

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (“Agreement”) is made as of _____, 2023 (the “Effective Date”) between Independent School District No. 879, a public school organized under the laws of Minnesota (“Seller”) and the City of Delano, a Minnesota municipal corporation (“Buyer”).

RECITALS

- A. Seller is the fee owner of a parcel of real property located in Wright County, Minnesota, legally described Lot 1, Block 1, Delano Public Schools, identified by Wright County as PID No. 107123001010 (the “School District Parcel”).
- B. The School District Parcel currently contains, among other school buildings and facilities, the Delano Area Sports Arena (“Ice Arena”), which is a private ice rink facility owned and operated by the Delano Area Sports Arena, Inc. (“DASA”). DASA leases from the School District the portion of the Property on which the Ice Arena is located.
- C. Buyer, Seller, DASA, and the Delano Area Hockey Association, Inc. (“DAHA”) have entered into a Memorandum of Agreement (“MOU”) regarding the Delano Ice Park Project, a new ice-related recreational facility to be constructed on a portion of the School District Parcel (“Ice Park Project”).
- D. Pursuant to the MOU, Buyer desires to acquire from Seller, and Seller desires to convey to Buyer, that portion of the School District Parcel containing the Ice Arena and other property, as legally described on Exhibit A (the “Land”), and all easements and rights benefiting or appurtenant to the Land (collectively the “Real Property”) and other property and interests described in Section 1 of this Agreement (collectively, the “Property”), pursuant to the terms of this Agreement.
- E. Seller wishes to retain a permanent easement for Seller’s exclusive operation and use of the locker room facility located on the portion of the Land, and Buyer is willing to grant such easement.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. Sale of Property. Seller agrees to sell to Buyer and Buyer agrees to buy from Seller, the Property, which includes all property described in this Section 1.
 - 1.1 Real Property. The Real Property as described in the first Recital paragraph.
 - 1.2 Leases. Seller’s interest as lessor in any leases of the Real Property

(“Leases”), including that Lease with DASA dated October 8, 2008, filed with the Wright County Recorder’s Office on October 27, 2008 as Document No. 1101276 (the “DASA Lease”), subject to the terms of the Assignment and Assumption referenced in Section 4.5.

2. Purchase Price. The total purchase price (“Purchase Price”) to be paid by Buyer to Seller for the Property is \$1.00.

3. Payment of Purchase Price. The Purchase Price will be paid in cash or by wire transfer of U.S. Federal Funds to be received by Seller on or before 10:00 a.m. local time on the Closing Date.

4. Contingencies. Buyer and Seller agree and understand that Buyer intends to develop and operate the Property as an ice-related recreational facility (the “Proposed Use”). Unless waived by Buyer in writing, Buyer’s obligation to purchase the Property is subject to and contingent upon each of the following:

4.1 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.

4.2 Performance of Seller’s Obligations. Seller must have performed all of the obligations required to be performed by Seller under this Agreement, as and when required by this Agreement.

4.3 Title. Title must have been found acceptable, or made acceptable, in accordance with the requirements and terms of Section 10 below.

4.4 Testing. Buyer must have determined, on or before the Contingency Date, that it is satisfied with the results of and matters disclosed by a Phase I Environmental Report with regard to the Real Property (“Phase I”) (if obtained by Buyer) and any other soil tests, engineering inspections, hazardous waste, and environmental reviews of the Property, all such tests, inspections, and reviews to be obtained at Buyer’s sole cost and expense.

4.5 Lease Review. On or before the Contingency Date, Buyer must have determined that it is satisfied with its review and analysis of the DASA Lease and the Permitted Encumbrances described in Section 12.2 of this Agreement. On or before the Closing Date, Buyer, Seller, and DASA must have executed an Assignment and Assumption of the DASA Lease in the form attached hereto as Exhibit C (the “Assignment and Assumption”).

4.6 No Restriction on Use of Property. On the Closing Date, there must exist no condition relating to the Property, either on-site or off-site (including a moratorium), that is not within the sole control and responsibility of Buyer and which would result in any authority or agency delaying or denying permits necessary for the construction, use or occupancy of Buyer’s

Proposed Use.

- 4.7 No Adverse Action. There must not exist on the Closing Date any lawsuit, zoning change, governmental investigation or other proceeding challenging the transaction contemplated in this Agreement, or which might adversely affect the right of Buyer to own, develop, or use the Property after the Closing Date for Buyer's Proposed Use, nor will any such action have been threatened or instituted.
- 4.8 Economic Viability. Buyer must have determined, on or before the Contingency Date, in its sole and absolute discretion, that it intends to move forward with construction of the Delano Ice Park Project.

