this Agreement is in force for the purposes of inspection and ensuring that the provisions of this Agreement are complied with by the City.

10. HOLD HARMLESS. DEDA shall not in any way be liable or responsible for any accident or damage that may occur arising out of or as a result of the City's use

of the Licensed Premises during the term of this Agreement. The City agrees to defend, indemnify, and save harmless DEDA, and its officers, agents, servants, and employees from any and all liens, judgments, claims including those for contribution and indemnity, suits, demands, liability, costs, damages, and expenses asserted by any person or persons including agents or employees of DEDA or the City by reason of death or injury to person or persons or the loss or damage to property or any cause of action arising out of or in connection with or relating to the City's use or occupancy of the Licensed Premises except those claims, causes of action, liabilities or damages relating to or arising solely from or based solely upon the negligence, willful acts or omissions of DEDA and its officers, agents, servants or employees. On ten days' written notice from DEDA, the City will appear and defend all lawsuits against DEDA growing out of such injuries or damages.

11. INSURANCE. During the term of this Agreement, the City, at its own cost and expense, shall self-insure comprehensive liability and property damage insurance applicable to the Licensed Premises and the City's employees, servants, agents, contractors, invitees and licensees, sufficient to protect the interests of DEDA with a combined single limit of at least \$1,500,000; and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance. DEDA shall be considered an additional insured.

12. INDEPENDENT CONTRACTOR. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as constituting the City as an agent, representative, or employee of DEDA for any purpose or in any manner whatsoever. The City and its employees shall not be considered employees of DEDA and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of the City's employees or agents while so engaged, and any and all claims whatsoever on behalf of the City's employees and agents arising out of employment shall in no way be the responsibility of DEDA. The City's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from DEDA, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability or severance pay, and PERA.

13. ASSIGNMENT. The City shall not in any way assign or transfer its rights or interests under this Agreement or subcontract with any other party without the prior written consent of the Executive Director. Notwithstanding the above, DEDA consents to the DECC undertaking some or all of the City's rights and interests hereunder.

14. LAWS, RULES AND REGULATIONS. During the term of this Agreement, the City, agrees to operate the Licensed Premises and all activities conducted on the Licensed Premises in strict compliance with the United States Constitution and with the laws, rules, and regulations of the United States, State of Minnesota, St. Louis County, City of Duluth, and DEDA, including, but not limited to, all laws, rules, and regulations relating to accessibility standards under the Americans with

Disabilities Act. The City shall not unlawfully discriminate and shall comply with all applicable federal and state laws regarding non-discrimination. The City agrees to procure, at the City's expense, all licenses and permits necessary for carrying out the provisions of this Agreement.

15. WAIVER. The waiver by DEDA or the City of any breach of any term, covenant, or condition herein contained, shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant, or condition herein contained.

16. NO THIRD PARTY RIGHTS. This Agreement is to be construed and understood solely as an agreement between the parties hereto and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that they are a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between the parties hereto, may be waived at any time by mutual agreement between the parties hereto.

17. DEFAULT. If the City fails in keeping and performing any term or condition of this Agreement and such a default continues for thirty (30) days after DEDA has given written notice to the City of said default, or, in the event that such default shall be incapable of cure during said thirty-day period, shall have failed to commence to cure said default within thirty (30) days of the date of said notice and to diligently pursue the same to completion, DEDA may terminate this Agreement by written notice to the City setting forth the date of termination. In such event, DEDA may seek and be entitled to monetary damages from the City, may seek and be entitled to injunctive and declaratory relief, and may seek other legal or equitable relief.

18. NOTICES. Notices shall be sufficient if sent by regular United States mail, postage prepaid, addressed to DEDA, 418 City Hall, 411 West First Street, Duluth, Minnesota 55802, ATTN: Executive Director; and addressed to City of Duluth, 418 City Hall, 411 West First Street, Duluth, MN 55802, ATTN: Chief Administrative Officer or to such other persons or addresses as the parties may designate to each other in writing from time to time.

19. CAPITAL IMPROVEMENTS. The City shall not make any capital improvements to the Licensed Premises without the prior written consent of the Executive Director and upon the terms and conditions which may be imposed by the Executive Director in his/her sole discretion. The City shall be responsible for securing all necessary permits and approvals required by the City and all other regulatory agencies having jurisdictional authority over any of the work to be performed.

Prior to any work being performed, the City shall provide to the Executive Director for written approval complete contract drawings and specifications on all work to occur on the Licensed Premises. All such work shall conform to all applicable regulations, building codes and health standards and shall be done by competent contractors in the time and manner approved by the Executive Director. The City shall require all contractors to obtain construction bonds as well as public liability and

property insurance in such amounts that will protect DEDA's interest in the Licensed Premises, and DEDA shall be named as an additional insured on all such insurance policies. The City shall pay for all costs in connection with improvements to the Licensed Premises including but not limited to permit fees, engineering fees and construction costs.

