

LEASE AGREEMENT

This Lease Agreement (“Lease Agreement”) is entered into this 20th day of September, 2022, by and between Ramsey County, a political subdivision of the State of Minnesota, through its Parks and Recreation Department, 2015 Van Dyke Street, Maplewood, Minnesota 55109 (“Lessor”), and Frogtown Curling Club, a Minnesota non-profit corporation, 743 Western Avenue, St. Paul, Minnesota 55113 (“Lessee”).

LEASE TERMS

1. **Grant of Lease/Description of Premises.** Lessor hereby leases to Lessee, and Lessee hereby rents from Lessor, the real property, grounds, building, parking lot, and related improvements located at 743 Western Avenue North, City of Saint Paul, County of Ramsey, State of Minnesota, commonly known as the Biff Adams Arena (“Premises”).

2. **Acceptance of the Premises.** Lessee takes and accepts the Premises in its “as is” condition, and Lessee acknowledges that Lessee has inspected the Premises and accepts the Premises in its present condition as suitable for the purposes for which it is leased. Lessee further acknowledges that no representations as to the repair of the Premises, nor promises to alter, remodel, or improve the Premises have been made by Lessor. The taking of possession of the Premises is conclusive evidence that the Premises at that time was in good and satisfactory condition.

3. **Term.** The term of this Lease is for ten years, commencing on July 1, 2022, and ending on June 30, 2032 (“Initial Lease Period”). This Lease may be renewed for one five-year period upon mutual agreement and recalculation of the rental amount based upon the capital asset management plan for the Premises. At least one year prior to the end of the Initial Lease Period, Lessor and Lessee will meet and confer regarding the renewal lease period, including establishing monthly rent rates for a renewal period. Renewal agreements must be in writing as an amendment to this Lease Agreement.

4. **Rent.** The rental rates for the Initial Lease Period are based on repair/replacement of the building envelope, grounds, and parking lot of the Premises, as identified in the capital asset management plan. The total rent for the Initial Lease Period will be \$274,800, payable in quarterly installments as follows:

Year	Rent Period	Monthly Rent	Quarterly Rent	Annual Rent
1	July 1, 2022 – June 30, 2023	\$1,950	\$5,850	\$23,400
2	July 1, 2023 – June 30, 2024	\$1,950	\$5,850	\$23,400
3	July 1, 2024 – June 30, 2025	\$2,200	\$6,600	\$26,400
4	July 1, 2025 – June 30, 2026	\$2,200	\$6,600	\$26,400
5	July 1, 2026 – June 30, 2027	\$2,200	\$6,600	\$26,400
6	July 1, 2027 – June 30, 2028	\$2,400	\$7,200	\$28,800
7	July 1, 2028 – June 30, 2029	\$2,400	\$7,200	\$28,800
8	July 1, 2029 – June 30, 2030	\$2,400	\$7,200	\$28,800
9	July 1, 2030 – June 30, 2031	\$2,600	\$7,800	\$31,200

10	July 1, 2031 – June 30, 2032	\$2,600	\$7,800	\$31,200
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Rental payments will be billed quarterly via invoice from Lessor to Lessee, and will be payable in full within 30 days of the billing date. Rental payments must be sent to the Lessor’s contact for notices, as provided below.

5. **Deposit.**

- A. Lessee paid a security deposit in the amount of \$7,500 pursuant to a prior lease agreement (“Security Deposit”) between Lessor and Lessee. That Security Deposit will carry forward to this Lease Agreement. The Security Deposit will be held by Lessor, will not earn interest, and may be commingled with other funds. The Security Deposit will be refunded to Lessor upon termination of this Lease Agreement, or any subsequent renewal or successor lease agreement, less any outstanding costs and charges payable, due to, or arising under this Lease Agreement, or for damage to the Premises.
- B. Nothing in this Lease Agreement limits Lessee’s liability for outstanding costs or charges, or for damages to the Premises by the amount of the Security Deposit. Lessee remains primarily responsible for these costs, charges, and damages.