The "Contingency Date" is January 9, 2024. If any of the foregoing contingencies have not been satisfied on or before the stated date, then this Agreement may be terminated, at Buyer's option, by written notice from Buyer to Seller. Such notice of termination may be given at any time on or before the Closing Date. Upon such termination (a) Buyer and Seller will execute a recordable written termination of this Agreement, which will include Buyer's quit claim of any interest in and to the Property, and (b) upon such return, neither party will have any further rights or obligations regarding this Agreement or the Property. All the contingencies set forth in this Agreement are specifically stated and agreed to be for the sole and exclusive benefit of the Buyer and the Buyer will have the right to unilaterally waive any contingency by written notice to Seller.

5. Buyer's Access and Investigation. Seller will allow Buyer, and Buyer's employees, agents, and contractors, access to the Property without charge and at all reasonable times for the purpose of Buyer's investigation and testing the same. Buyer will pay all costs and expenses of such investigation and testing and will indemnify and hold Seller and the Property harmless from all costs and liabilities relating to Buyer's activities. Buyer will further promptly repair and restore any damage to the Property caused by or occurring during Buyer's testing and return the Real Property and/or Personal Property to substantially the same condition as existed prior to such entry.

6. Closing. The closing of the purchase and sale contemplated by this Agreement (the "Closing") will occur on or before January 16, 2024 (the "Closing Date"). The Closing will take place at 10:00 a.m. local time at the office of Watermark Title, or at such other place as may be agreed to. Seller agrees to deliver possession of the Property to Buyer on the Closing Date.

7. Seller's Closing Documents. On the Closing Date, Seller will execute and/or deliver to Buyer the following (collectively, "Seller's Closing Documents"):

- 7.1 Deed. A Quit Claim Deed, in recordable form reasonably satisfactory to Buyer, conveying the Real Property to Buyer, and containing the following terms:

7.1.1 A restrictive covenant providing that the Property may only be used for park purposes.

all
paragraph 12

- 7.2 Lease. The Assignment and Assumption of the DASA Lease as described in Section 4.5.
- 7.3 Cross Access and Parking Easement. The Cross Access and Parking Easement described in Section 27.
- 7.4 Locker Room Easement. The Locker Room Easement described in Section 26.
- 7.5 Bring-down Certificate. A certificate reaffirming as of the Closing Date of the Seller's Representations and Warranties contained in of this Agreement.
- 7.6 Seller's Affidavit. An Affidavit of Seller indicating that on the Closing Date (a) there are no outstanding, unsatisfied judgments, tax liens or bankruptcies against or involving Seller or the Real Property; (b) there has been no skill, labor or material furnished to the Real Property for which payment has not been made or for which mechanic's liens could be filed; and (c) there are no other unrecorded interests in the Real Property, together with whatever standard owner's affidavit and/or indemnity (ALTA Form) which may be required by Title to issue the Policy described in Section 10 of this Agreement.
- 7.7 FIRPTA Affidavit. A non-foreign affidavit, properly executed and in recordable form, containing such information as is required by IRC Section 1445(b)(2) and its regulations.
- 7.8 IRS Reporting Form. The appropriate Federal Income Tax reporting form, if any, as required.
- 7.9 Executive Order Affidavit. An affidavit properly executed and in recordable form satisfying Buyer and Title that the Seller is not a blocked person under Executive Order 13224.
- 7.10 Other Documents. All other documents reasonably determined by Buyer or Title to be necessary to transfer the Property to Buyer.

8. Buyer's Closing Documents. On the Closing Date, Buyer will execute and/or deliver to Seller the following (collectively, "Buyer's Closing Documents"):

- 8.1 Purchase Price. The Purchase Price, by wire transfer of U.S. Federal Funds to be received in Title's trust account or by certified check delivered to Seller on or before 10:00 a.m. local time on the Closing Date.
- 8.2 Title Documents. Such Affidavits of Purchaser, Certificates of Value or

other documents as may be reasonably required by Title in order to record the Seller's Closing Documents and issue the Policy.

- 8.3 Lease. The Assignment and Assumption of the DASA Lease as described in Section 4.5.
- 8.4 Cross Access and Parking Easement. The Cross Access and Parking Easement described in Section 27.
- 8.5 Locker Room Easement. The Locker Room Easement described in Section 26.

