

FACILITIES COMMITTEE MEETING
Wednesday, March 27, 2024; 11:00 a.m.
Fargo Park District Board Room
701 Main Avenue, Fargo

Board Committee Members:
Joe Deutsch, Aaron Hill and Dawn Morgan

AGENDA

1. Review Lease transfer to HA Thompson & Sons Arena; Susan Faus, presenter.
2. Review draft Letter of Intent for Broadway Square Operations; Susan Faus, presenter.
3. Review proposed budget for gaming at CJ's Tavern at Rose Creek; Craig Bjur, presenter.
4. Request permission to solicit for Request for Proposals for a Park System Master Plan; Tyler Kirchner, presenter.
5. Other

Next Fargo Park Board Meeting: April 9, 2024; 5:30 p.m.
Next Facilities Committee Meeting: April 24, 2024; 11:00 a.m.



MEMORANDUM

DATE: March 20, 2024

TO: Fargo Park Board Facilities Committee

FROM: Susan Faus, Executive Director

RE: Agenda Item No. 1 - Review Lease Transfer to H.A Thompson & Sons Arena

Fargo Youth Hockey Association, Inc. is the current tenant and holds the lease at the H.A. Thompson & Sons Arena. Organization for Safe Athletics for Kids, Inc. approached the Park District seeking approval to transfer the lease of the space. Fargo Youth Hockey board of directors supports the change in operating and managing the facility.

The agreement reflects the following changes from the original lease:

1. Updated address of H.A Thompson & Sons Arena
2. Updated term of the lease June 1, 2024 – May 31, 2074
3. Updated section No. 6, Alterations to remove language no longer valid.
4. Updated section No. 7, Insurance to update general liability insurance limit from \$500,000 to \$2,000,000.
5. Updated section No. 10, Assignment to remove language limiting rentals by figure skating, Shanley High School, North High School, South High School, or North Dakota State University. Added language of intent that both parties agree that the premises and building are to be used for ice activities for the community's benefit. Fees will be set to pay operating costs at or near community market rates.
6. Updated section 11, Repairs, Maintenance and Utilities to add language that the Tenant must remit payment to Landlord within 30 days of receiving an invoice from Landlord.

Staff request the Facilities Committee to approve the transfer of the lease and move it to the full board for approval at the April Park Board meeting.

Please contact me with any questions.
Thank you!

Attachments

Lease with Organization for Safe Athletics for Kids. H.A. Thompson
Lease with Fargo Hockey Association, Inc.

Susan Faus, Executive Director
PARK COMMISSIONERS – Vicki Dawson * Joe Deutsch * Aaron Hill * Dawn Morgan * Jerry Rostad
Clerk – Jeff Gunkelman

EXHIBIT C
LEASE

THIS LEASE is made and entered into this ~~2-21~~ day of ~~October~~~~February~~, ~~1989~~~~2024~~, by and between the PARK DISTRICT OF THE CITY OF FARGO, a municipal subdivision and a Park District organized under Chapter 40-49 of the North Dakota Century Code, herein called "Landlord," and ~~Fargo Hockey Association~~~~Organization for Safe Athletics for Kids~~, Inc., a nonprofit corporation, hereinafter called "Tenant."

In consideration of the covenants and promises contained herein, the parties agree as follows:

1. LEASED PREMISES. In consideration of the rentals herein reserved and the conditions, covenants and agreements herein contained to be kept, observed and performed by Tenant, Landlord does hereby lease and rent to Tenant the premises and building located ~~thereon;~~ ~~described on the attached Exhibit "A", and a plat plan which is attached as Exhibit "B" at 831 17th Ave N, Fargo, ND.~~
2. USE. Tenant shall use and occupy the premises in the conduct of its business in accordance with its Charter and Bylaws as they now exist, provided that no such use shall be in violation of the statutes, laws, ordinances or regulations of the State of North Dakota, County of Cass, or the City of Fargo.
3. TERM. The term of this Lease shall be for a period of fifty (50) years beginning ~~October-June 1,~~ ~~1989~~~~2024~~, and ending ~~September-30~~~~May 31, 2039~~~~2074~~.
4. RENT. Tenant shall pay to Landlord at its offices in Fargo, North Dakota, an annual rental of One and no/100ths Dollar (\$1.00), payable on or before the 10th day of ~~October-June~~ of each year of the Lease term. Receipt of the first year's rent is acknowledged by Landlord.
5. ADDITIONAL RENT. All taxes, charges, costs and expenses that Tenant assumes or agrees to pay hereunder, together with all interest and penalties that may accrue thereon, if Tenant fails to pay those items, and all other damages, court costs, expenses and sums that Landlord may suffer or incur, or that may become due by reason of any default of Tenant, or failure by Tenant to comply with the terms and conditions of this Lease, shall be deemed to be additional rent, and in the event of nonpayment, Landlord shall have all the rights and remedies as herein provided for failure to pay rent. As additional rent, Tenant shall pay among other things the following:
 - (A) All expenses for utilities incurred in connection with the leased premises.
 - (B) All expenses of maintenance and repair on the leased premises, including structural repairs to the building, the roof and the walls. Tenant shall maintain the leased premises, the exterior of the building, and the adjacent grounds subject to this Lease in good order and repair.

