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July 20, 2021

ATTENTION: LORI
CITY OF CARLOS
PO BOX 276
CARLOS MN 56319

VIA EMAIL: office@cityofcarlos.com

Dear Lori:

RE: CITY OF CARLOS / FIRE HALL MATTER
OUR FILE NO. 20-789TPK

I understand the School District has approved the Lease. I have enclosed a final draft of the Lease, so I would ask the City Council to review that and approve the Lease at its next City Council meeting. If the City has any questions about the Lease, please feel free to give me a call.

Sincerely,

THORNTON, DOLAN, BOWEN,
KLECKER & BURKHAMMER, P.A.

By 
Thomas P. Klecker
tklecker@thorntonlawoffice.com

TPK/kag
Enclosure
cc: Mike Cass, w/enc.

LEASE

This Lease is an agreement for Landlord to rent to Tenant the Property described below, subject to the terms and conditions of this Lease.

The Landlord is Independent School District No. 206, a school district under the laws of the State of Minnesota (Landlord). Landlord's address 1410 McKay Avenue, Alexandria, MN 56308.

The Tenant is City of Carlos, a Minnesota municipal corporation (Tenant). Tenant's address is: P.O. Box 276, Carlos, MN 56319.

WHEREAS, Tenant desires to rent real property of the Landlord for purposes of constructing, maintaining, and operating a municipal fire hall (Fire Hall); and

WHEREAS, the Fire Hall will benefit Landlord and the residents in Independent School District 206 in general by providing fire prevention services and first responder services to the community.

NOW, THEREFORE, IT IS AGREED as follows:

1. **Description of Leased Property ("Property").** This is a Lease of ground only. The Property is located in Douglas County, MN and legally described as set forth on Exhibit A attached hereto.
2. **Condition of Property.** Tenant accepts the Property "as is." Landlord has noh obligation to provide or pay for water, sewer, or private utilities or services to the Property.
3. **Term of Lease.** This Lease is for a term of 99 years beginning on May 1, 2021, and ending on May 1, 2120, unless otherwise terminated as provided herein.
4. **Rent.** The annual rent for this lease shall be \$1, payable on the anniversary date of the Lease.
5. **Conference.** The parties agree that they shall meet at least every five years to discuss the ongoing lease and any issues a party may have to resolve. Either party may request a conference to discus this lease and any related issues in addition to the 5 year scheduled conferences, upon providing written request for such additional conferences.
6. **Taxes.** Tenant shall pay when due all taxes or assessments that may be levied against the improvements located on the Property, if applicable.
7. **Quiet Enjoyment.** If Tenant pays the Rent and complies with all other terms of this Lease, Tenant may use the Property for the term of this Lease.
8. **Use of Property.** The premises shall be used by Tenant solely for the following purposes:

- a. constructing and maintaining a fire hall;
- b. use of the Fire Hall for public meetings and other related uses by local governing bodies;
- c. such other meetings as approved by Landlord

The Premises shall be used for no other purpose without the prior written consent of the Landlord or an individual or committee delegated such approval by the Landlord. This prohibition includes, but is not limited to, the use of the Premises for any commercial activities. Likewise, no signs or advertising matter shall be erected by Tenant without the prior consent of Landlord. Landlord recognizes that the Fire Hall may be used for community purposes, and the consent of Landlord shall not be unreasonably withheld.

9. **Maintenance of Property.** Tenant shall maintain the Property and all improvements thereon in good order and repair and in a clean and neat condition.

In the event of fire or any other casualty and subject to termination provisions below, Tenant shall repair or replace any damaged improvements within 120 days of the date of damage occurred, unless Tenant elects pursuant to Section 20(c)(2), below, to terminate this lease. Upon Tenant's request, Landlord may grant a written extension of time if, in its reasonable discretion, Landlord believes such extension is warranted. If Tenant fails to make timely repairs, in addition to any other remedy, Landlord may remove any damaged improvements and restore the Property to its original condition, all at Tenant's expense.

10. **Unlawful Uses of Property.** Tenant shall comply with all Federal, State, and local laws, rules and regulations concerning the use of the premises and Fire Hall and shall not use the Property for any unlawful activity.

11. **Tenant Improvements to Property.** Tenant may erect, maintain and alter improvements, including the Fire Hall upon the Property. All details related to construction of Tenant improvements must be approved in writing by Landlord. Tenant may arrange for utilities to serve the Property at Tenant's expense. Tenant improvements shall conform to all laws, codes, rules, regulations and ordinances now in effect or later adopted. All plans for such utilities and improvements shall be approved in writing by Landlord prior to construction. Landlord will not unreasonably withhold consent for Tenant to install, at its expense, water, sewer, or natural gas utilities to serve the property. Title to the improvements erected by the Tenant shall remain with the Tenant.

