

TEMPORARY LICENSE AGREEMENT

This TEMPORARY LICENSE AGREEMENT (this “Agreement”) is by and between DULUTH SEAWAY PORT AUTHORITY, a body politic and corporate, organized under the laws of the State of Minnesota (“DSPA”) and the CITY OF DULUTH, a municipal corporation and political subdivision created and existing under the laws of the State of Minnesota (“City”).

RECITALS

WHEREAS, DSPA owns the real property legally described below (the “Property”):

Lots 234 and 236, Block 94, RICE’S POINT

AND

Lots 235, 237 and 239, Block 104, RICE’S POINT, together with vacated Seventh Street and vacated Maple Avenue adjacent thereto

AND

Lots 238 and 240, Block 114, RICE’S POINT, together with vacated Seventh Street and vacated Maple Avenue adjacent thereto

St. Louis County, Minnesota.

WHEREAS, DSPA conveyed a private sewer lift station located on the Property (the “Lift Station 40”) to the City in 1988.

WHEREAS, City has operated and maintained Lift Station 40 as part of its public utility system since it was conveyed.

WHEREAS, City desires to make certain improvements to Lift Station 40 as further detailed on the plans and specifications attached as Exhibit A (the “Project”).

WHEREAS, City desires to temporarily use that portion of the Property outlined in red on the attached Exhibit B, together with the access path depicted in black hashing on Exhibit B (the “Licensed Premises”) in order to complete the Project.

WHEREAS, DSPA wishes to provide City with a temporary license over the Licensed Premises in order to complete the Project.

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

I. PERMISSION AND PROPERTY

A. DSPA grants to City a temporary license to enter onto the Licensed Premises with all necessary tools, equipment, vehicles, and related materials for the purpose of completing the Project (the “License”). City, its employees, contractors, agents and subcontractors may enter onto the Licensed Premises at all times during the Term (defined below) for the purposes described in this Agreement. The City may use the Licensed Premises for storage, staging and use of equipment, materials, and other purposes in connection with the Project. From time to time during the Term (defined below), City’s use of parts of the Licensed Premises may be exclusive to perform its construction activities and protect the public. City shall use its best efforts to minimize interference with the Licensed Premises by DSPA and its tenants while the Project is being conducted.

B. Upon completion of the Project, City shall restore all disturbed areas of the Licensed Premises to the equivalent, or better, of their condition prior to commencement of the Project. City shall have no ongoing responsibility or liability as to the improvements within or condition of the Licensed Premises after restoration of the Licensed Premises, except that the City will continue to own and operate Lift Station 40.

II. TERM

Notwithstanding the date of execution of this Agreement, the term of this Agreement shall begin June 1, 2026, and shall expire at 5:00 P.M. on December 31, 2026, or when the Project is completed, whichever is sooner (the “Term”).

III. LAWS, RULES AND REGULATIONS

During the Term, City will conduct its activities related to this Agreement in strict compliance with the United States Constitution and with the applicable laws, rules, and regulations of the United States, State of Minnesota, St. Louis County, and City of Duluth.

IV. GOVERNMENT DATA PRACTICES

A. DSPA 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 DSPA under this Agreement.

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

V. NO THIRD PARTY RIGHTS

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

VI. NOTICES

Notices sent pursuant to this Agreement shall be sufficient if sent by regular United States mail, postage prepaid, addressed to:

City
City of Duluth
Attn: Director of Public Works & Utilities
411 W. First Street, Room 240
Duluth, Minnesota 55806

DSPA
Duluth Seaway Port Authority
Attn: Executive Director
802 Garfield Ave.
Duluth, MN 55802

or to such other persons or addresses as the parties may designate to each other in writing from time to time.

VII. APPLICABLE LAW

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 this Agreement will be in and under those state courts located within St. Louis County, Minnesota.

VIII. AMENDMENTS

Any amendments to this Agreement shall be in writing and shall be executed by the same individuals who executed this Agreement or their successors in office.

IX. SEVERABILITY

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, then 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.

