

AGREEMENT FOR SHARED USE OF NOME ICE RINK FACILITIES

Recitals:

WHEREAS, the City of Nome ("City") is the record owner of real property and improvements commonly known as the Nome Recreation Center ("NRC") and

WHEREAS, the Nome Winter Sports Association ("NWSA") is a non-profit corporation that has been allowed; 1) seasonal use of a portion of the NRC property for an outdoor ice rink ("the Rink") and; 2) to place related facilities ("Buildings") owned by NWSA on NRC property. The locations of said Rink and Buildings are depicted in the attached Exhibit A and consist of a portion of the following real property;

Block 122 Lots 1,2, a portion of Lot 3, a portion of Lot 10A, Lot 11a and Lot 12A; and

WHEREAS, the City and NWSA wish to memorialize details of operational responsibility for the Rink and Buildings as well as define how seasonal use of the Rink and Buildings will be shared.

In consideration of the above recitals and purposes named the parties hereby agree as follows:

A. City of Nome Obligations.

Commencing January 1, 2025, City shall subject to annual appropriation by the City Council:

1. Maintain parking areas adjacent to the Ice Rink including snow removal.
2. Continue to allow NWSA to use the Rink and Buildings and adjacent NRC property on an exclusive basis between the months of November and April each year at no cost to NWSA.
3. Operate and maintain any lighting installed at the Ice Rink at the sole expense of the City.
4. Pay all costs of providing, operating and maintaining water and sewer utility services to the Buildings, if any.

B. NWSA Obligations.

Commencing January 1, 2025, NWSA shall:

1. Maintain the ice surface and exterior of the Rink and the Buildings including, but not limited to, hot mopping, snow removal, stairs, exterior painting, and structural integrity at the sole cost of NWSA.

2. Continue to operate the Rink and Buildings and provide programs open to the public during all periods NWSA is allowed use of these facilities.

3. Relinquish possession of the Rink and Buildings to City on or before May 1 of each year.

4. Submit written reports covering operations of the Rink and Buildings to the Nome City Council on or before May 31 each year.

C. Additional Obligations of Parties.

1. **Term and Option to Renew.** This Agreement shall commence January 1, 2025, and shall expire December 31, 2029, unless earlier terminated pursuant to Section 8, below. This term may be extended for an additional five (5) years if both parties agree to such an extension.

2. Termination.

a. Upon expiration or termination of this Agreement, the NWSA shall, surrender and deliver the Rink to the City in as good condition as when first allowed use by NWSA or as thereafter improved, excepting only: 1) ordinary wear and tear; 2) deterioration or functional obsolescence of improvements due to age; and 3) any defects objected to in a writing signed by the NWSA and delivered to the City prior to the NWSA's execution of this Agreement.

b. Not later than the expiration or termination date of this Agreement, or of any extended term, NWSA shall remove all of its property from the Ice Rink and Buildings. Any damage caused to the Ice Rink by reason of such removal shall be immediately paid by NWSA. Any property not so removed by NWSA may become the property of the City at the City's option.

c. The City may, in its sole discretion, remove and store any or all property not timely removed from the Ice Rink and Buildings. Storage shall be for the account and at the expense of NWSA, and without liability for loss thereof or damage thereto on the part of the City. If after a period of thirty (30) days or more NWSA has not retrieved its property from storage and paid City the reasonable cost of storage, the City may sell any or all of such property at a public or private sale. The City shall mail written notice of such sale to NWSA at least ten (10) days prior to sale. The notice shall state the date, time and place of the sale. The City may set the time, place and manner of the sale in its sole discretion. The proceeds of any such sale shall be applied first to the costs of sale, and then to storage charges. Any remaining balance shall be mailed to NWSA.

3. **Improvements to Ice Rink.** NWSA may make improvements to the Ice Rink, however, any improvements require the advance written permission of the City of Nome.

4. **Fund Raising.** NWSA and City shall continue to cooperate on matters related to fund raising for programing, operations and improvement of the Ice Rink and Buildings.

