

**ASSESSMENT AGREEMENT
FOR 114 WEST FIRST STREET**

THIS AGREEMENT, effective as of the date of attestation hereof by the City Clerk, by and between the City of Duluth, a municipal corporation under the laws of the State of Minnesota ("City"), and TSG CORPORATION, LLC, a limited liability created and existing under the laws of the State of Minnesota ("Owner").

RECITALS

WHEREAS, Owner is the owner of certain property in the City of Duluth, St. Louis County, Minnesota, located at 114 West First Street, legally described below, which property is hereinafter referred to as the "Property;" and

WHEREAS, the City has determined that the Property is in hazardous condition and is a public nuisance having issued an abatement order to Owner; and

WHEREAS, the Owner has agreed to consent to the City's removal and assessment of the hazardous condition on the Property; and

WHEREAS, the Owner and City seek to clarify the arrangements for the abatement, including assessment of such abatement costs.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the parties covenant and agree for themselves and their successors and assigns as follows:

AGREEMENT

1. Definitions: The following terms and phrases, as used in the Agreement shall have the meanings hereinafter ascribed to them:
 - A. Abatement or Abatement Procedure: shall mean the manner as prescribed in Minn. Stat. §§ 463.15 through 463.261 for the correction or removal of a hazardous condition on any hazardous building or property.
 - B. Assess or Assessment Procedure: shall mean the act or process of collecting all or a portion of the cost of abatement by collecting the same from the Owner as provided for in Chapter IX of the Duluth City Charter or Minn. Stat. §§ 463.15 through 463.261.
 - C. Building Official: shall mean the City of Duluth Building Official or their designee.
 - D. Hazardous Condition: shall mean that condition described in that certain abatement order of the Building Official issued to Owner on July 16, 2025 regarding the Property.

- E. Property: shall mean the lots owned by Owner, in St. Louis County, Minnesota legally described as follows:

Lot 24, DULUTH PROPER 1ST DIVISION WEST 1ST STREET.

2. Hazardous Condition Abatement.

- A. Owner Approvals. Owner agrees in the event the City determines to proceed with the Abatement Procedure, or any element thereof, Owner hereby consents to such abatement and shall further grants any and all approvals that should be needed for such abatement, implementation, or construction, including the granting of access for such work at no cost to City, and further agrees that the costs thereof may be Assessed against the entirety of the Property as hereinafter set forth. Specifically, Owner agrees to obtain the consent in writing of all owners of record, occupying tenants, and all lienholders of record.
- B. Access. Owner hereby grants access to the Property for the City's officers, agents, employees, invitees, and contractors for the purpose of completing the Abatement.
- C. Benefits of and Payment for Abatement. Owner acknowledges that the Hazardous Conditions exists on the Property and constitutes a public nuisance. Owner agrees that the abatement of the Hazardous Condition will constitute an improvement which confers special benefits accruing to the Property which equals or exceeds the costs thereof to be Assessed against the Property. It is hereby stipulated and agreed that the value of the benefits conferred upon the Property are equal to or exceed the amounts to be Assessed against the Property, without reference to any benefits conferred upon other benefited properties, if any.
- D. Owner Agrees to Assessment; Lien. Because the Owner agrees that the value of the benefits to the Property arising out of the Abatement of the Hazardous Condition equals or exceeds Owner's anticipated costs thereof, Owner, its successors and assigns, agrees at any time to accept and to pay an Assessment levied against the Property by City to defray the costs to the City of the Abatement. Owner agrees that such costs of repairs, razing, correction or removal of the Hazardous Condition is a lien on the Property. Said Assessment or Assessments shall run for a term of five (5) years at a rate of 8%, in accordance with Minn. Stat. § 463.151.
- E. Waiver of Defenses. Owner, for itself and its successors and assigns, specifically waives, without limitation, all defenses of any kind whatsoever including, but not limited to, procedural defenses to the Assessments to be levied pursuant to this Agreement and agrees that Owner and its successors, and assigns, if any, shall be bound thereby. Owner expressly waives objection to any irregularity with regard

to the Assessment and any claim that the amount thereof levied against Owner's Property is excessive, together with all rights to appeal in the courts.

