

EXHIBIT 1

PARK POINT BEACH HOUSE AND ADJOINING PROPERTY OPERATION AND MANAGEMENT AGREEMENT BETWEEN THE CITY OF DULUTH AND THE DULUTH AREA FAMILY Y.M.C.A.

THIS AGREEMENT is by and between the CITY OF DULUTH, a municipal corporation organized and existing under the laws of the State of Minnesota (the “City”), and the Duluth Area Family Y.M.C.A., a Minnesota non-profit corporation (the “YMCA”). The City and the YMCA are hereinafter collectively referred to as the “Parties.”

RECITALS

WHEREAS, the City owns park property located on Minnesota Point, also known as Park Point. The portion of the City’s Park Point park property subject to this Agreement is located at 5000 Minnesota Avenue, Duluth, Minnesota, 55802, and is depicted on the attached Exhibit A (the “Premises”). The Premises includes the Park Point Beach House (defined below), the Recreation Facilities (defined below) and the adjoining grounds and fields all as shown on Exhibit A, and all related equipment and other improvements owned by the City and located on the Premises.

WHEREAS, the YMCA has operated and maintained the Premises pursuant to other agreements with the City since 2009;

WHEREAS, the YMCA provides critical services to the community through its operation and management of the Premises;

WHEREAS, the YMCA desires to continue to operate and maintain the Premises by providing certain services as described in this Agreement; and

WHEREAS, the City would like the YMCA to continue to operate and manage the Premises.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

I. Administration

For purposes of administering this Agreement, the City shall act through its Manager of Parks and Recreation or designee (“Manager”) and the YMCA shall act through its Executive Director or designee (“Executive Director”).

II. Purpose

The YMCA agrees to operate and maintain the Premises by (i) providing and operating lifeguard services, (ii) managing rental of the various portions of the Premises, including but not limited to the Park Point Beach House and the Recreation Facilities, (iii) providing and operating retail vending and concession services at the Park Point Beach House; and (iv) providing maintenance and other services as set forth in this Agreement. The YMCA agrees to be responsible for all expenses not specifically mentioned in this Agreement related to the operation and maintenance of the Premises.

III. Premises, Park Point Beach House and Recreation Facilities

A. The YMCA, at its sole expense and subject to the provisions of this Agreement, shall manage, operate and maintain: (1) the Park Point Beach House, depicted on Exhibit A, and immediately adjoining grounds, exterior walkways, exterior stairways, exterior access ramps, and deck areas, and all equipment and improvements located thereon (collectively the “Park Point Beach House”) and (2) the Recreation Facilities, which include the picnic pavilions, ball fields, and sand volleyball courts located on the Premises and shown on Exhibit A (collectively the “Recreation Facilities”).

B. The YMCA accepts the Premises “as is,” in its present physical condition, without representations or warranties of any kind. The City makes no warranty, either express or implied, that the Premises are suitable for any purpose.

IV. Term

Notwithstanding the date of execution of this Agreement, this Agreement shall be deemed to commence on May 1, 2017 and shall continue through September 30, 2019 (the “Term”), unless earlier terminated as provided for herein.

V. Termination

A. Generally

1. Upon expiration or early termination of this Agreement for any reason, the YMCA shall remove all of its personal property from the Premises pursuant to this section, Section V.C. or Section V.D. below, as applicable. The YMCA agrees to surrender possession of the Premises to the City in as good condition and state of repair as the Premises were in at the time the YMCA took possession, normal wear and tear excepted. All personal property remaining on the Premises after the YMCA surrenders possession to the City shall become the exclusive property of the City.

2. Upon expiration or termination of this Agreement for any reason, the YMCA shall remit to the City within five (5) business days the following:

- a. The Master Calendar (defined below);
- b. Organization names, contact person(s), and contact information relating to all future events, rentals, permits and uses of the Premises or any portion of the Premises authorized by the YMCA;
- c. Copies of any permits, agreements or other documents relating to all future events, rentals, permits and uses of the Premises or any portion of the Premises authorized by the YMCA;
- d. Accounting of all fees collected relating to all future events, rentals, permits and uses of the Premises or any portion of the Premises authorized by the YMCA;
- e. Check reimbursing the City in full for all fees collected relating to all future events, rentals, permits and uses of the Premises or any portion of the Premises authorized by the YMCA; and
- f. Such other information reasonably requested by the City.

B. Mutual Agreement

This Agreement may be terminated without cause by either Party by serving at least ninety (90) days' written notice of termination upon the other.

C. Immediately

The City may unilaterally terminate or suspend this Agreement immediately if the City believes in good faith that the health, welfare or safety of the Premises, its occupants, users or neighbors would be placed in immediate jeopardy by the continuation this Agreement. The City, in addition to other rights or remedies it may have, shall have the immediate right of reentry to the Premises. In the event of immediate termination of this Agreement and after five (5) days prior written notice to the YMCA, the City may remove all persons and property from the Premises. All personal property remaining on the Premises after the five (5) days written notice shall become the exclusive property of the City.

D. For Cause

The City may terminate this Agreement for the material breach by the YMCA of any provision of this Agreement, including its exhibits, if such breach is not cured to the satisfaction of the City within thirty (30) days of delivery of a written notice by the City (or such longer time as specified in the notice). The notice shall identify the breach and the necessary actions to remedy the breach. The City shall allow the YMCA thirty (30) days within which to cure or remedy any violations or defaults set forth therein. If such violation or default is 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 the YMCA. In the event of default by the YMCA, the City, in addition to other rights or remedies it may have, shall have the immediate right of reentry to the Premises. In the event of termination of this Agreement pursuant to this

paragraph, and after five (5) days prior written notice to the YMCA, the City may remove all persons and property from the Premises. All personal property remaining on the Premises after the five (5) days written notice shall become the exclusive property of the City.

VI. General Operation of the Premises

A. Considering the seasonal nature and use of the Premises, the YMCA shall staff and operate the Premises between May 1 and September 30 each year during the Term (defined below) (the “Summer Season”).

B. The YMCA shall provide retail vending and concession services at the Park Point Beach House for the use and convenience of the general public. General daily hours of retail vending and concession services at the Park Point Beach House shall be 11:00 a.m. – 4:00 p.m., to coincide with the open hours of the Park Point Recreation Area beach. The YMCA will provide at least one (1) staff person to operate the concession stand during hours of operation. It is generally expected that the retail vending and concession services at the Park Point Beach House shall be open and functional each day, or portion thereof, that the Lifeguard Area (defined below) is open and staffed with lifeguards.

C. The YMCA understands and acknowledges that any party or special event held on the Premises must not begin earlier than 10:00 a.m. on the date(s) of each party or special event, except as otherwise permitted by Manager in writing. All parties or special events held: (1) Sunday through Thursday, must end no later than 11:00 p.m. and (2) Friday and Saturday, must end no later than 11:59 p.m.

D. The YMCA shall provide the City with the name(s) and contact information of any on-site manager provided by the YMCA who will be responsible for the daily operation and maintenance of the Premises.

E. The YMCA shall provide the lifeguard services as described in Section VII.A. below.

F. The YMCA shall staff and operate recreational and related programs offered to the general public on the Premises. Such programs shall be scheduled and advertised similar to other YMCA programs. The YMCA may charge fees for said programs. A listing of all YMCA programs scheduled on the Premises, complete with dates, times, and fees to be charged, shall be provided to the City at least thirty (30) days prior to the commencement of such programming.

G. Except as provided in Section VI.J. below, the YMCA shall not sublet any portion of the Premises without first securing prior written approval of the City.

H. Rental and Use of Premises

1. Throughout the Term of the Agreement, the YMCA shall be solely responsible for managing the rental and use of the Premises during the Summer Season, or any portion thereof, by individuals, groups, clubs and other organizations. Notwithstanding the seasonal

nature and use of the Premises, YMCA shall respond to building rental inquiries and process reservations on a year-round basis.

