



**Windom City Council
Special Joint Meeting
With
The Windom Park and Recreation Commission**

**Wednesday, January 11, 2022
5:30 P.M.
City Council Chambers**

AGENDA

Call to Order

Pledge of Allegiance

1. Discussion and Commission Recommendation Regarding Arena Horse Shows
2. Adjourn



January 11, 2023
Special City Council Meeting

Speakers List

- | | |
|------------------------------------|-------------------------------|
| 1. Fair Board | Bruce Gross/Mike Hanson |
| 2. 4H/4H Youth | Robyn Snyder/Fiona Robillard |
| 3. Cottonwood Co Horse Group | Bailey Turner/Megan Bramstedt |
| 4. Cattle Producer Association | Hally Smith |
| 5. Prairie Stock Horse Association | Roxy Scholl |
| 6. Windom Business Owner | Clark Lingbeek |
| 7. Arena Dual Users | Katie & Jerome Robillard |
| 8. Former Council Member | Jayesun Sherman |

ACTION ITEM



CITY OF WINDOM

444 9th Street

Windom, MN 56101

Phone: 507-831-6129

Fax: 507-831-6127

www.windom-mn.com

TO: City Council
FROM: Parks & Recreation Commission
DATE: December 14, 2022
RE: 2023 Horse Shows
DEPT: Arena
CONTACT: Tim Hogan: Tim.Hogan@windommn.com or Steve Nasby: Steve.Nasby@windommn.com

Recommendations/Options/Action Requested

The Parks and Recreation Commission recommends that the City Council take the following action:

1. Provide direction to staff regarding Horse Shows in 2023.

Issue Summary/Background

In September 2022 the Parks & Recreation Commission discussed the recently concluded horse show season, which was following the Commission's direction to track 2022 number of shows, participants and financials for that season. Following this discussion, the Commission referred the matter to the City Council for discussion and possible action.

On October 4, 2022 the City Council reviewed the Commission's input and financial information. One question that was raised with staff focused on the Agreement with the Cottonwood County Fair Board and what options existed. City staff met and presented the lease and Arena Improvement Agreement to the City Attorney for review. A review of the Arena Improvement Agreement shows the City's commitment regarding footing as outlined in paragraph #4.

Since the City Council's October 4, 2022 meeting we have been informed that the largest horse show (number of stalls) with Palomino Association will not be holding any events in Windom in 2023 due to them seeing lower numbers of participants.

Fiscal Impact

There is a significant expense in preparing and removing the footing inside the arena each year for horse shows (please see attached financials). The revenue generated from the shows does not exceed the expenses primarily due to the labor costs for the installation of clay/sand footing and clean-up.

The Arena would still continue to have horse shows but would move them to the outdoor riding Arena. Stalls will continue to be provided in the Beef and Horse barns as usual and some indoor Arena space could be used for administrative/clerical work.

Attachments

1. Arena Improvement Agreement
2. October 4, 2022 Memorandum from Parks & Recreation Commission
3. Horse Show Financial Data
4. October 4, 2022 City Council Minutes Except

Arena Improvement Agreement

The Board met to consider the City of Windom Arena improvement to add a concrete refrigerated slab and upgrade condenser and compressor equipment to meet federal standards with such equipment to be placed outside in a fenced area east of existing arena. Following consent with proposed conditions the City met and requested certain changes that the Fair Board agrees with and said agreement is set forth in below paragraph and numbers 1-5.

Following consideration of the change in traffic and concession patterns and in consideration of the City of Windom's recognition of likely concession rental decrease the Fair Board hereby consents to the improvement on the following conditions:

1. That the concrete refrigerated slab and equipment project be approved and installed by the City of Windom.
2. That the outside equipment and fenced area be per Option "A" as presented same being 41' more or less N to S and 29' E of arena.
3. That any change in the equipment placement and fenced area that increases by either direction more than 5% shall require the revisiting and re-approval of consent by Fair Board.
4. That the City provide and install the sand needed to properly cover cement rink for fair use and groom same during the fair as part of Arena labor provided. That the sand placement and depth shall be at the sole discretion of the City. Further, the ownership, storage and use at all other times of the sand is recognized to be the property of the City of Windom. Fair Board is not responsible for installation, grooming, or removing the sand during annual 10 day Fair Board Arena usage. That the hockey rink boards (dasher boards) will remain erected on cement rink during annual Fair Board usage. That only city employees may operate city equipment for this rink work.
5. That the city shall compensate anticipated lost revenue for prime concession space by a one-time lump sum payment of \$8,100.00 due upon signing.

That this action supersedes the Fair Board action taken on 12-14-2017 and 2-13-2018.

The Fair Board and City of Windom agree with the within provisions.

