

Exhibit 1

LEASE AGREEMENT BETWEEN THE CITY OF DULUTH AND DULUTH AMATEUR HOCKEY ASSOCIATION

THIS LEASE AGREEMENT (this “Agreement”) is by and between the CITY OF DULUTH, a municipal corporation under the laws of the State of Minnesota (“City”) and the DULUTH AMATEUR HOCKEY ASSOCIATION, a Minnesota non-profit corporation, (“DAHA”).

WHEREAS, City is the owner of an arena located off of Woodland Avenue, near the intersection of Woodland Avenue and Isanti Street, more commonly known as the “Fryberger Arena,” that is depicted on the attached Exhibit A;

WHEREAS, DAHA’s mission is to promote and inspire in youth the ideals of health, citizenship, and character; to bring area youth together through the common interest in sportsmanship, fair play, and fellowship; to impart to the game elements of safety, sanity, and intelligent supervision; and to keep the welfare of the player first and foremost, and entirely free of adult lust for glory (its “Mission”); and

WHEREAS, DAHA carries out its Mission by organizing and providing youth an opportunity to participate and excel through the sport of hockey through its hockey program, while building and developing sportsmanship, self-esteem, confidence, and respect for others (its “Services”); and

WHEREAS, DAHA has leased the Fryberger Arena for decades and desires to continue to lease the Fryberger Arena for advancement of its Mission and provision of its Services to the community as set forth herein; and

WHEREAS, City desires to allow DAHA to lease the Fryberger Arena as provided herein for DAHA’s provision of an indoor ice facility in relation to providing its Services.

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

I. Administration.

For purposes of administering this Agreement, City shall act through its Facilities & Property Manager or designee (the “PFM Manager”). DAHA shall act through its Executive Director or designee.

II. Definitions.

For purposes of this Agreement, the following terms shall have the meanings hereinafter ascribed to them unless a different meaning clearly appears from the context:

A. Arena: shall mean the Fryberger Arena building used primarily for playing ice hockey and similar uses located on City-owned property adjacent to the Woodland Community Club at 3211 Allendale Avenue.

B. Leased Premises: shall mean the Arena and that portion of City-owned property outlined in red on Exhibit A and the Leasehold Improvements (defined below) located thereon. In addition, during such times when DAHA or its officers, members, agents, employees, guests and contractors are using any City-owned or City-controlled property (including the Parking Area (defined below)), that property shall be deemed to be a part of the Leased Premises for the purposes of Articles IX and XI below.

C. Leasehold Improvements: shall mean City-owned equipment that is a part of the Leased Premises, fixtures, counters, cabinets, moveable dividers and other personal property purchased and installed by DAHA that are or become affixed to the real estate.

D. Summer Season: shall mean the period April 1 through September 30 during each year of the Term (defined below).

E. Parking Area: shall mean the parking lot depicted on Exhibit A as outlined in blue.

F. Winter Season: shall mean the period October 1 through March 31 during each year of the Term.

G. Year One: shall mean the period October 1, 2020 through September 30, 2021.

H. Year Two: shall mean the period October 1, 2021 through September 30, 2022.

I. Year Three: shall mean the period October 1, 2022 through September 30, 2023.

III. Use of Leased Premises and Grant of Rights.

A. City leases to DAHA and DAHA leases from City, upon the terms and conditions set forth in the Agreement, the Leased Premises.

B. Subject to the terms and conditions set forth in this Agreement, City grants to DAHA and its officers, members, agents, employees, guests, and contractors the non-exclusive use of the Parking Area during the Term to temporarily park motor vehicles when there are available spaces. DAHA's use of the Parking Area shall not in any way impede City's access to any portion of the Arena.

