

## PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT, dated as of May 1, 2013 (this "Agreement"), is by and between Forest Lake Athletic Association, a Minnesota non-profit corporation ("Seller"), and ISD #831, Forest Lake Area Schools, a Minnesota Public School District ("Buyer").

### RECITALS

A. Seller is the ground lessee of the land legally described upon Exhibit A attached hereto and made a part hereof (the "Land"), and the owner of all buildings and improvements constructed on the Land, including, without limitation, the ice arena and field house (collectively, the "Improvements"), pursuant to that certain Ground Lease Agreement, dated March 18, 2008, between Seller, as tenant, and the City of Forest Lake, Minnesota, a municipal corporation, as landlord ("Landlord") (the "Lease"); and

B. Seller desires to sell and Buyer desires to purchase Seller's leasehold interest in the Lease and Improvements upon the terms, covenants and conditions hereinafter provided.

In consideration of this Agreement, Seller and Buyer agree as follows:

1. Sale of Property. Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the following property (collectively, "Property"):

- 1.1 Real Property. The leasehold interest in the real property (collectively "Real Property") comprised of (i) the Land; (ii) all Improvements; and (iii) all easements and rights benefiting or appurtenant to the Land.
- 1.2 Personal Property. All of the personal property (collectively, the "Personal Property") situated in or about the Real Property owned by Seller, excluding only those items, if any, described on the inventory attached to this Agreement as **Exhibit B**.
- 1.3 Leases. Seller's interest in all of the leases, if any ("Leases"), described on attached **Exhibit C**.
- 1.4 Contracts, Permits, Warranties, Records, Miscellaneous. To the extent that the same are assignable without third party consents, Seller's interests in the following items, all of which relate to the Property: all service and maintenance contracts, equipment leases and other contracts (collectively, "Contracts"); all permits, licenses, and trade names (collectively, "Permits"); all warranties and guaranties relating to the Property (collectively, "Warranties"); and all business records, including management, leasing, real estate taxes, assessments, insurance, rents, maintenance, repairs, capital improvements and services (collectively, "Records").

2. Purchase Price and Manner of Payment. The total purchase price (“Purchase Price”) to be paid for the Property is \$3,300,000.00. The Purchase Price is payable by wire transfer of funds on the Closing Date.

3. Contingencies. The “Contingency Date” is May 30, 2013. If any contingency has not been satisfied on or before the date identified below, then this Agreement may be terminated by written notice from Buyer to Seller, which notice must be given not more than five days after the date identified below for the respective contingency. Upon termination, neither party will have any further rights or obligations regarding this Agreement or the Property. All the contingencies are specifically for the benefit of Buyer, and Buyer has the right to waive any contingency by written notice to Seller. The obligations of Buyer under this Agreement are contingent upon each of the following:

- 3.1 Representations and Warranties. The representations and warranties of Seller contained in this Agreement must be true now and on the Closing Date as if made on the Closing Date.
- 3.2 Title. Title shall have been found acceptable, or been made acceptable, in accordance with the requirements and terms of Section 6 below.
- 3.3 Access and Inspection. Seller must allow Buyer, and Buyer’s agents, access to the Real Property without charge and at all reasonable times for the purpose of Buyer’s investigation and testing the same. Seller shall make available to Buyer and Buyer’s agents without charge all plans and specifications, records, inventories, permits and correspondence in Seller’s possession relating to mold, fungal growth or Hazardous Substances (as defined below) affecting the Property; and the right to interview employees of Seller who may have knowledge of such matters. Buyer shall pay all costs and expenses of such investigation and testing, shall restore the Real Property, and shall hold Seller and the Real Property harmless from all costs and liabilities relating to Buyer’s activities. By the Contingency Date, Buyer must be satisfied with the results of all tests and investigations performed by it or on its behalf.
- 3.4 Estoppel Certificates. Buyer must receive, on or before the Closing Date, estoppel certificates from all tenants under Leases which are acceptable to Buyer.
- 3.5 Document Review. Buyer must have determined, in its sole judgment, on or before the Contingency Date, that it is satisfied with its review and analysis of the Leases, Contracts, Permits, Warranties, Plans, Records and Permitted Encumbrances. Seller must, on or before the date that is 10 days after the date of this Agreement, deliver to Buyer copies of all such documents for review. Seller must allow Buyer to interview tenants of the Property; provided however, that Seller has received prior notice of such interview, Seller is entitled to participate in that interview, and Buyer shall make known to such tenants that Buyer has no right to obligate or commit Seller to any agreements.

