

City of Marquette, MI



Meeting Agenda City Commission

**Monday, November 28, 2022
6:00 PM
Commission Chambers**

300 West Baraga Ave
Marquette, Michigan 49855

Call to Order, Pledge of Allegiance and Roll Call

Approval of the Agenda

Announcements

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

1. Consent Agenda

- 1.a. Approve the minutes of the November 14, 2022 regular Commission meeting
- 1.b. Approve the total bills payable in the amount of \$ 4,660,684.67
- 1.c. Marquette Figure Skating Club - Ice Contract
- 1.d. Marquette Figure Skating Club - Storage Lease Agreement
- 1.e. Marquette Junior Hockey Corporation - Concession Lease Agreement
- 1.f. Marquette Junior Hockey Corporation - Ice Contract
- 1.g. Ore Dock Real Estate, LLC Development and Reimbursement Agreement
- 1.h. Police Security Cameras and Cloud Service

New Business

- 2. Used Fire Truck Purchase
- 3. DPW and Utilities Labor Union Wages

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Comments from the Commission

Comments from the City Manager

Adjournment

Kyle Whitney, City Clerk

If you require assistance to participate in any meeting, program or activity offered by the City of Marquette, please provide advanced notice to City of Marquette ADA Coordinator Eric Stemen at 906-225-8978 or via email at estemen@marquettemi.gov.

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 11/28/2022

Consent Agenda

Approve the minutes of the November 14, 2022 regular Commission meeting

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ November 14 minutes



City of Marquette, MI

300 West Baraga Ave
Marquette, Michigan 49855

Meeting Minutes City Commission

Monday, November 14, 2022
7:00 PM
Commission Chambers

Call to Order, Pledge of Allegiance and Roll Call

Present: Bonsall, Davis, Hanley, Hill, Mayer, Smith, Stonehouse

City Clerk Kyle Whitney opened the meeting, announcing that this was the City Commission's annual organizational meeting and that he would run the meeting until officers were elected. The Clerk administered oaths of office for Commissioners Evan Bonsall and Sally Davis, who were each elected to three-year terms in the Nov. 8 General Election. Clerk Whitney then administered Commission elections for Mayor and Mayor Pro Tem for the coming year. Commissioner Cody Mayer was selected as mayor, after receiving four votes and Commissioner Sally Davis was unanimously selected as Mayor Pro Tem. The Clerk then administered the oaths of office to both of the newly elected officers, and then turned the meeting over to Mayor Cody Mayer.

Approval of the Agenda

Commissioner Evan Bonsall moved to Approve the agenda as presented, seconded by Commissioner Jenn Hill and Carried Unanimously.

Announcements

Mayor Mayer had no announcements.

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Bruce Heikkila shared concerns about the cost of utility infrastructure related to a recently announced development in the City.

Stephen Krygier, the interim director of Room at the Inn, introduced himself to the commission and discussed plans for the future.

1. Consent Agenda - Roll Call Vote

Jennifer Smith moved to Approve the Consent Agenda as presented, seconded by Mayor Pro Tem Sally Davis and Carried Unanimously by Roll Call Vote.

1.a. Approve the minutes of the October 24, 2022 regular Commission meeting

1.b. Approve the total bills payable in the amount of \$ 3,235,927.17

- 1.c. Blight Resolution to Support CDBG Application for Former MGH Campus - Roll Call Vote
- 1.d. Community Development Block Grant Application
- 1.e. Cliffs Dow EPA Cleanup Grant Application - Roll Call Vote
- 1.f. Former Cliffs Dow Site Legal Compliance Retention Agreement
- 1.g. Proclamation - Small Business Saturday
- 1.h. Schedule a Public Hearing- Rezoning Parcel of NMU Owned Property at 1000 Wright Street
- 1.i. Seamless HRA Plan Document
- 1.j. Utilization of State Bid for Annual Salt Purchase
- 1.k. Noquemanon Trails Network - Office and Storage Lease Agreement
- 1.l. Hockey Mutineers of Marquette - Locker Room Lease Agreement

New Business

- 2. Approve 2023 City Commission Meeting Schedule

Commissioner Fred Stonehouse moved to Approve the meeting schedule as written, seconded by Mayor Pro Tem Sally Davis and Carried Unanimously.

- 3. Letter of Resignation of Commissioner Jenn Hill

Commissioner Jessica Hanley moved to Confirm acceptance of the letter of resignation from Commissioner Jenn Hill, seconded by Commissioner Jennifer Smith and Carried Unanimously.

- 4. Procedure to Fill City Commission Vacancy

Commissioner Evan Bonsall moved to Direct the City Clerk to make City Commission application forms available online and in the Clerk's Office, and to accept applications from interested parties until 4 p.m. on Thursday, December 8, 2022; and to then proceed with the appointment of a new City Commissioner at the December 19 regular meeting, seconded by Commissioner Jessica Hanley and Carried Unanimously.

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Bruce Heikkila spoke about concerns related to financing mechanisms used in recent property developments in the City.

Comments from the Commission

Commissioner Bonsall congratulated Jenn Hill on her election to the state house, as well as on her years of service to the city. He acknowledged the passing of former City Commissioner Mike Plourde, who he said had a great impact on the city and a personal impact on Commissioner Bonsall. He thanked the residents that supported him in last week's election. Finally, he thanked Mr. Krygier for speaking on behalf of Room at the Inn and advocated for an increased focus on the issue of homelessness and the impact on the community and, more broadly, society.

Mayor Pro Tem Davis thanked Mr. Krygier for coming and said she would like to further discuss the organization's future. She thanked those who voted for her last week and congratulated Commissioner Bonsall, and said she especially wanted to recognize the many staff members involved in making sure the election runs smoothly. She acknowledged Veterans' Day and recognized the passing of former City Commissioner Plourde. She also said the Community Master Plan process has started, and the group needs to hear the opinions of people from throughout the community.

Commissioner Hanley thanked the candidates that won last Tuesday. She then responded to Mr. Heikkila and said she shares some of his concerns; she also explained a bit about how brownfield projects in the DDA district function. Commissioner Hill also thanked Mr. Krygier for speaking tonight.

Commissioner Hill thanked everyone for their support and expressed hope that the elected officials in Lansing will be able to provide assistance to local municipalities.

Commissioner Smith congratulated everyone on their recent election successes, and congratulated the new officers of the commission. She said she is going to need some time to get used to her new role on the commission, and thanked everyone for supporting her during her time as mayor, which she said has been an honor.

Commissioner Stonehouse said he wanted to take time to remember Mike Plourde, who was a good commissioner and a great booster of the city who will be missed. He said he would like additional detail on the parking garage associated with the Vault hotel project. He said that housing-related issues are not specific to Marquette, but are largely regional, state and national in scope, and that the greatest help may be available from outside sources as a part of a larger effort.

Mayor Mayer congratulated those who were elected or re-elected last week, thanked Commissioner Smith for her years spent as mayor, and thanked his fellow commissioners for appointing him mayor for the coming year.

Comments from the City Manager

City Manager Karen Kovacs shared background on the Hemlock development and the history of similar projects. She offered updates on housing issues and said there are intergovernmental discussions on this topic. She congratulated those commissioners that won elections last week, and congratulated the newly selected officers.

Adjournment

Mayor Mayer adjourned the meeting at 8:11 p.m.

Cody O. Mayer, Mayor

Kyle Whitney, City Clerk

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City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 11/28/2022

Consent Agenda

Marquette Figure Skating Club - Ice Contract

BACKGROUND:

The Marquette Figure Skating Club has an Agreement for Use of Lakeview Arena for ice use. Staff has worked with the City Attorney and Marquette Figure Skating Club to draft a standard use agreement which provides for terms and conditions of the request. The agreement allows for six equal payments of \$6,800. A total of 202 hours were requested for a total cost of \$40,800 during the 2023 ice season.

FISCAL EFFECT:

The Lakeview Arena fund will receive \$40,800 in revenue for FY 2023.

RECOMMENDATION:

Approve the Agreement for Use of Lakeview Arena with the Marquette Figure Skating Club for ice use, and authorize the Mayor and Clerk to sign the agreement.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▢ Agreement, Schedule, Exhibit, Insurance

AGREEMENT FOR USE OF LAKEVIEW ARENA

This Agreement, made and entered into this _____ day of _____, 2022, by and between the City of Marquette, a municipal corporation, of 300 W. Baraga Avenue, Marquette, MI 49855 (hereinafter referred to as the "City"), and The Marquette Figure Skating Club, of 401 E. Fair Avenue, Marquette, MI 49855 (hereinafter referred to as the "User Group").

WHEREAS, the City is the owner and operator of Lakeview Arena at 401 E. Fair Avenue, Marquette, Michigan; and

WHEREAS, the City is willing to lease to User Group space as shown in Exhibit "A" in Lakeview Arena in accordance with the terms and conditions contained herein from October 1, 2022, through March 31, 2023.

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

1. In consideration of six (6) equal monthly payments of \$6,800.00, the User Group shall be entitled to exclusive use of the Lakeview Arena ice sheet specified in Exhibit "A" for the times listed under "Customer Schedule" which includes 202 hours. The City will invoice the User Group on the fifteenth (15th) day of each month beginning in October of 2022 and payment shall be due no later than the last day of the following month. The User Group shall pay for all additional hours of ice usage at the same time the sixth monthly payment is made.

2. Should the User Group wish to lease its ice time to another responsible group, at the same rate, during the contract period, it may do so upon forty-eight (48) hours minimum notice to the City. Such sub-lease of User Group ice time shall be made and transacted between the parties and not involve the City. The City retains the right to deny such use for cause which shall not be unreasonably

withheld.

3. This Agreement will entitle User Group space in the facility as selected by the Arena Management for providing complimentary food and beverage to U.S.F.S.A. judges and officials for special events as host club. Food and beverage service operated by the City, or by those persons contracting with the City to provide said services, will be available to others during advertised special events. The City will work with the User Group to coordinate food service.

4. Arena facilities to hold club meetings, award presentations, and other limited approved events will be made at no additional cost to the User Group, in locations determined by the Arena Management and subject to availability.

5. The User Group recognizes that use of Arena facilities must be properly planned. User Group will provide a minimum of forty-eight (48) hours notice to the City in the event of any facility use changes, including cancellation, change of time, or additional use, and will maintain the facilities as they were found prior to their use.

6. The User Group agrees to indemnify and hold harmless the City, its officials, employees, volunteers and others working on behalf of the City against any and all claims, demands, suits or loss, including all costs connected therewith and for any damages which may be asserted, claimed or recovered against or from the City, its officials, employees, volunteers and others working on behalf of the City by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Agreement.

7. The User Group shall procure and maintain insurance for the duration of this Agreement against liability claims for injuries to persons or damages to property which may arise from or in connection with the use of Lakeview Arena and naming the City as an additional insured. The

insurance required by this Agreement shall be in amounts acceptable to the City and shall be endorsed to state that coverage shall not be reduced or canceled except after thirty (30) days notice to the City by certified mail, return receipt requested.

8. The occurrence of any of the following shall constitute a default by the User Group:
 - a. Abandonment and vacation of Lakeview Arena during the Agreement.
 - b. Failure to perform any provision of this Agreement, if the failure to perform is not cured within thirty (30) days after the City provides written notice to the User Group.
 - c. Failure to maintain insurance as required by this Agreement, which shall be cause for immediate termination of this Agreement by the City.
 - d. The User Group files a petition in bankruptcy or insolvency or for reorganization, or involuntary proceedings are filed against the User Group under applicable bankruptcy laws.
 - e. The User Group fails to make any payment when due.

9. In the event of default, the City shall provide the User Group written notice of default. The User Group shall have thirty (30) days after notice is provided to cure said default. No notice shall be deemed a forfeiture or termination of this Agreement unless the City specifies such in the notice. In the event the User Group does not cure the default within the allowed thirty (30) day time period, the City shall have the following remedies, which shall not be exclusive and shall be in addition to any other remedies now or later allowed by law:

- a. The City may elect to continue this Agreement.
- b. The City may terminate the User Group's right to possession of Lakeview Arena at any time, by providing specific written notice to this effect.
- c. The City shall be entitled to recover all amounts, including any attorney fees

incurred by the City in pursuit of the default.

10. Any notice required under this Agreement shall be in writing and served by prepaid, first class mail to the address listed on the first page of this Agreement, or any other address as either party may provide to the other in writing.

11. No delay or omission in the exercise of any right or remedy of the City on any default by the User Group shall impair such right or remedy or be construed as a waiver of the right to pursue such remedy.

12. Nothing in this lease shall render the City in any way a partner, in joint ventureship with the User Group.

13. Upon the expiration or termination of this Agreement, the User Group shall at its sole expense:

- a. Remove all of its goods, effects, and equipment.
- b. Surrender the premises to the City.

Any goods, effects or equipment owned by the User Group that is not removed shall be deemed to have been abandoned and shall become the property of the City.

14. By executing this Agreement and taking possession pursuant to the terms contained herein, the User Group acknowledges that Lakeview Arena is in the condition called for by this Agreement.

15. This Agreement contains the entire agreement of the parties with respect to its subject matter. This Agreement may not be modified except by a written document signed by the parties.

16. This Agreement shall bind and benefit the parties and their successors and permitted assigns.

17. This contract is executed in the City of Marquette, State of Michigan, and shall be construed under the laws of the State of Michigan, and the parties agree that any action relating to this contract shall be instituted and prosecuted in the courts of the County of Marquette, State of Michigan, and each party waives the right to change of venue.

18. In the event the Arena is required to temporarily close pursuant to any law or government order, User Group will be prohibited from entering the Arena. In such event, User Group will be billed, and agrees to pay, for actual usage during such time.

CITY OF MARQUETTE

THE MARQUETTE FIGURE SKATING CLUB

Cody O. Mayer, Mayor

Erica H. Noe
By: Erica Noe
Its: Board Member

Kyle Whitney, City Clerk

APPROVED AS TO SUBSTANCE:

Karen M. Kovacs, City Manager

APPROVED AS TO FORM:

Suzanne C. Larsen, City Attorney



Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # R4112

Status Approved

Date Jul 27, 2022 10:02 AM

Organization Name	Marquette Figure Skating Club - 807	Organization Phone 1	(906) 204-4142
Customer Type	General Public	Number	
Organization Address	401 E Fair Ave Marquette, MI 49855		
Agent Name	Lorelei Johnson	Work Phone Number	(906) 204-4142
		Email Address	loreleijohnson@alumni.nmu.edu
System User	mlanderson		

Rental Fee	\$7,980.00
Discounts	\$0.00
Subtotal	\$7,980.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$7,980.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$7,980.00

MFSC October

1 resource(s) 13 booking(s) Subtotal: \$7,980.00

Booking Summary

Olson Arena - Ice (Ice Rental Resident)Center: Lakeview Arena

START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX
Oct 2, 2022 4:30 PM	Oct 30, 2022 6:30 PM	--	
	Cleanup		
	6:20 PM - 6:30 PM		
Occurs every Sunday effective Oct 2, 2022 until Oct 30, 2022 from 4:30 PM to 6:30 PM			
Oct 2, 2022 4:30 PM	Oct 2, 2022 6:30 PM	1	\$420.00
	Cleanup		
	6:20 PM - 6:30 PM		
Ice Time Hourly Prime - Resident S-S	\$210.00 / Hour x 2		\$420.00
Oct 9, 2022 4:30 PM	Oct 9, 2022 6:30 PM	1	\$420.00
	Cleanup		
	6:20 PM - 6:30 PM		
Ice Time Hourly Prime - Resident S-S	\$210.00 / Hour x 2		\$420.00

of Marquette, MI

Page 14 of 94

Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # R4113

Status Approved

Date Jul 27, 2022 10:06 AM

Organization Name	Marquette Figure Skating Club - 807	Organization Phone 1	(906) 204-4142
Customer Type	General Public	Number	
Organization Address	401 E Fair Ave Marquette, MI 49855		
Agent Name	Lorelei Johnson	Work Phone Number	(906) 204-4142
		Email Address	lorelei.johnson@alumni.nmu.edu
System User	mlianderson		

Rental Fee	\$7,140.00
Discounts	\$0.00
Subtotal	\$7,140.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$7,140.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$7,140.00

MFSC November

1 resource(s) 12 booking(s) Subtotal: \$7,140.00

Booking Summary

Olson Arena - Ice (Ice Rental Resident)Center: Lakeview Arena

START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX
Nov 1, 2022 4:00 PM	Nov 29, 2022 7:30 PM	--	
	Cleanup		
	7:20 PM - 7:30 PM		
Occurs every Tuesday effective Nov 1, 2022 until Nov 29, 2022 from 4:00 PM to 7:30 PM			
Nov 1, 2022 4:00 PM	Nov 1, 2022 7:30 PM	1	\$735.00
	Cleanup		
	7:20 PM - 7:30 PM		
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00
Nov 8, 2022 4:00 PM	Nov 8, 2022 7:30 PM	1	\$735.00
	Cleanup		
	7:20 PM - 7:30 PM		
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00

of Marquette, MI

Page 15 of 94

Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # R4114

Status Approved

Date Jul 27, 2022 10:12 AM

Organization Name	Marquette Figure Skating Club - 807	Organization Phone 1	(906) 204-4142
Customer Type	General Public	Number	
Organization Address	401 E Fair Ave Marquette, MI 49855		
Agent Name	Lorelei Johnson	Work Phone Number	(906) 204-4142
		Email Address	loreleijohnson@alumnl.nmu.edu
System User	mianderson		