C. DAHA is permitted to leave its personal property on the Leased Premises during the entirety of the Term (defined below). DAHA is solely responsible for the proper storage of any of its personal property on the Leased Premises. However, DAHA is not allowed to store or allow long-term storage of vehicles, equipment, or construction materials on the Leased Premises in such a manner as to constitute a visual blight on the neighborhood, in the sole determination of the PFM Manager. DAHA shall ensure that zambonis and any other motorized vehicles stored within the Arena or any other structure on the Leased Premises complies with all building, fire,

and other codes applicable to the storage of such vehicles in such structure. City is not responsible for any damage, theft, and/or vandalism of DAHA's personal property on the Leased Premises.

D. Notwithstanding the Term, DAHA may only use the Leased Premises during the Winter Season. Except as specifically permitted by this Agreement, DAHA may not use the Leased Premises during the Summer Season without securing prior written authorization from the PFM Manager.

E. DAHA may only utilize the Leased Premises to provide its Services.

F. DAHA may operate concessions on the Leased Premises. If DAHA operates concessions, then it must comply with all applicable licensing requirements. DAHA is responsible for all costs relating to the operation of the concessions, including paying all taxes and applicable license or permit fees. If required to do so, DAHA shall provide specialized disposal receptacles and related pick-up services through a competent vendor for the handling of liquid, oil, fatty, or other materials disposed of and requiring special and/or separate handling before, during, or after operation of the concessions.

G. City makes no representation or warranty, either express or implied, that the Leased Premises or the Parking Area are suitable for specific uses, and DAHA accepts the Leased Premises and the Parking Area in "as is" condition without representations or warranties of any kind. City is not obligated to make any alterations or improvements on or to the Leased Premises or the Parking Area, or to provide any maintenance to the Leased Premises or the Parking Area, except as may be expressly required by Article VII.

H. DAHA acknowledges that the Parking Area is used by multiple user groups and therefore use of the Parking Area requires the cooperation of all users. DAHA acknowledges that the PFM Manager shall ultimately determine the appropriate use of the Parking Area and shall decide any disputes between user groups.

I. DAHA shall not sublet any space(s) within the Leased Premises or assign any part of this Agreement without obtaining prior written approval of the PFM Manager, and then only under the conditions required by City.

J. Regardless of the start of the Term, DAHA shall not allow anyone to use the Leased Premises until City has approved the Safety and Operations Plan (defined below), and then shall open and operate the Leased Premises consistent with the Safety and Operations Plan.

K. No advertising or signage of any kind ("Signage") may be installed by DAHA within the Leased Premises until a request for approval of Signage has been submitted to the City's Parks and Recreation Manager or his or her designee (the "Parks Manager"). DAHA shall wait for Signage approval prior to fabrication and installation of the Signage. All Signage is subject to the approval of the Parks Manager, including as to size, content and location within the Premises, which approval shall not be unreasonably withheld. DAHA shall: (i) be entitled to revenues generated by the sale of Signage, and (ii) ensure that all Signage complies with all

applicable codes and laws. Tobacco products may not be advertised at the Leased Premises. Adult bookstores, as defined by Section 5-17(a) of the Duluth City Code, and adult entertainment establishments, as defined by Section 5-17(b) of the Duluth City Code, may not be advertised at the Leased Premises. Notwithstanding the foregoing, the City reserves the right to install its own Signage within the Leased Premises.

IV. Lease Payments and Other Costs.

A. Rent. Monthly rent during the term shall be \$0. The consideration for the lease of the Leased Premises shall instead be (i) the public benefit provided by DAHA through the provision of its Services; and (ii) payment of all taxes, charges, costs and expenses that DAHA assumes or agrees to pay under this Agreement, including but not limited to maintenance costs, together with all interest and penalties that may accrue thereon in the event of the failure of DAHA to pay those items.