- 3.6 Government Approvals. Buyer must have obtained at its sole cost and expense on or before the Closing Date all final governmental approvals necessary in Buyer's judgment in order to make the use of the Property which Buyer intends. Seller shall cooperate in all reasonable respects with Buyer in obtaining such approvals, and shall execute such applications, permits and other documents as may be reasonably required in connection therewith.
- 3.7 Assignment of the Lease. In addition, Seller will not agree to assign the Lease to Buyer and Buyer will not agree to assume the Lease unless Landlord consents in writing to such assignment and assumption. Accordingly, this Agreement is contingent upon Seller obtaining, on or before the Date of Closing, a written consent by Landlord to the Assignment Agreement contemplated by this Agreement, in form and substance satisfactory to Seller and Buyer, or a new ground lease between Buyer and Landlord on terms and conditions acceptable to Buyer, on or before the Date of Closing, Seller or Buyer may terminate this Agreement, in which event (a) this Agreement shall become null and void, (b) neither party shall be liable for damages or have any further duties or obligations hereunder, and (c) Buyer and Seller shall execute such documentation as shall be necessary to release each party from all duties and obligations under this Agreement.
- 3.8 Executed New Agreement. On or before the Date of Closing, Landlord shall enter into a new agreement regarding the blacktopping of the parking lot in a form reasonably acceptable to Buyer.
- 3.9 Financing. Buyer must have received on or before the Closing Date the proceeds of financing necessary and sufficient in Buyer's opinion to implement Buyer's plans for and complete the purchase of the Property.

4. Closing. The closing ("Closing") of the purchase and sale contemplated by this Agreement must occur by June 30, 2013 (the "Closing Date"). The Closing must take place via escrow facilitated by the Title Company. Seller agrees to deliver possession of the Property to Buyer on the Closing Date.

- 4.1 Seller's Closing Documents. On the Closing Date, Seller shall execute and deliver to Buyer the following (collectively, "Seller's Closing Documents"), all in form and content reasonably satisfactory to Buyer:
- 4.1.1 Assignment of the Lease. An Assignment of the Lease conveying the Lease to Buyer.
- 4.1.2 Bill of Sale. A Bill of Sale conveying the Personal Property to Buyer.
- 4.1.3 Assignment of Leases. An Assignment of Leases conveying the Leases and any security deposits, prepaid rents or collections and guarantees regarding the Leases to Buyer.

- 4.1.4 Assignment of Contracts, Permits, Warranties and Miscellaneous Documents. An Assignment of Contracts, Permits, Warranties and miscellaneous documents (including without limitation name rights) conveying Seller's interest to Buyer.
- 4.1.5 Security Deposits and Prepaid Rents. All security deposits and prepaid rents under the Leases, including valid transfers of any noncash securities or documents held for such purposes, together with notices to tenants and third parties of such transfers.
- 4.1.6 Original Documents. Original copies of the Leases, Contracts, Permits, Warranties, and Records, plus all plans and specifications for the Property in Seller's possession. Copies of all records required to be kept concerning the presence, location and quantity of asbestos containing materials and presumed asbestos containing materials in the Property.
- 4.1.7 FIRPTA Affidavit. A non-foreign affidavit, properly executed, containing such information as is required by Internal Revenue Code Section 1445(b)(2) and its regulations.
- 4.1.8 IRS Forms. A Designation Agreement designating the "reporting person" for purposes of completing Internal Revenue Form 1099 and, if applicable, Internal Revenue Form 8594.
- 4.1.9 Well Certificate. A Certificate signed by Seller warranting that there are no "Wells" on the Property within the meaning of Minn. Stat. § 103I or if there are "Wells", a Well Certificate in the form required by law.
- 4.1.10 Storage Tanks. If the Property contains or contained a storage tank, an affidavit with respect thereto, as required by Minn. Stat. § 116.48.
- 4.1.11 Other Documents. All other documents reasonably determined by Buyer or Title to be necessary to transfer the Property to Buyer free and clear of all encumbrances.
- 4.1.12 ACM Materials. Copies of all records required to be kept concerning the presence, location and quantity of asbestos containing materials and presumed asbestos containing materials in the Property.
- 4.2 Buyer's Closing Documents. On the Closing Date, Buyer will execute and deliver to Seller the following (collectively, "Buyer's Closing Documents"):
  - 4.2.1 Purchase Price. Funds representing the Purchase Price, by wire transfer and execution or delivery of any required Seller's financing documents.
  - 4.2.2 IRS Form. A Designation Agreement designating the "reporting person" for purposes of completing Internal Revenue Form 1099 and, if applicable, Internal Revenue Form 8594.

