

EXHIBIT 1

LEASE AGREEMENT BETWEEN THE CITY OF DULUTH AND DULUTH GRADUATE MEDICAL EDUCATION COUNCIL, INC.

THIS AGREEMENT is entered into by and between the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota ("City"), and DULUTH GRADUATE MEDICAL EDUCATION COUNCIL, INC., d/b/a Duluth Family Medicine Clinic and Duluth Family Practice Center, a Minnesota non-profit corporation ("Clinic").

WHEREAS, the City owns real property legally described as:

All that portion of Block Eighty-eight (88), in PORTLAND DIVISION OF DULUTH, included within the following lines, to-wit: The center line of Fourth Street as originally platted; the center line of the alley between Blocks 74 and 88 in said Portland Division of Duluth; the center line of Eighth Avenue East; and the extended easterly line of Lot Two (2) in said Block, including all that portion of said tract which lies within fifteen feet of the center line of the alley in the rear of said Block 88.

AND

That tract in PORTLAND DIVISION OF DULUTH enclosed in the following boundary lines, to wit:

1. The original center line of East Third Street, as such street was dedicated by the original plat of Portland Division of Duluth, which plat was filed for record on April 23, 1870, in Book A of Plats, page 91;
2. The center line of the alley between Blocks 74 and 88, as dedicated by said plat;
3. The extended Westerly side line of Lot 3 in said Block 74, assuming Third Street to run East and West;
4. A line parallel to the Westerly side line of said Lot 3 and distant Easterly therefrom 22 feet;

According to the plat thereof, on file and of record in the office of the Register of Deeds, St. Louis County, Minnesota, in Book A of Plats, page 91.

EXCEPT minerals.

AND

The tract or parcel of land situate in PORTLAND DIVISION OF DULUTH, according to the plat thereof, on file and of record in the office of the Register of Deeds in and for St. Louis County, Minnesota, contained within the following boundaries: (a) the center line of Third Street; (b) the center line of the alley situated between Blocks Seventy-four and Eighty-eight in Portland Division of Duluth; (c) the extended easterly side line of Lot Two in Block Seventy-four, Portland Division of Duluth; and (d) the center line of Eighth Avenue East.

EXCEPT all minerals.

AND

Easterly 3 feet of Lot 3 and all of Lots 4, 5 and 6, Block 74, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof.

herein incorporated by reference into this Agreement, together with improvements, fixtures, and personal property contained therein, located at 330 North 8th Avenue East, Duluth, Minnesota 55805 (“Property”). Located on the Property is a masonry, concrete, and steel building, being approximately 18,000 square feet in size and having three floors (hereinafter referred to as “Building”); and

WHEREAS, Clinic is a nonprofit corporation duly organized and existing under the laws of the State of Minnesota; and

WHEREAS, Clinic’s Mission (“Mission”) is to: (a) support a medical residency program for family physicians and (b) operate a full-spectrum family medicine clinic that serves the local community, including providing affordable healthcare to low and moderate income residents of the City of Duluth that includes uninsured and underinsured patients; and

WHEREAS, Clinic desires to lease the Building and Property for the advancement of its Mission and related services to the community at-large through its government program. “Government Program” hereinafter shall refer to the Clinic’s operation of a family practice center facility that provides residency training facilities to graduate candidates in Clinic’s family practice center training facilities and offers medical services at no or low cost to low and moderate income persons in the City of Duluth. The “Government Program” as herein defined is authorized pursuant to the authority of Laws of Minnesota 1997, Chapter 136; and

WHEREAS, the City desires to lease Building and Property to Clinic for purpose of advancing Clinic’s Mission and Government Program, both which benefit City.

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

I. LEASED PREMISES

A. City agrees to lease to Clinic exclusive use of the Building and Property (collectively and hereinafter referred to as the “Leased Premises”). The Leased Premises is depicted on Exhibit A attached hereto and incorporated by reference into this Agreement.

B. Clinic shall only use Leased Premises to advance its Mission and operate its Government Program.

C. Clinic is taking the Leased Premises “as is” in its present physical condition. City makes no warranty, either express or implied, that the Leased Premises is suitable for a medical clinic, residency program, or any other purpose.

