

2V. Consideration of approving a lease agreement with Monticello School District 882 allowing the nature-based education program to use the shared maintenance facility at Bertram Chain of Lakes Regional Park during the 2023-2024 school year

Prepared by: Parks & Recreation Director	Meeting Date: 8/14/2023	<input checked="" type="checkbox"/> Consent Agenda Item <input type="checkbox"/> Regular Agenda Item
Reviewed by: Finance Director	Approved by: City Administrator	

ACTION REQUESTED

Motion to approve the lease agreement with Monticello School District 882 allowing the nature-based education program to use the shared maintenance facility at the Bertram Chain of Lakes Regional Park during the 2023-2024 school year.

REFERENCE AND BACKGROUND

Wright County Parks and Monticello Parks Department currently share a maintenance shed near the Bertram Lake Chalet at the regional park. The Monticello School District requests use of the heated section of the shed for the upcoming school year. The school district will operate Monday through Friday to serve small groups of students from 7 a.m. to 4 p.m. from August 23, 2023, through June 6, 2024.

The heated section is the portion normally used by the City of Monticello. If the lease agreement is approved, the City will shift to share the Wright County part of the maintenance shed.

Five years ago, the Monticello School District formed a partnership with Wright County and the YMCA at the Bertram Chain of Lakes Regional Park using the Bertram Lake Chalet and other outdoor areas to offer a Nature-Based Preschool. Last year the program expanded to include additional grade levels, resulting in a similar lease agreement between the City and School District for the heated part of the shed in 2022-2023. City staff continue to support this highly successful program utilized by Monticello families looking for an alternative education program for their children.

- I. **Budget Impact:** The lease fee is \$22,500 for use of the city parks shop and a refundable security deposit of \$2,500 for any facility damage resulting from use by Lessee, totaling a fee of \$25,000 for the one (1) school year. The cost is payable with nine monthly payments of \$2,777.78 to the City of Monticello.
- II. **Staff Workload Impact:** Maintenance and snow plowing.

- III. Comprehensive Plan Impact:** The Monticello 2040 Comprehensive Plan includes commitment to maintain and enhance a City park and recreation system with a wide range of parks and recreational facilities that provide opportunities for active and passive recreation, healthy lifestyles, access to wildlife and nature, and reflects the community's value for a world-class park system and variety of recreational experiences. The City will strive to provide superior parks and recreational opportunities for all residents and visitors.

STAFF RECOMMENDED ACTION

City staff and the Monticello PARC recommend approving a lease agreement with Monticello School District 882 for the 2023-2024 school year to serve kindergarten through fifth grade at the Bertram Chain of Lakes Regional Park shared park maintenance facility as identified in the lease agreement.

SUPPORTING DATA

- Lease agreement

LEASE AGREEMENT

FACILITY LEASE is made and entered into this _____ day of _____, 20____, by and between the City of Monticello and Monticello Public Schools, an Independent School District #882, 302 Washington Street, Monticello, MN 55362 (hereinafter referred to as "Lessee"). and The City of Monticello, 505 Walnut Street, Suite #1, Monticello, MN 55362 as property owners.

WITNESSETH:

WHEREAS, the Lessor currently owns and operates Bertram Chain of lakes Athletic Park consisting of 119 acres with a parks maintenance building. and

WHEREAS, the primary mission of the park system is to provide the public with healthful recreation opportunities and enjoyment of the out of doors; and

WHEREAS, the Lessee has expressed an interest in operating Nature Based Education (Pre-k through grade 5) in Bertram Chain of Lakes Regional Park; and

WHEREAS, the purpose of the Nature Based Education (Pre-k through grade 5) will be to provide outdoor and environmental education programs; and

WHEREAS, the Lessee's Nature Based Education (Pre-k through grade 5) will provide benefits to Lessor by offering citizens new opportunities in an area currently under-served by Lessor; and

NOW, THEREFORE, it is agreed between the parties as follows:

ASSIGNMENT AND SUBLETTING: Lessee will neither assign this agreement nor sublet any part of said land without consent of the Property Owners.

