

ROOSEVELT ICE ARENA
Long-term Ice Rental Agreement

For and in consideration of the mutual promises and agreements contained herein, the CITY OF RAPID CITY (“City”), a municipal corporation, of 300 Sixth Street, Rapid City, SD 57701 agrees to lease to Rushmore Hockey and Skating Association (“Lessee”), a non-profit corporation, a specified area within the Roosevelt Ice Arena, subject to the following terms and conditions:

1. Premises. The premises (“Premises”) leased by the City to Lessee are the following areas within the Roosevelt Ice Arena located at 235 Waterloo Street, Rapid City, SD 57701: the ice rink proper, common areas (lobby, seating areas, restrooms, and hallways), and the locker rooms. Rental of the Premises also includes the use of the following systems and property: sound system and microphone, hockey goals, scoreboard and controls, and lighting. Janitorial services and other miscellaneous services typically provided as part of the usage described herein are included in the rental rate.

Lessee shall leave the Premises in as good a condition as the Premises were in at the time of entry thereon, reasonable wear and tear and damage by the elements excepted.

2. Payment Terms and Conditions. Lessee shall pay to the City one hundred sixteen dollars (\$116.00) per hour for Prime Time rental of the Premises and seventy-eight dollars (\$78.00) per hour for Non-Prime Time rental of the Premises. Sales tax is already included in these rental rates. Prime Time is from 3:00 p.m. until 9:00 p.m. on any day that Rapid City Area School District schools are in session and from 6:00 a.m. until 9:00 p.m. on any day that Rapid City Area School District schools are not in session. Non-Prime Time includes all other time periods when the Roosevelt Ice Arena is open to the public.

The timeframe for the rental fee will commence at the scheduled start time of a game or performance and will end when the game or performance concludes. The timeframe for the base fee for practices and camps will commence at the scheduled start time of the practice or camp and will end when the practice or camp concludes. All fees will be prorated.

The City will bill Lessee each month for the previous month’s rental time. The City reserves the right to charge a 1.5% finance charge per month and/or costs for collection of unpaid rental fees (including reasonable attorneys’ fees) for any unpaid bill extending twenty-one (21) days beyond the due date. Failure to remit payment as required on the date(s) due shall be grounds for denial of ice rental for any date(s) remaining under this Agreement.

3. Term and Contingency. The term of this Agreement is three (3) years from the time when both parties’ signatures are affixed to this Agreement. Any future agreements between the parties related to the Premises shall be under the terms and conditions mutually agreed to by the parties at that time.

This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Common Council for this Agreement’s purpose. If for any reason the Common

Council fails to appropriate funds or grant expenditure authority, or if funds become unavailable by operation of law, this Agreement will be terminated by the City by written notice. Termination for any of these reasons is not a default or breach by the City nor does it give rise to a claim against the City.

4. Rental Dates and Times. Lessee will lease the Premises for the dates and times as shown in Attachment A. Attachment A may be amended if the Parks and Recreation Department Ice Arena Manager or his/her designee and Lessee agree to the amendment in writing.

5. Rental Time Cancellation by Lessee. Other than as provided in Section 6, if Lessee wishes to cancel a rental time in this Agreement, it must notify the Parks and Recreation Department Ice Arena Manager in writing no less than 15 days prior to the rental time, in order to permit the City adequate time to schedule alternative use of the Premises or otherwise notify other potential users of its availability. If Lessee does not provide 15 days advance written notice of cancellation, the City reserves the right to:

- a. demand Lessee pay for the rental time it scheduled but cancelled;
- b. schedule another person/entity's use of the rental time and not charge Lessee for the rental time; or
- c. schedule another person/entity's use of the rental time at a reduced rate and charge Lessee the difference in rate between the rate paid by the other person/entity and Lessee's agreed upon rate.

6. Rental Time Cancellation by City, Rescheduling, or Termination. When the City is unable to provide the Premises as scheduled due to a Premises breakdown, act of God, act of terrorism, or pandemic, the City will have any of the following options:

- a. City will not charge Lessee for the rental time that City is unable to provide;
- b. City will allow Lessee to reschedule the rental time that City is unable to provide; or
- c. City may terminate this Agreement and Lessee agrees to release the City from any damages caused thereby.

When Lessee is unable to utilize scheduled rental time due to an act of God, act of terrorism, or pandemic, City agrees to provide an opportunity for Lessee to reschedule rental time equivalent to the amount affected by such act or pandemic. Within two weeks of the scheduled rental time affected by the act or pandemic, Lessee agrees to contact City to reschedule the rental time.

