

LEASE AGREEMENT – 120 3RD STREET W

THIS LEASE AGREEMENT (the “Lease” or “Agreement”) dated this ____ day of _____, 2018, by and between the **CITY OF NORTHFIELD**, a Minnesota municipal corporation, (the “Tenant”), and **DALE A. FINGER**, an individual residing at 116 3rd St W, Northfield, MN 55057, (the “Landlord”); (collectively the “Parties”).

WHEREAS, the Landlord owns a building located at 120 3rd Street West in the City of Northfield, PID 22.36.4.75.035 (the “Building”), as well as the real property upon which the Building sits; and

WHEREAS, Landlord desires to lease the above-referenced Building in its entirety to Tenant for the purpose of storage of city-owned vehicles and equipment needed by Tenant.

In consideration of the terms and conditions of this Lease, Landlord and Tenant agree as follows:

ARTICLE ONE
Definitions and Terms

As used in this Lease, the following terms shall have the specific meanings set forth below:

1.1 “Commencement Date” means Monday, September 17, 2018.

1.2 “Expiration Date” means December 31, 2018.

1.3 “Premises” means the Building located at 120 3rd St W, Northfield, MN 55057 as depicted on Exhibit A attached hereto.

1.4 “Landlord” means Dale A. Finger, an individual residing at 116 3rd St W Northfield, MN 55057.

1.5 “Tenant” means the City of Northfield, having as its address for notice purposes 801 Washington Street, Northfield, MN 55057-2565; Attention: City Administrator.

ARTICLE TWO
Demising Clause

2.1 Landlord leases to Tenant and Tenant leases from Landlord the Premises on the terms and conditions contained in this Lease.

2.2 Tenant shall have the right to use the Premises for the purpose of storage of equipment and other miscellaneous items.

ARTICLE THREE
Term and Possession

3.1 Term. This Lease shall be for an initial term of 4 (four) months, beginning on the Commencement Date and ending on the Expiration Date (the "Lease Term"). Except as otherwise provided in this Lease, termination of the Lease prior to the Expiration Date requires mutual agreement by the Landlord and Tenant. Tenant shall be entitled to possession on the Commencement Date and shall give up possession on the Expiration Date.

3.2 Renewal. Notwithstanding the foregoing, the City in its discretion may continue the Lease on a month-to-month basis for the months of January 2019 through March 2019. In no event may Tenant lease the Premises beyond March 31, 2019. Month-to-month extension as provided herein shall occur automatically unless either Party gives 30 days written notice of its intent to terminate the Lease.

ARTICLE FOUR
Rent

4.1 Tenant shall, for the entire Lease Term, and for any monthly extensions as provided in section 3.2, pay to Landlord without demand, monthly rent in the amount of One Thousand Dollars (\$1,000.00) per month, (the "Rent"). The monthly rent amount shall be paid by the first day of each month during the Lease Term. In the event the Commencement Date occurs after the first day of the month, the first months' rent shall be prorated from the date Tenant moves into the Premises. All payments shall be made to the address specified for Landlord herein.

ARTICLE FIVE
Payment of Taxes

5.1 Landlord shall be responsible for payment of any taxes, assessments or governmental charges (collectively referred to as "Taxes") that accrue against the Premises during the Lease Term.

ARTICLE SIX
Permitted Use

6.1 Tenant shall use the Premises only for the purposes of storage of vehicles, equipment and other miscellaneous items.

6.2 In addition to using the Premises for storage purposes, Tenant shall also be permitted to temporarily park outside the Building while using the city-owned vehicles and equipment being stored on the Premises.

ARTICLE SEVEN
Utilities

7.1 Landlord shall be responsible for payment of all utilities on the Premises during the Lease Term.

ARTICLE EIGHT
Subletting and Assignment

8.1 Tenant shall not assign its interest in this Lease and shall not sublet any portion of the Premises, or any right or privilege provided under the Lease or use of the Premises, or suffer any other person to occupy or use any portion of the Premises without the written consent of Landlord, which consent may be withheld in Landlord's sole discretion.

ARTICLE NINE
Quiet Possession and Subordination

9.1 Landlord covenants that Tenant, upon paying the Rent and performing the covenants under this Lease, shall peaceably and quietly have, hold and enjoy the leased Premises for the Lease Term.