6. **Utilities, Property Taxes, and Special Assessments.**

- A. Lessee is responsible for payment of all utility bills, including without limitation electric, natural gas, water, sanitary sewer, stormwater sewer, streetlight, telephone, internet access, building security, and any other charge.
- B. Lessee is responsible for payment of all Property Taxes and Special Assessments due and payable during its tenancy. This responsibility will survive termination of this Agreement. Upon termination of this agreement, lessor may withhold an amount from the Security Deposit equal to the amount of any future property tax or special assessments.
- C. Lessor will invoice the Lessee monthly for all utility, property taxes, or other costs or charges that it pays on behalf of Lessee. Lessor will charge Lessee for actual utility expenses, and Lessee will be responsible for payment within 15 days of receipt of invoice from Lessor. Upon mutual agreement of the parties, the Lessee may contract directly with a utility for payment of associated costs. Lessor may require an additional deposit to secure payment of any directly billed utilities.

7. **Alterations, Additions, and Improvements; No Vested Rights.** During the Initial Lease Period or a renewal lease period, at Lessee’s sole cost and expense, Lessee may make alterations, additions, and improvements to the Premises desired or necessary for the conduct of its business. Alterations, additions, and improvements other than routine maintenance or repairs may be made only upon Lessor’s written consent, which will not unreasonably be withheld. Lessee will hold Lessor harmless from loss or liability arising from non-payment of persons supplying goods or

work in the course of any alterations, additions, or improvements. Lessee's cost for any alterations, additions, or improvements will not be off-set against rent or any other financial responsibility of Lessee set forth in this Lease Agreement. Lessee will acquire no vested rights or property interest in the Premises related to any alterations, additions, or improvements made. Upon termination of this Lease Agreement, any alterations made to the Premises will become the property of Landlord.

8. **Use.** The Premises will be used and occupied for public recreation purposes, namely as an arena for curling sports, and any other lawful use in connection with Lessee's business. Subject to the limitations and requirements of Section 9 of this Lease Agreement, Lessee may also use the parking lot of the Premises for limited, seasonal use by a third party. In addition to the requirements of Section 12 of this Lease Agreement, prior to such seasonal use, Lessor must confirm that such use is permitted by local zoning or other authority. If zoning or other laws or ordinances regulating the use of the Premises in effect at any time during Initial Lease Period will make it unlawful for Lessee practicably to conduct its business, excluding the seasonal use, at the Premises, Lessee will have the right to terminate this lease with no liability upon giving written notice to Lessor. Lessee will hold Lessor harmless from penalties and fines imposed on the conduct by Lessee of its business in the Premises, including the seasonal use, in a manner different from its ordinary and usual manner of conducting such business. Lessee will not permit any action that would constitute a nuisance or would disturb, unreasonably interfere with, or endanger Lessor or the public.

9. **Seasonal Third-Party Use.** Upon approval of Lessor, Lessee may allow limited, seasonal use of any part of the Premises for approved activities by a third party pursuant to a written agreement between Lessee and the third party. In addition to the insurance required in Section 12 of this Lease Agreement, such written agreement must require that Lessor or the third party provide reasonable insurance specifically for the activity, and provide a Certificate of Insurance as proof of the same. Such Certificate of Insurance must name "Ramsey County, its officials, employees, volunteers, and agents" as an additional insured on all applicable policies with respect to Lessee's or the third party's acts or omissions, or the acts or omissions of those acting on Lessee's or the third party's behalf, in the use of any part of the Premises under this Section. The coverage must be primary and non-contributory. The written agreement and Certificate of Insurance are subject to approval by Lessor, including by Ramsey County Risk Management. Lessee's written agreement with any third party must require that the third party indemnify Lessor, and hold Lessor harmless, to the same extent set forth in Sections 13 and 15 of this Lease Agreement.

10. **Signs.**

A. As allowed by local zoning regulations, Lessee may, with Lessor's prior written consent, which will not be unreasonably withheld, and at Lessee's own risk and expense, lawfully erect or place its standard signs concerning the business of Lessee within the building on the Premises and/or on the exterior walls of the building on the Premises and/or elsewhere on the Premises. Lessee will:

- i. Maintain said signs in good state of repair;

- ii. Save Lessor harmless from loss, cost, or damages that may occur as a result of such signs; and
 - iii. Repair any damage which may have been caused by the erection, existence, maintenance or removal of such signs.
- B. At the end of the Initial Lease Period or any renewal lease period, Lessee will remove such signs at its own expense.
- C. Lessee may require any of Lessor's signs to match a standard design or theme used for other signs in the community, in the Ramsey County park system, or among Ramsey County buildings.

