

**THIRD AMENDMENT/RELEASE OF RESTRICTION TO
DULUTH-SUPERIOR AREA COMMUNITY FOUNDATION
DULUTH LEGACY ENDOWMENT FUND
ORGANIZATIONAL ENDOWMENT**

THIS AGREEMENT, made this ____ day of ____, 2025, between the City of Duluth (“City” or “Trustor”), and the Duluth-Superior Area Community Foundation, a Minnesota non-profit corporation (“Trustee” or “Community Foundation”).

WHEREAS, the City and Community Foundation entered into an Organizational Endowment (“Endowment”) on April 22, 2005, authorized under Resolution 04-0484 of the Duluth City Council, establishing the Duluth Legacy Endowment Fund (“Fund”), which set aside certain property for the Trustee to hold, manage, and distribute with the goal of advancing City-led public purpose projects; and

WHEREAS, the Endowment, in part, required distribution of earnings “at least annually in accordance with the recommendations and procedures of the Duluth Legacy Endowment Fund Project Group,” which was expanded from seven to eleven members—appointed by the Mayor of Duluth and approved by resolution of the Duluth City Council—and retitled the Duluth Legacy Endowment Fund Advisory Board (“Advisory Board”) under the First Release of Restriction approved by the Community Foundation Board of Trustees on February 27, 2008, and was further modified to consist of no fewer than nine and no more than eighteen members—appointed by the Mayor of Duluth and approved by resolution of the Duluth City Council—under the Second Release of Restriction approved by the Community Foundation Board of Trustees on August 27, 2014; and

WHEREAS, while the purpose of the Fund was to promote additional public donations and investment growth, with the goal of funding increasingly substantial public service and infrastructure projects over time, the Fund has not received significant contributions since its creation and annual disbursements to the City have remained relatively small, typically allocating no more than \$10,000 to \$20,000 to City projects each year; and

WHEREAS, due to the limited monetary value of the Fund’s annual disbursements, the Community Foundation and City find the current degree of City, City Council, and Community Foundation time and resources devoted to administering and appointing the Advisory Council is unnecessary, inefficient, and frustrating to the public purposes underlying the Fund, particularly considering that the Community Foundation Board of Trustees and Duluth City Council must independently review and approve each Fund disbursement and funding recipient; and

WHEREAS, under the terms and conditions of the Original Endowment and the Duluth Superior Area Community Foundation Bylaws, as Amended and Restated on June 21, 2023, the Community Foundation “Board of Trustees shall have the power to modify or eliminate any restriction, limitation, or condition on the distribution of funds . . . if the

Board of Trustees . . . determine that such restriction, limitation, or condition becomes by changes of circumstances in effect, unnecessary, incapable of fulfillment . . .”.

WHEREAS, the Community Foundation and City desire to remove the Release of a Restriction to Duluth Legacy Endowment Fund found in Exhibit B, thereby eliminating the Advisory Board, and desire to prescribe a process for the distribution of earnings.

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

- I. The THIRD term and condition and Exhibit B to the Original Endowment are hereby deleted and the THIRD term is replaced with the following:

THIRD: Distribution of earnings of the Fund shall be paid to the City at least annually pursuant to the purposes of the Fund and distribution requirements of the Community Foundation and the Fund. The City Administrator shall develop a process to determine the City project(s) that best benefit the community and fulfill the public purposes identified in this Agreement and apply the distribution from the Fund accordingly. Following approval by the Trustee, the Duluth City Council is responsible for approving and accepting the distribution from the Fund.

- II. Except as amended herein, the terms and conditions of the Original Endowment and any preceding amendments remain in full force and effect. In the event of any conflict between this Third Amendment, the Original Endowment, and any preceding amendments, the terms and conditions of this Third Amendment control.

(Remainder of this page is intentionally left blank—see following page for signatures)

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

CITY OF DULUTH (TRUSTOR)

**DULUTH SUPERIOR AREA
COMMUNITY FOUNDATION (TRUSTEE)**

By: _____
Mayor

By: _____

Attest:

Its: _____
Title of Representative

By: _____
City Clerk

Date: _____

Date: _____

Countersigned:

City Auditor

Approved as to form:

City Attorney