

LAND LEASE AGREEMENT

THIS LAND LEASE AGREEMENT (“Agreement”) is made this ____ day of _____, 2023 by and between the CITY OF SHEBOYGAN (“City”) and LAKESHORE UNITED FC (“LUFC”).

I. RECITALS

WHEREAS, City is the owner real estate described below and the property (“Butzen”), pursuant to a Restrictive Covenant, must utilize the subject premises for recreational use. The real estate is described as follows and is comprised of approximately 55 acres:

PRT NE1/4, SEC 4, T14N, R23E; COM 1335.18’ S OF NE COR SD1/4; TH S88 DEG 50’W 2214.96’; S1 DEG 33’W 1302.46’; E TO CEN USH 141; NE ON HWY TO A PNT E OF BEG; TH W TO BEG; EXC COM 1335.18’ S OF NE COR SEC 4; TH S88 DEG 50’W 448.7’; S11 DEG 28’W 543.25’; S78 DEG 50’E 375.25’; N67 DEG 30’E 95.45’ TO CEN USH 141; N16 DEG 32’E ON CEN SD HWY 604.1’; TH S88 DEG 50’W 73.4’ TO BEG; EXC THE S 97’ OF AFOREDESC, & EXC COM 1335.18’ S OF NE COR SEC 4; TH S88 DEG 50’W 448.7’; S11 DEG 28’W 543.25’ TO PNT OF BEG; TH S78 DEG 50’E 375.25’ TO W R/W USH 141; S16 DEG 32’W 200’; N78 DEG 50’W 375.25’; TH N11 DEG 28’E 200’ M/L TO BEG; EXC LOT 1 15CSM9#1497070; AND ALSO EXC PRT ANNEXED TO CITY FILE#1166487 AND EXC HWY CONV #1954201.

Tax Key Number 59281-430842

AND

SEC 04 T14N R23E PRT E1/2 OF NE1/4 COM AT NE COR SEC 4, TH S 1°E ALG E LN SEC 4 1,335.18’ TO P.O.B., TH S 88°22’34” W 469.99’ TH S 11°12’04”W 743.25’ TH S 79°05’56” E 387.31’ TO A PT THAT IS 45’ FROM CNR LN SO. BUSINESS DR., TH N 16°13’49” E 849.59’, TH S 88°22’34” W 3.60’ TO P.O.B., EXC HWY CONV #1954201.

Tax Key Number 59281-430840

WHEREAS, LUFC desires to operate a facility at Butzen, primarily focused on its successful soccer programs;

WHEREAS, City and LUFC agree that having a quality soccer facility at Butzen will provide a direct benefit to city residents who would use the facility as players, coaches, and spectators, but that it will also provide economic development and tourism opportunities that will benefit local residents and businesses;

WHEREAS, City and LUFC wish to enter into a land lease agreement for LUFC's utilization of Butzen's premises for recreational purposes, more specifically, LUFC's long term soccer operations;

WHEREAS, City and LUFC agree that said recreational use shall include the operations of LUFC, as well as the needs of the community at large, which includes but is not limited to, sports, clubs, and other organizational use consistent with recreational use;

WHEREAS, LUFC has continued its fundraising campaign in several phases to develop Butzen;

WHEREAS, LUFC shall be solely responsible for the care and maintenance of the leased property and all infrastructure placed thereon, whether permanent or temporary. within;

WHEREAS, City agrees and understands that all profits from LUFC's operations, including but not limited to, concessions, revenue from operational and related activities, belong to LUFC; and

WHEREAS, City and LUFC agree to the terms of this Agreement for an initial five (5) year term.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

- 1) Leased Property. City agrees to lease Butzen to LUFC for recreational purposes.
- 2) Housekeeping and Repairs. LUFC agrees to maintain the property in a clean, sanitary, and safe condition. LUFC shall be solely responsible for turf management and snow removal and for promptly restoring the property to a clean, sanitary, and safe condition whenever circumstances warrant. In the event that the City requests use of the property, City agrees to timely restore the used area to a clean, sanitary, and safe condition following such use.
- 3) Major Modifications. LUFC must seek prior written approval from City prior to erecting any infrastructure that is intended to remain in place longer than one year; to the removal of soil or grass; installation of irrigation lines; construction of permanent bleachers; construction of any fences or similar barriers; installation of artificial turf; and any other possible modification that serves to change the use of the land in a permanent way.
- 4) Minor Modifications. LUFC shall not require City approval for minor modifications. This includes activities that are generally of a non-permanent nature, including but not limited to adding signage, mowing grass, painting fields, maintaining goals, adding portable bleachers, and generally those modifications that are not intended to remain in place longer than one year or that do not fundamentally change the use of the subject premises.