11. **Responsibilities and Duties.**

- A. Lessee will keep the Premises clean and free from dirt and other refuse, both inside and outside. Lessee will be responsible for maintenance of the grounds, driveway, sidewalks, parking area, and boulevards.
- B. Lessee will make all repairs to the Premises that are required, except Lessor will be responsible for exterior capital asset repair and replacement, as provided for in the County Capital Asset Management Plan. All other elements will be repaired and maintained by Lessee in a safe, clean, and workmanlike manner, including without limitation: heating, and ventilation equipment and controls; refrigeration equipment; lighting systems; wiring, open and concealed piping, and other conduits; walls, floors, and ceilings; and exterior grounds.
- C. Except as set forth in Section 11 of this Lease Agreement, Lessee will, at its sole cost and expense, promptly make all repairs as and when required in and about the Premises. In the event the Lessee elects not to proceed with any repair with a cost that exceeds \$20,000, Lessor may elect to:
 - i. Terminate this Lease Agreement;
 - ii. Make any the repair at Lessor's sole cost and expense; or
 - iii. Continue the Lease Agreement without making the repairs.
- D. In any event where Lessor chooses not to perform repairs with a cost that exceeds \$20,000, Lessor must notify Lessee in writing as soon as possible that the repairs are necessary and that it elects not to complete the repairs. In any event, Lessee must take any action to prevent further damage to the Premises or the equipment, fixtures or property located at the Premises. Nothing in this Lease Agreement relieves the Lessee of liability for injuries or damage caused by any failure to make a repair.
- E. Lessee will be responsible for all costs, charges, dues, fees, taxes, or assessments associated with the operation of the Premises, unless specifically identified in this Lease Agreement.

12. **Insurance.** Lessee is responsible for insurance for the Use set forth in Section 8 of this Lease Agreement, excluding the seasonal use permitted by that Section and Section 9 of this Lease Agreement. Insurance requirements for the seasonal use are as set forth in Section 9 of this Lease Agreement. All insurance provisions in this Section and Section 9 of this Lease Agreement are subject to review and amendment for any Renewal Period.

- A. Lessee will purchase and maintain such insurance as will protect the Lessee from claims which may arise out of, or result from, the Lessee's operation, whether such operations are by the Lessee or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.
- B. Lessee will secure the following coverages and comply with all provisions noted.
 - i. Fire and All-Risk Property Insurance: Coverage will be written on a replacement cost basis for any personal property and/or improvements or betterments of the Lessee at the Premises.
 - ii. Commercial General Liability Insurance
 - a) Applicable to the Premises and Lessee's use of the public and common areas both inside and outside of Premises.
 - \$1,000,000 per occurrence
 - \$2,000,000 general aggregate
 - \$1,000,000 products/completed operations total limit
 - \$1,000,000 personal injury and advertising liability
 - \$50,000 damage to rented premises
 - \$5,000 per person medical payment
 - \$50,000 fire legal
 - \$1,000,000 participant legal liability
 - b) This policy is to be written as acceptable to Lessor.
 - c) Ramsey County, its officials, employees and agents, will be added to the policy as additional insured, using ISO form CG 20 11 01 96 or its equivalent.
- C. Sports Accident Insurance. Coverage will be applicable to injuries sustained as a result of sports-related accidents by members and the public participating in activities at the Premises.
- D. All Certificates of Insurance will:
 - i. Be issued evidencing such coverage to Lessor throughout the Initial Lease Period or any renewal lease period;
 - ii. Provide that the insurance company gives Lessor thirty (30) days' prior written notice of cancellation, non-renewal or any material changes in the policy;
 - iii. Add Ramsey County, its officials, employees and agents as additional insureds, using ISO form CG 20 11 01 96, or its equivalent.
 - iv. Indicate if policy is written with an admitted or non-admitted carrier. Bests'

Rating for the insurer will be noted on the Certificate, and will not be less than an A.

- v. Indicate if the policies are issued pursuant to these requirements.
- E. The above subparagraphs establish minimum insurance requirements, and it is the sole responsibility of the Lessee to purchase and maintain additional insurance that may be necessary in connection with this lease.
- F. Lessee will not occupy the Premises or use the Premises until Lessee has obtained the required insurance and filed an acceptable Certificate of Insurance with Lessor. Copies of insurance policies will be submitted to Lessor upon request.
- G. Nothing in this Lease Agreement will constitute a waiver by Lessor of any statutory or common law immunities, limits, or exceptions on liability.

