

## LEASE AGREEMENT

BETWEEN: Three Rivers School District ("District" or "LESSOR")  
AND: Sunny Wolf Charter School,  
an Oregon Nonprofit Corporation ("SWCS" or "LESSEE")  
EFFECTIVE  
DATE: May 1, 2010

### RECITALS

- A.** District, LESSOR, is the owner of improved real property located within the City of Wolf Creek in Josephine County, more particularly described below (Premises).
- B.** SWCS, LESSEE, is a public benefit corporation without members formed for the purpose of operating a non-sectarian alternative school for grades pre-kindergarten through 12.
- C.** District and SWCS wish to enter into this lease agreement (this lease), under which SWCS will assume complete financial responsibility for the operation and maintenance of the Premises as a school under the terms and conditions set forth herein in exchange for the leasehold described herein.

### AGREEMENT

**1. Lease of Property.** LESSOR, in consideration of the rent to be paid by LESSEE and in consideration of the covenants, terms and conditions to be performed by the parties, does hereby lease to LESSEE the Premises described below.

**1.1 Premises.** The Premises consist of the real property, building, fixtures and other improvements located at 100 Ruth, Wolf Creek Or. 97497, within the County of Josephine, commonly known as the Wolf Creek Elementary School. The Premises are more particularly described on Exhibit A to this lease. The Premises shall not be deemed to include fixtures that LESSEE installs at its own expense which can be removed without causing damage to any structure in the Premises. The Premises also includes all furniture and equipment owned by the LESSOR located on the Premises as of the date of execution of this lease.

**1.2 Right of Enjoyment; Use of Premises.** LESSEE shall have the right of possession, occupancy and quiet enjoyment of the Premises, provided that LESSEE's use of the premises shall be restricted to the exclusive purpose of providing non-sectarian pre-kindergarten through 12<sup>th</sup> grade public education and other educational, recreational and community services that are

consistent with the use of the Premises as a rural school and community center. LESSEE's right of possession and occupancy of the Premises shall be exclusive and, except as conditioned herein, free of limitation, restriction or control by LESSOR.

**1.3 Effect of Charter.** This lease shall not be affected by the expiration or revocation of the SWCS Charter School charter ("Charter"), so long as LESSEE continues to occupy and use the Premises as provided in this lease except if the property is not being used as a school, then the Lessor may operate a public school.

## **2. Rental.**

**2.1 Basic Rent.** In consideration of LESSEE's undertaking to use the Premises for the purposes described in Section 1, LESSOR agrees to reduce the annual basic rent to LESSEE to the sum of \$10.00 per year, payable in arrears on each September 30, with the first payment due on September 30, 2010.

**2.2 Additional Rent.** As additional rent, LESSEE shall pay the following:

**2.2.1** Cost of all insurance which LESSEE is required to have;

**2.2.2** All amounts necessary to maintain and operate the Premises as provided herein; and

**2.2.3** Any taxes due on or with respect to the uses made of the Premises.

## **3. Term.**

**3.1 Initial Term.** The initial term of this lease shall commence as of May 1, 2010 and shall expire on June 30, 2040.

**3.2 Renewal Term.** LESSEE shall have the right to renew this lease for an additional term of thirty (30) years, subject to the following conditions:

**3.2.1 Notice.** LESSEE shall notify LESSOR of its desire to renew this lease at least one hundred twenty (120) days but not more than two years prior to the date of expiration of the initial term;

**3.2.2 Condition of Premises.** LESSEE shall demonstrate to LESSOR's reasonable satisfaction that the Premises have been maintained, repaired and improved as necessary to comply with all applicable building code requirements and to preserve the Premises against deterioration other than normal wear.

**3.2.3 No Default.** As of the date of notice and as of the date of the lease renewal, LESSEE shall not be in default under the terms and conditions of this lease or under any other contract between LESSEE and the LESSOR;

**3.2.4 Organizational Status of LESSEE.** As of the date of notice and as of the date of the lease renewal, LESSEE shall be an educational organization whose income is exempt from federal taxation under 501(a) of the Internal Revenue Code of 1986, as amended, or the relevant successor thereto.

