

**OPERATION AND MAINTENANCE AGREEMENT FOR THE JOINT
MAINTENANCE FACILITY**

This Operation and Maintenance Agreement for the Joint Maintenance Facility (this “Agreement”) is dated the ____ day of _____, 2026, by and between the City of Hastings, a Minnesota municipal corporation (the “City”) and Independent School District No. 200, a Minnesota body corporate and politic (the “District”).

RECITALS

WHEREAS, the City is the owner of property located at 920 10th Street W. in the City of Hastings, legally described on the attached Exhibit A (the “Property”); and

WHEREAS, a building and various improvements including fencing, gates, storage buildings, and pavement that are collectively referred to in this Agreement as the “Joint Maintenance Facility” were constructed by the City on the Property in 2001 to be utilized by the City as its park maintenance facility (the “Facility”); and

WHEREAS, in 2001, the City and the District entered into a Lease Agreement for the Facility whereby the District was allowed to use the Facility in exchange for payment of 45 percent of the annual bond payments for the bonds issued by the City for the construction of the Facility (the “2001 Lease”); and

WHEREAS, the 2001 Lease provided that after the bonds issued by the City for the Facility are paid in full, the District could elect to become the owner of an undivided 45 percent interest in the Facility, excluding the land; and

WHEREAS, the bonds have been paid in full by the City and the District has elected to become the owner of an undivided 45 percent interest in the Facility, excluding the land; and

WHEREAS, the parties wish to put in writing their agreement regarding their obligations concerning the daily operation and maintenance of the Facility and the sharing of costs.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

- 1. Access to the Facility.** The Facility is located on the Property which is owned in fee by the City. The Facility building is owned 55 percent by the City and 45 percent by the District. Both parties shall have 24 hour per day/365 day a year access to the Facility so that they may use the Facility for their maintenance purposes.
- 2. Equipment and Supplies.** Both parties may store vehicles, equipment, and other personal property at the Facility. All outdoor storage must be in compliance with City ordinances. Each party will provide their own office supplies. The parties shall also share the multi-function copier/printer located at the Facility (the "Copier/Printer"). Due to District staff not being able to print from the Copier/Printer and only using it for copy functions, the District's use of the Copier/Printer is fairly limited. Therefore, the District and the City shall share the usage, maintenance, and repair for the Copier/Printer at a 15 percent (District)/85 percent (City) basis.
- 3. Cleaning Services.** The City shall be responsible for cleaning the Facility at its cost. Facility cleaning does not include the shop and associated areas outside the main office side of the building.
- 4. Term of Agreement; Termination.** This Agreement shall commence on the date written in the initial paragraph of this Agreement and remain in effect for a term of 10 years, unless terminated pursuant to this section. This Agreement may be terminated by either party upon at least 12 months written notice delivered to the other party to the addresses listed in section 25 of this Agreement. This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure that is acceptable to the other party.
- 5. Utilities.** The cost for all utilities, including, but not limited to, sewer, water, gas, electric, Internet, garbage removal, and phone for the Facility will be shared equally by the parties. The utility bills will be sent to the City. The City will pay the bills and will then invoice the District for its share of the bill. The District agrees to reimburse the City within 30 days after receiving the invoice from the City. The City shall provide a breakdown of the utility costs to the District upon request.
- 6. Insurance.** The City shall insure the Facility at the replacement cost value which is determined by the League of Minnesota Cities Insurance Trust. The cost to insure the Facility shall be paid 50 percent by the City and 50 percent by the District. The City will pay the insurance premiums and will then invoice the District for its share of the premium. The District agrees to reimburse the City within 30 days after receiving the invoice from the City.
- 7. Insurance on Personal Property within the Facility.** Each party shall be responsible for obtaining and paying for insurance on their respective personal property that is stored within the Facility and on the Property. The parties shall share equally the cost to insure any personal property which is jointly owned by the parties under the same terms and conditions established under section 6 of this Agreement.
- 8. Snow Removal and Grass Trimming.** The parties shall share equally the costs and duties of removing snow from the parking lot, driveway, and storage areas of the Facility as well as maintaining grass and other vegetation on the Property. It is anticipated that the parties may use

their own forces to remove the snow and maintain the grounds of the Facility. If the parties decide to utilize an outside service to remove snow and maintain the grounds of the Facility, the parties shall mutually agree on the individual or company appointed to perform these services.

