

LEASE

This Lease (this “Lease”) is made this ____ day of _____, 2024 by and between Independent School District No. 2909, Rock Ridge Public Schools, a Minnesota body corporate and politic (the “Landlord”) and the City of Eveleth, a Minnesota municipal corporation (the “Tenant”).

1. **Premises.** In consideration of the rents, covenants, and agreements herein reserved and contained on the part of Tenant to be performed, Landlord does hereby lease to Tenant a portion of the real property that is described on the attached Exhibit A (the “Premises”). The portion of the property that is being leased by Tenant is shown on the diagram attached as Exhibit B and includes the tennis courts, playground, and the Fine Arts/Multi-Purpose building (and related parking lot, sidewalk, and entrance)(the “Leased Premises”). Landlord represents to Tenant that it has the legal power and authority to lease the Leased Premises to Tenant on the terms set forth in this Lease.
2. **Lease Term.** The terms of this Lease and Tenant’s obligation to pay rent hereunder shall commence on _____, 2024 (the “Commencement Date”). This Lease shall terminate when the parties close on Tenant’s purchase of the Leased Premises or upon termination of the Purchase Agreement for Tenant’s purchase of the Leased Premises.
3. **Rent.** Tenant shall pay Landlord rent in the amount of \$1.00 per month (“Rent”). Rent and Additional Rent shall be due on the first day of each month, commencing on the Commencement Date, and continuing during the term of this Lease. If the first month of the Lease is a partial month, Rent and Additional Rent shall be prorated for that particular month.
4. **Triple Net.** This Lease shall be deemed to be a triple net lease with all operating expenses, taxes, insurance, utilities, license fees, repairs, insurance, and maintenance attributable to the Premises to be paid by Tenant as Additional Rent.
5. **Tenant Improvements.** Tenant shall not make any improvements to the Leased Premises without the written consent of the Landlord.
6. **Permitted Use.** Tenant shall use the Leased Premises solely for municipal purposes and any other uses that are authorized by Landlord. Tenant will further comply with such legal requirements of the State of Minnesota and any municipal or public authorities which relate to Tenant’s use and occupancy of the Leased Premises.
7. **Maintenance.** Tenant will, at Tenant’s expense, perform all maintenance and repairs on the entire Leased Premises as reasonably required by Tenant. Tenant shall be responsible for any damage caused by its users of the Leased Premises. Tenant shall also ensure that it keeps the Leased Premises in a clean and orderly condition. Tenant shall be responsible for cleaning the Leased Premises. Tenant shall be responsible for snow removal for any area on the Leased Premises needed to be utilized by Tenant for parking or access. Tenant shall be responsible for lawn care on the Leased Premises. Tenant shall be responsible for any fire protection that it requires for the Leased Premises (i.e. fire extinguishers, maintaining fire alarms, etc.).

8. **AS-IS Condition of Leased Premises.** Neither Landlord nor any agent, contractor, official, or employee of Landlord has made any representations or promises with respect to the Leased Premises except as expressly provided in this Lease, and no right, privileges, easements, or licenses with respect to the Leased Premises are being acquired by Tenant except as expressly provided in this Lease. No exhibit attached to this Lease nor any other materials provided by Landlord shall constitute a warranty or agreement as to the configuration of the Leased Premises. Tenant, by taking possession of the Leased Premises, shall accept the same “as is” except as expressly provided in this Lease and such taking of possession shall be conclusive evidence that the Leased Premises are in good and satisfactory condition at the time of such taking of possession. In addition to and without limitation of the immediately preceding sentence, Tenant agrees that it is leasing the Leased Premises on an “AS IS”, “WHERE IS”, and “WITH ALL FAULTS” basis, based upon its own judgment, and hereby disclaims any reliance upon any statement or representation whatsoever by Landlord, its agents, contractors, officials, or employees. LANDLORD MAKES NO WARRANTY WITH RESPECT TO THE LEASED PREMISES OR ANY PART THEREOF, EXPRESS OR IMPLIED, AND LANDLORD SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSES AND ANY LIABILITY FOR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR THE INABILITY TO USE THE LEASED PREMISES, OR ANY PART THEREOF.

