

LEASE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2021, by and between **THE CITY OF MARQUETTE**, a Michigan municipal corporation, of 300 W. Baraga Avenue, Marquette, MI 49855, hereinafter "LESSOR", and **NOQUEMANON TRAILS NETWORK COUNCIL**, a Michigan corporation, of 401 E. Fair Street, Marquette, MI 49855, hereinafter "LESSEE".

Recitals

- A. Lessor is the owner and operator of Lakeview Arena at 401 E. Fair Avenue, Marquette, Michigan.
- B. Lessee desires to lease and Lessor is willing to lease to Lessee office space and storage space as shown in Exhibit "A" located in Lakeview Arena's Russell Arena in accordance with the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual promises of the parties and other good and valuable consideration, the receipt of which is hereby acknowledged, it is agreed as follows:

1. Leased Premises

- 1.1 Lessor leases to Lessee space as shown in Exhibit "A" within the Russell Arena.
- 1.2 Lessor agrees to develop architectural and engineering plans for any and all renovations/remodeling required to meet the specific needs of Lessee for Lessee's intended uses. Lessee shall be responsible for constructing all renovations as developed by Lessor, and Lessee shall obtain Lessor's written approval of all such plans and specifications prior to beginning any construction activity.

2. Term of Lease

- 2.1 The term of this lease shall begin on October 1, 2021 and end September 30, 2022.

3. Rent

- 3.1 Office Space: Annual rental amount for office space shall be Twelve and 00/100 Dollars (\$12.00) per square foot (432 square feet). Lessee shall pay Four Hundred Thirty-Two and 00/100 Dollars (\$432.00) monthly. Lessee shall be responsible for its telephone and internet service.
- 3.2 Storage Space: Annual rent storage space shall be Six and 00/100 Dollars (\$6.00) per square foot (63 square feet). Lessee shall pay Thirty-One and 50/100 Dollars (\$31.50) monthly.
- 3.3 All rental payments are due in advance, on the first day of each month of this lease.
- 3.4 Rental amount contained herein is subject to increases based on increases in the City fee schedule as approved by the City Commission, not to exceed twenty percent (20%) of the previous year's rental rate. Lessee will be notified of any increase in the monthly rental amount no later than 30 days prior to the date the rental increase will begin.

3.5 Lessee shall be entitled to the use of common wash rooms and concessions.

4. Use of Leasehold Premises

4.1 Lessee shall use the leasehold premises only for office and storage, as applicable, and not for any purpose that would:

- a) be deemed hazardous to the public or adjoining premises including, but not necessarily limited to, fire, and environmental type hazards;
- b) constitute a violation of any public law or requirement;
- c) cause damage or injury to the Arena or any part of it (ordinary wear and tear excepted);
- d) interfere with normal operations of the Arena's heating, air conditioning, ventilating, plumbing, or other mechanical or electrical systems;
- e) constitute a public or private nuisance;
- f) interfere with other Arena uses;
- g) alter the appearance of the Arena exterior or any portion of the interior other than in the leasehold without prior written approval of the Lessor;
- h) place merchandise, materials, supplies, signs, or other things of any kind on the sidewalks or other common areas without City Staff approval;
- i) permit refuse to accumulate in or around leasehold; and,
- j) obstruct entry ways.

5. Use of Common Areas by Lessee

5.1 Lessee and its invitees shall have the right in common with Lessor, its invitees, and others to use the hallways, public restrooms, entrance ways, public parking, sidewalks, and surrounding area, subject, however, to rules and regulations of Lessor regulating the use of same and displays, rules providing for safety and maintenance, and changes in the layout of common areas.

6. Maintenance and Repair

6.1 Lessee shall be responsible for all janitorial and cleaning and all repairs of any nature of the Premises.

6.2 Lessee shall be solely responsible for the maintenance and repair of all of Lessee's fixtures, furniture and equipment, and keep them in a safe condition and good repair.

- 6.3 Lessee must obtain written consent of Lessor for all signage used by Lessee in the Premises and adjoining premises. All signage approved by Lessor shall be maintained in good condition and repair.
- 6.4 Lessor reserves the right to make any repairs or alterations that it deems necessary and desirable to the common areas.