Rental Fee	\$4,515.00
Discounts	\$0.00
Subtotal	\$4,515.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$4,515.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$4,515.00

MFSC December		1 resource(s)	8 booking(s)	Subtotal: \$4,515.00
Booking Summary				
Olson Arena - Ice (Ice Rental Resident)			Center: Lakeview Arena	
START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX	
Dec 1, 2022 4:00 PM	Dec 8, 2022 7:30 PM	--		
	Cleanup			
	7:20 PM - 7:30 PM			
Occurs every Thursday effective Dec 1, 2022 until Dec 8, 2022 from 4:00 PM to 7:30 PM				
Dec 1, 2022 4:00 PM	Dec 1, 2022 7:30 PM	1	\$735.00	
	Cleanup			
	7:20 PM - 7:30 PM			
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00	
Dec 8, 2022 4:00 PM	Dec 8, 2022 7:30 PM	1	\$735.00	
	Cleanup			
	7:20 PM - 7:30 PM			
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00	

of Marquette, MI

Page 16 of 94

Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # R4116

Status Approved

Date Jul 27, 2022 10:17 AM

Organization Name	Marquette Figure Skating Club - 807	Organization Phone 1	(906) 204-4142
Customer Type	General Public	Number	
Organization Address	401 E Fair Ave Marquette, MI 49855		
Agent Name	Lorelei Johnson	Work Phone Number	(906) 204-4142
		Email Address	loreleijohnson@alumni.nmu.edu
System User	miaanderson		

Rental Fee	\$7,875.00
Discounts	\$0.00
Subtotal	\$7,875.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$7,875.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$7,875.00

MFSC January		1 resource(s)	13 booking(s)	Subtotal: \$7,875.00
Booking Summary				
Olson Arena - Ice (Ice Rental Resident)			Center: Lakeview Arena	
START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX	
Jan 3, 2023 4:00 PM	Jan 3, 2023 7:30 PM	1	\$735.00	
	Cleanup			
	7:20 PM - 7:30 PM			
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00	
Jan 5, 2023 4:00 PM	Jan 5, 2023 7:30 PM	1	\$735.00	
	Cleanup			
	7:20 PM - 7:30 PM			
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00	
Jan 8, 2023 4:30 PM	Jan 29, 2023 6:30 PM	--		
	Cleanup			
	6:20 PM - 6:30 PM			
Occurs every Sunday effective Jan 8, 2023 until Jan 29, 2023 from 4:30 PM to 6:30 PM				

of Marquette, MI

Page 17 of 94

Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # R4117

Status Approved

Date Jul 27, 2022 10:21 AM

Organization Name	Marquette Figure Skating Club - 807	Organization Phone 1	(906) 204-4142
Customer Type	General Public	Number	
Organization Address	401 E Fair Ave Marquette, MI 49855		
Agent Name	Lorelei Johnson	Work Phone Number	(906) 204-4142
		Email Address	loreleijohnson@alumnl.nmu.edu
System User	mianderson		

Rental Fee	\$7,140.00
Discounts	\$0.00
Subtotal	\$7,140.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$7,140.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$7,140.00

MFSC February

1 resource(s) 11 booking(s) Subtotal: \$7,140.00

Booking Summary

Olson Arena - Ice (Ice Rental Resident)Center: Lakeview Arena

START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX
Feb 2, 2023 4:00 PM	Feb 23, 2023 7:30 PM	--	
	Cleanup		
	7:20 PM - 7:30 PM		
Occurs every Thursday effective Feb 2, 2023 until Feb 23, 2023 from 4:00 PM to 7:30 PM			
Feb 2, 2023 4:00 PM	Feb 2, 2023 7:30 PM	1	\$735.00
	Cleanup		
	7:20 PM - 7:30 PM		
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00
Feb 9, 2023 4:00 PM	Feb 9, 2023 7:30 PM	1	\$735.00
	Cleanup		
	7:20 PM - 7:30 PM		
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00

of Marquette, MIPage 18 of 94

Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # R4119

Status Approved

Date Jul 27, 2022 10:23 AM

Organization Name	Marquette Figure Skating Club - 807	Organization Phone 1	(906) 204-4142
Customer Type	General Public	Number	
Organization Address	401 E Fair Ave Marquette, MI 49855		
Agent Name	Lorelei Johnson	Work Phone Number	(906) 204-4142
		Email Address	loreleijohnson@alumni.nmu.edu
System User	mlanderson		

Rental Fee	\$5,250.00
Discounts	\$0.00
Subtotal	\$5,250.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$5,250.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$5,250.00

MFSC March		1 resource(s)	8 booking(s)	Subtotal: \$5,250.00
Booking Summary				
Olson Arena - Ice (Ice Rental Resident)			Center: Lakeview Arena	
START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX	
Mar 2, 2023 4:00 PM	Mar 16, 2023 7:30 PM	--		
	Cleanup			
	7:20 PM - 7:30 PM			
Occurs every Thursday effective Mar 2, 2023 until Mar 16, 2023 from 4:00 PM to 7:30 PM				
Mar 2, 2023 4:00 PM	Mar 2, 2023 7:30 PM	1	\$735.00	
	Cleanup			
	7:20 PM - 7:30 PM			
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00	
Mar 9, 2023 4:00 PM	Mar 9, 2023 7:30 PM	1	\$735.00	
	Cleanup			
	7:20 PM - 7:30 PM			
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 3.5		\$735.00	



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/22/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER American Specialty Insurance & Risk Services, Inc. dba American Specialty Insurance & Risk Services Agency 7609 W. Jefferson Blvd., Suite 100 Fort Wayne IN 46804		CONTACT NAME: PHONE (A/C No. Ext): FAX (A/C No.): E-MAIL ADDRESS:	
INSURED United States Figure Skating Association 20 First Street Colorado Springs CO 80906		INSURER(S) AFFORDING COVERAGE INSURER A: Arch Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 11150	

COVERAGES

CERTIFICATE NUMBER: 1002006212

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☐ GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☒ OTHER: CLUB	Y	SBCGL0252105	07/01/2022	07/01/2023	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000					
	MED EXP (Any one person) \$ Excluded					
	PERSONAL & ADV INJURY \$ 1,000,000					
						GENERAL AGGREGATE \$ 5,000,000
						PRODUCTS - COMP/OP AGG \$ 5,000,000
						\$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$
						BODILY INJURY (Per person) \$
						BODILY INJURY (Per accident) \$
						PROPERTY DAMAGE (Per accident) \$
						\$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$
						AGGREGATE \$
						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐	N/A			PER STATUTE ☐ OTH-ER ☐
						E.L. EACH ACCIDENT \$
						E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

- Coverage only applies to losses arising from the operations of the REGULAR MEMBER CLUB, MARQUETTE FSC - #1465, CERT ADDRESS, MARQUETTE, MI 49855-2951.

- The General Liability policy includes Form 00 SGL0100 00 Exclusion - Designated Activity, Service or Work, with the following Designated Activity, Service or Work scheduled: Ownership and / or operations of skating rinks

CERTIFICATE HOLDER**CANCELLATION**

CITY OF MARQUETTE 300 W BARAGA AVENUE MARQUETTE MI 49855	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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ACORD 25 (2016/03)

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ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY American Specialty Insurance & Risk Services, Inc.		NAMED INSURED United States Figure Skating Association 20 First Street
POLICY NUMBER SBCGL0252105		
CARRIER Arch Insurance Company	NAIC CODE 11150	Colorado Springs, CO 80906 EFFECTIVE DATE: 07/01/2022

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE - Certificate #1002006212

- Named Insured (continued): United States Figure Skating Association dba Learn to Skate USA
 United States Figure Skating Association member clubs (including their individual members), but only with respect to skating and off-ice activities conducted and supervised by them, for their participation in United States Figure Skating Association sanctioned events, and non-sanctioned events, including, but not limited to, fund-raising events, banquets, award ceremonies
 United States Figure Skating Association Learn to Skate Member organizations, but only with respect to Learn to Skate operations
 Officials, but only while acting in their capacity as such at United States Figure Skating Association sanctioned events
 United States Figure Skating Foundation
 USFSA Theatre on Ice/Ensemble/Team Members
 USFSA Affiliated High School Clubs
 20 First Street Properties
 World Figure Skating Museum and Hall of Fame
- The Certificate Holder shall be an Additional Insured, but only with respect to the operations of the Named Insured, and subject to the provisions and limitations of Form CG 2026 Additional Insured - Designated Person or Organization, effective July 1, 2021.

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 11/28/2022

Consent Agenda

Marquette Figure Skating Club - Storage Lease Agreement

BACKGROUND:

Marquette Figure Skating Club has requested the City Commission consider leasing storage space at Lakeview Arena. Staff has worked with the City Attorney and Marquette Figure Skating Club to draft a standard lease agreement for the terms and conditions of the request. The annual payment shall be \$699.96 based on the recent storage rate increase from \$6 to \$7/square foot. The lease term is five (5) years.

The lease agreement allows for fee increases not-to-exceed twenty percent (20%) of the previous year's rental rate.

FISCAL EFFECT:

The Lakeview Arena fund will receive \$699.96 in revenue for FY 2023.

RECOMMENDATION:

Move the five-year lease agreement with Marquette Figure Skating Club for storage space at Lakeview Arena to the next regular Commission meeting.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▢ Lease, Exhibit A and Insurance

LEASE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2022, by and between **THE CITY OF MARQUETTE**, a Michigan municipal corporation, of 300 W. Baraga Avenue, Marquette, MI 49855, hereinafter "LESSOR", and **MARQUETTE FIGURE SKATING CLUB**, a Michigan not-for-profit corporation, of 401 E. Fair Avenue, 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 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 be from October 1, 2022 until October 30, 2027.

3. Rent

- 3.1 Annual rent shall be SEVEN AND 00/100 DOLLARS (\$7.00) per square foot. (10 feet x 10 feet). Lessee shall pay FIFTY EIGHT AND 033/100 DOLLARS (\$58.33) monthly due in advance on the first day of each month.
- 3.2 Rental amount 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.

4. Use of Leasehold Premises

- 4.1 Lessee shall use the leasehold premises only for storage 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.

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

MARQUETTE FIGURE SKATING
CLUB

Cody O. Mayer, Mayor

By: Erica Noe
Its: MFSC Board Member

Kyle Whitney, City Clerk

Approved as to Substance:

Karen M. Kovacs, City Manager

Approved as to Form:

Suzanne C. Larsen, City Attorney

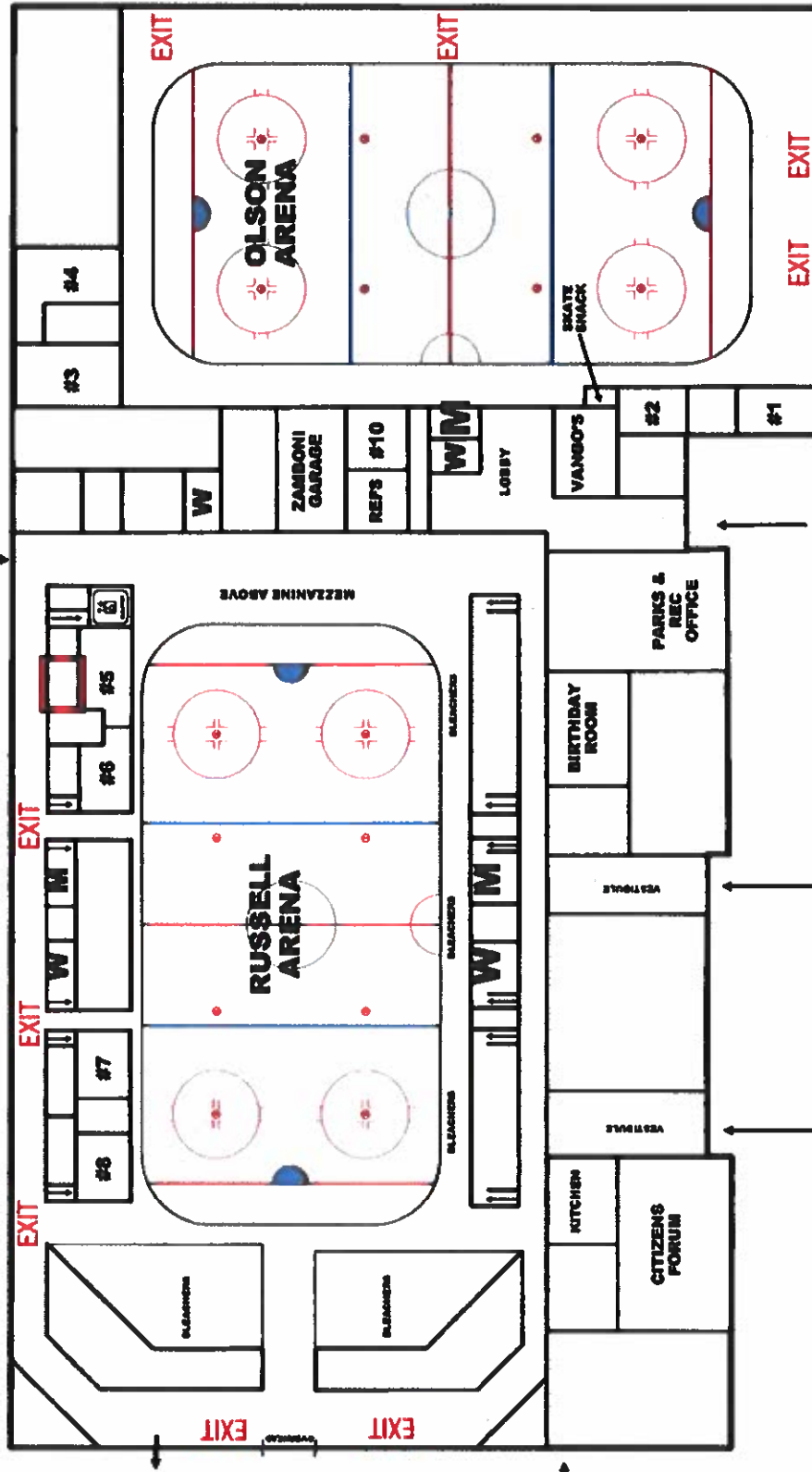


LAKEVIEW ARENA

EXHIBIT A

NORTH PARKING

NORTH MAIN ENTRANCE



EAST PARKING

SOUTH MAIN ENTRANCE

FAIR ST. PARKING

MAIN ENTRANCE

MAIN ENTRANCE

WEST PARKING

SUPERIOR HOCKEY ENTRANCE





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/22/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER American Specialty Insurance & Risk Services, Inc. dba American Specialty Insurance & Risk Services Agency 7609 W. Jefferson Blvd., Suite 100 Fort Wayne IN 46804		CONTACT NAME: PHONE (A/C, No. Ext): FAX (A/C, No): E-MAIL ADDRESS:	
INSURED United States Figure Skating Association 20 First Street Colorado Springs CO 80906		INSURER(S) AFFORDING COVERAGE INSURER A: Arch Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 11150	

COVERAGES

CERTIFICATE NUMBER: 1002006212

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☒ OTHER: CLUB	Y		SBCGL0252105	07/01/2022	07/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$ ☐						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐	N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

- Coverage only applies to losses arising from the operations of the REGULAR MEMBER CLUB, MARQUETTE FSC - #1465, CERT ADDRESS, MARQUETTE, MI 49855-2951.

- The General Liability policy includes Form 00 SGL0100 00 Exclusion - Designated Activity, Service or Work, with the following Designated Activity, Service or Work scheduled: Ownership and / or operations of skating rinks

CERTIFICATE HOLDER

CITY OF MARQUETTE

300 W BARAGA AVENUE

MARQUETTE

MI 49855

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Drew Smith

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ACORD 25 (2016/03)

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AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY American Specialty Insurance & Risk Services, Inc.		NAMED INSURED United States Figure Skating Association 20 First Street	
POLICY NUMBER SBCGL0252105		NAIC CODE 11150	
CARRIER Arch Insurance Company		EFFECTIVE DATE: 07/01/2022	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE - Certificate #1002006212

- Named Insured (continued): United States Figure Skating Association dba Learn to Skate USA
 United States Figure Skating Association member clubs (including their individual members), but only with respect to skating and off-ice activities conducted and supervised by them, for their participation in United States Figure Skating Association sanctioned events, and non-sanctioned events, including, but not limited to, fund-raising events, banquets, award ceremonies
 United States Figure Skating Association Learn to Skate Member organizations, but only with respect to Learn to Skate operations
 Officials, but only while acting in their capacity as such at United States Figure Skating Association sanctioned events
 United States Figure Skating Foundation
 USFSA Theatre on Ice/Ensemble/Team Members
 USFSA Affiliated High School Clubs
 20 First Street Properties
 World Figure Skating Museum and Hall of Fame

- The Certificate Holder shall be an Additional Insured, but only with respect to the operations of the Named Insured, and subject to the provisions and limitations of Form CG 2026 Additional Insured - Designated Person or Organization, effective July 1, 2021.

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 11/28/2022

Consent Agenda

Marquette Junior Hockey Corporation - Concession Lease Agreement

BACKGROUND:

Marquette Junior Hockey Corporation (MJHC) has requested a lease for the concession area of Lakeview Arena. MJHC operated the concession area during the 2022 ice season. Staff has worked with the City Attorney and MJHC to draft the lease agreement. The agreement term is six (6) months, beginning October 1, 2022 through March 31, 2023. The monthly payment during operation shall be \$849.33.

