

STATE OF NORTH CAROLINA

COUNTY OF ORANGE

**AGREEMENT FOR LEASE OF PORTION  
OF AMERICAN LEGION PROPERTY**

This AGREEMENT FOR LEASE of a portion of the American Legion Property (as shown in Exhibit A) (hereafter "Lease"), is made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the Town of Chapel Hill, a North Carolina municipal corporation, 405 Martin Luther King Jr. Blvd., Chapel Hill, N.C., herein "Lessor" or "Town", and Melody Eggen, Inc., 10 Center Grove Rd., Moncure, NC 27559-9438 herein "Lessee" or "Eggen".

**WITNESSETH**

WHEREAS, in March, 2017 the Town purchased a parcel of land known as the American Legion Property (the "Property") located on Legion Road in Chapel Hill and consisting of approximately \_\_\_ acres as shown on Exhibit A, attached hereto, from the American Legion Post Chapel Hill Post 6 (the "Legion"); and

WHEREAS, Eggen had been a tenant of the Legion, the previous owner of the Property and has occupied a structure on the Property where it has operated a Dance Studio; and

WHEREAS, when the Legion sold the Property to the Town in 2017 it retained the right to lease back a portion of the Property and to sublease a portion of the Property (the "Dance Studio Building") to Eggen; and

WHEREAS, the American Legion Post lease of the Property with the Town expires on June 30, 2020 and Eggen desires to continue to occupy the Dance Studio Building as a direct tenant of the Town of Chapel Hill.

NOW, THEREFORE, Lessor and Lessee hereby agree as follows.

1. **LEASE OF PREMISES**: The Town agrees as Lessor to lease to Eggen, and Eggen agrees as Lessee to lease from the Town, on the terms and conditions set forth herein, the building shown on Exhibit A and identified as the Dance Studio, together with the right to use the current driveway (as marked on Exhibit A (the "Leased Premises")).

2. **USE OF PREMISES**: The Leased Premises shall be used solely for Lessee to continue to operate the Dance Studio by providing dance lessons and related activities.

3. **TERM**: This Lease Agreement, unless amended as provided herein, shall be in effect until June 30, 2021. The lease may be renewed for four additional one-year periods by Lessee by giving notice not less than 30 days before the end of any annual term. Either party may terminate the Lease for no cause with 90 days' notice to the other party.

4. LEASE PAYMENTS:

- a) Eggen shall pay the Town the following rent:  
\$600/month, due and payable each month.
- b) Eggen shall make each monthly payment by the 1<sup>st</sup> day of each month, beginning July 1, 2020. In the event that the agreement is executed mid-month, the first payment shall be for a prorated amount for the first month covered under this agreement.
- c) Lease payments received after the 5<sup>th</sup> day of the month will be assessed a late fee of 5% of the then current monthly rental fee. Late fees are due immediately.

5. UTILITIES. All utilities for the Dance Studio Building, excluding water/sewer, will be in accounts under Lessee's name. Lessee will be responsible for ensuring all utilities remain on and that payments are kept current on all utility accounts. Failure to maintain utility service to the Leased Premises shall constitute a basis for Lessor to terminate this Lease.

6. BUILDING CONDITION: The Dance Studio Building is leased in an as-is condition. Lessee is responsible for all upkeep and maintenance to the building and its systems. Lessee shall provide basic routine maintenance to the driveway access as shown on Exhibit A.

7. MODIFICATIONS TO BUILDING:

- a) Eggen shall be responsible for making, and paying the costs associated with, any and all modifications, changes or upgrades that are required under any applicable governmental regulations for operation of a Dance Studio and related activities.
- b) The Town has no obligation under this Agreement to modify, improve, change, or upgrade any of its facilities or equipment for the purpose of meeting operation regulations or Lessee's needs. Provided it receives prior approval from the Town of Chapel Hill, Eggen may make such modifications, improvements, changes, or upgrades to the Dance Studio Building at its sole expense.
- c) Any improvements made to the structure shall remain following the conclusion of this Lease and any extensions thereto. Any additions or subtractions to the Leased Premises will require prior written approval from the Town before conducting such alterations.
- d) Lessee shall maintain and provide to the Town on an annual basis a written inventory of any equipment located on site which is not the property of the Town.

