

AGREEMENT

This Agreement ("Agreement") is entered into between the CITY OF NORMAN ("City"), a municipal corporation, and ICE CHALLENGE ENTERPRISES, LLC ("Ice Rink Operator"), collectively the Parties.

WHEREAS, the City is the owner of public property and facilities known as Andrews Park, Norman, Cleveland County, Oklahoma; and

WHEREAS, the City recognizes that a portion of Andrews Park comprising the basketball courts will be utilized for an outdoor ice rink to provide these recreational services for the benefit of the health, safety, and welfare of the residents of the City of Norman; and

NOW, THEREFORE, in considerations of the covenants, terms, and conditions herein contained, City and Ice Rink Operator agree as follows:

1. The City hereby grants the right and privilege to the Ice Rink Operator to use the facilities and property located generally at Andrews Park, Norman, Cleveland County, Oklahoma, herein after referred to as the "Property", and specifically the area delineated on the map labeled as Attachment A.
2. This Agreement term shall take effect November 1, 2013 and end January 31, 2014. This three month agreement term can be renewed for two additional three month terms from the beginning of November to the end of January in successive years, by being renewed in writing by Ice Rink Operator and acknowledged by the City by the first day of March following the end of each term. In consideration of the City making this Property available for an outdoor ice rink, the Ice Rink Operator will provide the City \$0.30/per ticket after the first 7,000 persons pay to enter and \$0.50/per ticket after 10,000 persons pay to enter until an amount not to exceed \$7,000 is collected during each season. Ice Rink Operator acknowledges the fee will be due to the City within thirty days following the end of each term. Ice Rink Operator agrees to be responsible for the collection and remittance of any applicable sales tax.
3. Ice Rink Operator shall not make any changes to any structures or any permanent improvements to the Property without first receiving written permission from the City.
4. It is understood that it is in the public interest that the activities for the ice rink would be limited to such a number and otherwise regulated by Ice Rink Operator as to insure the public health, safety, and welfare during the use of the ice rink and to maintain high standards of quality for the use and benefit of the citizens of the City of Norman. The Ice Rink Operator shall use the Property for the purposes of ice skating recreation and education and for the purposes of playing, training, and promoting ice skating and associated support services. Any other use of the Property must be approved by the City. It is further understood that the Ice Rink Operator will be responsible for all necessary permits associated with staging and operating an ice rink with their support services.

5. The Ice Rink Operator shall not assign this Agreement, or any interest herein, or sublet any portion of the Property without the consent of the City. The Ice Rink Operator may grant permission and authority to any entities to occupy and use the Property for any supportive service necessary such as food concessions and an automated teller machine.
6. The Ice Rink Operator shall indemnify and hold the City of Norman harmless from all claims, suits, actions or judgments, including but not limited to all expenses, attorneys' fees, witness fees, and all other costs of defending any such action or claim or appeals therefrom, arising out of any defect of the premises or from the maintenance or operation of the ice rink by the Ice Rink Operator, its agents, servants, or employees or its invitees or associated supportive service activities.
7. The Ice Rink Operator, at its expense, shall keep in force, during the term of this Agreement, general liability insurance issued by an insurance company authorized to conduct business in the State of Oklahoma, by the Oklahoma Insurance Commissioner. The insurance will be in a form acceptable to the City Attorney and City Manager for the City, for the protection of the City and the Ice Rink Operator, naming the City of Norman as co-insured, against all liabilities, judgments, costs, damages, and expenses that may accrue against, be charged to, or recovered from the City, on account of any matter or thing that may occur on the Property, in a general liability policy or policies in the amount of One Million Dollars (\$1,000,000.00).
8. The Ice Rink Operation is authorized to install, place, and maintain Improvements within the Property during the term of the Agreement, and such installation, placement, and maintenance, as well as removal, of improvements with the Property shall be at the sole risk and expense of the Ice Rink Operator. These Improvements include: an ice skating rink and associated equipment, a concession stand, a ticket booth and skate rental stand, and an automated teller machine. The City reserves the right to retain the ownership, use, occupancy, or possession of any such improvements in place following the end of the term of the Agreement and Ice Rink Operator shall not have a claim against the City if the City exercises such a right.
9. It is understood and agreed that Ice Rink Operator shall assume full responsibility for ensuring the protection of the Property. For purposes of this section, any damage, which may occur to the Property, will be the responsibility of Ice Rink Operator during the term of this Agreement. There will be three inspections of the Property by the Ice Rink Operator and the Director of Parks and Recreation, one at the beginning of the term to confirm current conditions of the facility and one at the end of the term to assure the facility is in good condition following the use of the Property. In addition, the Building Official, the Fire Marshal, the Director of Public Works, or their designees, shall conduct an inspection of the Improvements, prior to the Ice Rink Operator opening and operating the rink, to ensure City codes and safety requirements are met. Any damage conditions will be repaired by Ice Rink Operator prior to any consideration of contract renewal. This section

specifically excludes normal wear and tear as determined by the Director of Parks and Recreation.