It should be noted that there are specific hours which MJHC would have exclusive rights to concession in the building. Outside of these hours other arrangements with other entities are possible.

FISCAL EFFECT:

The Lakeview Arena fund will receive \$5,095.98 in revenue for FY 2023.

RECOMMENDATION:

Move the lease agreement with Marquette Junior Hockey Corporation for concession space at Lakeview Arena to the next regular meeting.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Lease and Exhibit A
- ▣ Insurance

LEASE AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2022, by and between **THE CITY OF MARQUETTE**, a Michigan municipal corporation, of 300 W. Baraga Avenue, Marquette, Michigan 49855, hereinafter "LESSOR", and **MARQUETTE JUNIOR HOCKEY CORP.**, a Michigan corporation, of 401 E. Fair Avenue, Marquette Michigan 49855, hereinafter "LESSEE".

Recitals

- A. Lessor is the owner and operator of Lakeview Arena, located at 401 E. Fair Avenue, Marquette, Michigan.
- B. Lessee desires to lease and Lessor is willing to lease to Lessee the concessions space shown in Exhibit "A" located in Lakeview Arena's lobby 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 the space ("Premises") as shown in Exhibit "A".
- 1.2 Lessee 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 at Lessee's cost, 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 Agreement shall be for six (6) months, as follows:
October 1, 2022 through March 31, 2023.
- 2.2 So long as Lessor has timely provided Lessee with an ice schedule for Lakeview Arena, Lessee shall, no later than each Friday during the term of the lease, provide Lessor with a written list of the hours of operation for the following week.
- 2.3 Lessee shall have exclusive rights to concessions within Lakeview Arena for the term of this Agreement during the following hours:
 - a) Monday through Friday from 4:00 p.m. until 9:00 p.m.;
 - b) Saturday from 8:00 a.m. until 4:00 p.m.; and
 - c) Sunday from 8:00 a.m. until 3:00 p.m.

If Lessee is unable to provide concessions services during an event taking place during Lessee's exclusive use hours, Lessee is encouraged to partner with one of the local mobile food units to provide services. Lessee may operate outside the outlined exclusive use hours, but will not have exclusive rights to concessions during those times.

3. Rent

3.1 The monthly rental amount shall be \$849.33 due in advance on the first day of each month. October rent shall be paid for the entire month of October on the date this Lease is executed.

3.2 Lessee shall be entitled to the use of common wash rooms.

Lessee shall be responsible for its own telephone and internet service as needed and desired by Lessee.

4. Use of Leasehold Premises

4.1 Lessee shall use the Premises only as a concession area, 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 Premises, except as provided herein, without prior written approval of the Lessor;
- h) place merchandise, materials, supplies, signs, or other thing of any kind on the sidewalks or other common areas without written approval;
- i) permit refuse to accumulate in or around Premises; and,
- j) obstruct entry ways.

4.2 Lessee is solely responsible for obtaining all necessary licenses and permits and otherwise complying with all laws while providing the concessions contemplated by this Agreement.

4.3 Lessee is solely responsible for development of menu items and pricing, for obtaining all supplies and products and for all costs related to its sale of food and beverages.

5. Alcohol Beverage Concessions:

5.1 Lessee has the right to obtain a Michigan Liquor Control Commission ("MLCC") license and related permits for the sale of alcohol for use in the performance of this Lease. Obtaining the MLCC license and all fees related to obtaining, maintaining and using the MLCC license shall be the sole responsibility of Lessee. No alcohol shall be sold on the Premises until Lessee has obtained all required MLCC licenses and permits, required liquor liability insurance and otherwise complied with all legal requirements pertaining to the sale of alcohol.

5.2 Alcohol concessions shall only provided by Lessee at the following location: _____. Lessee shall provide all employees to be used to prepare, charge for and collect alcohol beverage concession fees. Lessee shall retain all alcohol beverage concession fees collected; and the Lessor shall not be entitled to any portion of said alcohol beverage concession fees.

Lessor shall cooperate, as necessary, in Lessee's attempt to obtain a MLCC license; however, this Agreement shall remain in full force and effect even in the event Lessee is unable to obtain a MLCC license or Lessee's MLCC license is revoked by the MLCC/State of Michigan. Lessee agrees, at all times, to comply with all local, MLCC, state and federal laws, rules, and regulations regarding the sale of alcohol products.

5.3 Lessee shall be responsible for obtaining all required permits and licenses from local and/or state governmental entities to operate all concessions and shall provide copies of said licenses and permits to Lessor upon request.

With respect to the MLCC license and related permits, Lessee shall:

- a) Only sell alcoholic beverages during regular concessions hours as permitted in this Lease, and as permitted by all statutes, ordinances and other laws pertaining to the sale of alcohol.
- b) Designate a secured area in the Premises, where persons of legal age may purchase and consume alcoholic beverages without underage persons being present. Such area will be secured by Lessee at all times that alcohol may be sold.
- c) Provide adequate security personnel during all times that alcohol may be sold or consumed in the secured area to ensure that the activities of those purchasing and consuming alcohol comply with all local, state, and federal laws and all MLCC rules and standards. If any person's actions are deemed detrimental to the safe and peaceful enjoyment of the Premises, he or she will immediately be removed from the Premises.
- d) Make all sales of alcoholic beverages in full compliance will all MLCC laws and rules. Such sales, if in compliance with MLCC laws and rules, may be conducted at designated concession areas and person-to-person in the secured area for sales of alcohol. No sale of an alcoholic beverage shall be made to any person who appears intoxicated or is disruptive to others on the Premises.

- e) In the event Lessee does not comply with these guidelines, Lessor has the right to suspend all alcoholic beverage sales for any length of time Lessor deems appropriate, which may include the permanent suspension of alcoholic beverage sales.

6. Use of Common Areas by Lessee

- 6.1 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.

7. Maintenance and Repair

- 7.1 Lessee shall be responsible for all ordinary janitorial and cleaning of the Premises from the counter to the back of the kitchen area. Lessee shall bus all tables and eating areas. Lessor shall provide trash receptacles for Premises. All refuse collection shall be the responsibility of the Lessee. Any refuse generated from preparation of goods or services shall be the sole responsibility of Lessee.
- 7.2 Lessee shall be solely responsible for the maintenance and repair of all equipment located on the Premises, as more specifically listed in Exhibit "B".
- 7.3 Lessee must obtain written consent of Lessor for all signage used by Lessee on the Premises and adjoining premises. All signage approved by Lessor shall be maintained in good condition and repair.
- 7.4 Lessor reserves the right to make any repairs or alterations that it deems necessary and desirable to the common areas. Lessee will be notified of any repairs or alterations to the Premises at least 7 days in advance except in emergency situations.

8. Insurance and Indemnity

- 8.1 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.
- 8.2 Lessee shall not permit any activity on the Premises which would cause Lessor's rate for the insurance described herein to be increased.
- 8.3 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.
- 8.4 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 and 00/100 Dollars

(\$1,000,000.00) per occurrence for accident, bodily injury, or death; not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) for property damage; and not less than Five Hundred Thousand and 00/100 Dollars \$500,000.00) for liquor liability insurance insuring for any and all damage and liability which may be caused by, related to or arise out of the sale, furnishing, giving, distribution or consumption of alcoholic beverages on the premises. 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.

- 8.5 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.

9. Damage by Fire or Other Causes

- 9.1 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 licensees, 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%) per cent 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.

10. Assignment/Subletting

- 10.1 Lessee shall not assign or sublet the Premises or any part thereof without the express prior written consent of the Lessor.
- 10.2 In no event shall a sublease be allowed that would jeopardize the tax-exempt status of the City.
- 10.3 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.

11. Use of Premises by Lessor

- 11.1 Lessor reserves for itself and its contractors and agents the right to enter the Premises at reasonable times for the of purpose inspecting, maintaining, installation, operation and repair services.
- 11.2 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.

12. Covenant of Quiet Enjoyment

- 12.1 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.

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

- 13.1 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.

14. Default by Lessee

- 14.1 If the Lessee fails to pay rent when due; if the Lessee fails to perform any other obligations under this agreement within 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.
- 14.2 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.
- 14.3 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.

15. Surrender of Leasehold Upon Termination of Lease

- 15.1 All renovations and improvements shall be at Lessee's expense and shall be considered fixtures and owned by Lessor upon termination of 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 that 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.
- 15.2 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.

16. Miscellaneous

- 16.1 This agreement shall be binding on the parties and inure to the benefit of the Lessor and Lessee and their respective successors and assigns.
- 16.2 This agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
- 16.3 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.
- 16.4 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.
- 16.5 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.
- 16.6 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.
- 16.7 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

LESSOR
CITY OF MARQUETTE

Cody O. Mayer, Mayor

Kyle Whitney, Clerk

APPROVED AS TO SUBSTANCE:

Karen M. Kovacs, City Manager

LESSEE
MARQUETTE JR. HOCKEY CORP.


By: SCOTT CAMBENSY
Its: PRESIDENT

APPROVED AS TO FORM:

Suzanne C. Larsen, City Attorney



LAKEVIEW ARENA

EXHIBIT A

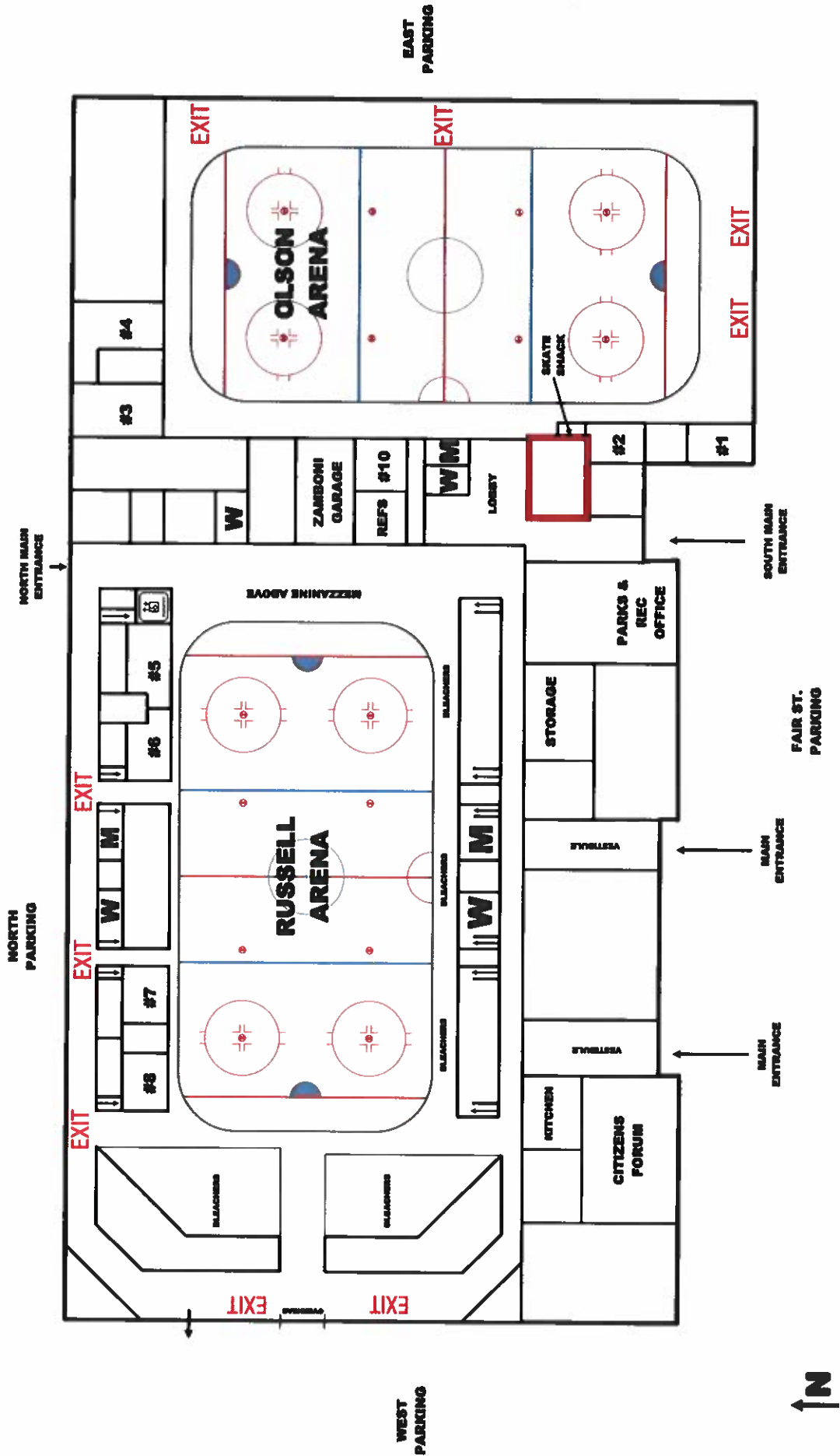


EXHIBIT B

Concession Equipment Inventory

Equipment	Qty	Notes
Lg. dual front door freezer	1	City
Lg. dual front door refrigerator	1	City
Beverage Refrigerator	1	
Range/flattop/dual oven unit	1	City
Microwaves	2	Lessee Owned
Hot dog cooker	1	Lessee Owned
Countertop Warmer	1	
Point of sale machines	1	
Soda dispenser	1	3rd Party
Prep tables	3	
Popcorn machine	1	Lessee Owned
Coffee Machine	1	3rd Party
Cappuccino Machine	1	3rd Party



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 1

DATE (MM/DD/YYYY)
11/16/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Towers Watson Southeast, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Contact your USA Hockey Assigned Risk Manager PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: Pennsylvania Manufacturers' Association In INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED USA Hockey, Inc. and its Member Leagues, Teams & Organizations and USA Hockey Affiliates 1775 Bob Johnson Drive Colorado Springs, CO 80906	NAIC # 12262

COVERAGES**CERTIFICATE NUMBER: W26700370****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y		302201-13-12-76-8	09/01/2022	09/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Part Legal Liability \$ Included
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐	N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Marquette Junior Hockey Corp-MIH8005-facality rental for approved/sanctioned events/practices/games

Additional Insured status is in favor of the certificate holder, but only as respects to liability claims arising out of the negligence of the named insured, and is subject to the full policy terms and conditions.

CERTIFICATE HOLDER**CANCELLATION**

City of Marquette Michigan Lakeview Arena 300 W. Baraga Avenue Marquette, MI 49885	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 11/28/2022

Consent Agenda

Marquette Junior Hockey Corporation - Ice Contract

BACKGROUND:

The Marquette Junior Hockey Corporation has requested an Agreement for Use of Lakeview Arena ice use. Staff has worked with the City Attorney and Marquette Junior Hockey Corporation to draft a standard use agreement which provides for the terms and conditions of the request. The agreement allows for six payments monthly based on actual usage. The total hours requested is 902 hours for a total of \$189,420 for the FY 2023 ice season.

FISCAL EFFECT:

Lakeview Arena fund will receive \$189,420 in revenue for FY 2023.

RECOMMENDATION:

Approve the Agreement for Use of Lakeview Arena with the Marquette Junior Hockey Corporation for ice use, and authorize the Mayor and Clerk to sign the agreement.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Agreement, Schedule and Exhibit
- ▣ Insurance

AGREEMENT FOR USE OF LAKEVIEW ARENA

This Agreement, made and entered into this _____ day of _____ 2022, by and between the **CITY OF MARQUETTE**, a Michigan municipal corporation, of 300 W. Baraga Avenue, Marquette, MI 49885 (hereinafter referred to as the "City") and the **MARQUETTE JUNIOR HOCKEY CORP.**, a Michigan corporation, of 401 East Fair Avenue, Marquette, MI 49885 (hereinafter referred to as the "User Group").

WHEREAS, the City is the owner and operator of Lakeview Arena at 401 E. Fair Avenue, Marquette, Michigan; and

WHEREAS, the City is willing to lease to User Group space as shown in Exhibit "A" in Lakeview Arena in accordance with the terms and conditions contained herein from October 1, 2022, through March 31, 2023.

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

1. In consideration of six (6) equal monthly payments of \$31,570.00, the User Group shall be entitled to exclusive use of the Lakeview Arena ice sheet specified in Exhibit "A" for the times listed under "Customer Schedule" which includes 902 hours. The City will invoice the User Group on the fifteenth (15th) day of each month beginning in October of 2022 and payment shall be due no later than the last day of the following month. The User Group shall pay for the actual adjusted ice usage as part of the sixth monthly payment.

2. Should the User Group wish to lease its ice time to another responsible group, at the same rate, during the contract period, it may do so upon forty-eight (48) hours minimum notice to the City. Such sub-lease of User Group ice time shall be made and transacted between the parties and not involve the City. The City retains the right to deny such use for cause which shall

not be unreasonably withheld.

3. Arena facilities to hold board meetings, work sessions, planning sessions, award presentations, judiciary hearings, and other limited approved events will be made at no additional cost to the User Group, in locations determined by the Arena Management and subject to availability.

4. The User Group recognizes that use of Arena facilities must be properly planned. User Group will provide a minimum of forty-eight (48) hours notice to the City in the event of any facility use changes, including cancellation, change of time, or additional use, and will maintain the facilities as they were found prior to their use.