8. MAINTENANCE:

- a) Eggen shall schedule and provide all regular maintenance to the Leased Premises, including to its systems (HVAC, electrical, plumbing, etc.) and equipment. Maintenance is to be performed by contractors trained / certified in the field(s) for which they are providing service. Records of maintenance and service are to be kept by Lessee and provided to Lessor on an annual basis.
- b) Lessee shall report to the Town any need for repairs or improvements which are in excess of \$5,000.
- c) The Town is not responsible for provision or maintenance of any appliances within the Leased Premises. Appliance replacement must have Town prior written approval.



- d) In the event major repairs or replacements (for example, roof or heating and air conditioning system) are needed, Lessor and Lessee shall confer and discuss the repairs needed and which party shall be responsible. In the event the Parties are not able to agree on how the costs of such major repairs is to be allocated, the Lease shall terminate and the property shall be returned as is to the Lessor.
- e) Lessee shall report to Lessor any concerns or issues regarding the property or building in a timely manner.
- f) Lessee agrees to join with Lessor on a semi-annual basis for a complete walk-through of the leased premises to review then-existing conditions and determine if any repair or maintenance is necessary.

9. INSURANCE PROVISIONS:

- a) Comprehensive General Liability: Eggen shall maintain coverage having minimum limits of \$1,000,000 per occurrence and \$2,000,000 annual aggregate for bodily injury liability and property damage liability. Such insurance shall also cover premises and/or operations, broad form property damage, contractual liability endorsement, and a minimum of \$1,000,000 per occurrence and \$2,000,000 annual aggregate for insurance to protect against sexual misconduct charges.
- b) The Town is to be included as an additional insured on both the comprehensive general liability and business auto liability insurance policies.
- c) Current, valid insurance policies meeting the above requirements shall be maintained for the duration of the lease. Certificates of insurance on an Acord form, meeting the required insurance provisions, shall be forwarded to the Town. Renewal certificates on an Acord form shall be forwarded to the Town of Chapel Hill's Purchasing Agent at least 30 days in advance of any expiration date. There shall also be a 30-day notification to the Town in the event of cancellation or modification in any stipulated insurance coverage. Wording on any Certificate which states that no liability shall be imposed on the company for failure to provide such notice is not acceptable. The Town may require original policies or certified copies of policies at any time.
- d) It is the responsibility of Eggen to insure that all subcontracts comply with the same insurance requirements, with the exception of insurance to protect against charges of child abuse, that Eggen is required to meet.

10. SECURITY: Eggen will provide a designated alarm code to the Town to allow Town staff to enter the Leased Premises for quarterly inspections and to perform any Town required maintenance or emergency services. In any event, the Town will notify Eggen of such entry before or after, along with the nature of the entry.

12. PUBLIC OUTREACH AND PROGRAMMING:

- a) Lessee shall consider requests of the Lessor to allow utilization of the space for Parks and Recreation programming at times when Lessee is not using it. (*ideally, this would be at no cost to the Town; or if there was a cost, at a minimal level to cover direct expenses incurred by organization*)

- b) Lessee shall provide occasional free dance programming component in Town programs as requested and as organization's resource allow.
- c) Town will promote classes and programs within Town's website and Recreation Guide as requested, provided programs meet Town values and align with the Parks and Recreation Department's vision, mission, and goals.
- d) Programming provided by Lessee shall be consistent with all Town policies, guidelines, ordinances, etc.; Lessee is responsible for providing programs in accordance with generally recognized best practices regarding safety, supervision, etc.
- e) Lessee shall require appropriate background checks on all paid staff and regular volunteers involved in providing its programs to its participants.
- f) Lessee shall provide to Lessor, on a quarterly basis, the anticipated schedule of use of the Leased Premises and a report on attendance at its programs.

13. INDEMNIFICATION AND HOLD HARMLESS: Eggen agrees to indemnify and hold harmless the Town of Chapel Hill and its officers, agents and employees from all loss, liability, claims or expense (including reasonable attorneys' fees) arising from bodily injury, including death or property damage to any person or persons caused in whole or in part by the negligence or willful misconduct of Eggen except to the extent same are caused by the negligence or misconduct of the Town.

14. NON-DISCRIMINATION: Eggen contractually agrees to administer all functions pursuant to this Lease without discrimination because of race, creed, sex, national origin, handicap, sexual orientation, gender identity or gender expression.