20. COMPLIANCE WITH AGREEMENT. The rights of the City to use the Licensed Premises shall continue only so long as all of the undertakings, provisions, covenants, and conditions herein contained are complied with promptly by the City.

21. APPLICABLE LAW. This Agreement, together with all of its 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 of Minnesota.

22. AMENDMENTS. Any amendments to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

23. AUTHORITY TO EXECUTE AGREEMENT. The parties represent to each other that the execution of this Agreement has been duly and fully authorized by their governing bodies or boards, that the officers of the parties who executed this Agreement on their behalf are fully authorized to do so, and that this Agreement when thus executed by said officers of said parties on their behalf will constitute and be the binding obligation and agreement of the parties in accordance with the terms and conditions hereof.

24. ENTIRE AGREEMENT. This Agreement, including Exhibit A, constitutes the entire Agreement between the parties and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter hereof.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties have set their hands the day and date first shown below.

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

CITY OF DULUTH

By: _____
Its President

By: _____
Its Mayor

Date: _____

Date: _____

By: _____
Its Secretary

Attest: _____
City Clerk

Date: _____

Date: _____

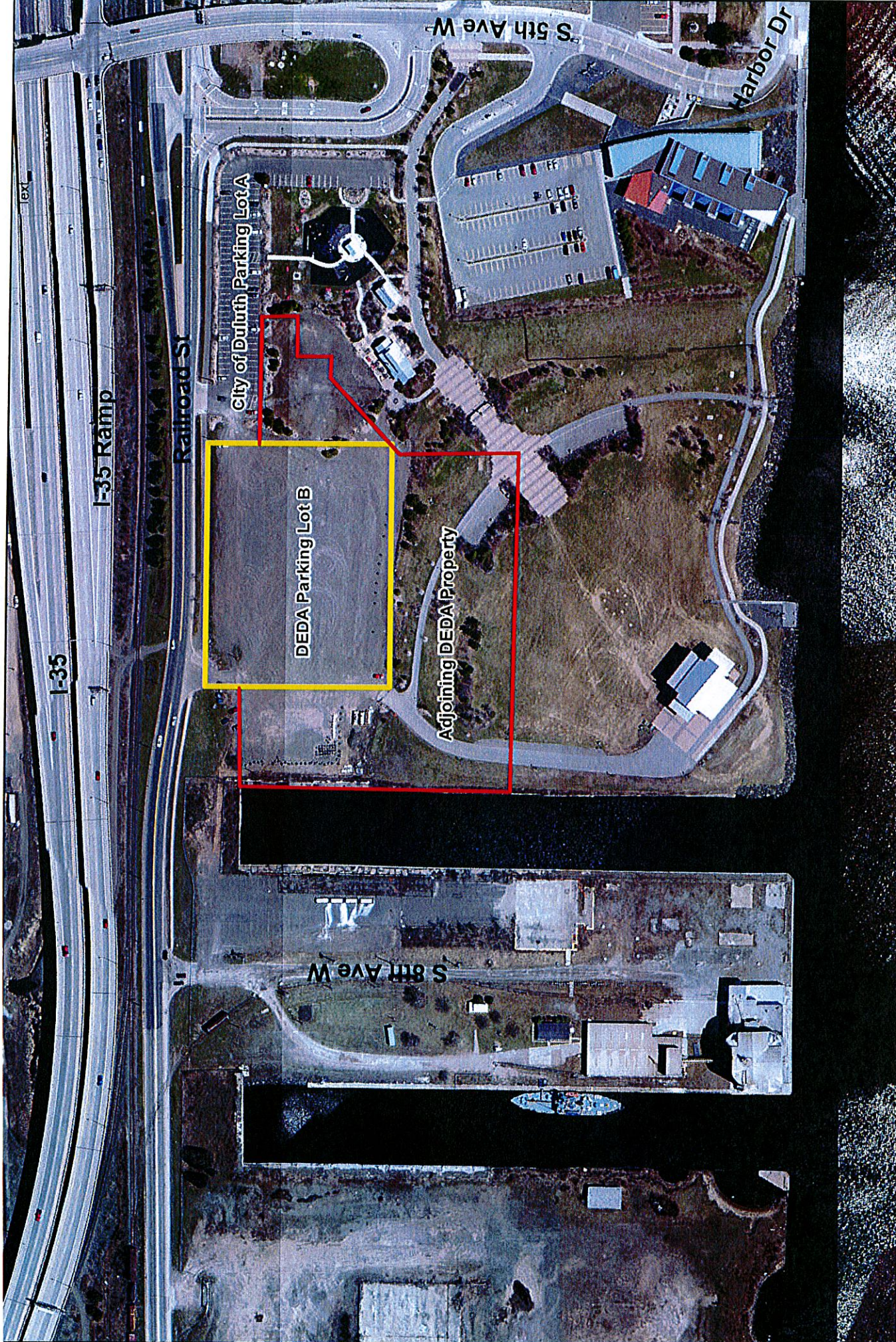
Countersigned:

City Auditor

Date: _____

Approved as to form:

City Attorney



1:2,400
1 inch = 200 feet
0 100 200 300 Feet
Photo Date: May 2013
Print Date: 6/8/2015
Prepared By: The City of Duluth GIS Office

City of Duluth Bayfront Park Site Map

EXHIBIT A

RESOLUTION 21D-35

RESOLUTION AUTHORIZING A SHORT TERM LEASE AGREEMENT WITH LAKE SUPERIOR HELICOPTERS LLC FOR USE OF THE MRO.

