

**AGREEMENT FOR
ASSIGNMENT, ASSUMPTION, CONSENT, & AMENDMENT**

THIS AGREEMENT, effective as of the date of attestation by the City Clerk (“Effective Date”), is by and among the CITY OF DULUTH, a municipal corporation under the laws of the State of Minnesota (“City”); CHESTER BOWL IMPROVEMENT CLUB, a Minnesota non-profit corporation (“Club”); and LHB, Inc., a Minnesota business corporation located at 21 W. Superior Steet, Suite 500, Duluth, MN 55802 (“LHB”) (jointly “Parties”).

WHEREAS, Club and LHB entered into an agreement for architecture services dated April 20, 2017, (“AIA Agreement”) for the purpose of renovating the existing Clubhouse located at Chester Bowl, 1801 East Skyline Drive, Duluth, MN 55812;

WHEREAS, Club, with the consent of LHB, wishes to assign the AIA Agreement to City, and City wishes to assume said agreement on the condition that LHB amend and restate the AIA Agreement with terms acceptable to the City;

NOW, THEREFORE, in consideration of the foregoing and mutual covenants and agreements contained herein, the Parties agree as follows:

- I. Assignment of AIA Agreement. As of the Effective Date, Club hereby conveys and assigns to City, its successors and assigns, all of Club’s rights, responsibilities, and interests in, to and under the AIA Agreement. A copy of the AIA Agreement, with all modifications, amendments, and exhibits thereto, is attached hereto as Exhibit A and incorporated by reference.
- II. Assumption of AIA Agreement. As of the Effective Date, City hereby undertakes, accepts, and assumes the assignment of the AIA Agreement and assumes all duties and obligations of Club under the AIA Agreement and covenants to perform and discharge the same as the assignee.
- III. Consent to Assignment & Assumption. LHB hereby consents to the foregoing assignment and assumption which is effective as of the Effective Date.
- IV. Representations and Warranties. LHBs represents and warrants that the AIA Agreement is valid, enforceable, and Club is not in default of the AIA Agreement.
- V. Indemnification. Club and LHB shall be responsible for, and hereby indemnify, defend and hold City harmless from and against, any and all claims, costs, penalties, damages, losses, liabilities and expenses (including reasonable attorneys’ fees) that may at any time be incurred by City as a result of acts, omissions, or occurrences

relating to the AIA Agreement which occur, accrue, or arise prior to the Effective Date.

- VI. Amendment to AIA Agreement. City and LHB hereby agree to amend the AIA Agreement replacing it in its entirety with the Agreement for Architectural Services attached hereto as Exhibit B and incorporated by reference.
- VII. Integrated Agreement; Modification. This Agreement and all the exhibits attached hereto constitutes the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. This Agreement may not be modified except in writing signed by the Parties.
- VIII. Order of Priority. In the event of a conflict among the documents constituting this Agreement, the order of priority to resolve the conflict shall be: (1) this Agreement; (2) the Agreement for Architecture Services including all exhibits and addenda; and (3) the AIA Agreement.
- IX. Authority. Each party to this Agreement, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Agreement and that its execution, delivery, and performance of this Agreement has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- X. Electronic Signatures. An electronic signature or electronic record of this Agreement or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such other ancillary agreement for all purposes.
- XI. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity thereof so long as all the Parties hereto execute a counterpart of this Agreement.
- XII. Miscellaneous. This Agreement shall be construed under the laws of the State of Minnesota. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and their respective successors and assigns. Any provision or provisions of this Agreement that are held unenforceable, invalid or contrary to law by a court of

competent jurisdiction, shall be of no force or effect, and in such event each and all of the remaining provisions of this Agreement shall subsist and remain and be fully effective per the terms of this Agreement as though such invalid, unenforceable or unlawful provision or provisions had not been included in this Agreement. Time is of the essence of this Agreement. The headings of sections in this Agreement. are for convenience only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof.

[This section left blank intentionally]

IN WITNESS WHEREOF, the Parties have hereunto set their hands as of the date
attested by the City Clerk below.

CITY OF DULUTH

By: _____
Mayor

Date: _____

Attest: _____
City Clerk

Date: _____

Countersigned:

City Auditor

Approved as to form:

City Attorney

LHB, INC.

By: _____
Its: _____
Title of Representative

Date: _____

CHESTER BOWL IMPROVEMENT CLUB

By: _____
Its: _____
Title of Representative

Date: _____