X. OWNERSHIP OF LICENSED PREMISES

DSPA represents that it is the fee owner of the Property.

XI. ENTIRE AGREEMENT

The Recitals of this Agreement are true and correct and are incorporated into this Agreement by reference. This Agreement and exhibits constitute 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. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute one and the same Agreement. Electronic signatures shall be binding on the transmitting party and shall have the same force and effect as if the original signature had been delivered.

XII. AUTHORITY TO EXECUTE AGREEMENT

The parties represent to each other that the execution of this Agreement has been duly and fully authorized by their respective governing bodies or boards or other legal authority as applicable, to the extent required to make this a binding agreement, that the individuals who executed this Agreement on their behalf are fully authorized to do so, and that this Agreement when thus executed by said individuals will constitute and be the binding obligation and agreement of the parties in accordance with the terms and conditions of this Agreement.

XIII. INDEMNIFICATION

As lawful consideration for using the Licensed Premises, City agrees to defend, indemnify, and hold harmless DSPA and its officers, agents, servants and employees from and against any and all losses, liens, claims, actions, demands, liabilities, judgments, penalties, injunctive relief, injury to person(s) or damage to the Licensed Premises, costs, damages and expenses which are attributable to acts or omissions of City or its officers, agents, employees, invitees or sub-licensee in connection with or relating to City's use or occupancy of the Licensed Premises occurring during the term of this License Agreement, including spills or leaks. Upon ten (10) days' written notice, City shall appear and defend all claims and lawsuits against the DSPA growing out of any such injuries or damages. City and DSPA do not waive their immunities under state or federal law. DSPA shall have all rights available pursuant to the terms of this Article XIII against City under the provisions of Chapter 466, Tort Liability, Political Subdivisions, of the Minnesota Statutes, but subject to the limitations set forth in the provisions of Chapter 466, Tort Liability, Political Subdivisions, of the Minnesota Statutes. City shall not be required to defend or indemnify DSPA

for any matter or cost that is attributable to the negligent, intentional, willful, or wanton acts or omission of the DSPA or any third-party.

XIV. INSURANCE

City is self-insured as authorized by Minnesota Statutes Section 471.981 for general and auto Liability, to the full extent of its statutory limits of liability as set forth in Minnesota Statutes Chapter 466. Additionally , the City is self-insured for its workers compensation program. Since this program is self-insured and is administered in accordance with Minnesota statutes, there is no policy and there are no effective/expiration dates.

[Remainder of page is intentionally blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below.

DULUTH SEAWAY PORT
AUTHORITY

CITY OF DULUTH

By: _____

By: _____
Mayor (City Administrator
per delegated authority)

Its: _____

ATTEST:

Title: _____

City Clerk

Dated: _____

Dated: _____

COUNTERSIGNED:

City Auditor

APPROVED AS TO FORM:

City Attorney

GENERAL NOTES

1. CONSTRUCTION VEHICLES ARE NOT ALLOWED ON THE PROPERTIES OF 1400 OR 1255 PORT TERMINAL RD. CONSTRUCTION TRAFFIC SHALL ACCESS THE SITE VIA THE DESIGNATED CONSTRUCTION ACCESS ROUTE.



Licensed Premises



LIFT STATION NO. 40 OVERVIEW LAYOUT

		No	DATE	REVISIONS				BY	
PROJECT DATE:	OCTOBER 2025	DRAWN BY: ARL	-	-					-
		DESIGNED BY: SRC	-	-					-
		CHECKED BY: SRC	-	-					-
I HEREBY CERTIFY THAT THIS PLAN, REPORT, OR SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.									
DATE: <u>October 8, 2025</u>				ENGINEER: SCOTT R. CHILSON		LICENSE # <u>44202</u>			
									



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FUNDING | PLANNING | ENVIRONMENTAL
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LIFT STATION IMPROVEMENTS
CITY OF DULUTH, MINNESOTA
CITY OF DULUTH, ST. LOUIS COUNTY, MN

LIFT STATION 40 EXISTING CONDITIONS

PROJECT NO.
00616220
SHEET
40-C-1