13. **Indemnification.** Lessee will indemnify Lessor, its officials, employees, and agents, harmless against and from any and all liability claim, loss, cost, damages, expense or action, by or on behalf of any person or persons, firm or firms, corporation or corporations:

- A. Arising from Lessee's occupancy or use of the Premises, the execution, performance, or breach or default on the part of Lessee in the performance of any covenant or agreement on the part of Lessee to be performed pursuant to this Lease Agreement, or
- B. Arising from any act or negligence, gross negligence, or willful misconduct on the part of Lessee, or its agents, contractors, employees, licensees, or invitees, or
- C. Arising from any accident, injury or damage to the extent caused by Lessee, its agents, or employees, to any person, firm or corporation (or similar entity) occurring during the Term of this Lease or any renewal or extension thereof, in or about the Premises, and
- D. From and against all costs, attorney's fees, expenses, and liabilities incurred in or about any such claim or action or proceeding which may be brought; and in case any action or proceeding be brought against Lessor, its officials, employees or agents by reason of any such claim, Lessee, upon notice from Lessor, covenants to resist or defend such action or proceeding by counsel reasonably satisfactory to Lessor.

14. **Lessee's Waiver.** Lessee agrees, to the extent not expressly prohibited by law, that Lessor, its officials, employees and agents will not be liable and Lessee waives all claims for damage to property and business sustained during the Term of this Lease Agreement by Lessee occurring in or about the Premises, resulting directly or indirectly from any existing or future condition, defect, matter or thing in the Premises, or from equipment or appurtenances becoming out of repair or from accident, or from any occurrence or act or omission of Lessor, its officials, employees or agents, unless caused by the negligence or intentional act of Lessor, its officials, agents, or employees. This Section applies especially, but not exclusively, to damage caused as described in this Section; or

- A. To damage caused by the flooding of the Premises, or
- B. To damage caused by
 - i. refrigerators;
 - ii. water, snow, frost, or steam;
 - iii. excessive heat or cold;
 - iv. falling plaster or other material that is incorporated in the Premises;
 - v. broken glass;
 - vi. sewage, gas, odors, or noise; or
 - vii. the bursting or leaking of pipes or plumbing fixtures.

This Section applies equally, whether any such damage results from the act or omission of Lessee's invitees or any other persons, and whether such damage be caused by or result from circumstance described in this Section, or whether such damage be caused by or result from other circumstances of a similar or dissimilar nature.

15. **Lessee's Liability.** All property on the Premises belonging to Lessee, its agents, employees, invitees or otherwise located at the Premises, will be at the risk of Lessee only, and Lessor will not be liable for damage to such property, or for theft, misappropriation, or loss of such property. Lessee agrees to defend and hold Lessor, its officials, employees, and agents harmless and indemnify them against claims and liability for injuries to such property.

16. **Damages to Premises.** In the event of damage to the Premises by fire, the elements, or other casualty, Lessor will repair the damage with reasonable dispatch, limited, at the Lessor's election and sole discretion, to the proceeds of any insurance reimbursement, capital asset management plan, or property management plan for Ramsey County. If the damage is not repaired by Lessor within a reasonable time, or in any event within 120 days, Lessee will thereupon have the right to terminate this lease forthwith upon giving the Lessor written notice of such termination. Notwithstanding the foregoing provisions of this paragraph, either party will have the option to terminate this lease forthwith upon giving written notice to the other party, in the event the Premises, including the building on the Premises are destroyed from any cause by more than 50%. Until this Lease Agreement is terminated, all responsibility to pay rent and other costs under this Lease Agreement will continue.

17. **Condemnation.** In the event that the Premises, or any part of the Premises, will be condemned for public use, then, and in that event, upon the vesting of title to the same for such public use, this Lease Agreement will terminate, anything contained in this Lease Agreement to the contrary notwithstanding, except that Lessee will have the right to prove and collect the value of the trade fixtures installed by Lessee, for moving expenses and for other special damages. In the event of such termination of this Lease Agreement, all rent paid in advance will be apportioned as of the date of such termination. Notwithstanding the foregoing provisions of this paragraph, in the event that only a part not so taken will be sufficient for the operation of Lessee's business, Lessee may elect to continue this Lease Agreement without any adjustment to the rent or other requirements.

