

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease", the "Lease", this "Agreement" or the "Lease Agreement", made and entered into this 4TH day of June, 2019, by and between the [REDACTED]

[REDACTED] hereinafter "City") as Lessor, and [REDACTED] a Michigan general powers school district organized and operating under the provisions of the Revised School Code, MCL 380.1, *et seq.*, as amended (hereinafter "Public Schools"), currently located at [REDACTED] 48854 as Lessee (individually, a "party" and collectively, the "parties"):

WITNESSETH:

WHEREAS, Lessor is the owner of a building located in the [REDACTED] [REDACTED] which premises is legally described as written in the attached Exhibit 1 (hereinafter referred to as the "Premises"); and

WHEREAS, the City desires to lease space from the premises totaling approximately 1,938 square feet ("Leased Premises"), as set forth in Exhibit 2, to the Public Schools for the use as public school administration offices and related purposes pursuant to the terms and conditions hereafter specified; and

WHEREAS, the [REDACTED] by lawful resolution, has authorized the Mayor and the City Clerk to execute this Agreement at a public meeting conducted pursuant to the Michigan Open Meetings Act.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings by the parties to be performed, it is hereby agreed as follows:

1. Lease of the Premises:

- A. Lessor, for and in consideration of the rents herein required to be paid by the Public Schools, and for and in consideration of the covenants to be kept and

performed by the Public Schools, does hereby lease, let and demise unto the Public Schools the Leased Premises for use by the Public Schools.

- B. The Leased Premises will be used only for public school administrative offices and related purposes and for no other purposes, except with the prior written consent of the City, which consent shall not be unreasonably withheld.
- C. There shall be no subleasing or assigning the Leased Premises except with the prior written consent of the City.
- D. Upon commencement of this Lease and in accordance with the terms stated herein, the Public Schools shall have the right to enter upon the Leased Premises.
- E. Upon receipt of yearly rentals and upon the Public Schools observing and performing all the terms, covenants and conditions to be performed by it, the Public Schools may peacefully have, hold and occupy and enjoy the Leased Premises without hindrance or interference by the City, provided, however, that this covenant shall not prohibit the City or the City's agent(s), from examining the Leased Premises at any reasonable time, performing ordinary maintenance and/or repairs, and/or routine or required inspections. If possible, the City, its employees and/or agent(s) will provide notice to Public Schools a reasonable period before it desires to visit the Leased Premises.

2. Commencement and Term of the Lease:

- A. This Lease shall be for a term of ten (10) years unless earlier terminated pursuant to the provisions of the Lease. The Lease Agreement shall commence effective July 1, 2018.

- B. The Public Schools will quit and surrender the Leased Premises at the expiration of the term of this Agreement, in good repair, reasonable wear and tear excepted, and the City agrees that the Public Schools shall have the right to retain any and all personal property, furnishings, equipment and trade fixtures purchased by the Public Schools and located on the Leased Premises (exclusive of structural, mechanical, electrical and plumbing) or to abandon in place any and all of such facilities without any further liability for maintenance or removal thereof. The Public Schools agrees to repair all damages occasioned by such removal.
- C. The Public Schools agrees that upon expiration of the terms of this Agreement, the City shall retain the entire build out and any improvements to the Leased Premises.

3. Termination of the Lease:

- A. This Lease may be terminated by written mutual agreement or for failure to pay rent, repay the cost of the leasehold improvements, utilities or other agreed to costs.
- B. Neither party shall have the right to cancel this Agreement for default of the other unless such default shall remain uncured for a period of thirty (30) days after receipt of notice in writing by such other party specifying the nature of the default and providing thirty (30) days to cure, with the option of a thirty (30) day extension if timely requested in writing.