ARTICLE TEN
Landlord's Reserved Rights

10.1 Landlord reserves the following rights: (a) to take any and all measures necessary or desirable for the operation, safety, protection or preservation of the Premises, including repairs, alterations, decorations, additions or improvements, whether structural or otherwise, in and about the Premises or any part thereof; and (b) to enter to verify use of the Premises. Landlord may enter upon the Premises and may exercise any or all of the foregoing rights without being deemed guilty of an eviction (actual or constructive) or disturbance of Tenant's use or possession and without being liable in any manner to Tenant and without abatement of Rent or affecting Tenant's obligations hereunder.

ARTICLE ELEVEN
Alterations and Improvements

11.1 Landlord has made no promise to alter, remodel, repair or improve the Premises and has made no representation of the condition of the Premises or the suitability of the Premises for the purpose stated herein other than what is contained in this Lease.

11.2 Tenant shall not make material alterations or improvements to the Premises without the written consent of Landlord. Consent shall be obtained by submitting a written description to Landlord of the proposed improvement, including its location, size, proposed use, and any other information that may

be required by the Landlord. Landlord may approve, disapprove, require more information, or require certain modifications to the proposed improvement in its sole judgment and discretion. Tenant's final written proposal including a clear indication of Landlord's assent and signed by Landlord shall constitute written consent of Landlord. Unless otherwise agreed by both parties, approved improvements shall be at the sole expense of Tenant.

11.3 Tenant shall allow no mechanic's liens to be incurred or filed against the Premises. Tenant shall promptly pay for all alterations and improvements, which it may make under this Lease that are approved by Landlord, and shall save and hold harmless Landlord from any and all losses, including attorneys' fees, incurred by reason of mechanic's liens or other claims for skill, labor or material furnished or performed, or claimed to have been furnished or performed, on account of any such alteration or improvement made by Tenant hereunder. Tenant may contest any such mechanic's liens and prosecute all proceedings for the purpose of such contest pursuant to Minn. Stat. § 514.01, et seq. Tenant shall indemnify Landlord against any loss or liability by reason of such contest.

11.4 Tenant shall not place or maintain any signs on the Premises, without authorization by Landlord.

11.5 Any leasehold improvements to the Premises shall be and remain the property of Landlord and no compensation shall be paid to the Tenant when and if the Tenant vacates the Premises made under Article 11. Improvements made under Article 11 that are capable of severance may be removed by Tenant at any time or within 30 days after termination of the Lease even though they may be fixtures, provided that Tenant leaves in good condition that part of the Premises from which such improvements are removed.

ARTICLE TWELVE **Repairs and Maintenance**

12.1 Tenant, at its expense, shall keep the Premises in a safe and tenantable condition based on the purpose of this Lease. If Tenant does not do so, Landlord may (but need not) restore the Premises to a safe and tenantable condition, and Tenant shall pay the cost upon being billed by Landlord. This Article shall not apply to damage or destruction otherwise provided for in this Lease.

12.2 Tenant, at its expense, shall be responsible for all major and minor maintenance, repairs, or replacement of any and all alterations or improvements to the Premises.

12.3 Tenant shall bear maintenance or repair costs for damage to the Premises caused by acts or omissions of Tenant, its agents, employees, contractors, guests or invitees.

ARTICLE THIRTEEN **Destruction or Damage**

13.1 Tenant agrees:

- a. That it will obtain all necessary state and local permits for its operations as necessary.

- b. That it will operate in accordance with all federal, state and local laws and regulations.
- c. That it will be solely responsible for security of the Premises and for any loss, damage, or destruction thereof.
- d. That it will keep the Premises in such repair as at the commencement of the Lease Term or may be put in during continuance thereof, reasonable wear and tear and damage by fire or extended peril coverage perils only excepted.
- e. That it will not injure, overload or suffer to be injured or overloaded the Premises or any part thereof.
- f. That it will not make or suffer any unlawful, improper or offensive use of the Premises or any use thereof contrary to any law of the State of Minnesota or any ordinance of the City of Northfield now or hereafter made, or which shall be injurious to any person or property or which shall be liable to endanger or affect any insurance on the said Premises.