5. The User Group understands and agrees that there is inherent danger and risk of injury to those individuals participating in and observing the User's Group's activities. The User Group expressly agrees to assume the full risk of and responsibility for any and all injuries, accidents, illness or damages (including death) that may occur as a result of participating in or observing the User's Group's activities except to the extent caused by the City's gross negligence or intentional misconduct, and the User Group releases the City, its officers, directors, agents, representatives, contractors and employees from such liability.

6. The User Group shall procure and maintain insurance for the duration of this Agreement against liability claims, including attorney fees and costs, for injuries to persons or damages to property which may arise from or in connection with the use of Lakeview Arena, including but not limited to bodily injury, property damage or other injury or damage that may occur in connection with User Group's activities, and naming the City as an additional insured. The insurance required by this Agreement shall be in amounts acceptable to the City and shall be endorsed to state that coverage shall not be reduced or canceled except after thirty (30) days notice to the City by certified mail, return receipt requested.

8. The occurrence of any of the following shall constitute a default by the User Group:

- a. Abandonment and vacation of Lakeview Arena during the Agreement.
- b. Failure to perform any provision of this Agreement, if the failure to perform is not cured within thirty (30) days after the City provides written notice to the User Group.
- c. Failure to maintain insurance as required by this Agreement, which shall be cause for immediate termination of this Agreement by the City.
- d. Failure to comply with any law or government order.
- e. The User Group files a petition in bankruptcy or insolvency or for reorganization, or involuntary proceedings are filed against the User Group under applicable bankruptcy laws.
- f. The User Group fails to make any payment when due.

9. In the event of default, the City shall provide the User Group written notice of default. The User Group shall have thirty (30) days after notice is provided to cure said default. No notice shall be deemed a forfeiture or termination of this Agreement unless the City specifies such in the notice. In the event the User Group does not cure the default within the allowed thirty (30) day time period, the City shall have the following remedies, which shall not be exclusive and shall be in addition to any other remedies now or later allowed by law:

- a. The City may elect to continue this Agreement.
- b. The City may terminate the User Group's right to possession of Lakeview Arena at any time, by providing specific written notice to this effect.
- c. The City shall be entitled to recover all amounts, including any attorney fees incurred by the City in pursuit of the default.

If User Group's default creates a public health hazard, or is a violation of a public health

law or government order, which may result in illness, injury or death City, in its sole discretion, may provide written notice of immediate termination or suspension of this agreement. If User Group remedies such default, City may, in its discretion, reinstate this agreement.

10. Any notice required under this Agreement shall be in writing and served by prepaid, first class mail to the address listed on the first page of this Agreement, or any other address as either party may provide to the other in writing.

11. No delay or omission in the exercise of any right or remedy of the City on any default by the User Group shall impair such right or remedy or be construed as a waiver of the right to pursue such remedy.

12. Nothing in this lease shall render the City in any way a partner, in joint ventureship with the User Group.

13. Upon the expiration or termination of this Agreement, the User Group shall at its sole expense:

- a. Remove all of its goods, effects, and equipment.
- b. Surrender the premises to the City.

Any goods, effects or equipment owned by the User Group that is not removed shall be deemed to have been abandoned and shall become the property of the City.

14. By executing this Agreement and taking possession pursuant to the terms contained herein, the User Group acknowledges that Lakeview Arena is in the condition called for by this Agreement.

15. This Agreement contains the entire agreement of the parties with respect to its subject matter. This Agreement may not be modified except by a written document signed by the parties.

16. This Agreement shall bind and benefit the parties and their successors and permitted

assigns.

17. This contract is executed in the City of Marquette, State of Michigan, and shall be construed under the laws of the State of Michigan, and the parties agree that any action relating to this contract shall be instituted and prosecuted in the courts of the County of Marquette, State of Michigan, and each party waives the right to change of venue.

18. In the event the Arena is required to temporarily close pursuant to any law or government order, User Group will be prohibited from entering the Arena. In such event, User Group will be billed, and agrees to pay, for actual usage during such time.

CITY OF MARQUETTE

MARQUETTE JUNIOR HOCKEY CORP.

Cody O. Mayer, Mayor

By: *SCOTT CAMBENSY*
Its: *PRESIDENT*

Kyle Whitney, City Clerk

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM

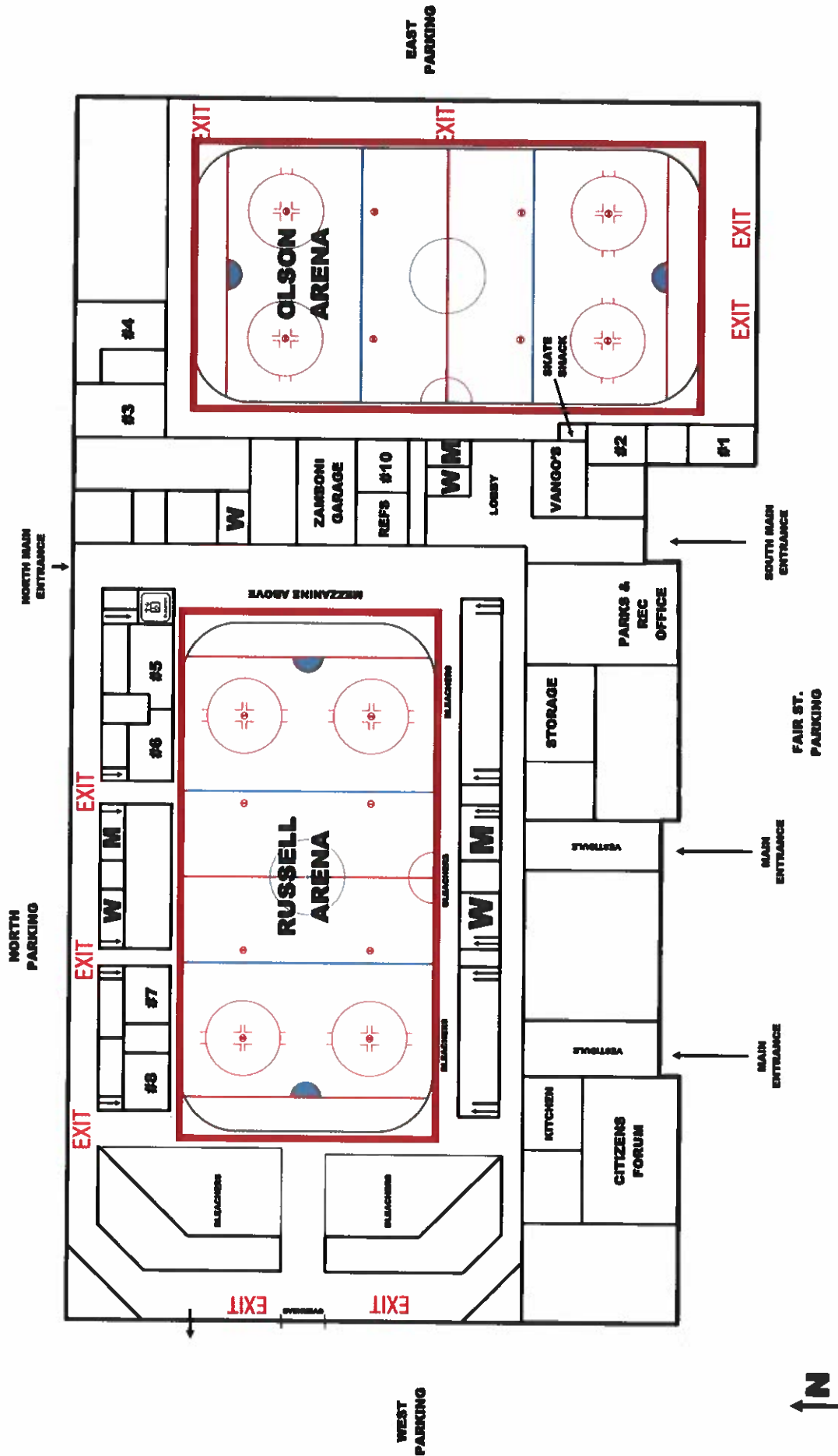
Karen M. Kovacs, City Manager

Suzanne C. Larsen, City Attorney



LAKEVIEW ARENA

EXHIBIT A



Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # R4803

Status Approved

Date Aug 25, 2022 9:01 AM

Organization Name	Marquette Junior Hockey - 801	Organization Phone 1	(906) 228-9193
Customer Type	General Public	Number	
Organization Address	401 E Fair Ave Marquette, MI 49855	Organization Phone 2	(517) 582-0544
		Number	
Agent Name	Amanda Gobert	Work Phone Number	(906) 228-9193
		Home Phone Number	(517) 582-0544
		Email Address	mjhboard@mqthockey.org
System User	mianderson		

Rental Fee	\$42,945.00
Discounts	\$0.00
Subtotal	\$42,945.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$42,945.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$42,945.00

MJH October		2 resource(s)	165 booking(s)	Subtotal: \$42,945.00
Booking Summary				
Russell Arena - Ice (Ice Rental Resident)			Center: Lakeview Arena	
START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX	
Oct 1, 2022 10:00 AM	Oct 1, 2022 12:00 PM	1	\$420.00	
	Cleanup			
	11:50 AM - 12:00 PM			
Ice Time Hourly Prime - Resident S-S	\$210.00 / Hour x 2		\$420.00	
Oct 1, 2022 12:00 PM	Oct 1, 2022 2:00 PM	1	\$420.00	
	Cleanup			
	1:50 PM - 2:00 PM			
Ice Time Hourly Prime - Resident S-S	\$210.00 / Hour x 2		\$420.00	
Oct 1, 2022 2:00 PM	Oct 1, 2022 3:30 PM	1	\$315.00	
	Cleanup			
	3:20 PM - 3:30 PM			

Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # **R4804**

Status Approved

Date Aug 25, 2022 9:25 AM

Organization Name	Marquette Junior Hockey - 801	Organization Phone 1 Number	(906) 228-9193
Customer Type	General Public	Organization Phone 2 Number	(517) 582-0544
Organization Address	401 E Fair Ave Marquette, MI 49855		
Agent Name	Amanda Gobert	Work Phone Number	(906) 228-9193
		Home Phone Number	(517) 582-0544
		Email Address	mjhboard@mqthockey.org
System User	mianderson		

Rental Fee	\$36,120.00
Discounts	\$0.00
Subtotal	\$36,120.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$36,120.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$36,120.00

MJH November		2 resource(s)	149 booking(s)	Subtotal: \$36,120.00
Booking Summary				
Russell Arena - Ice (Ice Rental Resident)			Center: Lakeview Arena	
START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX	
Nov 1, 2022 4:30 PM	Nov 29, 2022 5:30 PM	--		
	Cleanup			
	5:20 PM - 5:30 PM			
Occurs every Tuesday effective Nov 1, 2022 until Nov 29, 2022 from 4:30 PM to 5:30 PM				
Nov 1, 2022 4:30 PM	Nov 1, 2022 5:30 PM	1	\$210.00	
	Cleanup			
	5:20 PM - 5:30 PM			
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 1	\$210.00		
Nov 8, 2022 4:30 PM	Nov 8, 2022 5:30 PM	1	\$210.00	
	Cleanup			
	5:20 PM - 5:30 PM			

Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # **R4807**

Status Approved

Date Aug 25, 2022 9:49 AM

Organization Name	Marquette Junior Hockey - 801	Organization Phone 1	(906) 228-9193
Customer Type	General Public	Number	
Organization Address	401 E Fair Ave Marquette, MI 49855	Organization Phone 2	(517) 582-0544
		Number	
Agent Name	Amanda Gobert	Work Phone Number	(906) 228-9193
		Home Phone Number	(517) 582-0544
		Email Address	mjhboard@mqthockey.org
System User	mianderson		

Rental Fee	\$34,230.00
Discounts	\$0.00
Subtotal	\$34,230.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$34,230.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$34,230.00

MJH December		2 resource(s)	145 booking(s)	Subtotal: \$34,230.00
Booking Summary				
Russell Arena - Ice (Ice Rental Resident)			Center: Lakeview Arena	
START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX	
Dec 1, 2022 4:30 PM	Dec 29, 2022 5:30 PM	--		
	Cleanup			
	5:20 PM - 5:30 PM			
Occurs every Thursday effective Dec 1, 2022 until Dec 29, 2022 from 4:30 PM to 5:30 PM				
Dec 1, 2022 4:30 PM	Dec 1, 2022 5:30 PM	1	\$210.00	
	Cleanup			
	5:20 PM - 5:30 PM			
Ice Time Hourly Prime - Resident M-F \$210.00 / Hour x 1 \$210.00				
Dec 8, 2022 4:30 PM	Dec 8, 2022 5:30 PM	1	\$210.00	
	Cleanup			
	5:20 PM - 5:30 PM			

Permit



City of Marquette Community Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # **R4808**

Status Approved
Date Aug 25, 2022 10:00 AM

Organization Name	Marquette Junior Hockey - 801	Organization Phone 1 Number	(906) 228-9193
Customer Type	General Public	Organization Phone 2 Number	(517) 582-0544
Organization Address	401 E Fair Ave Marquette, MI 49855		
Agent Name	Amanda Gobert	Work Phone Number	(906) 228-9193
		Home Phone Number	(517) 582-0544
		Email Address	mjhboard@mqthockey.org
System User	mlanderson		

Rental Fee	\$43,470.00
Discounts	\$0.00
Subtotal	\$43,470.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$43,470.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$43,470.00

MJH January		2 resource(s)	174 booking(s)	Subtotal: \$43,470.00
Booking Summary				
Russell Arena - Ice (Ice Rental Resident)			Center: Lakeview Arena	
START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX	
Jan 2, 2023 4:30 PM	Jan 30, 2023 5:30 PM	--		
	Cleanup			
	5:20 PM - 5:30 PM			
Occurs every day effective Jan 2, 2023 until Jan 30, 2023 from 4:30 PM to 5:30 PM				
Jan 2, 2023 4:30 PM	Jan 2, 2023 5:30 PM	1	\$210.00	
	Cleanup			
	5:20 PM - 5:30 PM			
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 1		\$210.00	
Jan 9, 2023 4:30 PM	Jan 9, 2023 5:30 PM	1	\$210.00	
	Cleanup			
	5:20 PM - 5:30 PM			

Permit



City of Marquette Community
Services
401 E. Fair Ave
Marquette, MI, US 49855

PHONE:(906) 228-0460

Permit # R4809

Status Approved

Date Aug 25, 2022 10:13 AM

Organization Name	Marquette Junior Hockey - 801	Organization Phone 1	(906) 228-9193
Customer Type	General Public	Number	
Organization Address	401 E Fair Ave Marquette, MI 49855	Organization Phone 2	(517) 582-0544
		Number	
Agent Name	Amanda Gobert	Work Phone Number	(906) 228-9193
		Home Phone Number	(517) 582-0544
		Email Address	mjhboard@mqthockey.org
System User	mlanderson		

Rental Fee	\$30,555.00
Discounts	\$0.00
Subtotal	\$30,555.00
Deposits	\$0.00
Deposit Discounts	\$0.00
Total Permit Fee	\$30,555.00
Total Payment	\$0.00
Refunds	\$0.00
Balance	\$30,555.00

MJH February		2 resource(s)	128 booking(s)	Subtotal: \$30,555.00
Booking Summary				
Russell Arena - Ice (Ice Rental Resident)			Center: Lakeview Arena	
START DATE/TIME	END DATE/TIME	ATTENDEE	AMT W/O TAX	
Feb 1, 2023 4:30 PM	Feb 22, 2023 5:30 PM	--		
	Cleanup			
	5:20 PM - 5:30 PM			
Occurs every Wednesday effective Feb 1, 2023 until Feb 22, 2023 from 4:30 PM to 5:30 PM				
Feb 1, 2023 4:30 PM	Feb 1, 2023 5:30 PM	1	\$210.00	
	Cleanup			
	5:20 PM - 5:30 PM			
Ice Time Hourly Prime - Resident M-F	\$210.00 / Hour x 1	\$210.00		
Feb 8, 2023 4:30 PM	Feb 8, 2023 5:30 PM	1	\$210.00	
	Cleanup			
	5:20 PM - 5:30 PM			



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 1

DATE (MM/DD/YYYY)
11/16/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Towers Watson Southeast, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Contact your USA Hockey Assigned Risk Manager PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: Pennsylvania Manufacturers' Association In INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED USA Hockey, Inc. and its Member Leagues, Teams & Organizations and USA Hockey Affiliates 1775 Bob Johnson Drive Colorado Springs, CO 80906	NAIC # 12262

COVERAGES**CERTIFICATE NUMBER: W26700370****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y		302201-13-12-76-8	09/01/2022	09/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Part Legal Liability \$ Included
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐	N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Marquette Junior Hockey Corp-MIH8005-facality rental for approved/sanctioned events/practices/games

Additional Insured status is in favor of the certificate holder, but only as respects to liability claims arising out of the negligence of the named insured, and is subject to the full policy terms and conditions.

CERTIFICATE HOLDER**CANCELLATION**

City of Marquette Michigan Lakeview Arena 300 W. Baraga Avenue Marquette, MI 49885	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 11/28/2022

Consent Agenda

Ore Dock Real Estate, LLC Development and Reimbursement Agreement

BACKGROUND:

The Ore Dock Beer Garden Brownfield Plan (Plan) was approved by the City of Marquette Brownfield Redevelopment Authority (MBRA) on January 20, 2022. The Plan was approved with revisions by the City Commission on February 14, 2022, and the MBRA approved the revised Plan on February 24, 2022. The MBRA approved the Development and Reimbursement Agreement (Agreement) at the same time. Due to an oversight, the Agreement was not immediately forwarded to the City Commission for consideration.