**3.2.5 Amendment.** The parties shall execute an amendment to this lease and a recordable memorandum thereof, to establish the renewal term. Neither party shall unreasonably delay execution of the lease amendment if all other terms and conditions to renewal have been met.

**4. Taxes.** LESSEE shall pay any real property taxes levied upon the Premises. LESSEE may apply to Josephine County for a tax exemption for the Premises. LESSOR agrees to render reasonable assistance to LESSEE to obtain and maintain the tax-exempt status of the Premises, including the execution of any document or instrument required by the tax assessor.

**5. Maintenance.**

**5.1 LESSOR's Obligations Limited.** Except as provided in subsection 5.3, LESSOR shall have no responsibility for maintenance of the Premises. Notwithstanding the foregoing, LESSOR shall render such reasonable assistance to LESSEE, such as, but not limited to, execution of documents required to be executed by the Premises owner, as may be required to allow LESSEE to maintain and improve the Premises, at LESSEE'S expense.

**5.2 LESSEE's Obligations.** LESSEE shall maintain the Premises, including but not limited to landscaping, buildings, systems, fixtures and equipment, in good and clean condition subject only to reasonable wear. LESSEE's responsibility under this section shall include normal and routine maintenance and repair as well as capital improvements necessary to preserve the life of the building, replace and renew building systems, and repair deterioration and damage caused by vandalism or excessive use. Janitorial supplies are to be environmentally friendly and LESSEE shall be responsible for keeping an inventory of hazardous materials and MSDS sheets.

**5.3 LESSOR's Obligation To Maintain Water System.** Water for the Premises is currently provided by a water system registered with Josephine County as Water System No. ??. The water system draws water from a well and delivers water to the building's water distribution system at the point of use. That part of the water system from and including the well to the point of use is referred to in this paragraph as the "Water Supply System." LESSOR shall be responsible for the maintenance and repair of the Water Supply System in a condition that delivers clean drinking water, determined with reference to all applicable governmental health standards, to the point of use. At any time during which the Water Supply System does not deliver clean drinking

water on the Premises, LESSOR will pay for the cost of providing the Premises with all of its requirements for clean drinking water and will diligently pursue identification and correction of the cause of contamination.

**5.4 LESSOR's Obligation To Mitigate Asbestos.** LESSOR shall be responsible for the maintenance, removal and repair of asbestos contamination issues. LESSOR will pay for the cost of providing the Premises with all of its requirements for asbestos issues and will diligently pursue identification and correction of the cause of contamination. LESSEE shall be responsible for normal regular maintenance to prevent contamination issues.

## **6. Utilities and Security.**

6.1 LESSEE shall have all utilities placed in LESSEE's name and shall provide and pay for all utilities in connection with the Premises, including, without limitation, telephone, electricity, natural gas, and waste disposal.

6.2 LESSEE shall be responsible for the security of the Premises.

6.3 For all structures that will be used by children, LESSEE will maintain a fire alarm system that complies with all applicable fire and safety codes. LESSEE will pay applicable phone line charges for fire alarm systems.

**7. Alterations and Improvements.** LESSEE shall make no alterations or improvements to the Premises which would constitute a capital improvement, including without limitation, the installation of non-removable fixtures, without the prior written consent of LESSOR, which consent shall not be unreasonably withheld. LESSOR shall be deemed to have given consent to any improvement thirty (30) days after LESSEE delivers to LESSOR adequate plans and specifications for the improvements. LESSEE shall be solely responsible for the cost of obtaining all required zoning and building permits, but LESSOR shall execute any documents required to be executed by the property owner in connection with any required governmental approval or permit. All capital improvements will be made in accordance with all applicable zoning, licensing and building laws and requirements. All capital improvements will be constructed by, or under the supervision of, professional licensed contractors under written contracts supported by adequate payment and performance bonds. LESSEE will keep records of all contracts for improvements and of all volunteer labor and donations used in the construction and installation of improvements.