5. Prorations. Seller and Buyer agree to the following pro-rations and allocation of costs regarding this Agreement:

- 5.1 Title Insurance and Closing Fee. Seller will pay all costs of the Title Commitment and the fees charged by Title for any escrow required regarding Buyer's Objections. Buyer will pay all title insurance premiums. Seller and Buyer will each pay one-half of any closing fee or charge imposed by any closing agent or by the Title Company, as defined in Section 6.
- 5.2 Real Estate Taxes and Special Assessments. Notwithstanding any local custom or practice to the contrary, or allocation, general real estate taxes payable in 2013 shall be prorated between Seller and Buyer as of the Closing Date based upon a 2013 calendar fiscal year. Seller shall pay on or before closing all of the general real estate taxes payable in calendar year 2012 and all special assessments levied against the Real Property as of the Closing Date, and Buyer shall pay all of the general real estate taxes payable in calendar year 2014 and thereafter and all installments of special assessments payable therewith.
- 5.3 Rents. All rents and other charges under the Leases will be pro-rated as of the Closing Date.
- 5.4 Other Costs. All other operating costs of the Property shall be allocated between Seller and Buyer as of the Closing Date, so that Seller pays that part of operating costs payable before the Closing Date, and Buyer pays that part of operating costs payable from and after the Closing Date.
- 5.5 Attorney's Fees. Each of the parties will pay its own attorney's fees, except that a party defaulting under this Agreement or any Closing Document will pay the reasonable attorney's fees and court costs incurred by the nondefaulting party to enforce its rights hereunder.

6. Title Examination. Title Examination will be conducted as follows:

- 6.1 Seller's Title Evidence. Seller shall, within 10 days after the date of this Agreement, furnish the following evidence (collectively, "Title Evidence") to Buyer: (a) a commitment ("Title Commitment") for an ALTA Form Owner's Policy of Title Insurance insuring title to the Real Property in the amount of the Purchase Price, issued by a title company determined by Buyer (the "Title Company"); and (b) Seller's most recent survey, if any, of the Property.
- 6.2 Buyer's Objections. Within 10 days after receiving the last of the Title Evidence, Buyer will make written objections ("Objections") to the form and/or contents of the Title Evidence. Buyer's failure to make Objections within such time period will constitute waiver of the Objections. Those matters shown the Title Evidence and not objected to by Buyer are "Permitted Encumbrances" hereunder. Seller will have 60 days after receipt of the Objections to cure the Objections, during which period the Closing will be postponed, if necessary. Seller shall use commercially reasonable efforts to correct any Objections. If the Objections are

not cured within such 60-day period, Buyer will have the option to do any of the following:

- 6.2.1 terminate this Agreement;
- 6.2.2 escrow funds reasonably determined by the Title Company to remedy such Objections after Closing; or
- 6.2.3 waive the Objections and proceed to close.

7. Operation Prior to Closing. During the period from the date of Seller's acceptance of this Agreement to the Closing Date (the "Executory Period"), Seller shall operate and maintain the Property in the ordinary course of business in accordance with prudent, reasonable business standards, including the maintenance of adequate liability insurance and insurance against loss by fire, windstorm and other hazards, casualties and contingencies, including vandalism and malicious mischief. Seller shall execute no contracts, leases or other agreements regarding the Property during the Executory Period that are not terminable on or before the Closing Date, without the prior written consent of Buyer, which consent may be withheld by Buyer at its sole discretion.

8. Representations and Warranties by Seller. Seller will indemnify Buyer, its successors and assigns, against, and will hold Buyer, its successors and assigns, harmless from, any expenses or damages, including reasonable attorneys' fees, that Buyer incurs because of the breach of any of the below representations and warranties, whether such breach is discovered before or after Closing. Except as herein expressly stated, Buyer is purchasing the Property based upon its own investigation and inquiry and is not relying on any representation of Seller or other person and is agreeing to accept and purchase the Property "as is, where is" subject to the conditions of examination herein set forth and the express warranties herein contained. Consummation of this Agreement by Buyer with knowledge of any such breach by Seller will not constitute a waiver or release by Buyer of any claims due to such breach. Seller represents and warrants to Buyer as follows:

- 8.1 Existence; Authority. Seller is duly organized, qualified and in good standing, and has the requisite power and authority to enter into and perform this Agreement and Seller's Closing Documents; such documents have been duly authorized by all necessary action; such documents are valid and binding obligations of Seller, and are enforceable in accordance with their terms.
- 8.2 Leases. Seller has made available to Buyer a correct and complete copy of each Lease and all its amendments and a copy of the Lease and all its amendments thereto. The information regarding the Leases contained in **Exhibit B** is correct and complete as of the date of this Agreement. The Leases are in full force and neither Seller, nor any tenant, is in default under the Leases. The Lease is in fully force and effect and neither Seller, nor Landlord, is in default under the Lease. There are no other leases or possessory rights of others regarding the Real Property.