15. FEDERAL AND STATE LEGAL COMPLIANCE: Eggen must be in full compliance with all applicable federal and state laws, including those on immigration.

16. AMENDMENT: This Agreement may be amended in writing by mutual agreement of the Town and Eggen.

17. TERMINATION: Either party may terminate this Contract at any time by giving the other party thirty (30) days written notice of termination prior to the end of the term as described herein.

18. INTERPRETATION/VENUE: This Agreement shall be construed and enforced under the laws of North Carolina. The courts and the authorities of the State of North Carolina shall have exclusive jurisdiction over all controversies between the parties which may arise under or in relation to this Agreement. In the event of any dispute between the parties, venue is properly laid in Orange County, North Carolina for any state court action and in the Middle District of North Carolina for any federal court action. The Town shall not consent to 1) resolving any dispute by means of arbitration and/or 2) waiver of a trial by jury.

19. SEVERABILITY: The parties intend and agree that if any provision of this contract or any portion thereof shall be held to be void or otherwise unenforceable, all other portions of this Contract shall remain in full force and effect.



20. ASSIGNMENT: This Agreement shall not be assigned without the prior written consent of the parties.

21. ENTIRE AGREEMENT: This Agreement shall constitute the entire agreement of the parties and no other warranties, inducements, considerations, promises, or interpretations shall be implied or impressed upon this Agreement that are not expressly addressed herein. All prior agreements, understandings and discussions are hereby superseded by this Agreement.

22. PRIMARY CONTACTS: The following persons shall be the primary contact person for all issues related to this Agreement including programs, scheduling, or any other issue that may arise:

a) For Eggen:  
Melody Eggen  
10 Center Grove Church Rd.  
Moncure, NC 27559-9438  
Phone number: \_\_\_\_\_

b) For the Town:  
Assistant Director of Parks and Recreation  
Chapel Hill Parks and Recreation  
200 Plant Road  
Chapel Hill, NC 27514  
919-968-2784

23. NOTICE OF CANCELLATION: For cancellation of the lease, any notice, or written communication, shall be deemed effective if sent certified mail or delivered to:

a) For the Town:  
Assistant Director of Parks and Recreation  
Chapel Hill Parks and Recreation  
200 Plant Road  
Chapel Hill, NC 27514

b) For Eggen:  
Melody Eggen  
10 Center Grove Church Rd.  
Moncure, NC 27559-9438

24. SUBLEASE OR ASSIGNMENT: This Lease Agreement may not be assigned or transferred, nor may any of the Leased Premises be sublet, without the prior written approval of the Town.

25. RIGHT OF INSPECTION: The Town reserves the right to enter the Leased Premises and inspect them, or to repair or maintain them, at reasonable times and upon reasonable notice. Neither this paragraph, nor the Town's exercise of any right hereunder, shall be deemed any form or manner of control over the Leased Premises by the Town for any purposes whatsoever.

*[SIGNATURES BEGIN ON THE FOLLOWING PAGE.]*

DRAFT

IN WITNESS WHEREOF, the parties hereunto cause this agreement to be executed in their respective names.

**LESSEE:**

**MELODY EGGEN, INC.**

BY: \_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME & TITLE

\_\_\_\_\_  
ATTEST

\_\_\_\_\_  
PRINTED NAME & TITLE

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, North Carolina, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged that he/she is the \_\_\_\_\_ of Melody Eggen, Inc., and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_, sealed with its corporate seal and attested by \_\_\_\_\_ as its Secretary.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

*[SIGNATURES CONTINUE ON THE FOLLOWING PAGE.]*

**LESSOR:**

**TOWN OF CHAPEL HILL**

\_\_\_\_\_  
DEPUTY/TOWN MANAGER

ATTEST BY TOWN CLERK:

\_\_\_\_\_  
TOWN CLERK

TOWN SEAL

**Town Clerk** attests date this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Approved as to Form and Authorization

\_\_\_\_\_  
TOWN ATTORNEY

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
FINANCE OFFICER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PARKS AND RECREATION DIRECTOR

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, North Carolina, certify that \_\_\_\_\_, personally came before me this day and acknowledged that she is the (acting) Town Clerk of the Town of Chapel Hill, a North Carolina municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by \_\_\_\_\_, sealed with its corporate seal and attested by her as its (acting) Town Clerk.