B. Additional Rent.

1. Utilities. Subject to the provisions of this Agreement, DAHA shall pay any and all charges for electricity, steam, water, sewer and gas utilities furnished to the Leased Premises during the Winter Season in Year One and Year Two, including but not limited to hook-up charges and assessments. In Year Three, DAHA shall pay any and all charges during the Winter Season and during the Summer Season for electricity, steam, water, sewer and gas utilities furnished to the Leased Premises, including but not limited to hook-up charges and assessments. In addition, DAHA shall pay any and all charges for the following utilities furnished to the Leased Premises during the entirety of the Term, including but not limited to hook-up charges and assessments: telephone, cable TV, satellite, internet and any other utilities deemed necessary or desirable by DAHA. All utilities servicing the Leased Premises shall be in the name of DAHA, except for electricity, steam, water, sewer and gas utilities. For all utilities in the name of City, DAHA shall promptly reimburse City following receipt of an invoice from City. DAHA shall not receive any credit, offset or reduction in its utility bills based on City's Community Solar Garden credits.

2. Taxes. DAHA shall pay all licenses, fees, taxes, and assessments of any kind whatsoever that arise because of, out of, or in the course of DAHA's use of the Leased Premises, including real property and sales taxes, if applicable. City may pay the same on behalf of DAHA and immediately collect the same from DAHA. DAHA shall 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 shall file all required reports and forms in proper form related thereto on or before their due date.

3. Other Costs of Leased Premises. In addition to the foregoing, DAHA shall bear and promptly pay, on or before the due date, all other costs, fees, and charges of any kind whatsoever arising out of the use or occupancy of the Leased Premises; provided that nothing shall prevent DAHA from contesting in good faith any such payment requirement except as such contest would negatively affect City's rights under this Agreement and except for payments to City.

V. Term and Termination.

A. Term. Notwithstanding the date of execution of this Agreement, this Agreement shall be deemed to commence on October 1, 2020 and expire on September 30, 2023, unless earlier terminated as provided for herein (the "Term").

B. Termination.

1. Without Cause. Either party may terminate this Agreement without cause by providing at least thirty (30) days' written notice upon the other.

2. For Cause. Should DAHA violate any of the provisions of this Agreement, City shall provide to DAHA written notice of such violation or default and shall allow DAHA thirty (30) days within which to cure or remedy any violations or defaults set forth therein. The notice shall identify the violation or default and the necessary actions to remedy the violation or default. If such violation or default is not cured or remedied within thirty (30) days, City may terminate this Agreement immediately by serving notice to DAHA in the manner described and may re-enter the Leased Premises.

3. Immediately By City. The City may terminate or suspend this Agreement immediately if (i) the City believes in good faith that the health, welfare or safety of the Leased Premises, or occupants, users or neighbors would be placed in immediate jeopardy by the continuation of DAHA's operations on the Leased Premises; or (ii) if repairs or equipment replacement at the Leased Premises is necessary, in the City's sole discretion, and the City declines to undertake such repairs or replacement.

C. Surrender Possession.

1. Upon expiration or termination of this Agreement, whichever occurs first, DAHA shall surrender possession of the Leased Premises to City in as good condition and state of repair as the Leased Premises were in at the time DAHA took possession. The Leased Premises shall be immediately returned to the control of City.

2. Prior to expiration of this Agreement or within fourteen (14) days of early termination, whichever occurs first, DAHA shall restore the Leased Premises to its original condition at the time of execution of this Agreement or, upon demand, pay to City the reasonable costs incurred by City to restore the Leased Premises to its original condition at the time of execution of this Agreement.

3. Prior to expiration of this Agreement or within fourteen (14) days of early termination, whichever occurs first, DAHA may remove its personal property from the Leased Premises. The removed personal property shall remain exclusive property of DAHA. All personal property remaining on the Leased Premises (i) upon expiration of this Agreement, or (ii) fourteen (14) days after early termination of this Agreement, shall become the exclusive property of City.

4. Upon termination or expiration of this Agreement, DAHA waives any and all rights, if any, to relocation benefits under the Uniform Acquisition Assistance and Relocation Act of 1974, as amended, and any laws or regulations promulgated with regard thereto that might arise out of this Agreement.