5. **Non-Discrimination.** Neither City nor NWSA shall discriminate against any person or persons or exclude any persons from participation in NWSA operations, programs, or activities because of race, color, sex, handicap, national origin, or religion.

6. **Indemnification/Insurance.**

(a) NWSA shall defend, indemnify and save harmless the City, its agents or employees from and against any and all claims, demands and causes of action of any nature whatsoever, and any expenses incident to defense of and by the City therefrom, for any injury to or death of persons or loss of or damage to property in any manner arising out of NWSA's use and occupation of the Ice Rink, Buildings or performance of this Agreement, except to the extent caused by the sole negligence of the City.

(b) City shall defend, indemnify and save harmless NWSA, its agents or employees from and against any and all claims, demands and causes of action of any nature whatsoever, and any expenses incident to defense of and by NWSA therefrom, for any injury to or death of persons or loss of or damage to property in any manner arising out of City's use and occupation of the Ice Rink or performance of this Agreement, except to the extent caused by the sole negligence of the NWSA.

(c) In addition, NWSA shall procure and maintain commercial general liability insurance coverage written by responsible insurer(s) licensed to do business in the State of Alaska, naming the City as an additional named insured, which coverage, shall not be less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate, including death, property damage and personal injury liability. NWSA shall also obtain "all risks" property insurance for all contents of the Buildings Center whether NWSA's personal property or City's personal property, in an amount at least equal to the replacement cost of all NWSA's fixtures and improvements in the Ice Rink and Buildings. Such insurance shall also be written by responsible insurer(s) licensed to do business in the State of Alaska, and shall name the City as an additional named insured. NWSA agrees to furnish certificates of insurance evidencing such insurance coverage to the City at or before the effective date of this Agreement. NWSA further agrees to immediately notify the City of any cancellation, termination or decrease in its insurance. The certificates of insurance shall contain an endorsement providing for not less than thirty (30) day's notice to the City of intent to cancel or decrease the insurance. NWSA shall also maintain required Workers' Compensation insurance, if any. If any time during the term of this

Agreement or any extension or renewal thereof a competent insurance agent deems this amount of coverage inadequate, NWSA will immediately increase its coverage to an adequate level.

(c) All insurance provided by NWSA under this Agreement shall (1) contain a waiver of subrogation by the insurer in favor of the City; (2) provide that an act or omission of the City will not void the policy or be a condition to recovery; and (3) provide primary insurance coverage.

(d) City shall procure and maintain property insurance covering the Ice Rink and all personal property of City at the Ice Rink and shall procure and maintain public liability insurance coverage.

7. **Use of Ice Rink and Buildings.** The NWSA may use NRC Property, the Ice Rink and Buildings solely for purposes related to the performance of this Agreement. NWSA shall not use the Buildings for residential purposes.

8. **Default.**

(a) If NWSA at any time during the term of this Agreement or any holdover period shall (a) fail to observe or perform any of NWSA's other obligations hereunder, and if within thirty (30) days after the City shall have mailed to NWSA written notice specifying such default or defaults, NWSA shall not have commenced to cure such default and proceed diligently to cure the same, then the City may give NWSA notice of termination of this Agreement. In such a case, on a date specified in such notice, which date shall not be less than thirty (30) days after the date of mailing of such notice ("termination date"), the term of this Agreement shall come to an end.

(b) The City shall not be in default of any of its obligations hereunder unless and until it shall have unreasonably failed to perform said obligation within thirty (30) days, or such additional time as may be reasonably required, after receipt of written notice by the City specifying the default.

9. **Notices.** Any and all notices required or permitted under this Agreement, unless otherwise specified in writing by the party whose address is changed, shall be addressed as follows:

THE CITY: City of Nome
P. O. Box 281
Nome, AK 99762
Attn: City Manager

THE NWSA: Nome Winter Sports Association
P.O. Box ____
Nome, AK 99762

Attn: President

Dated this _____ day of December, 2024.

CITY OF NOME

**NOME WINTER SPORTS ASSOCIATION,
INC.**

BY: _____

BY: _____

ITS: CITY MANAGER

Blake Bogart
ITS: PRESIDENT