7. Insurance and Indemnity

- 7.1 Lessee shall not permit any activity on the Premises which would invalidate or be in conflict with Lessor's fire, boiler, sprinkler, water damage, and extended coverage insurance policies covering the Arena and contents therein.
- 7.2 Lessee shall not permit any activity on the Premises which would cause Lessor's rate for the insurance described herein to be increased.
- 7.3 Lessee at its sole expense shall be responsible for insuring its own tangible personal property, equipment, and fixtures from loss from fire and other casualty and shall at all times provide Lessor with a certificate evidencing such coverage.
- 7.4 Lessee at its sole expense shall maintain liability insurance protecting and insuring Lessee and Lessor from all claims for injury or damage to persons or property arising out of the use of the Premises or the common areas of the Arena by Lessee, its employees, agents, invitees, and licensees. The amount of the insurance shall be not less than One Million (\$1,000,000.00) Dollars per occurrence for accident, bodily injury, or death and not less than Five Hundred Thousand (\$500,000.00) Dollars for property damage. Lessee shall at all times provide Lessor with a copy of said policies with proof of payment of premium thereon. The insurance policies shall bear endorsements to the effect that the insurer agrees to notify Lessor not less than thirty (30) days in advance of any modification or cancellation thereof. Lessor shall be named as an additional insured on all insurance policies required by this lease.
- 7.5 Lessee will indemnify and hold Lessor harmless from and against all loss, cost, expense and liability whatsoever (including Lessor's cost of defending against the foregoing, such cost to include attorneys' fees) resulting or occurring by reason of Lessee's construction on, use of or occupancy of the Premises.

8. Damage by Fire or Other Causes

- 8.1 If the Premises is partially damaged by fire or other peril without the fault or neglect of Lessee or of its servants, employees, agents, visitors, invitees or licenses, the damage shall be repaired by Lessor and at Lessor's expense. If the Premises or the Arena is substantially damaged (herein defined as fifty (50%) percent or more of the cost of replacement), Lessor may elect either to repair or rebuild the Premises or the Arena, as the case may be, or to terminate this lease upon giving notice of such election in writing to Lessee within ninety (90) days after the event causing the damage. If Lessor elects to rebuild, Lessee in a timely manner shall repair or replace its fixtures, furniture, equipment and improvements to at least the condition of same prior to the damage.

9. Assignment/Subletting

- 9.1 Lessee shall not assign or sublet the Premises or any part thereof without the express prior written consent of the Lessor.
- 9.2 In no event shall a sublease be allowed that would jeopardize the tax-exempt status of the Arena or any portion thereof.
- 9.3 Lessor may freely assign its rights and obligations under this Lease Agreement to any third party pursuant to a Purchase and Sale Agreement, Land Contract or similar instrument.

10. Use of Premises by Lessor

- 10.1 Lessor reserves for itself and its contractors and agents the right to enter the Premises at reasonable times for the purpose of inspecting, maintaining, installation, operation and repair services.
- 10.2 Lessor may close the building which is the subject of this Lease Agreement, in whole or in part, at any time during the leasehold period. In such event, the parties understand and agree that the Lessor is not responsible to reimburse the Lessee for any construction costs paid by Lessee to improve the leasehold space.
- 10.3 Lessee acknowledges that the use of the Premises is shared with Lessor, and that Lessor, and its assigns, agents and employees may enter the space at any time without prior notice to Lessee.

11. Covenant of Quiet Enjoyment

- 11.1 Lessor warrants and represents that it has full authority to execute this lease for the above term. Lessor covenants that upon Lessee paying the rents and performing its covenants and duties prescribed herein, Lessee may, except as otherwise described herein, have the exclusive and reasonable right to have, hold and enjoy the leasehold.

12. Lessor's Right to Perform Lessee's Obligation

- 12.1 If Lessee defaults in the observance or performance of any term or covenant of this lease, Lessor may, without thereby waiving the default, remedy the default at Lessee's expense. If, in connection therewith, Lessor makes any expenditure or incurs any obligation for the payment of money or in instituting, prosecuting, or defending any action or proceeding commenced before or during the term of this lease, or after the expiration or termination of this lease including, but not necessarily limited to, legal expenses and attorneys' fees, Lessee shall pay to Lessor on demand the sums paid or obligations incurred together with legal fees and costs.