7. COVID-19 and Other Diseases. Lessee acknowledges and agrees that the use of the above-selected Premises and any shared-use areas and systems comes with inherent risks, including the exposure to viruses and bacteria that may cause illness or even death. COVID-19 is caused by an extremely contagious virus that spreads easily through person-to-person contact. The Centers for Disease Control and Prevention recommend social distancing as a means to prevent the spread of the virus. COVID-19 can lead to severe illness, permanent disability, and death. Accessing the Premises, areas, and systems could increase the risk of contracting COVID-19. City in no way warrants that COVID-19 infection, or exposure to other viruses and

bacteria that may cause illness or death, will not occur through accessing the Premises, areas, and systems.

8. Ice Resurfacing. City shall resurface ice prior to each rental time period secured by Lessee. Lessee may request that the ice be resurfaced during its rental time period. Time spent resurfacing conducted at the request of Lessee shall count against the rental time agreed to.

9. Contacts. Anything required by the Agreement to be delivered to Lessee in writing shall be delivered to the following contact for Lessee: Christopher Dietrich, President of Rushmore Hockey and Skating Association, PO Box 832, Rapid City, SD 57709. Lessee has a continuing obligation to ensure that the Parks and Recreation Department Ice Arena Manager has accurate contact information for Lessee and to notify the Ice Arena Manager of any changes to the contact information herein.

Unless otherwise specified in this Agreement, the contact for the City will be: Parks and Recreation Department Ice Arena Manager, 235 Waterloo Street, Rapid City, SD 57701, (605) 394-6161.

10. Admission. Lessee shall have the right to charge admission for spectators for purposes of special events. Lessee shall have the right to keep all revenue generated from admissions to a special event. Both Lessee and the City shall have the right to admit, control, or eject spectators during any skating session.

11. Merchandise or Services. The sale of any and all merchandise or services by Lessee or any of its officers, agents, employees, players, or guests, within the Premises must be approved in advance by the Parks and Recreation Department Recreation Division Manager. Any advertising by Lessee or any of its officers, agents, employees, players, or guests, within the Premises must be approved in advance by the Parks and Recreation Department Recreation Division Manager or his/her designee. The City reserves the right to deny approval for the sale of merchandise it considers meets one of the following conditions:

- a. Is in direct competition with the Ice Arena's business objectives;
- b. Is false, misleading, or deceptive;
- c. Promotes unlawful or illegal goods, services or activities;
- d. Implies or declares an endorsement by the City of Rapid City;
- e. Promotes tobacco, marijuana or smoking-related products;
- f. Promotes unlawful or illegal goods, services or activities;
- g. Advertises images or information that may be considered violent or otherwise inappropriate, especially to minors;
- h. Promotes escort services, dating services or adult entertainment businesses or establishments; or
- i. Contains nudity, sexual behavior or implication, or any indecent behavior or implication.

12. Rules and Regulations. The parties agree that the policies, rules and regulations of the Recreation Division and Roosevelt Ice Arena (as currently in place and as may be

amended from time to time in the future) shall be and are a part of this Agreement as though they were set out in full herein, and are hereby specifically incorporated into this Agreement. Lessee hereby acknowledges receipt of a copy of said policies, rules and regulations currently in place. Violation of any of the policies, rules and regulations by Lessee, or by any member, volunteer, employee, officer, agent, player, or guest of Lessee, shall be grounds to bar future use of the Ice Arena by that person, according to the City's zero tolerance and disciplinary action programs. The City may trespass a person from the Ice Arena and if such person is trespassed, the person will not be allowed to enter the Ice Arena even if they are a member, volunteer, employee, officer, agent, player, or guest of Lessee.

13. Property Damage. Lessee agrees to pay to repair or replace any City property (including, but not limited to, rink glass, rink boards, mirrors, and locker room walls) damaged, either willfully or accidentally, by a member, volunteer, employee, officer, agent, player, or guest of Lessee that occurs to the Premises.

14. Parking. A member, volunteer, employee, officer, agent, player, or guest of Lessee attending one of Lessee's events will be entitled to use the parking at the Ice Arena. The City does not guarantee that a specific number of spaces will be available for Lessee's events. The City retains the right to manage all parking at the Ice Arena including the right to charge parking fees if it chooses to do so. If paid parking is implemented, the revenues will be retained by the City.