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into a Short Term Lease Agreement, substantially in the form of that attached hereto as Exhibit A, with Lake Superior Helicopter LLC, leasing a portion of the MRO hanger facility to Lake Superior Helicopter for the maintenance and repair of helicopters and general aviation aircraft, including office space described in Exhibit B, at the rate of \$1,795.73 per month, payable to Fund 866.

Approved by the Duluth Economic Development Authority this 25th day of August, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the execution of a Short-Term Lease Agreement with Lake Superior Helicopter LLC for the use of approximately 2,680 square feet of hanger space and 1,644 square feet of office space in the MRO building for use in the maintenance and repair of helicopters and general aviation aircraft.

Lake Superior Helicopters is seeking certification from the Federal Aviation Administration (FAA) to perform maintenance and repair of helicopters and general aviation aircraft and need a specific sterile area to perform avionics repair. The MRO building has a space suitable for such activities and is immediately available.

The initial term of this agreement will begin September 1st, 2021 and shall be extended on a month-to-month basis. The amount of the rent to be received by DEDA will be \$1,795.73 per month.

SPACE LEASE AGREEMENT

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

MRO FACILITY

LAKE SUPERIOR HELICOPTER

THIS LEASE AGREEMENT, entered on the ____ day of _____, 2021, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority under Minnesota Statutes (1989) Chapter 469, hereinafter referred to as "DEDA", and LAKE SUPERIOR HELICOPTER a corporation created and existing under the laws of the State of Minnesota, hereinafter referred to as "Lessee".

WHEREAS, DEDA is the owner of a MRO designed as a heavy aircraft maintenance facility located on the hereinafter-described "Property" at the Duluth International Airport ("DIAP"); and

WHEREAS, said facility consists of 189,000 square feet of hanger space, office space, shop space and support space, hereinafter referred to as the "MRO"; and

WHEREAS, Lessee is in need of approximately 2,800 square feet of indoor hanger and sterile avionics space in the MRO suitable for the storage, maintenance and repair of helicopters and aircraft, whether owned by Lessee or by third parties, and 1,644 square feet of office space in support to said activities; and

WHEREAS, the design and location of the MRO is suitable for Lessee's purposes but the structure is larger than is needed or useable at this time by Lessee; and

WHEREAS, in recognition of DEDA's contingent lease with another party, Lessee has agreed to vacate the MRO with reasonable notification; and

WHEREAS, both DEDA and Lessee believe that it will be in the best interests of DEDA, of Lessee and of the Duluth Airport Authority as operator of the DIAP and of the DIAP itself, as well as the rest of the community for DEDA to lease a portion of the MRO and the Property to Lessee for the purposes set forth above.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the parties covenant and agree for themselves and their successors and assigns as follows:

ARTICLE I
DEFINITIONS

For the purposes of this Agreement, the following terms shall have the meanings hereinafter ascribed to them unless a different meaning clearly appears from the context;

- A. City: shall mean the City of Duluth, Minnesota.
- B. Building Systems: shall mean Standard Building and Mechanical Systems consisting of the electrical system including 400 Hz system, plumbing, heating and air conditioning systems, potable water and wastewater systems, pit ventilation system and pit utilities, wet sprinkler system, hangar doors, structural integrity of interior and exterior load-bearing walls, the roof, footings and foundations systems serving the Buildings and located on the Leased Property and painting of the exterior surfaces of the Buildings. Building Systems shall also include parking lots and aprons but shall not include the reverse-osmosis system or the de-fueling system.
- C. DEDA: shall mean the Duluth Economic Development Authority.
- D. DEDA Equipment: shall mean that DEDA-owned equipment located in the MRO or on the Leased Premises identified and described on Exhibit A attached hereto and made a part hereof.
- E. Director: shall mean the Executive Director of DEDA or the person designated to act on behalf of the Director with regard to this Agreement
- F. Leased Premises: shall mean those portions of the MRO described and depicted on Exhibit B attached hereto and made a part hereof consisting of approximately 2,800 square feet of the hanger portion of the MRO, and the following numbered spaces in the MRO as depicted on Exhibit B totaling 1,644 square feet: 90 Square feet of Space 101; Spaces 102 through 106; Space 114; Space 116; Space 179 ; and Space 180.
- G. MRO: shall mean that MRO Building located north of Runway 09-27 and west of Runway 03-21 on the DIAP consisting of 189,000 square feet of hanger space, office space, shop space and support space originally designed and construct for use as a heavy maintenance base for commercial aircraft.
- H. Property: shall mean that property in St. Louis County, Minnesota legally described on Exhibit C, attached hereto and made a part hereof.