18. **Default by Lessee.** The occurrence of any of the following constitutes a material default and breach of this Lease Agreement by Lessee:

- A. Any failure by Lessee to pay rent or any other monetary sums required to be paid as provided in this Lease Agreement, where such failure continues for 15 days after written notice of such failure from Lessor to Lessee.
- B. The abandonment or vacation of the Premises by Lessee.
- C. The attachment, execution, or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this lease, where such seizure is not discharged within 45 days.
- D. A failure of Lessee to observe and perform any other material provision of this Lease Agreement to be observed or performed by Lessee where such failure continues for 15 days after written notice of such failure by Lessee to Lessee, provided, however, that if the nature of such default is such that it cannot reasonably be cured within such 15 day period, Lessee will not be deemed to be in default if Lessee will within such period commence such cure and, thereafter, diligently prosecute the same to completion. Notice by Lessor will state with specificity the provision of this Lease Agreement alleged to be breached and the act or acts of Lessee acceptable to Lessor as a cure of such alleged breach.

In the event of any breach or default by Lessee of a material term or condition of this Lease Agreement, Lessor may, at any time thereafter without limiting Lessor in the exercise of any right or remedy at law or in equity which Lessor may have by reason of such default or breach, serve a written notice on Lessee that Lessor elects to terminate this Lease Agreement upon a specified date not less than 15 days after the date of the serving of such notice, and this Lease Agreement will then expire on the date so specified as if that date had been originally fixed as the expiration date of the Initial Lease Period granted and without any right of renewal thereafter. No default will be deemed waived unless in writing and signed by Lessor except that a default in the payment of rent or additional rent will be deemed waived if such default is made good before the notice of termination of this lease will have been served on Lessee.

19. **Default by Lessor.** If default is made by Lessor in the performance of the conditions or covenants of this Lease Agreement, Lessee, in addition to all other remedies now or hereafter afforded or provided by law, may at its election, perform such covenant or agreement for or on behalf of Lessor or make good any such default and any amount or amounts which Lessee will advance pursuant thereto will be repaid by Lessor to Lessee on demand, and if Lessor will not repay any such amount or amounts upon demand, Lessee will have the privilege of deducting same from the next installment or installments of rent to accrue under this lease.

20. **Non-waiver of Defaults.** Any failure or neglect by either party to assert or enforce any rights or remedies because of any breach or default by the other under this Lease Agreement will

not (except as to those instances specified in this Lease Agreement when express time limits are provided for the taking of action) prejudice or affect their respective rights or remedies with respect to any subsequent breaches or defaults, and will not be construed as a waiver of their respective rights to assert and enforce any rights or remedies for subsequent breaches or defaults.

21. **Termination.** If no action is taken to exercise option for any renewal lease period, this Lease Agreement will terminate on its terms without notice by either party. In circumstances not addressed by the Default provisions in Sections 18 or 19 of this Lease Agreement, either party may terminate this Lease Agreement only for good cause shown, by providing the other party written Notice of Termination as set forth in Section 22 of this Lease Agreement. Termination will not be effective until 180 days following the delivery of the Notice of Termination. The Notice of Termination must specify the date upon which Lessee must surrender the Premises as set forth in Section 25 of this Lease Agreement, which date must be after the effective date of termination.

22. **Notices.** All notices or demands given or required to be given under this Lease Agreement will be in writing and will be sent by certified or registered mail, return receipt requested, postage prepaid, addressed to the intended recipient's address or addresses set forth below or at such other address or addresses as the intended recipient may have theretofore specified in a written notice to sender given in accordance with the requirements of this paragraph. Any such notice so given will be deemed given on the day of deposit in the United States mail, and if sent as aforesaid will be effective whether or not received by the addressee.

To Lessor:

Ramsey County Parks and Recreation Department
ATTN: Director
2015 Van Dyke Street
Maplewood, Minnesota 55109

To Lessee:

Frogtown Curling Club
743 Western Avenue
St. Paul, MN 55103

23. **Quiet Enjoyment.** Lessor agrees that upon compliance with the terms and conditions of this Lease Agreement, Lessee will and may peaceably and quietly have, hold and enjoy the leased Premises during the Initial Lease Period and for any renewal lease period.

24. **Entry by Lessor.** Lessor, its employees, agents, and contractors will have the right to enter the Premises upon the following terms: at reasonable hours for the purpose of performing the work and services required of Lessor under this Lease Agreement, at reasonable hours and upon reasonable notice to make inspections of the Premises, at any time in the event of an emergency.