Cottonwood County Fair Board, by

C. Michael Hanson

C. Michael Hanson, Chair

4-10-18

Date

City of Windom, by

Steve Nasby

Steve Nasby, City Administrator

16 April 2018

Date

Dominic Jones

Dominic Jones, Mayor

4-16-18

Date

ACTION ITEM



CITY OF WINDOM

444 9th Street

Windom, MN 56101

Phone: 507-831-6129

Fax: 507-831-6127

www.windom-mn.com

TO: City Council
FROM: Tim Hogan, Recreation Director
DATE: October 4th, 2022
RE: Arena Horse Shows
DEPT: Arena
CONTACT: Tim Hogan 507-822-0514 (e-mail- tim.hogan@windommn.com)

Recommendations/Options/Action Requested

The Park and Recreation Commission recommends that the City Council act on whether or not the Arena should continue to have horse shows inside the Arena based on the financials that were presented at the meeting held on September 14th, 2022.

Background Information

In the fall of 2021 following the end of the horse/livestock show season the Parks & Recreation Commission met with multiple user groups (e.g. 4-H, Fair Board and horse show participants) to discuss the costs and use of the facility. The decision at that time was to go another year and track the financials along with boosting promotion of the Arena.

Staff attended the Minnesota Horse Expo in April 2022 and performed outreach with the Minnesota Palomino Horse Exhibitors, Minnesota Prairie Saddle Club and also South Eastern Minnesota Saddle Club Association. Use of the Arena in 2022 continued to show declines in stalls and participants despite more shows than in then in the prior year.

Fiscal Impact

There is a significant expense in preparing and removing the footing inside the arena each year for horse shows (please see attached financials). The revenue generated from the shows does not exceed the expenses primarily due to the labor costs for the installation of clay/sand footing and clean-up.

The Arena would still continue to have horse shows but would move them to the outdoor riding Arena. Stalls will continue to be provided in the Beef and Horse barns as usual and some indoor Arena space could be used for administrative/clerical work.

Horse Show Financials

2019 Shows

6 Events Total Revenue: \$17614.00 Expense: Material \$10,000
Set Up: \$5,000 (Labor Only)
(stalls, arena prep, footing)
Take Down: \$6000 (Labor Only)
TOTAL: \$21,000.00

2020 Shows NONE (Covid)

2021 Shows

3 Events Total Revenue: \$9584.00 Expense: Material: \$0.00
Set Up: \$5,000 (Labor Only)
(stalls, arena prep, footing)
Take Down: \$6000 (Labor Only)
TOTAL: \$11,000.00

2022 Shows

5 Events Total Revenue: \$11,330.00 Expense: Material: Sand \$700.00
Set- Up Labor \$5000 (Labor Only)
(stalls, arena prep, footing)
Take Down Labor \$6000 (Labor Only)

6 guys @ \$28.00/hr = \$168/hr x 7hrs = \$1176.00 /day
3guys @ \$25.00/hr = \$75/hr x 7hrs = \$525.00/day
\$525 x 10 days = \$5250.00 To Clean Facility

Street Department Equipment: Arena Sand & Clay Removal

7 Hours Unit 48 Cat Skid Loader: \$110.00
Unit 42 Dump Truck: \$110.00
Unit 44 Dump Truck: \$110.00
Unit 45 JD Loader: \$150.00
Unit 47 JD Loader: \$140.00

Total: 620 x 7 = \$4340.00

Total: \$16,040.00

2015 Arena Horse Show Street Dept Labor & Equipment

Note "All Rates Include Staff"

Haul Chips Due to Horse Show to Farm Dump Site by Airport

Date	Unit	Rate	Hrs.	Total \$	show name	Total Cost
April 30th	47	\$125.00	2 1/2	\$312.50	Prep Riding Rink in Arena	\$312.50
		Total	2 1/2	\$312.50		
May 15-17	47	\$125.00	1 1/2	\$187.50	MN Cutting Horse Asso	\$547.50
	44	\$90.00	4	\$360.00		
		Total	5 1/2	\$547.50		
May 22-24	47	\$125.00	1 1/2	\$187.50	MN Palomino & Futurity Show	\$547.50
	44	\$90.00	4	\$360.00		
		Total	5 1/2	\$547.50		
June 6-7	47	\$125.00	1 1/2	\$187.50	Regional Cutting Horse Competition	\$547.50
	44	\$90.00	4	\$360.00		
			5 1/2	\$547.50		
June 21-22	47	\$135.00	1 1/2	\$187.50	SD Palomino Association	\$547.50
	44	\$90.00	4	\$360.00		
		Total	5 1/2	\$547.50		
June 26-28	47	\$125.00	1 1/2	\$187.50	SD P.O.A.	\$547.50
	44	\$90.00	4	\$360.00		
			5 1/2	\$547.50		
July 11-12	47	\$125.00	1	\$125.00	National Versatility Ranch Horse Ass.	\$350.00
	44	\$90.00	2 1/2	\$225.00		
			3 1/2	\$350.00		
July 24-26	47	\$125.00	1	\$125.00	SD P.O.A	\$260.00
	44	\$90.00	1 1/2	\$135.00		
			2 1/2	\$260.00		
Aug 28-30	47	\$125.00	1	\$125.00	MN Palomino & Futurity Show	\$350.00
	44	\$90.00	2 1/2	\$225.00		
			3 1/2	\$350.00		
Sept 28th	47	\$125.00	4	\$500.00	Sand out of rink and get ready for ice	\$860.00
	44	\$90.00	4	\$360.00		
			8	\$860.00		

2015 Rates:

Total for Year

\$4,870.00

Units 42,43,44 - Dump Trucks \$90.00 Per/hr.