9. Prorations. Seller and Buyer agree to the following prorations and allocation of costs regarding this Agreement:

- 9.1 Title Insurance and Closing Fee. Buyer will pay all costs of the Title Evidence described in Section 10 of this Agreement and will pay the premium or cost of the Policy. Seller and Buyer will each pay one-half of any reasonable and customary closing fee or charge imposed by any closing agent designated by Title.
- 9.2 Deed Tax. Seller will pay all state deed tax regarding the Quit Claim Deed to be delivered by Seller under this Agreement.
- 9.3 Real Estate Taxes and Special Assessments. At Closing, the Purchase Price will be adjusted as follows:
 - 9.3.1 Current Year's Taxes. All real property taxes which have become a lien on the Property ("Taxes") and which are due and payable prior to the year in which Closing occurs, will be paid by Seller at or prior to Closing. All Taxes which are due and payable in the year in which Closing occurs will be prorated to the Closing Date and Seller's portion will be paid by Seller at Closing. This proration will result in Seller's payment of Taxes from January 1 to the date immediately prior to the Closing Date and Buyer's payment of Taxes from the Date of Closing to December 31.
 - 9.3.2 Assessments. All charges for improvements or services already made to or which benefit the Property, and all levied and pending assessments (general or special) arising out of or in connection with any assessment district created or confirmed prior to the Closing Date ("Assessments") will be paid in full by Seller at Closing
- 9.4 Recording Costs. Seller will pay the cost of recording all documents necessary to place record title in the condition warranted by Seller and

requested by Buyer in this Agreement. Buyer will pay the cost of recording all other documents.

9.5 Other Costs. All other operating costs of the Property will be allocated between Seller and Buyer as of the Closing Date, so that Seller pays that part of such other operating costs payable before the Closing Date, and Buyer pays that part of such operating costs payable from and after the Closing Date.

9.6 Attorneys' Fees. Each of the parties will pay its own attorneys' fees, except that a party defaulting under this Agreement or any closing document will pay the reasonable attorneys' fees and court costs incurred by the nondefaulting party to enforce its rights regarding such default.

10. Title Examination. Title examination will be conducted as follows:

10.1 Title Evidence. Buyer will, within five (5) days after the date of this Agreement, obtain at Buyer's cost and expense, the following (collectively, "Title Evidence"):

10.1.1 Title Insurance Commitment. A commitment ("Title Commitment") for the most current form of an ALTA Form Owner's Policy of Title Insurance insuring title to the Real Property, deleting standard exceptions and including such matters as may be identified by Buyer, in the amount of \$_____, issued by Watermark Title ("Title"). The Title Commitment will commit Title to insure title to the Property subject only to the Permitted Encumbrances.

10.1.2 Survey. At Buyer's sole option and cost, an ALTA/ASCM as built survey (the "Survey") prepared by a Registered Land Surveyor properly licensed to practice in the State of Minnesota in form acceptable to Buyer (the "Survey").

10.1.4 Encumbrances. A copy of every document referenced as an exception to the title of the Real Property (including without limitation the Permitted Encumbrances) as described in the Title Commitment.

10.2 Buyer's Objections. Within ten (10) days after receiving the last of the Title Evidence, Buyer may 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 a waiver of Objections. Any matter shown on the Title Evidence and not objected to by Buyer will be a "Permitted Encumbrance" pursuant to this Agreement. Seller may, but is not required, to cure the Objections, during which period the

Closing will be postponed as necessary. Seller will use its best efforts to correct any Objections. If the Objections are not cured prior to Closing, Buyer will have the option to do any of the following:

10.2.1 Termination. Terminate this Agreement.

10.2.2 Waiver. Waive the Objections and proceed to close.

10.3 Title Policy. Seller will furnish the Policy to Buyer at closing or a suitably marked up Title Commitment initialed by Title undertaking to issue the Policy in the form required by the Title Commitment as approved by Buyer.

11. 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 must 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. However, Seller may 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 written consent of Buyer, which consent may be withheld by Buyer in its sole discretion.

12. Representations and Warranties by Seller. Seller represents and warrants to Buyer as follows:

12.1 Corporation; Authority. Seller (a) is duly incorporated and is in good standing under the laws of the State of Minnesota; (b) is duly qualified to transact business in the State of Minnesota; and (c) has the requisite power and authority to enter into and perform this Agreement and those Seller's Closing Documents signed by it. Such documents have been (or will have been) duly authorized by all necessary school board action on the part of the Seller and have been (or will have been) duly executed and delivered. Such execution, delivery, and performance by Seller of such documents does not (and will not) conflict with or result in a violation of law applicable to Seller, or any judgment, order, or decree of any court or arbiter to which Seller is a party. Such documents are (and will be) valid and binding obligations of Seller, and are enforceable in accordance with their terms.

12.2 Title to Real Property. Seller owns the Real Property, free and clear of all encumbrances except the Permitted Encumbrances identified under Section 10.

12.3 Utilities. Seller has received no notice of actual or threatened reduction or curtailment of any utility service now supplied to the Real Property.