10. The Ice Rink Operator will be responsible to collect the trash from containers located within the Property. The City will provide the appropriate containers for the removal of the waste from the site. The City shall provide, at no charge, solid waste collection and the established basketball court lighting and operating cost thereof. The City will install the necessary electrical service equipment to serve the ice skating rink. The City has a one-time estimated expense of \$12,000 to establish access to the necessary electrical service. The City is willing to provide this expense at no charge to Ice Rink Operator if they are willing to exercise the two additional option years of the Agreement. One-third of this one-time expense will be forgiven for each year of operation. Any balance remaining on the one-time fee will be due to the City within thirty days following the last term of the Agreement. If the City is not willing to renew the Agreement, this one-time expense will be forgiven. The Ice Rink Operator will be responsible for electric utility costs used to operate the ice rink. Reimbursement for this cost shall be due to the City within thirty days following the end of each season.
11. Before the expiration of the term of the agreement, Ice Rink Operator shall dismantle and remove any improvements not retained by the City and shall clean up trash and debris. In the event that Ice Rink Operator fails to fulfill these obligations in a timely manner, the City shall have the right to do or have such work done and recover the cost of such work from Ice Rink Operator.
12. Security will be determined and provided by the Ice Rink Operator for the daily operation of the ice rink and protection of the equipment and supplies while located on the Property.
13. The Ice Rink Operator shall have the right to prohibit anything within the Property that would endanger a patron's use of the Property. Further the Parties agree that the Ice Rink Operator shall have the right to post the appropriate signs setting forth such prohibitions.
14. The Ice Rink Operator agrees to provide ice skating and recreation activities in a non-discriminatory manner. General hours of operation will be: 4:00 pm to 9:00 pm on weekdays when school is in session; 12:00 pm to 9:00 pm on non-school weekdays; 10:00 am to 10:00 pm on Saturdays; 1:00 pm to 8:00 pm on Sundays. The Ice Rink Operator will not schedule activities after 11:00 p.m. daily.
15. The Ice Rink Operator shall not make or suffer any use or occupancy of the Property contrary to any law, state statute, or city ordinance currently in effect or hereafter adopted. At all times during the operation of the ice rink, the Ice Rink Operator shall comply with all requests and requirements by representatives of the City Manager, Chief of Police, Fire Chief, the Building Official, and Director of Parks and Recreation of the City with respect to security, surveillance and public safety, pedestrian matters, fire safety and all matters related thereto; and at all times

the foregoing City officials and their designated agents shall be allowed to fully inspect the operation of the ice rink and the Property.

16. This Agreement shall only be amended in writing with the mutual consent of the Ice Rink Operator and the City. In the event that one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, the other provisions of the Agreement shall not be affected. The Agreement shall be construed as if the valid, legal, or enforceable provisions had been contained therein. No terms inconsistent with this Agreement shall be deemed binding on the parties. This Agreement contains all essential terms necessary to accomplish the purposes expressed by the parties and any other prior written agreements, written or oral, consistent or inconsistent with the terms herein, are hereby rendered null and void. The parties also agree that this Agreement is fully integrated, embracing all essential terms necessary to carry out the purpose stated herein.

IN WITNESS WHEREOF, the Parties have approved this Agreement and authorized signatures below as of the dates there set out.

APPROVED by Ice Challenge Enterprises this 17 day of September 2013
2013.

Donna Logothetis ✓
Ice Challenge Enterprises, LLC

[illegible]

Before me, the undersigned, a Notary Public in and for said County and State, on this 17 day of Sept., 2013 personally appeared DMITRI LOGOUTINE, to me known to be the identical person(s) who executed the foregoing grant of easement and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year last above written.

Notary Public

My Commission Expires:

30 January 2017
01000390

APPROVED by The Council of the City of Norman this ____ day of _____, 2013.

THE CITY OF NORMAN

MAYOR

ATTEST:

CITY CLERK

APPROVED as to form and legality this 17th day of September, 2013.

4980 Jesse
CITY ATTORNEY