In witness whereof this Lease Agreement is executed by the parties as follows

I. LEASE OF PREMISES

Subject to the terms and conditions contained herein, the Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, a portion of Wright County's Bertram Chain of Lakes Regional Park, specifically, the City of Monticello Parks maintenance building.

II. TERM AND FEES

The term and fees of this Lease shall be for a period of one (1) school year, commencing on the 23, day of August, 2023 (hereinafter "commencement date"), and terminating on the 6 day of June, 2024. The lease fee of \$22,500 for use of the city parks shop and a refundable security deposit of \$2,500 for any damages at facilities resulting from use by Lessee totaling a fee of \$25,000 for the one (1) school year is payable with eightnine monthly payments of \$3,125,777.78 to the City of Monticello. Notwithstanding anything herein to the contrary, either party to this Lease may terminate this Lease upon thirty (30) days advance written notification to the other party.

III. USE

The Lessee shall use and occupy the leased premises for the sole purpose of a Nature Based Education (Pre-k through grade 5) Monday thru Friday between the hours of 7am and 4pm when the Lessee is conducting operations. If the Lessee is not conducting operations, use of facilities must be requested in advance and could potentially have an additional fee. The Lessee will not use or occupy the leased premises for any unlawful purpose, and will comply with all present and future laws, ordinances, regulations, and orders of all governmental units having jurisdiction over the premises. The Lessor

disclaims any warranty that the leased premises are suitable for Lessee's use, and Lessee acknowledges that it has had a full opportunity to make its own determination in this regard. Throughout the term of this Lease, Lessee shall have the right to use, in common with others, and in accordance with such rules as shall be applicable generally to members of the public, other portions of Lessor's Bertram Chain of Lakes Regional Park, including, but not limited to, the trails, fishing piers, and open space.

IV. ASSIGNMENT AND SUBLETTING

Lessee may not sublet all or any part of the leased premises or all or any part of the term of the Lease without Lessor's prior written consent, which consent may be granted or withheld in Lessor's sole discretion. Regardless of any such sublease and consent by Lessor, Lessee shall remain fully liable for the performance of all the conditions, covenants, and obligations of this Lease. Any and all subleases entered into by Lessee and consented to by Lessor shall be made expressly subject to this Lease and all the terms and provisions hereof.

V. USE OF EXISTING FACILITIES

During the term of this Lease and subject to the terms and conditions herein, the Lessee shall have the exclusive right to use city parks shop during Monday through Friday between the hours of 7am and 4pm of each week. Use of the other areas of Bertram Chain of Lakes Regional Park by Lessee shall be non-exclusive.

VI. CONSTRUCTION OF IMPROVEMENTS

All improvements required by Lessee on the leased premises shall be constructed by Lessee at its sole cost and expense and shall be constructed in a thorough and workman-like fashion. Prior to construction of any such improvements, the Lessee shall submit to the Lessor detailed plans and specifications detailing the proposed improvements to be constructed, the construction of which shall not begin until approved in writing by the Lessor. All improvements shall be constructed in accordance with all applicable laws, rules, regulations, and ordinances. Lessee further agrees to comply with all federal, state, and local laws, ordinances, and zoning provisions in the construction and operation of the improvements on the leased premises. Lessee shall have no authority to subject the leased premises or any part thereof or any interest of Lessor therein to any mechanics or other statutory or judicial lien. Should any mechanics or other lien, statement, or claim be filed or recorded against the leased premises, or any interest of Lessor thereon, by reason of Lessee's acts or omissions or because of any claim against Lessee, Lessee shall cause the same to be canceled and discharged of record at Lessee's sole cost and expense, by bond or otherwise, within thirty (30) days after notice from Lessor; provided, however, that so long as Lessee has not been in breach or default of its obligation under this Lease, Lessee shall have the right, in good faith and through appropriate proceedings, at Lessee's sole cost and expense, to contest the amount or validity of any such claim so long as such contest does not submit the leased premises to sale in enforcement of such lien or claim and provided the Lessee provides to Lessor such collateral, security, or other assurances as Lessor reasonably shall request in connection therewith. Lessee shall, prior to the construction of any improvements on the leased premises, require any contractor who provides such work to provide a payment and performance bond in the full amount of the contract, or other assurances acceptable to the Lessor. Furthermore, any such payment or performance bond shall list the Lessor (City of Monticello) as a beneficiary of said bonds.