Unit 47 - Loader \$135.00 Per/hr. Unit 46 - Grader \$150.00 Per/hr

Unit 49 - Sweeper \$125.00 Per/hr

Arena Horse Shows Labor & Equipment by Street Dept Staff

This expence is not budgeted by the Arena, This is a FYI Report

Annual Labor & Units Hours

2005 Total Hours All Shows 104 1/2
 2006 Total Hours All Shows 87
 2007 Total Hours All Shows 48
 2008 Total Hours All Shows 41
 2009 Total Hours All Shows 72
 2010 Total Hours All Shows 51
 2012 Total Hours All Shows 44
 2013 Total Hours All shows est 40
 2014 Total Hours All Shows 42
 2015 Total Hours All Shows 47 1/2

Labor & Equipment Costs Annual

2005 Total Expense Street Dept \$9,097.50
 2006 Total Expense Street Dept \$7,610.00
 2007 Total Expense Street Dept \$4,230.00
 2008 Total Expense Street Dept \$5,500.00
 2009 Total Expense Street Dept \$7,465.00
 2010 Total Expense Street Dept \$5,410.00
 2012 Total Expense Street Dept \$5,407.50
 2013 Total Expenses Street dept est \$4,000.00
 2014 Total Expenses Street Dept \$4,770.00
 2015 Total Expenses Street Dept \$4,870.00

Preliminary

Quade, Sherman, Nelson, Grunig and Farag. Nay: None. Absent: None. Abstain: None.
Resolution passed 5 – 0.

8. Fire Department – Compeer Financial Grant Acceptance:

Ben Derickson, Fire Chief, said that he had applied for several years for this grant. There is no required City match and the funds will be used for drop tanks.

Quade asked how drop tanks are used. Derickson replied that they are foldable tanks that are placed on site as water reserves. The tanks can be filled with water to fight a fire on scene and the tanker truck can then get back into town to fill up and bring more water to the scene.

Motion by Quade second by Nelson to accept the Compeer Financial Grant for the Windom Fire Department in the amount of \$1,300. Motion carried 5 – 0.

9. Park & Recreation Commission – Recommendation – Horse Shows:

Tim Hogan, Recreation Director, said that over the last few years there has been declining numbers in horse shows, even prior to COVID. Last year the Park & Recreation Commission met with user groups to discuss the shows and use of the Arena. The direction provided was to go another year (2022) and track costs along with doing more promotion of the Arena. Staff attended the MN Horse Expo and reached out to user groups. In 2022 there were more shows than in 2021 but the number of participants and stalls continued to decline. Horse show income and costs for the footing and clean-up were included for the Council's information.

Quade said the Commission understands there are a number of users and this is an agricultural area, but the costs for the prep and clean-up of the Arena are high and exceed revenues. As the number of participants declines the situation will not change. The users such as the fair, 4-H and horse shows like having the indoor facility and not having it is a change. The outdoor rink is the alternative.

Hogan noted that there are other outdoor facilities that host horse/livestock shows, so if a decision were made to not use the indoor rink there could be future shows. If outdoor, weather is a factor since there is cost to the horse shows to bring in judges, etc. Also, some improvements to the outdoor arena will be needed if the decision is to no longer do the clay/sand indoor.

Jones noted the lease with the fair board. Hogan said there is a lease and the parties exchange payments and there is language about the footing which gives the City discretion. Jones thought the City Attorney should be consulted before any action is taken.

Consensus of the Council to table the discussion following City Attorney review of the lease.

10. Annual Firefighters Relief Association Report:

Nasby said that this report is required by the State as the City is responsible for the Relief Association benefits if there is a shortfall. He said that the Relief Board is independent of the City and they manage the resources. The Board has done a very good job of managing the funds and adjusts if needed. He noted the approximate \$660,000 surplus shown and recommended approval. Nasby said that the Relief Association was awaiting their audit to be completed so they could do the report.

Motion by Sherman second by Nelson to approve the Annual Fire Fighters Relief Association report as presented. Motion carried 5 – 0.

11. Call For A Public Hearing – Miscellaneous Special Assessments:

Nasby said this action is to call for a public hearing on November 15, 2022 for miscellaneous assessments totaling about \$8,000. These are primarily for unpaid fire calls, mowing, snow removal



279784

KATHLEEN KRETSCH
COTTONWOOD COUNTY
RECORDER
WINDOM MN

Recorded on
February 21, 2017
10:28 AM

Fees: \$46.00

FAIR GROUNDS LEASE

Dated: October 1, 2016

THIS LEASE AND AGREEMENT ("Lease"), is made by and between the Cottonwood County Agricultural Society, a non-profit corporation organized under the laws of the State of Minnesota, ("Fair Board") and the City of Windom, a home-rule charter city under the laws of the State of Minnesota ("City"). Fair Board and City are also referred to herein individually as a "Party" and collectively as the "Parties".

