

EXHIBIT 1



Joint Powers Agreement Amendment #1

SWIFT Contract No.: 132593
Purchase Order No.: 3000020269
Tempo ID No.: 197573
Project Activity ID: PRO200170002

Agreement Start Date:	<u>January 10, 2018</u>	Total Agreement Amount:	<u>\$2,155,660</u>
Original Agreement Expiration Date:	<u>September 30, 2018</u>	Original Agreement:	<u>\$2,155,660</u>
Current Agreement Expiration Date:	<u>September 30, 2018</u>	Previous Amendment(s) Total:	<u>\$0</u>
Requested Agreement Expiration Date:	<u>September 30, 2019</u>	This Amendment:	<u>\$0</u>

This amendment is by and between the State of Minnesota, through its Commissioner of the **Minnesota Pollution Control Agency**, 520 Lafayette Road North, St. Paul, MN 55155 ("State" or "MPCA") and **City of Duluth**, 411 West 1st Street, Duluth, MN 55802 ("Local Governmental Unit "LGU" or "City").

Recitals

1. The State has an agreement with the Contractor identified as SWIFT Contract Number 132593 ("Original Agreement") to provide **Minnesota Slip Dock Wall Reconstruction and SS William A. Irvin Removal and Return Project** as described in the plans and specifications to City of Duluth Bid nos. 17-0594 – Steel Supply, 17-11AA – Steel Coating, and 17-0596 – General Construction ("Project"), in order to complete the remediation of the contaminated sediment in the Minnesota Slip.
2. The State and the Contractor agree to amend the Original Agreement to clarify the project includes the return of the SS William A. Irvin to Minnesota Slip. The amendment includes extending the end date of the Original Agreement a full year to allow the Contractor flexibility for returning the SS William A. Irvin to Minnesota Slip if the weather does not allow the return to happen until the 2019 summer season.
3. The State and the Contractor are willing to amend the Original Agreement as stated below.

Agreement Amendment

In this Amendment, changes to pre-existing Agreement language will use ~~strike through~~ for deletions and underlining for insertions.

REVISION 1. Clause 1. "**Term of Agreement**" is amended as follows:

- 1.1 **Effective date:** January 3 10, 2018, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later. The State will execute this Joint Powers Agreement after it executes the Great Lakes Legacy Act Project Agreement between the MPCA and the U.S. EPA for cleanup of the Minnesota Slip.
- 1.2 **Expiration date:** September 30, 2018 2019, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

REVISION 2. Clause 2. "**Agreement between the Parties**" is amended as follows:

The LGU, who is not a state employee, will conduct the Project and follow the Budget for the said Project as specified in **Revised Attachment A – Project Workplan**, which is attached and incorporated into this Agreement. No terms or conditions of the LGU's proposal will be construed to modify, diminish, or derogate the terms and conditions of this

Joint Powers Agreement
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Agreement. The Agreement includes **Attachment C – Gantt Chart**, which is attached and incorporated into this Agreement. The LGU agrees to provide and pay for long-term operation and maintenance of the repaired dock wall.

REVISION 3. Clause 3 “**Payment**” is amended as follows:

The LGU will be paid for the materials, labor, construction, and administrative costs as set forth in **Revised Attachment B – Project Budget**, which is attached and incorporated into this Agreement.

The total obligation of the State for all compensation and reimbursements to the LGU under this Agreement will not exceed **\$2,155,660 (Two million, one hundred fifty five thousand, six hundred sixty dollars and zero cents).**

The LGU will only be paid for costs incurred after the effective date of this Agreement. Costs incurred prior to the effective date of this Agreement are not eligible for payment by the State.

The LGU will submit an itemized invoice to the State for services it performed as listed in **Revised Attachment A - Project Workplace**. After the State's Authorized Representative accepts the invoiced service submittal, the State will promptly pay the LGU in full for all such invoices up to 90% (\$1,940,094) of the maximum state obligation for all compensation and reimbursement to the LGU under this Agreement. The remaining 10% (\$215,566) of the maximum state obligation will be released to the LGU at such time as the LGU submits written documentation that the deliverables in both Objectives identified in Attachment A have been completed; specifically, 1) construction of a new dock wall in the Minnesota Slip and 2) removal and return of the SS William Irvin to Minnesota Slip.