25. **Surrender.** At the expiration or termination of the Initial Lease Period or any renewal lease period, Lessee will quit and surrender the Premises hereby leased in as good state and condition as when possession was delivered. Any improvements or alterations made to the Premises by Lessee will become property of Lessor at the time of surrender.

26. **Subletting and Assignment.** Notwithstanding any other terms of conditions to the contrary in this Lease Agreement, except as set forth in Section 9 of this Lease Agreement, it is understood and agreed that Lessee will not sublet, assign, mortgage, or pledge this Lease Agreement or any interest in this Lease Agreement, or the Premises or any part of the Premises, nor permit long-term or permanent occupancy by anyone, without the prior written consent of Lessor.

- A. Consent by Lessor to one or more assignments, sublettings, or other transfer of the Premises or this Lease Agreement will not operate as a waiver of Lessor's rights under this Section. No assignment will release Lessee of any of its obligations under this Lease Agreement, or be construed or taken as a waiver of any of Lessor's rights hereunder. If Lessee, or its permitted assignee, subtenant, or successor is a corporation, partnership, limited liability company, or other entity, any transfer of the controlling interests in Lessee will be deemed to be an assignment requiring Lessor's consent. The acceptance of rent from someone other than Tenant shall not be deemed to be a waiver of any of the provisions of this Lease or as consent to any assignment or subletting of the Premises.
- B. Neither this Lease Agreement nor any interest in this Lease Agreement, will pass to any trustee or receiver in bankruptcy, or any assignee for the benefit of creditors, or by operation of law.

27. **Holding Over.** In the event that this Lease Agreement terminates by its terms at the end of the Initial Lease Period without renewal, if renewal terms were under discussion and/or awaiting approval by the Ramsey County Board of Commissioners immediately prior to the end of the Initial Lease Period, Lessee may remain in possession and control of the Premises as a tenant at sufferance, subject to the same terms and conditions, including rental rate in effect at the end of the Term, until such time that the Lease Agreement is renewed under any new terms and conditions.

28. **Subcontractor Payment.** Any prime contractor hired by Lessee to perform work on the Premises will pay any subcontractor within ten (10) days of the prime contractor's receipt of payment from Lessee for undisputed services provided by the subcontractor.

29. **Relationship of the Parties.** Nothing contained in this Lease Agreement is intended or should be construed as creating the relationship of agents, partners, joint venturers, or associates between Lessor and Lessee or as constituting Lessee as the agent or employee of Lessor for any purpose or in any manner whatsoever. Lessee, its employees, agents, volunteers, and representatives are not employees of Lessor.

30. **Force Majeure.** Whenever a period of time is provided in this Lease Agreement for either

party to do or perform any act or thing, that party will not be liable or responsible for any delays, and applicable periods for performance will be extended accordingly, due to strikes, lockouts, riots, acts of God, shortages of labor or materials, national emergency, acts of a public enemy, governmental restrictions, laws or regulations, pandemic or public health emergency, or any other cause or causes, whether similar or dissimilar to those enumerated, beyond its reasonable control. The provisions of this Section will not operate to excuse Lessee from prompt payment of rent or other monetary payments required by the terms of this Lease Agreement.

31. **Cumulative Remedies and Non-Waiver.** The various rights and remedies contained in this Lease Agreement will not be considered as exclusive of any other right or remedy, but will be construed as cumulative and will be in addition to every other remedy existing at law, in equity, or by statute, now or after the execution of this Lease Agreement. No delay or omission of the right to exercise any power by either party will impair any such right or power, or will be construed as a waiver of any default or as acquiescence to the same. One or more waivers of any covenant, term, or condition of this Lease Agreement by either party will not be construed by the other party as a waiver of a subsequent breach of the same covenant, term, or condition. The consent or approval by either party to or of any act by the other party of a nature requiring consent or approval will not be deemed to waive or render unnecessary consent to approval of any subsequent similar act. The acceptance by Lessor of any non-conforming performance or fulfillment of conditions or obligations under the terms of this Lease Agreement or the foregoing by Lessor of any of the rights or remedies arising under the terms of this Lease Agreement will not constitute a waiver of Lessor's right to conforming performance or fulfillment of conditions or obligations or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Lease Agreement. The rights and remedies of Lessor provided or referred to under the terms of this Lease Agreement are cumulative and not mutually exclusive.