1. **TERMINATION OF PRIOR LEASES.** Both Parties hereby terminate all previous written and oral leases between the Parties effective at midnight on September 30, 2016. This Lease shall be the sole and exclusive Lease between the Parties.
2. **TERM OF LEASE.** The initial term of this Lease shall run from October 1, 2016, through September 30, 2046. This Lease shall automatically renew on successive five (5)-year terms, which shall run from October 1st through September 30th unless either Fair Board or City provides a written Lease termination notice to the other 365 calendar days or more before the end of the then-current term.
3. **LEASED PREMISES.** Subject to the dates Fair Board is reserving the occupancy of the Cattle Barn, the west 78 feet of the 4-H Building, and the bare land as specified at paragraphs 6, 7, and 8 of this Lease, Fair Board hereby leases to City and City hereby leases from Fair Board the area outlined in yellow on Exhibit "A" attached hereto, which is located in the City of Windom, Cottonwood County, Minnesota. The area outlined in yellow on Exhibit "A" shall hereinafter be referred to as the "Leased Premises".
4. **OWNERSHIP OF ARENA.** Fair Board hereby acknowledges that the Arena depicted on Exhibit "A" ("Arena") is owned solely and exclusively by City. Fair Board also acknowledges that it has no ownership claims, rights, or title in and to the Arena, notwithstanding the fact that the Arena is located on real estate owned by the Fair Board. The Parties hereby also agree that the Arena is considered personal property and is severed from the real estate the Arena is located upon.
5. **OCCUPANCY SCHEDULE FOR ARENA.** Fair Board shall have the sole and exclusive right to use and occupy the Arena for a period of 14 calendar days each calendar year. Ten of the 14 days shall run consecutively. These 10 days shall start 3

25.791.0070

25.791.0900

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25.673.0480

days prior to the day the Cottonwood County Fair officially starts and shall end at 5:00 p.m. of the third day following the day the Cottonwood County Fair concludes.

In addition to the aforementioned 10 days, Fair Board shall have the sole and exclusive right to use and occupy the Arena for 4 additional calendar days each calendar year. These 4 days do not need to run consecutively. The exact 4 dates Fair Board is allowed to use the Arena shall be negotiated with City in such a manner as to not interfere with events City has scheduled for the Arena.

If the Cottonwood County Fair is not held during any calendar year, Fair Board shall not have the right to use or otherwise occupy the Arena during any year the Cottonwood County Fair is not held.

Fair Board shall give City written notice by December 1st of each year of the dates it will be occupying the Arena during the following year.

6. **OCCUPANCY SCHEDULE FOR 4-H BUILDING.** Notwithstanding any other terms or conditions of this Lease to the contrary, Fair Board shall have the sole and exclusive right to occupy the west 78 feet of the 4-H exhibit building depicted on Exhibit "A" ("4-H Building") for 22 consecutive calendar days each year., These 22 days shall start 14 calendar days prior to the day the Cottonwood County Fair officially starts and shall continue consecutively until 5:00 p.m. of the fourth calendar day following the conclusion of the Cottonwood County Fair.

If the Cottonwood County Fair is not held during any calendar year, Fair Board shall not have the right to use or otherwise occupy the 4-H Building during any year the Cottonwood County Fair is not held.

Fair Board shall give City written notice by December 1st of each year of the dates it will be occupying the 4-H Building during the following year.

7. **OCCUPANCY SCHEDULE FOR CATTLE BARN.**

- a. Notwithstanding any other terms of this Lease to the contrary, Fair Board shall have the sole and exclusive right to occupy and use the Cattle Barn from September 21st through April 19th, and for 10 additional calendar days. These additional 10 days shall start 3 days prior to the day the Cottonwood County Fair officially starts and shall end at 5:00 p.m. of the third day following the day the Cottonwood County Fair concludes.
- b. City shall have the sole and exclusive right to occupy and use the Cattle Barn from April 20th through September 20th except for the 10 days specified at paragraph 7a of this Lease when the Cattle Barn will be used and occupied by the Fair Board.
- c. If the Cottonwood County Fair is not held during any calendar year, Fair Board shall not have the right to use or otherwise occupy the Cattle Barn during the 10

days specified at paragraph 7a of this Lease, however Fair Board shall have the right to solely occupy and use the Cattle Barn from September 21st through April 19th.

- d. Fair Board shall retain all money it receives from renting the Cattle Barn to third parties for storage purposes during its period of use designated in paragraph 7a herein.
- e. Fair Board shall give City written notice by December 1st of each year of the dates it will be occupying the Cattle Barn during the following year.

8. **OCCUPANCY SCHEDULE FOR BARE LAND.** Notwithstanding any other terms of this Lease to the contrary, Fair Board shall have the sole and exclusive right to use and occupy all the bare land of the Leased Premises for 10 calendar days each year. These 10 days shall start 3 days prior to the day the Cottonwood County Fair officially starts and shall end at 5 p.m. of the third day following the day the Cottonwood County Fair concludes.

Fair Board shall give City written notice by December 1st of each year of the dates it will be occupying the bare land located on the Leased Premises during the following year.

9. **RENT AMOUNT.** City shall pay Fair Board annual rent of \$5,000.00 for the Leased Premises. The \$5,000.00 shall be due and payable on October 1st of each year.