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(C) All taxes and special assessments against the premises.

(D) The cost of insurance as herein provided.

6. ALTERATIONS. ~~The leased premises are being developed in a phase process described in the business plan of Tenant, which has been approved by Landlord.~~ Tenant may, at its own expense and with the prior written consent of Landlord, make such changes in the business plan or such alterations and additions to the leased premises as are agreed upon in writing between Landlord and Tenant.

7. INSURANCE. Landlord, at its expense, shall carry fire and such other coverage as Landlord carries on other Park District buildings. Tenant shall carry appropriate insurance for Tenant's fixtures, equipment and other personal property located on the premises.

Tenant, at its expense, shall keep in force comprehensive general liability insurance policy with a single limit of not less than \$~~500~~2,000,000 with Landlord named as an additional insured. At the request of Landlord, copies of insurance policies or certificates of insurance shall be delivered to Landlord. All policies shall require the insurance company to notify Landlord in writing prior to the cancellation of the insurance.

8. WAIVER OF SUBROGATION. All policies of insurance carried by either party covering the leased premises, fixtures, improvements, inventory and contents, shall expressly waive any right including subrogation on the part of the insurer against the other party.

9. DAMAGE OR DESTRUCTION. If the leased premises shall be totally damaged by fire or other casualty so as to become totally untenable, Tenant shall have the option of rebuilding the premises, at its expense, or terminating the Lease. If Tenant elects to terminate the Lease, the cost of demolition and restoring the land to its original condition shall be borne by Tenant. The proceeds of any insurance on the building, less the cost of demolition and restoration shall be paid to Tenant.

If the leased premises shall be partially damaged by fire, the premises shall be rebuilt as soon as reasonably possible at the expense of Tenant. If the premises are rebuilt, the proceeds of applicable fire insurance policies shall be used to pay for such rebuilding in whole or in part.

Under no circumstances does Landlord have any obligation to reconstruct the premises or pay for any part of the reconstruction.

10. ASSIGNMENT. Tenant shall not assign, sublet or mortgage this Lease or any right hereunder without prior written consent of Landlord. Landlord need not consent to any assignment or sublease for a use substantially dissimilar to Tenant's use of the premises.

This Lease may be assigned by Tenant to a lender selected by Tenant and approved by Landlord. If Tenant defaults under the terms of its loan, Landlord grants the lender the right to

exercise Tenant's rights under this Lease and relet the premises for a period of time sufficient to discharge the obligation of Tenant to the lender at the time of default, but not including any subsequent advances, provided Landlord's written approval of any subtenant to whom the lender wishes to assign any rights under this Lease must be obtained. Landlord has the option of paying Tenant's obligations to the lender in lieu of permitting any subleasing under this Lease.

~~Landlord need not approve any subtenant whose activities directly compete with those of Landlord, nor shall any use of the premises be made for figure skating nor by Shanley High School, North High School, South High School, or North Dakota State University without the written consent of Landlord, which will not unreasonably withheld. It is the intent of both parties to assure the continued success of existing programs, and the tenant will not rent to existing park board lessees without prior written approval.~~

It is the intent of both parties that the premises and building be used to facilitate ice activities for the community's benefit. Facility usage rates will be set to pay operating costs at or near community market rates.

11. **REPAIRS, MAINTENANCE AND UTILITIES.** Tenant shall keep the building and all other structures erected on the premises in good repair.

Tenant shall furnish all electricity, water, heat and other utilities used by Tenant at its own expense.

Tenant will not deface, injure or mar the premises or overload the floors and will not do or permit anything to be done on the premises or adjoining ways that would constitute a nuisance.

Tenant shall, at its own expense, keep the premises, including the interior, exterior and structure of the building and equipment, fixtures and appliances upon the premises in good repair and in good sanitary condition and shall replace all broken glass with glass of the same quality.

If Tenant does not repair or replace any parts of the premises as required by this Lease, Landlord may repair the same at its discretion and after having given written notice of such need to Tenant, and charge such repairs to Tenant, which Tenant must remit payment to Landlord within 30 days of receiving an invoice from Landlord.

12. **INDEMNITY.** Tenant shall hold Landlord harmless and free from all liability and claims for damages by reason of any injury to any persons, including Tenant, or property, including Tenant's, occurring because of Tenant's negligence or occupation of the premises. Tenant shall indemnify and save Landlord harmless from all liability, loss, costs, attorney's fees and obligations arising out of such injuries or losses, except Landlord's negligence.