IX. OWNERSHIP OF IMPROVEMENTS

All improvements hereafter constructed by Lessee on the leased premises shall be deemed for all purposes to be the property of Lessee and owned solely by Lessee during the Lease term. At the expiration or earlier termination of this Lease, all items approved for construction by the Lessor pursuant to Section VI herein, shall become the property of Lessor. On or before the expiration of the Lease term or any earlier termination of this Lease, Lessee shall, at its sole cost, remove all other such improvements constructed by Lessee and shall restore the leased premises to the condition in which the leased premises existed on the

date of this Lease, unless and except to the extent that Lessor, by written notice to Lessee, given at least thirty (30) days prior to the end of the Lease term, elects to accept the leased premises with any or all of such improvements, in which case Lessee shall not be responsible for removing any such improvements specified in such notice.

X. MAINTENANCE AND REPAIRS

Lessee shall be solely responsible for the maintenance and repair of all improvements that it constructs on the leased premises and shall maintain the same in a first-class manner. The Lessor, however, shall be responsible for maintenance of the roadway and parking lots located on the leased premises, including snowplowing; the maintenance of turf grass within the leased premises area, and the structural and mechanical maintenance of the city parks shop. The Lessee shall be responsible for all janitorial services related to the city parks shop specified in this agreement (Monday – Friday) located on the leased premises. The Lessee shall also provide daily clean-up of the grounds, parking lots, and roadways within the leased premises.

XI. INDEMNIFICATION

Except for losses, damages, and claims arising out of the act or omissions of Lessor or Lessor's officers, commissioners, agents, contractors, and employees acting within the scope of their employment or agency, Lessee shall indemnify and hold harmless Lessor and its commissioners, officers, agents, contractors, and employees from and against any and all claims (including attorney fees) arising from Lessee's use of the leased premises, or from the conduct of Lessee's business, or from any activity, work, or thing done by Lessee in or about the leased premises. Lessee shall also indemnify and hold harmless Lessor and its commissioners, officers, agents, contractors, and employees from and against any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease, or arising from any negligence of Lessee, or any claim, action, or proceeding brought thereon; and in case any action or proceeding is brought against Lessor and/or any of its commissioners, officers, agents, contractors, or employees by reason of any such claim, Lessee, upon notice from Lessor, shall defend the same at Lessee's expense by counsel acceptable to Lessor in its reasonable direction.

XII. INSURANCE

Lessor agrees to purchase, in advance, and to carry in full force and effect the following Insurance:

1. Worker's Compensation

(A.) **Worker's Compensation Insurance** that meets the statutory obligations with Employer's Liability limits of at least \$100,000 each accident, \$500,000 disease policy limit, and \$100,000 disease each employee.

(B.) **Workers Compensation Insurance for non-employees** providing services under this agreement (i.e., subcontractors). Lessee is assuming full Workers Compensation coverage for uninsured sub-contractors.

2. Commercial General Liability Insurance. The policy shall include contractual liability coverage and provide coverage limits at least equal to \$1,500,000 per claim and \$1,500,000 aggregate. The Lessee along with this signed agreement have attached a certificate evidencing above insurance coverage in force as of the Contract start date.