Fair Board shall pay City annual rent of \$5,500.00 to occupy the Arena during the dates specified at paragraph 5. The annual rent of \$5,500.00 shall be due and payable on October 1st of each year.

10. **ARENA MANPOWER.** During the 14 days each year Fair Board has the right to occupy the Arena, City shall provide Fair Board with one (1) City employee to assist Fair Board with its reasonable needs and requests. The 1 City employee shall consist of the Arena manager, assistant Arena manager, or any other City employee. City shall have the sole and exclusive discretion to determine which City employee will be assigned to assist Fair Board.

The City employee shall assist Fair Board each day from the hours of 7:00 a.m. to 11:00 p.m. City shall be solely and exclusively responsible to pay the salary of the City employee assigned to assist Fair Board.

It shall be the responsibility of Fair Board to provide all manpower in excess of the Arena manager, assistant Arena manager, or other City employee, during those periods when the Arena is used by Fair Board.

11. **ARENA SECURITY.** Fair Board shall pay for and provide security for the Arena during the Cottonwood County Fair. The exact times security shall be provided shall

be mutually agreed upon between Fair Board and City on an annual basis. The Arena manager jointly with a Fair Board representative shall have supervision of all individuals hired by Fair Board to provide security for the Arena.

12. **SUBLEASE OF ARENA.** Fair Board shall not be allowed to sublease the Arena during the 4 additional days that Fair Board is allowed to occupy the Arena (the 4 days which do not coincide with the Cottonwood County Fair) without the prior written consent of City.
13. **ALTERATIONS TO ARENA.** Fair Board shall not be allowed to make any alterations (no matter how slight) to the Arena without the prior written consent of City. If City allows Fair Board to make any alterations to the Arena, Fair Board shall, at the request of City, restore the Arena to the exact condition of the Arena prior to Fair Board's occupancy of the Arena. Fair Board shall pay all costs of labor and materials to restore the Arena to the condition of the Arena before Fair Board's occupancy of the Arena. Furthermore, Fair Board shall make said restorations within 24 hours of City's demand.
14. **FAIR BOARD IMPROVEMENTS TO LEASED PREMISES.** Fair Board shall not construct any buildings or other improvements on the Leased Premises without City's prior written consent, which consent shall not be unreasonably withheld.
15. **REMODELING/IMPROVEMENTS BY CITY.** City shall have the right to construct buildings, structures, fixtures, and any other improvements on the Leased Premises with the prior written consent of Fair Board, which consent shall not be unreasonably withheld. If City constructs any improvements on the Leased Premises, City shall be solely and exclusively responsible to pay all costs of labor and materials for the improvements.

If City constructs any buildings, structures, fixtures, and/or other improvements which become attached to the Arena, all of said buildings, structures, fixtures, and other improvements, which are attached to the Arena, shall be deemed the sole and exclusive property of City, both during the effectiveness of this Lease and at the termination of this Lease.

If City constructs any buildings, structures, fixtures, or other improvements on the Leased Premises which are not attached to the Arena, then said improvements which are not attached to the Arena and which are located on the Leased Premises at the conclusion of this Lease shall become the sole and exclusive property of Fair Board.

Fair Board hereby acknowledges that it has consented to the City constructing a new locker room facility, which shall be attached to the southwest vicinity of the Arena.

16. **MUTUALLY OWNED EQUIPMENT.** The Parties have mutually purchased 30 animal retention stalls, and a Wenger entertainment stage. Fair Board shall have the

right to use of said equipment during all times the Fair Board uses the Arena with no cost for said usage. City shall not be responsible for installing or removal of said items during Fair Board usage. At times other than Fair Board usage, City shall be entitled to usage and control of said items with no payment to Fair Board for such usage. All rent received from leasing said equipment shall belong to the Party in possession during the rental period of such equipment. City shall have the right to store such equipment in Fair Board buildings other than the Arena during times said equipment is not used in the Arena. Fair Board shall have the sole and exclusive discretion to determine where the equipment will be stored.

The Wenger entertainment stage shall be stored in the 4-H Building.

Each Party shall maintain the equipment at their own cost during that Party's time of usage.

From time to time, additional equipment may be purchased in a joint manner and this Lease may be amended to provide for terms of usage, storage, rental and repair.

17. **MAINTENANCE COSTS OF ARENA.** City shall be solely and exclusively responsible to pay all costs of labor and materials to upgrade, repair, and replace all interior and exterior components of the Arena. This includes, but is not limited to, the roof, interior walls, exterior walls, foundation, ceiling, flooring, HVAC system, fixtures, electrical wiring, and all electric components.

City shall have the sole and exclusive discretion to determine if any repairs, upgrades, or replacement of any components of the Arena are needed. City shall also have the sole and exclusive discretion to determine which contractors will perform any upgrades, repairs or replacements to the Arena, and when said upgrades, repairs and replacements will occur.

City shall not perform any maintenance or repairs (which includes, but is not limited to painting) to the outside or inside of the Arena within 10 days before the scheduled start of the Cottonwood County Fair.

