

# EXHIBIT 1

## STATE OF MINNESOTA

### LICENSE

LICENSE NO. **L-384**

THIS LICENSE is made by and between City of Duluth, hereinafter referred to as LICENSOR, and the State of Minnesota, Department of Administration, hereinafter referred to as LICENSEE, acting for the benefit of the Department of Agriculture.

WHEREAS, the Commissioner of Administration is empowered by Minn. Stat. §16B.24, subd. 6, to lease non-state owned property;

WHEREAS, LICENSOR owns the Duluth City Hall at 411 West 1<sup>st</sup> Street in Duluth, which is available for LICENSEE'S use;

WHEREAS, LICENSEE has expressed a need to use the shared office space for purposes herein described;

NOW THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, which each of the parties hereto acknowledge as adequate and sufficient, it is hereby agreed as follows.

#### 1. **PREMISES**

1.1 LICENSOR grants and LICENSEE accepts the non-exclusive use of:

One desk within the Duluth Parks and Recreation Division Office located in the ground floor of City Hall (hereinafter referred to as the Premises) in the City of Duluth, County of St. Louis, Minnesota 55802. LICENSEE may have non-exclusive use of the office of the LICENSOR's Parks and Recreation Division Office and common areas of the City Hall, defined as the hallways, restrooms, and conference rooms. The exclusive and non-exclusive leased space shall be collectively referred to as the "Premises."

1.2 LICENSEE accepts the Premises "as is" in its present physical condition. LICENSOR makes no warranties or representations, express or implied, that the Premises, adjoining real estate, and equipment on and inside the Premises are suitable for any purpose.

2. **PERIOD OF USE** The term of this License is two (2) years, five (5) months, commencing February 1, 2018 and continuing through June 30, 2020 ("Period of Use").

3. **USE** LICENSEE shall use the Premises for office uses and for no other purpose.

4. **LICENSE NOT A LEASE** It is expressly understood and agreed that by reason of the nature and character of the occupancy of all parts thereof, the relation of lessor and lessee, as contemplated by the laws of the State of Minnesota, is not created by the Agreement, but LICENSEE is granted only a permit to occupy the space described, and for the specified period. LICENSEE shall at all times be considered an independent contractor, and not an employee or agent of the LICENSOR.
5. **LICENSE FEE** LICENSEE and LICENSOR hereby agree there is no fee for LICENSEE'S use of the Premises. The consideration for the Premises shall instead be the public benefit provided by LICENSEE through its services from the Cooperative Invasive Species Management Area Coordinator position.
6. **TERMINATION**
- 6.1 In the event that the Minnesota State Legislature does not appropriate to the Department of Agriculture funds necessary for the continuation of this License, or in the event that Federal Funds necessary for the continuation of this License are withheld for any reason, this License may be terminated by LICENSEE upon giving thirty (30) days written notice.
- 6.2 Pursuant to Minn. Stat. §16B.24, subd. 6, this License is subject to cancellation upon thirty (30) days written notice by LICENSEE for any reason except the license of other non-state-owned land or premises for the same use.
- 6.3 Notwithstanding Clauses 6.1 and 6.2 above, this License may be terminated by LICENSEE for any reason at any time upon giving thirty (30) days prior written notice to LICENSOR.
7. **SURRENDER OF PREMISES** LICENSOR and LICENSEE hereby agree that at the expiration or earlier termination of this License or extension thereof, any equipment (hereinafter referred to as "Personal Property"), whether attached to the Premises by LICENSOR or LICENSEE shall remain the property of LICENSEE. LICENSEE shall remove its Personal Property and vacate and surrender possession of the Premises to LICENSOR in as good condition as when LICENSEE took possession, ordinary wear and tear and damage by the elements excepted.
8. **MAINTENANCE AND REPAIRS**
- 8.1 Maintenance LICENSOR shall maintain in working condition all appurtenances within the scope of this License, including the maintenance of proper plumbing, wiring, heating (and, where applicable, cooling) devices and ductwork.
- 8.2 Repairs LICENSOR shall make such necessary repairs so as to continue to provide all such service appurtenances as are required by this License, including any improvements to the Premises, whether or not the improvement was paid for by

LICENSEE. However, that LICENSOR shall not be responsible for repairs upon implements or articles, which are the personal property of LICENSEE, nor shall LICENSOR bear the expense of repairs to the Premises necessitated by damage caused by LICENSEE beyond normal wear and tear.

9. **INSURANCE**

9.1 **Property Damage** It shall be the duty of LICENSOR and LICENSEE to maintain insurance or self-insurance on their own property, both real and personal. Notwithstanding anything apparently to the contrary in this License, LICENSOR and LICENSEE hereby release one another and their respective partners, officers, employees and property manager from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for loss or damage covered by said insurance, even if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

9.2 **Liability** LICENSOR and LICENSEE agree that each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. LICENSEE'S liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minn. Stat. §3.736, and other applicable law. City's liability shall be governed by the provisions of Minnesota Statutes Chapter 466 and other applicable law.