12. **Tenant Encumbrance.** Tenant may encumber by mortgage, bonding or other device its interest in the property as security for any indebtedness incurred or to be incurred by Tenant for purposes of constructing and maintaining the Fire Hall.

13. **Removal of Tenant Improvements.** Notwithstanding anything to the contrary in this Lease, when this Lease terminates, for whatever reason, either voluntarily or involuntarily,

Tenant shall have the right to remove from the Property all improvements and personal property belonging to Tenant, but only if Tenant has paid all taxes, assessments, rent and other charges payable by Tenant under this Lease and restores the Property to as good a condition as it was in when Tenant took possession. Ownership of any Tenant improvements left on the Property after 90 days from the termination of the Lease shall revert to Landlord.

14. **No Nuisances.** Tenant shall not suffer or permit any waste materials or nuisance items to remain on the Property including, without limitation, specifically, but not exclusively, building materials, fuel tanks.
15. **Outside Storage.** Any outside storage shall be screened from view by fence or other structure such that it is not visible from neighboring parcels.
16. **No Assignment.** Tenant shall not, voluntarily or involuntarily assign, hypothecate or transfer this Lease, or any interest therein, nor sublease the Property to other Tenants, without the prior written consent of Landlord. Landlord gives its consent to Tenant assigning the Lease to Tenant's lender for security purposes if required by lender upon terms and conditions acceptable to Landlord.
17. **Defense and Indemnity.** Tenant shall defend, indemnify and hold Landlord harmless from loss, from each and every claim and demand, of whatever nature, made upon behalf of or by any person for any act or omission of Tenant, its agents, employees, subsidiaries, licensees, and invitees. Tenant shall make no claim against Landlord on account of any injury, loss or damage to the Property, the improvements thereon, the personal property and facilities located thereon, or to any person or property at any time on the Property, however occasioned unless said claim is made because of intentional acts or gross negligence by the Landlord.
18. **Insurance.** Tenant shall maintain liability insurance on the Property during this Lease. Tenant shall include Landlord as an additional named insured on the policy. Tenant shall continuously maintain a current certificate of insurance on file with Landlord. Landlord reserves the right to revise the minimum insurance requirements upon reasonable notice. Tenant's insurance shall meet one of these minimum requirements:
 - a. Owners-landlords and Tenants bodily injury insurance of \$500,000 for all damages arising out of bodily injuries to, or death of, one person, and \$1,500,000 for damages arising out of the bodily injuries to, or death of, two or more persons in any one accident, and owners-landlords and Tenant's property damage liability insurance of \$500,000; or
 - b. Owners-landlords and Tenants combined single limits insurance of \$1,000,000.\

Tenant shall maintain casualty insurance insuring the improvements against fire or any

similar loss. Tenant shall be entitled to retain the insurance proceeds from such loss;

provided, such insurance proceeds shall be used in part to restore the Property and remove improvements as required by Section 20(a)

19. **Right of Reentry.** Landlord reserves the right to enter upon the Property at any reasonable time for any purpose necessary for, incidental to, or connected with compliance with the terms and conditions of this Lease. Before entering the Property in a non-emergency situation, Landlord shall make a good faith effort to give Tenant at least 24 hours notice of Landlord's intent to enter the Property and an opportunity to be present, but Tenant's failure to receive notice or failure to be present shall not prohibit Landlord from exercising its rights.

20. **Termination of Lease.**
 - a. **Voluntary Termination by Tenant.** Tenant may terminate this Lease at any time by giving Landlord 60 days notice of intent to terminate. If Tenant voluntarily terminates this Lease, , Tenant shall remove all improvements and restore the Property to as good a condition as it was in when Tenant took possession unless the Parties agree otherwise.

 - b. **Voluntary Termination by Landlord.** Landlord reserves the right to voluntarily terminate this Lease for good cause. For purposes of this subsection, good cause shall mean the need by Landlord to expand its current school facility and the need for additional space for such expansion. Should the Landlord terminate this Lease pursuant to this section during the first 30 years of this Lease, the Tenant shall be entitled to a payment equal to the replacement cost of the Tenant's improvements. If the Landlord terminates this Lease after the initial 30 year period, Tenant shall be entitled to a payment equal to the then fair market value of the Tenant's improvements.