2. The YMCA's responsibilities for the rental and use of the Premises shall include, but not be limited to:

a. Scheduling private parties, recreational and/or community events and programs that are scheduled to occur during the Summer Season both during the Term and after the Term.

b. Maintaining a master calendar (the "Master Calendar") that lists all future events, rentals, permits, and uses of the Premises, or any portion of the Premises, authorized by the YMCA. An up-to-date version of the Master Calendar shall be provided to the Manager on or before the 1st day of each month during the Term.

c. Collecting the rental fees and deposits for use of the Premises, as applicable. All fees and deposits shall be separately managed and/or accounted for by the YMCA in order to identify funds received or expended in the operation and maintenance of the Premises.

d. Managing, overseeing, and supervising the use of the Premises by the renters and all users of the Premises (including guests, invitees and agents thereof) and ensuring compliance with all rules and laws. This includes, but is not limited to, ensuring that all required alcohol permits are obtained from the City if the rental activity will include the consumption of alcoholic beverages, and requiring that all renters and users of the Premises comply with all laws regulating the consumption of alcohol.

3. The YMCA may rent any portion of the Premises to individuals, groups, clubs or organizations and may, at its discretion, charge a rental fee and/or require a deposit, whether or not the event occurs before or after the expiration of the Term.

4. A schedule of rental fees for the use of the Premises shall be created by the YMCA and submitted to the Manager for approval prior to becoming effective, which approval shall not be unreasonably withheld or delayed.

5. All rentals of the Premises shall be documented by a written rental agreement.

6. It is fully understood by both Parties that the Recreation Facilities shall be open and available for the use and enjoyment of the general public at no cost when not previously reserved by an individual, group, club or organization.

I. The YMCA agrees that at all times the Premises are in use, except when occupied by another permitted party or under the supervision of authorized City staff, the Premises will be supervised by an adult person who is employed by or otherwise responsible to the YMCA.

J. The YMCA agrees that it will not relinquish temporary occupancy and control of any portion of the Premises to a third party user unless a responsible adult representing the user completes and signs a separate Temporary Lease Agreement. A copy of each executed

Temporary Lease Agreement shall be submitted to the Manager within ten (10) days of its execution and at least fifteen (15) days prior to the lease period. The YMCA is still responsible for fulfilling its duties under this Agreement during a third party rental.

K. The Parties recognize that the Premises is a long-standing venue for large-scale special events and activities such as the Park Point Art Fair and Park Point Five Miler. The Park Point Art Fair and Park Point Five Miler events are specifically excluded from the YMCA's operation and management of the Premises. However, the City shall pay to the YMCA one-half (1/2) of the fee collected by the City in relation to the Park Point Art Fair. Both Parties agree to honor all prior commitments to large-scale special events and to make every effort to mutually coordinate the use of the Premises for additional large-scale special events. The YMCA understands that existing and new large-scale special events may cause temporary disruption of the YMCA's programs. The City shall provide notice to the YMCA in advance of any large-scale special events.

L. A copy of the 2017 Park Point Beach House Rental Information and Policies is attached as Exhibit B. YMCA shall provide the current year's Park Point Beach House Rental Information and Policies to the City each year during the Term of this Agreement.

M. A copy of the 2017 Pavilion and Field Application is attached as Exhibit C. YMCA shall provide the current year's Pavilion and Field Application to the City each year during the Term of this Agreement.

VII. Lifeguard Services

A. The YMCA shall provide, at no cost to the City, lifeguard services for the Park Point Recreation Beach area within the lifeguard area identified on Exhibit A (the "Lifeguard Area"). Lifeguard services shall be provided at all times when the Park Point Recreation Beach is designated as "open" during the summer beach season (June 1 to Labor Day), and/or other dates agreed upon in writing by both Parties in advance, seven (7) days per week, daily from 11:00 a.m. – 4:00 p.m. The YMCA shall provide not less than two (2) on-duty lifeguards, and all lifeguards shall be trained and hold the required certification and licenses necessary to perform his or her job duties. The YMCA shall be responsible for hiring, screening, and supervising the lifeguards and ensuring that competent, certified lifeguards are present in sufficient number to safely and sufficiently serve the Lifeguard Area and its users.

B. The YMCA shall determine, based on water and weather conditions and in consultation with the City of Duluth Fire Department, the days and times that the Park Point Recreation Beach area/Lifeguard Area shall be "open." The YMCA shall develop and implement beach closing procedures based on the Duluth Fire Department flag warning system. As necessary, the YMCA shall take the steps necessary to properly close the Lifeguard Area to swimming and notify beach users.

C. It is acknowledged that under prior agreements, the City permitted the YMCA to use certain lifeguarding and/or beach-related equipment, and the YMCA may continue to use such equipment under this Agreement. The YMCA shall be responsible for the replacement of

any necessary equipment during the Term. Upon expiration or termination of this Agreement, whichever occurs first, the lifeguarding and/or beach-related equipment shall remain the property of the City.

VIII. Marketing and Advertising of the Premises

A. The YMCA shall be diligent in the marketing and advertising of the services and amenities available on the Premises. The YMCA agrees to utilize appropriate marketing and advertising outlets, such as inclusion of the Premises on the YMCA's website and in its member brochure/pamphlet. All marketing and advertising shall be at the YMCA's cost and expense.

B. All marketing efforts must comply with all applicable laws, rules, and guidelines governing such activities.

IX. Maintenance by the YMCA

A. The YMCA shall provide, at its expense, all daily cleaning, minor repairs (defined as repairs with total documented cost of less than \$500.00 per repair, including materials and labor), and routine maintenance necessary to properly operate and maintain the Premises in a safe and reasonable state of repair, normal wear and tear excepted, including but not limited to the following:

1. Providing those items required for the daily operation, maintenance, and routine cleaning of the Premises, including but not limited to, cleaning supplies, interior light bulbs, garbage bags, paper products, plastic products, and other equipment and supplies.
2. Maintaining the Premises in a neat and clean fashion, including but not limited to removing all litter or other waste and properly disposing of same into the disposal containers provided at or within the Premises, including the Lifeguard Area and that portion of the beach extending two hundred (200) feet in either direction of the Lifeguard Area.
4. Providing all staff and other equipment necessary to clean and maintain the Premises as required by this Agreement.
5. Complying with the City's guidelines relating to recycling, energy efficiency, and maintenance of the Premises, a copy of which will be provided to the YMCA.
6. Daily cleaning (including the emptying and maintaining of all trash containers) of the Premises, including but not limited to the bathrooms located on the Premises.
7. Maintaining the handicap access ramp leading to the Park Point Beach House and keeping all hard surfaces clear of sand and debris.
8. Securing the Park Point Beach House when not in use.

B. The YMCA shall provide day-to-day janitorial cleaning and other minor maintenance not requiring a licensed or skilled tradesperson (e.g., plumber, electrician, carpenter, etc.).

C. The YMCA shall promptly notify the City of necessary major repair work, including any repair work that requires a licensed or skilled tradesperson, so that the City can make the necessary repairs or arrange for a service provider of the City's choice to make the repairs.

D. The YMCA's maintenance obligations under this Section shall only be in effect during the Summer Season.

X. City's Responsibilities

A. The City shall provide and pay for local telephone service, electricity, water, garbage pick-up, and sewer utilities for the Park Point Beach House.

B. The City shall provide necessary major repairs and non-routine maintenance to the structural and mechanical components of all existing buildings and plumbing and electrical systems. Non-routine maintenance shall be defined as major system replacement or repair or replacement of whole systems, major building and/or assembly, or upgrade of any fixed asset, road repair, locks and key changes, and winterizing water systems.