10. **AUDIT** Pursuant to Minn. Stat. §16C.05, subd. 5, the books, records, documents and accounting procedures and practices of LICENSOR relevant to this License shall be subject to examination by the State and/or Legislative Auditor, as appropriate, for a minimum of six (6) years.

11. **DEFAULT BY LICENSOR** If LICENSOR shall default in the performance of any of the terms or provisions of this License, LICENSEE shall promptly so notify LICENSOR in writing. If LICENSOR shall fail to cure such default within thirty (30) days after receipt of such notice, or if the default is of such character as to require more than thirty (30) days to cure, and LICENSOR shall fails to commence to do so within thirty (30) days after receipt of such notice and thereafter diligently proceed to cure such default, then in either event, LICENSEE, at its sole option, may terminate this License upon thirty (30) days written notice or may cure such default. In the event LICENSEE cures the default, LICENSOR shall pay all reasonable and actual expenses paid by LICENSEE to cure said default, including attorney's fees, within ten (10) days of receipt of invoices therefore rendered, or LICENSEE shall have a specific right to set-off any such amounts due from LICENSOR against any rent payments or other amounts due under this License. In the event LICENSEE elects to terminate this License, said termination shall not limit LICENSEE'S rights to damages caused by the breach and failure to cure. This provision in no way limits LICENSEE'S other remedies for breach under common law or this License.

12. **DEFAULT BY LICENSEE** In the event of any failure of LICENSEE to perform any of the terms, conditions or covenants of this License to be observed or performed by LICENSEE for more than thirty (30) days after written notice of such default has been given to LICENSEE, LICENSOR shall have the right, at its option, to terminate this License. Upon such termination LICENSEE shall quit and surrender the Licensed Premises to LICENSOR. Upon such termination, LICENSOR or LICENSOR'S agent may reenter the Licensed Premises and remove all persons and all or any therefrom by proceeding at law, and thereby repossess and enjoy the Licensed Premises; and by such repossession and reentry, LICENSOR shall not be deemed to have waived its right (if any) to collect rent due (if any) from LICENSEE hereunder or to enforce the other obligations of LICENSEE hereunder.
13. **MANAGEMENT** LICENSOR agrees that in exercising its management responsibilities of the property of which the Premises is a part, including the maintenance, repair, alterations and construction relating thereto, it shall comply with all applicable laws, statutes, rules, ordinances and regulations, including but not limited to building code, fire code, disabilities access, zoning, air quality, pollution control, recyclable materials and prevailing wage requirements, as issued by any federal, state or local political subdivisions having jurisdiction and authority in connection with said property.
14. **SMOKING** Pursuant to Minn. Stat. §16B.24, subd. 9, LICENSOR and LICENSEE shall not permit smoking in the Premises.
15. **GOVERNMENT DATA PRACTICES ACT COMPLIANCE**
- 15.1 LICENSOR must comply with the Minnesota Government Data Practices Act, Minn. Stat., Chapter 13, as it applies to all data provided by LICENSEE in accordance with this License and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by LICENSOR in accordance with this License. The civil remedies of Minn. Stat. §13.08, apply to LICENSOR and LICENSEE.
- 15.2 Minn. Stat., Chapter 13, provides that all government data are public unless otherwise classified. If LICENSOR receives a request to release the data referred to in this Clause, LICENSOR must immediately notify LICENSEE and consult with LICENSEE as to how LICENSOR should respond to the request. LICENSOR'S response shall comply with applicable law, including that the response is timely and, if LICENSOR denies access to the data, that LICENSOR'S response references the statutory basis upon which LICENSOR relied. LICENSOR does not have a duty to provide public data to the public if the public data is available from LICENSEE.
16. **OPERATION AND MAINTENANCE**
- 16.1 LICENSEE shall maintain its exclusive space within the Premises in a safe and clean manner at all times. LICENSEE shall remove and properly dispose of all litter and waste into City Hall trash and recycling containers designated and/or provided by

Manager and/or City. Lessee agrees to comply with the LICENSEE's recycling requirements established by the LICENSEE's energy coordinator.

