

LEASE AGREEMENT

The parties to this Lease Agreement are as follows:

- A. Meade School District 46-1 of 1230 Douglas Street, Sturgis, South Dakota 57784, hereinafter referred to as “Lessor”; and
- B. Opal Volunteer Fire Department, of 16912 Lemmon Butte Road, Opal, South Dakota, 57758, hereinafter referred to as “Lessee”.

For and in consideration of this Lease Agreement, the sufficiency of which is acknowledged by Lessor and Lessee, Lessor hereby leases to Lessee and Lessee does hereby lease from Lessor the following described real property located in Meade County, South Dakota:

The 180’ by 130’ parcel adjacent to the Opal School, 18010 Opal Road, Opal, South Dakota, 57758, located in Section 30, T 11 N, R 14 E, Meade County, South Dakota, as set forth in red on the attached diagram, consisting of 0.536 acres, more or less, plus the nonexclusive right of ingress and egress over and across the “loop road” cross-hatched on the attached diagram.

This property shall be referred to herein as the “Leased Premises”.

No transfer of any ownership interest in the Leased Premises or any right therein except as stated in this Lease is intended hereby and this Lease shall not be construed or deemed to be a deed or any other such conveyance of fee title. Said Lease is made under the following terms and conditions:

1. **INITIAL TERM AND RENEWALS:** The initial term of this Lease shall commence on May 1, 2021, and continue for a period of 30 years. This Lease will automatically renew for two additional 30-year periods unless terminated by either party by written notice of intent to terminate. Such written notice shall be served, via certified mail, upon the other party 24 months prior to the time expiration of the initial term or renewal term, as the case may be.
2. **TERMINATION:** This Lease may be terminated by Lessor in the event the Lessee ceases to exist without a successor being organized, or in the event either the Lessee or its successor ceases to use the Leased Premises consistent with the uses set forth herein for a continuous 24-month period. In the event Lessor desires to terminate this Lease pursuant to this provision, Lessor shall serve the Lessee, via certified mail, with an intent to terminate and Lessee shall have a period of 180 days during which Lessee may provide reasonable assurance to Lessor of Lessee’s intent to continue to use the Leased Premises consistent with the uses set forth herein. Reasonable assurance may include but not be limited to holding an actual event on the Leased Premises

consistent with this Lease or providing reasonable assurance that such an event will be held in the future.

3. **CONSIDERATION:** Lessee has paid to Lessor the sum of One Dollar at the time of execution of the original Lease which shall be the total consideration to be paid by Lessee to Lessor during the initial term of this Lease and any renewal period. This Lease does not express or imply that Lessee's activities have received the endorsement of the Lessor or that the Lessor is in any fashion promoting or encouraging the Lessee's activities but is offered to the Lessee as a community service pursuant to SDCL 13-24-20.

4. **UTILITIES:** Lessee shall be responsible for the installation of all utilities on the Leased Premises and shall acquire all necessary permits required for such installation, all at the sole cost of the Lessee.

5. **USE OF AND IMPROVEMENTS MADE TO THE LEASED PREMISES:** Lessee may use the Leased Premises for any and all activities reasonably associated with the firefighting and fire prevention so long as such uses are in compliance with all of the terms of this Lease.

Lessor and Lessee agree Lessee intends to construct upon the Leased Premises a building in which to store firefighting equipment, and Lessee may construct such building and such other improvements upon the Leased Premises Lessee deems necessary at the Lessee's sole cost. However, Lessee shall first present a proposal describing any such improvements and their location upon the Leased Premises to the Lessor for review and approval. Approval by the Lessor shall not be unreasonably withheld, but Lessor may require modifications if deemed necessary.

Any improvements constructed upon the Leased Premises may be removed by Lessee at the termination of this Lease if any damage caused to the Leased Premises by said removal is repaired by Lessee. In the event removal of an improvement would cause irreparable damage to the Leased Premises, then said improvement shall become a permanent fixture to the Leased Premises and shall not be removed upon termination of this Lease and shall become the property of Lessor without compensation to the Lessee.

6. **LIABILITY INSURANCE:** Lessee shall obtain and continuously maintain during the term of this Lease a policy of liability insurance with Lessor as an additional named insured. The policy shall be in the minimum amount of \$1,000,000.00 aggregate.

