

Exhibit 1

**CITY OF DULUTH
DEER MANAGEMENT SERVICE AGREEMENT
ARROWHEAD BOWHUNTERS ALLIANCE**

This Agreement, effective as of the date of attestation by the City Clerk (the "Effective Date"), is by and between the City of Duluth, a Minnesota municipal corporation, hereinafter referred to as "City", and the Arrowhead Bowhunters Alliance, Inc., a non-profit corporation under the laws of the State of Minnesota, hereinafter referred to as ("Agent").

The parties acknowledge the following:

- A. City, by ordinance, has recognized a need to manage and control the wild deer population in Duluth, and has authorized an annual hunt for that purpose.
- B. Agent has the ability to manage a deer hunt in order to attain the purposes of controlling and containing deer as set out by the Duluth City Council.

In consideration of their mutual promises, the parties agree as follows:

1. Agent shall be the contract agent for the City for the purpose of organizing and managing the annual deer hunt ~~in the year 2018 with options for years 2019, 2020 and 2021~~ for three hunting seasons beginning with the "effective date" on the signature page of this agreement. Agent shall furnish to City its Articles of Incorporation, Certificate of Incorporation, By-laws, and most recent Federal Form 990 or its accepted equivalent, if so required to file with the Internal Revenue Service. At all times, Agent shall be subject to the authority and control of the Chief Administrative Officer (CAO), or his or her designee. Any such designee shall be appointed in writing, a copy of which shall be provided to Agent. Agent shall be the contract agent for the City for the purpose of organizing and Agent shall have no authority to bind City to perform acts or services, nor to make payments, nor to transfer or encumber property.

Subject to City approval, Agent shall do all tasks reasonably necessary to organize, conduct, manage, supervise, and record the hunting activities. This shall include, but not be limited to, the following:

- a. Selecting, training, evaluating, certifying, and managing participating hunters; and
- b. Enforcing the safety standards; and
- c. Assigning hunters to hunting areas, adequately informing the participating hunters of the limits, regulations, and conditions of their hunting activities; and
- d. Determining the maximum number of certified hunters and the areas where each will hunt. When an area has more applicants than it can hold, a lottery or similar fair process, submitted to the City at least one month before the application deadline and approved in writing by the CAO, or his/her designee, shall be used. The Agent will be responsible for observing and supervising the hunt, enforcing the applicable rules, regulations, and safety standards, and dispatching wounded deer within the city limits in a manner allowed by law and in accordance with procedures approved by the Duluth Police Department.
- e. Gathering data about the hunt and the deer harvested, and recording it in a useable form approved by City, and making an annual report to the City of the conduct and result of the hunt by March 15th and
- f. Performing each task or operation set out for the conduct of the hunt in City Code Section 6-

- 77 and any related City Council Resolutions ~~including 05-0306, 05-0434 and 08-0317, which are attached hereto as Exhibit A~~; and
- g. Performing each task or operation set out for the conduct of the hunt in City Code Section 6-77 and any related City Council Resolutions; and
 - h. Provide adequate times during the week and on weekends for proficiency tests to maximize the opportunity for hunter participation and a minimum of one orientation to familiarize certified hunters of the details of their Designated Hunting Area and meeting familiar hunters; and
 - i. Any corporate meeting or meeting of registered hunt participants at which the organization may discuss the hunt, receive input or disseminate information about the hunt, or take any action relating to it, or this City contract, except a meeting called to discuss an allegation of criminal activity, shall comply with the Minnesota Open Meeting Law. Any data related to the hunt, or the performance of this contract, shall be handled in compliance with the Minnesota Government Data Practices Law (addresses, telephone numbers, assigned hunting areas are not public data), notwithstanding, the CAO or his/her designee, and the appropriate enforcement department will receive a copy of assigned hunt areas. Meetings are to be open and public for all matters relating to the management of the hunt and shall be posted in advance on the Agent's webpage and be held at reasonable times at an accessible location in the area; and
 - j. Recommend each hunting area, which areas must be approved by City; and
 - k. Prepare, maintain, and enforce a set of general hunt rules and conditions in the ABA Rules & Information Manual (ABA Manual) for each participating hunter to read, understand and follow and attached hereto as Exhibit ~~A~~ **C**; and
 - l. Any other related tasks requested by City.
2. The hunt shall be conducted in compliance with each applicable law (including those mentioned above, which are made applicable by this Agreement). Agent shall determine and enforce that each hunter is properly licensed and certified, and has signed required waivers. Agent may exclude from the hunt any individual who is unqualified or who has violated any rule, law or condition of the hunt.
 3. Agent shall collect the fee that each participating hunter must pay to the City. The identification of each hunter and the amount collected shall be accounted for in the manner approved by the City Finance Director. City shall be informed of the identities of each hunter who has paid the fee no later than August 1st or within fifteen days of the application deadline, whichever comes first. All such fees collected shall be remitted intact to the City.
 4. Agent shall prepare an itemized profit and loss statement that correctly and accurately reports in detail all fees, donations or other revenues collected to run this hunt and all expenses incurred in managing the deer hunt. All revenues and expenses in managing the deer hunt shall be segregated by type. Such statement shall be in a form acceptable to the City Auditor and shall be filed with the City Auditor upon conclusion of the hunt, or no later than January 15th of following the hunt.
 5. As payment for acceptable performance of this Agreement to a reasonable standard and to the standard of the industry within 30 days after receipt, City shall pay to Agent for Agent-incurred expenses approved by the CAO, of his/her designee ~~itemized in the~~