9. **Indemnity.**

a. To the fullest extent permitted by law, Tenant agrees to indemnify Landlord, its officials, employees, contractors, agents, and others acting on its behalf, to hold them harmless, and to defend and protect it, from and against any and all loss, damage, liability, cost and expense (specifically including attorneys’ fees and other costs and expenses of defense), of any sort whatsoever, based upon, resulting from, or otherwise arising out of and in connection with any actions, claims or proceedings (from any source whatsoever) brought, or any loss, damage or injury of any type whatsoever sustained, by reason of any act or omission of Tenant, its officials, employees, contractors, or agents, or any other persons or entities for whose acts or omissions Tenant is legally responsible, in the performance of any of Tenant’s obligations (whether express or implied) under this Lease.

b. Tenant, its officials, employees, contractors, agents and others acting on its behalf agrees to indemnify, defend, and hold harmless Landlord, its officials, employees, contractors, agents, and other acting on its behalf from any and all claims, losses, damages, liabilities, causes of action, judgments, costs or expenses, including reasonable attorneys’ fees which may be imposed upon or incurred by or asserted against Landlord or its officials, employees, contractors, agents, and others acting on its behalf with respect to any use, nonuse, or condition of the Leased Premises created by the Tenant or its invitees or attributable to the Tenant’s use or manner of use of the Leased Premises.

c. Notwithstanding anything to the contrary in the Lease, Tenant and Landlord do not waive any statutory limited immunity from municipal tort liability available to them under Minnesota Statutes, Chapter 466 or as otherwise provided. Such statutory limited immunity shall apply whether an action, claim, demand, or lawsuit is initiated by Landlord, Tenant, or by any third party.

d. The obligations of this Section shall survive the expiration or other termination of this Agreement.

10. **Insurance.**

a. Tenant and its contractors, subcontractors, and agents must carry insurance during the term of this Lease in accordance with the following requirements:

1. Workers' Compensation Insurance with limits as provided by statute, with all necessary statutory elections to provide coverage for actions brought by or claims made by any person doing work on the Premises pursuant to this Agreement.

2. Comprehensive Auto Liability Insurance with minimum combined single limits of \$1,500,000 per occurrence.

3. Comprehensive General Liability Insurance with minimum combined single limits of \$1,500,000 per occurrence.

4. Property Damage Insurance covering the value of the Leased Premises.

5. Insurance covering the Tenant's personal property located on or within the Leased Premises.

6. All insurance required by this Section may be carried under a separate policy or a rider or endorsement; shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the state of Minnesota. All policies shall include the Landlord listed as an additional insured.

7. Tenant shall provide to Landlord a certificate of insurance evidencing that all insurance required by this Section is in effect and complies with the requirements of this Section.

b. Tenant hereby waives and releases all claims, liabilities, and causes of action against Landlord and its officials, employees, contractors, and agents for loss or damage to, or destruction of personal property of Tenant, located in, upon or about the Leased Premises.

c. All insurance policies shall contain an endorsement requiring 30 days' written notice from the insurance company to both parties before cancellation or change in coverage, scope or amount of any such policy; and contain the standard form of waiver of subrogation.