- F. Maintenance after Abatement. Owner agrees that Owner is solely responsible for maintaining the Property at all times in good condition and repair. Nothing in this Agreement shall prohibit the City from future enforcement action with respect to the Property.
- G. DISCLAIMER OF WARRANTIES. ALL MATERIALS AND PRODUCTS USED OR INSTALLED BY THE CITY UNDER THIS AGREEMENT OR THE ABATEMENT PROCEDURE ARE PROVIDED ON AN AS-IS, WHERE-IS, BASIS, WITHOUT ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, QUIET ENJOYMENT, AND FITNESS FOR A PARTICULAR PURPOSE.
3. General Indemnity. To the fullest extent permitted by law, Owner agrees that it shall defend, indemnify and hold harmless City and its officers, agents, contractors, 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 City or Owner, by reason of death of or injury to person or persons or the loss of or damage to property arising out of this Agreement or the performance thereof. Said obligations to defend, indemnify, and hold harmless shall include, but not be limited to the obligation to defend, indemnify, and hold harmless the City in all matters where claims of liability against the City arise out of, relate to, are attributable to, are passive or derivative of, or vicarious to the negligent, intentional, or wrongful acts or omissions of the Owner, including but not limited to the breach of warranty, the failure to warn, the failure to prevent such act or omission by Owner, its employees, or its agents, and any other source of liability. On ten (10) days written notice from City, Owner will appear and defend all lawsuits against City relating to or arising from such injuries or damage.
4. Environmental Indemnity. Owner agrees that it shall defend, indemnify and hold harmless City and its officers, agents, servants and employees from and against any liability, loss, damage, fine, judgment, penalty, fee, cost, interest, or expense arising out of any condition existing on the Property prior to commencement of Abatement relating in any way to the environment, preservation or reclamation of natural resources, the presence, management, release or threatened release of any hazardous material (any and all explosive or radioactive substances or wastes and hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any environmental law) or to health and safety matters.

5. Owner Representations: Owner hereby represents to City, with full knowledge that City is relying on these representations, that Owner is a legally and validly organized and existing limited liability company under the laws of the State of Minnesota and that Owner is legally authorized to enter into this Agreement. Owner further represents that it is the owner of the Property in fee simple absolute, and it has full legal authority to enter into this Agreement and to legally bind the Property to the terms and conditions thereof and to bind any successors and assigns of itself to all of the terms and conditions hereof.

6. Notices: Any notice, demand or other communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid to:

In the case of the City: City of Duluth
 City Hall
 411 West First Street
 Duluth, MN 55802

In the case of the Owner: TSG CORPORATION, LLC
 Attn: _____
 [ADDRESS]
 [ADDRESS]

7. Binding Effect and Recording: This Agreement shall be deemed to run with the land and shall be binding upon and inure to the benefit of the parties hereto and to their successors and assigns.

8. General Defaults by Owner and Remedies Therefore:

A. General Events of Default: In the event Owner fails to comply with or perform any term, condition, undertaking or obligation under this Agreement, or Owner shall fail to make any payment on any Assessment levied against the Property pursuant to Paragraph 2 above, or any installment thereof in a timely manner and in full; provided however, that to the extent only an installment or a portion of said Assessment(s) is due, then "in full" shall only mean such installment or portion then due; Owner shall be deemed to be in default under the terms and conditions of this Agreement to which the remedies set forth in Subparagraph B below shall be applicable as otherwise set forth in this Agreement.