**8. Ownership of Improvements and Fixtures.** Any improvements upon the Premises shall become a part of the Premises and ownership thereof shall vest with the owner of the Premises. Fixtures purchased by LESSEE, which can be removed without causing damage to the Premises, shall remain the property of LESSEE, unless abandoned by LESSEE. Fixtures which cannot be removed without causing damage to the Premises shall become a part of the Premises unless, prior

to the installation thereof, the LESSOR agrees in writing that the particular fixture(s) may be removed by LESSEE, and further provided that LESSEE shall be responsible for repairing any damage caused by the removal of the fixture(s) immediately upon removal. Subject to the rights of any purchase money security interest or to the rights of a grantor who subsidizes the acquisition of a fixture, any fixture not removed by LESSEE within the time period provided for removal of property upon termination or expiration of this lease shall be conclusively deemed abandoned by LESSEE and shall be the property of LESSOR.

**9. Inspection and Entry.** LESSOR shall have the right to inspect the Premises for purposes of determining LESSEE's compliance with LESSEE's obligations under this agreement.

**10. Indemnification.** LESSEE shall indemnify and hold LESSOR, its officers, agents and employees, harmless from and against any and all claims, actions, liabilities and costs, including attorney fees and other costs of defence, arising out of or in any way related to LESSEE's use of the Premises, except for claims, actions and liabilities arising solely from wrongful acts of LESSOR's employees or other agents. In the event any such action or claim is brought against LESSOR under an action for which LESSEE is responsible under this Section 10, LESSEE shall, if LESSOR so elects and upon tender by LESSOR, defend the same (with counsel approved by LESSOR) at LESSEE's sole cost and expense, promptly satisfy any judgment or settlement adverse to LESSOR, or to LESSOR and LESSEE jointly, and reimburse LESSOR for any loss, cost, damage, or expense (including legal fees) suffered or incurred by LESSOR. This indemnification shall survive the termination or expiration of this lease.

**11. Damage and Restoration.**

11.1 In the event of damage or destruction of the Premises due to an event that is covered by the lessee's property insurance, the Premises shall be restored in accordance with plans and specifications mutually agreeable to LESSOR and LESSEE. Repair shall be accomplished with all reasonable dispatch, subject to interruptions and delays from labor disputes and other causes beyond LESSOR's reasonable control.

11.2 If the Premises are damaged such that the cost of restoration is reasonably estimated by the parties to exceed the proceeds of insurance available for such purpose, then the parties agree to proceed as follows:

11.2.1 LESSOR may elect to terminate this lease by written notice to LESSEE, given at least 30 days following the date of damage.

11.2.2 Absent such an election, LESSOR and LESSEE may proceed to restore the improvements using value engineering to assure that the cost of restoration will not exceed available insurance proceeds together with any other funds available for such purposes from grants, donations or LESSEE. Repair shall be accomplished with all reasonable dispatch, subject to interruptions and delays from labor disputes and other causes beyond the parties'

reasonable control. Any coverage of any of the cost of restoration by the lessor is at the lessor's discretion, and lessor has the right to decide not to contribute any amount to the cost of the restoration, even if this results in a determination that restoration cannot be conducted or completed.

**12. Insurance.** LESSEE shall obtain and maintain continuously in effect at all times during the term of this lease, at LESSEE's sole expense, the following insurance:

**12.1 Comprehensive General Liability Insurance.**

Lessee shall obtain, at lessee's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following minimum limits of insurance will be carried:

Coverage	Limit
General Per occurrence	\$1,000,000 w/ 5 million excess
Products – Completed Operations Aggregate	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage (Any one fire)	\$ 50,000
Medical Expense (any one person)	\$ 5,000
Employers Liability	\$ 100,000
Professional Liability	\$1,000,000
Molestation Liability	\$1,000,000

Lessee user shall also obtain, at lessee's expense, and keep in effect during the term of this contract, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,000,000.

The Three Rivers School District, its officers, directors, and employees shall be added as additional insured with respect to this lease. All Liability insurance policies will be endorsed to show this additional coverage.

**12.2 Workers Compensation Insurance.** LESSEE shall maintain all insurance required to comply with Oregon workers compensation law for LESSEE's employees with coverage of not less than \$100,000 per accident.

### **12.3 Waiver of Subrogation**

To the extent that it is lawful to do so,

- (1) Lessor hereby expressly waives and releases any cause of action or right of recovery which Lessor may have hereafter against the Lessee for any loss or damage to the leased premises, or to the contents thereof belonging to either, caused by fire, explosion or any other risk covered by insurance and,
- (2) Lessor shall obtain a waiver from any insurance carrier with which Lessor carries fire, explosion or any other risk coverage insuring the building and other improvements releasing its subrogation rights against leases.