- 8.3 Contracts. Seller has made available to Buyer a correct and complete copy of each Contract and its amendments which will survive a closing hereunder.
- 8.4 Operations. Seller has received no notice of actual or threatened cancellation or suspension of any utility services or certificate of occupancy for any portion of the Real Property. Seller has received no notice of actual or threatened special assessments or reassessments of the Real Property. The Property is, and to Seller's best knowledge has been, used in compliance with all governmental permits. All necessary permits have been obtained and are in full force and effect and no default exists thereunder.
- 8.5 Environmental Laws. To the best Seller's knowledge, no toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in any Environmental Law (collectively, "Hazardous Substances") have been generated, treated, stored, transferred from, released or disposed of, or otherwise placed, deposited in or located on the Property in violation of any Environmental Law, nor has any activity been undertaken on the Property that would cause or contribute to the Property becoming a treatment, storage or disposal facility within the meaning of any Environmental Law. The term "Environmental Law" shall mean any and all federal, state and local laws, statutes, codes, ordinances, regulations, rules, policies, consent decrees, judicial orders, administrative orders or other requirements relating to the environment or to human health or safety associated with the environment, all as amended or modified from time to time. To the best of Seller's knowledge, there has been no discharge, release or threatened release of Hazardous Substances from the Property, and there are no Hazardous Substances or conditions in or on the Property that may support a claim or cause of action under any Environmental Law. The Property is not now, and to the best of Seller's knowledge never has been, listed on any list of sites contaminated with Hazardous Substances, nor used as landfill, dump, disposal or storage site for Hazardous Substances. Seller has maintained all records required to be kept concerning the presence, location and quantity of asbestos containing materials, and presumed asbestos containing materials, in the Property and will deliver the same to Buyer on or before closing.
- 8.6 Seller's Defaults. To the best knowledge of Seller, Seller is not in default concerning any of its obligations or liabilities regarding the Property.
- 8.7 FIRPTA. Seller is not a "foreign person", "foreign partnership", "foreign trust" or "foreign estate", as those terms are defined in Section 1445 of the Internal Revenue Code.
- 8.8 Proceedings. There is no action, litigation, investigation, condemnation or proceeding of any kind pending or, to the best knowledge of Seller, threatened against Seller or any portion of the Property.

- 8.9 Condition. To the best knowledge of Seller, the buildings, structures and improvements included within the Property are structurally sound and in good repair and in first-class condition, and all mechanical, electrical, heating, air conditioning, drainage, sewer, water and plumbing systems are in proper working order.
- 8.10 Wells. The Seller certifies and warrants that the Seller does not know of any “Wells” on the described Property within the meaning of Minn. Stat. § 103I. This representation is intended to satisfy the requirements of that statute.
- 8.11 Storage Tanks. To the best knowledge of Seller after due inquiry, no above ground or underground tanks are located in or about the Property, or have been located under, in or about the Property and have subsequently been removed or filled. To the extent storage tanks exist on or under the Real Property, such storage tanks have been duly registered with all appropriate regulatory and governmental bodies, and otherwise are in compliance with applicable federal, state and local statutes, regulations, ordinances and other regulatory requirements.
- 8.12 Reports. Seller has delivered to Buyer copies of all environmental reports and studies relating to the Property which are in the possession of Seller.
- 8.13 Wetlands. There does not exist on or contiguous to the Property any portion of a wetland, watercourse, waterbody, floodplain or shoreland district, or tidelands or coastal zone, which is regulated by the Army Corps of Engineers, the Minnesota Department of Natural Resources or any other federal, state or local governmental agency under any Environmental Law.
- 8.14 Sewage Treatment System Disclosure. For the purposes of satisfying any applicable requirements of Minn. Stat. § 115.55, Seller discloses and certifies that:
- a) No sewage is generated on the Property; and
  - b) Seller has no knowledge of the existence of an abandoned individual sewage treatment system on the Property.

