

LEASE

THIS AGREEMENT made this 1st day of October, 2023, between the CITY OF KIMBERLY, IDAHO, a municipal corporation, hereinafter called the City, and KIMBERLY SCHOOL DISTRICT No. 414, hereinafter called the District.

WITNESSETH:

That in consideration of the agreements contained herein, the City leases unto the District, and District leases from the City the following described real property situated in the City, to wit:

PREMISES. The Premises are described as, the fenced, city-owned property near/under the water tower, adjacent to the Kimberly Public Library, measuring 98' X 123', containing approximately 10,890 square feet, legally described as Lots, 15, 16, 17, and 18, of Block 21, respectively 120 Madison Street West, Kimberly, Idaho 83341. Lease of premises is on the bases of "As Is" "Where Is" and an "With all Faults" basis, without representations, warranties, and covenants, express or implied, of any kind or nature. District has entered into this Lease relying solely upon the information and knowledge obtained from its own inspection, current use of the land and investigation of the Premises and District has thoroughly inspected and examined the Premises to the extent deemed necessary by it to evaluate its lease of the Premises for the purposes and used under this Lease.

TERM. The term of the lease shall commence on the 1st day of October, 2023 and shall terminate (5) five years thereafter on the 30th day of September 2028.

REQUEST FOR RENEWAL OPTION PRIOR TO JUNE 2ND 2023. Provided that the District is not in default hereunder beyond any applicable notice and cure periods, the District shall have the right to request an option to renew this Lease for one (1) additional five (5) year option period. In the event the District desires to exercise such option to renew, the District shall provide the City written notice of its request for such option, at least one hundred twenty (120) days prior to the lease expiration date of September 30th, 2023. The City Council shall take action on the request at a duly noticed regular Council meeting.

USE. The District may place upon said premises buses, other vehicles and equipment including but not limited to tractors, mowers, snow blades, fertilizer carts that belong to the District.

FENCE. In consideration of the lease of the premises, upon termination of the lease any and all improvements become the property of the City and shall be left in good repair and condition. The District installed and has maintained a six-foot-high chain link fence with three strands of barb wire on the top around the premises. The fencing includes two gates. The District also installed underground power for plugging in the heaters on the buses.

ATTORNEY FEES. In the event either of the parties is obligated to employ the services of an attorney to enforce its rights hereunder, the prevailing party will be entitled to collect reasonable attorney's fees and costs from the non-prevailing party.

TERMINATION. The District shall have the right to terminate this Lease, or any extension thereof, at any time upon giving the City sixty (60) days' written notice to the City by certified mail or nationally recognized courier service. If this Lease is terminated rent and other charges shall be prorated as of the date of termination. The City shall have a right to terminate this Lease upon one hundred (180) days written notice for any of the following reasons:

- (a) To terminate or amend this Lease to bring it into compliance with any requirements of the State of Idaho or the Federal Government to obtain or retain eligibility for government loans, grants, aid or funding.
- (b) Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the facilities, and the remaining in force of such injunction for a period of at least ninety (90) days.
- (c) The District's failure to replace any improvements which may have been destroyed within six (6) months from the date of destruction.

The parties agree that the City shall have no liability to Lessee for damages or costs incurred by the District.

MAINTENANCE, ALTERATIONS AND IMPROVEMENTS. No alteration, additions or improvements will be made to the structure, nor any sign placed upon the leased premises by the District without first obtaining the written consent of the City.

ENTRY BY CITY AND SERVICE PROVIDERS. The City and City approved service providers such as but not limited to, Safe Link, Kimberly Police Department, Rock Creek Fire Protection District, Idaho Power, and AT&T, shall have right to enter the leased premises at any time to examine the same and determine the maintenance and state of repair. The City shall maintain and continue to use the subject lands and onsite storage building.

ASSIGNMENT OR SUBLETTING PROHIBITED. District shall not assign this lease nor sublet the whole or any part thereof without the written consent of the City.

WARRANTIES. There are no warranties by the City and the District, in executing the lease, is relying upon his own judgement and information.

SERVICE OF NOTICE. Any notice may be served upon the City by certified mail to the City at 242 Hwy 30, Kimberly, Idaho 83341, and notice may be served upon the District by certified mail to the District at 141 Center Street West, Kimberly, Idaho 83341. Service of a notice by certified mail shall be deemed complete upon the date of the postmark by certified mail. Either party may change the address for services of notice by written notice to the other party.

STORAGE PROHIBITED. The District shall not store any fuel, fertilizers, or chemical of any type upon the premises.

ELECTRICITY. The District will pay all costs of power to the premises.

THIRD PARTY ACCESS. The District will allow ingress and egress and will not prevent or interfere with third parties who have leased the water tower located upon the premises.

SITE. The District currently occupies the site and shall maintain operation of the two gates.

INDEMNIFICATION. The District will indemnify and hold the City harmless from any and all damages, claims, suits, or attorney fees arising from any negligent act of the District or to the City's or District's property.

BINDING EFFECT. This Agreement states the entire agreement between the parties. The District acknowledges that the City is not bound by any stipulations, representations, agreements, promises oral or otherwise, not printed in this Agreement. This Agreement states all of the representations relied upon by the

District, and the District does not rely on any other representations of the City, its agents, servants, employees or attorneys in making this transaction

The provisions of the contract shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto.

Dated this ____ day of _____, 2023

LESSOR:

City of Kimberly, Idaho
Municipal Corporation

By: _____

Printed: _____

Title: Mayor

LESSEE:

Kimberly School District No. 414

By: _____

Printed: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____

On _____, _____, 2023, before me, _____, personally appeared _____, person known to me (or proved to me on the basis of satisfactory evidence) to be the person (s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/ their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(Signature of Notary Public)

STATE OF _____)
)ss.
COUNTY OF _____

On _____, _____, before me, _____, personally appeared _____, personal known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/ their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which persons(s) acted, executed the instrument.

WITNESS my hand and official seal.

(Signature of Notary Public)

My Commission Expires: _____

Notary Name: _____

Notary Registration Number: _____ Notary Phone: _____

County of Principal Place of Business: _____

STATE OF

)ss.

COUNTY OF _____

On _____, before me, _____, personally appeared _____, personal known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/ their authorized capacity(ies) and that by his/her/their signature(s) or the instrument the person(s), or the entity upon behalf of which persons(s) acted, executed the instrument.

WITNESS my hand and official seal.

(Signature of Notary Public)

My Commission Expires: _____

Notary Name: _____

Notary Registration Number: _____ Notary Phone: _____

County of Principal Place of Business: _____