C. The City shall provide and pay for basic cable internet to the Park Point Beach House, plus payment of the cost of installing the necessary hardware for wireless internet service to the Park Point Beach House.

XI. Alterations or Improvements

A. The YMCA may, at its sole cost and expense, make suitable improvements or alterations to the Premises only with advance written approval from the City's Property and Facilities Manager or his or her designee. All such improvements (excluding appliances and equipment plugged into an electricity source) shall become the property of the City. Prior to commencing any improvements or alterations, the YMCA shall submit to the City a Project Proposal Request (in the form attached as Exhibit D) along with detailed plans. The Project Proposal Request shall be submitted to the City at least forty-five (45) days before the planned commencement of the proposed alteration or improvement. No work may begin on any approved project until all necessary building permits are secured. All construction shall conform to state law and the Duluth City Code, and shall be completed in a professional and prompt manner.

B. The YMCA agrees that not less than thirty (30) days prior to commencement of any construction on the Premises, the YMCA 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 in writing before the commencement of any construction.

XII. Incident Reports

The YMCA shall promptly notify the Manager and the City's Property and Facilities Manager in writing of any incident of injury or loss or damage to the City's property or to any employee, agent, user, participant or invitee occurring on or within the Premises during the Term. Such incident shall be reported using the form of the Incident Report attached as Exhibit E.

XIII. Communications

A. The Parties agree that a full and complete exchange of information is necessary for a successful relationship, and each party agrees to communicate openly and regularly with the other with regard to this Agreement.

B. The YMCA agrees to provide the City with an annual summary report identifying all activities held on the Premises during the Summer Season each year during the Term. The report will include statistics about each activity including date of the activity, name of activity, number of people in attendance, and brief description of the activity.

C. The Parties agree to meet during the Term to jointly inspect the Premises to determine whether the Premises are in all respects in proper condition and, if necessary, to review the terms and conditions of this Agreement.

D. For general questions about the terms of this Agreement or day-to-day questions about operation and maintenance of the Premises, the Parties agree that the following named persons shall be the primary contacts:

City of Duluth
Attn: Josh Abraham
Recreation Specialist
411 W. First Street, Ground Floor
Duluth, Minnesota 55802
(218) 730-4314
jabraham@duluthmn.gov

Duluth Area Family YMCA
Attn: Cheryl Podtburg
Aquatics Director
302 W. First Street
Duluth, Minnesota 55802
(218) 722-4745 X131
CPodtburg@duluthymca.org

The Parties may designate other contact persons from time to time in writing. Such writing shall be communicated to the persons listed in Section XXIV below.

XIV. Financials, Reporting, and Taxes

A. Except as otherwise stated above in Section VI.K. with respect to the Park Point Art Fair, the City will not pay a fee to the YMCA under this Agreement, nor will the City charge a fee to the YMCA for its use and occupancy of the Premises. In return for the YMCA's services under this Agreement, the YMCA will retain one hundred percent (100%) of the Net

Receipts (defined below). (The “Net Receipts” means all amounts collected by the YMCA in relation to the Premises from rental fees or from vending and concession sales, net of discounts, refunds, rebates, credits, credit card returns, credit card charges, uncollected checks and all applicable taxes.)

B. The YMCA shall file with the City Auditor an itemized statement showing all YMCA income and expenses related to the operation and maintenance of the Premises annually during the Term. The statement shall be filed not later than December 31 of each calendar year and shall include all required financial information from the year. The statement shall also include a designation of the official contact person responsible for the administration of this Agreement along with that person’s address and phone number. A current copy of the YMCA’s Bylaws and Articles of Incorporation shall be provided to the City before this Agreement takes effect, and YMCA shall provide the City with updated copies if said documents change during the Term.

C. The YMCA acknowledges that, as provided in Minnesota Statutes Section 16C.05, Subd. 5, all of the YMCA books, records, documents, and accounting procedures and practices related to the operation and maintenance of the Premises 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 YMCA shall provide all requested books, records, documents, and accounting procedures and practices related to the operation and maintenance of the Premises.

D. YMCA agrees to pay all licenses, fees, taxes, and assessments of any kind whatsoever that arise because of, out of, or in the course of the YMCA’s operation and maintenance of the Premises, including sales taxes, if applicable. It is further agreed that the City may (i) pay the same on behalf of the YMCA and immediately collect the same from the YMCA, or (ii) reduce any amount owed to the YMCA by the City pursuant to this Agreement in an amount equal to the payment made by the City on the YMCA’s behalf. The YMCA shall further be obligated to collect and/or 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.

XV. Insurance

A. The YMCA shall procure and maintain continuously in force a policy of insurance covering all activities on the Premises. A Comprehensive General Liability Insurance policy shall be maintained in force by the YMCA throughout the life of this agreement in an amount not less than One Million Five Hundred Thousand Dollars (\$1,500,000.00) for bodily injuries and in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) for property damage or One Million Five Hundred Thousand Dollars (\$1,500,000.00) single limit coverage per occurrence. Such coverage shall include all activities occurring on or within the Premises. Such insurance policy shall be approved by the City Attorney and shall name the City as an additional insured.

B. The YMCA shall provide to the City Certificate(s) of Insurance evidencing the required coverage with 30-day notice of cancellation, non-renewal, or material change provisions included. The City does not represent or guarantee that the types or limits of coverage required by this Agreement are adequate to protect the YMCA's interests and liabilities. When using the "Accord" Certificate form cancellation provisions, the words "endeavor to" on- Line 2 must be deleted. As an additional insured under the insurance policy, the City has contractual rights far exceeding that of a certificate holder. Therefore, additional named insured endorsement shall read as follows: "This policy insures the named Insured and the City of Duluth and will be primary and not contributory with City of Duluth coverage." The City of Duluth is an additional insured not subject to the "other insurance" condition or other policy terms which conflict with the agreement between the named insured and the City of Duluth. The 2004 edition of ISO Additional Insured Endorsement CG 20 10 is not acceptable. If the CG 20 10 is used, then it must be a pre-2004 edition.

C. The YMCA shall provide evidence of Statutory Minnesota Workers' Compensation Insurance as requested by the City.

D. The City reserves the right to require the YMCA 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.

E. The City does not, by entering into this Agreement, intend to waive any legal immunities, defenses, or liability limits that maybe available.

XVI. Hold Harmless and Indemnification

A. The YMCA agrees to indemnify, save harmless, and defend the City and its officers, agents, servants, and employees from and against any and all claims, suits, loss, judgments, costs, damages, and expenses asserted by any person by reason of injury to or death of any and all persons, including employees or agents of the City or the YMCA, and including any and all damages to property to whomsoever belonging, including property owned by, leased to, or in the care, custody, and control of the YMCA arising out of, related to or associated with the use, management, maintenance or operation of the Premises by the YMCA or performance of its obligations under this Agreement.

B. The YMCA shall indemnify the City for any damage to the Premises or any City property caused by the YMCA, its employees, agents, volunteers, participants, users or invitees.

C. To the extent permitted by Minnesota law, the City agrees to indemnify, save harmless, and defend the YMCA from and against any and all claims, suits, loss, judgments, costs, damage, and expenses asserted by any person by reason of injury to or death of any and all persons, including employees or agents of the YMCA, and including any and all damages to property to whomsoever belonging, including property owned by, leased to, or in the care, custody, and control of the YMCA arising out of, related to or associated with negligent acts of the City.

XVII. Alcohol, Tobacco, and Drug Use

A. The possession, use, or sale of alcohol is permitted on the Premises only under the following conditions:

1. Alcohol may be sold, possessed, consumed or served only when the appropriate permit or license has been obtained from the City prior to the event and all application, fee and other requirements have been met.