3. Commercial Automobile Liability insurance covering all owned, non-owned and hired automobiles at coverage limits at least equal to \$1,500,000 per claim and

\$1,500,000 aggregate for all claims arising from the same occurrence. The Lessee along with this signed agreement have attached 1.) a certificate evidencing above insurance coverage in force as of the Contract start date, 2.) Lessee's auto liability insurance coverage addresses the risk or 3.) attached is a letter from insurance agent stating that automobile insurance policy covers business usage of all automobile(s) that will be used during the life of this agreement.

XIII. ACCESS AND SIGNAGE

The Lessor shall maintain the existing gate at the entrance to the leased premises. Both Lessee and Lessor shall have access to and control of the gate. The Lessee shall, consistent with the Lessors signage practices, provide temporary directional signs and a sign at the main park road indicating the direction to and location of the leased premises.

XIV. PARK ORDINANCE

Lessee understands and agrees that its use of the leased premises is and shall be subject at all times during the term of the Lease to any Park Ordinance in effect on the date of this Lease and/or subsequently adopted by the Monticello City Council.

XV. NOTICE

Any notice, demand, request, or other instrument required or permitted to be given under this Lease, shall be in writing and, except as otherwise expressly provided in this Lease, shall be deemed to have been given when delivered in person or when sent by United States certified or registered mail, postage paid, return receipt requested, or when sent by a reputable overnight courier service, addressed to the other party as follows:

Lessee:
Community Education Director
Monticello Public Schools; 302 Washington Street, Monticello, MN 55362

Lessor:
Director of Parks, Arts and Recreation
City of Monticello; 303 6th Street, Monticello, MN 55362

Either party may designate another or a different address for notices to such party by giving notice of such change to the other party in a written notice. Any notice given in any manner other than as specified in this section, shall be deemed to have been given only when actually received by the addressee.

XVI. DATA PRACTICE AND COMPLIANCE WITH LAWS

A. Data Practices. The Lessor and the Lessee agree to comply with the Minnesota Government Data Practices Act (the "Act") and all other applicable state and federal laws relating to government data. The requirements of Minnesota Statutes, Section 13.05, subdivision 11, apply to companies or individuals who perform a government function. The Lessor and the Lessee and any of Lessee's sub-contractors retained to provide services under this agreement shall comply with the Act and be subject to penalty for non-compliance as though they were a governmental entity. The Lessor and the Lessee will immediately report to each other any requests from third parties for information relating to this agreement. The Lessor and the Lessee agrees to promptly respond to inquiries concerning data requests. The Lessor and the Lessee agree to hold the each other, their officers, and employees harmless from any claims resulting from their respective unlawful disclosure or use of data protected under state and federal laws, regardless of the limits of insurance coverage.

B. Compliance with the law. (i.) The Lessor and the Lessee agree to abide by the requirements and regulations of The Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12101-12213) (ADA), the Minnesota Human Rights Act (Minn. Stat. Ch. 363A) and Title VII of the Civil Rights Act of 1964 (42 U.S.C. Section 2000e).

(ii). Lessor and the Lessee will comply with the provisions of Minnesota Statutes §181.59 which require:

Every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees: (1) that, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason or race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) that no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) that a violation of this section is a misdemeanor; and (4) that this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

These laws deal with discrimination based on race, gender, disability, religion and with sexual harassment. In the event the Lessor and the Lessee have questions concerning these requirements, it should request necessary clarifications from their respective legal counsel. Violation of any of the above laws can lead to termination of this Contract and the immediate declaration of a default.

XVII. ENTIRE AGREEMENT

This Lease sets forth the entire agreement between the parties with regard to leasing the leased premises. Any prior conversations or writings are merged herein and extinguished. No amendment to this Lease shall be binding upon Lessor or Lessee unless in writing and signed by the party sought to be bound by such amendment.

Tom Pawelk; Parks, Arts and Recreation Director Date

Rachel Leonard; City Administrator Date

Eric Olson; Superintendent Date

CITY OF MONTICELLO on this _____ day, of _____, 2023

Rachel Leonard, City Administrator

Tom Pawelk, Parks Superintendent

Eric Olsen, School Superintendent

Date