D. The rights of Clinic to occupy, use, and maintain the Leased Premises are subject to Clinic's compliance with the provisions, covenants, and conditions of this Agreement.

II. LEASE FEE.

Clinic shall lease the Leased Premises from City at no cost. The consideration for the Leased Premises to City shall instead be the public benefit provided by Clinic through its Mission and Government Program.

III. TERM OF AGREEMENT.

The term of this Agreement shall be fifty (50) years. Notwithstanding the date of execution of this Agreement, this Agreement shall be deemed to commence on January 1, 2017, and expire on December 31, 2066, unless terminated early as provided for herein.

IV. EARLY TERMINATION OR EXPIRATION OF AGREEMENT.

A. Without Cause. City or Clinic may terminate this Agreement with at least one hundred eighty (180) days written notice to other party.

B. For Cause. City or Clinic may terminate this Agreement for the material breach by other party of any provision of this Agreement, including its exhibits, if such breach is not cured to the satisfaction of other party within thirty (30) days of delivery of a written notice by other party (or such longer time as specified in the notice). The notice shall identify the breach and the necessary actions to remedy the breach. City of Clinic may, in addition to any other remedy it may have, recover from other party all damages incurred by reason of the breach, including the cost of recovering the Leased Premises.

C. Immediately. City may terminate or suspend this Agreement immediately if City believes in good faith that the health, welfare or safety of Leased Premises' occupants or neighbors would be placed in immediate jeopardy by the continuation of Clinic's Government Program and/or operations.

D. Termination of Government Program.

Clinic may terminate this Agreement immediately if Leased Premises are no longer suitable for the Government Program due to damage to or destruction of the Leased Premises or change in laws, rules or regulations affecting the Clinic or the Leased Premises.

E. Surrender Possession.

1. Upon termination or expiration of this Agreement, Clinic agrees to surrender possession of Leased Premises (subject to additions, alterations, and improvements) to City in as

good of condition and state of repair as said Leased Premises was in at the time Clinic took possession, reasonable wear and tear excluded.

2. Prior to expiration of Agreement Term or within fourteen (14) days after early termination, whichever occurs first, Clinic may remove any of its own personal property, which was brought or delivered to the Leased Premises by the Clinic or at its direction, from Leased Premises. The removed personal property shall remain exclusive property of Clinic. All personal property remaining on Leased Premises upon expiration of Agreement Term or after fourteen (14) days of early termination, whichever occurs first, shall become exclusive property of City.

3. Upon expiration or termination of this Agreement, all buildings, fixtures, and improvements, if any, to the Leased Premises shall be deemed to be exclusive property of the City.

V. USE, MAINTENANCE, AND OPERATION.

A. Clinic shall maintain Leased Premises in a safe and clean order, condition, and state of repair and take care of all buildings and structures contained therein, normal wear and tear excepted.

B. Clinic shall maintain all elements of Leased Premises in good, functional condition, including heating systems, electrical systems, plumbing systems, drains, sewers, doors, and windows and shall repair or replace any such building systems or elements that become worn, broken, or damaged. Clinic further agrees to make no modifications to the Building of the Leased Premises nor to the Building's systems thereof consisting in excess of Ten Thousand and no/100ths Dollars (\$10,000.00) without the prior written consent of the City's Property and Facilities Manager ("Manager"), or his/her designee.

C. Clinic is solely responsible for storage, theft, and/or vandalism of the Leased Premises and all personal property, equipment, tools, and machinery.

D. Clinic shall be responsible for maintaining its own equipment in a safe, legal, and properly maintained manner at Clinic's sole expense. Clinic shall prohibit the use of any unsafe, illegal, or deficient equipment on Leased Premises.

E. Clinic shall solely be responsible for any losses or damages caused by Clinic, including its employees, agents, volunteers, or program participants, to the Leased Premises.

F. Clinic agrees to initiate transfer of all utilities into its name as sole customer. Clinic agrees to pay for all utilities and utilities chargers on and to the Leased Premises during the Term of this Agreement, including but not limited to hook-up charges and assessments related to all utilities.