2. At least thirty (30) days' written notice of a request to serve or sell alcohol shall be provided to the City before the event to give the City sufficient time to review the request. Requests that are not timely submitted may be denied.

3. Depending on the request, licensed peace officer(s) may be required to attend the event.

4. All state laws and Duluth City Code provisions shall be followed at all times.

5. The City reserves the right to prohibit the serving, sale, or possession of alcohol on the Premises.

B. The YMCA acknowledges and agrees that there shall be no smoking or use of tobacco or illegal drugs whatsoever on the Premises or as otherwise prohibited by state or local laws.

XVIII. City Use and Access to Premises

A. The City may occasionally schedule activities and events on or at the Premises when not in use or rented out by the YMCA and shall not be charged any fee for such use, so long as such uses do not materially interfere with or limit the YMCA's fee-generating activities.

B. The City shall have the right to inspect the Premises at any time. The YMCA shall not change locks or otherwise prohibit or inhibit the City's access to any portion of any buildings located on the Premises. The City shall be exclusively responsible for the upkeep of all door locking devices and the duplication and distribution of all keys. The YMCA is prohibited from duplicating any building key. Keys shall be distributed only to those individuals as may be designated by the City or the current official contact person of the YMCA. Except in the case of an emergency, the City shall notify the YMCA at least thirty (30) days in advance of any repair or maintenance activities that could interfere with the YMCA's use of the Premises.

XIX. Independent Relationship

It is agreed that nothing contained in this Agreement is intended or shall be construed in any manner as creating or establishing a relationship of co-partners between the Parties or of

constituting the YMCA 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. The YMCA'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 on behalf of the YMCA's employees while so engaged 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. The YMCA and its officers and employees shall not be entitled to any compensation or rights or benefits of any hospital care, sick leave and vacation pay, Workers' Compensation, Unemployment Insurance, disability pay, or severance pay from or on behalf of the City.

XX. Third Party Beneficiaries

This Agreement is to be construed and understood solely as an agreement between the Parties regarding the subject matter herein and shall not be deemed to create any rights in any other person or on any other matter. No person, organization, or business 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, may be waived at any time by mutual agreement of the Parties.

XXI. Government Data Practices

A. The YMCA shall comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the City under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by the YMCA under this Agreement.

B. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this clause by the YMCA. If the YMCA receives a request to release the data referred to in the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, the YMCA must immediately notify the City and consult with the City as to how the YMCA should respond to the request. The YMCA agrees to hold the City, its officers, and employees harmless from any claims resulting from the YMCA's unlawful disclosure or use of data protected under state and federal laws.

C. Seller agrees to maintain all books, records, documents, and other evidence pertaining to this Agreement for six (6) years after termination or expiration of this Agreement for any reason. All data collected, created, received, maintained or disseminated for any purpose by the parties because of this Agreement is governed by the Minnesota Data Practices Act.

XXII. Compliance with Laws

A. The YMCA shall make the services provided under this Agreement available to all users and shall not discriminate on the basis of race, color, creed, national origin, sexual orientation, disability, sex, religion, or status with regard to public assistance, and shall not violate any federal, state or local civil rights law, rule or regulation in the operation, maintenance or use of the Premises.

B. The YMCA shall comply with all Minnesota Workers' Compensation laws in the utilization of all employees employed on the Premises.

C. The YMCA agrees to operate the Premises in compliance with the United States Constitution, and with the laws, rules and regulations of the United States, State of Minnesota, St. Louis County, and the City of Duluth.

D. The YMCA shall procure at its sole expense all licenses and permits necessary for carrying out the provisions of this Agreement.

XXIII. Severability

The Parties agree that 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.

XXIV. Notices

Unless otherwise provided herein, notice to the City or the YMCA shall be sufficient if sent by regular United States mail, postage prepaid, addressed to the Parties at the addresses hereinafter set forth or to such other respective persons or addresses as the Parties may designate to each other in writing from time to time:

City of Duluth
Attn: Manager of Parks and Recreation
411 W. First Street, Ground Floor
Duluth, Minnesota 55802

Duluth Area Family YMCA
Attn: Executive Director
302 W. First Street
Duluth, Minnesota 55802

XXV. General Provisions

A. The right of the YMCA to use, operate and maintain the Premises is subject to the YMCA's compliance with the undertakings, provisions, covenants, and conditions set forth in this Agreement.

B. The YMCA agrees that it shall neither assign nor transfer any rights or obligations under this Agreement without prior written approval of the City.

C. 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.

D. 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.

E. The waiver by the City or the YMCA 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.

F. The YMCA shall have the right to place reasonable signs bearing "YMCA" and/or "Y" identification and logos on the Premises. Such signs shall be in compliance with applicable sign ordinances and regulations. Nothing in this Agreement shall be construed as the YMCA licensing its name, the name "YMCA", its logos or any other names, trademarks, service marks or intellectual property rights to the City, either during the Term or after the expiration or termination of this Agreement. However, the YMCA shall not be allowed to use, erect, and/or attach signage indicating "Young Men's Christian Association" at the Premises.

G. This Agreement, including exhibits, 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. The exhibits to this Agreement are as follows:

Exhibit A	Depiction of Premises
Exhibit B	2017 Park Point Beach House Rental Information and Policies
Exhibit C	2017 Pavilion and Field Application
Exhibit D	Project Proposal Request Form
Exhibit E	Incident Report Form

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

CITY OF DULUTH

DULUTH AREA FAMILY Y.M.C.A

By: _____
Mayor

By: Toni Christensen

Printed Name Toni Christensen

Attest: _____
City Clerk
Date Attested: _____

Its: CAO
Title

Dated: 5.10.17

Approved as to form:

City Attorney

Countersigned:

City Auditor



**Park Pt
Beach House**

**Recreational
Facilities**

Private Dr

Minnesota Ave

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

Exhibit A - Premises

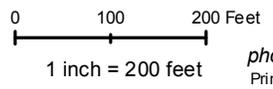


photo date: 2013
Printed: 4/8/2016





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2017 Rental Information and Policies (Revised 11/1/2016) **PARK POINT BEACH HOUSE**

The Duluth Area Family YMCA has acquired the operation of the Park Point Recreation Area from the Parks and Recreation Department of the City of Duluth. The Duluth YMCA is dedicated to putting the principles of caring, honesty, respect and responsibility into practice through programs that build healthy spirit, mind and body for all. The Duluth Area Y operates the Beach House concession stand, manages the rental of the Beach House, Pavilions, and Fields for parties, wedding receptions and other gatherings, as well as provides the lifeguards. Please contact Park Point Manager Cheryl Podtburg at the Y for additional information or to book your event.

DULUTH AREA FAMILY YMCA
302 W 1st Street
Duluth, MN 55802
218.722.4745 ext. 164
cpodtburg@duluthymca.org





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This collection of information is your main reference tool for the rental process please be familiar with its contents when using the Park Point Recreation Area for your event. (Keep on hand until completion of your event.)

Park Point Recreation Area

45th Street and Minnesota Avenue

Pavilions (2), grills, tables, electrical outlets, restrooms, playground, ball field, soccer fields, sand volleyball courts, fishing pier, boat launch, trails, beach house (6,000 square feet).... Good for picnics for a group up to 300; parking for 385 cars. Photos, and maps available at www.duluthymca.org/locations/parkpoint. Site visits available upon request.

The Park Point Recreation Area is open to the public 6 am to 10 pm daily.

The Park Point Beach House is open to the public 11 am to 4 pm daily during the months of June, July, and August, weather permitting.

The Beach House is available for rent outside public hours May through September.

Please note that if your event is early or late in the season, you may be expected to bring in your own toilet facilities, as the City-owned public restrooms may not be operational.