D. Other Remedies. In addition to the remedies set forth elsewhere in this Agreement, City shall have the following remedies in the event of a default by DAHA:

1. Terminate this Agreement and, in its discretion, retake the Leased Premises.
2. Seek and be entitled to monetary damages, including consequential damages.
3. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent DAHA's violation of the terms and conditions of this Agreement, or to compel DAHA's performance of its obligations under this Agreement.
4. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to City.

E. Remedies Cumulative. Except as may be specifically set forth in this Agreement, the remedies provided under this Agreement shall be cumulative and non-exclusive and the election of one remedy shall not be deemed to be the waiver of any other remedy with regard to any occasion of default under this Agreement.

VI. Maintenance and Operation.

A. DAHA shall maintain the Leased Premises and Parking Area in good order and condition and state of repair, reasonable wear and tear excepted, including but not be limited to the following maintenance activities, all to be performed at DAHA's sole expense:

1. Provide those items required for daily operation and maintenance of the Leased Premises, including but not limited to, interior light bulbs, paper products, plastic products (e.g., garbage bags).
2. Perform minor repairs so as to maintain the Leased Premises in a reasonable state of repair.
3. Provide proper waste disposal and recycling containers and deposit all litter and other waste from the Leased Premises and the Parking Area into outdoor garbage and recycling containers and arrange for removal by garbage and recycling hauling providers.
4. Remove snow and ice and provide appropriate treatment on the Leased Premises, including the Parking Area, sidewalks around the Leased Premises, and all walkways to the Arena and within the Arena to insure the safety of all users.

5. Ensure cleanliness and building shut-down procedures (lights off, doors securely locked, etc.) on a daily basis during the Winter Season following conclusion of programs and events.

6. Undertake routine repair of the electrical and mechanical systems, floors, and ceilings, and replace all glass within the Arena.

7. Operate the Arena's ventilation system on a year-round basis to prevent the formation of mold or other damage to the Arena caused by lack of sufficient air exchange.

8. Keep the Leased Premises free from rodents, insects, and other pests. City may require DAHA to contract with a pest exterminating contractor to exterminate as may be necessary and as may be directed by City. The sole cost and expense of this service shall be the responsibility and obligation of DAHA. It is further agreed that City may pay a pest exterminating contractor on behalf of DAHA and immediately collect the same from DAHA, or reduce any amount owed to DAHA by City pursuant to this Agreement.

9. Comply with City's verbal and written guidelines and instructions relating to recycling, energy efficiency, and maintenance applicable to the Leased Premises. DAHA may have appliances on the Leased Premises only with the PFM Manager's prior written approval. Any appliance on the Leased Premises must be energy star certified.

10. Maintain its own equipment in a safe, legal, and properly maintained manner. DAHA shall prohibit the use of any unsafe, illegal, or deficient equipment on the Leased Premises.

11. Provide, at DAHA's sole expense, all staff, equipment, and cleaning supplies necessary to carry out the provisions of this Agreement and provide its Services.

12. DAHA shall promptly notify City of necessary major or non-routine maintenance work, including any maintenance that requires a licensed or skilled tradesperson, so that City can decide to perform the maintenance or arrange for a service provider of City's choice to perform the maintenance. DAHA understands that the City is not obligated to undertake any major or non-routine maintenance work and any work performed shall be in the sole discretion of the City.

B. DAHA shall follow City's established verbal and written policies, procedures, and instructions regarding premises and/or building safety and security, including, but not limited to, securing exterior doors. DAHA shall immediately report any safety or security issues or concerns to City's Police Department and the PFM Manager.

C. DAHA shall provide the PFM Manager with the name(s) and contact information of any on-site supervisors and rink managers responsible for the operation of the programming and supervision of the activities on the Leased Premises. However, DAHA acknowledges and agrees that it is solely responsible to supervise its activities, programs, events and participants.

D. DAHA shall submit a written safety and operations plan (the “Safety and Operations Plan”) to the Parks Manager for approval prior to using the Leased Premises, which plan shall outline specific processes and procedures, including but not limited to cleaning and sanitization of the Leased Premises, to ensure the health, safety, and welfare of all users of the Leased Premises, including but not limited to DAHA’s staff and volunteers. Notwithstanding the Term, DAHA may not use the Leased Premises until the Safety and Operations Plan has been approved by the Parks Manager. The Safety and Operations Plan shall be updated during the Term at City’s request.