Invoices must be submitted timely as services listed in **Revised Attachment A – Project Workplan** are performed. Invoices must reference the SWIFT Contract number, Purchase Order number, and the name of the State's Authorized Representative and will be submitted electronically to: mpca.ap@state.mn.us.

If there is a problem with submitting an invoice electronically, please contact the MPCA’s Accounts Payable Unit at 651-757-2491.

The LGU shall submit an invoice for the final payment upon submittal of the final progress and financial report within 30 (thirty) days of the original or amended expiration date of this Agreement. The State reserves the right to review submitted invoices after 30 (thirty) days and make a determination as to payment.

Except as amended herein, the terms and conditions of the Original Contract and all previous amendments and change orders remain in full force and effect. The Original Contract, previous amendments and change orders are incorporated into this contract by reference.

Project Workplan

Doc Type: Contract

MPCA Use Only	
Swift #:	132593
Tempo ID #:	197573-PRO20170002

Project Title: Minnesota Slip Dock Wall Reconstruction/S.S. William Irvin Removal and Return

1. Project Summary:

Organization: City of Duluth
Contractor contact name: Wayne Parson
Title: Chief Financial Officer
Address: 411 W 1st. Street, Rm 107
 Duluth, MN 55802
Phone: 218-730-5028
Fax: 218-730-5919
E-mail: wparson@duluthmn.gov

MPCA contact(s):

MPCA project manager: Heidi Bauman
Title: Contaminated Sediment Coordinator
Address: 525 Lake Ave. S., Suite 400
 Duluth, MN 55802
Phone: 218-302-6607
Fax: 218-723-4727
E-mail: Heidi.bauman@state.mn.us

Project information

Start date: 01/0310/2018 **End date:** 09/30/4819
Total cost: \$2,155,660

2. Statement of Problems, Opportunities, and Existing Conditions

This project is part of a \$72 million cleanup in the Duluth Harbor that is a 65%-35% Federal-State match using Great Lakes Legacy Act (GLLA) funds. The state match was provided by the bonding bill passed in the last legislative session. The Minnesota Pollution Control Agency (MPCA) will need to partner with the City of Duluth to complete the remediation of contaminated sediment in the Minnesota Slip, which will be the first of 10 sediment remediation projects in the St. Louis River Area of Concern (SLRAOC). Currently, former ore carrier SS William A. Irvin is docked in the slip. In order to commence remediation of contaminated sediment in the Minnesota Slip, the SS William A. Irvin must be temporarily relocated. Relocation of the ship requires structural improvements of the dock wall. The MPCA has reached an agreement with the City whereby the City will fund the greater portion of repairing a dock wall in the harbor so that the ship can be relocated, and cleanup can be ~~started~~ completed, and the ship returned to Minnesota Slip. There are a number of timing challenges with this project. The City needs to perform structural repairs of the dock this winter so that the ship can be moved. The cleanup of the sediment will need to be done after the ship is relocated, to keep the overall project on schedule and avoid public safety issues related to performing a major

construction project located in the heart of Duluth's tourist district, during tourist season. Duluth's tourist season is most active from Memorial Day and Halloween, so ideally the cleanup project would occur outside of that time frame. Other time constraints and variables that contribute to the tight time table include working around winter conditions and restrictions imposed by the DNR related to fish spawning. If we miss the window for making structural improvements to the dock wall, the cleanup project will be delayed by an entire year which will impact the overall project schedule, and MPCA commitments to the legislature and the community. Delays may place the MPCA's federal GLLA funding at risk as well.

This project will also capture overmatch that can be applied to other sediment remediation projects within City of Duluth such as Slip 3 and Lot D development or the Ponds behind Erie Pier and the Cross City Trail. MPCA cost contribution to the dock wall rehabilitation work constitutes MPCA contribution to the Minnesota Slip sediment remediation work, as well as captures the overmatch towards future GLLA projects within the SLRAOC. Therefore, MPCA's total credit towards sediment remediation work is both the overmatch and the non-federal share (35%) of the Minnesota Slip sediment remediation costs.