Witness my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



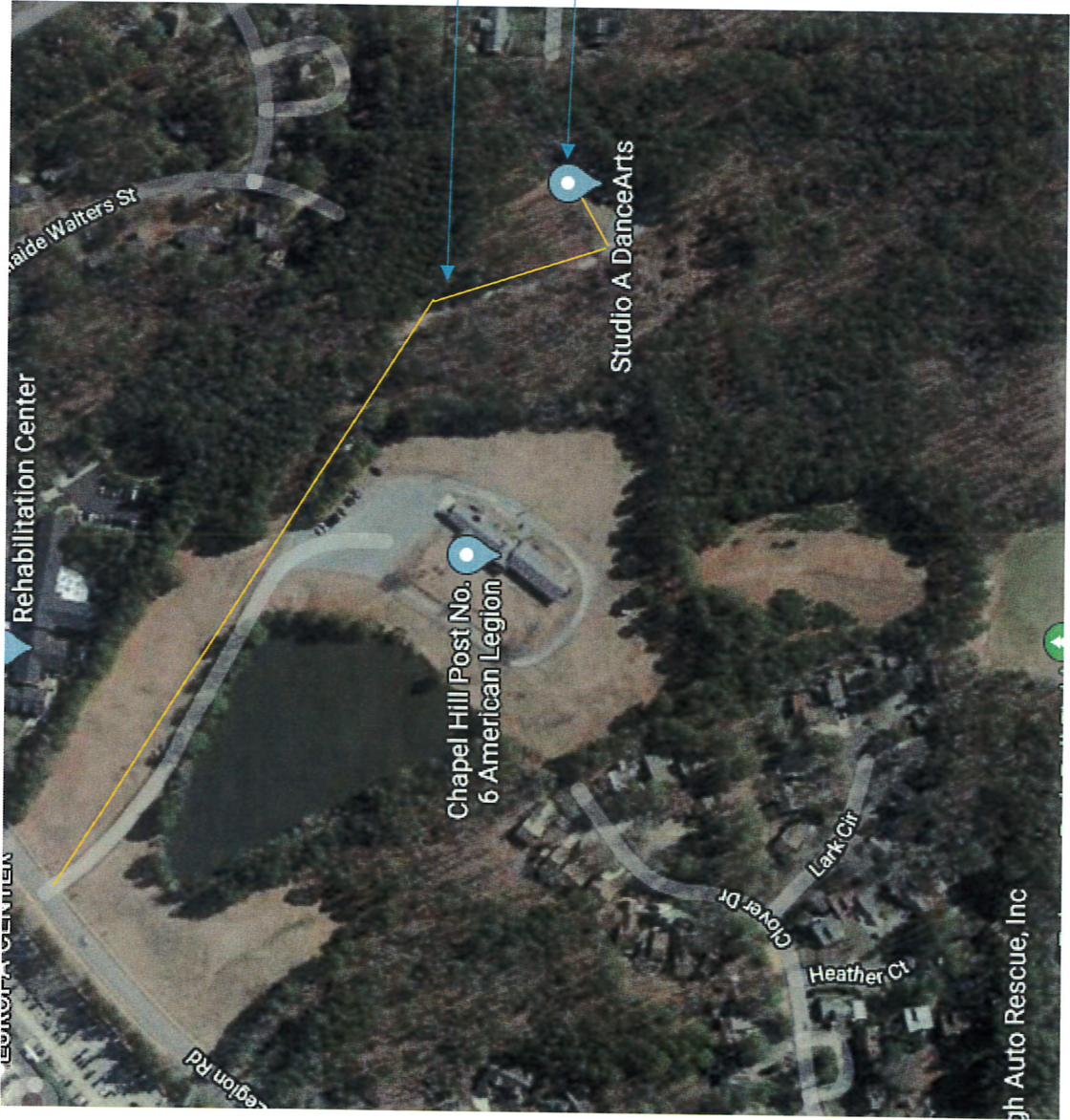
EXHIBIT A

(To be attached)

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Exhibit A –

American Legion Property, Chapel Hill NC



Driveway providing access to Dance Studio building  
(shown by \_\_\_\_\_ )

Dance Studio building – the leased premises  
(shown by \_\_\_\_\_, noted Studio A DanceArts)