- 12.4 Certificates of Occupancy. Seller has received no notice of actual or threatened cancellation or suspension of any certificates of occupancy for any portion of the Real Property.
- 12.5 Assessments. Seller has received no notice of actual or threatened special assessments or reassessments of the Real Property.
- 12.6 Environmental Laws. 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 the Comprehensive Environmental Response Compensation and Liability Act of 1980 (“CERCLA”), 42 U.S.C. § 9601-9657, as amended) have been generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on the Property nor has any activity been undertaken on the Property that would cause or contribute to (a) the Property to become a treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, the Resource Conservation and Recovery Act of 1976 (“RCRA”), 42 U.S.C. § 6901 et seq., or any similar state law or local ordinance, (b) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Property within the meaning of, or otherwise bring the Property within the ambit of, CERCLA, or any similar state law or local ordinance, or (c) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., or the Clean Air Act, 42 U.S.C. § 7401 et seq., or any similar state law or local ordinance. There are no substances or conditions in or on the Property that may support a claim or cause of action under RCRA, CERCLA or any other federal, state, or local environmental statutes, regulations, ordinances, or other environmental regulatory requirements, including without limitation, the Minnesota Environmental Response and Liability Act, Minn. Stat. 115B (“MERLA”) and the Minnesota Petroleum Tank Release Cleanup Act, Minn. Stat. 115C. 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. All storage tanks which exist on or under the Real Property 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.
- 12.7 Rights of Others to Purchase Property. Seller has not entered into any other contracts for the sale of the Property, nor are there any rights of first

refusal or options to purchase the Property or any other rights of others that might prevent the consummation of this Agreement.

- 12.8 Seller's Defaults. Seller is not in default concerning any of its obligations or liabilities regarding the Property.
- 12.9 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.
- 12.10 Proceedings. There is no action, litigation, investigation, condemnation or proceeding of any kind pending or threatened against Seller or any portion of the Property.
- 12.11 Agents and Employees. No management agents or other personnel employed in connection with the operation of the Property have the right to continue such employment after the Closing Date. There are no claims for brokerage commission or other payments with respect to the existing Property, including leases which will survive and remain unpaid after the Date of Closing.
- 12.12 Condition. 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.

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 above representations and warranties, whether such breach is discovered before or after Closing. Each of the representations and warranties herein contained will survive the Closing. Consummation of this Agreement by Buyer with knowledge of any breach of such representations and warranties by Seller will not constitute a waiver or release by Buyer of any claims due to such breach.

13. Representations and Warranties by Buyer. Buyer represents and warrants to Seller that Buyer is a municipal corporation under the laws of the State of Minnesota; that Buyer is duly qualified to transact business in the State of Minnesota; that Buyer has the requisite municipal power and authority to enter into this Agreement and the Buyer's Closing Documents signed by it; such documents have been duly authorized by all necessary municipal action on the part of Buyer and have been duly executed and delivered; that the execution, delivery and performance by Buyer of such documents do not conflict with or result in violation of any judgment, order or decree of any court or arbiter to which Buyer is a party; such documents are valid and binding obligations of Buyer, and are enforceable in accordance with their terms. Buyer will indemnify Seller, its successors and assigns, against, and will hold Seller, its successors and assigns, harmless from, any expenses or damages, including reasonable attorneys' fees, that Seller incurs because of the breach of any of the above representations and warranties,

whether such breach is discovered before or after closing. Each of the representations and warranties herein contained will survive the Closing. Consummation of this Agreement by Seller with knowledge of any breach of such warranties and representations by Buyer will not constitute a waiver or release by Seller of any claims due to such breach.

14. Damage. If, prior to the Closing Date, all or any part of the Property is substantially damaged by fire, casualty, the elements or any other cause, Seller must immediately give notice to Buyer of such fact and at Buyer's option (to be exercised within 30 days after Seller's notice), this Agreement will terminate, in which event neither party will have any further obligations under this Agreement. If Buyer fails to elect to terminate despite such damages, or if the Property is damaged but not substantially, Seller must promptly commence to repair such damage or destruction and return the property to its condition prior to such damage. If such damage is completely repaired prior to the Closing Date then there will be no reduction in the Purchase Price and Seller may retain the proceeds of all insurance related to such damage. If such damage is not completely repaired prior to the Closing Date but Seller is diligently proceeding to repair, then Seller will complete the repair after the Closing Date and will be entitled to receive the proceeds of all insurance related to such damage after repair is completed, provided, however, Buyer will have the right to delay the Closing Date until repair is completed. If Seller fails to diligently proceed to repair such damage then Buyer will have the right to require a closing to occur and the Purchase Price (and specifically the cash portion payable at the Closing Date) will be reduced by the cost of such repair, or at Buyer's option, the Seller will assign to Buyer all right to receive the proceeds of all insurance related to such damage and the Purchase Price will remain the same. For purposes of this Section, the words "substantially damaged" mean damage that would cost \$50,000 or more to repair.

15. Condemnation. If, prior to the Closing Date, eminent domain proceedings are commenced against all or any part of the Property, Seller must immediately give notice to Buyer of such fact and at Buyer's option (to be exercised within 30 days after the date of Seller's notice), this Agreement will terminate, in which event neither party will have further obligations under this Agreement. If Buyer fails to give such notice then there will be no reduction in the Purchase Price, and Seller will assign to Buyer at the Closing Date all of Seller's right, title, and interest in and to any award made or to be made in the condemnation proceedings. Prior to the Closing Date, Seller may not designate counsel, appear in, or otherwise act with respect to the condemnation proceedings without Buyer's prior written consent.