11. **Environmental.** HAZARDOUS SUBSTANCES. Tenant agrees that throughout the term of the Lease, it shall not use the Leased Premises for the storage, handling, transportation, or disposal of any Hazardous Substances. "Hazardous Substances" for purposes of this Lease shall be interpreted broadly to include, but not be limited to, any material or substance that is defined, regulated or classified under any Environmental Law of other applicable federal, state or local laws and the regulations promulgated thereunder as: (i) a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42

U.S.C. §9601(14), the Federal Water Pollution Control Act, 33 U.S.C. §1321(14), as now or hereafter amended; (ii) a “hazardous waste” pursuant to Section 1004 or Section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6903(5) , 6921, as now or hereafter amended; (iii) toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1) as now or hereafter amended; (iv) a “hazardous air pollutant” under Section 112 of the Clean Air Act, 42 U.S.C. §7412(a)(6), as now or hereafter amended; (v) a “hazardous material” under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. §5102(2), as now or hereafter amended; (vi) toxic or hazardous pursuant to regulations promulgated now or hereafter under the aforementioned laws or any state or local counterpart to any of the aforementioned laws; or (vii) presenting a risk to human health or the environment under other applicable federal, state or local laws, ordinances or regulations, as now or as may be passed or promulgated in the future. “Hazardous Substances” shall also mean any substance that after release into the environment or upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities and specifically includes, but is not limited to, asbestos, polychlorinated biphenyls (“PCBs”), radioactive materials, including radon and naturally occurring radio nuclides, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, oil, petroleum and petroleum-based derivatives and urea formaldehyde.

12. **Destruction and Restoration.** If fire or other casualty partially damages or destroys the building or improvements on the Leased Premises, or the building or improvements on the Leased Premises incur substantial damage due to vandalism, failure of building systems, or other unforeseen cause that occurs during the term of this Lease, this Lease may be terminated by either party. As used in this Section, “substantial damage” means damage that fundamentally interferes with Tenant’s ability to continue to use the Leased Premises for the permitted use under Section 6 of this Lease. Tenant shall not be obligated to pay Rent and Additional Rent during the time that the building on the Leased Premises is not usable.

13. **Surrender.** Upon termination of this Lease and should Tenant not purchase the Leased Premises, Tenant shall peaceably surrender the Leased Premises and remove all debris and personal property from the Leased Premises. Tenant shall not remove any of the improvements, appliances, or fixtures. Tenant shall be conclusively deemed to have abandoned any personal property not removed prior to the effective date of Landlord’s termination of this Lease or Tenant’s surrender of the Leased Premises. All debris and personal property may be disposed of by Landlord. Tenant shall be responsible for any disposal costs.

14. **Default.**

a. Any one of the following events shall constitute an event of default by Tenant (an “Event of Default”):

- i. Tenant fails to pay any monthly installment of Rent and Additional Rent and such default shall continue for a period of 10 days; or
- ii. Tenant violates or fails to perform any of the other conditions, covenants, or agreements made by Tenant in this Lease and such default continues for

15 days after written notice to Tenant from Landlord; provided, however, that if the Tenant informs Landlord in writing that the nature of such default is such that Tenant can cure the default, but not within 15 days, then the Event of Default shall be suspended for a period not in excess of 30 additional days, provided that Tenant diligently and continuously prosecutes the curing of the default, and so long as continuation of the default does not create a material risk to the Leased Premises or to persons using the Leased Premises.

b. If an Event of Default occurs and continues, Landlord may at its sole option by written notice to Tenant terminate the Lease. Neither the passage of time after the occurrence of the Event of Default nor exercise by Landlord of any other remedy with regard to such Event of Default shall limit Landlord's rights under this Section.

c. If an Event of Default has occurred and continues, whether or not Landlord elects to terminate this Lease, Landlord may enter upon and repossess the Leased Premises (the "Repossession") by force, summary proceedings, ejectment, or otherwise, and may remove Tenant and all other persons and property from the Leased Premises. In the event the Landlord reenters the Leased Premises pursuant to this paragraph and Tenant fails to remove its personal property within the time period provided in Section 13 of this Lease, all items of personal property not removed shall be deemed abandoned, and title thereto shall transfer to the Landlord at the expiration of such period or, upon Tenant's vacation of the Leased Premises. These items may be disposed of by Landlord. Tenant shall be responsible for all disposal costs.