VII. City Responsibilities.

A. In City’s sole discretion, City may perform necessary major repairs and non-routine maintenance to the structural and mechanical components of the Leased Premises and the Arena’s plumbing and electrical systems. Non-routine maintenance shall be defined as major system replacement or repair items or replacement of whole systems, major building and/or assembly or upgrade of any fixed asset and key changes.

B. City shall pay any and all charges for electricity, steam, water, sewer and gas utilities furnished to the Leased Premises during the Summer Season in Year One and Year Two, excluding hook-up charges and assessments.

VIII. Alterations or Improvements.

A. DAHA may, at its sole cost and expense, make improvements or alterations to the Leased Premises only with advance written approval from City. This provision includes the delivery, installation, and/or storage of any temporary or permanent containers or structures on the Leased Premises. All improvements or alterations to the Leased Premises (excluding appliances and equipment plugged into an electricity source) shall become the property of City. Prior to commencing any improvements or alterations, DAHA shall submit to City a Project Proposal Request along with detailed plans. A copy of the required form of Project Proposal Request is attached as Exhibit B. These documents shall be submitted to City at least forty-five (45) days before the planned commencement of the work. No work may begin on any approved project until all necessary building permits are secured. All construction shall conform to state law and the Duluth City Code.

B. Not less than thirty (30) days prior to commencement of any construction, alteration or improvement on the Leased Premises, DAHA will provide City with sufficient proof of required insurance, including worker’s compensation. Such proof of insurance must be approved by City’s Claims Investigator and Adjuster before the commencement of any construction hereunder.

C. DAHA shall be responsible for operational costs and maintenance of improvements, installations, and facilities installed pursuant to this Article VIII and shall operate them in a safe manner.

IX. Provision Against Liens and Other Encumbrances.

DAHA shall not create or permit any mortgage, encumbrance or lien or allow any mechanics' or materialmen's liens to be filed or established or to remain against the Leased Premises, or any part thereof, provided that if DAHA shall first notify City of its intention to do so and post such security as City reasonably deems necessary, DAHA may, in good faith, contest any such mechanics' or other liens filed or established as long as City does not deem its interest or rights in this Agreement or in the Leased Premises to be subject to foreclosure by reason of such contest.

X. Communications.

A. The parties shall communicate openly and regularly with one another regarding the obligations under this Agreement.

B. The parties will meet before the Winter Season begins and after the Winter Season concludes to jointly inspect the condition of the Leased Premises and, if necessary, to review the terms and conditions of this Agreement.

XI. Insurance and Indemnification.

A. DAHA, at its sole cost and expense, shall procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under a Commercial General Liability Form in limits of not less than \$2,000,000 aggregate per occurrence for personal bodily injury and death and limits of not less than \$2,000,000 for damage liability, including limits of not less than \$100,000 for damage to rented premises (each occurrence). If person limits are specified, they shall be for not less than \$2,000,000 per person and be for the same coverages. Insurance required by this Agreement shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of Minnesota. Insurance shall cover public liability including premises and operations coverage, independent contractors - protective contingent liability, personal injury, contractual liability covering the indemnity obligations set forth herein, and products – completed operations. DAHA shall provide Certificates of Insurance to City evidencing the required insurance coverage. The required insurance policies are subject to approval by the City Attorney and shall contain a condition that they may not be cancelled without thirty (30) days' advance written notice to City. The Certificates of Insurance shall name City as an additional insured.

B. City reserves the right to require DAHA to increase the coverages set forth above and to provide evidence of such increased insurance to the extent that the liability limits as provided in Minn. Stat. § 466.04 are increased.

C. City does not represent or guarantee that the types or limits of insurance coverage required by this Agreement are adequate to protect DAHA's interests and liabilities.