~~approved format set out in Exhibit B the sum of the total of the approved expenses itemized in the approved format set out in Exhibit B~~, which sum shall not exceed the total fees collected under Section 3, and which sum is subject to set off for any valid claim City may have against Agent. Final due date for payment of Agent expenses by the City is January 15th. Reasonable and necessary expenses, including mileage reimbursement at the current IRS rate, of Agent used to manage the hunt may be paid or reimbursed out of this fund.

6. The term of this Agreement shall be from the Effective Date to March 15, ~~2019~~ following the third hunting season of this contract, unless earlier terminated as set out herein. At any time within 90 days of the termination date of this contract March 15th annually, the CAO, his/her designee, or the Mayor, may renew this contract for a period not to exceed three additional years ~~terms, the last of which would end March 15, 2022~~. Any renewal shall be done by written instrument, dated and executed. A renewal may include modifications. After termination, Agent's obligations under this Agreement, including to indemnify and to insure for incidents occurring during the term of this Agreement, shall continue in force.
7. The Agent shall have the right, without prejudice to any other right or remedy it may have, to terminate this Agreement if:
 - a. the provision of the services as set forth herein is disrupted to the extent it makes it impossible or impractical to perform such services;
 - b. the Agent reasonable believes that the services cannot be performed safely; or
 - c. the City fails to provide reasonable assistance to the Agent so that performance is possible.

Upon such termination by the Agent, the Agent shall be entitled to payment for work satisfactorily completed up to the time of termination. The City shall have the right, without prejudice to any other right or remedies it may have, to terminate this Agreement at any time by giving written notice thereof to Agent; provided that the Agent shall be paid for all unpaid services satisfactorily performed as of such termination date, and provided further that the City shall be entitled to a refund of any fees paid in advance which are unearned as of such termination date.

8. The Agent shall perform all services under this Agreement as an independent contractor of the City.
9. The Agent shall have the right to employ any person or persons to perform the services under this Agreement or to otherwise assist the Agent, and all such persons shall be paid by the Agent. The Agent shall carry all insurance with respect to its employees and agents as may be required by applicable law including without limitation worker's compensation insurance and shall pay and withhold all required federal, state, and local taxes, unemployment, disability and other insurance premiums, all applicable social security taxes, and all other taxes or expenses incurred or due and payable by reason of the Agent's employment of such employees.
10. The City agrees that the Agent, as an independent contractor, shall be entitled to exercise such discretion and judgment in the provision of its services to fulfill and comply with the requirements set forth in this Agreement. As the law allows, the Agent may act to enforce the general hunt rules in order to insure the hunt is conducted in a safe,

responsible, and effective way. Sanctions for a violation of the rules will vary according to the degree of the offense (ranging from verbal warning to the suspension of a hunter) for anyone who violates his/her privileges while participating in the Deer Management Hunt.

11. The parties agree that in the event that a hunter is removed from the Duluth bow hunt, or otherwise sanctioned, by the Agent for any violation of the Agent's rules document, or any formal charges of game or non-game violations by the MN Department of Natural Resources or the Duluth Police Department, the hunter has the right to appeal the action in accordance with the rules set forth in the ABA Manual attached hereto as Exhibit A.
12. The parties agree that the City will not provide the Agent, its principals agents, or employees any benefit, coverages or privileges, including, without limitation, social security, profit-sharing, PERA, unemployment, worker's compensation, disability, medical insurance, life insurance or pension benefits, that the City might provide to employees of the City. Unless otherwise required by law, the City does not intend and shall have no obligation to the Agent to withhold any sums due the Agent for, and the Agent retains all obligations and liability relating to, the payment of the Agent's federal, state, and local income and employment taxes, and the Agent shall hold the City harmless from any failure on its part to meet its obligations pursuant to this section.
13. The Agent is not an agent of the City and is not authorized to assume or create any obligation or responsibility, express or implied, on behalf of, or in the name of, the City or to bind the City in any manner.
14. The Agent agrees it shall not commit any of the following employment practices and agrees to prohibit the following practices in any subcontracts:
 - a. To discharge or refuse to hire any individual because of their race, color, religion, orientation.
 - b. To discriminate against any individual in terms, conditions, or privileges of employment because of their race, color, religion, sex, national origin, disability, age, marital status, gender identity, or sexual orientation.
15. The Agent shall procure and maintain for the duration of this Agreement, at its expense, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the designated services undertaken by the Agent pursuant to this Agreement.