15. Insurance. Lessee will be responsible for obtaining at its own expense commercial general liability insurance in a form and amount that is acceptable to the City. The minimum coverage shall be:

General Aggregate: \$2,000,000
Per Occurrence: \$1,000,000
Damage to Premises: \$1,000,000

Lessee shall furnish the City with a complete copy of its insurance policy, including any exclusions or riders, and a certificate of insurance of required coverage. The certificate of insurance of required coverage shall state that the City shall be given any notice of cancellation at least 30 days prior to any cancellation, unless the cancellation is for nonpayment of premiums. Additionally, the Lessee will provide the City with an updated certificate of insurance showing proof of coverage at least twenty (20) days prior to the expiration of its current policy or at any time a copy is requested by the City. The policies issued under this provision shall be occurrence based and not claims made, nor shall they contain exclusions of coverage relating to sporting events, open floor performers, volunteers, off premises activities, pyrotechnics, or fireworks unless such exclusions are expressly approved by the City. The City and the City's public officers, employees, and agents shall be named as additional insureds on the City's liability insurance policies. Any policy limits will in no way limit the liability of the Lessee.

Lessee's insurance coverage shall be primary to any insurance coverage maintained by the City. Lessee's insurance coverage shall not seek contribution from any insurance coverage maintained by the City. The parties agree that the City may adjust these insurance requirements on an

annual basis and will provide written notice to Lessee of any additional requirements for insurance required by this Section.

16. Assignment. Lessee shall not assign, sublease, or transfer any of its rights and privileges granted under this Agreement, either in whole or in part, without first obtaining the written consent of the Recreation Division Manager or his/her designee. An assignment, sublease, or transfer of rights will not be valid unless the rate that Lessee charges is equal to or less than the rate charged by the City in this Agreement.

17. Changes to the Premises, Improvements, and Storage of Personal Property. City may allow Lessee to store personal property on the Premises at the request of Lessee. City reserves the right to refuse to allow Lessee to store any personal property on the Premises. If City allows Lessee to store personal property on City property, Lessee may store only the personal property that City has explicitly permitted. City is not responsible for loss or injury to the personal property stored on the Premises.

No construction or installation of any improvements to the Premises shall occur unless such is approved in writing by the Recreation Division Manager or his/her designee.

On the date of termination hereof, or in case of the termination of the relationship created by this Agreement prior thereto, Lessee shall have the right to remove from the Premises all personal property or improvements not a part of the real estate, installed by and title to which Lessee retains; subject, however, to any valid lien or claim that the City may have for unpaid fees. If said removal causes any damage to the Premises, Lessee agrees to repair the same in a proper and satisfactory manner at its own expense. The following is a list of all personal property and/or improvements that Lessee retains title to that is/are currently being stored at the Premises: None.

18. Copyrights. Lessee will not perform publicly any copyrighted content, including but not limited to live music or broadcast music (from recordings, radio, television, or via streaming services) without the proper authorization from the copyright holder. Lessee will abide by all copyright laws in conjunction with Lessee's use of the Premises. Lessee will indemnify, defend, and hold harmless the City, its common council, officers, employees, and agents against all claims, expenses and losses resulting from any copyright infringements by Lessee that occurred on City property.

19. Indemnification and Hold Harmless.

Lessee shall defend, indemnify, and hold the City, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including costs and attorney's fees), or claims for injury or damage arising out of this Agreement, except liability, loss, expense, or claims caused solely by or result from the negligent or intentional acts or omissions of the City, its officers, directors, volunteers, agents, or employees.

20. Termination. The City may terminate this Agreement in the event any payment herein agreed to be made is in arrears and remains unpaid for a period of fifteen (15) days after the same is due, or in the event any of the other provisions, terms, or conditions of this

Agreement have been violated upon giving ten (10) days' written notice to Lessee to cure the violation and the City's intention to so terminate and, at the end of said ten (10) days, all the rights of Lessee hereunder shall terminate unless said violation is cured to the satisfaction of the Recreation Division Manager or his/her designee.

Such termination shall not waive the right of the City to recover damages from Lessee for its failure to comply with the terms of this Agreement. The acceptance of monies due the City for any period or periods after a default of any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver on the part of the City. No waiver of default by the City of any of the terms, covenants, or conditions hereof shall be construed to be or act as a waiver of any subsequent default of any of the terms, covenants, and conditions herein contained to be performed, kept, and observed by Lessee.