D. City shall not be liable to DAHA for any injury or damage resulting from any defect in the construction or condition of the Leased Premises or the Parking Area, nor for any damage that may result from the negligence of any other person whatsoever.

E. DAHA shall be responsible for any losses or damages whatsoever caused by the acts of DAHA, or its employees, agents, participants, volunteers, or invitees. DAHA agrees to indemnify, save harmless, and defend 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 City or DAHA, 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 DAHA, arising out of, related to or associated with the lease, use, maintenance or operation of the Leased Premises or the Parking Area by DAHA or performance of its obligations under this Agreement. Promptly after receipt by City of notice of the commencement of any action with respect to which DAHA is required to indemnify City, City shall notify DAHA in writing of the commencement thereof, and, subject to the provisions of this Agreement, DAHA shall assume the defense of such action, including the employment of counsel satisfactory to City and the payment of expenses. In so far as such action shall relate to any alleged liability of City with respect to which indemnity may be sought against DAHA, City shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of DAHA. This indemnification provision shall survive expiration or termination of this Agreement for any reason.

XII. Financials, Reporting, and Records Retention.

A. DAHA shall comply with the Reporting Requirements outlined in Exhibit C attached hereto and incorporated herein by reference.

B. As provided in Minn. Stat. § 16C.05, Subd. 5, all DAHA books, records, documents, accounting procedures and practices related to the operation of the Leased Premises are subject to examination by 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 notice by City, DAHA shall provide all requested financial information.

C. DAHA shall maintain all records relating to its Services and to the Leased Premises during the Term and for six (6) years after termination, cancellation, or expiration of this Agreement.

XIII. Notices.

Unless otherwise provided herein, notice to City or DAHA 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: Property & Facilities Manager
1532 West Michigan Street
Duluth, MN 55806
(218) 730-4430

DAHA
Attn: Executive Director
120 S. 30th Ave. West
Duluth, MN 55806
(218) 728-8000

XIV. Access and Keys.

A. City shall have unlimited access to the Leased Premises during the Term for any purpose. DAHA shall not change the locks or otherwise prohibit or inhibit City's access to any portion of the Leased Premises.

B. The PFM Manager shall be exclusively responsible for the design and designation of keying systems, lock changes, key fabrication and key distribution. DAHA shall comply with City's Key Control Policy, a copy of which shall be provided to DAHA, and is subject to unilateral change by City during this Agreement.

C. DAHA shall not make copies of any keys to the Leased Premises. All keys shall be promptly returned to the PFM Manager upon termination or expiration of this Agreement.

D. DAHA shall provide the PFM Manager with a current list of all key holders to the Leased Premises including contact information. DAHA will update the list whenever there is a change and at any time upon the request of the PFM Manager.

XV. Compliance with Laws.

A. DAHA shall make its Services 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 use of the Leased Premises.

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

C. DAHA shall operate the Leased Premises and provide its Services 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. DAHA shall procure at its sole expense all licenses and permits necessary for carrying out the provisions of this Agreement and providing its Services on the Leased Premises.

XVI. Tobacco, Alcohol and Illegal Drug Use.

DAHA shall prohibit the use of tobacco, alcohol, and illegal drugs on the Premises.

XVII. Government Data Practices.

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

B. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by DAHA. If DAHA receives a request to release the data referred to in this clause, DAHA must immediately notify City and consult with City as to how DAHA should respond to the request. DAHA agrees to hold City, its officers, and employees harmless from any claims resulting from DAHA's unlawful disclosure or use of data protected under state and federal laws.

XVIII. Incident Reports.

DAHA shall notify the PFM Manager in writing of any incident of injury or loss or damage to the Leased Premises or to any of DAHA's participants or invitees occurring within the Leased Premises or the Parking Area during the Term, except for damage to DAHA's personal property. Such written report shall be in a form acceptable to City's Claims Investigator and Adjuster. A copy of City's current form of Incident Report is attached hereto as Exhibit D.

