

## ASSIGNMENT AND ASSUMPTION AGREEMENT

### [Construction Agreement]

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is made as of the 11 day of December, 2020 by and between **CITY OF NASHUA**, a New Hampshire municipal corporation (“Assignor”) and **NPAC CORP.**, a New Hampshire corporation (“Assignee”) with the consent of **HARVEY CONSTRUCTION CORPORATION**, a New Hampshire corporation (the “Construction Manager”).

### RECITALS

WHEREAS, Assignor and Construction Manager entered into a certain Standard Form of Agreement between Owner and Construction Manager as Constructor dated December 19, 2018 (such Agreement with any amendments to date, including without limitation the Guaranteed Maximum Price Amendment thereto, is referred to herein as the “Contract”) for construction services to be rendered in connection with the construction of a performing arts center to be located at 201 Main Street, Nashua, New Hampshire; and

WHEREAS, the Assignor desires to assign to Assignee, and the Assignee desires to assume from the Assignor, all of the Assignor’s right, title and interest in and to the Contract.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows.

1. Assignor’s Representations. Assignor represents and warrants for the benefit of the Assignee that, as of the Effective Date: (i) no default by any party exists under the Contract and there exists no event that with passage of time, delivery of notice, or both, would constitute a default or event of default under the Contract, (ii) the Contract is in full force and effect, (iii) Assignor is the sole owner of the Contract, (iv) Assignor has not previously assigned, encumbered or otherwise transferred its rights under the Contract, and (v) Assignor has provided to Assignee accurate and complete copies of the Contract.

2. Assignment. Effective as of the date hereof (the “Effective Date”), Assignor hereby irrevocably assigns and transfers to Assignee all of the Assignor’s right, title and interest in and to the Contract.

3. Assumption. Effective as of the Effective Date, Assignee hereby accepts the foregoing assignment of the Contract and assumes and agrees to observe and perform all of the duties, obligations, liabilities, terms and covenants of the Assignor under the Contract first arising from and after the Effective Date.

4. Construction Manager’s Consent. The Construction Manager joins in this Agreement for the sole purpose of consenting to the assignment of the Contract as set forth herein.

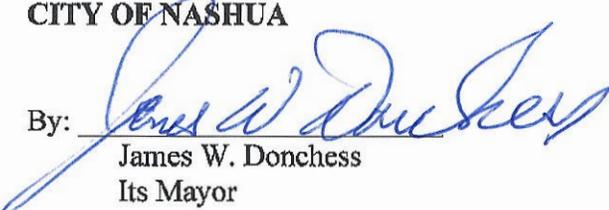
5. Further Action. Assignor and Assignee each covenant and agree to execute and deliver, at the request of the other party to this Agreement, such further instruments of transfer and assignment and to take such other action as such other party may reasonably request to further document the assignment and assumption contemplated by this Agreement.

6. Governing Law; Amendment; Successors and Assigns. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of New Hampshire without regard to conflicts of law principles. This Agreement may not be modified or amended except by a written instrument signed by duly authorized representatives of both parties. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date set forth above.

ASSIGNOR:

CITY OF NASHUA

By: 

James W. Donchess  
Its Mayor

ASSIGNEE:

NPAC CORP.

By: 

Richard G. Lannan  
Its President

CONSTRUCTION MANAGER:

**HARVEY CONSTRUCTION CORPORATION**



By: \_\_\_\_\_  
Print Name: WILLIAM E. STEVENS  
Title: PRESIDENT