Coverage shall be in the following forms and amounts:

General Liability: Coverage in the amount of \$~~1,500,000~~ ~~1,000,000~~ combined single limit per occurrence for bodily injury, personal injury, and property damage for at least the period from July 1 to January 1 during the contract term.

Automobile Liability: Coverage in at least the minimum amount required by the state law.

Such general liability insurance shall require that the City be notified at least 10 days in advance of the cancellation thereof. The Agent shall furnish the City with a certificate or certificates of

insurance evidencing the coverage required hereunder prior to commencing any designated services and from time to time as may be reasonably requested by the City. The City shall be named as an additional insured on the Agent's insurance policy and such coverage shall extend to claims arising out of Agent's ongoing operations for the City. If additional insured coverage is provided under ISO endorsement CG 20 10, it will be provided under a pre-2004 edition of that endorsement.

16. The Agent agrees to indemnify, defend, and save the City and its officers, employees, and agents forever harmless from and against, and to promptly make payment for, any and all losses, damages, expenses (including, without limitation, court costs, amounts paid in settlement, judgments, reasonable attorney's fees or other expenses for investigating and defending, including, without limitation, those arising out of the enforcement of this Agreement), suits, actions, claims, deficiencies, liabilities or obligations sustained or incurred by the City as a result of the Agent's performance of this Agreement, except for those sustained or incurred based on allegations that the services required by this Agreement are unauthorized or illegal.
17. A City Review Panel will evaluate the performance of Agent and Agent's compliance with the terms and conditions of this Agreement. The Review Panel will be comprised of the following five individuals: Director of Parks and Recreation, Police Chief, City Forester, the Chief Administrative Officer or his/her designee. A representative from the Department of Natural Resources may also attend and participate in the review process. If the review panel identifies any issues or concerns about the performance of this contract, it will provide a list of them to Agent, and the Agent shall have reasonable opportunity to respond. The Review Panel shall recommend to the City Administration and City Council whether this contract should be renewed, be modified, or if a new agent should be selected.
18. All notices required or permitted under this Agreement shall be in writing and shall be deemed effective upon personal delivery or upon deposit in the United States Post Office, by registered or certified mail, postage prepaid and addressed as follows :

If to City: Chief Administrative Officer City of Duluth
411 West First Street, Room 402
Duluth, MN 55802

If to Agent: Arrowhead Bowhunters Alliance
P.O. Box 346
23 W Central Entrance Duluth, MN 55811

19. This Agreement and its exhibits, and approvals it authorizes, constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, whether written or oral relating to the subject matter of this Agreement.
20. This Agreement may be amended or modified only by written instrument dated and duly executed by the parties.
21. This Agreement shall be construed, interpreted, and enforced in accordance with the laws of the State of Minnesota.

22. This Agreement shall be binding upon, and inure to the benefit of both parties and their respective permitted successors, assigns and other legal representations. Neither this Agreement nor the rights arising hereunder shall be assignable by either of the parties hereto to any third party without the prior written consent of the other party to this Agreement.
23. Nothing in this Agreement shall be deemed or construed as creating or granting any benefits or rights to third parties or as an admission of liability by either City or Agent. Furthermore, nothing in this Agreement shall be construed as a waiver of any of City's immunities or defenses under state or federal law, as neither party intends that the City shall waive any immunity or defense.
24. No waiver by either party of any right, condition, term or provision of this Agreement shall operate as a waiver of any preceding or subsequent right, condition, term, or provision hereof. A waiver or consent given by either party on any one occasion shall not be construed as a bar or waiver of any right of such party on any other occasion.

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

CITY OF DULUTH

ARROWHEAD BOWHUNTERS ALLIANCE

By: _____
Mayor

By: _____

Attest:

Printed Name: _____
Authorized Representative

City Clerk
Date Attested: _____

Approved as to form:

City Attorney

Countersigned:

City Auditor

Exhibit A – ABA Manual

Exhibit B – Approved ABA Expenses for Reimbursement