ARTICLE II
LEASED PREMISES

A. Generally

Subject to the terms and conditions hereinafter set forth, DEDA hereby grants and leases to Lessee, for the Term of this Lease Agreement as hereinafter set forth, the Leased Premises as hereinafter provided, for the storage and general maintenance of its light aircraft, whether owned by Lessee or by third parties, and for office space in support to said storage and maintenance activities, all in the ordinary course of its business, conforming in all ways to applicable laws, rules and regulations. The use of the Leased Premises shall not include the storage of fuel or of aircraft containing fuel. During the Term of this Agreement as hereinafter set forth, Lessee shall have use of the Leased Premises for the purposes herein set forth, subject to the terms and conditions of this Lease Agreement and, unless authorized by this Lease Agreement, DEDA will take no action which will prevent Lessee from the quiet and peaceable possession thereof. By entering into this Lease Agreement, DEDA is making no warranty or representation, either expressed or implied, as to the merchantability or fitness for any particular use of the Leased Premises or other representation or warranty, express or implied, with respect to the condition of the Leased Premises except as explicitly set forth herein.

B. Exception-DEDA Equipment

The parties hereby acknowledge that DEDA is the owner of the DEDA Equipment which is presently stored in the MRO but outside of the Leased Premises. Lessee hereby agrees that Lessee shall have no right to use, move or to otherwise have any interaction with the DEDA Equipment or any portion thereof in conjunction with the permitted uses of the Leased Premises. Lessee agrees that, except as hereinafter provided for, Lessee will continue to allow the DEDA Equipment to be stored in the MRO in a location remote and reasonably discrete from the Leased Premises. Lessee further agrees that it will be responsible for any damage or destruction thereof or for any injury to or death of any person or persons or damage to or destruction of property arising out of the storage of the DEDA Equipment in the MRO in the same manner as provided for in Article VIII below unless Lessee can establish by competent evidence that such damage or destruction was caused by DEDA or by third parties.

C. Access to Airport Facilities

In addition to the foregoing, DEDA grants to Lessee the non-exclusive use of that access taxiway and ramp to the Southeast of MRO, which taxiway and ramp are shown on Exhibit C attached hereto and made a part hereof.

D. Other Leases for MRO

Nothing herein shall be deemed to prevent DEDA from leasing any portion of the MRO not included in the Leased Premises to a third party or from granting non-exclusive access to any portion of the Property outside of the Leased Premises to a third party. In the event that DEDA so leases such premises to a third party, Lessee shall be solely responsible for the maintenance, protection and security of the Leased Premises and for any property of Lessee located on the Leased Premises and Lessee agrees that it will waive any claim of any kind arising out of such third party's use or occupancy of the said portion of the MRO and hold DEDA harmless therefore.

ARTICLE III
LEASE PAYMENTS

A. Rent

1. Rent on December 1, 2020

On December 1, 2020, Lessee shall pay to DEDA rent in the amount of One Thousand Dollars (\$1,0000) as rent for the period from December 1, 2020 through December 31, 2020. Such rents shall be "net" of all costs, charges or other amounts owed by Lessee to DEDA and shall not be subject to any delay, reduction, deduction, credit or set-off of any kind whatsoever except as hereinafter specifically authorized.

2. Rent Commencing on September 1, 2021

Commencing on September 1, 2021 and thereafter on the first day of each month during the term of this Agreement, Lessee shall pay to DEDA rent in the amount of One Thousand Dollars (\$1,795.73) per month or any portion of a month. Such rents shall be "net" of all costs, charges or other amounts owed by Lessee to DEDA and shall not be subject to any delay, reduction, deduction, credit or set-off of any kind whatsoever except as hereinafter specifically authorized.

B. Miscellaneous Payments and Services

1. Maintenance Services

Lessee hereby agrees to maintain the Leased Premises and any other facilities thereon in a neat, clean, orderly and, where applicable, sanitary condition consistent with the condition of the Leased Premises presented to Lessee upon commencement of the Lease Term. In the event that Lessee fails to so maintain the Leased Premises, DEDA may itself maintain or cause to be maintained repaired or replaced, as the Director shall determine in the exercise of his or her discretion, those portions of the Leased Premises not so kept, and Lessee agrees to reimburse DEDA for the direct and indirect costs incurred by DEDA for the

performance of said work immediately on being billed therefore by DEDA. DEDA agrees that any maintenance of the MRO not assumed by Lessee pursuant to this Agreement (other than any needed Building Systems repairs that might arise during the Lease Term, which are the responsibility of DEDA) and the need for which does not arise out of the actions or inactions of Lessee shall be the responsibility of DEDA.

2. Refuse and Garbage

Lessee shall have all responsibility for the disposal of refuse and garbage generated by its operations at the Leased Premises and agrees to absorb all costs related thereto. DEDA shall be responsible for disposal of refuse and garbage in the non-Leased Premises part of the MRO not arising out of the actions or inactions of Lessee.