13. LANDLORD'S ACCESS. Landlord may enter upon the premises any reasonable time to inspect the premises to determine compliance with this Lease, or to make repairs allowed under the terms of this Lease.

14. NOTICES. All notices, requests, consents or other communications which are required are required or permitted to be given by either party to the other shall be in writing delivered to the other party by registered or certified mail with postage prepaid, addressed as follows:

Landlord's Notice:
Park District of the City of Fargo
701 Main Avenue
Fargo, North Dakota 58103

Tenant's Notice:
Fargo Hockey Association
Post Office Box 1543
Fargo, North Dakota 58107
Organization for Safe Athletics for Kids
c/o Reed H Danuser
1810 5th Ave S
Fargo, ND 58103

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15. QUIET POSSESSION. Landlord covenants with Tenant that on paying the rent reserved and performing the covenants and agreements herein contained and agreed to be performed on the part of Tenant, Tenant shall at all times during the term of this Lease, peaceably and quietly have, hold and enjoy the leased premises. Tenant shall take possession of the leased premises as presently constituted and the taking of possession by Tenant shall be conclusive evidence that evidence that the premises, equipment, fixtures and appliances were when possession was taken in all respects in satisfactory and acceptable condition and that nothing further is required of Landlord to make them suitable for the occupancy of Tenant or to conform to the terms and conditions of this Lease, except as may be otherwise agreed in writing.

16. LIENS. Tenant shall not permit any mechanic's or other lien to stand against the property or the Landlord arising out of any act or omission of Tenant. Tenant may contest the validity or amount of any lien if Tenant shall give Landlord security required by Landlord to ensure payment or prevent any forfeiture of the property. Tenant shall pay any judgment and have all liens released or judgments satisfied at Tenant's expense.

17. REQUIREMENTS OF PUBLIC AUTHORITY. Tenant shall comply with all covenants and restrictions of record, and all laws, ordinances and regulations of governmental authority which affect the premises, building, improvements, business or use thereof. obtain, at its own expense, all licenses and permits necessary for Tenant's purpose and operations.

18. DEFAULT. If Tenant shall default in any covenant or agreement contained in this Lease and such default is not remedied within ninety (90) days after written notice by Landlord to Tenant of such default, this Lease shall terminate without further notice. If the default cannot reasonably be cured within ninety (90) days and Tenant has diligently begun to cure the default after receiving written notice from Landlord, Landlord shall grant to Tenant a reasonable length of time in which to correct the default. While the default continues, Tenant shall not remove from the premises any building or other property owned by Tenant unless directed to do so by Landlord. Landlord may, but is not obligated to make payments and to keep covenants required of Tenant under this Lease. All expenses of Landlord in so doing shall be additional rent and paid by Tenant to Landlord.

If Landlord is in default under this Lease, Landlord shall have a reasonable time to cure the default after written notice from Tenant to Landlord specifying the default.

19. NON WAIVER. No waiver by a party of any breach by the other of its obligations hereunder shall be a waiver of any other subsequent or continuing breach. Forbearance by a party to seek a remedy for any breach by the other shall not be a waiver of its rights or remedies with respect to the breach.

20. HOLDING OVER. If Tenant shall continue to occupy the premises after termination of this Lease, such occupancy shall create a tenancy at will only and shall not be a renewal of this Lease. Tenant shall pay rent for the premises at the same annual rate as under the last preceding tenancy.

21. SURRENDER. At the termination of this Lease for any reason, Tenant shall quit and surrender the premises in as good condition as when received, reasonable wear and tear and damages by the elements, or causes beyond Tenant's control excepted.

22. OBLIGATION OF PARTIES. The agreements in this Lease shall be binding upon and enforceable by the parties, their heirs, representatives, successors and assigns.

23. RELATIONSHIP OF PARTIES. Nothing contained in this Lease shall be construed to create a relationship of principal and agent, partnership, joint venture or association between Landlord and Tenant. Neither the method of computing rent or any act of the parties shall create any relationship between the parties other than the relationship of Landlord and Tenant.

24. GOVERNING LAW. This Lease covers property in North Dakota and shall be construed according to North Dakota law. Invalidity of any provision of this Lease shall not affect the validity of any other provision.

25. OWNERSHIP OF IMPROVEMENTS AND FIXTURES. All alterations, installations, additions and improvements made upon the leased premises shall, unless otherwise agreed in writing, become the property of Landlord and shall remain upon and be surrendered with the leased premises at the expiration or termination of the Lease.

Any equipment and property which Tenant shall be entitled to remove at the termination of the Lease may be removed by Tenant unless Landlord shall purchase such property for cash at an agreed or the appraised value thereof. If Landlord elects not to purchase such property, Tenant may remove it provided Tenant shall repair all damages caused by removal.