**12.3 Property Insurance.** LESSEE shall maintain a broad-form standard fire insurance policy with extended coverage endorsement covering the Premises. Notwithstanding the preceding sentence, if LESSEE maintains the property insurance required by this subsection 12.3, LESSEE shall not be liable to LESSOR for the value of any property owned by LESSOR resulting from any covered loss, provided that the insurance proceeds shall be paid to LESSOR to cover any loss of LESSOR. LESSEE may purchase a tenant's fire insurance policy to cover the cost of recovery of LESSEE's contents stored on the Premises.

**12.4 Policy Requirements.** The insurance policies specified in this Section 12 shall be approved as to form and surety by LESSOR and shall bear endorsement entitling LESSOR to at least 30 days' prior written notice of any material change, non-renewal or cancellation. A copy of all such policies, or certificates thereof, reasonably satisfactory to LESSOR, shall be delivered to LESSOR within 30 days of signing this agreement. All policies required by these provisions shall be written as primary policies, not contributing with or in excess of any coverage LESSOR may have, and shall have loss payable clauses in favor of and reasonably satisfactory to LESSOR.

**13. Service and Reporting Requirements.** LESSEE agrees to the following service and reporting requirements:

13.1 Maintain a safe and secure facility by correct operation of the building's mechanical, electrical, and plumbing systems; staff trained in first aid/CPR, risk management and emergency procedures; and maintain adequately stocked first aid kits.

13.2 Provide the LESSOR, by August 15 of each year, a written annual report for the previous fiscal year (July 1 - June 30) that describes all non-routine maintenance, repairs and improvements made during the previous year and the cost thereof, including the value of in-kind labor and materials.

**14. Compliance with Law.** LESSEE, at LESSEE's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations, and requirements of federal, state, county, and municipal authorities pertaining to LESSEE's use of the Premises. These include, without limitation, all applicable federal, state, and local laws, regulations, and ordinances pertaining to air and water

quality, hazardous materials, waste disposal, air emissions, and other environmental matters, access for persons with disabilities, all zoning and other land use matters, and with any direction made pursuant to law.

## **15. Hazardous Materials.**

**15.1 Definition of Hazardous Materials.** This term includes, but is not limited to, petroleum, including crude oil, including any fraction thereof that is a liquid at standard conditions of temperature and pressure (600 Fahrenheit and 14.71 pounds per square inch absolute), or any hazardous or toxic substance regulated under the Resource Conservation and Recovery Act, the Comprehensive Environment Response Compensation and Liability Act, or any other state, federal or local laws relating to the protection of human health or the environment.

**15.2 Use of Hazardous Materials.** LESSEE shall not cause or permit any hazardous materials to be brought upon, kept, or used in or about the Premises by LESSEE, its agents, employees, contractors, or invitees without prior written consent of LESSOR. LESSOR's consent shall not be unreasonably withheld as long as LESSEE demonstrates to LESSOR's satisfaction that such hazardous materials are necessary or useful to LESSEE and will be used, kept, and stored in a manner that complies with all laws and regulations governing any such hazardous materials. LESSOR does hereby consent to LESSEE's bringing onto the Premises copiers, copier supplies, other office supplies, and routine janitorial supplies. Notwithstanding any provision to the contrary in this lease, under no circumstances will hazardous materials be disposed of on the Premises.

**15.3 Indemnification for Hazardous Materials.** LESSEE shall indemnify, defend and hold LESSOR harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses including, without limitation, diminution in value of the Premises and sums paid in settlement of claims, attorney fees, consultant fees, and expert fees, which arise during or after the lease term because of the contamination by hazardous materials as a result of the use or activities of LESSEE, or LESSEE's agents, contractors or invitees. This indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of the presence of hazardous materials in the soil or ground water on or coming from the Premises. Without limiting the foregoing, if the presence of any hazardous material on the Premises caused or permitted by LESSEE, or LESSEE's agents, contractors, or invitees, results in contamination of the Premises, LESSEE shall promptly take all actions, at its sole expense, as are necessary to return the Premises to the condition existing prior to the release of any such hazardous material. Nevertheless, LESSOR shall have the right to order LESSEE to cease any cleanup or mitigation activity if such actions would potentially have any material adverse long-term or short-term effect on the Premises. The foregoing indemnity shall survive the expiration or termination of this lease.

