

# EXHIBIT 1

## LEASE AGREEMENT BETWEEN THE CITY OF DULUTH AND LAMAR OCI NORTH, L.L.C.

THIS LEASE AGREEMENT (this “Agreement” or this “Lease”) is entered into by and between the CITY OF DULUTH, a municipal corporation and political subdivision created and existing under the laws of the State of Minnesota (the “City”), and LAMAR OCI NORTH, L.L.C., a Delaware limited liability company (“Tenant”).

WHEREAS, the City and Tenant entered into a Lease Agreement dated December 4, 2002 permitting Tenant to use certain real property owned by the City for the construction, repair and operation of an outdoor advertising structure (the “2002 Lease”); and

WHEREAS, the 2002 Lease has expired and Tenant wishes to continue to lease the City’s real property; and

WHEREAS, the City desires to lease its real property to Tenant subject to the terms and conditions described below.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the City demises and leases to Tenant, and Tenant hires and takes from the City, the Leased Premises (defined below), upon the following terms and conditions:

### **I. LEASED PREMISES AND PERMITTED USES**

A. The “Leased Premises” includes those portions of the property legally described as Lot 254, Block 20, Duluth Proper Second Division, St. Louis County, Minnesota, set forth in detail in subparagraph I.B. below. Tenant and its employees, contractors and agents shall have the right to access the Leased Premises via the existing driveway off of West Michigan Street and over and across that portion Lots 250 and 252, Block 20, Duluth Proper Second Division, St. Louis County, Minnesota, as shown on the attached Exhibit A and labeled as “Driveway Area.” Tenant may access the Leased Premises only between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, unless otherwise approved by the City in advance. Each time the City approves Tenant’s access outside of these set hours, the City may condition the approval on Tenant’s prepayment of a reasonable fee to cover the cost of staff time necessary to facilitate Tenant’s requested access.

B. As further set forth in this Lease, Tenant may use portions of the Leased Premises for the maintenance and operation of the existing outdoor advertising structure on the Leased Premises, which is owned by Tenant (the “Billboard”). Tenant shall have the exclusive right to use the twelve-foot by twelve-foot portion of the Leased Premises labeled as “Ground Use Area” on the attached Exhibit A for the purpose of operating the Billboard. Tenant shall have the non-exclusive right to maintain currently-existing underground utilities in their current location on the Leased Premises for the sole purpose of providing utilities to the Billboard. Tenant shall have the exclusive right to use the air rights over that portion of the Leased Premises above an

elevation of sixteen feet from the surface of the Leased Premises in the location labeled as “Air Rights Area” on the attached Exhibit A. The Air Rights Area may be used by Tenant for the maintenance and operation of the Billboard.

C. Tenant is taking the Leased Premises “as is” in their present physical condition. The City makes no warranty, either express or implied, that the Leased Premises is suitable for any purpose. Tenant understands that there is currently no public access to the Leased Premises via Lower Michigan Street and the City cannot grant Tenant any right of access to any portion of Lower Michigan Street lying adjacent to the Leased Premises or other City-owned property.

## **II. TERM OF AGREEMENT.**

Notwithstanding the date of execution of this Agreement, this Agreement shall be deemed to commence on October 1, 2023, and shall expire on September 30, 2036 at 11:59 pm, unless terminated early as provided for herein (the “Term”). Upon the commencement of this Agreement, the 2002 Lease shall automatically terminate.

## **III. RENT.**

A. Tenant shall pay the City annual rent for the Leased Premises (the “Rent”), with a base rent for the first five years of the Term of \$10,000.00, with the first payment due on or before December 15, 2023. Thereafter, on October 1 of each year of the Term, the Rent shall increase by two percent above the previous year’s Rent.

B. Full Rent payments shall be due and payable, in advance, on or before October 1 in each year of the Term. Payments shall be mailed or delivered to the City Auditor, Room 120 City Hall, 411 West First Street, Duluth, Minnesota 55802. Rent payments shall be deposited in Fund 110-121-1222-4623 (General Fund, Public Administration, Facilities Management, Rent of Land).

## **IV. TENANT RESPONSIBILITIES.**

A. Tenant may use the Leased Premises only for the purposes set forth above and shall not interfere with other parties’ right to use the Leased Premises or the Driveway Area.