13.2 If all or a substantial portion of the Premises is rendered un-tenantable by fire or casualty, and it is reasonably anticipated by Landlord that even though undertaken and pursued with all due diligence, it will require more than six (6) months to repair the Premises, then within twenty-one (21) days after the fire or casualty, Landlord shall send a written notice of its determination to the Tenant. Then either Party may terminate this Lease as of the date of the fire or casualty by sending the other party a notice in writing of its election to so terminate within fourteen (14) days after the date of the notice from the Landlord described above. During the period when the Premises are 50% or more un-tenantable due to fire or casualty such that all or a substantial portion of the Premises cannot be occupied or operated for the purposes stated herein, the Rent shall be abated on a prorated basis for the period during which the Premises is un-tenantable.

ARTICLE FOURTEEN **Surrender of Possession**

14.1 Upon the termination of the Lease Term, Tenant shall immediately surrender the Premises (together with any alterations and improvements) to Landlord in good order, repair and condition, ordinary wear and fire or casualty losses for which Tenant is not responsible excepted, and shall remove all equipment, trade fixtures and other items of Tenant's property from the Premises. Tenant shall pay Landlord upon demand the cost of repairing any damage to the Premises caused by such removal. Tenant shall leave the Premises in its pre-Lease condition, reasonable wear and tear and any approved improvements and alterations excepted. If Tenant fails or refuses to remove Tenant's property from the Premises, Tenant shall be presumed to have abandoned the property and Landlord may dispose of the property without incurring liability, at Tenant's expense.

ARTICLE FIFTEEN **Compliance with Laws, Ordinances and Regulations**

15.1 Throughout the Lease Term, Tenant, at its sole cost and expense, shall promptly comply with all present and future laws, ordinances, orders, rules, opinions, directives, regulations and requirements of all federal, state, city and other local governments.

15.2 Tenant shall likewise observe and comply with, or shall cause to be observed and complied with, all the requirements of all policies of comprehensive general liability, fire and other insurance at any time in force with respect to the Premises.

ARTICLE SIXTEEN

Insurance

16.1 Tenant shall maintain, at Tenant's expense, insurance on Tenant's property located in and upon the Premises, and shall assume the risk of loss to such property on the Premises.

16.2 Landlord shall maintain property insurance on the Building and Premises. Landlord shall provide a copy of Landlord's above-mentioned insurance policy to Tenant upon request.

ARTICLE SEVENTEEN

Default and Remedies

17.1 If Tenant shall default in the payment of any Rent or in the payment of any other sum required to be paid by Tenant under this Lease and such default shall continue for fifteen (15) days after written notice to Tenant, or if Tenant shall default in the observance or performance of any of the other covenants or conditions in this Lease, which Tenant is required to observe or perform, and such default shall continue for thirty (30) days after written notice to Tenant, or if a default involves a hazardous condition and is not cured by Tenant immediately upon written notice to Tenant, or if the interest of Tenant in this Lease shall be levied upon under execution or other legal process, or if any voluntary petition in bankruptcy or for corporate reorganization or any similar relief shall be filed by Tenant, or if any involuntary petition in bankruptcy shall be filed against Tenant under any federal or state bankruptcy or insolvency act and shall not have been dismissed within thirty (30) days following the filing thereof, or if a receiver shall be appointed for Tenant or any of the property of Tenant by any court and such receiver shall not be dismissed within thirty (30) days from the date of appointment, or if Tenant shall make an assignment for the benefit of creditors, or if Tenant shall abandon or vacate the Premises, then Landlord may treat the occurrence of any one or more of the foregoing events as a breach of this Lease and thereupon at its option may, without notice or demand of any kind to Tenant or any other person, terminate this Lease and immediately repossess the Premises, in addition to all other rights and remedies provided at law or in equity. The provisions of this section shall survive any termination of this Lease.

17.2 No right or remedy conferred upon or reserved to Landlord or Tenant by this Agreement shall be exclusive of any other right or remedy herein or by law provided; all rights and remedies conferred upon Landlord and Tenant by this Agreement or by law shall be cumulative and in addition to every other right and remedy.

ARTICLE EIGHTEEN
Notices

18.1 All notices required under the terms of this Lease shall be deemed to have been properly served or given three (3) days after their deposit in the United States mail if sent by registered or certified mail, return receipt requested, postage prepaid, or two (2) days after deposit in a nationally recognized overnight courier service, addressed to Landlord or Tenant at the addresses identified in Article One or to such other address within the continental limits of the United States and to the attention of such Party as the Parties may from time to time designate by written notice to the other.