G. Clinic is responsible for all maintenance of the Leased Premises, including but is not limited to, snow removal, cleaning, washing, sand or debris removal, tree and grass cutting

and removal, trash collection and removal, sweeping, and restroom services. City shall not provide or assist in maintenance of the Leased Premises during the term of this Agreement.

H. Clinic shall have all responsibility for the legal, proper, and final disposal of garbage and refuse generated by its operations at the Leased Premises and agrees to absorb all costs related thereto.

I. Clinic is responsible to maintain all public sidewalks on or abutting the Leased Premises year-round during the term of this Agreement, specifically the sidewalks adjacent to N. 8th Avenue East, East Fourth Street, and East Third Street as depicted on Exhibit A.

J. In addition to the foregoing costs and charges set forth above, Clinic 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.

K. In the event of partial or complete destruction or damage of or to the Leased Premises, from any cause, City shall not be obligated to repair or replace any portion of the Leased Premises, including buildings, structures, or improvements.

VI. PROVISION AGAINST LIENS, ASSIGNMENTS, AND TRANSFERS.

A. Provision Against Liens.

Except for encumbrances pursuant to Paragraph B below, neither party shall create or permit any mortgage or encumbrance or allow any mechanic's or materialmen's liens to be filed or established or to remain against the Leased Premises or any part thereof that would materially or adversely affect the other party's interest in this Agreement during its term. Provided that if Clinic shall first notify City of its intention to do so and post such security as City reasonably deems necessary, Clinic may, in good faith, contest any such mechanic's or other liens filed or established as long as City does not deem its interest or rights under this Agreement to be subject to foreclosure by reason of such context.

B. Provision Against Assignments, Transfers, or Change in Identity.

1. The parties hereto acknowledge that City is relying upon the qualifications and identity of Clinic to operate and maintain the Government Program on the Leased Premises. Therefore, Clinic represents and agrees for itself, its successors, and assigns that it has not made or created, and will not make, create or suffer to be made or created, any total or partial sale, assignment, conveyance, lease, trust, lien, or power of attorney, nor has it nor will it allow any change in its status or character that would result in its loss of tax exempt status under Section 501(c)(3) of the Internal Revenue Code nor any change of control of Clinic, and has not or will not otherwise transfer in any way or any portion of the Leased Premises, Building, Property, Government Program, or this Agreement, or any other contract or agreement entered into in connection with carrying out its obligations hereunder.

2. Unless approved in writing by City, Clinic agrees it shall neither assign nor transfer any rights or obligations under this Agreement.3. If City assigns or transfers any rights or obligation under this Agreement, Clinic retains all of its rights under this Agreement enforceable against the City's assignee(s).

VII. INDEPENDENT RELATIONSHIP.

A. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting Clinic as an agent, representative or employee of the City for any purpose or in any manner whatsoever. The parties do not intend to create any third party beneficiary of this Agreement. Clinic and its employees shall not be considered employees of the City, and any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on behalf of Clinic's employees while so engaged, and any and all claims whatsoever on behalf of Clinic's employees arising out of employment shall in no way be the responsibility of City. Clinic's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from City, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Worker's Compensation, Unemployment Insurance, disability or severance pay, and Minnesota Public Employee Retirement Association contributions. Further, City shall in no way be responsible to defend, indemnify or save harmless Clinic from liability or judgments arising out of Clinic's intentional or negligent acts or omissions of Clinic or its employees.

B. 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.

C. Clinic expressly waives any right to claim any immunity provided for in Minnesota Statutes Chapter 466 or pursuant to the official immunity doctrine.

VIII. RECORDS RETENTION.

Clinic agrees to maintain all books, records, documents, and other evidence pertaining to the costs or expenses related to the Leased Premises and Government Program during this Agreement and for six (6) years after its termination or expiration.

IX. INSURANCE.

A. Clinic shall procure and maintain continuously in force a policy of insurance covering all of its activities on the Leased Premises. A Comprehensive General Liability Insurance policy shall be maintained in force by Clinic 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 Clinic activities occurring on or within the Leased Premises whether said activities are performed by employees or agents under contract to Clinic. Such policy of insurance shall be approved by the City Attorney and shall contain a condition that it may not be cancelled without thirty (30) days' written notice to the City. The City shall be named as an additional insured on said policy of insurance required by this paragraph.