- Park Rules, page 3
- Additional Beach House Guidelines and Fees, page 4
- Alcohol Consumption Rules, page 5
- Insurance Requirements, page 5
- Restroom Information, page 5
- Application and Rental Agreement, page 6 & 7
- Optional Services information available online at www.duluthymca.org/locations/parkpoint



PARK POINT RECREATION AREA RULES

Park Rules apply to public use as well as rentals.. Sections of the policies are enforceable by City Ordinances and State Statutes: Duluth City Code: Chapter 8 Article I Sec. 35-8, 9; MN State Statute: 340A101, 340A.414

- A permit does not give “exclusive” use of the park; only the picnic shelter or specific area you have requested. The park will still be open to the public. Permit must be in the permittee’s possession at the event to enforce its privileges, including asking individuals to move from the designated reserved space.
- The permit includes use of the shelter or reserved space (i.e. ball field), and amenities (picnic tables, water, electricity, and grills, where available).
- Your reservation will automatically be canceled if payment and insurance certificate are not received in advance.
- Reservations are made for specific time periods – the space is not yours until the reservation time begins, so please plan accordingly. If one time period does not allow enough time for set-up, you may need to reserve the entire day, if both time periods are available. The park closes at 10 PM, unless you have reserved the Beach House and have been granted permission for extended use of the park.
- The group or person reserving the shelter is held responsible for the safe conduct of all participants attending the event.
- The area must be left in an orderly condition when you leave at the end of the time period; all trash and decorating items must be disposed of properly in existing containers and left clean for the next group using the park. Damage deposit will be withheld if failing to do so. A dumpster is located in the parking lot of disposal properly bagged trash.
- All motorized vehicles must remain in the parking lot and are not allowed on any off-road areas such as park pathways, grass, fields, etc. (see exception below).
- A key for the gate might be available to allow vehicle entry for unloading of supplies into the Beach House. Vehicles cannot remain inside the gate, and the gate must remain locked at all times.
- ALCOHOLIC BEVERAGES: An alcohol consumption permit must be obtained to consume alcohol in a City park. For information and forms on obtaining this permit for Park Point, please email cpodtburg@duluthymca.org. You will then be referred to the proper City employee.
- ELECTRICITY: The Pavilions and Beach House are equipped with 110 volt electrical outlets. 220-volt outlets are not available. Multiple items may cause overload; please be careful.
- FOOD: You may use existing grills or bring additional grills. Coals, hot water, or cooking oil/grease cannot be dumped on lawns, turf, landscaped areas, catch basins or sewers, and must be disposed of properly. Grease and food waste should be composted or thrown in the garbage. For safety reasons, glass containers are prohibited. (For additional grease-disposal information, Chris Kleist at 218.355.0598 or 218.730.4063.)
- FIRES/BONFIRES: Bringing in your own fire ring or pit is not allowed. Fire must not extend outside of existing grills and permittee shall burn only wood that is brought into the park for the purpose of a recreation fire – no burning of materials from the park. Fire must be attended to at all times and shall be completely extinguished before leaving; removing all burned and unburned material. Fires are NOT allowed on the beach.
- VENDORS: All vendors selling food or products at your event must have: 1) current applicable licenses, issued by the State of Minnesota, 2) all necessary sales tax permits, and 3) product liability insurance.
- PORTABLE TOILETS: When additional toilet facilities are needed beyond what is already available at the park, they will be arranged and paid for by the permittee. Consult directly with provider of choice on recommended amounts.
- GARBAGE DISPOSAL/RECYCLING: When additional garbage and recycling receptacles are needed beyond what is already available at the park, they will be arranged and paid for by the permittee. Consult directly with provider of choice on what is recommended for the size and type of event.
- Staked tents are not allowed in the park. Canopies are allowed if they are free standing.
- Reservations will be automatically cancelled if deposit is not received within 10 days.
- All reservations are final after the reservation has been confirmed; please be sure of your date and time. If you make changes to your reservation and a new permit must be issued, you may be asked to pay an additional \$25 processing fee.
- The person or group reserving the shelter, field or facility is held responsible for the safe conduct of all participants attending the event.
- Permittee must comply with any and all applicable city ordinances.



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ADDITIONAL BEACH HOUSE GUIDELINES AND INFORMATION

The Beach House is open to the public 7 days a week from 11 AM to 4 PM June through Labor Day. These hours are subject to change, and weather permitting. The beach is always open to the public. Your rental cannot interfere with public use of city owned property. Call the City of Duluth for more information at 218.723.3337.

- For daytime and evening events (such as birthday parties, graduation parties, etc.), ending by 10 PM, the Beach House can be rented by the hour. City of Duluth residents pay \$75/hour. Non-residents pay \$115/per hour. All events that occur Sunday through Thursday are subject to this rate.
- Standard wedding or other reception, and all other events occurring on a Friday or Saturday pay a flat rate. City of Duluth resident rate is \$800. The non-resident rate is \$1,050. The fee covers the hours between 4 pm and 12:30 am. *A start time as early as noon may be negotiated for days when public hours WILL NOT BE observed.*
- A \$150 non-refundable security deposit will reserve your requested date for your event. This deposit counts towards your rental fee. The remainder of the rent is due one month prior to the event.
- A refundable damage deposit is also due one month prior to your event. This deposit amount will be \$200, and is in addition to the rental fee listed above. This amount will be reserved for any damages that occur during the event. If no damage or incidents have occurred to the Beach House, The Duluth Area Family Y will send a refund to the address listed within two weeks following the event. You are responsible for any and all damages that arise out of your use of the Beach House, even if they exceed the amount of the damage deposit.
- You gain exclusive access to the Beach House during the hours of your rental only. Lock up must occur no later than one half hour past your contracted time.
- You are responsible for setting up all tables, chairs, and decorations for your event (tables and chairs are provided by the Beach House for up to 200 people). Additional tables and chairs may not be brought in without permission from the Beach House Manager, unless drop off and pick up of these items needs to be scheduled outside your contracted rental time.
- You may not remove or alter the existing decorations in the Beach House. To do so will result in the forfeiture of your damage deposit. NO NAILS, STAPLES, OR DUCK/DUCT TAPE. Nothing will be added to the walls without approval of the Beach House staff.
- You are responsible for throwing away all trash after your event is finished. Everything must be clean by 11:00 AM the following day. Clean up can resume the morning after the event (at 8 AM), with manager approval. All trash must be bagged and brought to the dumpster located in the parking lot adjacent to the Beach House. All tables and chairs need to be wiped down and put away. The floor needs to be swept, and if needed, mopped. If approved, clean up must be completed by 11 am. Non-compliance with this stipulation will result in the forfeiture of your entire damage deposit.
- Set up service is available for \$125. Clean up service is available for \$200. These services are available upon request only, and must be requested at least one month prior to your event, and may be denied based on availability of staff.
- You must deliver a copy of the liquor permit to the Park Point Manager before any alcohol is brought onto the premises. Email copies are acceptable. Anyone found without a permit or security guard, at any time, will be removed immediately from the building. See page 5 for alcohol policy information.
- ELECTRICITY: The Beach House is equipped with 110 volt electrical outlets. 220-volt outlets are not available. Multiple items may cause overload; please be careful.
- FIRES/BONFIRES: Bringing in your own fire ring or pit is not allowed. Fires and tiki torches are not allowed on the Beach. The Beach House fireplace is **not** functional.
- The Beach House bathrooms will be cleaned by Beach House staff after the Beach House closes to the public at 4 PM. Paper towels and toiletries will be provided for your rental.
- Heavy Duty garbage bags and other cleaning supplies will be provided free of charge for you to use at clean up.
- **No confetti, glitter, or rice allowed. No tiki torches or Chinese lanterns.**
- FOOD: If you will be serving food at your event, you must bring in a licensed caterer. The caterer of your choice must have: 1) current applicable licenses, issued by the State of Minnesota, 2) all necessary sales tax permits, and 3) product liability insurance.
- You must comply with any and all applicable city ordinances. **The beach and the outside grounds are public areas; you are only renting the inside corridor.** Alcoholic beverages are not allowed on the beach per City of Duluth Ordinance.
- The sand area immediately behind the Beach House is NOT for wedding ceremonies. This area is the designated safe swimming area for the City of Duluth, and cannot be sectioned off for any reason.
- All personal items must be removed at the end of your event. Anything left behind will be discarded or donated to charity.
- **Non compliance with any part of the policies and procedures will result in the forfeiture of your entire damage deposit. YOU ARE RESPONSIBLE for damages that exceed your deposit amount.**



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RESTROOMS

Beach House restrooms are available to the public during public hours only.