- 26. CUMULATIVE REMEDIES. All rights and remedies of Landlord are cumulative and such remedies may be exercised and enforced concurrently and whenever and as often as the occasion therefor arises, and the failure on the part of Landlord to enforce any of its remedies in connection with any default shall not be deemed a waiver of such default nor a consent to any continuation thereof.
- 27. COSTS OF ENFORCEMENT. Tenant shall pay upon demand all Landlord's costs, charges and expenses, including attorney's fees, incurred in enforcing Tenant's obligations or incurred by Landlord in any litigation in which Landlord, without Landlord's fault, becomes involved or concerned by reason of the existence of this Lease or the relationship of Landlord and Tenant. Landlord shall pay its own costs, charges and expenses, including attorney's fees, in any litigation arising or continuing because of fault or responsibility arising from any actions or conduct of Landlord.
- 28. ADDITIONAL DOCUMENTS. Tenant agrees to sign such additional document or documents as may be deemed necessary by Landlord to effectuate the terms of this Lease Agreement, even if executed subsequent to the date of the execution of this Agreement. Specifically Tenant agrees to sign a Short-Form Lease in a form satisfactory to Landlord.
- 29. REMOVAL OF SNOW AND ICE. Landlord shall provide snow removal for the parking lots, driveways and sidewalks adjacent to the premises and shall remove all ice shavings arising out of Tenant's use of the premises provided that such shavings shall be placed on a location near the premises specified by Landlord.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seal the day and year first above written.

PARK DISTRICT OF THE CITY OF FARGO

Organization for Safe Athletics for Kids

Signature:

Signature:

Name:

Name:

Title:

Title:

EXHIBIT c
LEASE

THIS LEASE is made and entered into this 2 day of October, 1989, by and between the PARK DISTRICT OF THE CITY OF FARGO, a municipal subdivision and a Park District organized under Chapter 40-49 of the North Dakota Century Code, herein called "Landlord," and FARGO HOCKEY ASSOCIATION, INC., a nonprofit corporation, hereinafter called "Tenant."

In consideration of the covenants and promises contained herein, the parties agree as follows:

1. LEASED PREMISES. In consideration of the rentals herein reserved and the conditions, covenants and agreements herein contained to be kept, observed and performed by Tenant, Landlord does hereby lease and rent to Tenant the premises and building located thereon, described on the attached Exhibit "A", and a plat plan which is attached as Exhibit "B".
2. USE. Tenant shall use and occupy the premises in the conduct of its business in accordance with its Charter and Bylaws as they now exist, provided that no such use shall be in violation of the statutes, laws, ordinances or regulations of the State of North Dakota, County of Cass, or the City of Fargo.
3. TERM. The term of this Lease shall be for a period of fifty (50) years beginning October 1, 1989, and ending September 30, 2039.
4. RENT. Tenant shall pay to Landlord at its offices in Fargo, North Dakota, an annual rental of One and no/100ths Dollar (\$1.00), payable on or before the 10th day of October of each year of the Lease term. Receipt of the first year's rent is acknowledged by Landlord.
5. ADDITIONAL RENT. All taxes, charges, costs and expenses that Tenant assumes or agrees to pay hereunder, together with all interest and penalties that may accrue thereon, if Tenant fails to pay those items, and all other damages, court costs, expenses and sums that Landlord may suffer or incur, or that may become due by reason of any default of Tenant, or failure by Tenant to comply with the terms and conditions of this Lease, shall be deemed to be additional rent, and in the event of nonpayment, Landlord shall have all the rights and remedies as herein provided for failure to pay rent. As additional rent, Tenant shall pay among other things the following:
 - (A) All expenses for utilities incurred in connection with the leased premises.
 - (B) All expenses of maintenance and repair on the leased premises, including structural repairs to the building,

the roof and the walls. Tenant shall maintain the leased premises, the exterior of the building, and the adjacent grounds subject to this Lease in good order and repair.

(C) All taxes and special assessments against the premises.

(D) The cost of insurance as herein provided.

6. ALTERATIONS. The leased premises are being developed in a phase process described in the business plan of Tenant, which has been approved by Landlord. Tenant may, at its own expense and with the prior written consent of Landlord, make such changes in the business plan or such alterations and additions to the leased premises as are agreed upon in writing between Landlord and Tenant.
7. INSURANCE. Landlord, at its expense, shall carry fire and such other coverage as Landlord carries on other Park District buildings. Tenant shall carry appropriate insurance for Tenant's fixtures, equipment and other personal property located on the premises.

Tenant, at its expense, shall keep in force a comprehensive general liability insurance policy with a single limit of not less than \$500,000 with Landlord named as an additional insured. At the request of Landlord, copies of insurance policies or certificates of insurance shall be delivered to Landlord. All policies shall require the insurance company to notify Landlord in writing prior to the cancellation of the insurance.