- 16.2 LICENSEE shall keep and maintain the Premises in good order, condition, and state of repair.
  - 16.3 LICENSEE shall be responsible for maintaining its own equipment in a safe, legal, and properly maintained manner at LICENSEE's sole expense. LICENSEE shall prohibit the use of any unsafe, illegal, or deficient equipment on Premises.
  - 16.4 LICENSEE shall solely be responsible for any losses or damages caused by LICENSEE, including its employees, agents, volunteers, or program participants, to the Premises, City Hall, or to any LICENSOR equipment.
  - 16.5 LICENSEE shall not make structural changes to the Premises or City Hall without written authorization from Manager and/or LICENSOR.
  - 16.6 LICENSEE agrees and understands that the Premises is a public facility and, accordingly, will limit its activities within the area to allow the general public the use of the common areas and conference rooms, except when LICENSEE has reserved the Premises conference rooms per Section 17 below, for its exclusive use.
  - 16.7 LICENSEE is solely responsible for storage, theft, and/or vandalism of Premises and personal property, equipment, tools, and machinery.
17. **CONFERENCE ROOMS** LICENSEE must obtain prior written approval from the City's Parks and Recreation Manager ("Manager") for each use of Premises conference rooms. Use is subject to availability, and LICENSEE is not guaranteed priority of its requests. Manager reserves the exclusive right to cancel and/or reschedule LICENSEE's use of Premises conference room(s) should an unforeseen scheduling conflict arise. All meetings and events held in the Premises conference rooms must be directly related to LICENSEE's services.
18. **LICENSOR ACCESS.**
- 18.1 LICENSEE shall permit the LICENSOR, Manager, and their designees, to access and inspect the Premises at any time. LICENSEE shall not change the locks or otherwise prohibit or inhibit LICENSOR or Manager access to any portion of the Premises.
  - 18.2 The City Properties and Facilities Management shall be exclusively responsible for the design and designation of keying systems, lock changes, key fabrication and key distribution. LICENSEE shall comply with LICENSEE's Key Control Policy, a copy of which shall be provided to LICENSEE, and is subject to unilateral change by LICENSOR during this Agreement.
  - 18.3 LICENSEE shall not make copies of Premises keys. All keys shall be promptly returned to the LICENSEE's Property & Facilities Manager upon termination or

expiration of this Agreement. If keys are not promptly returned, LICENSEE may rekey the locks to the Premises and charge LICENSEE for actual costs of rekeying.

19. **INCIDENT REPORTS.** LICENSEE shall promptly notify the Manager and LICENSOR's property and facilities manager in writing of any incident of injury or loss or damage to LICENSOR property or any LICENSEE's participants or invitees occurring on or within City Hall and Premises during this Agreement. Such written report shall be in a form acceptable to the LICENSOR's claims investigator and adjuster. A copy of the LICENSEE's form of Incident Report is attached hereto and incorporated by reference into this Agreement as Exhibit A.
20. **EXECUTION IN COUNTERPARTS** The License may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts of this License taken together shall constitute but one and the same License.. Delivery of an executed counterpart of this License by facsimile or email or a PDF file shall be equally as effective as delivery of an original executed counterpart of this License.
21. All amendments to this License shall be in writing and executed by a duly authorized representative of each party.
22. **NOTICES**
  - 22.1 All notices or communications between LICENSOR and LICENSEE shall be in writing and deemed to have been given upon the occurrence of one of the following methods of delivery to the address noted in Clause 22.2 below.
    - a. when personally delivered to the addressee, or
    - b. on the second business day after sender has deposited the registered or certified mailing with the US Postal Service, or
    - c. one (1) business day after deposited with an overnight courier service.

22.2 Mailing Addresses:

LICENSOR:

City of Duluth  
Attn: Property and Facilities Manager  
1532 W. Michigan St.  
Duluth, MN 55806

LICENSEE:

Real Estate and Construction Services  
Department of Administration  
50 Sherburne Ave # 309  
St Paul MN 55155

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**EXHIBITS:**

Exhibit A Incident Report

IN WITNESS WHEREOF, the parties have set their hands on the date(s) indicated below intending to be bound thereby.

LICENSOR:  
CITY OF DULUTH

*Licensor certifies that the appropriate person(s) have executed the License on behalf of Licensor as required by applicable articles, bylaws, resolutions or ordinances.*

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

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

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

Countersigned:  
  
\_\_\_\_\_  
City Auditor

Approved as to form:  
  
\_\_\_\_\_  
City Attorney

LICENSEE:  
STATE OF MINNESOTA  
DEPARTMENT OF ADMINISTRATION  
COMMISSIONER

By \_\_\_\_\_  
Real Estate and Construction Services

Date \_\_\_\_\_

APPROVED BY:  
STATE OF MINNESOTA  
DEPARTMENT OF AGRICULTURE

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

STATE ENCUMBRANCE VERIFICATION  
*Individual signing certifies that funds have been encumbered as required by Minn. Stat. §16A.15 and §16C.05.*

By NA \_\_\_\_\_

Date NA \_\_\_\_\_

SWIFT P.O. NA \_\_\_\_\_

Contract No. NA \_\_\_\_\_