3. Hanger Doors

Lessee shall minimize its use of the hangar doors by utilizing the garage door located in the easternmost hangar door when possible. Lessee shall be responsible to insure that the garage door and hanger doors of the MRO are securely closed at all times except when necessary to move Lessee's inventory and work in process into or out of the Leased Premises.

4. Utilities

DEDA shall be responsible for the costs of utilities provided to the Leased Premises and to the MRO and shall have exclusive control the amount of such utilities so provided, provided that such utilities will be reasonably adequate for the intended use of the Leased Premises as set forth herein.

5. Snow Removal

DEDA shall be responsible for the costs of snow removal and ramp/apron maintenance for the taxiway and ramp areas necessary to provide access to the Leased Premises for Lessee's use thereof.

C. Lessee shall promptly pay or cause to be paid all lawful taxes and governmental charges, including real estate taxes and fees or taxes in lieu of real estate taxes at any time levied upon or against it for the Leased Premises or the Leased Property levied against it by reason of this Lease. Lessee shall further be obligated to pay any sales and use taxes imposed by any governmental entity entitled to impose such taxes on or before the date they are due and to file all required reports and forms in proper form related thereto on or before their due date.

D. Other Costs of the Leased Premises

In addition to the foregoing costs and charges set forth above, Lessee shall bear, and promptly pay, on or before the date due, all other costs, fees and charges of any kind whatsoever, if any, arising out of the occupancy of the Leased Premises; provided that nothing shall prevent Lessee from contesting in good faith, any such payment requirement except as such contest would negatively affect the DEDA's rights under this Agreement.

E. Payment by DEDA

Should Lessee fail to pay any such costs, fees or charges set forth above arising out of its use or occupancy of the Leased Premises or to Lessee's business thereon, DEDA may, at its sole discretion and upon ten (10) days prior, written notice to Lessee, pay such costs, fees and charges and thereupon, Lessee shall promptly reimburse DEDA for the same and DEDA may collect the same as it deems appropriate including exercising the remedies authorized under Article X of this Agreement.

F. Payment Obligations Unconditional

The obligations of Lessee to pay any amounts due to DEDA under this Lease Agreement in accordance with the terms hereof shall be absolute and unconditional, irrespective of any defense or rights of set off, recoupment or counterclaim which may at any time be available against DEDA. Such payments shall be due without notice or demand therefore except as specifically provided for herein.

G. Time for Payment and Manner of Payment

The first Rent payment hereunder shall be due and payable on August 20, 2020. Thereafter, all Rent payments shall be due and payable on the first day of the month to which they are attributable. All other payments and reimbursements to DEDA called for by this Agreement shall be due and payable promptly upon being billed by DEDA to Lessee.

ARTICLE IV

TERM

A. Initial Term

Commencing on September 1, 2021, the Term of this Lease Agreement shall be extended on a month-to-month basis, subject to the provisions of Paragraph C below.

B. Negotiated Extension

No later than December 28, 2020, Lessee may give notice to DEDA as hereinafter provided for of its desire to extend the Term of this Agreement on a month-to-month basis for a period of up to an additional Twelve (12) Months beyond the Initial Term. Upon such notification, the parties hereto hereby agree that they will enter into good

faith negotiations for the purpose of negotiating such an extension under terms and conditions acceptable to both parties. Both parties agree that DEDA has an over-riding need to lease the Building or portions thereof to a third party for a use more in keeping with the design or intended purpose of the Building.

C. Termination

Notwithstanding the provisions of Paragraphs A and B above, in the event that the Director determines, in the exercise of the Director's discretion, that the Lease of the Leased Premises to Lessee is interfering with DEDA's ability to lease the MRO to a third party for its design use, the Director may give notice to Lessee as provided for in Article XIV below and may terminate this Lease effective as of Five (5) Business Days after the giving of such notice. Provided, that at the Director's sole discretion, said termination may be extended to up to Fifteen (15) Business Days after the date of such notice. In addition, if Lessee determines that the Leased Premises is no longer needed for the full length of the Initial Term, Lessee may terminate the Lease effective upon Fifteen (15) days written notice to DEDA.

ARTICLE V

CONSTRUCTION OR ALTERATION

Lessee shall not make, construct or cause to be made or constructed any modification to or alteration of any kind to the Leased Premises, the MRO or to any portion of the Property, except for marking the Leased Premises boundaries with temporary placards and as otherwise agreed to by DEDA in writing.