8. WAIVER OF SUBROGATION. All policies of insurance carried by either party covering the leased premises, fixtures, improvements, inventory and contents, shall expressly waive any right including subrogation on the part of the insurer against the other party.
9. DAMAGE OR DESTRUCTION. If the leased premises shall be totally damaged by fire or other casualty so as to become totally untenable, Tenant shall have the option of rebuilding the premises, at its expense, or terminating the Lease. If Tenant elects to terminate the Lease, the cost of demolition and restoring the land to its original condition shall be borne by Tenant. The proceeds of any insurance on the building, less the cost of demolition and restoration shall be paid to Tenant.

If the leased premises shall be partially damaged by fire, the premises shall be rebuilt as soon as reasonably possible at the expense of Tenant. If the premises are rebuilt, the proceeds of applicable fire insurance

policies shall be used to pay for such rebuilding in whole or in part.

Under no circumstances does Landlord have any obligation to reconstruct the premises or pay for any part of the reconstruction.

10. ASSIGNMENT. Tenant shall not assign, sublet or mortgage this Lease or any right hereunder without prior written consent of Landlord. Landlord need not consent to any assignment or sublease for a use substantially dissimilar to Tenant's use of the premises.

This Lease may be assigned by Tenant to a lender selected by Tenant and approved by Landlord. If Tenant defaults under the terms of its loan, Landlord grants the lender the right to exercise Tenant's rights under this Lease and relet the premises for a period of time sufficient to discharge the obligation of Tenant to the lender at the time of default, but not including any subsequent advances, provided Landlord's written approval of any subtenant to whom the lender wishes to assign any rights under this Lease must be obtained. Landlord has the option of paying Tenant's obligations to the lender in lieu of permitting any subleasing under this Lease.

Landlord need not approve any subtenant whose activities directly compete with those of Landlord, nor shall any use of the premises be made for figure skating nor by Shanley High School, North High School, South High School, or North Dakota State University without the written consent of Landlord, ~~which will not be unreasonably withheld.~~ It is the intent of both parties to assure the continued success of existing programs, and the tenant will not rent to existing park board lessees without prior written approval.

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Tenant shall furnish all electricity, water, heat and other utilities used by Tenant at its own expense.

Tenant will not deface, injure or mar the premises or overload the floors and will not do or permit anything to be done on the premises or adjoining ways that would constitute a nuisance.

Tenant shall, at its own expense, keep the premises, including the interior, exterior and structure of the building and equipment, fixtures and appliances upon the premises in good repair and in good sanitary condition

Competing
w/ Park
District
rentals.

DA
DJ

and shall replace all broken glass with glass of the same quality.

If Tenant does not repair or replace any parts of the premises as required by this Lease, Landlord may repair the same at its discretion and after having given written notice of such need to Tenant.

12. INDEMNITY. Tenant shall hold Landlord harmless and free from all liability and claims for damages by reason of any injury to any persons, including Tenant, or property, including Tenant's, occurring because of Tenant's negligence or occupation of the premises. Tenant shall indemnify and save Landlord harmless from all liability, loss, costs, attorney's fees and obligations arising out of such injuries or losses, except Landlord's negligence.
13. LANDLORD'S ACCESS. Landlord may enter upon the premises at any reasonable time to inspect the premises to determine compliance with this Lease, or to make repairs allowed under the terms of this Lease.
14. NOTICES. All notices, requests, consents or other communications which are required or permitted to be given by either party to the other shall be in writing delivered to the other party by registered or certified mail with postage prepaid, addressed as follows:

Landlord's Notice:

Park District of the City of Fargo
701 Main Avenue
Fargo, North Dakota 58103

Tenant's Notice:

Fargo Hockey Association
Post Office Box 1543
Fargo, North Dakota 58107

15. QUIET POSSESSION. Landlord covenants with Tenant that on paying the rent reserved and performing the covenants and agreements herein contained and agreed to be performed on the part of Tenant, Tenant shall at all times during the term of this Lease, peaceably and quietly have, hold and enjoy the leased premises. Tenant shall take possession of the leased premises as presently constituted and the taking of possession by Tenant shall be conclusive evidence that the premises, equipment, fixtures and appliances were when possession was taken in all respects in satisfactory and acceptable condition and that nothing further is required of Landlord to make them suitable for the occupancy of Tenant or to conform

to the terms and conditions of this Lease, except as may be otherwise agreed in writing.