B. General Remedies: Except as otherwise set forth in this Agreement, City shall have the following remedies in the event of a default by Owner:

i. Seek and be entitled to monetary damages, including consequential damages from Owner for any damages, including consequential damages incurred by City as a result of Owner's default.

ii. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Owner's violation of the terms and conditions of this Agreement or to compel Owner's performance of its obligations hereunder. Owner acknowledges that the rights of City to performance of the obligations of Owner pursuant to this Agreement are special and unique, and that, in the event Owner violates, fails or refuses to perform any condition, agreement or provision herein, City may be without an adequate remedy at law.

iii. Enforce the Assessment against the Property and collect any sums due and owing thereunder.

iv. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to City.

C. Non-Waiver: The waiver by City of any default on the part of Owner or the failure of City to declare default on the part of Owner of any of its obligations pursuant to this Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of the Owner of the same or of any other obligation of the Owner. To be effective, any waiver of any default by Owner hereunder shall be in writing by the City.

D. Remedies Cumulative: Except as specifically set forth herein, the remedies provided under this Agreement shall be deemed to 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 hereunder.

E. Attorneys' Fees: In the event either party is in default of any of the terms and conditions of this Agreement and the other party shall successfully take legal action to enforce said rights herein, in addition to the foregoing, such non-defaulting party shall be entitled to reimbursement for its reasonable attorneys' fees and costs and otherwise for its costs and disbursements occasioned in enforcing its rights thereunder.

9. Term: The term of this Agreement shall commence upon the date of attestation by the City Clerk and shall continue until the Owner has paid all Assessments in full under this Agreement, unless terminated as provided herein. At Owner's request, City will issue a written certificate of completion in recordable form acknowledging that the Abatement Procedure have been completed. Any obligations and duties which by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

10. Assignment: Owner may not assign this Agreement without the written approval of the City.
11. Governing Law, Jurisdiction, and Venue: This Agreement shall be governed by and performed in accordance with the laws of the State of Minnesota, without giving effect to its conflicts of law provisions. Each party irrevocably consents to the exclusive jurisdiction of the federal and state courts sitting in or for St. Louis County for the resolution of any conflicts arising hereunder, agrees that such courts are the proper and convenient venue, and waives any claim that such venue is inconvenient.
12. Construction of Agreement: Owner and City have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if drafted jointly by the parties and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.
13. Severability: In the event any provision herein shall be deemed invalid or unenforceable, the remaining provision shall continue in full force and effect and shall be binding upon the parties to this Agreement.
14. Entire Agreement: This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof. No modification, amendment or waiver may be made to the terms of this Agreement without the written consent of both parties.
15. Counterparts: This Agreement may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

[Signature pages to follow.]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first shown above.

CITY OF DULUTH, a Minnesota municipal
corporation

TSG CORPORATION, LLC,
a Minnesota limited liability company

By: _____
Roger J. Reinert
Its Mayor

By: _____
Name: _____
Its: _____

Attest: _____
Its City Clerk

Date: _____

Countersigned:

Its City Auditor

Approved as to form:

Its City Attorney

STATE OF MINNESOTA)

) ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Roger J. Reinert, the Mayor of the City of Duluth, Minnesota, a municipal corporation under the laws of the State of Minnesota.

Notary Public

STATE OF MINNESOTA)

) ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Alyssa Denham, the City Clerk of the City of Duluth, Minnesota, a municipal corporation under the laws of the State of Minnesota.

Notary Public

STATE OF MINNESOTA)

) ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Josh Bailey, the Auditor of the City of Duluth, Minnesota, a municipal corporation under the laws of the State of Minnesota.

Notary Public

STATE OF MINNESOTA)

) ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Terri Lehr, the City Attorney of the City of Duluth, Minnesota, a municipal corporation under the laws of the State of Minnesota.

Notary Public

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The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by _____, the _____ of TSG CORPORATION, LLC, a Minnesota limited liability company on behalf of the company.

Notary Public

Drafted by:
Amanda M. Mangan
Assistant City Attorney
City of Duluth Attorney's Office
411 West First Street, Room 410
Duluth, MN 55802