**15.4 Prior Conditions and Third Party Acts.** The parties agree that LESSEE shall have no liability for the presence or escape of any hazardous material on or from the Premises resulting



from any environmental event or condition that predated May 1, 2010, the date on which LESSEE first occupied the Premises under the prior lease agreement between the parties, nor shall LESSEE be responsible for any hazardous material that travels onto, across or into the Premises from adjacent lands as a result of acts or conditions caused by third parties. Notwithstanding the foregoing, and without limiting LESSEE's right to indemnity from LESSOR or any third party, LESSEE shall undertake any and all preventive, investigatory or remedial action (including emergency response, removal, containment and other remedial action) which is either required by any applicable environmental laws or orders of any governmental authority having jurisdiction under such laws, or necessary to prevent or minimize property damage, personal injury or damage to the environment or threat of any such damage or injury, by releases of or exposure to hazardous materials.

**16. Assignment and Subleasing.** LESSEE's interest in this lease shall have permission to assign or sub-let only with the lessor's prior approval for each.

**17. Holding Over - Tenancy at Sufferance.** If, after expiration or earlier termination of this lease, LESSEE shall remain in possession of the Premises and improvements, with or without the express written consent of LESSOR, then LESSEE shall be a month-to-month tenant at sufferance only, at a rental rate not to exceed the fair market rental value of the Premises at the date of termination or expiration.

**18. Condition at End of Term.** Upon expiration of the term of this lease or upon earlier termination in accordance with the provisions of this lease, LESSEE shall deliver all keys to LESSOR and surrender the Premises and improvements thereto in broom clean condition, and without damage other than from normal wear and depreciation.

**19. Right of First Refusal.** LESSOR hereby grants to LESSEE an exclusive right of first refusal to purchase the Premises on the terms and conditions set forth below and to receive a statutory warranty deed from LESSOR.

**19.1 Term.** The right shall expire: (1) 30 days from the date on which this lease is terminated or expires without renewal, or (2) 30 days after the date on which LESSOR provides written notification to LESSEE that LESSOR desires to sell the Premises, unless LESSEE provides written notification to LESSOR, within such 30-day period, that LESSEE desires to purchase the Premises; or (3) 180 days after LESSEE and LESSOR agree on the purchase price for the Premises unless the closing of the purchase transaction is delayed by the acts of LESSOR or LESSOR's agents or by mutual agreement of LESSOR and LESSEE.

**19.2 Purchase Price.** Unless the parties mutually agree to another method of price determination, the purchase price shall be the fair market value determined by an independent MAI appraisal which accounts for the impact of all permitted encumbrances described in subsection 19.4, except for those permitted exceptions suffered or caused by LESSEE, and which shall be further

reduced by the aggregate value of all capital improvements made to the Premises by LESSEE, including the reasonable value of in-kind labor and materials.

**19.3 Conditions to Purchase.** LESSEE's obligation to purchase the Premises following LESSEE's notice to LESSOR shall be conditional upon LESSEE's and LESSOR's agreement as to the permitted exceptions described in subsection 19.4 and upon LESSEE's ability to obtain purchase financing that is suitable to LESSEE.

**19.4 Preliminary Title Report.** At any one or more times during the term of this lease, LESSEE shall be entitled to receive from LESSOR a preliminary title report identifying all liens and encumbrances on the Property. LESSEE's right to receive a preliminary title report may be exercised for the purpose of deciding whether, and under what conditions, it is willing to purchase the Premises or for the purpose of deciding whether it is willing to make capital improvements to the Premises, other than improvements required to preserve the Premises in good condition. In the event that LESSEE exercises its right to purchase the Premises, LESSEE shall have the right to identify and notify LESSOR of any liens and encumbrances shown in the record that must be removed by LESSOR before time of closing, except for liens and encumbrances created or permitted by LESSEE. Liens and encumbrances of record for existing utilities and public rights-of-way, for government assessments or taxes not yet due and payable, or that are not identified by LESSEE for removal shall be permitted exceptions to the deed delivered by LESSOR. If LESSOR fails to remove any liens and encumbrances properly requested by LESSEE by the date of closing, then LESSEE shall have the option of revoking the option.