9. Casualty; Condemnation. If all or any part of the Property is substantially damaged by fire, casualty, the elements or any other cause, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all Earnest Money by giving notice within thirty (30) days after Seller’s notice. If Buyer shall fail to give the notice, then the parties shall proceed to Closing, and Seller shall assign to Buyer all rights to insurance proceeds resulting from such event. If eminent domain proceedings are threatened or commenced against all or any part of the Property, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all Earnest Money by giving notice within thirty (30) days after Seller’s notice. If Buyer shall fail to give the notice, then the parties shall proceed to Closing, and Seller shall assign to Buyer all rights to appear in and receive any award from such proceedings.



10. Broker's Commission. Seller and Buyer represent to each other that they have dealt with other brokers, finders or the like in connection with this transaction, and agree to indemnify and hold each other harmless from all claims, damages, costs or expenses of or for any other such fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorneys' fees.

11. Assignment. Either party may assign its rights under this Agreement with the prior written consent of the other party, before or after the Closing. Any such assignment will not relieve such assigning party of its obligations under this Agreement.

12. Survival. All of the terms of this Agreement and warranties and representations herein contained shall survive and be enforceable after the Closing.

13. Notices. Any notice required or permitted hereunder shall be given by personal delivery upon an authorized representative of a party hereto; or if mailed by United States registered or certified mail, return receipt requested, postage prepaid; or if transmitted by facsimile copy followed by mailed notice; or if deposited cost paid with a nationally recognized, reputable overnight courier, properly addressed as set forth below. Notices shall be deemed effective on the earlier of the date of receipt or the date of deposit, as aforesaid; provided, however, that if notice is given by deposit, the time for response to any notice by the other party commences to run one business day after any such deposit. Any party may change its address for the service of notice by giving notice of such change 10 days prior to the effective date of such change.

If to Seller:

Mr. Al Hauge, President

Forest Lake Area Athletic Association

5530 206<sup>th</sup> Street North

Forest Lake, MN 55025

If to Buyer:

Mr. Larry Martini, Director of Business Services

Forest Lake Area Schools

6100 North 210<sup>th</sup> Street

Forest Lake, MN 55025

14. Miscellaneous. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement, and no waiver of any of its terms will be effective unless in a writing executed by the parties. This Agreement binds and benefits the parties and their successors and assigns. This Agreement has been made under the laws of the State of Minnesota, and such laws will control its interpretation.

15. Remedies. If Buyer defaults under this Agreement, Seller shall have the right to terminate this Agreement pursuant to Minnesota Statutes Section 559.21. Seller shall have no right to require specific performance under this Agreement due to a Buyer default. If Seller defaults under this Agreement, Buyer shall have the right to terminate this Agreement by giving written notice to Seller. If Seller fails to cure such default within 15 days (or such reasonably longer period of time if such failure is incapable of cure within such fifteen-day period) after the date of such notice, Buyer shall, as its sole and exclusive remedies, either (i) terminate this Agreement, and recover as damages from Seller Buyer's actual out-of-pocket costs and fees, including without limitation, reasonable attorneys' fees, accountants' fees and other consultants' fees incurred by Buyer in preparing and negotiating this Agreement, preparing for the closing, obtaining financing commitments, investigating the status, title and condition of the Property, and other similar and reasonable costs and expenses; or (ii) seek specific performance of this Agreement by commencing suit therefore within three months after the date on which Buyer terminates this Agreement. If Seller defaults under this Agreement, Buyer shall have no right to seek damages from Seller for Buyer's loss of its bargain in failing to acquire the Property.

**[The balance of this page is intentionally left blank.]**

Seller and Buyer have executed this Agreement as of the date first written above.

SELLER:

FOREST LAKE ATHLETIC ASSOCIATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

BUYER:

ISD #831, FOREST LAKE AREA SCHOOLS

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF REAL PROPERTY**

**LOT 3, BLOCK 2, DEPONTI THIRD ADDITION, WASHINGTON COUNTY, MINNESOTA**

**EXHIBIT B**

**EXCLUDED PERSONAL PROPERTY, IF ANY**

**OFFICE EQUIPMENT AND FURNITURE LOCATED IN THE FLAAA OFFICES ON SECOND FLOOR**

**ALL CONTENTS INSIDE OF FOREST LAKE CYCLE AND SKATE PRO-SHOP**

**EXHIBIT C**

**LEASES, IF ANY**

**FOREST LAKE CYCLE AND SKATE, INC. DATED 11-20-2012, TERMINATING IN DEC. OF 2017**