ARTICLE VI

SURRENDER OF POSSESSION

Upon the expiration or other termination of this Lease Agreement, Lessee's rights to use the MRO and the Leased Premises, facilities and equipment herein granted shall cease and Lessee shall, upon expiration or termination, promptly and in good condition surrender the same to DEDA. In the event that Lessee has in any way changed, altered or modified the MRO or the Leased Premises demised herein, Lessee covenants to return the same to the condition they were in at the time of the signing of this Agreement or, in the alternative, to pay DEDA for the cost of returning them to said condition unless waived by the Director in writing. Upon termination, any Leasehold Improvements which have become part of the realty shall become part of the Leased Premises of DEDA, and the same, together with the MRO and the Leased Premises, shall be immediately returned to the control of DEDA. Any Leasehold Improvements not part of the realty shall be removed therefrom within fifteen (15) days after the termination of this Agreement or the same shall be deemed to have been abandoned to DEDA and the right of the Lessee to possession thereof shall cease. Upon termination of this

Agreement, Lessee will waive any and all rights, if any, to relocation benefits under the Uniform Acquisition Assistance and Relocation Act of 1974, as amended, and any laws or regulations promulgated with regard thereto which might arise out of this Agreement.

ARTICLE VII
PROVISION AGAINST LIENS

A. Provision Against Liens

Lessee shall not create or permit any mortgage, encumbrance or allow any mechanic's or materialmen's liens to be filed or established or to remain against the Leased Premises, the MRO, the Property or any part thereof which would materially or adversely affect the DEDA's interest in this Agreement during the term of this Agreement, provided that if Lessee shall first notify DEDA of its intention to do so and post such security as DEDA reasonably deems necessary, Lessee may, in good faith, contest any such mechanic's or other liens filed or established as long as DEDA does not deem its interest or rights in this Agreement to be subject to foreclosure by reason of such context.

B. Provision Against Assignments, Transfers or Change in Identity of Lessee

Lessee represents and agrees for itself, its successors and assigns that it has not made or created, and will not make or create or suffer to be made or created, any total or partial sale, assignment, conveyance, lease, trust, lien or power of attorney, and has not or will not otherwise transfer in any other way all or any portion of the MRO, the Leased Premises, the Lessee, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder; and except for mortgaging approved in writing by the Director, Lessee will not make or create or suffer to be made any such transfer of Lessee's rights hereunder without the prior approval of DEDA.

ARTICLE VIII
INDEMNIFICATION

A. Generally

Lessee will to the fullest extent permitted by law, protect, indemnify and save DEDA and its officers, agents, servants, employees and any person who controls DEDA within the meaning of Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims demands and judgements of any nature arising from:

1. Any injury to or death of any person or damage to the MRO, the DEDA Equipment or the Leased Premises in or upon the MRO, the DEDA Equipment or the Leased Premises, arising out of or related to Lessee's negligent, grossly

negligent or intentional acts of omissions related to the use or non-use, condition or occupancy of the MRO, or the Leased Premises or any part thereof and also, without limitation, any and all acts or operations related to its use or occupancy any portion of the MRO or the Leased Premises. The foregoing indemnification shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Lessee, customers, suppliers or affiliated organizations under any Workers' Compensation Act, Disability Benefit Acts or any other Employee Benefit Acts;

2. Any violation by Lessee of any provision of this Lease Agreement;

3. Any violation of any contract, agreement or restriction related to Lessee's use of the MRO, the DEDA Equipment or the Leased Premises which shall have existed at the commencement of the Term of this Agreement or shall have been approved by the Lessee; and

4. Any violation of any law, ordinance, court order or regulation affecting the MRO, the DEDA Equipment or the Leased Premises or the ownership, occupancy or use thereof.

B. DEDA Equipment

Lessee agrees that, in the event that during Term of this Lease any of the DEDA equipment suffers any damage of any kind or is destroyed or otherwise rendered non-functional for any reason arising out of Lessee's negligent, grossly negligent or intentional acts of omissions, Lessee will indemnify DEDA for cost of repairing or replacing such DEDA Equipment to the condition it was in prior to such damage, destruction or inoperability and Lessee will either itself repair or replace such damaged equipment or, at DEDA's option, DEDA may repair or replace such damaged equipment and Lessee will promptly reimburse DEDA for the costs thereof.

C. DEDA Indemnification

DEDA will to the fullest extent permitted by law, protect, indemnify and save Lessee and its officers, agents, servants, employees, affiliated companies harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims demands and judgements of any nature arising from any injury to or death of any person inside the MRO or damage to the MRO, the Lessee aircraft and other inventory, or the DEDA Equipment solely and directly arising out of or related to the negligence or misconduct of DEDA or its representatives. The foregoing indemnification shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Lessee, customers, suppliers or affiliated organizations under any Workers' Compensation Act, Disability Benefit Acts or any other Employee Benefit Acts.

D. Indemnification Procedures

Promptly after receipt by Lessee of notice of the commencement of any action with respect to which the Lessee is required to indemnify such person under this Article, DEDA shall notify the Lessee in writing of the commencement thereof, and, subject to the provisions as hereinafter stated, the Lessee shall assume the defense of such action, including the employment of counsel satisfactory to the indemnitee and the payment of expenses. In so far as such action shall relate to any alleged liability of the DEDA with respect to which indemnity may be sought against the Lessee, DEDA shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of the Lessee.