**19.5 Form of Deed and Title Insurance.** At closing LESSOR shall provide LESSEE with a standard warranty deed and a standard owner's policy of title insurance covering the Premises, naming LESSEE as the insured, with no exception other than the usual printed exceptions in such policies, the permitted exceptions, and liens and encumbrances created or suffered by LESSEE.

**19.6 Closing.** Closing of the purchase of the Premises shall take place at the offices of a title company mutually agreeable to the parties and on a date mutually agreeable to the parties. Each party shall pay one-half of all closing fees, but LESSOR shall pay the title insurance premium and LESSEE shall pay recording fees. LESSOR shall not be charged with any portion of taxes, charges or assessments due with respect to the Premises.

**20. Notices.** Until a party provides written instructions to the contrary, any notice required or permitted under this lease shall be in writing and shall be effective upon either personal delivery (subject to verification of service or acknowledgment of receipt) or one day after mailing when sent by certified mail, postage prepaid, to the party at the address shown below:

Sunny Wolf Charter School  
Attn: Administrator

Three Rivers School District  
Attn: District Superintendent

**21. Events of Default.** The following shall constitute “Events of Default:”

**21.1 Default in Other Covenants.** Failure of either party to comply with the terms or conditions or fulfill any obligation of this lease within 30 days after written notice by the other party specifying the nature of the default with reasonable particularity; or

**21.2 Insolvency.** Assignment by LESSEE for the benefit of creditors, the filing by LESSEE of a voluntary petition in bankruptcy and adjudication that LESSEE is bankrupt, or the appointment of a receiver of the property of LESSEE, the filing of an involuntary petition of bankruptcy and failure of LESSEE to secure dismissal of the petition within 60 days after filing, attachment or levying of execution on the leasehold interest, and failure of LESSEE to secure discharge of the attachment or release of the levy of execution within 30 days.

**22. Waiver of Default.** Any waiver by LESSOR of strict compliance with the terms of this lease shall not be a waiver of any subsequent violation or default.

**23. Remedies Following Event of Default.**

**23.1 Termination.** Upon the occurrence of an Event of Default, this lease may be terminated at the option of either party with five (5) days’ prior written notice to the other party.

**24. Termination by LESSEE.** This lease may be terminated by LESSEE for any reason with not less than one hundred twenty (120) days’ prior written notice to LESSOR.

**25. Action Upon Termination or Expiration.** If this lease expires or is terminated for any reason, LESSEE’s liability to LESSOR for damages shall survive such expiration or termination, and the rights and obligations of the parties shall be as follows:

25.1 At any time more than 24 hours after the expiration or the termination of this lease for any reason, LESSOR may re-enter and assume complete control of the Premises, including the right of ingress and egress, and, subject to the provisions in subsection 25.2, remove any persons or property by legal action or self-help with the use of reasonable force and without liability for damages.

25.2 LESSEE shall vacate the property within 30 days of the expiration or termination date, remove any property of LESSEE, including fixtures which LESSEE is permitted to move at the end of the lease term, perform any cleanup, alterations or other work required to leave the property in the condition required at the end of the term, and deliver all keys to LESSOR. During this period, LESSOR agrees to permit LESSEE access to the Premises to remove LESSEE’s

property and perform the required cleanup, alterations, etc., upon notification to LESSOR at least 24 hours in advance of the time access to the Premises is necessary.

**26. Eminent Domain.** If the Premises or any part thereof are condemned or sold or transferred under threat of condemnation, LESSEE shall have a claim against the proceeds of any condemnation award for the fair market value of its leasehold estate in addition to any relocation assistance to which LESSEE is entitled.

