

FINANCE COMMITTEE

12-0085R

RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH THE DULUTH
POLICE DEPARTMENT CREDIT UNION FOR OFFICE SPACE WITHIN
THE PUBLIC SAFETY BUILDING.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Duluth police department employees credit union, substantially in the form of that on file in the office of the city clerk as Public Document No. _____ for the lease of space in the Public Safety Building on a month to month basis with monthly rent of \$125.00 deposited into Fund 110-121-1217-2120-4622 (General, Public Administration, Maintenance Operations, Architecture & Facilities, Rent of Buildings) and telecommunications fees of \$50.00 per month deposited into Fund 110-117-1107-4320 (General, Management Information Systems, MIS, MIS Services).

Approved:



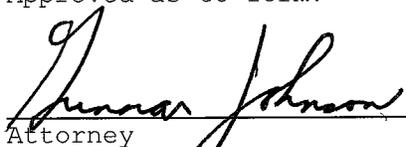
Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

FIN ADH:slw 2/9/2012

STATEMENT OF PURPOSE: This resolution authorizes a lease agreement with the Duluth police department credit union (Credit Union) for office space in the new Public Safety Building. The Credit Union currently occupies space within City Hall and will move to the Public Safety Building when the police department moves to allow the Credit Union to continue to provide convenient service to its customers.

LEASE AGREEMENT

THIS AGREEMENT (the "Agreement"), made by and between the City of Duluth, a Minnesota municipal corporation ("City") and Duluth Police Department Employees Credit Union, a not-for-profit financial cooperative ("Credit Union").

In consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Leased Premises:** Leased Premises shall mean the exclusive use of Room C002 of the Public Safety Building as shown on the attached Exhibit A. The Credit Union's use of the Leased Premises is limited to providing financial related services to the City's Police Department personnel, retirees and qualified relations.

2. Credit Union shall pay a monthly rent of One Hundred Twenty-five Dollars and no/100th (\$125.00) plus utilities and other costs outline in paragraph 5 ("Rent"). Rent is due and payable quarterly in advance. Rent payments will be deposited into Fund 110-121-1217-2120-4622.

3. **Furniture:** City will provide and install, at Credit Union's cost and expense, furniture in the as shown on Exhibit B (the "Furniture"). The cost of the Furniture of \$9,290.87 (inclusive of tax). Upon payment, Credit Union will own the Furniture. Payments for the Furniture will be deposited into Fund 450-030-4654-02-CP2009-0928B (Capital, Finance, Other reimbursements & refunds)

4. **Parking.** City will provide, at no cost to Credit Union, a sufficient number of parking spaces to be used by Credit Union, its agents, employees, customers, guests, and invitees, throughout the term of this Lease.

5. **Utilities.** City agrees to provide, at its expense, to or for the Leased Premises, adequate heat, electricity, water, air conditioning, replacement light tubes, trash removal service, and sewage disposal service, in such quantities and at such times as is necessary to Credit Union's comfortable and reasonable use of the Leased Premises, from 8 a.m. to 6 p.m., Monday through Saturday.

The City will provide Credit Union with the following telecommunications and technology support services, including normal telephone services, Internet services and wire communication (voice and data) equipment and related network connection and access services with bandwidth up to OC-12 described in detail as follows:

<u>SERVICE</u>	<u>TELECOMMUNICATION FEES</u>
*Secure internet access	\$30.00/month
Designated City of Duluth e-mail address	\$10.00/ month
Phone service including dial tone/non-analog/voicemail	At no charge to Credit Union
Phone device maintenance	\$10.00 per phone/month
Phone programming and reasonable technical support	At no charge to Credit Union
Reasonable cabling needs (subject to building capability and code)	At no charge to Credit Union
Monthly telecommunications fees	\$50.00

<u>CITY MIS SUPPORT</u>	<u>SUPPORT FEES*</u>
Network support	At \$50 per hour plus actual out of pocket costs.
Technical PC/laptop support	At \$50 per hour plus actual out of pocket costs.

The above monthly telecommunications fee payment is due and payable quarterly in advance. Payments will be deposited into Fund 110-117-1107-4320. All fees are subject to change on the anniversary date of this Agreement. City will provide Credit Union with written notice of any increases at least thirty (30) days prior to the end of the then current year. *Applicable fees for Network and Technical PC/laptop support will be invoiced in the month after the services are performed. Invoices are due thirty (30) days after receipt of the invoice.

The above services provided by City do not include:

- PC/Laptop equipment

*City will not be liable for any claims or damages resulting from Credit Union failure to meet the Payment Card Industry (PCI) data security standards or any other regulatory security compliance standards required. Credit Union acknowledges and agrees that it is responsible for all costs associated in meeting its PCI and network security requirements.