16. Broker's Commission. Seller and Buyer represent and warrant to each other that they have dealt with no other brokers, finders or the like in connection with this transaction, and agree to indemnify each other and to hold each other harmless against 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.

17. Mutual Indemnification. Seller and Buyer agree to indemnify each other against, and hold each other harmless from, all liabilities (including reasonable attorneys' fees in defending against claims) arising out of the ownership, operation, or maintenance of the Property

for their respective periods of ownership. Such rights of indemnification will not arise to the extent that (a) the party seeking indemnification actually receives insurance proceeds or other cash payments directly attributable to the liability in question, (net of the cost of collection, including reasonable attorneys' fees) or (b) the claim for indemnification arises out of the act or neglect of the party seeking indemnification. If and to the extent that the indemnified party has insurance coverage, or the right to make claim against any third party for any amount to be indemnified against as set forth above, the indemnified party will, upon full performance by the indemnifying party of its indemnification obligations, assign such rights to the indemnifying party or, if such rights are not assignable, the indemnified party will diligently pursue such rights by appropriate legal action or proceeding and assign the recovery and/or right of recovery to the indemnifying party to the extent of the indemnification payment made by such party.

18. Assignment. Neither party may assign its rights under this Agreement without the prior written consent of the other party. Any such assignment will not relieve such assigning party of its obligations under this Agreement.

19. Survival. All of the terms of this Agreement will survive and be enforceable after the Closing.

20. Notices. Any notice required or permitted to be given by any party upon the other is given in accordance with this Agreement if it is directed to Seller by delivering it personally to an officer of Seller, or if it is directed to Buyer, by delivering it personally to an officer of Buyer, or if mailed in a sealed wrapper by United States registered or certified mail, or if deposited cost paid with a nationally recognized, reputable overnight courier, or by email, properly addressed as follows:

If to Seller: Independent School District No. 879
700 Elm Ave E.
Delano, MN 55328
Attn: Superintendent
Email: matt.schoen@delanoschools.org

With a copy to: _____

If to Buyer: City of Delano
234 2nd Street North
P.O. Box 108
Attn: Phil Kern, City Administrator
Email: pkern@delano.mn.us

With a copy to: Maggie Neuville

Gregerson, Rosow, Johnson & Nilan, Ltd.
100 Washington Ave. S., Suite 1550
Minneapolis, MN 55401
Email: mneuville@grjn.com

Notices will be deemed effective on the earlier of the date of receipt or the date of deposit, provided, however, that if notice is given by deposit, that the time for response to any notice by the other party will commence to run one business day after any such deposit. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified, 10 days prior to the effective date of such change.

21. Captions. 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.

22. Entire Agreement; Modification. 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.

23. Binding Effect. This Agreement binds and benefits the parties and their successors and assigns.

24. Controlling Law. This Agreement has been made under the laws of the State of Minnesota, and such laws will control its interpretation.

25. Remedies.

25.1 If Buyer defaults under this Agreement, Seller will have the right to terminate this Agreement by giving written notice to Buyer. If Buyer fails to cure such default within ten (10) days of such notice, this Agreement will terminate. The termination of this Agreement will be the sole remedy available to Seller for such default by Buyer, and Buyer will not be liable for damages or specific performance.

25.2 If Seller defaults under this Agreement, and if such breach is not cured within ten (10) days after Seller's receipt of written notice from Buyer specifying such breach, Buyer will be entitled to either (a) terminate this Agreement, or (b) seek specific performance of Seller's obligations under this Agreement. This provision does not preclude Buyer from also seeking and recovering from Seller damages for nonperformance of this Agreement.

26. Locker Room Easement. The Property contains a locker room building that will continue to be owned and operated by Seller. At Closing, Buyer will convey to Seller a permanent

easement over the portion of the Property legally described on Exhibit B, which contains the locker room building, that provides for Seller's exclusive ownership, operation, maintenance, and use of the locker room building.

27. Cross Access and Parking Easement. At Closing, Buyer and Seller will execute a Cross Access and Parking Easement in substantially the form attached hereto as Exhibit C, which provides for joint access and parking on the Property and the School District Parcel.