In the meantime, the scope of the project has been significantly expanded as a result of the award of a MEDC Revitalization And Placemaking (RAP) Grant to Ore Dock Real Estate, LLC. As a result, the Agreement was revised to reflect an expanded project with an increased financial commitment by Ore Dock Real Estate, LLC, and the revised Agreement was approved by the MBRA at their November 4, 2022 meeting.

Eligible Activities will be reimbursed first to the MBRA for administrative and operating costs, second to the City for bond payments, trail connection and improvements, and then to Ore Dock Real Estate, LLC for Eligible Activity expenses approved by the MBRA.

FISCAL EFFECT:

None by this action, as the project is within the DDA district.

RECOMMENDATION:

Approve the Development and Reimbursement Agreement with Ore Dock Real Estate LLC, and authorize the Mayor and City Clerk to sign.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Development and Reimbursement Agreement

DEVELOPMENT AND REIMBURSEMENT AGREEMENT

This Development and Reimbursement Agreement is made as of _____ between the Ore Dock Real Estate, LLC, a Michigan Limited Liability Company (the "Developer") and the City of Marquette Brownfield Redevelopment Authority (the "MBRA"), a Michigan public body corporate and the City of Marquette (the "City"), a Michigan municipal corporation.

PREMISES

- A. The Developer desires to redevelop the property at 213 S. Front Street, 214 S. Front Street and 112 Spring Street for a three-season outdoor food, beverage and entertainment center, attainable housing with service and product diversification, capacity expansion and placemaking improvements with an estimated investment of \$7,615,000, (the "Development") on the Eligible Property described in Exhibit A.
- B. The City anticipates public infrastructure improvements directly related to the Eligible Property, which have been included in the Brownfield Plan and Act 381 Work and for which the City anticipates reimbursement from Brownfield Tax Increment Revenues.
- C. The MBRA has been formed pursuant to Act 381, Public Acts of Michigan, 1996, as amended ("Act 381") to promote the revitalization of contaminated, blighted, functionally obsolete or historic properties. The MBRA has approved the Brownfield Plan that includes the Development, the Eligible Property and the Eligible Activities.
- D. The MBRA has determined in furtherance of its purposes and to accomplish its goals that it is in the best interest of the MBRA to reimburse the cost of certain Eligible Activities as defined by Sec. 2(o) of Act 381, MCL 125.2652(o), on Eligible Property and as described in the Brownfield Plan, as the same may be amended or supplemented.
- E. The Developer agreed to conduct certain Eligible Activities as described in Exhibit C ("Eligible Activities"), as the same may be amended or supplemented, attributable to the Eligible Property, consistent with the provisions of the Brownfield Plan, as amended.
- F. Pursuant to the Brownfield Plan and the Act 381 Work Plan, the MBRA will capture and retain 100% of the tax increment revenues authorized by law to be captured from the levies imposed by taxing jurisdictions upon taxable property for the Eligible Property consistent with Act 381, as amended, the Brownfield Plan approved by the MBRA and the City Commission, and the Act 381 Work Plan approved by the MBRA and the Michigan Strategic Fund (MSF) for Non-Environmental Eligible Activities and the Michigan Department of Environment, Great Lakes and Energy (EGLE) for Environmental Eligible Activities (the "Brownfield Tax Increment Revenues"). Upon satisfaction of the conditions expressed in this Agreement, the MBRA will use the Brownfield Tax Increment Revenues to carry out the purposes described in Act 381 and this Agreement and to carry out certain other projects described in the Brownfield Plan.

In consideration of the premises and the mutual covenants contained in this Agreement, the Developer and MBRA hereby enter into this Agreement and covenant and agree as follows:

ARTICLE 1 **DEFINITIONS**

Section 1.1 Definitions. The following capitalized terms used in this Agreement shall have the following meanings, except to the extent the context in which they are used requires otherwise:

- (a) "Act 381" means the Brownfield Redevelopment Financing Act, Act 381 of Michigan Public Acts of 1996, as amended, MCL 125.2651 et seq.
- (b) "Act 381 Work Plan" means the Work Plan approved by the MBRA and by the MSF and/or the EGLE for State tax capture.
- (c) "Agreement" means this Development and Reimbursement Agreement entered into between the MBRA, the City and Developer.
- (d) "Brownfield Plan" means the Brownfield Plan, approved by the MBRA on January 20, 2022 and ratified on February 24, 2022 and the City Commission on February 14, 2022, and as amended pursuant to Act 381.
- (e) "Brownfield Tax Increment Revenues" means 100% of the annual tax increment revenues, as defined by Act 381, authorized by law to be captured from the levies imposed by taxing jurisdictions from all taxable real and personal property located on the Eligible Property during the life of the Brownfield Plan until the Eligible Activity and other obligations are met.
- (f) "City" means the City of Marquette.
- (g) "City Commission" mean the Marquette City Commission.
- (h) "Developer" means Ore Dock Real Estate, LLC, its successors and assigns.
- (i) "Development" means the development of an outdoor food, beverage and entertainment center, attainable housing, service and product diversification, capacity expansion, and placemaking improvements as described in Exhibit A.
- (j) "EGLE" is the Michigan Department of Environment, Great Lakes and Energy.
- (k) "Eligible Activities" are those activities as defined by Sec. 2(o) of Act 381, Public Acts of 1996, as amended, MCL 125.2652(o), and included in the approved Brownfield Plan and applicable Act 381 Work Plan.
- (l) "Eligible Activity Obligation" is the cumulative amount of Eligible Activities expenses documented by the Developer and the City and reviewed and approved by the MBRA in accordance with its policies and procedures.
- (m) "Eligible Property" is the property as defined by Sec. 2(p) of Act 381, MCL 125.2652(p), as included in the Brownfield Plan upon which the Eligible Activities will be conducted and from which tax increment revenues will be captured to reimburse Eligible Activities and other costs, consistent with the Brownfield Plan and Act 381 as amended.
- (n) "Event of Default" means the failure by a party to carry out its obligations under this Agreement or, with respect to a party, if any representation or warranty of such party was materially not accurate when made, and such obligation has not been performed or such

representation or warranty corrected within 45 days after notice thereof has been given by the other party.

- (o) "Environmental Consultant" means the environmental consulting firm retained or hired by the Developer to fulfill certain obligations under this Agreement, including certain eligible activities set forth in the Act 381 Work Plan, but limited to only those Eligible Activities performed by the Developer's Environmental Consultant, and specifically excludes all other activities performed by other Environmental Consultants, Contractors, or subcontractors not acting on behalf of Developer performing activities on the Property.
- (p) "Indemnified Persons" means the City and the MBRA and their members, officers, agents and employees.
- (q) "Interest" means the amount of actual interest of up to 5 percent accrued on unreimbursed Eligible Activities. Interest is reimbursable with Brownfield Tax Increment Revenues. Interest is calculated annually, based on the unreimbursed Eligible Activities approved by the MBRA, and paid after all Eligible Activities are reimbursed, in accordance with Section 2.2.
- (r) "Maximum Cost of Eligible Activities" means the MBRA's maximum obligation to pay for the Eligible activities and not to exceed the amounts set forth in the approved Brownfield Plan, as amended or supplemented.
- (s) "MBRA" means the City of Marquette Brownfield Redevelopment Authority, established by the City Commission.
- (t) "MSF" means the Michigan Strategic Fund.
- (u) "Public Improvements" means the City's site work and improvements benefiting the Eligible Property and adjacent properties for which reimbursement is anticipated from Brownfield Tax Increment Revenues, as described in the Brownfield Plan.
- (v) "Transaction Costs" means the MBRA expenses, and liabilities related to the authorization, execution, administration, oversight, and fulfillment of the MBRA obligations under this Agreement, the Brownfield Plan, and Act 381 Work Plan, which such items shall include, but not be limited to, direct or indirect fees and expenses incurred as a result of the application, approval and amendments to the Brownfield Plan and Act 381 Work Plan, approvals of the developments contemplated herein, printing costs, costs of reproducing documents, filing and recording fees, attorney fees, financial expenses, insurance fees and expenses, administration and accounting for Brownfield Tax Increment Revenues, oversight and review, and all other costs, liabilities, or expenses, related to the preparation and carrying out or enforcing the Brownfield Plan, Act 381 Work Plan, and this Agreement, or other related agreements with the Developer, if any, and any other costs, charges, expenses, and professional and attorney fees in connection with the foregoing.

Section 1.2 Number and Gender. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun should include the corresponding masculine, feminine, and neuter forms.

ARTICLE 2

COVENANTS OF THE DEVELOPER

Section 2.1 Authorization of Borrowing. The parties recognize that neither the MBRA nor the City has the power to mandate cooperation by the City electors in the approval of the Borrowing. If bonds are issued which rely on tax increment revenue, the MBRA will pass a resolution pledging tax increment revenue and the City Commission will pledge Full Faith and Credit. Based on the recommendation of the City's financial advisor, either the City or the MBRA will issue Bonds, if necessary.

Section 2.2 Public Improvement Borrowing

- (a) The Public Improvement Borrowing may finance the Public Eligible Activities included in the Brownfield Plan and Act 381 Work Plan and identified in Exhibit B, Public Improvements, and Exhibit C, Eligible Activities.
- (b) The parties recognize that neither the City nor the MBRA has the power to mandate an acceptable interest rate for the sale of the Bonds. The City Commission or MBRA may decide in its sole discretion not to sell the Bonds. The Borrowing will be made if the City Commission and the MBRA in good faith determine that the Developer intends to complete the Project, that the Project is scheduled to be under construction, and that the Tax Increment Revenue and other needed revenue are assured from actual development, imminent development, contractual obligations to pay the equivalent taxes, and other designated sources other than general tax revenues to meet the debt or other financing obligations for Eligible Activities of the City and/or MBRA included in the Brownfield Plan and Act 381 Work Plan. Subject to the conditions specified in Article 3 and in this Article, the City and/or the MBRA shall use their best efforts to issue the Bonds.
- (c) The Borrowing is anticipated to be in an aggregate amount not to exceed \$225,000, exclusive of capitalized interest and Issuance Costs, and having a final maturity no later than thirty (30) years from the Bond Issuance Date. The City Commission and/or MBRA retains sole authority over all aspects of their respective Borrowing and the Bonds, including but not limited to, determination on issuance, the total amount, payment schedule, type and acceptable interest.
- (d) If the estimated cost of Public Improvements exceeds the maximum costs of Public Improvements identified in the Brownfield Plan before the advertisement of the bids on the Borrowing, the City and/or MBRA will not proceed with the Borrowing unless it either (a) amends the Maximum Cost of Public Improvements as provided for in the Agreement or (b) reduces the estimate to not exceed the Maximum Cost of Public Improvements.

Section 2.3 Construction of the Development. The Developer shall construct the Developer Project and the City shall construct the Public Improvements, to the extent the City elects to construct the Public Improvements, in accordance with proper construction standards and this Agreement. They shall proceed with due care and diligence and commence and complete Eligible Activities, the Development and Public Improvements in accordance with this Agreement, the Brownfield Plan, the Act 381 Work Plan and in accordance with any applicable law, regulation, code and ordinance.

Section 2.4 Covenant to Pay Financial Obligations. The Developer will utilize its own funds for the Development and the City will use its own funds for the Public Improvements, to the extent the City elects to construct the Public Improvements. The Developer and the City will receive

reimbursement from the MBRA to the extent of available Brownfield Tax Increment Revenues are generated by the Development for payment of the Eligible Activities in accordance with the terms of this Agreement, the Brownfield Plan, and Act 381. Reimbursement for Eligible Activities shall be prioritized as follows:

- (a) First, Brownfield Tax Increments, as necessary, will reimburse the City or MBRA for the annual obligation of the Borrowing for the Public Improvements pursuant to Exhibits B and C;
- (b) Second, local tax capture revenues will be applied to the administrative and operating costs and Transaction Costs of the MBRA; and
- (c) Third, the balance of annual Brownfield Tax Increment Revenues will be used to reimburse the Developer for approved Eligible Activities expenses pursuant to Section 5.1, the Brownfield Plan, Act 381 Work Plan, and Exhibit A until the Eligible Activity obligation is met.

If the Developer Project does not result in sufficient revenues to repay Eligible Activity obligations, the Developer and the City agree and understand that Developer and the City will have no claim or further recourse of any kind or nature against the MBRA except from available captured tax revenues.

Section 2.5 Reimbursement Conditions: It is expressly understood and agreed that the reimbursement of the MBRA is subject to the following conditions:

- (a) Approval of the Brownfield Plan by the MBRA and the City Commission and, as necessary, the Act 381 Work Plan approval by MSF for Non-Environmental Eligible Activities and EGLE for Environmental Eligible Activities;
- (b) For any Eligible Activities not approved for State tax capture, reimbursement to the Developer for those Eligible Activities will be limited to the proportionate ratio of Local to State capture, which is 53.5%.
- (c) The Developer shall have performed all of the covenants, obligations, terms and conditions to be performed by it pursuant to this Agreement or other agreement with the MBRA, and all preconditions to the performance of the Developer have been satisfied;
- (d) The MBRA shall only be obligated to reimburse Eligible Activity Obligation that has been reviewed and approved by the MBRA. Approval of the application and subsequent approvals of brownfield plans, work plans, or any other determination of eligibility in no way guarantees or establishes a right to reimbursement of expenditures through tax increment financing prior to review or approval of invoices. Expenditures must be documented to be reasonable for Eligible Activities by submission of invoices and other appropriate documentation. Reimbursement shall only occur pursuant to the terms and conditions of this Agreement, as well as the written policies and procedures of the MBRA for review and approval of invoices. All invoices for any Eligible Activities on the property must be submitted to the MBRA for its review within 180 days from the date of the invoice. While the MBRA may waive this requirement in its discretion for good cause shown, the MBRA shall be under no obligation to reimburse any invoice for an eligible activity that is not submitted in a timely fashion.

- (e) The Developer has adhered to the Brownfield Plan and Act 381 Work Plan;
- (f) There are adequate Brownfield Tax Increment Revenues;
- (g) The Developer shall provide sworn written waivers of liens by consultants, contractors, and subcontractors providing services for their respective Eligible Activities as described in this Agreement;
- (h) The Developer has paid the real and personal property taxes levied on any portion of the Development for which the Developer is responsible on or before the date the same are payable without interest or penalty. Any appeal to real and personal property tax assessment shall apply to the current tax year only.
- (i) To the extent captured revenues are available, MBRA shall pay the Developer and the City annual simple interest on Eligible Activity expenses consistent with the Project Budget as follows:
 - (1) Actual Interest up to the maximum 5 percent shall be paid for the Developer's Eligible Activity expenses that have been incurred, invoiced, and approved by the MBRA.
 - (2) Interest shall be accrued on the outstanding balance on Eligible Activity expenses after all of the following:
 - (i) Invoices for Eligible Activities and expenses are approved by the MBRA Board as provided herein;
 - (ii) Substantial completion of the Eligible Activity described in an approved Project Budget under Section 5.1(a); and
 - (iii) A Certificate of Occupancy has been secured from the appropriate authority.

Section 2.6 Indemnification of Indemnified Persons.

- (a) The Developer shall not be considered an agent or employee of the MBRA or the City. Nor shall any agent or employee of the Developer be considered an agent or employee of the MBRA or the City. The Developer shall remain responsible for any claims arising out of Developer's acts or omissions during the performance of this Agreement, as provided by law. Additionally, the Developer, City, and MBRA shall not be considered to be engaged in a joint venture or partnership.
- (b) The Developer shall indemnify, defend and hold the Indemnified Persons harmless from any loss, expense (including actual attorney fees) or liability of any nature due to any and all suits, actions, legal or administrative proceedings, or claims arising or resulting from injuries to persons or property as a result of the ownership or operation, use or maintenance of the Developer Project from and after the date hereof. If any suit, action or proceeding is brought against any Indemnified Person, the Indemnified Person promptly shall give notice to the Developer and the Developer shall defend such Indemnified Person with counsel selected by the Developer, so long as counsel is reasonably satisfactory to the Indemnified Person. In any such proceeding, the Indemnified Person shall cooperate with the Developer and the Developer shall have the right to settle, compromise, pay or defend against any such claim on behalf of such Indemnified Person, except that the Developer may not settle or compromise any claim if the effect of doing so would be to subject the Indemnified Person to criminal penalties, unless such Indemnified Person gives its consent. The Developer shall not be liable for payment or settlement of any such claim or proceeding made without its consent.