4. Rental Payments: The Public Schools will repay the costs of the build out of the leasehold improvements (\$188,962.00) in equal yearly payments (July 1 – June 30) of \$18, 896.20. Within thirty (30) days from the date that the last party executes this Lease, the City shall invoice the School District for the first year (July 1, 2018 – June 30, 2019) of the Lease. Thereafter, each subsequent year of this

Lease the City shall invoice the School District for the rental on or before December 31 of the then current year. The School District shall pay all rental invoices within thirty (30) days of receipt. The annual rental rate, commencing July 1, 2019, shall be increased annually by the increase in the United States Department of Labor Consumer Price Index, United States City Average for all Urban Consumers (CPI-U), All Items (1982-84 = 100), using the month of June for such calculation.

5. Utilities: The Public Schools will be responsible for utilities proportionate to the square footage of the Leased Premises to the total square footage of the Premises and said expense shall be deemed to be considered additional “rent” for purposes of this Lease. “Utilities” shall include water, sewer, electricity, gas and other services directly incident to School District’s use of the Leased Premises except as otherwise stated herein.

6. Use of Common Areas: The Public Schools will have access to all public space and the break room used by the City's employees. The conference room, training room and City Council Chambers will be available as the City's schedule allows and as scheduled by the City's Manager or the Manager's designee. The Public Schools shall be responsible for set up and clean up of those spaces.

7. Signage: The Public Schools may obtain and install usual and customary signage and fixtures, which shall be subject to the advanced, reasonable approval by the City's Administration as to design(s), size(s) and placement(s). The Public Schools shall be responsible for and have the right to repair or replace signs, the replacement of which is subject to the approval by the City's Administration. Public Schools shall remove any signs and fixtures upon termination or expiration of this Lease and repair all damage occasioned thereby to the Leased Premises or Premises.

8. Parking: Parking will be reasonably allocated between the parties in front of the building and the remaining parking lot will be available for employees.

9. Maintenance of Property: The City will keep the Leased Premises and any improvement placed thereon in a good state of repair during the entire term of the Lease according to commercially

reasonable standards and will be responsible for ordinary maintenance, including plowing, landscaping, trash removal and repairs of the entire Premises, including the parking lot, provided, however, the City shall have no obligation to perform any of these services on non-business days. The Public Schools shall be responsible for the cleaning of its space, its IT and its phone system, and except for the negligence or willful misconduct of the City, its employees, invitees and/or agents, will release the City from any liability for these items.

10. Insurance: The Public Schools shall obtain its own liability insurance on the Leased Premises, naming the City as an additional named insured and provide the City with a certificate of insurance providing the City with at least thirty (30) days' notice prior to cancellation or non-renewal of the insurance. The coverage and limits of said insurance shall be subject to the reasonable approval by the City Manager.

11. Duty to Comply With Authorities and Laws: The Public Schools will comply with all lawful requirements, covenants, and conditions of local and state boards of health, police departments, fire departments and authorities and will comply with all other municipal, state and federal laws with reference to the care and use of the Leased Premises.

12. Successors: The covenants and agreements contained in this Lease are interdependent and are binding upon the parties hereto, their heirs, personal representatives, successors and assigns of the Parties.

13. Alterations: The Public Schools shall have the right, at its sole expense, from time to time, to redecorate the Leased Premises and to make such non-structural alterations and changes in such parts thereof as the Public Schools shall deem expedient or necessary for its purposes; provided, however, that such alterations and changes shall neither impair the structural soundness nor diminish the value of the Leased Premises.

14. Indemnification of Lessor: The City shall not be liable for any damage or injury to School District, or any other School District invitee, or to any property, occurring on the Leased Premises or any part thereof, and to the extent permitted by law the Public Schools agrees to indemnify and hold the City harmless from any claims for damages, no matter how caused, except for those caused by the negligence, willful misconduct, or unlawful conduct of the City, its employees, invitees and/or agents provided, however, neither party waives any of their rights under the Governmental Immunities Act, MCL 691.1401, *et seq.*

15. Attorney's Fees: In case suit should be brought for recovery of the real property, or for any sum due hereunder, or because of any act which may arise out of the possession of real property, or other breach of this Lease Agreement by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorney's fees.

