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Key Differences between City of Whitewater Lease ("City") and School District Lease ("WUSD"):

1. Section D, under RECITALS, very last sentence –CITY says **"in addition, separate and apart from this agreement"** that the two parties have executed an agreement by which the SD will rent portions of the Aquatic Facility; it is NOT worded this way on the WUSD lease
2. On page 1, under RECITALS, the WUSD lease has inserted a paragraph as Letter E (abt the Aquatic Facility being primarily intended to serve for certain purposes) that is DIFFERENT than the subject matter on the CITY lease. This additional paragraph results in the successive numbering /lettering being "off by 1" on the remainder of both the leases
3. Letter E/ F under RECITALS ---the definitions of "ACC" are different on each lease. Further, ONLY on the WUSD lease, it says that the ACC "will NOT make substantive decisions regarding the operation of the Aquatic Facility".
4. Under ARTICLE I, The City's Title is "Demise of Leased Premises, whereas the WUSD's title is "LEASE PROVISIONS"
5. Under Article 1, Sect. 1.01, the underlined titles are different for both leases. On the WUSD lease, there is an extra sentence added on about the City paying the SC annual rent of \$1 during the term of the agreement, which is mentioned on the City's lease under ARTICLE 3.
6. On the WUSD lease, there is another paragraph inserted under ARTICLE 1 as section 1.02 entitled the "LEASE OF THE AQUATIC FACILITY To the SCHOOL DISTRICT" that is NOT on the City lease.
7. On the WUSD lease, Art. 1, Sect. 1.03, entitled "Access and Parking", there is another sentence added on at the very end stating that the CITY shall ensure that all City officers and employees,,,, have had all appropriate background checks, etc.---this is NOT on the City's lease.
8. Under Article III/IV the titles are again different; "USE of LEASED PREMISES" on the City lease and "USE OF THE AQUATIC FACILITY & LEASED PREMISES" on the WUSD lease. On the WUSD lease, there is a SECT. 3.2 entitled "SCHEDULING" that is not on the City's lease.
9. Under Article IV/V, "OPERATION OF THE LEASED PREMISES", Sect. 4.01/5.01, entitled the "Responsibility for Operation" ---the City's Lease states that the "CITY" shall have PRIMARY responsibility or the oversight of the leased premises, whereas the WUSD's lease says that BOTH the CITY and the School District will be responsible. Within this same article, under the heading "Personnel" towards the bottom third of the paragraph, the language varies significantly as far as what happens if/when the CITY fails to satisfy or comply with its responsibilities under this section, the CITY's lease says the parties shall "hold each other harmless" whereas the WUSD's just says that the "CITY SHALL HOLD THE SCHOOL DISTRICT" Harmless. Also, under this Article, **under the heading "Special Activities and Events"** the City's Lease has a section halfway through this paragraph that is not on the WUSD's Lease at all: This extra part in the City's lease starts right after "Special Activities/Events" and says "It is intended that any use by the School District or the City of Special Activities /Events shall be subject to payment to Aquatic Facility of a reasonable additional fee for use of the Aquatic Facility beyond the School District's Program Needs and /or the General Public's Recreational Needs, as appropriate. Such fees may be waived with City and School District approval." Again, this paragraph was NOT in the WUSD lease. Under this same heading, it says in the WUSD lease that "VOLUNTEER lifeguards will not be permitted under any circumstances" In the CITY' s lease it says that volunteer lifeguards need

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to be certified or otherwise properly qualified to provide lifeguard services. Further, the WUSD lease says that the CITY staff shall develop a written policy whereas the City's lease reads that the City staff/and or the ACC shall develop a written policy.

10. Under the same article, under Operations Budget, the City's lease says it will INITIALLY contribute \$248,000 towards the AF operation's costs. The WUSD's lease says that the City shall contribute "\$258,767 for the first year of the Agreement's Term. Further down in this paragraph on the WUSD's lease, it says that the CITY is SOLELY responsible for contributing funds necessary to fully remedy any operations budget deficits, as well as for any operations budget surpluses, during the Agreement Term. This paragraph is NOT in the City's lease. Under the heading REVENUES in this same section, the CITY's lease says that the ACC shall establish appropriate user fees for the use of the Aquatic Facility, whereas WUSD's lease says that CITY shall be the one to establish such fees. Similarly, the City's lease says that the ACC shall engage in annual fundraising activities for the AF and the WUSD's lease says that the CITY shall do so.
11. Just beneath this section, here is a letter "F" on BOTH leases that reads completely different on both of them; on the CITY's lease, it is entitled "Request for Additional Operating or Capital Funds" and on WUSD's lease, it's entitled " Use of Capital Funds for Operations Prohibited". The WUSD lease reads that the "CITY SHALL NOT transfer any funds out of its capital account for operational expense use".
12. Under the maintenance and repairs obligations section, the City's lease reads that snow removal costs for the leased premises shall be "split equally by the City and School district in addition to any financial provisions herein. The underlined portion is NOT in WUSD's lease. Just below this paragraph, **WUSD lease has again inserted a paragraph that is NOT on the CITY lease which states that "THE CITY Shall be responsible for maintenance of the Lap and Leisure Pool within the Aquatic Facility, including the Management of pool chemistry"**. Lastly, the very last paragraph of this section says the "City's Failure to seek the District's Approval in such instances shall constitute a material breach of this Agreement subject to Article XI. " **This appearing again ONLY on the WUSD lease, not on the City's.**
13. Sect. 6.04 "Maintenance and Repair Disagreements" appears ONLY on the City's lease, not on the one for WUSD.
14. **Under the TERMINATION OF EVENTS section"** The time frame allotted the City under letter A, "Event of Default by City" is different on both leases; the City's reads 90, 150 and 90 days whereas WUSD's lease reads only 30, 90 and 30 days. I have highlighted these time allowances on both leases.
15. **Lack of Funding Section: Letter( i): Says the school district is able to terminate this agreement with 90 days notice if unable to fund its obligations under Section 5.01 F in the City's lease and on the WUSD lease it says "under this agreement" instead of under Section 5.01 F for Same.**
16. Lastly, just above the signature lines, on WUSD's lease, it says "EXHIBIT 1, Capital Maintenance Plan" whereas it does not mention that on the City lease.

Completed by Kim Wojtkow on 10/20/23