5) Insurance.

- a) LUFC understands that its personal property is not insured by the City for damage or loss and that the City does not assume any liability for such damage or loss. LUFC agrees to furnish and maintain liability insurance of at least \$1,000,000 per occurrence and \$3,000,000 in the aggregate. Such insurance shall designate the City of Sheboygan as an additional insured. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the City. Failure to provide such insurance shall terminate the Lease. LUFC further agrees to obtain liability waivers and/or releases from all participants of LUFC-sponsored activities occurring at Butzen.
- b) City agrees to furnish and maintain liability insurance of at least \$1,000,000 per occurrence and \$3,000,000 in the aggregate. Such insurance shall designate LUFC as an additional insured. City further agrees to obtain liability waivers and/or releases from all participants of City-sponsored activities occurring at Butzen.

6) Indemnification. LUFC agrees to indemnify, and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of whatsoever kind or nature in any manner directly caused, contributed to in whole or in part, by reason of but only to the extent attributable to any negligent act, or omission, or fault, of LUFC or of anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on the City, its elected and appointed officials, officers, employees, agents, representatives and volunteers. The obligation to indemnify, and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, and volunteers, and each of them, shall be applicable to the extent liability is apportioned to LUFC, its appointed officials, officers, employees, agents, representatives, and volunteers by a court of competent jurisdiction. The parties shall be responsible for their own defense. In the event that LUFC employs other persons, firms, corporations, or entities (collectively Subcontractor), it shall be LUFC's responsibility to require and confirm that each Subcontractor enters into an Indemnity Agreement in favor of the City, its elected and appointed officials, officers, employees, agents, representatives, and volunteers, which is identical to this Indemnity Agreement.

7) Rent and Consideration. LUFC agrees to pay one dollar (\$1.00) rent per year, to be paid by January 31st of each year. In consideration for allowing LUFC the use of Butzen, LUFC agrees to continue its operations for the duration of this Agreement. If at any time LUFC ceases operation for a period of six months or greater, this Agreement shall terminate.

8) Rules and Regulations. LUFC shall abide by and operate in accordance with all applicable laws, rules, and regulations, including any and all federal and state rules, regulations, and requirements. The parties agree that the following park rules shall apply to Butzen:

- a) SMC § 74-43: Speed limit for vehicles.
- b) SMC § 74-44: Operation of vehicles.
- c) SMC § 74-46: Protection of wildlife.
- d) SMC § 74-47 Trespass, injury by animals.
- e) SMC § 74-48: Malicious mischief.
- f) SMC § 74-52. Disorderly conduct.
- g) SMC § 74-57. Glass beverage containers.
- h) SMC § 74-58. Archery prohibited.
- i) SMC § 74-59. Golf prohibited.
- j) SMC § 74-63. Fire control.
- k) SMC § 74-64. Camping prohibited.
- l) SMC § 74-66. Trespass.

- 9) Term and Termination. The initial term of this Agreement shall commence on the date of final execution and shall expire at midnight December 31, 2028. This Agreement shall automatically renew for ten (10) additional one-year terms; the final term ending at midnight on December 31, 2038. LUFC may terminate the automatic renewal of the Agreement by providing written notice to City no later than July 1 of the year in which the renewed term begins. The parties may, at any time prior to the end of the final term, agree to a new Agreement to replace this Agreement, or may agree to extend this Agreement beyond 2038.

