

EXHIBIT 1

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is entered into by and between Regents of the University of Minnesota, a Minnesota constitutional corporation, through the Sea Grant Program on the Duluth campus ("UMD") and the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota ("City").

The parties acknowledge the following:

A. The City owns property located near South Lake Avenue and 22nd Street and legally described as Lots 60 and 62, Lower Duluth, Lake Avenue, which property provides public access to Park Point. Located on this property is an unheated building ("Building") approximately 24 feet by 24 feet, as indicated on the map attached hereto as Exhibit A, which houses the City's communication and radio equipment. This unheated building also currently houses a camera owned by UMD, which camera collects data that is used to predict rip currents on Park Point.

B. UMD wishes to install a computer in the Building in order to gain remote access to the data collected by UMD's camera, which data will be used to develop a model for rip current information. The model will enable rip current data to be accessed in "real time," which will improve public awareness and safety regarding rip current conditions.

C. UMD and City desire to enter into this License Agreement to allow UMD to install a computer in the Building to access UMD camera data.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. THE LICENSE. Subject to the terms and conditions set forth herein, CITY grants to UMD a non-exclusive license to install and maintain a computer in the Building for the purpose of accessing data from UMD's existing camera in the Building.

2. TERM OF THE AGREEMENT. Notwithstanding the date of execution of this Agreement, this Agreement shall commence on or about September 1, 2016, and shall continue through October 31, 2017.

3. LICENSE FEE. The UMD shall have the use of the Building for no cost.

4. INTERNET ACCESS. UMD shall have the right to acquire internet service that is reasonably necessary to accomplish access to the camera data only. It is agreed that this access will be acquired through the purchase of an Aircard. UMD shall be solely responsible for all costs associated with the Aircard and acquiring internet access. This provision does not authorize UMD to connect to or in any manner gain access to the City's internal computer system(s), network, or infrastructure or to

access City data. UMD agrees to continue to share with the City the data gathered by UMD under this Agreement.

5. ACCESS TO BUILDING. UMD agrees that it shall not enter the Building except when accompanied by an authorized City employee upon reasonable advance notice to the City, such requests for access to be reasonably necessary to accomplish the goals of this Agreement. UMD agrees that it shall not be in possession of a key to the Building.

6. CITY WARRANTY. City makes no representation that the Building is suitable for any particular purpose or specific uses and UMD accepts the Building in an "as is" condition without representations or warranties of any kind.

7. MAINTENANCE. UMD agrees to exercise reasonable care in the maintenance of its personal property located in the Building. UMD shall not make any alterations or improvements to the Building without the prior written consent of the City and upon the terms and conditions which may be imposed by the City. UMD agrees to pay to the City upon demand the reasonable costs incurred by City to repair any damage done to the Building by UMD, its employees, servants, agents, contractors, invitees, and licensees during the term of this Agreement.

8. HOLD HARMLESS. UMD agrees to defend, indemnify, and save harmless the City, and its officers, agents, servants, and employees from any and all liens, judgments, claims including those for contribution and indemnity, suits, demands, liability, costs, damages, and expenses asserted by any person or persons including agents or employees the City by reason of death or injury to person or persons or the loss or damage to property or any cause of action arising out of or in connection with or relating to UMD's use or occupancy of the Building except those claims, causes of action, liabilities or damages relating to or arising from or based upon the negligence, willful acts or omissions of the City and its officers, agents, servants or employees. On ten days' written notice from the City, UMD will appear and defend all lawsuits against the City growing out of such injuries or damages. Notwithstanding anything to the contrary contained herein, City and UMD shall each be responsible for its own acts and the results thereof and shall not be responsible for the acts of the other party. City's liability is governed by Minnesota Statutes Chapter 466 and UMD's liability is governed by Minn. Stat. §3.736 and other applicable law.