13. Default by Lessee

- 13.1 If the Lessee fails to pay rent when due; if the Lessee fails to perform any other obligations under this agreement within thirty (30) days after receiving written notice of the default from the Lessor; if the Lessee makes any assignment for the benefit of creditors or a receiver is appointed for the Lessee or its property; or if any proceedings are instituted by or against the Lessee for bankruptcy

(including reorganization) or under any insolvency laws, the Lessor may terminate this lease, reenter the Premises, and seek to relet the Premises on whatever terms the Lessor thinks advisable. Notwithstanding reentry by the Lessor, the Lessee shall continue to be liable to the Lessor for rent owed under this lease and for any rent deficiency that results from reletting the premises during the term of this lease. Notwithstanding any reletting without termination, the Lessor may at any time elect to terminate this lease for any default by the Lessee by giving the Lessee written notice of the termination.

- 13.2 In addition to the Lessor's other rights and remedies as stated in this lease, and without waiving any of those rights, if the Lessor deems necessary any repairs that the Lessee is required to make, or if the Lessee defaults in the performance of any of its obligations under this lease, the Lessor may make repairs or cure defaults and shall not be responsible to the Lessee for any loss or damage that is caused by that action. The Lessee shall immediately pay to the Lessor, on demand, the Lessor's costs for curing any defaults, as additional rent under this lease.
- 13.3 The rights and remedies of Lessor shall be cumulative as more particularly provided at law or in equity pursuant to the laws of the State of Michigan.

14. Surrender of Leasehold Upon Termination of Lease

- 14.1 All renovations and improvements shall be at Lessee's expense and shall be considered fixtures and owned by Lessor upon termination of the lease. Upon the expiration or termination of the lease, Lessee shall surrender the Premises in good order and condition, ordinary wear and tear excepted, and shall remove all of its property, fixtures, and equipment from the Premises. In removing its equipment, Lessee shall be solely liable for repairing any and all damages to the Premises. In the event the Lessee fails to remove its equipment, and Lessor is required to do so, all costs and expenses incurred by Lessor in removing same and restoring the leasehold to useable condition shall be the financial responsibility of the Lessee.
- 14.2 If upon termination of the lease, Lessee has failed to remove its furniture, equipment, and fixtures, Lessor reserves the right to deem them abandoned and shall have the legal right to dispose of same, and costs incurred in disposing of same shall be the financial responsibility of Lessee.

15. Miscellaneous

- 15.1 This agreement shall be binding on the parties and inure to the benefit of the Lessor and Lessee and their respective successors and assigns.
- 15.2 This agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
- 15.3 This agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated herein.

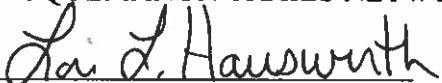
- 15.4 Any modification of this agreement or additional obligations assumed by either party in connection with this agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.
- 15.5 Waiver by Lessor of any breach of any covenant of duty of Lessee under this lease is not a waiver of a breach of any other covenant of duty of Lessee or any subsequent breach of the same covenant or duty.
- 15.6 The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.
- 15.7 All notices to be given under this lease shall be in writing and mailed, postage prepaid, or by certified or registered mail, return receipt requested, or delivered personally or by courier delivery, or sent by telecopy (immediately followed by one of the preceding methods) to Lessor's address and Lessee's address as above stated or any other place that Lessor or Lessee may designate in a written notice given to the other parties. Notices shall be deemed served on the earlier of receipt or three (3) working days after the date of mailing.

The parties have set their hands on the day and year first above written

CITY OF MARQUETTE

NOQUEMANON TRAILS NETWORK COUNCIL

Jennifer A. Smith, Mayor


By: LORI L. HAUSWIRTH
Its: EXECUTIVE DIRECTOR

Kyle Whitney, City Clerk

Approved as to Substance:

Karen M. Kovacs, City Manager

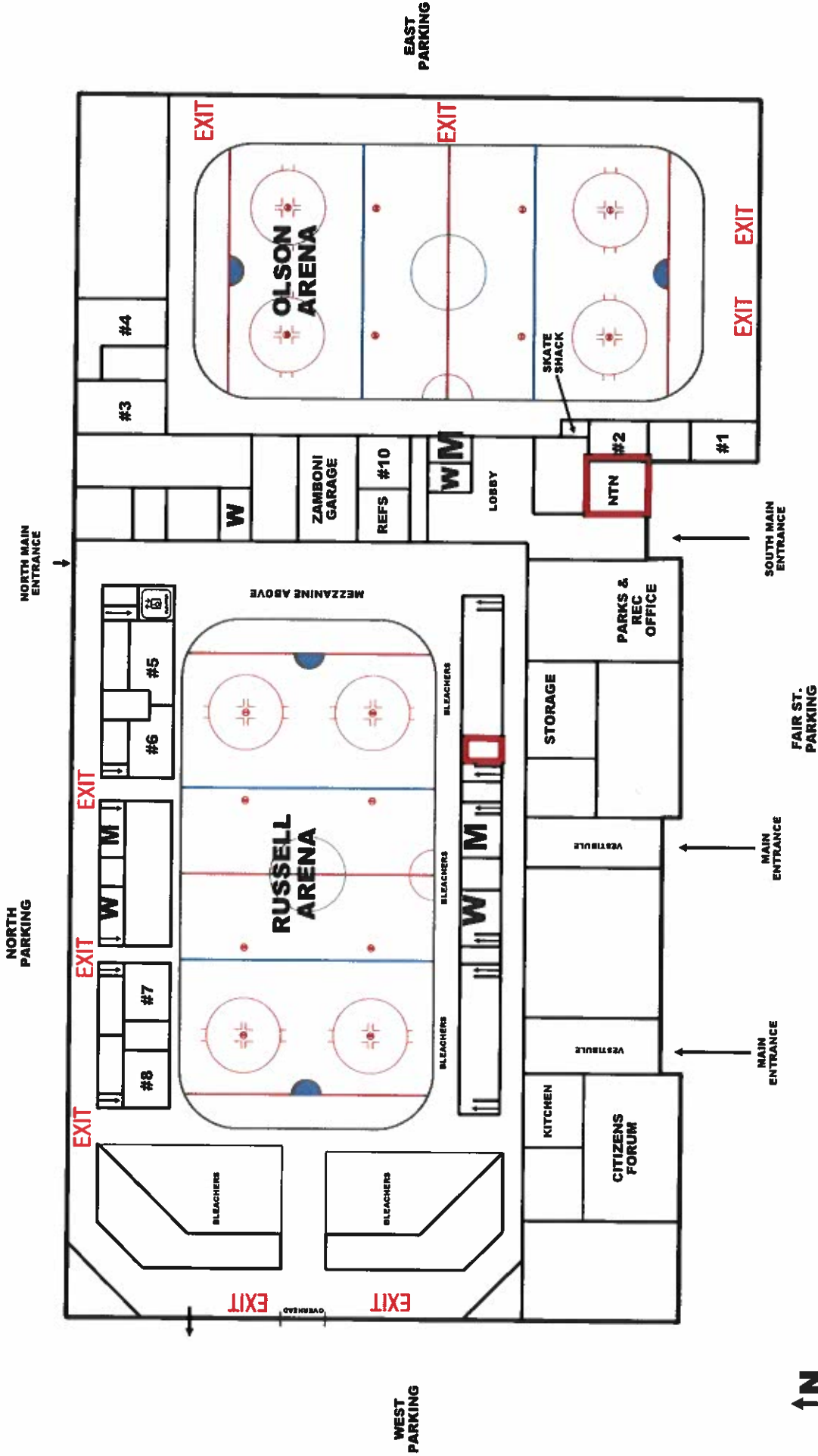
Approved as to Form:

Suzanne C. Larsen, City Attorney



LAKEVIEW ARENA

EXHIBIT A



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY / NONCONTRIBUTORY – FOR NAMED
ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

| SCHEDULE |
|---|
| Name of Person or Organization: THE CITY OF MARQUETTE, ITS OFFICERS AND EMPLOYEES 300 W. BARAGA AVENUE MARQUETTE, MI 49855 |

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement)

The following is added to **Section IV – Commercial General Liability Conditions**:

1. If insurance similar to this insurance is held by the person or organization named above that is an additional insured on this policy, this insurance is primary to that other insurance only if that other insurance lists the person or organization as a named insured. We shall not seek contribution from that other insurance for amounts payable under this insurance performed for that person or organization under a written agreement. However, this insurance is excess over any other valid and collectible insurance, whether primary, excess, contingent or on any other basis, in which the person or organization named above is not listed as a named insured of that other insurance.
2. However, the provisions of this endorsement do not apply to the person or organization named above unless you had a specific written agreement with that person or organization requiring that:
 - a. This insurance be primary insurance; and
 - b. They be an additional insured on this policy; and
 - c. The written agreement must be signed prior to the date that your operations for that person or organization commenced.

The insurance afforded by this endorsement shall only include the insurance required by the terms of the written agreement but only to the extent that the person or organization named above is covered within the terms of this Coverage Part. The Limits of Insurance shall be the lesser of the Limits of Insurance required by the written agreement between the parties or the Limits of Insurance provided by this Coverage Part.