City will not be liable for internet hacks or infections to Credit Union owned equipment

6. Janitorial Service. City will use commercially reasonable efforts to provide janitorial services to the Leased Premises in accordance with the cleaning schedule provided to other spaces within the building.

7. The Term of this Agreement shall commence on March 1, 2012 and shall continue thereafter on a month to month basis unless terminated by either party with thirty (30) days written notice. Either party may terminate this Agreement without cause upon thirty (30) days' written notice to the other party.

8. Credit Union represents and warrants that it has examined the Leased Premises and that it is, at the date hereof, in good order, repair, and in a safe and clean condition. On or before the termination date of this Lease Agreement, Credit Union shall surrender and return the Leased Premises and the improvements thereon to the City, broom-clean and in the same condition as on the date of this Lease Agreement, reasonable wear and tear excepted. Credit Union agrees to pay upon demand any damage done to Leased Premises during the term of this Agreement.

9. Credit Union will keep and maintain the Leased Premises in good order and condition and state of repairs. Credit Union shall not make any alterations or improvements to Leased Premises without the prior written consent of the City with the exception of the installation of necessary telephone and computer services.

10. City shall have the right, at all reasonable times during the Term, to enter the Leased Premises for the purpose of inspecting the Leased Premises and all buildings and improvements thereon.

11. During the term of this Agreement, Credit Union shall provide General Liability with limits not less than \$500,000 Single Limit, and shall be with a company approved by the City; and shall

provide for the following: Liability for Leased Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability.

The City shall be named as Additional Insured under the General Liability, Excess Umbrella Liability (An Umbrella policy with a "following form" provision is acceptable if written verification is provided that the underlying policy names the City of Duluth as an additional insured) and Automobile Liability, or as an alternate, the Credit Union may provide Owners-Contractors Protective policy, naming itself and the City. The Credit Union shall also provide evidence of Statutory Minnesota Workers' Compensation Insurance. The Credit Union will provide certificate of insurance evidencing such coverage with 30-days notice of cancellation, non-renewal or material change provocations included. The City does not represent or guarantee that these types or limits of coverage are adequate to protect the Credit Union's interests and liabilities. Credit Union acknowledges that City's insurance will not insure the Credit Union's contents or personal property at the Leased Premises.

If a certificate of insurance is provided, the form of the certificate shall contain an unconditional requirement that the insurer must notify the City without fail not less than 30 days prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to the City will render any such change or changes in said policy or coverages ineffective as against the City.

12. Credit Union agrees that it shall defend, indemnify and save harmless, the City, its officers, agents, servants and employees from and against any and all claims, demands, suits, judgments, costs, and expenses asserted by any person or persons including agents or employees of the City or the Credit Union by reason of the death of or injury to person or persons or the loss of or damage to property or any cause of action arising out of or in connection with the use and occupancy of the Leased Premises pursuant to this Agreement. On ten (10) days' written notice from the City, the Credit Union shall appear and defend all lawsuits against the City growing out of such injuries or damages. from or in connection with the use and occupancy of the Property pursuant to this Agreement

13. Notice to City or Credit Union provided for herein shall be sufficient if sent by the regular United States mail, postage prepaid, addressed to the parties at the addresses set forth below or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

City: City of Duluth
Attn: Chief of Police
2030 Arlington Ave
Duluth, MN 55811

Credit Union: Duluth Police Department Employees Credit Union
Attn: Manager
2030 Arlington Ave.
Duluth, MN 55811

14. Credit Union agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, State of Minnesota, the County of St. Louis, the City of Duluth, and their respective agencies which are applicable to the operation Leased Premises.

15. Credit Union 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.

16. Credit Union shall not assign, transfer, sublet or subcontract this Lease Agreement or any rights, privileges or duties conferred thereby unless the written approval of the City has been secured and the insurance requirements of this Agreement are met by the third party receiving such interest. The approval of any such sublease shall not in any way relieve the Credit Union of any of its obligations under this Agreement.

17. Any waiver by either party of any provision of this Agreement shall not imply a subsequent waiver of that or any other provision.

18. This Agreement, together with all of its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota. In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

19. It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendment 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. In the event of any action or suit arising out of this Lease Agreement or the subject matter hereof, the party in whose favor a final judgment is entered shall be entitled to recover from the other party all costs and expenses of suit, including, without limitation, reasonable attorneys' fees and costs.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

CITY OF DULUTH

DULUTH POLICE DEPARTMENT
EMPLOYEES CREDIT UNION

By _____
Mayor

By _____
Its _____

Attest _____
City Clerk

Date: _____

Countersigned:

City Auditor

Approved as to form:

City Attorney

EXHIBIT A

EXHIBIT B