d. After Repossession, whether or not Landlord terminates this Lease, Landlord may, but shall not be obligated to, attempt to relet the Leased Premises for the account of Tenant in the name of Landlord or otherwise, for such term or terms and for such terms and uses as Landlord, in its uncontrolled discretion, may determine, and may collect and receive the rent from such reletting.

e. No termination of this Lease or Repossession shall relieve Tenant of its liabilities and obligations under this Lease and any outstanding loans that it may have relating to the Leased Premises, all of which shall survive any such termination or Repossession.

f. Landlord shall, in no event, be considered to be in default of Landlord's obligations under this Lease until the expiration of 30 days' written notice of default from Tenant. Landlord shall not be in default if, within the 30 day period, Landlord is proceeding to cure the default with reasonable diligence and in good faith.

g. No remedy provided for herein or elsewhere in this Lease or otherwise available to either party by law, statute, or equity, shall be exclusive of any other remedy, but all such remedies shall be cumulative and may be exercised from time to time and as often as the occasion may arise.

15. **Waiver.** No waiver by either party of any breach of any agreement herein contained shall operate as a waiver of such agreement itself, or of any subsequent breach. No payment by Tenant, receipt by Landlord of a lesser amount than the annual installment of the Rent and Additional Rent shall be deemed to be a waiver of Landlord's right to receive the balance of delinquent Rent and

Additional Rent payments, to terminate this Lease, to repossess the Leased Premises or to pursue any other remedy provided in this Lease. No re-entry by Landlord, and no acceptance by Landlord of keys from Tenant, shall be considered an acceptance of a surrender of the Lease.

16. **Liens.** Tenant shall not permit any mechanics', materialmen's, or other liens to stand against the Leased Premises or any part thereof for work or materials furnished to Tenant or its contractors or subcontractors in connection with this Lease. Tenant agrees to indemnify, defend, and hold harmless Landlord from and against the same.

17. **Assignment & Subletting.** Tenant shall not assign or sublet the Leased Premises without the written consent of Landlord.

18. **Access to Leased Premises.** Tenant shall permit Landlord and the authorized representatives of Landlord to enter the Leased Premises at all times during usual business hours for the purpose of inspecting the same in order to ensure that the Leased Premises comply with any laws, ordinances, rules, regulations, requirements, and orders of any public authority. NOTHING HEREIN SHALL IMPLY ANY DUTY ON THE PART OF LANDLORD TO DO ANY SUCH WORK UNDER ANY PROVISION OF THIS LEASE, Tenant may be required to perform, and the performance thereof shall not constitute a waiver of Tenant's default in failing to perform the same. Landlord shall, in connection with such inspection, cause as little inconvenience, annoyance, disturbance, loss of business, or other damage to Tenant as may reasonably be possible in the circumstances, but in no event shall Landlord be liable for any inconvenience, loss of business, or other damage experienced by Tenant.

19. **Quiet Enjoyment.** Tenant, subject to the terms and provisions of this Lease, on payment of Rents and Additional Rent and observing, keeping, and performing all of the terms and provisions of this Lease, shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Leased Premises during the term hereof without hindrance or objection by any persons lawfully claiming under Landlord.

20. **Signs.** Upon prior written approval by Landlord of location, design, and construction, which approval shall not be unreasonably withheld, Tenant may erect such signs upon the Leased Premises as it may deem desirable, as long as said signs do not violate the applicable City of Eveleth and state codes, laws, and regulations. Said signs shall be erected at Tenant's expense.

21. **Holding Over.** In the absence of any written agreement to the contrary, if Tenant should continue to occupy the Leased Premises following the expiration of the Lease, Tenant shall remain as a month-to-month tenant and all provisions of the Lease applicable to such tenancy shall remain in full force and effect. During such tenancy, the monthly Rent and Additional Rent shall be one-twelfth of the annual Rent and Additional Rent and payable on the first of each month. In any such event, Tenant shall be liable to Landlord for damages which Landlord may incur as a result of such holding over, including but not limited to damages incurred because of loss of a prospective successor tenant. If Tenant is a holdover tenant and if Tenant continues to occupy the Leased Premises following the termination of such holdover (by a proper notice as to such month-to-month tenancy), then the forgoing provision of this Section shall apply in the same manner as when Tenant continued to occupy following the expiration of the Lease term.