16. LIENS. Tenant shall not permit any mechanic's or other lien to stand against the property or the Landlord arising out of any act or omission of Tenant. Tenant may contest the validity or amount of any lien if Tenant shall give Landlord security required by Landlord to ensure payment or prevent any forfeiture of the property. Tenant shall pay any judgment and have all liens released or judgments satisfied at Tenant's expense.
17. REQUIREMENTS OF PUBLIC AUTHORITY. Tenant shall comply with all covenants and restrictions of record, and all laws, ordinances and regulations of governmental authority which affect the premises, building, improvements, business or use thereof. Tenant shall obtain, at its own expense, all licenses and permits necessary for Tenant's purpose and operations.
18. DEFAULT. If Tenant shall default in any covenant or agreement contained in this Lease and such default is not remedied within ninety (90) days after written notice by Landlord to Tenant of such default, this Lease shall terminate without further notice. If the default cannot reasonably be cured within ninety (90) days and Tenant has diligently begun to cure the default after receiving written notice from Landlord, Landlord shall grant to Tenant a reasonable length of time in which to correct the default. While the default continues, Tenant shall not remove from the premises any building or other property owned by Tenant unless directed to do so by Landlord. Landlord may, but is not obligated to make payments and to keep covenants required of Tenant under this Lease. All expenses of Landlord in so doing shall be additional rent and paid by Tenant to Landlord.

If Landlord is in default under this Lease, Landlord shall have a reasonable time to cure the default after written notice from Tenant to Landlord specifying the default.
19. NONWAIVER. No waiver by a party of any breach by the other of its obligations hereunder shall be a waiver of any other subsequent or continuing breach. Forbearance by a party to seek a remedy for any breach by the other shall not be a waiver of its rights or remedies with respect to the breach.
20. HOLDING OVER. If Tenant shall continue to occupy the premises after termination of this Lease, such occupancy shall create a tenancy at will only and shall not be a renewal of this Lease. Tenant shall pay rent for the

premises at the same annual rate as under the last preceding tenancy.

21. SURRENDER. At the termination of this Lease for any reason, Tenant shall quit and surrender the premises in as good condition as when received, reasonable wear and tear and damages by the elements, or causes beyond Tenant's control excepted.
22. OBLIGATION OF PARTIES. The agreements in this Lease shall be binding upon and enforceable by the parties, their heirs, representatives, successors and assigns.
23. RELATIONSHIP OF PARTIES. Nothing contained in this Lease shall be construed to create a relationship of principal and agent, partnership, joint venture or association between Landlord and Tenant. Neither the method of computing rent or any act of the parties shall create any relationship between the parties other than the relationship of Landlord and Tenant.
24. GOVERNING LAW. This Lease covers property in North Dakota and shall be construed according to North Dakota law. Invalidity of any provision of this Lease shall not affect the validity of any other provision.
25. OWNERSHIP OF IMPROVEMENTS AND FIXTURES. All alterations, installations, additions and improvements made upon the leased premises shall, unless otherwise agreed in writing, become the property of Landlord and shall remain upon and be surrendered with the leased premises at the expiration or termination of the Lease.

Any equipment and property which Tenant shall be entitled to remove at the termination of the Lease may be removed by Tenant unless Landlord shall purchase such property for cash at an agreed or the appraised value thereof. If Landlord elects not to purchase such property, Tenant may remove it provided Tenant shall repair all damages caused by removal.
26. CUMULATIVE REMEDIES. All rights and remedies of Landlord are cumulative and such remedies may be exercised and enforced concurrently and whenever and as often as the occasion therefor arises, and the failure on the part of Landlord to enforce any of its remedies in connection with any default shall not be deemed a waiver of such default nor a consent to any continuation thereof.
27. COSTS OF ENFORCEMENT. Tenant shall pay upon demand all Landlord's costs, charges and expenses, including attorney's fees, incurred in enforcing Tenant's obligations or incurred by Landlord in any litigation in

which Landlord, without Landlord's fault, becomes involved or concerned by reason of the existence of this Lease or the relationship of Landlord and Tenant. Landlord shall pay its own costs, charges and expenses, including attorney's fees, in any litigation arising or continuing because of fault or responsibility arising from any actions or conduct of Landlord.

28. ADDITIONAL DOCUMENTS. Tenant agrees to sign such additional document or documents as may be deemed necessary by Landlord to effectuate the terms of this Lease Agreement, even if executed subsequent to the date of the execution of this Agreement. Specifically Tenant agrees to sign a Short-Form Lease in a form satisfactory to Landlord.
29. REMOVAL OF SNOW AND ICE. Landlord shall provide snow removal for the parking lots, driveways and sidewalks adjacent to the premises and shall remove all ice shavings arising out of Tenant's use of the premises provided that such shavings shall be placed on a location near the premises specified by Landlord.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seal the day and year first above written.

PARK DISTRICT OF THE CITY OF FARGO

FARGO HOCKEY ASSOCIATION

By: Douglas Nelson

By: Dale L. Jui

Its President

Its Chairman

By: [Signature]

By: [Signature]

Its _____

Its Vice-Chairman

Fargo Park Board Clerk

Tenant



MEMORANDUM

DATE: March 20, 2024

TO: Fargo Park Board Facilities Committee

FROM: Susan Faus, Executive Director

RE: Agenda Item No. 2 – Review draft Letter of Intent for Broadway Square Operations

Background Information

The Park District and Block 9 Partners entered into a 3-year agreement to run Broadway Square. The original agreement ended at the end of 2023, but the Park Board agreed to extend that original agreement through the ice season (March 31, 2024) and directed staff to revise the terms and produce a new agreement.