32. **Acceptance of Payment.** No payment by Lessee or receipt by Lessor of a lesser amount than the amount then due under this Lease Agreement will be deemed to be other than on account of the earliest portion of the same due, nor will any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction. Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance due or pursue any other remedy provided in this Lease Agreement.

33. **Equal Opportunity Employment.** Lessor agrees to comply with all federal, state, and local laws, resolutions, ordinances, rules, regulations, and executive orders pertaining to unlawful discrimination on account of race, color, sexual orientation, creed, religion, national origin, sex, and marital status, status with regard to public assistance, disability or age.

34. **Non-violence.** Lessee will make all reasonable efforts to ensure that for any contractor hired by Lessee that said contractor's employees, officials, and subcontractors do not engage in violence while performing under this contract. Violence, as defined by the Ramsey County Workplace Violence Policy, is any action that is the use of physical force, harassment, or intimidation or abuse of power or authority where the impact is to control by causing pain, fear or hurt. Lessee will be considered in compliance with the requirements of this provision if Lessee complies with the provisions of its own Policy on Employee Conduct, which is in substantial conformance with the Ramsey County Workplace Violence Policy.

35. **Workforce Diversity.** Lessee will make good faith efforts throughout the Initial Lease Period or any renewal lease period, to employ persons of color for all classifications of work under this lease, and will, if requested by Lessor, submit a written report regarding the efforts and results of such efforts.

36. **Hazardous Materials.** Except for Hazardous Material contained in products used by Lessee in *de minimis* quantities for ordinary cleaning and office purposes, Lessee will not permit or cause any party to bring any Hazardous Material upon the Premises or transport, store, use, generate, manufacture, dispose, or release any Hazardous Material on or from the Premises without Lessor's prior written consent. Lessee, at its sole cost and expense, will operate its business in the Premises in strict compliance with all environmental requirements and all requirements of this Lease Agreement.

37. **Severability.** If any provision or term of this Lease Agreement for any reason is declared invalid, illegal, or unenforceable, such decision will not affect the validity of any remaining provisions. The remaining provisions will remain in full force and effect as if this Lease Agreement had been executed with the invalid portion eliminated, and it is the intention of the parties that they would have executed the remaining portions of this Lease Agreement without including any such part or portion which may be declared invalid after execution of this Lease Agreement.

38. **Headings.** Headings in this Lease Agreement are for convenience only and are not to be construed as a part of this Lease Agreement nor to define or limit in any way the scope or intent of the provisions of this Lease Agreement.

39. **Brokerage.** Each of the parties represents and warrants that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease Agreement.

40. **Applicable Law.** This Lease Agreement will be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this agreement will be venued in the State of Minnesota, District Court, Second Judicial District. Each of Lessor and Lessee hereby waives any right to trial by jury in any action relating to this lease agreement.

41. **Entire Agreement.** The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Premises; and this document becomes effective and binding only upon the execution and delivery of the same by Lessor and Lessee. This Lease Agreement and any exhibits contain the entire agreement of the parties. No representations, inducements, promises or agreements, oral or otherwise, not embodied in this Lease Agreement will be of any force or effect. This Lease Agreement and any exhibits may be altered, amended, or revoked only by a subsequent instrument in writing signed by duly authorized representatives of Lessor and Lessee.

42. **Construction.** The parties agree that counsel for both parties have reviewed this Lease Agreement. Accordingly, neither party will be deemed to have drafted this Lease Agreement, nor will it be construed against either party by virtue of the drafting of this Lease Agreement, in

the event of a dispute.

[Signature page follows]

IN WITNESS THEREOF, the parties have caused this Lease Agreement to be executed as of the day and year first written above.

LESSOR:

RAMSEY COUNTY

Trista MatasCastillo, Chair
Ramsey County Board of Commissioners

Mee Cheng, Chief Clerk
Ramsey County Board of Commissioners

Approval recommended:



Mark McCabe, Director
Ramsey County Parks and Recreation

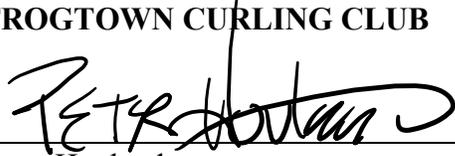
Approved as to form:



Assistant County Attorney

LESSEE:

FROGTOWN CURLING CLUB



Peter Hovland
President