B. Tenant shall not install, knowingly permit, use, generate, store, or dispose of in or about the Leased Premises any Hazardous Materials (defined below) in violation of any Environmental Law (defined below). As used herein, “Hazardous Materials” shall mean any toxic chemical, pollutant, or other material regulated by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Minnesota Environmental Response and Liability Act, as amended, or any similar law or regulation relating to environmental protection or human health (collectively, “Environmental Law”) and any material containing gasoline or oil or any petroleum product, asbestos or PCBs.

C. Tenant shall maintain the Billboard, its utilities and all other appurtenances in a reasonable and safe state of repair. Tenant shall pay all costs associated with and/or resulting from its use of the Leased Premises, including electrical and other utility costs and all repair and

maintenance costs related to the Billboard. Tenant shall procure at its sole expense all licenses and permits necessary for carrying out the provisions of this Agreement. Tenant shall pay all fees, taxes, and assessments of any kind whatsoever that arise because of, out of, or in the course of Tenant's lease or use of the Leased Premises, including real property and sales taxes, if applicable.

D. Tenant shall follow the City's reasonable policies and procedures regarding security and safe and supervised usage of the Leased Premises and the Driveway Area.

E. The Billboard and all materials, equipment and personal property placed upon the Leased Premises by Tenant during the Term or during the term of the 2002 Lease (the "Tenant Property") shall remain the property of Tenant and may be removed at any time during the Term. Tenant must remove all of the Tenant Property from the Leased Premises prior to the end of the Term, or within 30 days of early termination of this Lease for any reason. If Tenant fails to remove the Tenant Property as required by this Agreement, the City may remove the Tenant Property and Tenant shall promptly reimburse the City for its expenses relating to removal and disposal of the Tenant Property, including reimbursement of wages for City staff time.

F. Tenant's activities on and use of the Leased Premises and the Driveway Area shall comply with the laws, rules, and regulations of the United States, State of Minnesota, St. Louis County, and the City of Duluth. Tenant shall comply with all Minnesota Workers' Compensation laws in the utilization of all employees employed on the Leased Premises.

G. The City shall not be responsible for storage, theft, and/or vandalism of the Leased Premises, the Billboard or Tenant's personal property located on the Leased Premises or the Driveway Area.

#### **V. HOLD OVER TENANCY.**

In the event Tenant remains in possession of the Leased Premises after the expiration of this Agreement and without execution of a new lease, it shall be deemed to be occupying the Leased Premises as a tenant from month-to-month only, upon the same terms and conditions contained in this Agreement, to the extent the terms are applicable to a month-to-month tenancy. Rent at the then-current rate (increased by 2% from the previous annual Rent) shall be prorated on a month-to-month basis, payable in advance prior to the first day of each month. The foregoing sentence shall not serve as permission for Tenant to hold over, nor serve to extend the Term, and the City shall have the right at any time after expiration of the Term to enter and possess the Leased Premises and remove all property therefrom.

#### **VI. INDEPENDENT RELATIONSHIP.**

Nothing in this Agreement is intended or shall be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting Tenant as an agent, representative, or employee of the City for any purpose or in any manner whatsoever. The parties do not intend by this Agreement to create a joint venture or joint enterprise, and expressly waive any right to claim such status in any dispute arising out of this Agreement.

Tenant's employees shall not be considered employees of the City, and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota and any and all claims whatsoever arising out of employment or alleged employment, including without limitation, claims of discrimination against the City, or its officers, agents, contractors, or employees shall in no way be the responsibility of the City. Tenant and its officers and employees shall not be entitled to any compensation or rights or benefits of any hospital care, sick leave or vacation pay, Workers' Compensation, Unemployment Insurance, disability pay, or severance pay.

## **VII. INSURANCE.**

A. During the Term, Tenant shall provide and maintain in full force and effect the following minimum amounts of insurance:

- (a) Workers compensation insurance in accordance with applicable law.
- (b) Commercial General and Automobile Liability Insurance with limits not less than \$1,500,000 Single Limit that shall provide for the following: Liability for Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability. Tenant may meet the minimum amount of insurances as required above by obtaining an Umbrella policy with a "form following" provision. Insurance coverage shall include premises and operations coverage, independent contractors - protective contingent liability, personal injury, contractual liability covering the indemnity obligations set forth herein, and products – completed operations. The City does not represent or guarantee that these types or limits of coverage are adequate to protect Tenant's interests and liabilities. The City shall always be named as an Additional Insured under the Commercial General and Automobile Liability Policies.