18.2 Notices sent to Tenant should be sent to the following:

Ben Martig, City Administrator
801 Washington Street
Northfield, MN 55057-2598

Phone: 507-645-3009

18.3 Notices sent to Landlord should be sent to the following:

Dale A. Finger
116 3rd St W
Northfield, MN 55057.

ARTICLE NINETEEN
Landlord's Title

19.1 Tenant acknowledges that this is an agreement to maintain and use the Premises only and that the Tenant does not in any way acquire title to the Premises under this Agreement.

19.2 Without the prior written consent of Landlord, Tenant agrees not to do any act to encumber, convert, pledge, sell, assign, lease, lend, conceal, abandon, give up possession of, or destroy the Premises.

ARTICLE TWENTY
Miscellaneous

20.1 **Voluntary and Knowing Action.** The Parties, by executing this Lease, state that they have carefully read this Lease and understand fully the contents thereof; that in executing this Lease they voluntarily accept all terms described in this Lease without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.

20.2 **Authorized Signatories.** The Parties each represent and warrant to the other that (1) the persons signing this Lease are authorized signatories for the entities represented, and (2) no further

approvals, actions or ratifications are needed for the full enforceability of this Lease against it; each Party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.

20.3 No Partnership, Joint Venture, or Fiduciary Relationship. Nothing contained in this Lease shall be interpreted as creating a partnership, joint venture, or relationship of principal and agent between the Parties, it being understood that the sole relationship created hereby is one of landlord and tenant. No third party is entitled in any way to rely upon any provision in this Lease. This Lease is intended solely for the benefit of Landlord and Tenant and no third party shall have any rights or interest in any provision of this Lease, or as a result of any action or inaction of the Landlord in connection therewith.

20.4 Records—Availability and Retention. Pursuant to Minn. Stat. § 16C.05, subd. 5, the Landlord agrees that the Tenant, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Landlord and involve transactions relating to this Lease. The Landlord agrees to maintain these records for a period of six years from the date of termination of this Lease.

20.5 Governing Law. This Lease shall be deemed to have been made and accepted in Rice County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Lease without regard to its choice of law or conflict of laws principles.

20.6 Data Practices. The Parties acknowledge that this Lease is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 et seq.

20.7 No Waiver. Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Lease or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that Party's right to assert or rely upon the terms and conditions of this Lease. Any express waiver of a term of this Lease shall not be binding and effective unless made in writing and properly executed by the waiving Party.

20.8 Severability. The invalidity or unenforceability of any provision of this Lease shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Lease to the extent of its invalidity or unenforceability, and this Lease shall be construed and enforced as if the Lease did not contain that particular provision to the extent of its invalidity or unenforceability.

20.9 Headings and Captions. Headings and captions contained in this Lease are for convenience only and are not intended to alter any of the provisions of this Lease and shall not be used for the interpretation of the validity of the agreement or any provision hereof.

20.10 Survivability. All covenants, indemnities, guarantees, releases, representations and warranties by any Party or Parties, and any undischarged obligations of Landlord and the Tenant arising

prior to the expiration of this Lease (whether by completion or earlier termination), shall survive such expiration.

20.11 **Exhibits.** The exhibits attached to this Lease are considered an integral part of it as if fully set forth within it.

20.12 **Entire Agreement.** All prior understandings, letters of intent, discussions and agreements are merged in the governing terms of this Lease, which is a complete and final written expression of the intent of the Parties.

20.13 **Modification/Amendment.** Any alterations, variations, modifications, amendments or waivers of the provisions of this Lease shall only be valid when they have been reduced to writing, and signed by authorized representative of the Landlord and the Tenant.

[Remainder of page left intentionally blank]

IN TESTIMONY WHEREOF, as of the day and year first hereinabove written the Parties have executed this Lease.

**TENANT:
CITY OF NORTHFIELD**

BY: _____
Ben Martig, City Administrator

BY: _____
Deb Little, Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF RICE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Ben Martig and by Deb Little, respectively the City Administrator and City Clerk of the City of Northfield, a Minnesota municipal corporation, on behalf of the municipal corporation and pursuant to the authority granted by its City Council.

Notary Public

EXHIBIT A
Depiction of Premises

Lot 8 Block 7 of ST SUB SE4 (SCHOOL SEC)

PID 22.36.4.75.035

