

ROOSEVELT ICE ARENA LF082703-11
Ice Rental Contract

This rental agreement made and entered into this 29th day of July, 2003, by and between the City of Rapid City, a municipal corporation in the State of South Dakota (hereinafter referred to as “the City”) party of the first part, and **Black Hills Figure Skating Club** (hereinafter referred to as the “Lessee”) party of the second part.

1. Dates and Times. For and in consideration of the mutual agreements contained herein and subject to the terms and conditions hereinafter stated, the City hereby leases to the Lessee and the Lessee hereby leases from the City, the Roosevelt Ice Arena, for ice rental on the following date(s) at the time(s) stated therein:

A. See Attachment

Said “ice rental” shall be understood to include use of the ice rink proper, common areas (lobby, seating areas, restrooms, and hallways), locker rooms, sound system and microphone, hockey goals, scoreboard and controls, lighting, janitorial services, and other miscellaneous services typically provided as part of the usage described herein.

2. Ice Resurfacing. The ice shall be resurfaced prior to each rental time period secured by the Lessee. The Lessee may request that the ice be resurfaced during its rental time period. Time spent resurfacing conducted at the request of the Lessee shall count against the Lessee’s rental time.

3. Payment Terms and Conditions. The rent to be paid the City shall be One Hundred and Two and no/100 dollars (\$102.00) per hour for Prime Time and Sixty and no/100 dollars (\$60.00) per hour for Non-Prime Time (sales tax included). Payment shall be due in

advance on the first day of each month. 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 contract.

4. Interest. The City reserves the right to charge a 1.5% finance charge per month for any unpaid bill that extends 30 days beyond the due date.

5. Definitions of Prime Time and Non-Prime Time. Prime Time is from 3:00 p.m. until 10:00 p.m. on any school day, and from 8:00 a.m. until 10:00 p.m. on any non-school day. Non-Prime Time includes all other time periods.

6. Cancellations. In the event the Lessee finds it necessary to cancel all or part of this contract, notice in writing must be given to the Ice Arena Manager at least forty-five (45) days or more prior to the dates scheduled. If notice is given forty-five (45) days prior to the scheduled dates, there will be no charge to the Lessee. The full ice rental fee will be charged for any cancellation notice of less than forty-five (45) days. When the City is unable to provide ice time as scheduled due to breakdown or act of nature, the Lessee will have the option of not being charged for that ice time or scheduling additional ice time at no cost. When the Lessee is unable to utilize scheduled ice time due to an act of nature, the Lessee will be given the opportunity to schedule additional ice time at no cost in the amount equal to that affected by the act of nature.

7. Merchandise or Services. The sale of any and all merchandise or services by the Lessee or any of its officers, agents, employees, players, or guests, within or on the premises of the ice arena must be approved by the Ice Arena Manager, and such approval shall not be unreasonable withheld. The City reserves the right to deny approval for the sale of merchandise it considers offensive, inappropriate for sale in a public facility, or which competes in whole or in part with goods or services already provided within the facility.

8. Rules and Regulations. It is agreed by and between the parties hereto that the rules and regulations of the Roosevelt Ice Arena shall be and are a part of this rental agreement as though they were set out in full herein, and are specifically incorporated as a part of hereof by reference. The Lessee hereby acknowledges receipt of a copy of said rules and regulations currently in place and by signed addendum will acknowledge receipt of any additional rules and regulations. Violation of any of the rules and regulations by any player, volunteer, or employee of the Lessee shall be grounds to bar future use of the Ice Arena by that person, according to the Ice Arena's zero tolerance and disciplinary action programs.

9. Indemnification and Hold Harmless. The 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 the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Lessee, its officers, directors, volunteers, agents, or employees.

The City shall defend, indemnify, and hold the Lessee, 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 the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the City, its officers, directors, volunteers, agents, or employees.

10. The Lessee shall have the right to employ coaches or professionals to instruct the Club's members.

11. Only Lessee members, official invitees of the Lessee, and their coaches or professionals are allowed on the ice or on the player bench during the Lessee 's rental sessions; provided, however, that City and/or Ice Arena personnel shall have the right to be on the ice or the player bench as necessary to effectuate their responsibilities.

12. The Lessee shall have the right to charge admission for spectators for purposes of special events with prior written approval from the Ice Arena Manager or appropriate City official. Both the City and the Lessee shall have the right to admit, control, or eject spectators during any skating session.

13. Insurance. The Lessee shall, at its own expense, provide such public liability insurance as will protect the Lessee and the City from all claims for damages to persons, including death and the use of products, giving cause for claims or damages, which may arise from the operation of the business conducted under this agreement or from anyone directly or indirectly employed by the Lessee. Such public liability insurance shall provide limits of not less than One Million Dollars (\$1,000,000.00) for any number of persons per occurrence, injured or killed. The City shall be named an additional insured in said policy or policies and the Club shall furnish to the City evidence of insurance by a certificate of insurance of required coverage.

14. Assignment. The Lessee shall not assign or transfer its rights and privileges granted under this agreement, either in whole or in part, without first obtaining the written consent of the City. Exchanges of ice rental time between the Lessee and another authorized ice user may be permitted upon prior written approval of the Ice Arena Manager. The resale of ice time by the Club is specifically prohibited.

15. 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 the 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 the Lessee hereunder shall terminate unless said violation is cured to the satisfaction of the City Recreation Manager or other agents or officials of the City.

Such termination shall not waive the right of the City to recover damages from the 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 the Lessee.

16. Removal on Termination. On the date of termination hereof, or in case of the termination of the relationship created by this agreement prior thereto, the Lessee shall have the right to remove from said premises all personal property, fixtures, and equipment not a part of the real estate, installed by and title to which the Lessee retains; subject, however, to any valid lien or claim which the City may have for unpaid fees; provided, also, that if said removal causes any damage to the premises, said Lessee will repair the same in a proper and satisfactory manner at its own expense.

17. Severability. If any provision of this agreement shall be invalid for any reason, such invalidity shall not affect the remaining provisions herein, the parties to this agreement hereby declaring that they would have agreed to the other provisions of this agreement notwithstanding such invalidity.

18. Disputes. The parties agree that they initially shall attempt to resolve any dispute regarding ice time and fees, and issues related thereto, through direct negotiation. If the dispute is not resolved within ten (10) days after written demand for direct negotiation, the parties shall attempt to resolve the dispute through mediation, with a mediator jointly chosen by the parties, and the cost borne equally by the parties. If the mediator is unable to facilitate a settlement of the dispute within a reasonable period of time, as determined by the mediator, the mediator shall issue a written statement to the parties to that effect and such statement shall be a prerequisite to the commencement of any legal action.

19. Venue; Choice of Law. Any lawsuit under this Agreement shall be venued in the Seventh Circuit Court, Rapid City, South Dakota. This Agreement shall be interpreted under the laws of the State of South Dakota.

WITNESSETH, the parties hereto execute this agreement on the ____ day of _____, 2003.

CITY OF RAPID CITY

By: _____
Jim Shaw, Mayor

ATTEST:

Finance Officer

(SEAL)

CLUB

By: _____
Its: _____

State of South Dakota)
 SS.