Restrooms near the boat launch are operated by the City of Duluth, and are open seasonally.
Hours are approximately 8 am—8 pm.

A limited number of portable toilets are also located in the park. For problems with portable toilets, call the number listed on the receptacle.

Depending on the size of your event and the time of the season in which it occurs, you may be asked to bring in additional toilet facilities. Consult directly with providers for recommendations.

INSURANCE REQUIREMENTS

The City requires all organizations using city property to obtain event insurance for the time city property is occupied. Prior to the permit being issued, the following must be provided:

The minimum amount of a commercial general liability policy shall be \$2,000,000 each occurrence (as per State Legislature requirement).

A "Certificate of Insurance" listing the Duluth Area Family YMCA as additional insured should be emailed to: **cpodtburg@duluthymca.org**. You may also mail proof to: Duluth Y, attn: Nina Rouse; 302 W 1st Street; Duluth, MN 55802.

THIS IS NOT REQUIRED FOR PRIVATE EVENTS, SUCH AS WEDDINGS, GRAD PARTIES, AND CLASS REUNIONS.

Your event may be denied park usage without proper insurance.

ALCOHOL CONSUMPTION RULES

ALCOHOL PERMIT CONTACT INFORMATION

An alcohol consumption permit must be obtained to consume alcohol in a City Park. For information and forms on obtaining this permit for Park Point, please email cpodtburg@duluthymca.org. You will then be referred to the proper City employee.

ALL FORMS REGARDING ALCOHOL PERMITS AND RELATED BUILDING SECURITY SHOULD BE SENT TO THE CITY OF DULUTH.

Sections of the policies are enforceable by City Ordinances and State Statutes: Duluth City Code: Chapter 8; MN State Statute: 340A101, 340A.414.

ONCE A PERMIT IS SECURED

A copy of the secured permit should be emailed to: cpodtburg@duluthymca.org.

EVENT STAFFING

The Y may provide a staff person during after hours rentals to help ensure the safety of the building and its occupants. Duties of the assigned staff will vary, based on the type of event, time of day, etc. Staff and duties will be determined on a case-by-case basis by the Park Point Manager.



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The Duluth Area Family Y will provide the following under the Standard Rental Agreement:

1. Signage to notify the public that the Beach House is closed and only open for your special event.
2. Private usage to the Beach House as designated on page 7.
3. Cleaning of the Beach House bathrooms. Paper towels and toiletries will be provided.
4. Tables and chairs for up to 200 people. No additional tables or chairs allowed without Beach House Manager approval.
5. Heavy duty garbage bags and cleaning supplies will be provided free of charge for you to use at clean-up.
6. Other stipulations as listed in this document.

The Renter agrees the following under the Standard Rental Agreement:

1. Return pages 6 and 7 of this document, along with initial non-refundable deposit of \$150.
2. Comply with all applicable city ordinances.
3. Comply with all items listed within this document.
4. Provide accurate information and proof of proper permits, if necessary and/or requested.
5. Provide prompt payment and damage deposit.
6. If damages are accrued above the damage deposit amount, pay the difference.
7. Forfeits the entire amount of the damage deposit for non-compliance with any portion of the Park Point Recreation Area and Beach House policies and/or City of Duluth Ordinances.

Name(s): _____

Address: _____

Phone: _____ Email: _____

Date of Rental: _____ Type of Event: _____

Time of Arrival: _____ Liquor at Event* (yes/no): _____

Estimated attendance: _____

*If you choose to have liquor at your event, you must apply for the proper permit from the Park and Recreation Department of the City of Duluth, and comply with all required ordinances. See page 5 for additional information.

Return pages 6 and 7 of this contract, along with the \$150 deposit, to save your date. Send to:

Cheryl Podtburg
Park Point Manager
Duluth Area Family Y
302 W 1st Street
Duluth, MN 55802

The deposit counts toward the rental fee and is non-refundable. **CHECKS PAYABLE TO THE DULUTH AREA FAMILY YMCA.** The Beach House is in high demand for the summer months. Be sure to return your deposit as soon as possible to reserve your specified date.





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FOR SOCIAL RESPONSIBILITY

APPLICABLE FEES: *For details, see page 4.*

- \$150 non-refundable deposit (goes toward final fee)
- RESIDENT DAYTIME EVENT RATE: \$75/hour for ____ hours
- NON-RES. DAYTIME EVENT RATE: \$75/hour for ____ hours
- RESIDENT FRI/SAT EVENT RATE (4 pm—12:30 am): \$800
- NON-RES. FRI/SAT EVENT RATE (4 pm—12:30 am): \$1,050
- Set-up Service of \$125
- Clean-up Service of \$200
- \$200 refundable deposit

PAPERWORK:

- Application
- Alcohol Permit information requested
- Optional Services agreement
- Proof of insurance

OFFICE USE ONLY

RECEIVED

- \$150 non-refundable deposit (goes toward final fee)
- RESIDENT DAYTIME EVENT RATE: \$75/hour for ____ hours
- NON-RES. DAYTIME EVENT RATE: \$75/hour for ____ hours
- RESIDENT FRI/SAT EVENT RATE (4 pm—12:30 am): \$800
- NON-RES. FRI/SAT EVENT RATE (4 pm—12:30 am): \$1,050
- Set-up Service of \$125
- Clean-up Service of \$200
- \$200 refundable deposit
- Application
- Alcohol Permit information sent
- Alcohol Permit/Security Agreement received
- Optional Services agreement
- Proof of insurance
- Deposit refund requested on _____

**PARK POINT RECREATION AREA
HOLD HARMLESS AGREEMENT**

Permittee agrees to defend, indemnify, and save harmless the Duluth Area Family YMCA from any and all liens, claims, suits, demands, liability, judgment costs, damages, and expenses which may accrue against or be charged or may be recovered from the Duluth Area Family YMCA by reason of or account of any claim or damage arising from Permittee's use or occupancy of the premises whether or not person or persons including Permittee, its members, Permittee's employees, agents, volunteers, invitees, or tenants, whomsoever occasioned or caused by the contact, acts, or omission of Permittee, its members, volunteers, invitees, or tenants, or by reason of the use, development, operation or maintenance of said premises by Permittee under this agreement. Upon ten (10) days written notice, Permittee will appear and defend all claims and lawsuits against the Duluth Area Family YMCA growing out of any such injury or damage resulting from any defect in the construction or condition of all the interior and exterior premises of the site. The Duluth Area Family YMCA does not waive its immunities under state or federal law.

Permittee Signature

Date

(Name of Organization Permittee is Representing)



EXHIBIT C



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- A permit allows you the exclusive use of the shelter—the park is still open to the public.
- Staking is not allowed in the park. Canopies may be used if they are stand-alone. Deposit required. Contact manager for more information.
- We do not provide any additional items needed for your event.
- **Your reservation will be cancelled if payment is not received within two weeks.**
- The area must be left in an orderly condition when you leave at the end of the time period; all trash and decorating items must be disposed of properly and in existing containers and left clean for the next group using the park. Fees for damages and additional cleaning will be billed following the event if failing to do so. A dumpster is located in the parking lot for disposal of properly bagged trash.