16. Damage to Demised Premises: If the whole or any part of the Leased Premises shall be damaged or destroyed by fire or other casualty after the execution of this Lease and before the termination hereof, then in every case the rent reserved in Exhibit 2 herein and other charges, if any, shall be abated or adjusted, as the case may be. The insurance proceeds shall be the sole property of the City, except for any separate insurance that School District may obtain as Lessee, including personal property coverage. The City and the Public Schools will agree upon the abatement of rent, if any, for any portion of the Leased Premises of which the Public Schools shall be deprived on account of such damage or destruction and the cost of the work or repair, restoration, rebuilding, or replacement or any combination thereof, of the improvements so damaged or destroyed.

17. Repairs and Restoration: The City agrees that in the event of the damage or destruction of the Leased Premises, the City forthwith shall proceed to repair, restore, replace or rebuild the Leased Premises to substantially the condition in which the same were immediately prior to such damage or destruction. If there are insurance proceeds available, those funds shall be made available to the City to

reimburse it for such costs. The City thereafter shall diligently prosecute said work to completion without delay or interruption except for events beyond the reasonable control of the City.

18. Zoning and Good Title: The City warrants and represents, upon which warranty and representation School District has relied in the execution of this Lease, that the City is the owner of the Leased Premises, in fee simple absolute, free and clear of all encumbrances, except for the easements, covenants and restrictions of record as of the date of this Lease. Such exceptions shall not impede or interfere with the quiet use and enjoyment of the Leased Premises by School District. The City has full right and lawful authority to execute this Lease for the term, in the manner, and upon the conditions and provisions herein contained; that there is no legal impediment to the use of the Leased Premises as set out herein.

19. Holding Over: In the event that the Public Schools or anyone claiming under the Public Schools shall continue occupancy of the Leased Premises after the expiration of the term of this Lease thereof without any agreement in writing between the parties with respect thereto, such occupancy shall not be deemed to extend or renew the term of the Lease, but such occupancy shall continue as a tenancy at will, from month to month, upon the covenants, provisions and conditions herein contained. The rental shall be the rental in effect during the term of this Lease as extended or renewed, prorated and payable for the period of such occupancy.

20. Disputes: It is agreed that, if at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions hereof, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of the said party to institute suit for the recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease. If at any time a dispute shall arise between the parties hereto as to any work to be performed

by either of them under the provisions hereof, the party against whom the obligation to perform the work is asserted may perform such work and pay the costs thereof “under protest” and the performance of such work shall in no event be regarded as a voluntary performance and shall survive the right on the part of the said party to institute suit for the recovery of the costs of such work.

21. Invalidity: The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by other parties subsequent to the expungement of the invalid provision.

22. Entire Agreement: This Agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of the Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

23. Modification in Writing: Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representation of each party.

24. Governing Law: It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Michigan.

25. Timeliness: It is specifically declared and agreed that time is of the essence of this Agreement.

26. Notices and Addresses: Any notice provided for or concerning this Agreement shall be in writing and shall be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each party as set forth at the beginning of this Agreement.

27. Memorandum of Lease: The Public Schools may, at its expense, record a Memorandum of this Lease Agreement with the [REDACTED], Register of Deeds office.

IN WITNESS WHEREOF, the parties hereto have executed this Lease at [REDACTED] on the day, month and year first above written.

LESSOR:

a municipal corporation

[Redacted Signature]

[Redacted Signature]

Kathleen Miller

[Redacted Signature] By: [Redacted Signature]
Sarah Jarvis, City Clerk

LESSEE:

[REDACTED]
a Michigan general powers school district

R. Drzewicki
[REDACTED]

Ronald Drzewicki, Superintendent

Kurt Creamer
[REDACTED]

Kurt Creamer, President of the School Board

Drafted by and approved as to form:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]