9. Effect of Termination. At the end of the term of this Agreement or should this Agreement be terminated, the parties shall agree on the value, as determined by professional appraisal, of the Facility as of the effective date of expiration/termination. No land value will be included in this value. The City shall pay the District 45 percent of the value of the Facility plus 50 percent of the value of any tools or equipment that were purchased jointly according to the schedule herein.

- a. If this Agreement is terminated by the District, the City shall pay the District for its share of the Facility within two years of the date of termination.
- b. If this Agreement expires or is terminated by the City, the City shall pay the District for its share of the Facility within six months of the date of expiration or termination.

10. Capital Improvements and Repairs. During the term of this Agreement, if any capital improvements, major maintenance, or structural repairs are needed to preserve or protect the Facility, the costs thereof shall be paid 55 percent by the City and 45 percent by the District. Notification from the City should be sent to the Superintendent and the Business Manager in writing. No capital improvements, major maintenance, or structural repairs shall occur unless both parties mutually agree. Any unforeseen or emergency repairs or maintenance necessary for building occupancy or life and safety issues can be made by the City and cost-shared by the parties without any delayed approval process. City will notify the District of unforeseen or emergency repairs or maintenance in a timely manner. Both parties agree that they will not unreasonably withhold their consent to any reasonable request for capital improvements, major maintenance, or structural repairs. The District's fiscal year ends June 30th and a new year begins July 1st. Projects proposed by the City will need to be submitted to and approved by the District before March 1st of the preceding year to allow sufficient time for budgeting. Major maintenance shall be defined as non-recurring, high cost and substantial repairs of key components of the Facility, which shall include, but is not limited to, the roof, HVAC system, or structural elements that are intended to restore, preserve, or extend the Facility's intended useful life.

11. Contamination. Each party shall be responsible for the clean-up costs of any contamination of the Facility or the Property that is caused by that particular party. In the event that contamination of the Facility or the Property is discovered and it cannot be determined which party is responsible for the contamination, the cost of clean-up shall be shared equally by the parties.

12. Safety and Regulatory Compliance.

- a. **Compliance with Laws.** The parties shall comply with all applicable Occupational Safety and Health Administration ("OSHA") regulations and any relevant state and local safety standards.
- b. **Responsibility for Employees.** Each party shall be solely responsible for the safety, training, supervision, and conduct of its own employees, and for ensuring its compliance with all applicable safety laws and regulations within the Facility.

- c. **General Duty.** The parties agree to maintain a safe and healthful work environment in accordance with the OSHA General Duty Clause, Section 5(a)(1), which requires each employer to furnish a place of employment free from recognized hazards that are likely to cause death or serious physical harm.

13. Authority. Each of the parties has authority to enter into this Agreement pursuant to Minnesota Statutes, Section 471.59 and has duly authorized its execution and delivery; and, upon due authorization, execution, and delivery by the other party hereto, represents and warrants that this Agreement will be a valid and binding obligation of such party.

14. Employees/Independent Contractor. Each party shall be responsible for its own employees working in the Facility or on the Property. By entering into this Agreement, the parties and their officials, employees, consultants, agents, and contractors shall not be deemed to be an agent or employee of the other party for any purpose. All claims that arise out of the Workers' Compensation Act on behalf of the employees of a party engaged in doing work under this Agreement and all claims made by any third parties as a consequence of any act or omission on the part of an employee of a party shall in no way be the obligation or responsibility of the other party.

15. Liability. Each party to this Agreement shall be liable for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of other parties, their officers, employees, or other agents. Liability of the City or the District shall be governed by the provisions of the Municipal Tort Claims Act, Minnesota Statutes, Chapter 466 and other applicable laws.

16. Damage to the Facility. In the event there is damage to the Facility, with such damage being covered by insurance, insurance proceeds shall be used to repair or replace the damage sustained by the Facility. If the insurance proceeds are insufficient to fully cover the cost of repair or replacement, and the parties both agree to repair or replace the damage to the Facility, the parties shall make up the difference in the percentages of 55 percent attributable to the City and 45 percent attributable to the District. If the Facility is totally destroyed and the parties mutually agree not to rebuild the Facility, insurance proceeds shall be divided 55 percent to the City and 45 percent to the District.