22. **Compliance With Laws.** Tenant, at its sole expense, shall promptly comply with all laws, ordinances, and requirements of federal, state, and local laws and regulations relating to Tenant's use and occupation of the Leased Premises, and with any lawful order or direction of any public officer relating to Tenant's use and occupation of the Leased Premises during the Lease term.

23. **Eminent Domain.** If the whole or any part of the Leased Premises shall be taken by any public authority under the power of eminent domain, Tenant shall have no claim to, nor shall Tenant be entitled to, any portion of any award, for damages or otherwise. In the event only a portion of the Leased Premises are taken, the Lease shall terminate as to the part taken, and the Rent and Additional Rent shall be adjusted for the remainder of the Leased Premises so that Tenant shall be required to pay for the balance of the term that portion of the Rent and Additional Rent which the value of the part of the Leased Premises remaining after condemnation bears to the value of the Leased Premises immediately prior to the date of condemnation. The Rent and Additional Rent shall be apportioned as aforesaid by agreement between the parties or by legal proceedings, but pending such determination, Tenant shall pay at the time and in the manner above provided the Rent and Additional Rent, without deduction, and upon such determination, Tenant shall be entitled to credit for any excess Rent and Additional Rent. If, however, by reason of condemnation there is not sufficient space left in the Leased Premises for Tenant to reasonably conduct business, the Lease shall terminate. Although all damages in the event of condemnation belong to Landlord whether awarded as compensation for diminution in value of the leasehold or to the fee of the Leased Premises, nothing herein shall be construed to prevent Tenant to claim and recover from the condemning authority such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right for its leasehold interest.

24. **Notices.** Except as otherwise expressly provided in this Lease, any notice, demand, or other communication under the Lease and any related document by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified United States Mail or delivered personally to:

(a) in the case of Tenant: City of Eveleth
413 Pierce Street
Eveleth, MN 55734
Attn: City Administrator

(b) in the case of Landlord: Independent School District No. 2909
1405 Progress Parkway
Virginia, MN 55792
Attn: Superintendent

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section 24.

26. **Miscellaneous.**

a. **Governing law.** The laws of the State of Minnesota shall govern this Lease.

b. **Time.** Time is of the essence in the performance of all obligations under this Lease.

c. **Binding effect.** All of the covenants, conditions, and agreements herein contained shall extend to, be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns. This Lease shall run with the land. If Landlord sells or otherwise voluntarily conveys the Leased Premises during the term of this Lease, Tenant's rights under this Lease shall not be disturbed.

d. **Authority to Execute.** Each party represents and warrants to the other that (i) it has the full right, power and authority to execute this Lease and has the power to grant all rights hereunder; (ii) its execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on said party; and (iii) the execution and delivery of this Lease, and the performance of its obligations hereunder, have been duly authorized by all necessary personnel or corporate officers and do not violate any provision of law or the party's certificate of incorporation or bylaws or any other arrangement, provision of law or court order or decree.

e. **No Partnership.** By executing this Lease, the parties are not establishing any joint undertaking, joint venture, or partnership. Each party shall act solely for its own account.

f. **Severability.** If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.

g. **Amendments.** All amendments to this Lease must be in writing, executed by both parties.

LANDLORD:

Independent School District No. 2909

By: _____
Board Chair

By: _____
Board Clerk

TENANT:

City of Eveleth

By: _____

Its: Mayor

By: _____

Its: City Administrator

Exhibit A
Description of the Leased Premises

Address: 801 Jones Street, Eveleth, MN 55734

- Acres: 18.71
- PIN: 040-0205-00360

Exhibit B

**Diagram of the Leased Premises
(shown in yellow)**