Park District staff has continued discussions with Rocky Schneider, Executive Director of the Downtown Community Partnership (DCP), Officials with the City of Fargo, and Block 9 Partners to produce terms of a new agreement.

Action Requested

Staff will present a letter of intent that serves as a preliminary agreement and guide for the continued collaboration and operation of Broadway Square.

Staff are asking the Facilities Committee to approve the terms in the letter of intent in concept and provide direction to staff to continue working cooperatively to complete a long-term contract that aligns with the goals outlined in the letter of intent.

Broadway Square is a vibrant community gathering space and key downtown attraction.

If you have any questions, please feel free to contact myself prior to the meeting.

Thank you.

Susan Faus, Executive Director
PARK COMMISSIONERS – Vicki Dawson * Joe Deutsch * Aaron Hill * Dawn Morgan * Jerry Rostad
Clerk – Jeff Gunkelman

RE: LETTER OF INTENT FOR BROADWAY SQUARE OPERATIONS

We, the undersigned parties, hereby express our intent to collaborate in the continued operation and management of Broadway Square, a vital public space in Downtown Fargo. Recognized as one of the key area attractions in Downtown Fargo, as well as the greater Fargo-Moorhead-West Fargo metropolitan area, Broadway Square has become a vibrant community hub welcoming approximately 289,000 visits from 161,000 different people over the last 12 months. As stewards of this public asset, the parties aim to ensure its continued success and vitality.

Our shared goal is to solidify the operational framework for Broadway Square, fostering a collaborative approach that maximizes community engagement and enhances the overall visitor experience. With the current contract between the Fargo Park District and the Block 9 Partners set to expire on March 31, 2024, it is imperative that the parties work swiftly to establish a seamless transition and secure the future operations of Broadway Square.

Terms of Agreement:

1. Capital Expenditures:

- Block 9 Partners agrees to contribute \$60,000 annually to a Capital Expenditure Fund.
- Fargo Parks shall be responsible for capital expenditures related to the Ice Rink and Fountain/Splash Pad.
- Significant capital expenditures, such as the pavilion, will require a joint fundraising effort and collaborative discussion to determine an appropriate cost-share arrangement for said capital improvements.
- As part of a long-term agreement, Block 9 Partners would agree to donate ice equipment consisting of ice rink boards; ice rink coils; and ice compressor/trailer. The donation would be subject to certain protections in favor of Block 9 Partners, including return of equipment in the event of early termination for cause, and option to repurchase at fair market value, etc. Fargo Parks would be responsible for the replacement costs relating to these items.

2. Security:

- The parties will explore the transfer of security needs from the Fargo Park District to a joint contract for other Downtown security needs.

3. Water Usage:

- The Downtown Community Partnership, in coordination with the City of Fargo, will work towards sponsoring the utility cost of water for Broadway Square.

4. Cleaning:

- Daily cleaning responsibilities, including litter patrol, garbage receptacle patrol, and biohazard monitoring and cleanup, will be transferred to the Business Improvement District (BID).
- Special event cleaning may incur additional charges.

5. Event Programming:

- Winter programming activities, including ice rink activities; winter utility costs; and snow removal; will be sponsored and led by Fargo Parks.
- Summer events and programming will be managed by the Downtown Community Partnership in coordination with Fargo Parks, that is anticipated to include an agreement for services with a yet-to-be-determined private entity to assist in managing summer events at Broadway Square.
- Fargo Parks will continue to maintain the Splash Pad components of Broadway Square so that it is usable all summer.

6. Visitor and Pedestrian Tracking:

- Pedestrian tracking responsibilities will be transferred from Fargo Parks to the Downtown Community Partnership, in potential coordination with the City of Fargo, FM MetroCOG, and the Fargo-Moorhead Convention and Visitor's Bureau.

This Letter of Intent serves as a preliminary understanding and terms of agreement to guide the continued collaboration and operation of Broadway Square. With a shared commitment to excellence, we pledge to work diligently and cooperatively, in good faith, to finalize a long-term contract between the parties that aligns with the objectives outlined herein.

Michael Redlinger
City of Fargo

Susan Faus
Fargo Park District

Rocky Schneider
Downtown Community Partnership

Scott Neal
Block 9 Partners

Mike Allmendinger
Block 9 Partners

Key Differences from Current Agreement:

- Fargo Parks will have a reduced staffing role due to a shift in Summer Programming and will contract with the DCP for a Downtown specific programming and daily administration of the Square. The intent would be to transfer funds of \$30,000 to the DCP for administrative and programming of Broadway Square in the Summer. In addition to the \$30,000, sales and revenue from square rental and sponsorships would be taken over by the DCP.
- The City of Fargo intends to work through its Proposed 2025 Budget process to assist with the programming funds that would be allocated to the Downtown Community Partnership to administer Broadway Square.
- Security costs are intended to transfer away from Fargo Parks and will be negotiated with adjacent Downtown facilities to optimize resources, resulting in a shared \$20,000 to the Fargo Park District.
- The Downtown Community Partnership, in coordination with the City of Fargo, will work towards sponsoring the cost of water for Broadway Square.
- Pedestrian tracking responsibilities will be transferred to the Downtown Community Partnership, resulting in \$15,000 in cost savings to the Fargo Park District.
- Daily cleaning and light maintenance will be transferred from Fargo Parks (\$15,000) to the Business Improvement District, under administration of the DCP.