B. Tenant shall provide the City with the following: (i) upon execution of this Lease, Certificate(s) of Insurance, in form acceptable to the City, evidencing the required insurance coverage - with 30-day notice of cancellation, non-renewal, or material change provisions included, and (ii) a certificate showing continued maintenance of such insurance shall be on file with the City during the Term. The City reserves the right to require Tenant to increase the coverages set forth above and to provide evidence of such increased insurance to reflect the municipal liability limits set forth in Minn. Stat. § 466.04, as amended from time to time.

## **VIII. DUTY TO DEFEND, INDEMNIFICATION AND HOLD HARMLESS**

To the fullest extent permitted by law, Tenant shall defend, indemnify, and hold the City and its employees, officers and agents harmless from and against any and all costs or expenses, claims or liabilities, including but not limited to, reasonable attorney's fees and expenses, whether asserted by itself or any third party, including claims arising from the acts, omissions, negligence, or misconduct of Tenant or that of its agents, employees, or contractors, or arising out of or resulting from its use or occupancy of the Leased Premises and the Driveway Area. The obligations shall include, but not be limited to, the obligations to defend, indemnify, and hold harmless the City in all matters where claims of liability against the City are alleged to be or

could be found to arise out of acts or omissions of Tenant, or are passive, derivative, or vicarious of the negligent or intentional acts or omissions of Tenant, or arise out of or relate to the activities under this Lease or Tenant's negligent, intentional, or wrongful acts or omissions, including breach of any duty in this Lease by Tenant. The obligations to defend, indemnify, and hold harmless shall be triggered upon the assertion of a claim for damages against the City. On ten days' written notice from the City, Tenant will appear and defend all lawsuits against the City growing out of such injuries or damages using counsel acceptable to the City. This Article shall survive the expiration or termination of this Lease for any reason. Tenant shall not have the obligation to indemnify the City for the City's intentional, willful or wanton acts. Tenant understands this provision may affect its rights and may shift liability.

**IX. REPORTING, RECORDS RETENTION, AND GOVERNMENT DATA PRACTICES.**

A. All data collected, created, received, maintained or disseminated for any purpose by the parties because of this Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. Tenant shall comply with the Minnesota Government Data Practices Act.

B. If Tenant receives a request to release data related to this tenancy and referred to in the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, Tenant shall comply with the law and consult with the City as may be prudent under the circumstances.

C. Tenant agrees to maintain all books, records, documents, and other evidence pertaining to this Agreement and the Activities for six (6) years following the termination or expiration of this Agreement.

D. Tenant acknowledges that, as provided in Minn. Stat. § 16C.05, Subd. 5, all Tenant books, records, documents, and accounting procedures and practices related to this Agreement are subject to examination by the City or the State Auditor for six (6) years from the date of termination or expiration of this Agreement. Upon twenty-four (24) hours advance written notice by the City, the Tenant shall provide all requested books, records, documents, and accounting procedures and practices related to this Agreement.

**X. INCIDENT REPORTS.**

Tenant shall promptly notify the City's Property and Facilities Manager, or their designee (the "Manager") in writing of any incident of injury or loss or damage to the property of the City or to any of Tenant's employees or agents occurring on or within the Leased Premises or the Driveway Area. Such written report shall be in a form acceptable to the City's Claims Investigator and Adjuster using the City's then-current form of Incident Report.

**XI. NOTICES.**

Unless otherwise provided herein, notice to the City or Tenant shall be sufficient if delivered personally or if sent by regular United States mail, postage prepaid, addressed to the parties at the addresses set forth below or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

If to the City:

City of Duluth  
Attn: Property and Facilities Manager  
1532 W. Michigan Street  
Duluth, Minnesota 55806  
(218) 730-4430

If to Tenant:

Lamar OCI North, L.L.C.  
9331 Westgate Blvd  
Duluth, MN 55806

**XII. SMOKING, TOBACCO, & ALCOHOL USE PROHIBITED.**

No smoking, tobacco, or alcohol use is allowed on the Leased Premises or the Driveway Area.

**XIII. TERMINATION OR EXPIRATION OF AGREEMENT.**

A. Upon termination or expiration of this Agreement, Tenant shall surrender possession of the Leased Premises to the City in as good condition and state of repair as the Leased Premises were in at the time Tenant took possession, normal wear and tear excepted. Upon termination or expiration of this Agreement, Tenant shall remove all of the Tenant Property from the Leased Premises.

