

EXHIBIT A

**AGREEMENT
BY AND BETWEEN
UNIVERSITY OF MINNESOTA-DULUTH
AND
CITY OF DULUTH**

THIS AGREEMENT, effective as of the date of attestation by the City Clerk, by and between the City of Duluth ("City"), and Regents of the University of Minnesota, through its Duluth Campus ("UMD") located at 1049 University Drive, Duluth, MN, 55802.

WHEREAS, by various legislation the City has provided for the imposition of taxes on certain hotel/motel accommodations and certain food and beverage transactions (Food and Beverage Tax) and provided that certain of the proceeds of said Food and Beverage Tax collected are to be placed in Fund 258 and related funds and accounts to be expended by the City for advertising and promoting the City of Duluth as a tourist and convention center; and

WHEREAS, UMD owns and operates the historic Glensheen Mansion, a popular destination for people visiting the City of Duluth; and

WHEREAS, the City recognizes that programs, exhibits, and events that take place at Glensheen Mansion promote the City of Duluth as a tourism center and add to the quality of life for visitors and residents alike; and

WHEREAS, the City desires to enter into an agreement with UMD pursuant to which UMD will continue with the promotion of programs, exhibits and events at Glensheen Mansion.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

1. The services set forth in Paragraph 2 below shall be furnished by UMD commencing January 1, 2017 through December 31, 2017, inclusive.

2. UMD shall use the funds provided for in paragraph 3 to promote events, exhibits and programs and/or to match grants at Glensheen Mansion that benefit the citizens of Duluth and promote Duluth as a tourist destination.

3. City will provide to UMD in 2017 an amount not to exceed \$50,000.00. Funds will be disbursed to UMD in a dollar amount and at the schedule determined by UMD to be in its best interest, payable from Fund 258, Agency 030, Acct. 5436-12 (Tourism, Finance). It is understood and agreed that the City shall be obligated to provide payment to UMD only to the extent that sufficient taxes are derived from the Food and Beverage Tax, which are designated by the City Council to be placed in Fund 258 and related funds and accounts. In the event that insufficient taxes are derived from the Food and Beverage

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Tax, the City shall have the right in its sole and unfettered discretion to reduce or eliminate the funding available to UMD under this Agreement or to terminate or otherwise modify this Agreement.

4. City retains all its powers to determine how the public monies shall be used. City may cancel this Agreement by giving 90 days' written notice to UMD. City will reimburse UMD as set out herein for expenses UMD incurred prior to the effective date of termination.

5. Any alterations, variations, modifications or waivers of terms of this Agreement shall be binding upon the City and UMD only upon being reduced to writing and signed by a duly authorized representative of each party.

6. Assignment. UMD will not in any way assign or transfer any of its rights or interests under this Agreement in any way whatsoever.

7. Records and Inspection. Records shall be maintained by UMD in accordance with its document retention policies and with respect to all matters covered by this Agreement. Such records shall be maintained for a period of six (6) years. The City and its duly authorized representative shall have access to the books, documents, papers and records of UMD that are related to this Agreement.

8. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting either party as an agent, representative or employee of the other for any purpose or in any manner whatsoever. The parties do not intend to create any third party beneficiary of this Agreement. The employees of one party shall not be considered employees of the other, and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of a party's employees while so engaged, and any and all claims whatsoever on behalf of a party's employees arising out of employment shall in no way be the responsibility of the other. A party's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from the other, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability or severance pay and P.E.R.A. Further, neither party shall in any way be responsible to defend, indemnify or save harmless the other from liability or judgements arising out of the acts or omissions of the other or its employees while performing the work specified by this Agreement.

9. The parties do not intend by this Agreement to create a joint venture or joint enterprise, and expressly waive any right to claim such status in any dispute arising out of this Agreement.

10. Subject to applicable law, including, with regard to UMD, the Minnesota Tort Claims Act and, with regard to the City, Minnesota Statutes section 466, each party will be solely responsible for all claims, actions, and direct damages caused by that party's negligence, willful wrong-doing or breach of this Agreement.

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11. UMD agrees to obtain and maintain and provide evidence of insurance in amounts sufficient to provide coverage for any liabilities of UMD which may reasonably arise out of or result from its obligations pursuant to this Agreement. UMD, as part of the consideration under this Agreement, does hereby covenant and agree that:

- a. No person on the grounds of race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, sexual orientation, and/or disability shall be excluded from any participation in, denied any benefits of, or otherwise subjected to discrimination with regard to the work to be done pursuant to this Agreement.
- b. That all activities to be conducted pursuant to this Agreement shall be conducted in accordance with the Minnesota Human Rights Act of 1974, as amended (Chapter 363), Title 7 of the U.S. Code, and any regulations and executive orders which may be affected with regard thereto.

12. UMD agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, and the State of Minnesota which are applicable to its activities under this Agreement.

13. 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.

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

To City of Duluth: City of Duluth
 City Hall Room 402
 411 W First Street
 Duluth MN 55802

To UMD: University of Minnesota-Duluth
 School of Fine Arts
 126 Montague Hall
 1211 Ordean Court
 Duluth MN 55812

A copy of any notices to UMD will be sent to Office of the General Counsel, University of Minnesota, 360 McNamara Alumni Center, 200 Oak Street SE, Minneapolis, MN, 55455, Phone: 612-624-4100, Fax: 612-626-9624.

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15. 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.

16. The waiver by either party of any breach or failure to comply with any provision of this Agreement by the other party will not be construed as, or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

17. It is understood and agreed that the entire agreement of the parties including all exhibits 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 of their successors in office.

18. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

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

CITY OF DULUTH

REGENTS OF THE UNIVERSITY OF MINNESOTA

By

By

Mayor

UMD Representative

Attest:

Its _____
Title of Representative

City Clerk

Date: _____

Date Attested: _____

Countersigned:

City Auditor

As to form:

City Attorney