MEMORANDUM

DATE: March 19, 2024

TO: Fargo Park Board Facilities Committee

FROM: Craig Bjur, Executive Director, Fargo Park District Foundation

RE: Agenda Item No. 3 – Review proposed budget for gaming at CJ's Tavern at Rose Creek

The Fargo Park District Foundation is planning to adjust the 2024 Foundation budget to accommodate the expansion of charitable gaming as a future funding source for the Foundation. We will discuss implementing the funding option of utilizing the established administrative fee from our annual donor payments.

Please contact me in advance of the meeting if you have questions or need additional information.

Thank you.

Fargo Park District Foundation Budget - 2024

Updated 3/21/2024

Foundation Expenses	Original Budget	Adjusted Budget	Actual To Date	Notes:
Staff Compensation	\$179,160.00	\$179,160.00		Full time comp staff (Executive Director & Admin. staff member)
Benefits	\$61,000.00	\$61,000.00		Benefit costs for employees (Health Insurance, Dental Plan, Pension, 457, etc)
Events	\$20,500.00	\$22,500.00	\$723.88	Golf - \$9,000, GHD - \$1800, VIP grand opening - \$9,500, etc.
Program		\$20,000.00		Goal for funds raised in 2024 to support this fund
Expansion/Gaming	\$10,000.00	\$10,750.00	\$8,009.70	Gaming table, jar bar table, safe, security system, chips, etc.
Charitable Gaming - Rent		\$11,100.00		\$1,850/month (6 months)
Charitable Gaming - PT salaries		\$70,000.00		Gaming Manager, Gaming Supervisor, Dealers (1-3), Count Team (2), Event staff (2)
Computer Service Fees	\$2,650.00	\$2,650.00	\$1,308.00	Donor Dock - \$850, Adobe Reader - \$200, Adobe Photoshop - \$750 DMF Software Services: \$850
General Supplies	\$2,000.00	\$2,000.00	\$8.59	
Meals & Meetings	\$4,000.00	\$4,000.00	\$1,115.75	
Office Supplies	\$3,000.00	\$3,000.00	\$41.38	Computers, printers, office equipment, desks, etc.
Printing	\$2,500.00	\$2,000.00	\$1,002.05	
Accounting Fees	\$6,500.00	\$12,000.00		\$5000 for audit work. 990 Filing \$1,200+ - \$5,500 Gaming Audit
Mileage	\$2,600.00	\$2,600.00	\$134.67	
Professional Development	\$5,000.00	\$1,000.00		Large reduction due to not attended canceled NAPF training
Uniforms / Employee Clothing	\$1,500.00	\$2,000.00		Board/Staff - \$100 each, (6) gaming staff - \$150 each
Recurring Maint/Service	\$1,000.00	\$500.00	\$163.85	Advanced Business Methods Expenses
Miscellaneous	\$3,500.00	\$3,500.00	\$51.38	
Total Foundation Expenses	\$304,910.00	\$409,760.00	\$12,559.25	
Foundation Revenues				
Fargo Park District	\$275,000.00	\$275,000.00		Set number for annual support of operation of Foundation
Charitable Gaming Income		\$125,000.00		**Conservative estimate to NET \$30,000+
Golf tournament	\$25,000.00	\$25,000.00		**Goal of \$20,000 to support scholarship program
Other events	\$2,000	\$2,000		Ex. VIP Grand Opening Event
% of dollars raised	\$20,000.00	\$100,000.00		% of secured contracts for 2024 (up to 5% admin fees) **These additional funds will allow flexibility with gaming expansion for CJ's Tavern and other potential sites.
Total Foundation Revenues	\$322,000.00	\$527,000.00		



MEMORANDUM

DATE: March 20, 2024

TO: Fargo Park Board Facilities Committee

FROM: Tyler Kirchner, Project Manager

RE: Agenda Item No. 4 - Request permission to solicit for Request for Proposals for a Park System Master Plan

In alignment with our Procurement Policy, Policy No. 390, we are requesting permission to solicit Request for Proposals for a Park System Master Plan.

The goal is to begin working with a consultant by mid to late summer, 2024. The process will take 12-18 months.

We are asking the committee to move to the full board for consideration and approval.

If you should have any questions, please feel free to contact me prior to the meeting.

Thank you.