9. INSURANCE. During the term of this Agreement, UMD shall provide i) general liability with limits not less than \$1,000,000 each claim and \$3,000,000 each occurrence and ii) automobile liability insurance with limits not less than \$1,500,000 single limit, and shall provide for the following: liability for premises, operations and completed operations. The City shall be named as additional insured on each liability policy.

10. INDEPENDENT CONTRACTOR. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing

the relationship of co-partners between the parties hereto or as constituting UMD or UMD personnel as an agent, representative, or employee of the City for any purpose or in any manner whatsoever. UMD and its 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 UMD's employees or agents while so engaged, shall in no way be the responsibility of City.

11. ASSIGNMENT. UMD shall not in any way assign or transfer its rights or interests under this Agreement or subcontract with any other party without the prior written consent of the City Chief Administrative Officer. The performance of this Agreement by another unit, department, college, or school of UMD shall not be considered an assignment under this Agreement.

12. LAWS, RULES AND REGULATIONS. During the term of this Agreement, UMD agrees to conduct its activities related to the Building in strict compliance with the United States Constitution and with the applicable laws, rules, and regulations of the United States, State of Minnesota, St. Louis County, City of Duluth, including, but not limited to, all laws, rules, and regulations relating to accessibility standards under the Americans with Disabilities Act. UMD shall not unlawfully discriminate and shall comply with all applicable federal and state laws regarding non-discrimination. UMD agrees to procure, at UMD's expense, all licenses and permits necessary for carrying out its obligations under this Agreement.

13. WAIVER. The waiver by the City or UMD 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.

14. NO THIRD PARTY RIGHTS. This Agreement is to be construed and understood solely as an agreement between the parties hereto 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 shall have the right to make claim that they are a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between the parties hereto, may be waived at any time by mutual agreement between the parties hereto.

15. NOTICES. Notices shall be sufficient if sent by regular United States mail, postage prepaid, addressed to UMD, ATTN: Jesse Schomberg, Program Leader and Coastal Communities Extension Educator, University of Minnesota Sea Grant Program, 145 Chester Park, 31 West College Street, Duluth, Minnesota 55812-1198, and to City of Duluth, ATTN: Chief Administrative Officer, 402 City Hall, 411 West First Street, Duluth, MN 55802, or to such other persons or addresses as the parties may designate to each other in writing from time to time.

16. COMPLIANCE WITH AGREEMENT. The rights of UMD to use the Building are subject to UMD's compliance with the undertakings, provisions, covenants, and conditions herein.

17. APPLICABLE LAW. This Agreement, together with all of its paragraphs, terms, and provisions, is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

18. AMENDMENTS. Any amendments to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

19. AUTHORITY TO EXECUTE AGREEMENT. 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.

20. ENTIRE AGREEMENT. This Agreement, including Exhibit A, 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.

[Remainder of this page intentionally left blank.]

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

CITY OF DULUTH, MINNESOTA

By: _____
Mayor

ATTEST:

City Clerk

Dated: _____

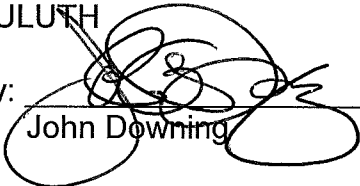
COUNTERSIGNED:

City Auditor

APPROVED AS TO FORM:

City Attorney

REGENTS OF THE UNIVERSITY OF
MINNESOTA, THROUGH SEA GRANT
PROGRAM, UNIVERSITY OF MINNESOTA
DULUTH

By:  _____
John Downing

Title: _____ Director _____

Dated: 8/31/16

EXHIBIT A

Lot 60

Lot 62



2130 Minnesota Ave

2136 Minnesota Ave

2138 Minnesota Ave

22nd St S

2201 S Lake Ave

2202 Minnesota Ave

110 22nd St S

2210 Minnesota Ave

2223 S Lake Ave

Minnesota Ave

LAKE AVENUE, LOWER DULUTH