- Available sites are:
Pavilion 1 is closest to the Volleyball Courts.
Pavilion 2 is closest to the Playground.
Fields
 - Available time slots/fees are:
10 am—3 pm (0-100 persons): \$60/R, \$70/NR
4 pm—9 pm (0-100 persons): \$60/R, \$70/NR
10 am—9 pm (0-100 persons): \$120/R, \$140/NR

10 am—3 pm (100-150 persons): \$85/R, \$95/NR
4 pm—9 pm (100-150 persons): \$85/R, \$95/NR
10 am—9 pm (100-150 persons): \$170/R, \$190/NR

R—Duluth Resident; NR—Not a Resident of Duluth
- Permits will be emailed when application and payment have been received.*

Contact: _____ Private Host Business Club

Address: _____

Phone: _____ Email: _____

Date of Rental: _____ Type of Event: _____

Site: _____ Time Slot: _____ Liquor at Event* (yes/no): _____

Estimated attendance: _____ Type of Event: _____

*If you choose to have liquor at your event, you must apply for the proper permit from the Park and Recreation Department of the City of Duluth, and comply with all required ordinances, email Cheryl a copy of the permit obtained from the City, and have the permit with you in the park on the day of your event. See page 3 of the park rules for additional information.

Return both pages of this application to reserve your date. Send to:

Cheryl Podtburg
Park Point Manager
Duluth Area Family Y
302 W 1st Street
Duluth, MN 55802

CHECKS PAYABLE TO THE DULUTH AREA FAMILY YMCA. Be sure to return your payment within two weeks to avoid cancellation of your reservation.





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**PARK POINT RECREATION AREA
HOLD HARMLESS AGREEMENT**

Permittee agrees to defend, indemnify, and save harmless the Duluth Area Family YMCA from any and all liens, claims, suits, demands, liability, judgment costs, damages, and expenses which may accrue against or be charged or may be recovered from the Duluth Area Family YMCA by reason of or account of any claim or damage arising from Permittee’s use or occupancy of the premises whether or not person or persons including Permittee, its members, Permittee’s employees, agents, volunteers, invitees, or tenants, whomsoever occasioned or caused by the contact, acts, or omission of Permittee, its members, volunteers, invitees, or tenants, or by reason of the use, development, operation or maintenance of said premises by Permittee under this agreement. Upon ten (10) days written notice, Permittee will appear and defend all claims and lawsuits against the Duluth Area Family YMCA growing out of any such injury or damage resulting from any defect in the construction or condition of all the interior and exterior premises of the site. The Duluth Area Family YMCA does not waive its immunities under state or federal law.

Permittee Signature

Date

Name of Organization Permittee is Representing

Date

OFFICE USE ONLY

DOCUMENTS RECEIVED

- Application
- Alcohol permit
- Payment in Full
- Deposit refunded within 2 weeks of event*

*Deposit required if adding canopies or other structures to the park grounds Contact the Manager with questions.

PAYMENT RECEIVED

- 10 am—3 pm (0-100 persons): \$60/R, \$70/NR
- 4 pm—9 pm (0-100 persons): \$60/R, \$70/NR
- 10 am—9 pm (0-100 persons): \$120/R, \$140/NR
- 10 am—3 pm (100-150 persons): \$85/R, \$95/NR
- 4 pm—9 pm (100-150 persons): \$85/R, \$95/NR
- 10 am—9 pm (100-150 persons): \$170/R, \$190/NR
- \$100 refundable deposit (Contact manager to determine need)





EXHIBIT D

Public Administration Department Parks and Recreation Division

City Hall - Ground Floor • 411 West First Street • Duluth, Minnesota • 55802
218-730-4300 • www.duluthmn.gov/parks/index.cfm



June 9, 2016

Dear Community Partner:

Thank you for your interest in proposing an improvement project for City property. We recognize that working closely with the community is an important way we can fulfill our responsibility to develop long-term strategies, plans and improvements that benefit the greatest number of constituents possible and effectively use limited resources.

Each year there are numerous requests for projects on City property. To better respond to the requests, the City has developed a system that will result in better communications, tracking and processing of project proposals. It establishes Property and Facilities Management as the City entity that will: (1) accept and review all submitted Project Proposal Forms; (2) direct proposals to appropriate City staff; and, (3) facilitate the process to project completion. Once your project proposal request is received, the reviewing process will start and you or your organization will receive a response with thirty (30) days.

The intent of this process is to expedite decision making, clarify the approval process, reduce confusion and miscommunication, and provide a central point of contact to respond to questions and concerns. At any point in the process, Property and Facilities Management can be contacted to respond to questions or concerns.

In past years, this process has seen a number of projects completed for the betterment of our community, including installation of park benches, playfield renovations and community beautification projects. Proposals may be submitted by individuals and community organizations, as well as City staff.

Please note that acquiring funds for a project through CDBG, a DNR grant, fundraising, donations or other means does not guarantee project acceptability. Any project on City property must also receive recommendation and approval by the appropriate City officials. It is strongly recommended that City approval should occur in advance of, or at least concurrent with, pursuing funding.

If you have any questions, please contact Danielle Erjavec at (218) 730-4333.

Sincerely,

Erik Birkeland
Property & Facilities Manager
City of Duluth
1532 West Michigan Street
Duluth, MN 55806



CITY OF DULUTH - PROJECT PROPOSAL REQUEST FORM



Use this form to propose a City of Duluth improvement project. This form is to be used by external community groups, organizations and individuals, as well as internally generated requests. You or your organization will receive a response to the project proposal request within thirty (30) days of submission.

APPLICANT CONTACT INFORMATION

Date of Application:

Name:

Organization:

Address:

City/State/Zip:

Neighborhood:

E-mail:

Primary Phone:

Secondary Phone:

IS YOUR PROJECT RELATED TO

PUBLIC

-ARTS-

-MEMORIALS-

-MONUMENTS-

IF SO, YOUR PROPOSAL WILL BE SHARED WITH THE DULUTH PUBLIC ARTS COMMISSION FOR REVIEW.

PROJECT PROPOSAL

Use additional sheets if more space is needed.

PROJECT LOCATION

Describe as best as possible the location of the proposed project. Give the address, name of street, neighborhood, intersection, GPS coordinates, etc. If the project is City-wide, please state "City-wide."

PROJECT DESCRIPTION

Describe the proposed project in as much detail as possible. Why is the project needed and necessary? What do you propose doing? Maps, sketches, diagrams, and/or schematic drawings are required so that the committee has a better understanding of your project. These may include location, sizes, wording, colors, etc. **Please attach any additional information about this project.**

Attached

Not Applicable

PROJECT JUSTIFICATION

Describe the benefit of the proposed project. Is it a safety issue? Will it provide cost savings to the City? Is it a functional improvement? Does it provide aesthetic benefit to the City?



CITY OF DULUTH - PROJECT PROPOSAL REQUEST FORM



PROJECT COST

Describe the approximate cost to complete the project. This can be a "guesstimate." This is only considered to be a rough guideline.

POTENTIAL SOURCE OF FUNDING

Describe potential funding sources for the project.

NEIGHBOR SUPPORT

Does this project have the support of neighbors living nearby?

Yes No Uncertain Not Applicable

Comments:

ENERGY USE

Will this project change the use of any energy type listed below?

Yes No Uncertain Not Applicable

If yes, check all energy types where use is expected to change.

ELECTRICITY (kWh) GAS (Therms) OIL (gallons) STEAM (Pounds) WATER and SEWER (CCF)

ADDITIONAL CONSIDERATIONS

The City of Duluth considers our long-term strategies, Master Plans, Accessibility Plan and Capital Improvement list, as well as legal requirements, in evaluating proposals. Please review the considerations below and add any comments you have.