[signature pages follow]

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

SELLER:

Independent School District No. 879,
a public school organized under the laws of Minnesota

By: _____

By: _____

Its: Chair

Its: Clerk

Date: _____

Date: _____

BUYER:

City of Delano
a Minnesota municipal corporation

By: _____
Holly Schrupp
Its: Mayor

By: _____
Paula Bauman
Its: City Clerk

Date: _____

EXHIBIT A
Legal Description of the Land

That part of Lot 1, Block 1, DELANO PUBLIC SCHOOLS, Wright County, Minnesota described as follows:

Commencing at the North 1/4 corner of Section 12, Township 118, Range 25 said Wright County, Minnesota, thence on an assumed bearing of South 0 degrees 03 minutes 24 seconds East, along the west line of the Northwest Quarter of the Northeast Quarter of said Section 12, a distance of 616.84 feet; thence North 89 degrees 56 minutes 36 seconds East, 66.00 feet to the point of beginning; thence South 89 degrees 48 minutes 40 seconds East, 430.97 feet; thence North 0 degrees 11 minutes 20 seconds East, 11.71 feet; thence South 89 degrees 48 minutes 40 seconds East, 201.07 feet; thence South 0 degrees 11 minutes 20 seconds West, 130.86 feet; thence South 89 degrees 56 minutes 36 seconds West, 36.52 feet; thence South 0 degrees 03 minutes 24 seconds East, 101.33 feet; thence North 89 degrees 56 minutes 36 seconds East, 22.29 feet; thence South 0 degrees 03 minutes 24 seconds East, 102.86 feet; thence South 89 degrees 54 minutes 34 seconds West, 608.45 feet; thence northerly 118.51 feet along a non—tangential curve concave to the east, having a central angle of 08 degrees 34 minutes 0 seconds and a radius of 792.64 feet, the chord of said curve bears North 4 degrees 20 minutes 24 seconds West; thence North 0 degrees 03 minutes 24 seconds West, tangent to last described curve, 208.33 feet to the point of beginning.

EXHIBIT B

Legal Description of Locker Room Easement Area

That part of Lot 1, Block 1, DELANO PUBLIC SCHOOLS described as follows:

Commencing at the North 1/4 corner of Section 12, Township 118, Range 25 said Wright County, Minnesota; thence on an assumed bearing of South 0 degrees 03 minutes 24 seconds East, along the west line of the Northwest Quarter of the Northeast Quarter of said Section 12, a distance of 616.84 feet; thence North 89 degrees 56 minutes 36 seconds East, 66.00 feet; thence South 89 degrees 48 minutes 40 seconds East, 325.13 feet; thence South 0 degrees 11 minutes 20 seconds West, 100.65 feet to the point of beginning; thence South 89 degrees 48 minutes 40 seconds East, 44.00 feet; thence South 0 degrees 11 minutes 20 seconds West, 76.50 feet; thence North 89 degrees 48 minutes 40 seconds West, 44.00 feet; thence North 0 degrees 11 minutes 20 seconds East, 76.50 feet to the point of beginning.

EXHIBIT C

Form of Cross Access and Parking Easement

CROSS ACCESS AND PARKING EASEMENT AGREEMENT

THIS CROSS ACCESS AND PARKING EASEMENT AGREEMENT (this “Agreement”) is made as of _____, 2024, by and between the City of Delano, a Minnesota municipal corporation (“City”) and Independent School District No. 879, a public school organized under the laws of Minnesota (“School District”). City and School will sometimes be referred to herein as an “Owner” and together as the “Owners.”

RECITALS

A. City is the owner of that certain parcel of land situated in the City of Delano, Minnesota, being more particularly described on **Exhibit A** attached hereto, and which is identified as the “Ice Park Parcel” on the site plan (the “Site Plan”) attached hereto as **Exhibit C**.

B. School District is the owner of that certain parcel of land situated immediately adjacent to the Ice Park Parcel, being more particularly described on **Exhibit B** attached hereto, and which is identified as the “School Parcel” on the Site Plan. The term “Parcel” as used herein shall mean the Ice Park Parcel or the School Parcel, as applicable. The term “Parcels” as used herein shall mean both the Ice Park Parcel and the School Parcel.

C. City and School District desire to obtain from each other an easement for vehicular and pedestrian ingress and egress over those portions of the Ice Park Parcel and the School Parcel which are identified as the “Access Easement Area” on the Site Plan.

D. City and School District desire to obtain from each other an easement for the parking of vehicles over those portions of the Ice Park Parcel and School Parcel which are identified as the “Parking Easement Area” on the Site Plan.

NOW, THEREFORE, for One and No/100 Dollars (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and School District agree as follows:

Section 1. Grant of Access Easement.

A. City and School District hereby grant and convey to each other for their use and for the use of their permittees and invitees, in common with others entitled to use the same, for the purpose of ingress and egress of pedestrian and vehicular travel to and from the Ice Park Parcel and School Parcel extending over, upon and across the Access Easement Area; provided, however, this grant of easement shall in no event be construed to create any rights to park motor vehicles upon any portion of the Access Easement Area. The easement herein established shall be appurtenant to and for the benefit of each grantee’s Parcel, and shall be binding on, enforceable against and burden each grantor’s Parcel.

