

## AMENDED LEASE AGREEMENT

The parties to this Amended 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. Meade County Fair Association, of 1425 Sherman Street, Sturgis, South Dakota 57785, hereinafter referred to as “Lessee”.

### RECITALS

Lessor and Lessee entered into a Lease Agreement dated August 1, 1995, and the parties desire to amend the Lease in various particulars, including the legal description of the Leased Premises. This Amended Lease Agreement shall stand in the place of and completely replace the previous Lease Agreement. For and in consideration of this Amended 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:

Lot 4 of Meade 46-1, Sturgis Brown High School, East Campus Subdivision, formerly Lot 1 of Meade 46-1, Sturgis Brown High School, East Campus Subdivision, all located in Section 1, Section 2, Section 11 and Section 12 of Township 5 North, Range 5 East, Black Hills Meridian, a Portion of the City of Sturgis, Meade County, South Dakota containing 20.880 acres more or less, as shown on the Plat recorded as Document No. 19005229 at Plats Book 27 Pages 36 thru 37 in the office of the Meade County Register of Deeds. 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 Amended Lease is intended hereby and this Amended Lease shall not be construed or deemed to be a deed or any other such conveyance of fee title. Said Amended Lease is made under the following terms and conditions:

1. **INITIAL TERM AND RENEWALS:** The initial term of this Amended Lease shall commence on November 1, 2019 and continue for a period of 30 years. This Amended 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 Amended 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 Amended 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 Amended 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 Amended Lease and any renewal period. This Amended 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. Lessor hereby grants to Lessee the right to tap into Lessor's water line, subject to the prior approval of VA Black Hills Health Care System - Fort Meade Campus ("Fort Meade") which supplies the water to Lessor, and shall furnish Lessee water at no additional expense if Fort Meade is in agreement; otherwise, any charge imposed by Fort Meade for water shall be payable by the Lessee only. Lessor and Lessee acknowledge and agree that if Fort Meade no longer provides water to the Lessor, this utility provision shall be subject to renegotiation to include requirements that Lessee agrees to pay for such things as a share of engineering, survey, materials and installation costs, tapping fees, a water meter and water charges payable to the City of Sturgis or other applicable water utility provider. It is understood and agreed that the water is being furnished for the uses set forth herein. It is further understood and agreed that Lessee may tap into the sewer line that is available to the Leased Premises with the approval of the City of Sturgis or other applicable sewer utility provider. Lessee shall pay any charges associated with the use of the sewer line, including any tap fee and other required fees, costs or permits. Lessee shall be responsible for all monthly utility charges except water as set forth herein unless and until water charges are imposed as set forth herein.

5. **USE OF AND IMPROVEMENTS MADE TO THE LEASED PREMISES; SNOW PLOWING AND MOWING:** Lessee may use the Leased Premises for any and all activities reasonably associated with the purposes of Lessee so long as such uses are in compliance with all of the terms of this Amended Lease. Lessee may also use the parking lot at Brown High School for all fair activities on the Leased Premises so long as such use does not unduly interfere with school activities. Lessee may construct improvements upon the Leased Premises at the Lessee's sole cost, but Lessee shall first present a proposal describing the 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. Improvements may include construction of roads, arenas, buildings, fences and dirt work necessary to conduct the events. Lessee warrants to Lessor that all improvements shall be designed and constructed according to applicable building codes by properly licensed and insured professionals. Any improvements constructed upon the Leased Premises may be removed by Lessee at the termination of this Amended 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 Amended Lease and shall become the property of Lessor without compensation to the Lessee, except as follows: Lessee shall have the right to request Lessor to negotiate in good faith the purchase of the improvements from the Lessee if the improvements cannot be moved at lease termination. This would occur only if Lessee would have to move the location of the fair. This exception does not apply if the Lessee's board is disbanded, or if the fair was no longer held on the Leased Premises for reasons other than having to move its location. This provision is not intended to bind future boards of Lessor to a required purchase of such improvements, but is intended to encourage future boards to negotiate in good faith with the Lessee considering the financial condition of the Lessor, laws then existing and other factors deemed pertinent to the Lessor's future board. Lessee acknowledges the Leased Premises is zoned by the City of Sturgis as Public Land Zoning District and Lessee agrees to at all times comply with all portions of City of Sturgis 1984 Revised Ordinances Title 18.05.03, as from time to time amended.

The parties further agree that Lessor has provided mowing and snow plowing services to Lessee as part of the original Lease Agreement, and Lessor agrees to continue providing such services to Lessee without cost under this Amended Lease Agreement so long as the services are within the scope of those currently provided and without any expansion of those services. Lessor shall have the ownership of all hay produced on the Leased Premises in consideration of Lessor's mowing and snow plowing services.

6. **LIABILITY INSURANCE:** Lessee shall obtain and continuously maintain during the term of this Amended 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. However, if Lessee constructs improvements on the Leased Premises, Lessee shall also maintain builder's risk insurance coverage and/or require its contractors to maintain builder's risk insurance coverage, to include as applicable to the project general liability, worker's compensation, automobile liability, umbrella liability, and product completed operations, naming Lessee and Lessor as their interests appear as additional named insured parties during the construction project.

7. **COMPLIANCE WITH LAWS/NO HAZARDOUS MATERIALS.** During the term of this Amended 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 Amended 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 petroleum or petroleum products, 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 Amended 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 Amended 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 Amended 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 Amended Lease, including the failure to continuously maintain liability insurance by Lessee as required herein, shall constitute a breach of this Amended Lease. In the event of a breach of this Amended Lease, each party shall have all remedies available to it under the laws of the State of South Dakota.
11. **NO ASSIGNMENT.** This Amended 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 Amended Lease is expressly subject to District Policy FBC.
14. **ALCOHOLIC BEVERAGES and FIREARMS.** No alcoholic beverages or firearms may be possessed and no alcoholic beverages may be dispensed on the Leased Premises without the express prior written consent of the District’s School Board.
15. **FUTURE FIRING RANGE.** The Lessee may construct a firing range on the Leased Premises during the term of this Lease and will first comply with Article 5 of this Amended Lease concerning the improvements before construction commences. Article 5 will also apply at the time of lease termination for the firing range improvement. Due to existing and future Federal, State and Municipal laws and regulations and School District Policies (together called “Gun Laws”) governing the possession, transportation, storage and discharge of firearms (referring to guns commonly described as using gunpowder or other explosive propellants), air guns and other dangerous weapons, the Lessee agrees its firing range facility and the use of its firing range facility shall comply at all times with all Gun Laws. Lessor and Lessee further agree the Lessee’s indemnification obligations under Article 9 shall expressly apply to any future firing range. The District supports Lessee’s goal of constructing a firing range, and the District shall attempt to avoid establishing School District Policies which would interfere with the operation of a firing range which is otherwise in compliance with all Gun Laws. This provision is not intended to bind future boards of Lessor to adopt or avoid specific School District Policies, but is intended to encourage future boards act in good faith in respect to the firing range.

Dated this \_\_\_ day of \_\_\_\_\_, 2020.

MEADE SCHOOL DISTRICT 46-1

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By: Dennis Chowen  
Its: School Board President

ATTEST:

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By: Business Manager

Dated this \_\_\_ day of \_\_\_\_\_, 2020.

MEADE COUNTY FAIR ASSOCIATION

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By: Ronald A. Adam  
Its: President