18. **MAINTENANCE COSTS OF CATTLE BARN AND 4-H BUILDING.** Fair Board shall be solely and exclusively responsible to pay all costs of labor and materials to upgrade, repair, and replace all interior and exterior components of both the Cattle Barn and 4-H Building. This includes, but is not limited to, the roofs, interior walls, exterior walls, foundations, flooring, ceiling, HVAC systems, fixtures, electric wiring, and all electric components.

Fair Board shall have the sole and exclusive discretion to determine if any repairs, upgrades, or replacement of any components of the Cattle Barn and/or 4-H Building are needed. Fair Board shall also have the sole and exclusive discretion to determine which contractors will perform any upgrades, repairs or replacements to the

Cattle Barn and/or 4-H Building, and when said upgrades, repairs or replacements will occur.

City shall be solely and exclusively responsible to pay for all costs of labor and materials to repair any damage to the Cattle Barn and/or 4-H building, which occurs during the time City occupies these buildings, normal wear and tear excepted.

19. **MAINTENANCE COSTS OF GROUNDS.** The costs of labor and materials to upgrade, repair, and replace the parking lot(s), sand rink, outside fencing, and electric panels shall be mutually agreed upon by the Parties at the time any upgrades, repairs or replacement of these improvements becomes necessary.
20. **MOWING.** City shall be solely and exclusively responsible to mow the Leased Premises. City shall be solely and exclusively responsible to pay all costs of labor and equipment to mow the Leased Premises.
21. **SNOW REMOVAL.** City shall be solely and exclusively responsible to remove all snow and ice from the parking lots, roads, and sidewalks located on the Leased Premises. City shall be solely and exclusively responsible to pay all costs of labor and equipment to remove all snow and ice from the parking lots, roads and sidewalks located on the Leased Premises.
22. **PAYMENT OF UTILITIES FOR ARENA.** City shall be solely and exclusively responsible to pay 100% of all utility expenses incurred by the Arena. This includes all reasonable and customary utility expenses which are incurred during the Fair Board's occupancy of the Arena. Utilities include, but are not limited to, electricity, natural gas, sewer, water, garbage removal, heating fuel, phone service and internet service.
23. **PAYMENT OF UTILITIES FOR CATTLE BARN/4-H BUILDING.** Fair Board shall be solely responsible to pay 100% of all utility expenses incurred by the Cattle Barn and 4-H Building. This includes all reasonable and customary utility expenses which are incurred during the City's occupancy of the Cattle Barn and 4-H Building. Utilities include, but are not limited to, electricity, natural gas, sewer, water, garbage removal, heating fuel, phone service and internet service.
24. **STORAGE OF FAIR BOARD POSSESSIONS.** Fair Board shall have the right to place a maximum of 3 file cabinets underneath the bleachers located in the Arena. Each file cabinet shall be no larger than 2 feet wide and no larger than 5 feet high.

City shall have no liability for damage to or loss of property Fair Board places in the Arena, which is caused by heat, cold, theft, vandalism, fire, water, winds, dust, rain, explosion, rodents, insects, or any other cause whatsoever. All of Fair Board's property which is stored in the Arena shall be at Fair Board's **OWN RISK** and Fair Board shall be solely and exclusively responsible to pay for all damages which occur to its possessions which may occur while said possessions are stored in the Arena.

25. **LIABILITY INSURANCE/CITY.** City shall, during the entire term of this Lease, maintain at City's sole expense, general liability insurance, including broad form contractual coverage against bodily injury, death or property damage occurring in, on, or about the Leased Premises. The minimum amount of liability coverage carried under the insurance policy shall be Five Hundred Thousand Dollars (\$500,000.00) per occurrence, and One Million Dollars (\$1,000,000.00) aggregate. The insurance company shall be reputable and licensed to do business in the State of Minnesota. The insurance policy shall name Fair Board as an additional insured, and provide for at least thirty (30) days written notice to Fair Board, prior to cancellation or modification of the insurance policy. City shall provide Fair Board with certificates evidencing this required liability insurance coverage within 48 hours of Fair Board's written demand.
26. **LIABILITY INSURANCE/FAIR BOARD.** Fair Board shall, during any time Fair Board is leasing the Arena, Cattle Barn, or 4-H Building, maintain at Fair Board's sole expense, general liability insurance, including broad form contractual coverage against bodily injury, death or property damage occurring in, on, or about the Arena, Cattle Barn, and 4-H Building. The minimum amount of liability coverage carried under the insurance policy shall be Five Hundred Thousand Dollars (\$500,000.00) per occurrence, and One Million Dollars (\$1,000,000.00) aggregate. The insurance company shall be reputable and licensed to do business in the State of Minnesota. The insurance policy shall name City as an additional insured, and provide for at least thirty (30) days written notice to City, prior to cancellation or modification of the insurance policy. Fair Board shall provide City with certificates evidencing this required liability insurance coverage within 48 hours of City's written demand.
27. **HAZARD INSURANCE FOR ARENA.** City shall maintain, at City's sole cost and expense, insurance which insures the Arena against loss by fire, vandalism, malicious mischief, and other such casualties as are covered by an extended coverage policy for the full replacement cost of the Arena. City shall procure the insurance from a reputable insurance company licensed to do business in the State of Minnesota.
28. **HAZARD INSURANCE FOR CATTLE BARN AND 4-H BUILDING.** Fair Board shall maintain, at Fair Board's sole cost and expense, insurance which insures the Cattle Barn and 4-H Building against loss by fire, vandalism, malicious mischief, and other such casualties as are covered by an extended coverage policy for the full replacement cost of the Cattle Barn and 4-H Building. Fair Board shall procure the insurance from a reputable insurance company licensed to do business in the State of Minnesota.
29. **SPECIAL EVENT INSURANCE.** Notwithstanding any terms or conditions of this Lease to the contrary, Fair Board shall not conduct, hold or sponsor any activities or events in the Arena, which are prohibited by the City's insurance policy without the prior written consent of City. If City grants Fair Board permission to hold events and activities which are prohibited by City's insurance policy, Fair Board shall