17. Books and Records. The City shall keep full, accurate, and complete books and records relating to the Facility and its associated operation and maintenance in accordance with generally accepted accounting principles. Such books and records and all related documents and accounting procedures are subject to review and examination by the District.

18. Conflicts of Interest. No member of the City or District's governing body or other official of any party shall have any financial interest, direct or indirect, in this Agreement or any contract, agreement, or other transaction contemplated to occur or be undertaken hereunder, nor shall any such member of the City or District's governing body or other official participate in any decision relating to this Agreement which affects their personal interests or the interests of any corporation, partnership, or association in which they are directly or indirectly interested.

19. Assignment. The Facility may not be sublet by the City or the District to any third party without the prior written consent of the other party. The City or the District will not have any obligation to consent to any such request from the City or the District.

20. Dispute Resolution. In the event that there is any dispute about the interpretation or application of this Agreement, the parties agree that the City Administrator and the District's Superintendent shall meet in good faith to try and resolve the differences. If an agreement cannot be made, the dispute shall be brought to the Joint Powers Committee. Nothing herein shall limit the City or District from asserting any other right or remedy allowed by law, equity or by statute.

21. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Minnesota and any action must be venued in Dakota County District Court.

22. Benefit of this Agreement. This Agreement and the provisions hereof shall inure to the benefit only of the City and the District and shall not be construed to confer any rights or benefits upon any other persons as third party beneficiaries or otherwise.

23. Severability; Interpretation. If any provision of this Agreement shall be held to be unenforceable as contrary to law by any court of competent jurisdiction, or shall be mutually determined to be unenforceable by the parties upon the advice of their legal counsel, the remaining provisions hereof shall remain in full force and effect. This Agreement shall be construed to give the fullest effect to the intentions of the parties as expressed herein.

24. Titles of Sections. Any titles of the several sections of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

25. Notices and Demands. Except as otherwise provided in this Agreement, a notice, demand, or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if and when it is dispatched by certified mail, postage prepaid, return receipt requested, or delivered personally, and:

a. In the case of the City, is addressed to or delivered personally to the following individuals:

City of Hastings
101 East 4th Street
Hastings, MN 55033
Attn: Director of Parks and Recreation

With a copy to:
Cynthia Kirchoff, City Attorney
1305 Corporate Center Drive, Suite 300
Eagan, MN 55121

b. In the case of the District, is addressed or delivered personally to the following at:

Independent School District No. 200
1000 West 11th Street
Hastings, MN 55033
Attn: Superintendent

26. Entire Agreement; Amendments. This Agreement supersedes any prior written memorandum or oral understanding among the parties relating to the Facility or Property, including the Lease Agreement and the Operation and Maintenance Agreement – Joint Park Maintenance Facility between the parties dated January 23, 2002. Any amendments to this Agreement must be done in writing and approved by both parties.

27. Recording. This Agreement shall run with the land and be recorded against the title to the Property.

28. Waiver. A waiver by either City or District of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

29. Data Practices Compliance. All data collected by the City pursuant to this Agreement shall be subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

[The remainder of this page is intentionally left blank]

Dated this ____ day of _____, 2026.

CITY OF HASTINGS

By: _____

Mary Fasbender

Its: Mayor

By: _____

Kelly Murtaugh

Its: City Clerk

STATE OF MINNESOTA }

} ss.

COUNTY OF DAKOTA }

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by Mary Fasbender and Kelly Murtaugh, the Mayor and the City Clerk, respectively, of the City of Hastings, a Minnesota municipal corporation on behalf of the City.

NOTARY PUBLIC

EXHIBIT A

Legal Description of the Property

That part of the Northeast quarter of the Southwest quarter of Section 28, Township 115, Range 17, commencing at the Northwest corner of Lot 4, Block 15, William Allison's Addition to the Town of Hastings; thence North 225 feet to the Northwest corner of Lot 1, Block 15 of said William Allison's Addition to the Town of Hastings; thence West 207.82 feet; thence South 225 feet to a point 207.82 feet West of the Northwest corner of said Lot 4, Block 15, William Allison's Addition to the Town of Hastings; thence East 207.82 feet to the point of beginning in Dakota County, Minnesota.