ARTICLE IX
INSURANCE

Lessee shall procure and continuously maintain insurance covering all risks of injury to or death of persons or damage to Leased Premises arising in any way out of or as a result of Lessee's occupancy of or use of the Leased Premises, carried in the names of the Lessee, any subtenant and the DEDA as their respective interests may appear, as follows:

A. Liability Insurance:

Lessee shall carry commercial general liability insurance and aircraft liability insurance on each aircraft owned and/or operated by Operator or any permitted sub-lessee at the Airport. Lessee shall carry hangar-keepers liability insurance on all buildings capable of housing aircraft. All such insurance shall be in at least the following amounts and shall be in a form acceptable to the DEDA and shall provide for ten (10) days' written notice to the City and DEDA of any cancellation or modification thereof. The City of Duluth and DEDA shall be made an additional insured on Lessee's CGL liability policy, which must provide coverage for claims arising out of the Lessee's operation at the Duluth International Airport. The endorsement should state that the additional insured, City of Duluth and DEDA, is covered for claims arising out of the operation of Lessee. Language that the additional insures is covered for damages caused in whole or part by Operator is not acceptable. Certified copies thereof or appropriate

certificates of insurance evidencing the existence thereof shall be delivered to DEDA. DEDA reserves the right and Operator agrees to revisions upward or downward in the minimum insurance requirements hereinafter set forth, provided, that any such revisions shall be reasonable and non-discriminatory as with respect to any other tenants of the Authority.

1. Comprehensive general liability or owners, landlords and tenants bodily injury and property damage liability insurance, including complete operations and contractual obligation coverage in the limits of at least two million dollars (\$2,000,000).
 2. Aircraft bodily injury liability insurance for bodily injury and property damage liability limit no less than One Million Dollars (\$ 1,000,000)
 3. Aircraft passenger liability insurance of limits no less than One Hundred Thousand dollars (\$100,000) for each passenger seat.
 4. Hangar-keepers liability insurance in limits of at least One Million Dollars (\$1,000,000) provided, however, that Operator agrees that, prior to housing any airplanes in any hangars covered by this insurance requirement which individually or in aggregate would exceed the insurance limits hereinbefore set down, that it will secure insurance coverage in an amount at least adequate to cover the value of said airplanes, both singly and in aggregate.
 5. Products Liability and Completed Operations insurance in the amount of at least two million dollars (\$2,000,000).
- B. Workers' Compensation
Workers' Compensation Coverage in statutory amounts with "all states" endorsement. Such coverage shall be carried in limits of One Hundred Thousand and No/100 (\$100,000.00) Dollars per employee.
- C. Requirements for All Insurance
All insurance required in this Article IX shall be taken out and maintained in responsible insurance companies licensed to do business in the State of Minnesota.

D. Policies

The Lessee shall be required to supply to the DEDA written certificates of insurance evidencing all policies required under this Agreement. In addition, each insurer providing such policies shall be required to provide evidence satisfactory to the Director that such policies will require the insurer to give the DEDA thirty (30) days' written notice prior to cancellation or modification of said insurance.

ARTICLE X

LESSEE DEFAULTS AND REMEDIES THEREFORE

A. General Defaults and Remedies--Lessee

1. General Events of Default

The following shall be deemed to be general events of default by Lessee 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.

a. Lessee shall fail to pay any payment due to DEDA under Article III above within ten (10) days of the date said payment is due.

b. Lessee shall fail to observe or perform any of the other terms, conditions, covenants or agreements required to be observed or performed by it or any successors or assigns of Lessee pursuant to this Lease Agreement and such failure shall continue for a period of thirty (30) calendar days after DEDA has, pursuant to the provisions of this Lease Agreement, given written notice to Lessee of such default or, in the event that such default shall be incapable of cure during said thirty (30) day period, shall have failed to commence to cure said default within thirty (30) days of the date of said notice and to diligently pursue the same to completion.

c. Lessee shall permit any liens on the MRO or the Leased Premises.

d. Lessee makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts as they become due; or an adjudication of bankruptcy or insolvency as made as to Lessee or its business; or Lessee files a petition of bankruptcy or files a petition seeking any reorganization, dissolution, liquidation, or rearrangement, composition, readjustment or similarly under any present or future bankruptcy or insolvency statute, law or regulation; or Lessee files an answer admitting to or not contesting to the material allegations of a petition filed against in such proceeding or fails to have dismissed or vacated within thirty (30) days after its filing such a petition or seeks or consents or acquiesces in the appointment of any trustee, receiver or liquidator of a material part of Lessee's properties or fails to have dismissed or vacated within thirty (30)

days after the appointment without the consent or acquiescence of Lessee of any trustee, receiver or liquidator of any material part of Lessee's properties.