B. Clinic shall procure and maintain continuously in force a policy of property insurance covering the Building, including all fixtures, equipment, and machinery, on the Leased Premises. The Building shall be insured to the full replacement value thereof against all risk of direct physical loss, except that such insurance may provide for a deductible amount not to exceed Fifty Thousand and no/100ths Dollars (\$50,000.00) per occurrence. For the purposes hereof, "all risk" means insurance equivalent in scope to protect against all risks of direct physical loss ordinarily insured against in the region. Clinic hereby waives any and all claims or causes of action against City for damages caused by an insured peril hereunder, except such rights hereinafter set forth to an interest in the insurance proceeds payable in the event of such loss.

C. In the event the Leased Premises or any portion thereof is destroyed by fire or other casualty, Clinic shall forthwith repair, reconstruct, and restore the Leased Premises to substantially the same scale and condition, quality, and value as existed prior to the event causing such damage or destruction, and to the extent necessary to accomplish such repair, reconstruction, and restoration, Clinic shall apply the proceeds of any insurance received by Clinic to the payment or reimbursement of the costs thereof. Clinic shall, however, complete the repair, reconstruction, and restoration of the Leased Premises whether or not the proceeds of any insurance received by Clinic are sufficient to pay for such repair, restoration, and reconstruction.

D. Clinic shall also provide evidence of Statutory Minnesota Workers' Compensation Insurance.

E. Clinic shall provide to City Certificates of Insurance evidencing such coverage with 30-day notice of cancellation, non-renewal, or material change provisions included. The City does not represent or guarantee that these types or limits of coverage are adequate to protect the Clinic's interests and liabilities.

F. The City reserves the right to require Clinic 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.

G. The City does not intend to waive any legal immunities, defenses, or liability limits that maybe available.

H. When using the "Accord" Certificate form cancellation provisions, the words "endeavor to" on- Line 2 must be deleted. As an additional insured under the contract, 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.

I. The 2004 edition of ISO Additional Insured Endorsement CG 2010 is not acceptable. If the CG 2010 is used, then it must be a pre-2004 edition.

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

X. HOLD HARMLESS AND INDEMNIFICATION.

A. Clinic hereby 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, 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 City or Clinic, 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 Clinic arising out of, related to or associated with the use, management, maintenance or operation of the Leased Premises by Clinic or performance of its obligations under this Agreement.

B. Clinic will indemnify the City for any damage to the Leased Premises.

XI. GOVERNMENT DATA PRACTICES.

A. All data collected, created, received, maintained or disseminated for any purpose by the parties because of this contract is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. Clinic shall comply with the Minnesota Government Data Practices Act. Clinic agrees to hold the City, its officers, and employees harmless from any claims resulting from Clinic’s failure to comply with this law.

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

XII. INCIDENT REPORTS.

Clinic shall promptly notify the City in writing of any incident of injury or loss or damage to the Leased Premises, Clinic’s employees, or any Clinic’s participants or invitees

occurring on or within Leased Premises during this Agreement. Such written report shall be in a form acceptable to the City's Claims Investigator and Adjuster.

XIII. COMPLIANCE WITH LAWS.

A. Clinic shall make its Government Program 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. Clinic shall comply with all Minnesota Workers' Compensation laws in the utilization of all employees employed on the Leased Premises.

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

D. Clinic shall procure at its sole expense all licenses, permits, and consents to the extent necessary, desirable, and lawfully required to operate its Government Program.

E. Clinic agrees that during the term of the Lease, it will operate the Government Program in full compliance with all application laws, rules, and regulations of the State of Minnesota and any other regulatory or licensing authority or agency. Furthermore, on or before January 31, 2017 and annually thereafter during the term of this Lease Agreement, Clinic shall provide to City an annual program evaluation report of the operation of the Government Program on the Leased Premises for the preceding calendar year and a budget adopted by Clinic's Board of Directors for the calendar year in which it is submitted for the operation of the Government Program on the Leased Premises showing anticipated costs and revenues for said operation for the year of submission.