B. Termination of Lease; Default and Remedies.

1. The City may terminate or suspend this Agreement if the City determines Tenant has or is violating any term of this Agreement. The City shall provide Tenant with written notice of such violation and shall allow Tenant thirty (30) days within which to cure or remedy the violations set forth in the written notice. If all of the violations are not cured or remedied to the satisfaction of the City within thirty (30) days, then the City may terminate this Agreement immediately by serving written notice to Tenant. In the event of a violation of this Agreement by Tenant that continues after the notice and cure periods described above, the City, in addition to other rights or remedies it may have, shall have the immediate right of reentry in the Leased Premises, and after five (5) days prior written notice to Tenant, may remove all persons and property from the Leased Premises. The City may, in addition to any other remedy it may have, recover from Tenant all damages incurred by reason of any violation of this Agreement, including the cost of recovering the Leased Premises and for reasonable attorney's fees.

2. Tenant may terminate this Agreement upon 30 days written notice to the City in the event that the Billboard becomes entirely or partially obstructed so as to render the location economically undesirable.

3. In the event the Billboard is destroyed beyond repair, this Lease shall automatically terminate and the City shall return any prepaid Rent to Tenant, prorated as of the date of destruction of the Billboard. In such event, the parties shall sign a termination of this Lease to memorialize the automatic termination in writing.

#### **XIV. ALTERATIONS AND IMPROVEMENTS.**

A. Tenant may, at its sole cost and expense, make suitable improvements or alterations to the Leased Premises only with the advance written approval of the Manager. All such improvements and alterations shall become the property of the City except as otherwise agreed upon in writing. Prior to commencing any improvements or alterations, Tenant shall submit to the City a Project Proposal Request using the City's then-current form, along with detailed plans. The Project Proposal Request and detailed plans shall be submitted to the City at least forty-five (45) days before the planned commencement of the work. No work may begin on any approved project until all necessary building permits are secured. All construction shall conform to all applicable law.

B. Tenant agrees that not less than thirty (30) days prior to commencement of any alteration or improvement on the Leased Premises, Tenant will provide the City with sufficient proof of required insurance, including worker's compensation. Such proof of insurance must be approved by the City Attorney before the commencement of any construction, alteration or improvement.

C. Tenant shall keep the Leased Premises free of any and all mechanics', materials suppliers' and other liens arising out of any work, labor done, services performed, or materials furnished to the Leased Premises by or on behalf of Tenant. Tenant shall have the right to contest any lien, provided it does so in good faith.

#### **XV. GENERAL PROVISIONS.**

A. The Leased Premises, except for the Ground Rights Area and the Air Rights Area, and the Driveway Area are a multi-use area requiring the cooperation of all users. This cooperation includes ingress and egress, amenities, and related improvements. Tenant acknowledges that the Manager shall determine the appropriate use of the Leased Premises and the Driveway Area, subject to Tenant's rights under this Lease.

B. The waiver by the City or Tenant 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.

C. This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties

relating to the subject matter hereof. As of the date of commencement of this Lease, the 2002 Lease has terminated.

D. Tenant shall neither assign nor transfer any rights or obligations under this Agreement, nor sublet any portion of the Leased Premises, without the written permission of the City.

E. The laws of the State of Minnesota shall govern all interpretations of this Agreement, and the appropriate venue and jurisdiction for any litigation that may arise under the Agreement will be in and under those courts located within St. Louis County, Minnesota.

F. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

G. Any amendments to this Agreement shall be in writing and shall be executed by the same officers who executed this Agreement or their successors in office.

H. The parties represent to each other that the execution of this Agreement has been duly and fully authorized by their respective 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.

I. 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.

J. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement. This Agreement may be executed and delivered by a party by email transmission, which transmission copy shall be considered an original and shall be binding and enforceable against such party.



IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as indicated below.

**CITY OF DULUTH**

**LAMAR OCI NORTH, L.L.C.**

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date Attested: \_\_\_\_\_

Countersigned:

\_\_\_\_\_  
City Auditor

Approved as to form:

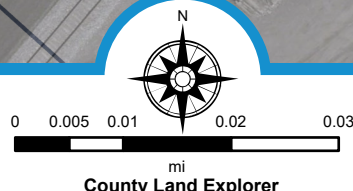
\_\_\_\_\_  
City Attorney



# EXHIBIT A



- Billboard
- Driveway Area



St. Louis County [www.stlouiscountymn.gov/explorer](http://www.stlouiscountymn.gov/explorer) Minnesota

**Disclaimer**  
This is a compilation of records as they appear in the Saint Louis County Offices affecting the area shown. This drawing is to be used only for reference purposes and the County is not responsible for any inaccuracies herein

Map created using County Land Explorer  
[www.stlouiscountymn.gov/explorer](http://www.stlouiscountymn.gov/explorer)

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