B. City and School District both reserve the right to improve, alter and reconfigure the Access Easement Area on their respective Parcels from time to time.

Section 2. Grant of Parking Easement.

A. City and School District hereby grant and convey to each other for their use and for the use of their permittees and invitees, in common with others entitled to use the same, a non-exclusive perpetual easement for the passage and parking of vehicles over and across the parking and driveway areas of each party's Parcel on that portion of the Parking Easement Area, as the same may from time to time be constructed and maintained for such use. The easement herein established shall be appurtenant to and for the benefit of each grantee's Parcel, and shall be binding on, enforceable against and burden each grantor's Parcel.

B. Each of City and School District reserves the right to improve, alter and reconfigure that portion of the Parking Easement Area on such party's Parcel.

Section 3. Easement Maintenance.

A. The right to use the Access Easement Area and Parking Easement Area may be extended by each of City and School District to its respective customers, employees, tenants, subtenants, suppliers, contractors, business invitees and other persons having contact with the activities being conducted on the Ice Park Parcel and School Parcel.

B. No fence or other barrier shall be erected or permitted within or across the Access Easement Area or Parking Easement Area which would prevent or obstruct the passage of pedestrian or vehicular travel to and from the Ice Park Parcel or the School Parcel. The foregoing shall not prohibit (i) the temporary erection of barricades which are reasonably necessary for security and/or safety purposes in connection with the construction, reconstruction, repair and maintenance of improvements, including the Access Easement Area or Parking Easement Area, it being agreed by the parties however, that all such work shall be conducted in the most expeditious manner reasonably possible to minimize the interference with the use of the Access Easement Area and Parking Easement Area by City and School District, and such work shall be diligently prosecuted to completion, or (ii) the construction of curbing or other forms of reasonable traffic controls within the Access Easement Area and Parking Easement Area.

C. Each of City and School District shall be responsible for snow and ice removal on their respective Parcel and shall maintain all paved surfaces, landscaping, if any, and curbing within the Access Easement Area and Parking Easement Area on their respective Parcel in a smooth, clean, orderly, safe and good state of repair and condition. City shall provide snow removal on Tiger Drive through School campus as part of normal City plowing operations.

Section 5. Default; Remedies.

A. Non-Monetary Default. In the event any Owner (the “Defaulting Owner”) fails to perform any provision of this Agreement, which failure continues for a period of thirty (30) days after receipt of written notice specifying the particulars of such failure, such failure shall constitute a default under this Agreement and the other Owner (the “Non-Defaulting Owner”) may thereafter institute legal action against the Defaulting Owner for specific performance, declaratory or injunctive relief, monetary damages or any other remedy provided by law; provided, however, that the Defaulting Owner shall not be deemed to be in default if such failure to perform cannot reasonably be rectified within the thirty (30) day period and such Defaulting Owner is diligently proceeding to rectify the particulars of such failure. The foregoing shall be in addition to any other remedies expressly provided for in this Agreement. In addition to any other remedies set forth herein, a Non-Defaulting Owner shall be entitled to seek temporary and permanent injunctions against the breach of any of the provisions hereof.

B. No Waiver. The failure of an Owner to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein shall not be deemed a waiver of any rights or remedies that said Owner may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the terms, covenants, conditions or agreements contained herein by the same or the other Owner.

C. Remedies Cumulative. In addition to the remedies set forth in this Agreement, each Owner entitled to enforce this Agreement shall have all other remedies provided by law to the same extent as if fully set forth herein word for word. No remedy herein conferred upon, or reserved to any Owner shall exclude any other remedy herein or by law provided, but each shall be cumulative.

D. No Termination. It is expressly agreed that no breach of this Agreement shall entitle an Owner to terminate this Agreement, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Agreement. Any breach of this Agreement shall not defeat or render invalid the lien of any mortgage made in good faith for value, but this Agreement shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, sale or otherwise.

Section 7. Taxes and Assessments. Each Owner shall pay directly to the tax collector, prior to delinquency, any real property taxes and other special taxes and assessments that may be levied and assessed against the Owner’s Parcel, including, without limitation, the Access Easement Area and the Parking Easement Area; subject, however, to the right of any such Owner to contest the amount or validity of all or any part of said taxes and assessments. At the time as such contest is concluded, the Owner shall pay promptly all such taxes and assessments determined to be owing, together with all interest, penalties, and costs thereof.

Section 8. Indemnification.

A. Indemnification by Owners. To the extent not covered by any insurance maintained by any Owner, each Owner shall defend, indemnify and hold the other Owners

harmless for, from and against any and all damages, liabilities, losses, actions, claims, costs and expenses (including reasonable attorneys' fees and court costs and reasonable attorneys' fees and court costs on appeal) in connection with the loss of life, personal injury and/or damage to property arising from or out of the indemnifying Owner's use of the Access Easement Area and the Parking Easement Area or in connection with the failure to comply with the provisions of this Agreement.