- (c) The Developer shall not be obligated to indemnify any Indemnified Person under subsection (b) if the liability arises out of the Indemnified Person's negligence, willful misconduct or breach of this Agreement or the negligence or willful misconduct of any person or entity acting by, through or under any Indemnified Person.
- (d) The Developer also shall indemnify the Indemnified Persons for all reasonable costs and expenses, including actual attorney fees, incurred in enforcing any obligation of the Developer under this Agreement or any related agreement.
- (e) The Developer shall use its reasonable best efforts to assure that, to the extent an Environmental Consultant provides services toward completion of Eligible Activities, at a minimum, the Environment Consultant shall indemnify, defend, and hold Indemnified Persons harmless from any loss, expense (including actual attorney fees) or liability of any nature due to any and all suits, actions, legal or administrative proceedings, or claims arising or resulting from injuries to persons or property as a result of the actions or services of the Environmental Consultant.
- (f) Notwithstanding any other provision of this Agreement, the Developer shall obtain its Environmental Consultant's and other Contractor's written agreements to defend, indemnify and hold harmless the Indemnified Persons and their Board members, officers, agents and employees against and from all liabilities, losses, damages, costs, expenses (including attorney fees), causes of action, suits, claims and demands for judgment, to the same extent as the Developer's indemnification provisions under this Section. This indemnity shall only apply to the Environmental Consultant or Contractor's actions, and the Environmental Consultant or Contractor shall have no obligation to indemnify, defend or hold harmless the Indemnified Persons, the Road Commission, or the Township for any loss, liability, claim, damage, cost or expense arising out of, related to or resulting from any activities performed by other environmental consultants or contractors on or attributable to the Eligible Property.
- (g) The indemnity provisions shall survive the term of this Agreement.

Section 2.7 The Developer's and City's Repayment Obligation. In the event any monies received by the Developer or City under this Agreement are determined to be outside the scope of Eligible Activities for the Development or not approved in accordance with this Agreement by a third party auditor of the City or State, or applicable court, the Developer or City shall not use and shall return such monies to the MBRA. If the monies have been already utilized for such improper purpose, the Developer or City shall repay such monies to the MBRA or agree to reductions in subsequent reimbursements equal to the disavowed amount. In addition to any other remedies, MBRA shall have the right of set-off for return or repayment of such monies against its obligations under this Agreement.

Section 2.8 Deduction from Developer's or City's Right to Reimbursement. The Developer and City grants the MBRA the right to deduct or set off from any reimbursement obligation to the Developer and City the costs incurred by the MBRA in the successful enforcement of the terms of this Agreement or other claims in the event of a default of this Agreement by the Developer.

Section 2.6 Eligible Property Access. The Developer shall grant to the MBRA, or its designated agents, access to the Eligible Property to exercise the MBRA's right to administer or oversee Eligible Activities related to the purposes and pursuant to the terms of this Agreement. The MBRA shall give 24 hours written notice of its intent to access the Site whenever possible. If notice

cannot be given due to an emergency or any other unforeseen circumstance, the MBRA shall give notice as is reasonable and practicable under the circumstances.

Section 2.7 Separate Covenants and Obligations. Except as expressly provided in Section 2.3, the Developer's covenants and obligations are separate covenants solely running to and enforceable by the MBRA as provided by law, and to no other party, person, or entity. Unless otherwise expressly provided in this Agreement, a breach or default by the Developer of its obligations to the MBRA shall not constitute a breach or default of this Agreement or bar enforcement or claims by the other parties. No third party beneficiary rights, interests, or claims are created by implied contract, operation of law, or any other means.

ARTICLE 3

CONDITIONS PRECEDENT TO OBLIGATIONS OF THE DEVELOPER

Section 3.1 Conditions Precedent to Developer's Obligations to Acquire and Construct the Developer Project. Any obligation of Developer to acquire and construct the Developer Project, as contemplated herein, are subject to the following conditions precedent which must be satisfied by the MBRA, as required herein, or waived by the Developer, except as specifically provided herein:

- (a) No condition, event, action, suit, proceeding or investigation is occurring or threatened to occur, or shall be pending before any court, public board or body to which the Developer, City, or MBRA is a party, or threatened against the Developer, City, or MBRA contesting the validity or binding effect of this Agreement or the validity of the Brownfield Plan or Act 381 Work Plan or which could result in an adverse decision which would have one (1) or more of the following effects:
 - (1) A material adverse effect upon the ability of the MBRA to collect and use Brownfield Tax Increment Revenues to repay its obligations under this Agreement.
 - (2) A material adverse effect on the Developer's or MBRA's ability to comply with the obligations and terms of this Agreement of the Brownfield Plan.
- (b) There shall have been no Event of Default by the MBRA or the City and no action or inaction by the MBRA or the City which eventually with the passage of time could become an Event of Default.
- (c) The MBRA shall have performed all of the terms and conditions to be performed by it pursuant to this Agreement.
- (d) Brownfield Tax Increment Revenue and other needed revenue are assured, in the MBRA's sole reasonable judgment, from actual development, imminent development, contractual obligations to pay the equivalent taxes, and other designated sources other than general tax revenues to meet the obligations for Eligible Activities of the Developer and/or MBRA included in the Brownfield Plan.
- (e) Approval of the Brownfield Plan, and as necessary approval of an Act 381 Work Plan by MSF for Non-Environmental Eligible Activities and EGLE for Environmental Eligible Activities.

- (f) The Developer has received the consent of any affected utility for relocation, burial or other activity necessary to construct the Development.
- (g) There has been no change in statutes or other law that would negatively impact either party's ability to meet (a)-(f) above.

ARTICLE 4

COVENANTS OF THE MBRA

Section 4.1 Adoption of Brownfield Plan and Act 381 Work Plan. The MBRA and City Commission have approved the Brownfield Plan which provides for the payment of MBRA Administrative and Transaction Costs, the preparation and approval of the Brownfield Plan and Act 381 Work Plan, and reimbursement for the Developer Eligible Activities expenses that have been conducted, completed and approved in accordance with the scope and terms of this Agreement, the Brownfield Plan, and Act 381 Work Plan, and approved by the MBRA pursuant to its policies and procedures.

Section 4.2 Completion of Eligible Activities. Upon the satisfactory completion of any Eligible Activities by the Developer and the City as described in the Brownfield Plan and the Act 381 Work Plan, as amended or supplemented, pursuant to this Agreement, and approved by EGLE and/or MEDC/MSF Board and where applicable approved by the MBRA, the MBRA shall, to the extent Brownfield Tax Increment Revenues are available, reimburse the Developer and the City in accordance with the terms set forth in this Agreement. The Developer shall have sole responsibility to pay the Environmental Consultant or other contractors or subcontractors for completion of such Eligible Activities and provide written waiver of any liens. If the Developer or the City incurs any expenses or costs for any activities other than the Eligible Activities or the Eligible Activity costs exceed the Maximum Costs of Eligible Activities as set forth in Brownfield Plan, as amended or supplemented, the Developer or the City shall bear such costs without any obligation on the part of the MBRA. If the costs of Eligible Activities set forth in the Brownfield Plan, as amended or supplemented, are less than Maximum Costs of Eligible Activities, then the Developer and the City shall have no further right of reimbursement beyond its actual costs.

Section 4.3 MBRA or Contract Manager Oversight. The MBRA may retain the services of a qualified contract manager to exercise oversight of the Developer and its environmental consultant, contractors, or subcontractors, for the purposes of assuring that the activities, invoices, and accounting by the Developer are fair, reasonable, and constitute Eligible Activities within the meaning and scope of this Agreement, the Brownfield Plan, the Act 381 Work Plan, and Act 381. The Developer shall provide to the MBRA and its Contract Manager access to data, reports, sampling results, invoices, and related documents reasonably necessary to fulfill the exercise of such oversight. It is expressly understood that the MBRA has no right to control or to exercise any control over the actual services or performance by the Developer of the Eligible Activities, except as to assurance that the Developer has met the conditions and requirements of this Agreement.

Section 4.4 Limitation of Obligations and Liabilities to Third Persons or Parties. The MBRA and City shall have no liability to the Developer under this Agreement except to reimburse the Developer for the Eligible Activities in accordance with the Brownfield Plan and Act 381 Work Plan that have been approved by EGLE, MSF and the MBRA as provided by law and under the terms of this Agreement. No other obligation or liability of MBRA to the Developer or any third person or party is created by this Agreement, except as stated herein.

ARTICLE 5
CONDITIONS PRECEDENT TO MBRA OBLIGATIONS

Section 5.1 Conditions Precedent to MBRA's Reimbursement Obligation for Eligible Activities. The obligations of the MBRA for reimbursements of costs to the Developer for completion of Eligible Activities expenses as contemplated herein shall be subject to the following conditions precedent which must be satisfied by the Developer or City as required herein, except as expressly provided in this Agreement or otherwise waived in writing by the MBRA. It is expressly agreed that the MBRA makes or gives no assurance of payment to the Developer or City by the mere fact that an Eligible Activity or a dollar amount for such activity is identified in the Brownfield Plan and/or Act 381 Work Plan, or as hereafter supplemented or amended, and that it shall have the right to review and approve all written summaries of and invoices for Eligible Activities for the reasonableness of services performed by any consultant, contractor, or subcontractor under this Agreement. However, so long as an Eligible Activity by the Developer or City has been approved and is authorized by Act 381 and has been completed and approved in accordance with the following procedure and this Agreement and to the extent Brownfield Tax Increment Revenues are available, the Developer and City shall be entitled to reimbursement for its Eligible Activities expenses. The approval of the Brownfield Plan, Act 381 Work Plan, or the project budget described below is not a guarantee that there will be sufficient Brownfield Tax Increment Revenues to reimburse the Eligible Activities, and if for any reason, the revenues are insufficient or there are none, the Developer or City assumes full responsibility for any such loss or cost of any Eligible Activity conducted.

- (a) Before commencing work on each stage of Eligible Activities and pursuant to the policies and procedures adopted by the MBRA, the Developer or City will present a project budget for each stage to the MBRA Director at least two weeks prior to commencing work. The project budget will be submitted at each stage of the Eligible Activities line items or phases as provided in the Brownfield Plan and will provide detailed cost estimates or contractor quotes or bids.
- (b) The Developer and City shall submit invoices of its Eligible Activities expenses and a written statement demonstrating a factual basis that it has completed the Eligible Activities to the MBRA Director for preliminary review and approval within 180 days of completion of the Eligible Activity in a form as required by the MBRA. Documentation of the costs incurred shall be provided including proof of payment, lien waivers, and detailed invoices for the costs incurred in sufficient detail to determine whether the costs incurred were for Eligible Activities. The Authority shall not be required to reimburse any request that is not submitted within 180 days after the expense is incurred.
- (c) Within 60 days after submittal of an invoice or invoices under (b) above, the MBRA Director or contract manager shall review and approve or reject the reasonableness of the invoice(s) and activity as ineligible and, if recommended, shall present the invoice(s) to the MBRA for approval. In the event of an objection, the MBRA Director or contract manager will notify the Developer or City within the 60-day time period, and the Developer or City shall meet to resolve or cure the objection. If the objection is not resolved or cured within 45 days, there is no obligation to pay the portion of the invoice(s) objected to until the parties have mutually agreed in writing through an alternative dispute mediation or there is a final judgment or order of a court of competent jurisdiction directing payment. It is expressly agreed that the Authority does not make or give any assurance of payment to the Developer or City by the mere fact that an Eligible Activity or a dollar amount for such activity is identified in the Brownfield Plan or Act 381 Work Plan and that the Authority

shall have the right to review and approve or deny reimbursement for any invoices for Eligible Activities based on the reasonableness of services performed by any consultant or contractor under this Agreement.

- (d) Payment for approved invoices from Brownfield Tax Increment Revenues from the Development will be made by November 15 each year.
- (e) No condition, event, action, suit, proceeding or investigation is occurring or threatened to occur, or shall be pending before any court, public board or body to which the Developer, City, or MBRA is a party, or threatened against the Developer, City, or MBRA contesting the validity or binding effect of this Agreement or the validity of the Brownfield Plan or which could result in an adverse decision which would have one (1) or more of the following effects:
 - (1) A material adverse effect upon the ability of the MBRA to collect and use Brownfield Tax Increment Revenues to repay its obligations under this Agreement.
 - (2) A material adverse effect on the Developer's or MBRA's ability to comply with the obligations and terms of this Agreement, the Brownfield Plan, or the Act 381 Work Plan.
 - (3) There shall have been no Event of Default by the MBRA and no action or inaction by the MBRA which eventually with the passage of time could become an Event of Default.
- (f) The Developer, City and MBRA shall have performed all of the terms and conditions to be performed by it pursuant to this Agreement.
- (g) Brownfield Tax Increment Revenue and other needed revenue are assured, in the MBRA's sole reasonable judgment for actual development, imminent development, contractual obligations to pay the equivalent taxes, and other designated sources other than general tax revenues to meet the obligations for Eligible Activities of the City and/or MBRA included in the Brownfield Plan and Act 381 Work Plan.
- (h) Approval of the Brownfield Plan, and as necessary the Act 381 Work Plan by MSF for Non-Environmental Eligible Activities and EGLE for Non-Environmental Eligible Activities.
- (i) Proper approvals required under applicable federal and state laws or regulations, and local ordinances, codes or regulations for land use and the Development have been secured.
- (j) There has been no change in statutes or other law that would have one or more of the effects described in (e) above.
- (k) The Developer has received the consent of any affected utility for relocation, burial or other activity necessary to construct the Development.
- (l) The Developer shall have performed all of the terms and conditions to be performed by it.

ARTICLE 6.

DEVELOPER'S ENVIRONMENTAL CONSULTANT, CONTRACTOR,

OR SUBCONTRACTOR RESPONSIBILITIES

Section 6.1 Eligible Activities and Due Care Obligation. The Developer will contract with a competent and qualified Environmental Consultant (“Consultant” or “Environmental Consultant”) or other competent and qualified contractors or subcontractors (“Contractors”) as necessary to conduct and complete certain Eligible Activities set forth in this Agreement and as set forth in the Brownfield Plan and Act 381 Work Plan, as amended or supplemented, but limited to only those Eligible Activities performed by Developer’s Environmental Consultant or Contractors and specifically excludes all other activities performed by other environmental consultants, contractors, or subcontractors performing activities retained by the MBRA or another third party.

Section 6.2 Permits. The Environmental Consultant or Contractors shall examine all permits and licenses pertaining to certain Eligible Activities on the Property to determine whether all permits and licenses required to be issued by any governmental authority on account of certain Eligible Activities on the Property for the Development have been obtained or issued and are in full force and effect, and whether the Eligible Activities are in compliance with the terms and conditions of such permits and licenses, but is limited to only those Eligible Activities performed by Developer’s Environmental Consultant or Contractors, and specifically excludes all other activities performed by other environmental consultants, contractors, or subcontractors performing activities on the site.

Section 6.3 ASTM and Industry Standards. The Environmental Consultant or Contractors shall perform all services and Eligible Activities under this Agreement in accordance with any applicable ASTM or other industry standards.

Section 6.4 Other Services Performed for Developer. It is expressly understood that MBRA is not responsible for payment or reimbursement of any services for or expenses incurred by the Consultant, Contractors and/or Developer that are not within the scope of or in accordance with all of the terms, conditions and provisions of this Agreement. This Agreement shall not be deemed or construed to create any rights to reimbursement or otherwise in the Consultant, Contractors, or any third parties; specifically, this Agreement shall not be construed to create any third-party beneficiary contract or claim.

Section 6.5 Regulatory Liaison and Data and Reports. If applicable, the Consultant will provide communication services and attend meetings with the EGLE as it relates to those Eligible Activities performed by Developer’s Environmental Consultant, and specifically excludes all other activities performed by other Environmental Consultants, Contractors, or Subcontractors performing activities. Consultant or Contractors shall:

- (a) Submit reports and test results first to the Developer and shall submit documents to the MBRA Director within 5 business days thereafter.
- (b) Make known the provisions of this subparagraph to all contractors and subcontractors, who shall be bound by the confidentiality provisions of this Agreement.
- (c) Submit any such written reports marked “DRAFT FOR DISCUSSION PURPOSES ONLY.” To the extent the MBRA or its designated agent reviews or receives a document marked “confidential,” it shall be kept confidential except as prohibited by the Freedom of Information Act or other law or regulation.

- (d) Disclose on request to the MBRA Director all data, reports and test results generated by the Consultant within the scope of this Agreement.

Section 6.6 Other Agreements. The Developer covenants that it will obtain a warranty from the Consultant and Contractors that it is not a party to any other existing or previous agreement which would adversely affect the Consultant's or the Contractor's ability to perform the services with respect to the Eligible Activities.

Section 6.7 Contractors. If the Developer hires any Environmental Consultant or Contractor, or retains any person, firm or corporation to perform services related to Eligible Activities under this Agreement, the Developer shall first secure the written acknowledgment from such party that such party is not and shall not be or act as an agent or employee of the MBRA nor assume or create any duty, commitment or obligation on behalf of nor bind the MBRA in any respect whatsoever. A copy of such written acknowledgment shall be provided to MBRA.

Section 6.8 Non-Discrimination Clause. Neither the Developer, Consultant, nor any Contractors shall discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 6.9 Independent Contractor. The Consultant and any Contractors shall perform its services under this Agreement entirely as an independent contractor, and shall not be deemed an agent, employee or legal representative of the MBRA. The MBRA and the Consultant and any Contractor shall each have and maintain complete control over all its employees, agents and operators. Facts or knowledge of which the Consultant or Contractor becomes aware shall not be imputed to the MBRA without communication to and receipt by managerial officials or employees of the MBRA. The Consultant or any Contractor has no authority to assume or create, and will not assume or create, any commitment or obligation on behalf of the MBRA in any respect whatsoever. Further, the Consultant or any Contractor shall exercise its independent judgment for the services provided in this Agreement.

Section 6.10 Disposal of Hazardous Waste. In the event that samples or other materials contain substances classified as "hazardous waste" under state or federal law ("Hazardous Waste"), the Developer or its agent shall, under a manifest signed by the Developer, its agent, or a third party as the generator, have such samples transported for final disposal to a facility licensed to accept Hazardous Waste. It is expressly understood that the MBRA does not have any oversight or other control or authority over disposal of Hazardous Waste under the terms of this paragraph.