XIV. COMMUNICATIONS.

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 any services or other activities contemplated under this Agreement.

XV. NOTICES.

Unless otherwise provided herein, notice to the City or Clinic 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 and Facilities Manager
1532 W. Michigan Street
Duluth, Minnesota 55806
(218) 730-4430

Duluth Graduate Medical Education Council, Inc.
Attn: Kate Dean
330 N. 8th Avenue East
Duluth, Minnesota 55805
(218) 723-1112

XVI. CITY ACCESS AND INSPECTION.

A. Upon reasonable notice, Clinic shall permit the City designees reasonable access to the Leased Premises. Clinic shall not otherwise unreasonably prohibit or inhibit City designees access to any portion of the Leased Premises. Clinic may prohibit or restrict access to portions of the Leased Premises when necessary to comply with Minnesota and federal privacy laws.

B. Upon reasonable notice, Clinic shall allow the City and State of Minnesota or both to inspect the Leased Premises for the purpose of ensuring compliance with all laws, rules, and regulations of the United States, State of Minnesota, St. Louis County, and the City of Duluth. Clinic may prohibit or restrict access to portions of the Leased Premises when necessary to comply with Minnesota and federal privacy laws.

XVII. FORCE MAJEURE.

Neither City nor Clinic shall be considered in default or breach of any of the terms under this Agreement in the event of forced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to acts of God, acts of a public enemy, acts of the federal government, acts of another party, fire, floods, epidemics, strikes, or embargoes. In the event of any such delay, any time for completion of delivery under this Agreement shall be extended for the period of any such delay upon written notice from the party seeking the extension to the other party.

XVIII. TAXES.

Clinic hereby agrees to pay all licenses, fees, taxes, and assessments of any kind whatsoever that arise because of, out of, or in the course of Clinic's lease or operations of the Leased Premises, including any real property and sales taxes if applicable to Clinic's operations of the Leased Premises. It is further agreed that City may pay the same on behalf of Clinic and immediately collect the same from Clinic, or offset against any amount owed to Clinic by City under this Agreement. Clinic 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.

XIX. SMOKING, TOBACCO, & ALCOHOL USE PROHIBITED.

Clinic shall prohibit any person from smoking or using tobacco products or alcohol on Lease Premises.

XX. ALTERATIONS AND IMPROVEMENTS.

A. Clinic may, at its sole cost and expense, make suitable improvements or alterations to the Leased Premises upon advance written approval from the City's Property and Facilities Manager. 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, Clinic shall submit to the City a Project Proposal Request along with detailed plans. These documents shall be submitted to the City at least forty-five (45) days before the planned commencement of the work. No work may begin on any approved project until all necessary building permits are secured. All construction shall conform to state law and the Duluth City Codes.

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

XXI. GENERAL PROVISIONS.

A. Prior to execution of this Agreement by the City, Clinic shall provide evidence that it is an entity legally capable of entering into obligations of a contract and it is a non-profit organization currently in good standing with the Minnesota Secretary of State.

B. The rights of Clinic to occupy, use, and maintain said Leased Premises shall continue only so long as all of the undertakings, provisions, covenants, and conditions herein contained are on its part complied with promptly.

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. The waiver by the City or Clinic 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.

E. 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.

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

G. 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.

H. 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.

CITY OF DULUTH

By: _____
Mayor

Attest: _____
City Clerk

Date Attested: _____

Countersigned:

City Auditor

Approved as to form:

City Attorney

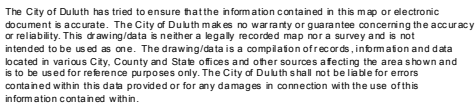
**DULUTH GRADUATE MEDICAL
EDUCATION COUNCIL, INC., d/b/a
Duluth Family Medicine Clinic and Duluth
Family Practice Center**

By: Kate Dean

Printed Name: Kate Dean

Its: Administrator

Date: 12/28/2016



0 35 70 Feet

1 inch = 70 feet

photo date: 2016
Printed: 9/9/2016