provide insurance for any activity or event held at the Arena that is not covered by City's insurance policy in the amounts and pursuant to the terms specified at paragraph 25 of this Lease.

Notwithstanding any other terms of this Lease to the contrary, if Fair Board wants to hold, conduct or sponsor an event or activity in the Arena, which is not covered by City's insurance policy, City shall have the sole and exclusive discretion to determine if said activity or event will be allowed.

30. **FAILURE TO PROVIDE INSURANCE.** If City or Fair Board fail, refuse or neglect to obtain the appropriate insurance required by this Lease, then the other Party shall have the right to obtain such insurance.

If City obtains insurance, which is Fair Board's responsibility, City shall be allowed to deduct the full amount of the premium from any rent, which becomes due.

If Fair Board obtains insurance, which is City's responsibility, Fair Board shall be allowed to deduct the full amount of the premium from any rent which becomes due.

31. **DESTRUCTION OF ARENA.** If the Arena is damaged by fire, casualty or other cause, as to be wholly or partially unfit for its intended use, then City shall have the sole and exclusive discretion to terminate this Lease upon 60 days' advanced notice to Fair Board. City shall have the right to terminate the Lease prior to its expiration, notwithstanding any other terms or conditions of this Lease to the contrary.

If the Arena needs to be torn down and removed, City shall be solely and exclusively responsible to pay for all costs of labor, equipment, and material to remove all debris and refuse from the Leased Premises. City shall also pay all disposal costs.

32. **DESTRUCTION OF CATTLE BARN.** If the Cattle Barn is damaged by fire, casualty or other cause as to be wholly or partially unfit for its intended use, and Fair Board does not rebuild or repair the Cattle Barn within 6 months of the date the Cattle Barn is destroyed or damaged, then City shall have the right to reduce the annual rent from \$5,000.00 to \$2,600.00 until the Cattle Barn is replaced or repaired to its condition prior to being damaged.

If the Cattle Barn is not replaced or repaired within 6 months of the date the Cattle Barn was damaged or destroyed, then City shall be entitled to a refund of the rent it paid to Fair Board for that year (on a pro-rata basis) for each calendar day City was not able to use or otherwise occupy the Cattle Barn.

If the Cattle Barn is not replaced or repaired within 6 months of the date the Cattle Barn was damaged or destroyed, then City shall not have to pay any additional rent to Fair Board for the Cattle Barn.

33. **DESTRUCTION OF 4-H BUILDING.** If the 4-H Building is damaged by fire, casualty or other cause as to be wholly or partially unfit for its intended use, and Fair Board does not rebuild or repair the 4-H Building within 6 months of the date the 4-H Building is destroyed or damaged, then City shall have the right to reduce the annual rent from \$5,000.00 to \$2,400.00 until the 4-H Building is replaced or repaired to its condition prior to being damaged.

If the 4-H Building is not replaced or repaired to its conditions within 6 months of the date the 4-H Building was damaged or destroyed, then City shall be entitled to a refund of the rent it paid to Fair Board for that year (on a pro-rata basis) for each calendar day City was not able to use or otherwise occupy the 4-H Building.

If the 4-H Building is not replaced or repaired within 6 months of the date the 4-H Building was damaged or destroyed, then City shall not have to pay any additional rent to Fair Board for the 4-H Building.

34. **AMENDMENT.** No amendment, modification, or alteration of the terms of this Lease, shall be binding, unless the same shall be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.
35. **NOTICES.** All notices, demands, requests, and other communications which may be given or which are required to be given by any Party under this Lease, must be in writing, and must be sent by regular U S first class mail, U S certified or registered mail, or by any nationally recognized courier service. Notice shall be considered delivered on the date the notice is deposited with the U S postal service or any nationally recognized courier service.
36. **SUCCESSORS AND/OR ASSIGNS.** This Lease shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors, and/or assigns.
37. **ENTIRE AGREEMENT.** This Lease constitutes the entire agreement of the Parties, with respect to the subject matter hereof, and all prior correspondence, memoranda, agreements, or understand, (written or oral) are hereby merged into this Lease.
38. **SEVERABILITY.** If any term or provision of this Lease, or the application thereof to any person or circumstance shall be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances, shall not be affected thereby and each remaining provision of this Lease shall be valid and shall be enforceable to the extent permitted by law.
39. **GOVERNING LAW/JURISDICTION/VENUE.** This entire Lease shall be governed by and construed in accordance with the laws of the State of Minnesota.