2. General Remedies

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

- a. Terminate this Lease Agreement and, at its discretion, retake the Leased Premises from Lessee, subject to rights conferred on Lessee by applicable State Statute.
- b. Seek and be entitled to direct monetary damages directly arising from any such Lessee default, but excluding any indirect or consequential damages from Lessee for any damages, including consequential damages incurred by DEDA as a result of Lessee's default.
- c. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Lessee's violation of the terms and conditions of this Agreement or to compel Lessee's performance of its obligations hereunder.
- d. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to DEDA.

B. General Defaults and Remedies--DEDA

1. General Events of Default

It shall be deemed to be general events of default by DEDA under the terms and conditions of this Agreement to which the remedies set forth in Subparagraph 2 below shall be applicable for DEDA to fail to perform any of its obligations under this Agreement and to fail to correct such failure for a period of Thirty (30) days after Lessee has given DEDA notice thereof as hereinafter provided for.

2. General Remedies

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

- a. Terminate this Lease Agreement.
- b. Seek and be entitled to direct monetary damages directly arising from any such DEDA default, but excluding any indirect or consequential damages from Lessee for any damages, including consequential damages incurred by Lessee as a result of DEDA's default.
- c. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Lessee's violation of the terms and conditions of this Agreement or to compel Lessee's performance of its obligations hereunder.

- d. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to Lessee.

C. Non-Waiver

The waiver by either party of any default on the part of the other party or the failure of either party to declare default on the part of the other party 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 Lease 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 Lease Agreement and the non-defaulting 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 XI

FORCE MAJEURE

Under the terms of this Lease Agreement, neither the DEDA nor Lessee shall be considered in default or in breach of any of the terms with respect to the performance of 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 contractors or subcontractors due to such causes. In the event of any such delay, any time for completion or delivery under this Lease 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 XII

REPRESENTATIONS BY DEDA

DEDA represents and warrants that as of the date hereof:

- A. It is a lawfully constituted municipal corporation under the laws of the State of Minnesota, it is not in material violation of any provisions of State law and that it has full power and authority to enter into this Agreement and perform its obligations hereunder.
- B. There are no actions, suits or proceedings pending, or to the knowledge of DEDA, threatened against DEDA or any Leased Premises of DEDA in any court or before any Federal, State, municipal or governmental agency which, if decided adversely to DEDA, would have a material adverse effect upon DEDA or any business or Leased Premises of DEDA and DEDA is not in default with respect to any order of any court or government agency.
- C. DEDA has investigated and has no knowledge that a DEDA Council Member or other member, official, or employee of DEDA is directly or indirectly financially interested in this Agreement or in any transactions concluded in connection with this Agreement.
- D. DEDA shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Agreement or otherwise delivered to any third parties under this Agreement to be true, correct and complete in all material respects.

ARTICLE XIII

LESSEE'S REPRESENTATIONS AND WARRANTIES

Lessee represents and warrants that as of the date hereof:

- A. It is a lawfully constituted corporation under the laws of the State of Wisconsin, is not in material violation of any provisions of State law and that it has full power and authority to enter into this Lease Agreement and to perform its obligations hereunder.
- B. That it is fully competent to lease the Leased Premises under all laws, rulings, regulations and ordinances of any governmental authority having jurisdiction and that he agrees to comply with all applicable State, Federal acquisition and relocation laws, wages and hours laws, including Davis-Bacon and local versions thereof or similar laws at its own expense.
- C. That there are no actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against Lessee or any leased premises in any court or before any Federal, State or municipal or other governmental agency which, if decided adversely to Lessee, could have a material adverse affect upon Lessee or any Leased Premises, and that Lessee is not in default of any order of any court or governmental agency.
- D. It is not in default of the payment of principal of or interest on any indebtedness for borrowed money or in default under any instrument or agreement pursuant to which the indebtedness has been incurred.

- E. Lessee shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Lease Agreement delivered to any third party under this Agreement to be true, correct and complete in all material and respects. If necessary Lessee agrees to perform any survey work prior to construction and all descriptions and exhibits hereto and definitions herein shall be subject to such revisions as are necessary after completion of any survey.

ARTICLE XIV

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 to:

In the case of DEDA:

DEDA of Duluth
Room 400 City Hall
411 West First Street
Duluth, MN 55802

In the case of Lessee:

Lake Superior Helicopter.
4525 Airport Approach Rd
Duluth, MN 55811
Attn: Eric Monson

ARTICLE XV

PRIOR LEASE TERMINATION

That certain lease between the parties for the lease of a portion of the Leased Premises dated _____, 2020 and bearing DEDA Contract No. 20 0865 _____, as amended, is hereby terminated.

ARTICLE XXVI

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.

DULUTH ECONOMIC DEVELOPMENT LAKE SUPERIOR HELICOPTER,
AUTHORITY,
an economic development authority

A Minnesota Limited Liability Company

By _____
Its President

By: _____
its Chief Executive Officer
"Lessee"

Attest:
By _____
Secretary

Approved:

Assistant City Attorney

Countersigned:

City Auditor

This Lease Drafted by:
Robert E. Asleson
Attorney for the DEDA of Duluth
Room 440 DEDA Hall
Duluth, MN 55802
(218) 730-5490