7. **COMPLIANCE WITH LAWS; NO HAZARDOUS MATERIALS.** During the term of this Lease, Lessee will, at Lessee's sole cost and expense, comply promptly with all applicable statutes, laws, ordinances, regulations and requirements in effect during the term of this Lease applicable to the Leased Premises and Lessee's activities thereon.

Lessee will not permit any hazardous materials to be brought onto, stored in, used in, or disposed of in, on, under or about the Leased Premises except in such quantities as are found in materials used in connection with the permitted uses on the Leased Premises and which comply with and are handled, used, and disposed of in compliance with the law. As used herein, "hazardous materials" means: a) any radioactive materials, asbestos, urea formaldehyde foam insulation, transformers or other equipment that contains dielectric fluid containing levels of polychlorinated biphenyls, and radon gas; b) any chemicals, materials, or substances defined as or included in the definition of hazardous substances, hazardous wastes, hazardous materials, extremely hazardous wastes, restrictive hazardous wastes, toxic substances, toxic pollutants, contaminants, or pollutants, or words of similar import under applicable law; and c) any other chemical, material, or substance which is in any way regulated by applicable law.

8. **HOLD HARMLESS.** This Lease is governed by SDCL 13-24-20, which states as follows:

"The school board may grant the use of school facilities, computers, motor vehicles, or land belonging to the school district for any purposes which it considers advisable as a community service for such compensation as it determines. The use may also include a contract with a vendor that sells soft drinks or other concessions on school property. The use may not interfere with school activities. Any person or persons or public body using such school facilities, computers, motor vehicles, or land is responsible to the school district for any and all damages that may be caused by reason of the use or occupancy. The school district is not liable for any damages which might arise as the result of such use or occupancy, including the use of school computers by students."

Pursuant to SDCL 13-24-20, Lessee, as a material part of the consideration to Lessor, hereby agrees it is responsible to the Lessor for any and all damages that may be caused by reason of Lessee's use or occupancy of the Leased Premises, and Lessee assumes all risk of damage to property or injuries to persons, in, upon or about the Leased Premises arising from any cause and hereby waives all claims in respect thereof against Lessor. Lessor shall not be liable for any injury or damage to any property thereon or person using, visiting, working upon or attending events held on the Leased Premises, and Lessee does hereby agree to hold Lessor harmless from any and all claims, demands and liabilities, including claims for property damage and personal injury, arising out of Lessee's use of the Leased Premises. Lessor does not, by this Lease, waive any immunity provided under applicable law.

9. **INDEMNIFICATION.** Lessee shall indemnify Lessor against all expenses, liabilities and claims of every kind and character, including reasonable attorney's fees, arising out of either (a) failure by Lessee to perform any of the terms and conditions of the Lease, (b) any injury or damage occurring on or about the Leased Premises, (c) failure to comply with any law or governmental authority, or (d) any mechanic's lien or security interest filed against the Leased

Premises or improvements. In the event any action or proceeding is brought against Lessor by reason of any such claim, Lessee, upon notice from Lessor, shall defend the same at Lessor's expense by counsel satisfactory to Lessor. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota.

10. **DEFAULT.** Failure by Lessee to comply with any term or condition of this Lease, including the failure to continuously maintain liability insurance by Lessee as required herein, shall constitute a breach of this Lease. In the event of a breach of this Lease, each party shall have all remedies available to it under the laws of the State of South Dakota.

11. **NO ASSIGNMENT.** This Lease is not assignable or transferrable by Lessee.

12. **NO LIENS OR CLAIMS; AS IS CONDITION.** Lessee agrees it shall not file, and shall not permit the filing of, any claims, liens or encumbrances on the Leased Premises. Lessee accepts the Leased Premises and any use of the Leased Premises without warranty of any kind in an "AS IS," "WHERE IS," and "WITH ALL FAULTS" condition, and without limiting the intent of the foregoing, Lessee is aware the Leased Premises may be subject to restrictions, easements or other limitations arising out of floodplain or floodway designations.

13. **DISTRICT POLICY.** This Lease is expressly subject to District Policy FBC.

Dated this ___ day of _____, 2021.

MEADE SCHOOL DISTRICT 46-1

By: Joseph Urbaniak
Its: School Board President

ATTEST:

By: Business Manager

Dated this ___ day of _____, 2021.

OPAL VOLUNTEER FIRE DEPARTMENT

By: Jesse Fees
Its: President