Section 9. Property Damage.

A. Casualty Damage to Access Easement Area. In the event any portion of the Access Easement Area or Parking Easement Area is damaged or destroyed by any cause whatsoever, whether insured or uninsured, City and School District shall together repair or restore such Access Easement Area or Parking Easement Area and share equally the cost and expense of such repair and restoration.

Section 10. Notice. All notices, demands and requests required or permitted to be given under this Agreement (collectively the "Notices") must be in writing and must be delivered personally, or by telephone facsimile (provided that such Notice is confirmed by delivering an original copy of such Notice on the same day to a nationally recognized overnight courier for delivery to the addressee(s) on the next business day), by nationally recognized overnight courier, or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the parties at their respective addresses set forth below. Notices shall be effective upon receipt if delivered personally or by telephone facsimile, or on the next business day if sent by overnight courier, or three (3) business days after deposit in the mail if mailed. The initial addresses of the parties shall be:

City: City of Delano
234 2nd Street N.
P.O. Box 108
Delano, MN 55328
Attn: City Administrator

School District: Independent School District No. 879
700 Elm Ave E.
Delano, MN 55328
Attn: Superintendent

Each party shall have the right to change its address to any other address upon at least ten (10) days' prior written notice to the other party.

Section 11. Miscellaneous.

A. In the event a party initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, then the prevailing party in any such

action or proceeding shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorneys' fees (including reasonable costs and attorneys' fees on appeal or in enforcing any judgment awarded to the prevailing party).

B. The provisions of this Agreement shall be binding upon and inure to the benefit of the signatories hereto and the successors and assigns of each who become Owners.

C. This instrument may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The covenants and agreements herein contained shall run with the land, and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

D. If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision will be added as a part of this Agreement that is as similar to the illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

E. This Agreement shall be deemed to be a contract made under the laws of the State of Minnesota for all purposes shall be governed and construed in accordance with the laws of said State.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day and year first above written.

SCHOOL DISTRICT:

Independent School District No. 879,
a public school under the laws of Minnesota

By: _____

Its: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF WRIGHT)

This instrument was acknowledged before me on _____, 2024, by _____, the _____ of Independent School District No. 879, a public school organized under the laws of Minnesota, on behalf of the School District.

Notary Public

CITY:

City of Delano
a Minnesota municipal corporation

By: _____
Holly Schrupp
Its: Mayor

By: _____
Paula Bauman
Its: City Clerk

STATE OF MINNESOTA)
)ss.
COUNTY OF WRIGHT)

This instrument was acknowledged before me on _____, 2024, by
Holly Schrupp and Paula Bauman, respectively the Mayor and City Clerk of the City of Delano,
a Minnesota municipal corporation, on behalf of the City.

Notary Public

Drafted by:
Gregerson, Rosow, Johnson & Nilan, Ltd.
100 Washington Ave. S., Suite 1550
Minneapolis, MN 55401

EXHIBIT A

Ice Park Parcel

That part of Lot 1, Block 1, DELANO PUBLIC SCHOOLS, Wright County, Minnesota described as follows:

Commencing at the North 1/4 corner of Section 12, Township 118, Range 25 said Wright County, Minnesota, thence on an assumed bearing of South 0 degrees 03 minutes 24 seconds East, along the west line of the Northwest Quarter of the Northeast Quarter of said Section 12, a distance of 616.84 feet; thence North 89 degrees 56 minutes 36 seconds East, 66.00 feet to the point of beginning; thence South 89 degrees 48 minutes 40 seconds East, 430.97 feet; thence North 0 degrees 11 minutes 20 seconds East, 11.71 feet; thence South 89 degrees 48 minutes 40 seconds East, 201.07 feet; thence South 0 degrees 11 minutes 20 seconds West, 130.86 feet; thence South 89 degrees 56 minutes 36 seconds West, 36.52 feet; thence South 0 degrees 03 minutes 24 seconds East, 101.33 feet; thence North 89 degrees 56 minutes 36 seconds East, 22.29 feet; thence South 0 degrees 03 minutes 24 seconds East, 102.86 feet; thence South 89 degrees 54 minutes 34 seconds West, 608.45 feet; thence northerly 118.51 feet along a non—tangential curve concave to the east, having a central angle of 08 degrees 34 minutes 0 seconds and a radius of 792.64 feet, the chord of said curve bears North 4 degrees 20 minutes 24 seconds West; thence North 0 degrees 03 minutes 24 seconds West, tangent to last described curve, 208.33 feet to the point of beginning.

EXHIBIT B

School Parcel

[Insert legal description]

EXHIBIT C

Site Plan Showing Access Easement Area and Parking Easement Area