If Lessee shall dissolve, become insolvent or otherwise unable to fulfill the terms of this Agreement, or abandon the use of the Premises, this Agreement shall terminate and Lessee shall have no further rights hereunder.

21. Liability. Lessee agrees that the City shall be held harmless from any and all liability arising from any operation or use under this Agreement of the described Premises by Lessee or its agents or employees or any other person using the Premises. Lessee further agrees to indemnify and defend the City against any and all claims arising from the operation or use under this Agreement of the described Premises by it and its agents, employees, assignees, invitees or any other person using the Premises. The parties agree that Lessee may enter into separate agreements with other users of the Premises to hold harmless Lessee and its directors, members, employees, and agents from claims arising from the use of others as discussed in this Agreement.

22. Fees Charged to the Public. Lessee agrees that all fees charged by Lessee to the public for entrance, use, or access to the Premises shall be competitive with fees charged by similar private facilities. City shall have the right to request information related to fees charged by Lessee to the public for access or use of the Premises and to request information from Lessee that support the competitiveness of any such fees with similar private facilities. Upon receipt of such a request, Lessee shall timely provide the requested information. If City determines that the fees are not in compliance with this Section, then Lessee shall adjust its fees in accordance with the City's direction.

23. City Authority. All matters pertaining to the terms of this Agreement shall be subject to the powers of the City Council and its designated authorized agents consistent with the laws of the State of South Dakota. The City Council appoints and delegates the Parks and Recreation Department Recreation Division Manager and the Parks and Recreation Department Ice Arena Manager as the primary contacts for City with Lessee in administering and fulfilling the terms of this Agreement.

24. Relationship between the Parties. This Agreement does not create any employee/employer relationship between the City of Rapid City and Lessee, its agents or employees. Nothing contained in this Agreement is intended to create a partnership or joint

venture between Lessee and City, and no agent of Lessee shall be the agent of City. Lessee covenants that it will not take any action in the name of, or by holding itself out as the agent of, the City of Rapid City.

25. Integration. The parties agree that this Agreement, along with any attachments, constitutes the entire understanding between the parties and supersedes all prior negotiations, agreements, and understandings, whether oral or written.

26. Savings Clause. Should any portion of this Agreement be declared void, the remainder of the Agreement shall remain in full force and effect.

27. Choice of Law. This Agreement shall be governed by the laws of the State of South Dakota and any action to enforce the terms of this Agreement shall be venued in the 7th Judicial Circuit, Pennington County, South Dakota.

28. Waivers. The failure by one party to require performance of any provision of this Agreement shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

29. Amendments. This Agreement may only be amended by a written document duly executed by both parties.

30. Headings. The headings and numbering of the different sections of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of any provision.

Attachment A

Day	Date	Start	End	Hours	Location	Est
Mon	10/18/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	10/19/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	10/21/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	10/25/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	10/26/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	10/28/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	11/01/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	11/02/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	11/04/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	11/08/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	11/09/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	11/11/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	11/15/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	11/16/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	11/18/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	11/22/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	11/23/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Mon	11/29/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	11/30/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	12/02/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	12/06/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	12/07/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	12/09/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	12/13/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	12/14/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	12/16/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	12/20/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	12/21/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	12/23/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	12/27/21	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	12/28/21	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	12/30/21	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	01/03/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	01/04/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	01/06/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	01/10/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	01/11/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	01/13/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	01/17/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	01/18/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	01/20/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	
Mon	01/24/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt	
Tue	01/25/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt	
Thu	01/27/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt	

Mon	01/31/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	02/01/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	02/03/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	02/07/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	02/08/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	02/10/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	02/14/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	02/15/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	02/17/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	02/21/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	02/22/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	02/24/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	02/28/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	03/01/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	03/03/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	03/07/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	03/08/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	03/10/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	03/14/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	03/15/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	03/17/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	03/21/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	03/22/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	03/24/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	03/28/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	03/29/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	03/31/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	04/04/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	04/05/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	04/07/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt
Mon	04/11/22	8:00pm	9:30pm	1.50	Main Sheet - Roosevelt
Tue	04/12/22	7:30pm	9:30pm	2.00	Main Sheet - Roosevelt
Thu	04/14/22	5:00pm	9:30pm	4.50	Main Sheet - Roosevelt

77 Reservations

203.50