XIX. Independent Relationship.

A. Nothing contained in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting DAHA as agents, representatives or employees of 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.

B. DAHA and its employees shall not be considered employees of City and any claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of DAHA's employees or agents while so engaged shall in no way be the responsibility of City.

XX. General Provisions.

A. Nothing in this Agreement is intended to or should be construed as a waiver by City of any immunities, defenses or other limitations on liability to which City is entitled by law, including, but not limited to, the liability limits under Minnesota Statutes Chapter 466.

B. The waiver by City or DAHA of any breach of any term, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant, or condition of this Agreement.

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

D. 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.

E. This Agreement is to be construed and understood solely as an agreement between the parties hereto and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that they are a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between the parties hereto, may be waived at any time by mutual agreement between the parties hereto.

F. This Agreement may be amended only by a written instrument signed by both parties. This Agreement may be executed in counterparts, each of which shall be deemed to be original and all of which together shall constitute the binding and enforceable agreement of the parties hereto. This Agreement may be executed and delivered by a party by facsimile or PDF transmission, which transmission copy shall be considered an original and shall be binding and enforceable against such party.

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

H. The rights of DAHA to lease, occupy, and use the Leased Premises are subject to DAHA's compliance with the undertakings, provisions, covenants, and conditions herein.

I. 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.

J. Time is of the essence in all provisions of this Agreement.

K. The following are the exhibits to this Agreement:

Exhibit A	Depiction of Leased Premises
Exhibit B	Project Proposal Request
Exhibit C	Reporting Requirements
Exhibit D	Incident Report

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

CITY OF DULUTH

By: _____
Mayor

Attest: _____
City Clerk

Dated: _____

Countersigned:

City Auditor

Approved as to form:

City Attorney

DULUTH AMATEUR HOCKEY
ASSOCIATION

DocuSigned by:
By:  _____
66305D5754F4465...

Bob Nygaard
Printed Name: _____

Interim Executive Director
Its: _____

11/4/2020
Dated: _____



Printed Date: 9/11/2018

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.

The City of Duluth requires that this map/data not be redistributed to any party in whole or in part, including any derivative works of products generated by combining the data with other data, unless authorized by the City of Duluth GIS office.



Exhibit A Fryberger Arena

- Leased Premises
- Parking Area
- Parcel

0 100 200 Feet





**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



April 9, 2019

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 Parks and Recreation as the City entity that will: (1) accept and review all submitted parks related Project Proposal Forms; (2) conduct an internal review to determine compatibility with all parks planning documents, industry best practices, and standards set by the Division, (3) pending preliminary approval by parks review staff, forward to appropriate city staff in other divisions, (4) if approved, facilitate the process to project completion. Once your project proposal request is received, staff will initiate the review process, with the intent to provide a response within sixty (60) days.

The intent of this process is to expedite decision making, properly evaluate proposals against existing plans, standards, and uses; 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, Parks and Recreation 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 Jessica Schoonover at (218) 730-4325.

Sincerely,

Jessica Peterson
Parks and Recreation Manager
City of Duluth
411 W First Street
Duluth, MN 55802



Use this form to propose a City of Duluth improvement project on park property. 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 sixty (60) days of submission. **Please submit completed form, along with attached map to: projectproposal@duluthmn.gov.**

APPLICANT CONTACT INFORMATION

Date of Application:

Name:

Organization:

Address:

City/State/Zip:

Park Location:

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 park name, location within park, and GPS coordinates. 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 those reviewing the proposal have 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 park?