Section 6.11 Compliance With Laws. While on the Property, the Developer, the Consultant, and any Contractor shall impose work orders on its employees, agents and subcontractors which are designed to assure that they comply with all applicable federal, state and local laws and regulations (including occupational safety and environmental protection statutes and regulations) in performing services under this Agreement, and shall comply with any directions of governmental agencies relating to site safety, security, traffic or other like matters, but limited to only those Eligible Activities performed by Developer's Environmental Consultant or Contractors, and specifically excludes all other activities performed by other environmental consultants, contractors, or subcontractor performing activities.

Section 6.12 Environmental Consultant or Contractor Insurance. The Developer shall assure that the Consultant and any Contractors performing any part of the Eligible Activities covered by this Agreement shall obtain and maintain the policies of insurance in the types and amounts provided in Section 8.1

ARTICLE 7
REPRESENTATIONS AND WARRANTIES

Section 7.1 Representations and Warranties of MBRA. MBRA represents and warrants to the Developer that:

- (a) MBRA is a public body corporate, established pursuant to Act 381, with all necessary corporate powers pursuant to that Act to enter into and perform this Agreement.
- (b) The execution and delivery of this Agreement has been duly authorized by all requisite action on the part of the MBRA, and this Agreement constitutes a valid and binding agreement of the MBRA enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally, now existing or hereafter enacted, and by the application of general principles of equity, including those relating to equitable subordination.
- (c) Neither the execution nor delivery of this Agreement nor the consummation of the transactions contemplated hereby is in violation of any provision of any existing law or regulation, order or decree of any court or governmental entity, or any agreement to which the MBRA is a party or by which the MBRA is bound.

Section 7.2 Representations and Warranties of the Developer. The Developer represents and warrants to the MBRA that:

- (a) The Developer (i) is duly organized and validly existing as a Michigan corporation in good standing under the laws of the State of Michigan, with power under the laws of such state to carry on its business as now being conducted; (ii) is duly qualified to do business in the State of Michigan, and (iii) has the power and authority to consummate the transactions contemplated under this Agreement by the Developer.
- (b) There is no violation or default by the Developer of any provision of its Articles of Organization or Operating Agreement, or under any indenture, contract, mortgage, lien, agreement, lease, loan agreement, note, order, judgment, decree or other instrument of any kind or character to which it is a party and by which it is bound, or to which it or any of its assets are subject, and compliance with the terms, conditions and provisions of this Agreement does not conflict with and will not result in or constitute a breach of or default under any of the foregoing, wherein default, breach or violation would materially and adversely affect any of the transactions contemplated by, or the validity of, this Agreement.
- (c) The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action on the part of the Developer and this Agreement constitutes a valid and binding agreement of the Developer in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally, now existing or hereafter enacted, and by the application of general principles of equity, including those relating to equitable subordination.
- (d) Except as a part of the performance and completion of Eligible Activities under the terms of this Agreement, the Developer and its contractors or subcontractors shall not use the Site for the storage, treatment or disposal of hazardous or toxic wastes of unaffiliated third parties and shall comply with all applicable federal, state and local laws, regulations, rules,

ordinances, codes, decrees and orders in connection with any use of the Site, and shall obtain all necessary permits in connection therewith.

- (e) The Developer warrants that it will comply with all obligations, covenants and conditions required of it or its agents or contractors under the terms of this Agreement.

ARTICLE 8 **INSURANCE**

Section 8.1 Insurance. The Developer and any contractor(s) or subcontractor(s) shall purchase and maintain insurance not less than the limits set forth below as applicable and necessary. The Developer and any contractor(s) and subcontractor(s) shall maintain such other insurances as it deems appropriate for its own protection.

- (a) Worker's Disability Compensation Insurance including Employers Liability Coverage in accordance with all applicable statutes of the State of Michigan.
- (b) Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit. Coverage shall include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Endorsement or Equivalent.
- (c) Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage, with limits of liability of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.
- (d) Contractor's Pollution Liability Insurance provided by Contractors, sub-contractors and site work contractors engaging in environmental response activities, covering any sudden and non-sudden pollution or environmental impairment, including clean up costs and defense, with limits of liability of not less than \$1,000,000 per occurrence (with first party and third party coverage).

Section 8.2 Cancellation Notice. It is understood and agreed that thirty (30) days advanced written notice of cancellation, non-renewal, reduction and/or material change to any insurance policy specified above shall be sent to the MBRA.

Section 8.3 Additional Insured. The Commercial General Liability Insurance, Motor Vehicle Liability Insurance, Professional Liability Insurance, and Auto Pollution Liability Insurance, as described above, held by the Developer and its Environmental Consultant, contractors and subcontractors, shall have an endorsement including the City of Marquette and the Marquette Brownfield Redevelopment Authority as additional insured.

Section 8.4. Proof of Insurance. The Developer or any contractor or subcontractor shall make available copies of certificates of insurance for each of the policies mentioned above to the Authority upon request. If so requested, certified copies of all policies will be furnished.

ARTICLE 9 **REMEDIES AND TERMINATION**

Section 9.1 Alternative Dispute Mediation. If a dispute arises between the parties to this Agreement, the parties shall seek an alternative means of resolving the dispute as a condition precedent to litigation. Therefore, the parties agree to the following terms and conditions:

- (a) The party bringing in a claim shall give notice to the other party and, in writing, propose a meeting in which to discuss and attempt to resolve the claim within seven (7) days after the claim arises.
- (b) In the event the meeting between the parties to resolve the claim does not resolve the dispute or does not take place within said seven (7) day period, the parties shall designate, by mutual agreement, an independent mediator who shall convene a meeting of the parties within a period of twenty-one (21) days after the initial meeting between the parties. The mediator shall render his/her decision within ten (10) days of meeting with the parties. In the event that the mediator does not render a decision within said time-period, the party bringing the claim shall have the right to proceed with litigation.
- (c) The purpose of the mediator is to attempt to resolve the dispute between the parties. The mediator shall not be empowered with the authority to render a binding opinion or award.
- (d) During the pendency of this alternative dispute resolution process, the parties agree that any statute of limitations applicable to all claims that are the subject of this mediation process shall be tolled.

Section 9.2 Remedies for Default. The MBRA or the non-defaulting party will provide notice to the defaulting party of the nature and extent of the default. The defaulting party will have 45 days to remedy the default.

Section 9.3 Remedies upon Default. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to terminate this Agreement with the defaulting party or, at the election of such non-defaulting party, may obtain any form of relief permitted under the applicable laws and court rules of the State of Michigan, including the right to seek and obtain a decree of specific performance of a court of competent jurisdiction.

ARTICLE 10

MISCELLANEOUS

Section 10.1 Term. The term of this Agreement shall commence on the date first written above and shall expire upon payment in full of MBRA's obligations under this Agreement, or pursuant to the terms of the Brownfield Plan or Act 381 Work Plan and Act 381.

Section 10.2 Sale or Transfer of Eligible Property or Site within the Plan: The Developer waives the right to reimbursement for outstanding Eligible Activity expense obligations, or any other reimbursement obligation of the MBRA, to be paid through Brownfield Tax Increments captured from the portion of the eligible property that is sold, conveyed, transferred, or assigned unless the Developer complies with the following:

- (a) The Developer provides the prospective transferee with written notice of the Brownfield Plan, the nature and extent of Eligible Activities performed by the Developer pursuant to the Plan, and the extent of any outstanding obligation for reimbursement for Eligible Activity expenses from taxes to be captured from the property.

- (b) The Developer and the transferee enter into an allocation agreement covering how the Brownfield Tax Increment Revenues collected on the property shall be distributed between the Developer and the prospective purchaser or transferee for any outstanding obligations or future obligations for Eligible Activities on the property.
- (c) The Developer provides the MBRA with copies of the written notice and the allocation agreement between the Developer and the transferee of the property prior to transfer of the property, and the MBRA approves the agreement, which shall not be unreasonably denied.

Section 10.3 Assignment of this Agreement. No party to this Agreement may transfer, assign or delegate to any other person or entity all or any part of its rights or obligations arising under this Agreement without the prior written consent of all other parties hereto, which consent will not be unreasonably withheld.

Section 10.4 Notices. All notices, certificates or communications required by this Agreement to be given shall be in writing and shall be deemed delivered when personally served, or when received if mailed by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective parties as follows:

If to MBRA: Sheri Davie, Executive Director
Marquette Brownfield Redevelopment Authority
1100 Wright Street
Marquette, Michigan 49855

If to the City: Karen Kovacs, City Manager
City of Marquette
300 W. Baraga Avenue
Marquette, Michigan 49855

If to the Developer: Andrea Pernsteiner
Ore Dock Real Estate, LLC
521 E. Ohio Street
Marquette, Michigan 49855

or to such other address and/or representative as such party may specify by appropriate notice.

Section 10.5 Amendment and Waiver. No amendment or modification to or of this Agreement shall be binding upon any party hereto until such amendment or modification is reduced to writing and executed by all parties hereto. No waiver of any term of this Agreement shall be binding upon any party until such waiver is reduced to writing, executed by the party to be charged with such waiver, and delivered to the other parties hereto.

Section 10.6 Entire Agreement. This Agreement contains all agreements between the parties. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the parties, except to the extent reference is made thereto in this Agreement.

Section 10.7 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

Section 10.8 Captions. The captions and headings in this Agreement are for convenience only and in no way limit, define or describe the scope or intent of any provision of this Agreement.

Section 10.9 Applicable Law. This Agreement shall be governed in all respects, whether as to validity, construction, performance and otherwise, by the laws of the State of Michigan.

Section 10.10 Mutual Cooperation. Each party to this Agreement shall take all actions required of it by the terms of this Agreement as expeditiously as possible and shall cooperate to the fullest extent possible with the other parties to this Agreement and with any individual entity or governmental agency involved in or with jurisdiction over the engineering, design, construction or operation of the Developer Project, or any other improvements which are undertaken in connection with the foregoing, in the granting and obtaining of all easements, rights of way, permits, licenses, approvals and any other permissions necessary for the construction or operation thereof. Each party to this Agreement shall execute and deliver all documents necessary to accomplish the purposes and intent of this Agreement including, but not limited to, such documents or agreements as may be required by the Developer's lenders with respect to the Project to secure the Developer financing from such lenders. Each party to this Agreement also shall use its best efforts to assist the other parties to this Agreement in the discharge of their respective obligations hereunder and to assure that all conditions precedent to and the completion of the Developer Project are timely satisfied.

Section 10.11 Binding Effect. This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns.

Section 10.12 Brokerage Fees. The MBRA and Developer represent and warrant to the others that no broker or finder has been engaged in connection with this Agreement. The MBRA, without waiving any governmental immunity and to the extent allowed by law, and Developer shall indemnify each other and hold each other harmless from and of any and all liability (including reasonable attorneys' fees and costs) for brokerage commissions or finders' fees in connection with this Agreement to the extent such liability or claim is based on any arrangement or agreement made or claimed to have been made by or on behalf of the indemnifying party.

The MBRA, City and Developer have caused this Agreement to be duly executed and delivered as of the date first written above.

ORE DOCK REAL ESTATE, LLC

By: Andrea Pernsteiner
Its: Chief Operating Officer

Approved as to Content:

CITY OF MARQUETTE BROWNFIELD
REDEVELOPMENT AUTHORITY

By: Sheri Davie
Its: Executive Director

By: P. David Allen
Its: Chair

Approved as to Content:

CITY OF MARQUETTE

By: Karen M. Kovacs
Its: Manager

By: Cody Mayer
Its: Mayor

Approved as to Form:

By: Suzanne C. Larsen
Its: Attorney

By: Kyle Whitney
Its: Clerk

EXHIBIT A: DEVELOPMENT

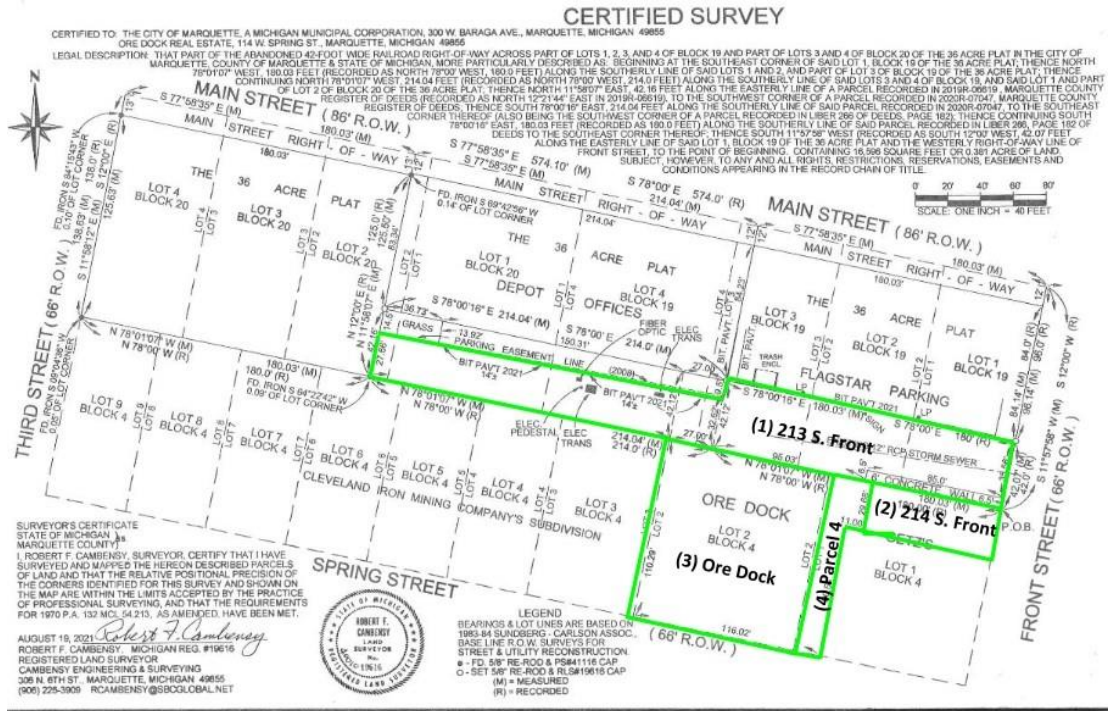
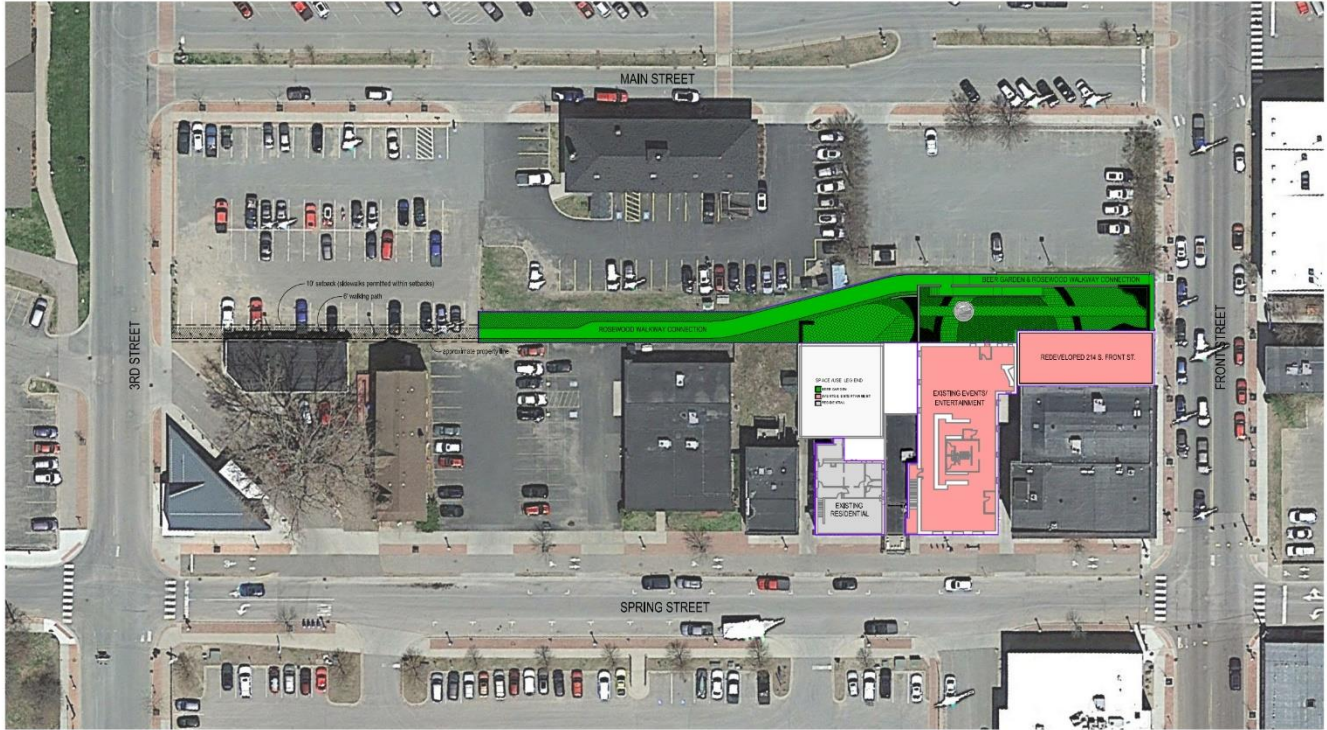


EXHIBIT B: PUBLIC IMPROVEMENTS

ORE DOCK BREWING CO.