 - c. **Involuntary Termination.** Tenant's interest in the Lease shall terminate upon the occurrence of any of the following:
 1. At the end of the first five years of this Lease if Tenant is unable to begin substantial construction on the Fire Hall
 2. Fire Hall is destroyed or otherwise damaged such that repair is not feasible and the parties cannot agree on a suitable replacement for the Fire Hall within 60 days.
 3. At Landlord's option following an event of default as defined below.

 - d. **Effect of Termination.** At the termination of this Lease, whether due to expiration of the Lease, voluntarily termination, or involuntary termination, Tenant shall vacate the Property.

21. **Events of Default.** The following shall be Events of Default:
- a. Tenant fails to pay Rent within 15 days after the due date and after receiving written notice of such default;
 - b. Tenant, by act or omission, materially violates any other term, covenant or condition of this Lease and fails to correct such violation within 30 days after notice in writing to Tenant, provided such violation can reasonably be corrected within such time frame
 - c. Tenant is declared insolvent or adjudicated as bankrupt, or makes a general assignment for the benefit of creditors;
 - d. A receiver or trustee of an insolvent Tenant's property is appointed by any Court, other than a trustee of a living trust established for estate planning purposes; or,
 - e. Tenant abandons the property;
22. **Remedies on Default.** In event of default, and after Landlord provides written notice of default to Tenant and Tenant fails to cure the default within 30 days thereafter Landlord may terminate this Lease by giving written notice to Tenant. After giving said notice of termination, Landlord may re-enter the Property and take possession of the Property. Landlord may re-enter and take possession of the Property immediately after giving notice to Tenant, or may delay re-entry, at Landlord's option. Termination of the Lease due to default shall not trigger the right of the Tenant to compensation for improvements if the event of default is Section 21 (c) or (d). If Landlord chooses to terminate this Lease, Landlord may also bring legal proceedings to collect all the expenses Landlord has suffered or paid because of the termination, including reasonable attorneys' fees. In addition to the above rights and remedies, Landlord shall have all other rights and remedies allowed by law, including specifically but not exclusively, injunctive relief, ejection or summary proceedings in unlawful detainer. Landlord's rights and remedies shall be cumulative and not exclusive.
23. **No Waiver.** The waiver by Landlord of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.
24. **Notices.** All notices required by law or by this Lease to be given to Tenant or Landlord shall be in writing delivered to the addresses on the first page of this Lease. Landlord or Tenant may designate a new address by giving written notice. Notice shall be deemed given as of the date such notice is deposited postage paid in the United States mail.

EXHIBIT A

That part of the Northwest Quarter of the Northwest Quarter (NW ¼ NW ¼) of Section 24, Township 129 North, Range 37 West, City of Carlos, Douglas County, Minnesota, described as follows:

Commencing at the southeast corner of the SECOND ADDITION TO SUNRISE ADDITION, according to the recorded plat thereof;

thence North 00 degrees 00 minutes 31 seconds East, assumed bearing, along the east line of said SECOND ADDITION TO SUNRISE ADDITION, 60.00 feet to the south line of the THIRD ADDITION TO SUNRISE ADDITION;

thence North 89 degrees 12 minutes 40 seconds East, along said south line, 135.00 feet to the east line of said THIRD ADDITION TO SUNRISE ADDITION;

thence North 00 degrees 00 minutes 31 seconds East 378.89 feet to the northeast corner of said THIRD ADDITION TO SUNRISE ADDITION;

thence North 89 degrees 12 minutes 40 seconds East 70.14 feet to a point on the southerly extension of the east line of NORTHSIDE FOUR IMPROVEMENTS, according to the recorded plat thereof, said point being the point of beginning of the land to be described;

thence North 00 degrees 00 minutes 51 seconds West, along said extension and along said east line of NORTHSIDE FOUR IMPROVEMENTS, 636.98 feet to the north line of said Section 24;

thence North 89 degrees 12 minutes 37 seconds East, along said north line of Section 24, a distance of 408.78 feet to the east line of aforesaid Northwest Quarter of the Northwest Quarter (NW ¼ NW ¼);

thence South 00 degrees 00 minutes 34 seconds East, along said east line of the Northwest Quarter of the Northwest Quarter (NW ¼ NW ¼), a distance of 636.99 feet to a line bearing North 89 degrees 12 minutes 40 seconds East from the point of beginning;

thence South 89 degrees 12 minutes 40 seconds West 408.72 feet to the point of beginning.

The tract contains 5.98 acres more or less subject to an existing public roadway easement over the North 33.00 feet thereof (C.S.A.H. No. 13).