CONSIDERATION (A): Project is compatible with Park Master Plan, systems plans, Strategic Plans, etc.

COMMENT (A):

CONSIDERATION (B): Project is compliant with ADA Accessibility Plans.

COMMENT (B):



CITY OF DULUTH - PROJECT PROPOSAL REQUEST FORM



CONSIDERATION (C): Project is compatible with surrounding and adjoining uses.

COMMENT (C):

CONSIDERATION (D): Project will meet standards for materials and construction practices.

COMMENT (D):

CONSIDERATION (E): Project complies with zoning code and land uses.

COMMENT (E):

CONSIDERATION (F): Project does or does not require a permit.

COMMENT (F):

CONSIDERATION (G): Increases cost to maintain or operate. *(Note: If this is the case, and the project is approved, it may need to be incorporated into the Capital Improvement Plan and be approved by City Council.)*

COMMENT (G):

SUBMIT COMPLETED FORMS to:

**DANIELLE ERJAVEC
PROPERTY SERVICES SPECIALIST
CITY OF DULUTH
PROPERTY & FACILITIES MANAGEMENT
1532 W MICHIGAN STREET
DULUTH, MN 55806
projectproposal@duluthmn.gov
(218) 730-4333**

EXHIBIT E

City of Duluth Incident/Injury Report

Supervisor to complete within 24 hours of incident/injury. If injury required treatment by a medical provider, attach medical documentation. Completed forms should be emailed to accidentreporting@duluthmn.gov.

Date of incident/injury:	<input type="checkbox"/> Employee <input type="checkbox"/> Non-Employee	Department/Division:
Choose one that best describes this claim: <input type="checkbox"/> Incident only, no medical care <input type="checkbox"/> Medical only, no lost time <input type="checkbox"/> Injury includes lost time		
Initial treatment sought:	<input type="checkbox"/> Hospital ER <input type="checkbox"/> Clinic <input type="checkbox"/> Refused to see MD / None	Doctor/clinic name, address, phone number:

Last name:	First name:	MI:	SSN:
Address:			
City:	State:	Zip code:	Phone:
Date of hire:	Occupation:	Date of birth:	
			Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female

Did injury occur on employer's premises? <input type="checkbox"/> Yes <input type="checkbox"/> No	Name and address of the place of the occurrence:
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Time employee began work: _____ <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	Time of injury: _____ <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Date employer notified of injury: _____	Date employer notified of lost time: _____
First date of any lost time: _____	Return to work date: _____
RTW with restrictions: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	

Describe the nature of the illness or injury. Be specific. Include body parts affected.

Describe the activities when injury occurred with details of how it happened.

What tools, equipment, machines, objects and/or substances were involved?

Incident investigation conducted: <input type="checkbox"/> Yes <input type="checkbox"/> No	Date supervisor notified: _____	Date report completed: _____
Supervisor name: _____	Supervisor phone number: _____	

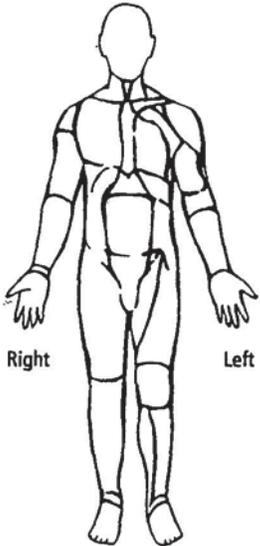
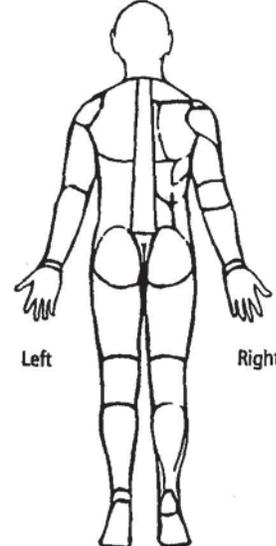
Names and phone numbers of witnesses:

Incident was a result of: safety violation machine malfunction product defect motor vehicle accident N/A

Supervisor comments:

What actions have been taken to prevent recurrence?

City of Duluth Incident/Injury Report

<p>CAUSE</p> <p><input type="checkbox"/> Slip and fall</p> <p><input type="checkbox"/> Struck by equipment</p> <p><input type="checkbox"/> Lifting or moving</p> <p><input type="checkbox"/> Caught (in, on, or between)</p> <p><input type="checkbox"/> Needle puncture</p> <p><input type="checkbox"/> Object in eye (<input type="checkbox"/> Right <input type="checkbox"/> Left)</p> <p><input type="checkbox"/> Repetitive/overuse</p> <p><input type="checkbox"/> Other (specify): _____</p> <p>TYPE OF INJURY</p> <p><input type="checkbox"/> Scrape/bruise</p> <p><input type="checkbox"/> Sprain/strain</p> <p><input type="checkbox"/> Puncture wound</p> <p><input type="checkbox"/> Cut/laceration</p> <p><input type="checkbox"/> Concussion</p> <p><input type="checkbox"/> Bite</p> <p><input type="checkbox"/> Chemical burn/rash/breathing difficulties</p> <p><input type="checkbox"/> No apparent injury</p> <p><input type="checkbox"/> Other (specify): _____</p>	<p style="text-align: center;">MARK AREAS OF INJURY BELOW:</p> <p style="text-align: center;">Areas can be marked by typing an "X" in the text box wherever needed.</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>Front</p>  </div> <div style="text-align: center;"> <p>Back</p>  </div> </div>
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COMPLETE FOR VEHICLE, EQUIPMENT, OR PROPERTY DAMAGE			
<p>For vehicle accidents: Attach sketch and additional information of how vehicle accident occurred. Include street names, direction of travel, locations of vehicles, objects and traffic control devices (↑ North)</p>			
Incident Location: _____		Time of incident: _____ <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	
Police called: <input type="checkbox"/> Yes <input type="checkbox"/> No		Police Traffic Accident Report ICR #: _____	
City vehicle, property, or equipment involved	Description:		
	Vehicle #: _____	Make/Model: _____	Year: _____
	Describe damage: _____		
Non-city vehicle, property, or equipment involved	Owner full name: _____		<input type="checkbox"/> Driver <input type="checkbox"/> Passenger <input type="checkbox"/> Other
	Owner address: _____		
	Owner phone number: _____	Vehicle license #: _____	
	Make/Model: _____	Color: _____	Year: _____
	Describe damage: _____		
Weather conditions:	Roadway conditions:	Light conditions:	Approximate temperature: _____ °F
<input type="checkbox"/> Clear <input type="checkbox"/> Wind	<input type="checkbox"/> Dry <input type="checkbox"/> Mud	<input type="checkbox"/> Night	Estimated speed: _____ mph
<input type="checkbox"/> Rain <input type="checkbox"/> Cloudy	<input type="checkbox"/> Wet <input type="checkbox"/> Paved	<input type="checkbox"/> Day	Vehicle: <input type="checkbox"/> Loaded <input type="checkbox"/> Empty
<input type="checkbox"/> Fog <input type="checkbox"/> Sleet	<input type="checkbox"/> Snow <input type="checkbox"/> Unpaved	<input type="checkbox"/> Good	What was load: _____
<input type="checkbox"/> Snow	<input type="checkbox"/> Ice	<input type="checkbox"/> Poor	Drug and/or alcohol test? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

The Incident/Injury Form should be printed and signed by supervisor and employee. Completed forms can be scanned to accidentreporting@duluthmn.gov.

Supervisor Signature: _____

Date: _____

Employee Signature: _____

Date: _____