**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):



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:

**JESSICA SCHOONOVER
ADMINISTRATIVE CLERICAL SPECIALIST
CITY OF DULUTH
PARKS AND RECREATION
411 WEST FIRST STREET
DULUTH, MN 55802
projectproposal@duluthmn.gov
(218) 730-4325**

EXHIBIT C

REPORTING REQUIREMENTS

- A. On or before October 1st of each year, a current listing of all DAHA officers, board members, and a designation of the official contact person responsible for the administration of this agreement (including day-to-day scheduling and maintenance duties) along with addresses and phone numbers.
- B. On or before October 1st of each year, a current copy of DAHA's By-Laws, Articles of Incorporation, Constitution, or other document which defines DAHA as a viable Minnesota non-profit organization.
- C. Current /updated Certificate of Insurance for each year of this Agreement, including any insurance provided by USA Hockey Association.
- D. Provide a Form 990 (informational return) filed annually with the IRS.
- E. Any other information regarding the use of the Leased Premises as the City may request from time to time.

EXHIBIT D
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:
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: <input type="checkbox"/> safety violation <input type="checkbox"/> machine malfunction <input type="checkbox"/> product defect <input type="checkbox"/> motor vehicle accident <input type="checkbox"/> N/A		
Supervisor comments:		
What actions have been taken to prevent recurrence?		

City of Duluth Incident/Injury Report

CAUSE

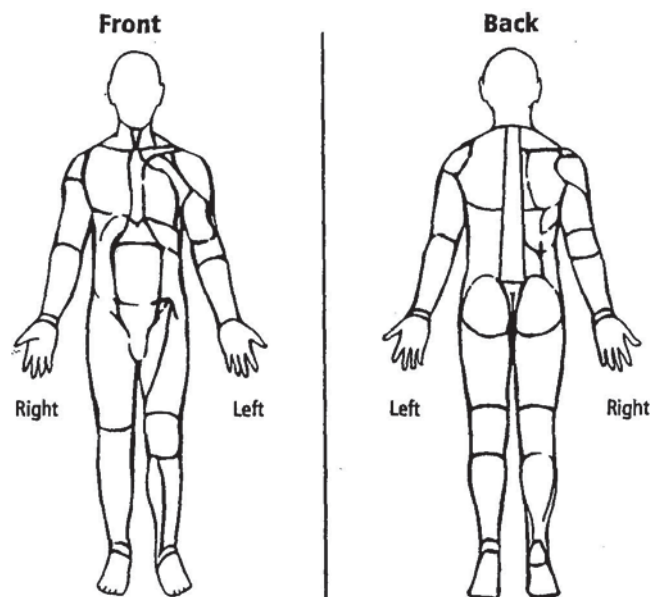
- ☐ Slip and fall
☐ Struck by equipment
☐ Lifting or moving
☐ Caught (in, on, or between)
☐ Needle puncture
☐ Object in eye (☐ Right ☐ Left)
☐ Repetitive/overuse
☐ Other (specify): _____

TYPE OF INJURY

- ☐ Scrape/bruise
☐ Sprain/strain
☐ Puncture wound
☐ Cut/laceration
☐ Concussion
☐ Bite
☐ Chemical burn/rash/breathing difficulties
☐ No apparent injury
☐ Other (specify): _____

MARK AREAS OF INJURY BELOW:

Areas can be marked by typing an "X" in the text box wherever needed.

**COMPLETE FOR VEHICLE, EQUIPMENT, OR PROPERTY DAMAGE****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)

Incident Location: _____ Time of incident: _____ ☐ a.m. ☐ p.m.Police called: ☐ Yes ☐ 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:

☐ Driver ☐ Passenger ☐ Other

Owner address:

Owner phone number:

Vehicle license #:

Make/Model:

Color:

Year:

Describe damage:

Weather conditions:

- ☐ Clear ☐ Wind
☐ Rain ☐ Cloudy
☐ Fog ☐ Sleet
☐ Snow

Roadway conditions:

- ☐ Dry ☐ Mud
☐ Wet ☐ Paved
☐ Snow ☐ Unpaved
☐ Ice

Light conditions:

- ☐ Night
☐ Day
☐ Good
☐ Poor

Approximate temperature: _____ °F

Estimated speed: _____ mph

Vehicle: ☐ Loaded ☐ Empty

What was load: _____

Drug and/or alcohol test? ☐ Yes ☐ No ☐ 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: _____