

## ACQUISITION AGREEMENT

This Acquisition Agreement ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and among the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota ("HRA") the City of Saint Paul ("City") and Arne and Julie Carlson ("Buyer").

### RECITALS

- A. The City has asked the HRA to acquire from the City certain real property located at Nathan Hale Park at Summit Avenue and Portland Avenue and legally described on Exhibit A attached hereto (the "City Property"), and to subsequently convey the City Property to Buyer, who presently owns the property located at 420 Portland Avenue ("Buyer's Property"), immediately west of the City Property.
- B. Buyer intends to use the City Property for landscaping, fencing, and an irrigation system.
- C. The HRA is willing to act as a conduit of the City Property in accordance with the terms and conditions contained in this Agreement, and is willing to release its deed restrictions established in that certain deed, dated November 14, 1977, which conveyed the City Property and additional adjacent property to the City.

### TERMS OF AGREEMENT

**NOW, THEREFORE**, in consideration of and in reliance on the foregoing recitals, covenants, restrictions, contingencies and agreements contained herein, the parties hereby agree as follows:

**1. Acquisition and Conveyance of City Property.** Subject to the conditions as set forth in this Agreement, the HRA agrees to: (i) acquire the City Property from the City, and (ii) convey the City Property to Buyer. The HRA shall close on the purchase of the City Property from the City as soon as practicable following the execution of this Agreement. During such time as the HRA holds title to the City Property, it shall not undertake nor suffer any acts which could impair the title to the City Property.

**2. Purchase Price.** The purchase price for the City Property shall be Thirty Two thousand dollars (32,000.00). The purchase price shall be paid by Buyer to the City in cash.

**3. Restrictions on Use of the City Property.** Buyer agrees to hold, use, occupy and convey the City Property subject to the restrictions set forth in Exhibit B attached hereto ("Restrictions"). The Restrictions shall be included in the HRA deed of the City Property to Buyer.

4. **“As-is” Conveyance.** Buyer agrees to accept the City Property in its ‘as-is’ condition. Neither the City nor the HRA make any representations or warranties of any kind concerning the City Property, or any improvements located thereon.

5. **Closing.** Upon the HRA’s acquiring title to the City Property, it shall promptly convey the City Property to Buyer by a quit claim deed in the form attached hereto as Exhibit C (“Deed”). If the HRA is unable to complete the closing of the City Property for any reason, this Agreement and the rights of the parties hereunder shall terminate without further obligation, provided however, that the HRA is entitled to retain all costs and fees paid to it under section 6 below.

6. **Costs; Fees.**

Closing costs and other fees for the acquisition of the City Property by the HRA, and the HRA conveyance to Buyer, shall be paid as follows:

a. Buyer:

- i. HRA closing fee - TBD
- ii. HRA publication costs - TBD
- iii. Parkland diversion/disposal administrative fee - \$1000
- iv. State deed tax for two deeds - \$ 44.20 ( $\$0.0034 \times \text{Purchase Price} \times 2$ )
- v. Conservation fee for two deeds - \$10.00 ( $\$5.00 \times 2$ )
- vi. Recording fee for two deeds - \$92.00 ( $\$46.00 \times 2$ )

7. **Indemnity Clause.** The City agrees to defend, indemnify and hold the HRA harmless from all costs, claims, causes of action, expenses and liabilities of every kind and nature, including reasonable attorney fees, arising out of: (i) the City’s failure to perform the terms of this Agreement, (ii) the HRA’s ownership of the City Property; and (iii) the presence or release by the City of any hazardous materials and substances, toxic materials, and petroleum products on the City Property.

Buyer agrees to defend, indemnify and hold the City and HRA harmless from all costs, claims, causes of action, expenses and liabilities of every kind and nature, including reasonable attorneys fees, arising out of: (i) Buyer’s failure to perform the terms of this Agreement; and (ii) the presence or release by Buyer of any hazardous materials and substances, toxic materials, and petroleum products on the City Property,

8. **Contingencies.** The following contingencies affect the parties to this Agreement:

(a) HRA – The HRA’s obligations under this Agreement are subject to approval of this Agreement by the HRA’s Board of Commissioners, and closing of the purchase of the City Property from the City.