City may terminate this Agreement at any time LUFC commits a material breach, which includes but is not limited to, failure to procure necessary insurance, making modifications without City's prior approval, failing to maintain and care for the property and related infrastructure and everything within. Upon notification of a material breach, LUFC shall be provided with a written Notice of Right to Cure Default and may cure the breach to the reasonable satisfaction of City within thirty (30) days of written notice from City. If LUFC fails to cure a material breach within such time period, City has the right to immediately terminate this Agreement. If City proceeds with termination based upon a failure to cure a breach, LUFC may appeal that termination to the City of Sheboygan Common Council within fifteen (15) days of being notified. In the event LUFC becomes insolvent, or becomes the subject of a voluntary/involuntary bankruptcy, this Agreement shall terminate immediately.

- 10) Exclusivity. For the duration of this Agreement, City agrees to seek prior approval from LUFC before allowing any other entity to make use of Butzen. City events and/or City sponsored events shall not take precedence or priority over LUFC events, operations, and programming.

- 11) No Partnership. The relationship of the parties is as Landlord (City) and Tenant (LUFC) and is not intended to be, nor is a partnership or joint venture. Neither party is liable to any third party for the acts or omissions of the other party.

12) Notices. All notices and requests in connection with this Agreement shall be deemed deliberate or given as of the date they are sent and may be addressed as the parties designate. Notice to be provided to the following:

LANDLORD

City of Sheboygan
c/o City Clerk
828 Center Avenue
Sheboygan, WI 53081
(920) 459-3917
meredith.debruin@sheboygan.wi.gov

TENANT

Olsen, Kloet, Gunderson & Conway
c/o Attorney Joseph Voelkner
602 North 6th Street
Sheboygan, WI 53081
(920) 458-3701
josephvoelkner@olsenkloetlaw.com

13) Authority. LUFC affirms that members of its Board of Directors have the authority to sign documents on LUFC's behalf pursuant to this Agreement. No major modification or sublease shall be deemed approved until signed by both parties.

14) Further Assurance. The parties hereto, from time to time after execution of this Agreement and without further consideration, shall execute and deliver as appropriate such documents and take such further actions as may be reasonable and necessary to carry out and consummate their transactions contemplated by this Agreement.

15) Entire Agreement. This Agreement constitutes the agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes and terminates all other prior commitments, arrangements, or understandings, both oral and written, with respect to the subject matter hereof.

16) Modification. This Agreement may not be modified or amended except by instrument in writing executed by all parties hereto.

17) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

18) Severability. The provisions of this Agreement are severable and the invalidity of any provision shall not be deemed to limit or otherwise affect the construction of any provision hereof.

19) Headings. The descriptive headings of this Agreement have been inserted for convenience and shall not be deemed to limit or otherwise affect the interpretation of any provision hereof.

20) Waiver. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of any party or other agents or employees, and may be waived only by an instrument in writing and signed by an authorized officer of the waiving

party. No waiver of any provision of this Agreement shall constitute a waiver of any other provisions or of the same provision on any other occasion.

- 21) Assignment. No party may assign this Agreement without prior written consent of the other party.
- 22) Dispute Resolution. The parties agree to non-binding mediation, costs of which shall be split equally between the parties. Should a dispute not resolve after mediation, the parties agree that the Sheboygan County Circuit Court shall have jurisdiction.
- 23) Force Majeure. Neither party shall be liable for any failure to perform any obligation under this Agreement because of acts of God, nature, or a federal, state, or local government agency, war, civil disturbance, labor dispute, or shortage, electrical or mechanical breakdown, pandemic, or any other cause beyond the control of that party, including the issuance of an injunction by either a state or federal court prohibiting the party from carrying on its day-to-day operations as contemplated under the terms of this Agreement, provided, it takes all steps reasonably practical and necessary to affect prompt resumption of its responsibility set forth hereunder.

IN WITNESS WHEREOF, the parties have entered into this Land Lease Agreement as of the date first set forth above.

CITY OF SHEBOYGAN

LAKESHORE UNITED FC

By: _____
Ryan Sorenson, Mayor

By: _____
Christopher Lacey, President

Attest: _____
Meredith DeBruin, Clerk

DOCUMENT DRAFTED BY:
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