**27. Attorney Fees.** In the event any legal proceeding is commenced for the purpose of interpreting or enforcing any provision of this lease, rescinding this lease, or collecting any indebtedness hereunder, the prevailing party in such proceeding shall be entitled to recover reasonable attorney fees in the proceeding, or any appeal or review thereof, to be set by the court without the necessity of hearing testimony or receiving evidence, in addition to the costs and disbursements allowed by law. In addition, in the event of default by either party in performance of this lease, the defaulting party agrees to pay all reasonable attorney fees and legal expenses incurred by the non-defaulting party in collecting any sums due hereunder, even though no litigation is filed.

**28. Severability.** Invalidation of any term or provision herein by judgment, court order or otherwise, shall not affect any other provision, which will remain in full force and effect.

**29. Binding Effect; No Third-Party Beneficiaries.** LESSOR and LESSEE intend that that the provisions of this lease shall be binding on and inure only to the benefit of the signatories and their successors. There are no third-party beneficiaries to this lease.

**30. Paragraph Headings.** The paragraph headings appearing in this lease are not to be construed as interpretations of the text, but are inserted for convenience and reference of the reader only.

**31. Representations.** LESSEE represents that it has accepted and executed this Agreement on the basis of its own examination and personal knowledge of the Premises; that LESSOR and LESSOR's agents have made no agreement or promise to alter, repair, or improve the Premises; and that LESSEE takes the Premises in the condition, known or unknown, existing at the time of this lease, "AS-IS", with no warranty of merchantability or fitness for a particular purpose or any other warranty.

**32. Amendment.** This lease may be modified or amended only by written agreement between LESSEE and the LESSOR.

**33. Entire Agreement.** This lease embodies the entire agreement of the parties concerning the lease of the Premises. There are no promises, terms, conditions or obligations other than those contained herein. This lease shall supersede all prior lease agreements, communications, representations or agreements, either verbal or written, between the parties.

**34. Memorandum.** The parties will execute a memorandum of this lease suitable for filing in the Josephine County land records.

**IN WITNESS WHEREOF**, the parties have executed this lease on the dates set forth below.

**Certification of Signatories. EACH INDIVIDUAL EXECUTING THIS LEASE ON BEHALF OF A PARTY PERSONALLY REPRESENTS AND WARRANTS THAT S/HE HAS ALL NECESSARY AND PROPER POWER AND AUTHORITY TO EXECUTE AND DELIVER THIS LEASE AS THE BINDING AND OFFICIAL ACT OF THE PARTY FOR WHOM S/HE SIGNS.**

**THREE RIVERS SCHOOL DISTRICT**

**SUNNY WOLF CHARTER SCHOOL**

By: \_\_\_\_\_  
Dan Huber-Kantola , Superintendent

By: \_\_\_\_\_  
Susan Scheufele, Board President

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**Approved as to form:**

By: \_\_\_\_\_  
(name)  
Three Rivers School District Legal Counsel

Date: \_\_\_\_\_

DRAFT DATED April 17, 2010

**Exhibit A**  
**Description of Leased Premises**

**[ENTER LEGAL DESCRIPTION]**

Together with all improvements thereon, and thereof whether existing now or in the future.

DRAFT DATED April 17, 2010

**Exhibit B**  
**Memorandum of Lease with Right of First Refusal**

After recording, return to:  
Administrator  
Sunny Wolf Charter School  
??

MEMORANDUM OF LEASE AGREEMENT

EFFECTIVE DATE: \_\_\_\_\_ May 1 \_\_\_\_\_, 2010

EXPIRATION DATE: \_\_\_\_\_, 2040

FROM: Three Rivers School District ("LESSOR")  
TO: Sunny Wolf Charter School ("Lessee")

Reference is hereby made to that certain lease agreement ("lease agreement") between Lessor and Lessee, dated effective May 1, 2010, concerning certain real property legally described on Exhibit A attached hereto and incorporated herein by this reference (AProperty@).

IN WITNESS WHEREOF, the parties have caused this Memorandum of Lease with Right of First Refusal to be executed as of the date first above written.

Lessee/Owner:  
Three Rivers School District

Lessee:  
Sunny Wolf Charter School

By: \_\_\_\_\_  
Dan Huber-Kantola, Superintendent

By: \_\_\_\_\_  
Susan Scheufele, Board President

STATE OF OREGON            )  
  )ss.  
County of Benton            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2004, by \_\_\_\_\_ as Superintendent of the Three Rivers School District, on behalf of the school district.

Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_