3. Goals, Objectives, Tasks, and Subtasks

The work to be performed is described in the plans and specifications to City of Duluth Bid nos. 17-0594 – Steel Supply, 17-11AA – Steel Coating, and 17-0596 – General Construction. The ore carrier SS William A. Irvin is located in Minnesota Slip in Duluth, MN. This slip contains contaminated sediment from legacy site use and is scheduled to be remediated in 2018. In order to perform the environmental remediation of the mooring slip, the SS William A. Irvin must be temporarily relocated outside of the slip. The US Army Corp of Engineers Marine Design Center (MDC) developed a feasible movement plan for the moving of the SS William A. Irvin. This plan includes construction of the new stainless steel sheet pile dock wall and installing mooring structures along the Duluth Entertainment Convention Center side of Minnesota Slip so that it will structurally support and facilitate movement of the SS William A. Irvin. Construction of the dock wall will also contain contaminated soils at the site and remove the risk of recontamination of the slip. The City of Duluth and the Duluth Entertainment Convention Center will move the SS William A. Irvin once the dock wall and mooring structures construction are completed. These projects must be completed by September 2018 in order to meet our tight frame for commencing construction for the sediment remediation. The SS William A. Irvin will be returned to its home in Minnesota Slip by September 2019.

Objective 1: Construction, labor, and administration

Task A: Labor and construction of dock wall

Task B: Mobilization/Demobilization

Task C: Demolition, excavation, and removal activities including disposal

Task D: Project Administration

Responsible Party: City of Duluth and TBD construction sub-contractor(s)

Objective 1 Timeline: January 2018 – September ~~2018~~2019

Objective 1 Cost: \$2,155,660

Objective 1 Deliverables: Construction of new dock wall in Minnesota Slip

Objective 2: Removal and return of SS William A. Irvin from Minnesota Slip

Task A: Remove SS William A Irvin from Minnesota Slip

Task B: Return WW William A Irvin to Minnesota Slip

Responsible Party: City of Duluth and Duluth Entertainment Convention Center

Objective 2 Timeline: January 2018 - September ~~2018~~2019

Objective 2 Cost: \$0

4. Measurable Outcomes

The Minnesota Slip (Slip) is a 3.25-acre former commercial shipping slip located along the City of Duluth downtown waterfront in the northern section of the Duluth Harbor basin between Canal Park and the Duluth Entertainment and Convention Center. It is located near the mouth of the St. Louis River in the Duluth Superior-Harbor within the boundaries of the St. Louis River Sediment Area of Concern (SLRAOC). The Slip and surrounding land are in an area formerly used for heavy industry and commercial shipping; however, land use of this area has changed significantly over the past 30 years, and this area now is part of the Canal Park entertainment district, primarily occupied by hotels, restaurants, shops, and other tourist attractions.

Based on multiple investigations, which indicate contaminated sediments are widespread in the Slip, the MPCA recommended the Minnesota Slip be given high priority for conducting remedial actions to mitigate contaminated sediment. In order to allow the environmental remediation of the mooring slip, the SS William A. Irvin must be temporarily relocated outside of the slip to allow enough room for construction operations within the slip. While developing the process for moving the SS William A. Irvin it was discovered that the mooring structures would not accommodate the winching of the ship and a section of the dock wall has failed to the point that it will not allow the SS William A. Irvin to pass through the pedestrian bridge (Blue Bridge) at the mouth of the slip. The reconstruction of the dock wall will also contain contaminated site soils.

This project will support the timely remediation of the contaminated sediments in Minnesota Slip by supporting the temporary relocation of the SS William A. Irvin Marine Museum and reconstruction of failing dock wall and mooring structures.

5. Gantt charts (see Revised Attachment C)

6. Project Budget (see Revised Attachment B)

Revised Attachment B – Project Budget

Project title: Minnesota Slip Dock Wall Reconstruction/S.S. William A. Irvin Removal and Return

MPCA Use Only	
Swift #:	132593
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	1. Construction Materials				2. Construction Costs	3. Equipment			4. Other Expenses			Totals (Extended)
Project Budget												
\$ Rate per Hour/Unit												
Objective 1 - Labor, construction, admin												
Task A Labor and install of dock wall					\$1,755,660.00							
Task B Mobilization/demobilization					\$100,000.00							
Task C Demolition, excavation, removal					\$200,000.00							
Task D Administration					\$100,000.00							
Total for Objective 1 \$					\$2,155,660.00							\$2,155,660.00
Objective 2 - Removal and Return of SS Wm. Irwin												
Total Budget Per Objective:	\$0.00				\$2,155,660.00							\$2,155,660.00