(b) City – The City’s obligations under this Agreement are subject to approval of this Agreement by the City Council, and closing of the sale of the City Property to the HRA.

(c) Buyer – Buyer’s obligations under this Agreement are subject to obtaining, to its reasonable satisfaction, an owner’s title insurance commitment for an owner’s policy of title insurance for clear and marketable title to the City Property. Buyer shall not be obligated to purchase the City Property and may terminate this Agreement if the City approvals stated in Section 8 (b) are not granted by the City.

**9. Notices.** Any notices in connection with this Agreement shall be given to the intended party by U.S. mail, postage prepaid, or by hand delivery, at the respective addresses set forth on the signature page of this Agreement. Notices delivered by U.S. mail shall be effective on the third day following the postmark and notices delivered by hand shall be effective upon delivery if left with a competent person at the delivery address during customary business hours.

**10. Construction and Binding Effect.** This Agreement contains the entire agreement of the parties, and supersedes all prior oral or written agreements between the parties. This Agreement shall be construed in accordance with the laws of the State of Minnesota, and shall be binding upon the parties hereto and their successors and assigns.

**11. Survival of Covenants and Representations.** Any representations and covenants contained in this Agreement shall survive the delivery of the deeds contemplated hereby, and shall be enforceable by any party after closing, and shall further survive any termination of this agreement.

**12. Buyer Default, Authority’s and City’s Remedies.** The following shall be Buyer’s “Event of Default”: Buyer shall fail to observe or perform any covenant, obligation or agreement on its part to be observed or performed under this Agreement and the continuation of such failure for a period of thirty (30) days after written notice of such failure by the HRA.

Whenever any Buyer Event of Default occurs, the HRA or the City or both may take any one or more of the following actions:

(a) Suspend performance under this Agreement until it receives assurances from Buyer, deemed adequate by the HRA and the City in their reasonable discretion, that the Buyer will cure its default and continue its performance under this Agreement.

(b) Cancel and terminate this Agreement.

(c) Take whatever action at law or in equity may appear necessary or desirable to the HRA and the City to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, restriction or covenant of Buyer under this Agreement.

No remedy herein conferred upon or reserved to the City or the HRA is intended to be exclusive of any other available remedy or remedies unless otherwise expressly stated, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the HRA to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in Section 9 and Section 12.

**SEPARATE SIGNATURE PAGE OF  
HOUSING AND REDEVELOPMENT AUTHORITY  
FOR ACQUISITION AGREEMENT**

**IN WITNESS WHEREOF**, the undersigned has caused this Agreement to be made as of the day and year first above written.

**HOUSING AND REDEVELOPMENT  
AUTHORITY OF THE CITY OF SAINT  
PAUL, MINNESOTA**

By: \_\_\_\_\_  
Its Chair/Commissioner

By: \_\_\_\_\_  
Its Director, Office of Financial Services

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

**SEPARATE SIGNATURE PAGE OF  
CITY OF SAINT PAUL  
FOR ACQUISITION AGREEMENT**

**IN WITNESS WHEREOF**, the undersigned has caused this Agreement to be made as of the day and year first above written.

**CITY OF SAINT PAUL, MINNESOTA**

By: \_\_\_\_\_  
Its Mayor or Deputy Mayor

By: \_\_\_\_\_  
Its City Clerk

By: \_\_\_\_\_  
Its Director of Financial Services

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

**SEPARATE SIGNATURE PAGE OF  
Arne and Julie Carlson  
FOR ACQUISITION AGREEMENT**

**IN WITNESS WHEREOF**, the undersigned has caused this Agreement to be made as of the day and year first above written.

**Arne and Julie Carlson**

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Arne Carlson

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Julie Carlson

**EXHIBIT A  
TO  
ACQUISITION AGREEMENT**



**EXHIBIT B  
TO  
ACQUISITION AGREEMENT  
RESTRICTIVE COVENANTS**

No part of the Property shall be used for the storage or disposal of garbage, refuse, or debris, except to the extent that such storage or disposal is an accessory use to the Property, as defined and provided for in the Legislative code of the City of St. Paul.