MARQUETTE, MICHIGAN
PROJECT ROSEWOOD



UPPER LEVEL & BEER GARDEN
NOT TO SCALE



ID ARCHITECTURE
ENGINEERING
CONSULTING
MARQUETTE OFFICE
100 N. MARQUETTE AVENUE
MARQUETTE, MI 49801
PHONE: (616) 226-1111
FAX: (616) 226-1112
WWW.IDARCHITECTURE.COM
MARQUETTE OFFICE
100 N. MARQUETTE AVENUE, SUITE 100
MARQUETTE, MI 49801
PHONE: (616) 226-1111
FAX: (616) 226-1112
WWW.IDARCHITECTURE.COM

EXHIBIT C: ELIGIBLE ACTIVITIES

BROWNFIELD ELIGIBLE ACTIVITIES ORE DOCK BEER GARDEN ORE DOCK REAL ESTATE, LLC

DEVELOPER ENVIRONMENTAL ELIGIBLE ACTIVITIES	
Baseline Environmental Assessment	\$27,000
Due Care Activities	<u>\$43,000</u>
Subtotal	\$70,000
Contingency	\$10,500
Brownfield Plan Preparation	<u>\$3,000</u>
ENVIRONMENTAL ELIGIBLE ACTIVITIES	\$83,500
 DEVELOPER NON-ENVIRONMENTAL ELIGIBLE ACTIVITIES	
Lead Asbestos Abatement	\$56,500
Demolition	\$151,200
Site Preparation	<u>\$111,740</u>
Subtotal	\$319,440
Contingency	\$47,916
Brownfield Plan Preparation	<u>\$10,000</u>
NON-ENVIRONMENTAL ELIGIBLE ACTIVITIES	\$377,356
 TOTAL DEVELOPER ELIGIBLE ACTIVITIES	 <u>\$460,856</u>
 CITY NON-ENVIRONMENTAL ELIGIBLE ACTIVITIES	
Infrastructure	
Trail/Park	\$195,000
Brownfield Plan Implementation	\$25,000
TOTAL CITY ELIGIBLE ACTIVITIES	<u>\$220,000</u>
 TOTAL ELIGIBLE ACTIVITIES	 \$680,856

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 11/28/2022

Consent Agenda **Police Security Cameras and Cloud Service**

BACKGROUND:

The Police Department has used Wolfcom® brand body cameras since 2012. They have been invaluable to the department for capturing video evidence and securing officer safety. Over the past decade, the amount of data the department is required to store and manage has grown too large to maintain on premises, and the Department is now looking to cloud-based storage solutions to alleviate the issues.

Other benefits of cloud management systems include secure data transfers to district attorneys and joint agency partners, chain of custody tracking, and cataloging for proper retention and disposal. The department has reviewed two CJIS compliant companies, Wolfcom® and Axon, who provide necessary unlimited cloud storage and video management services.

Axon offered a five-year quote at a total cost of \$183,365.70. Wolfcom® provided a two-year quote at a total cost of \$31,000, and also offered to replace current camera equipment, an additional value of approximately \$16,500.

Staff is recommending the approval of the Wolfcom® bid.

FISCAL EFFECT:

The Wolfcom® bid is \$12,000 for the first year and \$19,000 for the second year. This includes full camera equipment replacement at no additional cost, for an added value of approximately \$16,500. Adequate funding for year one is included in the FY 2023 budget.

RECOMMENDATION:

Accept the Wolfcom® bid of \$12,000 for the first year and \$19,000 for the second year, and authorize the City Manager or her designee to sign the agreement.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Wolfcom quote 1st year
- ▣ Wolfcom quote 2nd year

▫ Axon quote 5 years



WOLFCOM®

"Because Cops Deserve the Best"

www.WolfcomUSA.com

QUOTE

SQ-00011771

Customer Name Marquette PD - MI
Customer Address Line 300 W Baraga Ave
Customer City Marquette
Customer State/Region MI
Customer Country United States

Created By Precious Dela Cruz
Quote Date 09/29/2022
Expires 12/31/2022
Tax ID Number 90-0116535
DUNS Number 185957425
Cage Code 722M6

Image	Item Code	Description	Comments	Qty	Sales Price	Discounted Pr	Total
	0099	Halo 16 Port X2 Smart Docking Station	Complimentary - 1 year warranty	1.00	1,990.00	1,990.00	1,990.00
	0102	Unlimited CJIS Cloud Storage Plan with WEMS Enterprise.	YEAR 1	26.00	588.00	588.00	15,288.00
	0102	Unlimited CJIS Cloud Storage Plan with WEMS Enterprise.	YEAR 1 - FREE Unlimited Cloud License	8.00	588.00	0.00	0.00
	0081	Technical Support Plan Includes FREE Technical Support during your WEMS activation period. Covers any assistance with WEMS, COPS, ASR, Body Cameras, and Training. Does not cover Data Migration or Backup Recovery Requests.		1.00	1,200.00	0.00	0.00
	0046	Software: ASR Automatic Smart Redaction	FREE for 6 months prorated charges will apply \$600 per year	1.00	1,200.00	0.00	0.00
	0160	RMA Forward Program		1.00	495.00	0.00	0.00

0147	Discount	Additional discount.	1.00	-5,278.00	-5,278.00	-5,278.00
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Shipping	Price
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Shipping	0.00
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Sub Total	12,000.00
Shipping	0.00
Tax Total	0.00
Total	12,000.00

Comments: Free shipping included.

By signing below, you are officially placing your order and agree to the terms set forth below.

WOLFCOM ENTERPRISES (WOLFCOM®, we, us, or our) and you or the entity you represent (Agency or you) agree to all terms of the Agreement effective on the date you first agreed to this agreement or first receive the products. Hardware means all body cameras, workstations, servers, docking stations and does not include accessories such as cables, mounts, clips, or attachments.

1. Return Policy: You may return your undamaged product with all its included accessories within 15 days of receipt for a refund. There will be a 20% re-stocking fee for all returned items. Shipping costs are non-refundable. After the 15-day timeframe, all sales are final.
2. Payment and Fees: Payment is due upon receipt of the products. A 2% late fee per month will be applied if payment is received after 30 days after receipt of products. T
3. Backup & Recovery: If you did not purchase backup and recovery (On-Premises Storage Only) with this order then you understand that in the event of a disaster, fire, flood, theft, hard drive failure etc., your data may be unrecoverable. WOLFCOM is not responsible for lost data. We recommend purchasing backup and recovery with your order.
4. Warranties: The minimum warranty period for all hardware is 12 months unless otherwise stated and is non-transferable. We will repair or replaced hardware with new or refurbished units at our discretion. Refurbished units may contain scratches or dents equivalent to the unit we are replacing. For warranty/repair service, you agree to pay shipping cost to us, and we will cover the cost back to you. Damage to hardware USB ports is not covered under warranty.
5. Acceptance: You agree to purchase our products with its current specifications, features & functions. Any expectations beyond its current abilities are not grounds for a refund and will be accepted as feedback. Any expectation or requirement for our products to perform beyond its capability or any request or demand to change or upgrade the product, its firmware, or any features and functions will be considered "Customized Work" and we will provide a quotation to you requiring full payment in advance to begin work.

I understand that the full and complete texts of WOLFCOM's Warranty & Return Policy can be found at www.WolfcomUSA.com/wolfcom-return-policy/

Signature: _____ Date: _____

Print Name: _____ Title: _____

Purchase Order Number (Optional) _____



WOLFCOM®

"Because Cops Deserve the Best"

www.WolfcomUSA.com

QUOTE

SQ-00011772

Customer Name Marquette PD - MI
 Customer Address Line 300 W Baraga Ave
 Customer City Marquette
 Customer State/Region MI
 Customer Country United States

Created By Precious Dela Cruz
 Quote Date 09/29/2022
 Expires 10/29/2022
 Tax ID Number 90-0116535
 DUNS Number 185957425
 Cage Code 722M6

Image	Item Code	Description	Comments	Qty	Sales Price	Discounted Pr	Total
	0102	Unlimited CJIS Cloud Storage Plan with WEMS Enterprise.	YEAR 2	26.00	588.00	588.00	15,288.00
	0102	Unlimited CJIS Cloud Storage Plan with WEMS Enterprise.	Year 2	8.00	588.00	588.00	4,704.00
	0081	Technical Support Plan Includes FREE Technical Support during your WEMS activation period. Covers any assistance with WEMS, COPS, ASR, Body Cameras, and Training. Does not cover Data Migration or Backup Recovery Requests.		1.00	1,200.00	0.00	0.00

Shipping	Price

Sub Total 19,992.00
Shipping 0.00
Tax Total 0.00
Total 19,992.00

Comments: Annual Fee:

Unlimited Cloud storage 34 x \$588 = \$19,992.00

You will get 34 Halo 2.0 next year once it has been released.

By signing below, you are officially placing your order and agree to the terms set forth below.

WOLFCOM ENTERPRISES (WOLFCOM®, we, us, or our) and you or the entity you represent (Agency or you) agree to all terms of the Agreement effective on the date you first agreed to this agreement or first receive the products. Hardware means all body cameras, workstations, servers, docking stations and does not include accessories such as cables, mounts, clips, or attachments.

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3. Backup & Recovery: If you did not purchase backup and recovery (On-Premises Storage Only) with this order then you understand that in the event of a disaster, fire, flood, theft, hard drive failure etc., your data may be unrecoverable. WOLFCOM is not responsible for lost data. We recommend purchasing backup and recovery with your order.
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5. Acceptance: You agree to purchase our products with its current specifications, features & functions. Any expectations beyond its current abilities are not grounds for a refund and will be accepted as feedback. Any expectation or requirement for our products to perform beyond its capability or any request or demand to change or upgrade the product, its firmware, or any features and functions will be considered "Customized Work" and we will provide a quotation to you requiring full payment in advance to begin work.

I understand that the full and complete texts of WOLFCOM's Warranty & Return Policy can be found at www.WolfcomUSA.com/wolfcom-return-policy/

Signature: _____ Date: _____

Print Name: _____ Title: _____

Purchase Order Number (Optional) _____



Axon Enterprise, Inc.
 17800 N 85th St.
 Scottsdale, Arizona 85255
 United States
 VAT: 86-0741227
 Domestic: (800) 978-2737
 International: +1.800.978.2737

Q-411239-44833.868KU

Issued: 09/29/2022



Quote Expiration: 11/15/2022

EST Contract Start Date: 12/01/2022

Account Number: 119869

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Business;Delivery;Invoice-300 W Baraga Ave 300 W Baraga Ave Marquette, MI 49855-4712 USA	Marquette Police Department - MI 300 W Baraga Ave Marquette, MI 49855-4712 USA Email: iibtakii@gmail.com

SALES REPRESENTATIVE	PRIMARY CONTACT
Keith Utter Phone: Email: kutter@axon.com Fax:	Ben Takala Phone: (906) 228-0400 Email: btakala@marquettemi.gov Fax:

Program Length	60 Months
TOTAL COST	\$183,365.70
ESTIMATED TOTAL W/ TAX	\$183,365.70

Bundle Savings	\$11,096.26
Additional Savings	(\$0.26)
TOTAL SAVINGS	\$11,096.00

PAYMENT PLAN		
PLAN NAME	INVOICE DATE	AMOUNT DUE
Year 1	Nov, 2022	\$36,673.14
Year 2	Nov, 2023	\$36,673.14
Year 3	Nov, 2024	\$36,673.14
Year 4	Nov, 2025	\$36,673.14
Year 5	Nov, 2026	\$36,673.14

BILLED ON FULFILLMENT

PLAN NAME	INVOICE DATE	AMOUNT DUE
None	As Fulfilled	\$0.00

Quote Details

Bundle Summary

Item	Description	QTY
AB3C	AB3 Camera Bundle	26
AB3MBD	AB3 Multi Bay Dock Bundle	3
BasicLicense	Basic License Bundle	31
ProLicense	Pro License Bundle	3
BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	3
BWCamTAP	Body Worn Camera TAP Bundle	26
DynamicBundle	Dynamic Bundle	1

Bundle: AB3 Camera Bundle Quantity: 26 Start: 12/1/2022 End: 11/30/2027 Total: 18174 USD

Category	Item	Description	QTY
Camera	73202	AXON BODY 3 - NA10 - US - BLK - RAPIDLOCK	26
Camera Mount	74028	WING CLIP MOUNT, AXON RAPIDLOCK	29
USB	11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2	29

Bundle: AB3 Multi Bay Dock Bundle Quantity: 3 Start: 12/1/2022 End: 11/30/2027 Total: 4616.7 USD

Category	Item	Description	QTY
Dock	74210	AXON BODY 3 - 8 BAY DOCK	3
Power Cord	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	3
Wall Mount	70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	3

Bundle: Basic License Bundle Quantity: 31 Start: 12/1/2022 End: 11/30/2027 Total: 27900 USD

Category	Item	Description	QTY
E.com License	73840	EVIDENCE.COM BASIC LICENSE	31

A La Carte Storage	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE-	31
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Bundle: Pro License Bundle Quantity: 3 Start: 12/1/2022 End: 11/30/2027 Total: 7020 USD			
Category	Item	Description	QTY
E.com License	73746	PROFESSIONAL EVIDENCE.COM LICENSE	3
A La Carte Storage	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE-	9

Bundle: Body Worn Camera Multi-Bay Dock TAP Bundle Quantity: 3 Start: 12/1/2022 End: 11/30/2027 Total: 5310 USD			
Category	Item	Description	QTY
Bundle Scaler	999999	BUNDLE SCALER	1
Dock Warranty	80465	EXT WARRANTY, MULTI-BAY DOCK (TAP)	3
Multi-Bay Dock Refresh 1	73689	MULTI-BAY BWC DOCK 1ST REFRESH	3
Multi-Bay Dock Refresh 2	73688	MULTI-BAY BWC DOCK 2ND REFRESH	3

Bundle: Body Worn Camera TAP Bundle Quantity: 26 Start: 12/1/2022 End: 11/30/2027 Total: 43680 USD			
Category	Item	Description	QTY
Bundle Scaler	999999	BUNDLE SCALER	1
Camera Warranty	80464	EXT WARRANTY, CAMERA (TAP)	26
Camera Refresh 1 with Spares	73309	AXON CAMERA REFRESH ONE	26
Camera Refresh 2 with Spares	73310	AXON CAMERA REFRESH TWO	26

Bundle: Dynamic Bundle Quantity: 1 Start: 12/1/2022 End: 11/30/2027 Total: 76665 USD			
Category	Item	Description	QTY
Other	85144	AXON STARTER	1
Other	100165	UNLIMITED 3RD-PARTY STORAGE	31
Other	73686	EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE	31

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at www.axon.com/legal/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature

Date Signed

9/29/2022

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 11/28/2022

New Business **Used Fire Truck Purchase**

BACKGROUND:

In past years, the Fire Department has utilized two 2004 Pierce Arrow XT fire trucks in their daily operations. Within the last six months both trucks have been removed from service due to frame corrosion and cracking issues. The trucks have been included in the Motor Pool Capital Outlay replacement schedule and were scheduled to be replaced in the 2023/24 and 2024/25 fiscal years. One new truck has been ordered but is at least 12 months out. A used truck was purchased in June to replace the first pumper truck that had failed. Staff recommends buying a second used pumper to minimize the hours put on the aging aerial truck until the new pumper truck is in service. Purchasing a second used truck will also push the need for the additional new pumper out for another five to seven years.

Motor Pool and Fire Department staff have been looking for used trucks online. Staff have found a 2001 Pierce Enforcer Pumper Paramedic for sale in Miami, Florida. This truck is clean with very low hours and has medical cabinets, extra storage, and is already set up for foam. Since it is already being utilized as a paramedic unit, there would be minimum time involved in setting it up for city use. The purchase price of the truck is \$48,000.

FISCAL EFFECT:

There are sufficient funds in the FY 2023 Motor Pool capital outlay budget.

RECOMMENDATION:

Approve the purchase of used 2001 Pierce Enforcer from Action Truck and Equipment in Miami, Florida in the amount not-to-exceed \$48,000.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Fire Truck Photo



2001 Pierce Enforcer Pumper Paramedic Fire Truck

Location – Miami, FL

Price: \$48,000

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 11/28/2022

New Business

DPW and Utilities Labor Union Wages

BACKGROUND:

On December 13, 2021, the City Commission approved a new three-year agreement with the Department of Public Works and Utilities Employees' Chapter of AFSCME Local #1852. The agreement included a 2% wage increase for year one and wage reopeners in 2022 and 2023. The parties have now agreed upon a 2% wage increase for year two (2022) with a one-time \$625 payment to each bargaining unit member.

The City's bargaining team commends the DPW and Utilities unit of AFSCME for their willingness to work with us to negotiate a wage increase that is fair to the employees and the City.

FISCAL EFFECT:

A 2% increase to wages in addition to a one-time \$625 payment to each bargaining unit member equates to a cost of roughly \$83,000. This will require a budget amendment.

RECOMMENDATION:

Approve the Department of Public Works and Utilities Employees' 2% wage increase effective November 28, 2022, with a one-time payment to each bargaining unit member of \$625.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

No Attachments Available