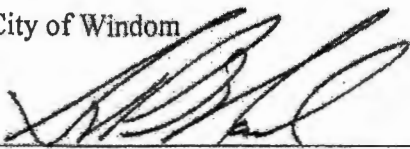
Fair Board and City hereby agree that the Cottonwood County, Minnesota, District Court shall have exclusive personal jurisdiction over both Fair Board and City for all legal actions and disputes which arise out of this Lease. Fair Board and City further agree that the sole venue for any legal actions or disputes which arise out of this Agreement shall be the Cottonwood County, Minnesota, District Court.

40. **RIGHT OF RE-ENTRY/FAIR BOARD.** If City fails to make the above-mentioned payment of rent, and/or fails to fulfill any of the covenants contained in this Lease, then Fair Board may re-enter and take possession of the Leased Premises and hold and enjoy the same without such re-entering working a forfeiture of the rents to be paid by City.
41. **RIGHT OF RE-ENTRY/CITY.** If Fair Board fails to make the above-mentioned payment of rent, and/or fails to fulfill any of the covenants contained in this Lease, then City may re-enter and take possession of the Arena, Cattle Barn and 4-H Building and hold and enjoy the same without such re-entering working a forfeiture of the rents to be paid by Fair Board.
42. **REMEDIES NOT EXCLUSIVE.** The remedies and rights contained in this Lease are cumulative and are not exclusive of other rights, remedies and benefits allowed by applicable Minnesota Law.
43. **PARAGRAPH HEADINGS.** The paragraph headings are for convenience only. They are not part of this Lease and shall not be used in the construction or interpretation of the Lease terms.
44. **COUNTERPARTS.** This Lease may be executed by facsimile or PDF signature and in one or more counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument.
45. **DRAFTING.** This Lease shall not be construed more strictly against City merely by virtue of the fact that it was prepared by counsel for City. It being recognized that both City and Fair Board and their respective counsel have had a full and fair opportunity to negotiate and review the terms and provisions of this Lease and to contribute to its substance and form.

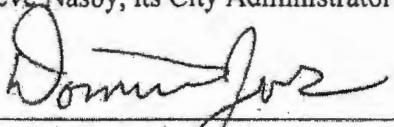
The City of Windom hereby agrees to all the aforementioned terms and conditions of this Lease.

City of Windom

By:


Steve Nasby, its City Administrator

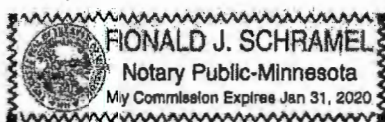
By:

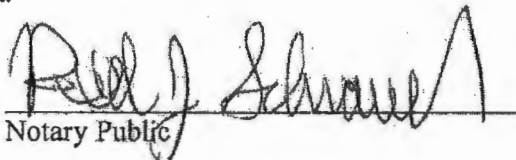

Dominic Jones, its Mayor

This Lease was approved by the Windom City Council on October 4, 2016.

STATE OF MINNESOTA)
) ss.
COUNTY OF COTTONWOOD)

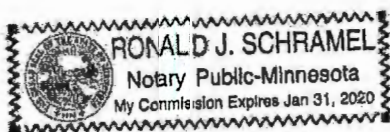
The foregoing instrument was acknowledged before me on February 9, 2017,
by Steven Nasby, in his capacity as City Administrator of the City of Windom, a home-rule
charter city under the laws of the State of Minnesota.

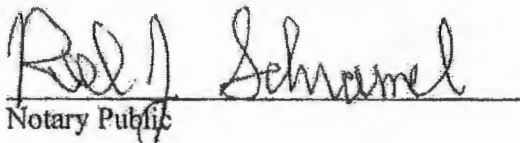



Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF COTTONWOOD)

The foregoing instrument was acknowledged before me on February 9, 2017,
by Dominic Jones, in his capacity as Mayor of the City of Windom, a home-rule charter city
under the laws of the State of Minnesota.




Notary Public

The Cottonwood County Agricultural Society hereby approves all the aforementioned terms and conditions of this Lease.

Cottonwood County Agricultural Society

By: C. Michael Hanson
C. Michael Hanson, its President

By: Sally Larson
Sally Larson, its Secretary

This Lease was approved by the Board of Directors of the Cottonwood County Agricultural Society on February 7, 2017.

STATE OF MINNESOTA)
) ss.
COUNTY OF COTTONWOOD)

The foregoing instrument was acknowledged before me on February 9, 2017, by C. Michael Hanson, in his capacity as President of the Cottonwood County Agricultural Society, a non-profit corporation organized under the laws of the State of Minnesota.



Betty S. Wipf
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF COTTONWOOD)

The foregoing instrument was acknowledged before me on February 15, 2017, by Sally Larson, in her capacity as Secretary of the Cottonwood County Agricultural Society, a non-profit corporation organized under the laws of the State of Minnesota.



Melissa A. Mau
Notary Public

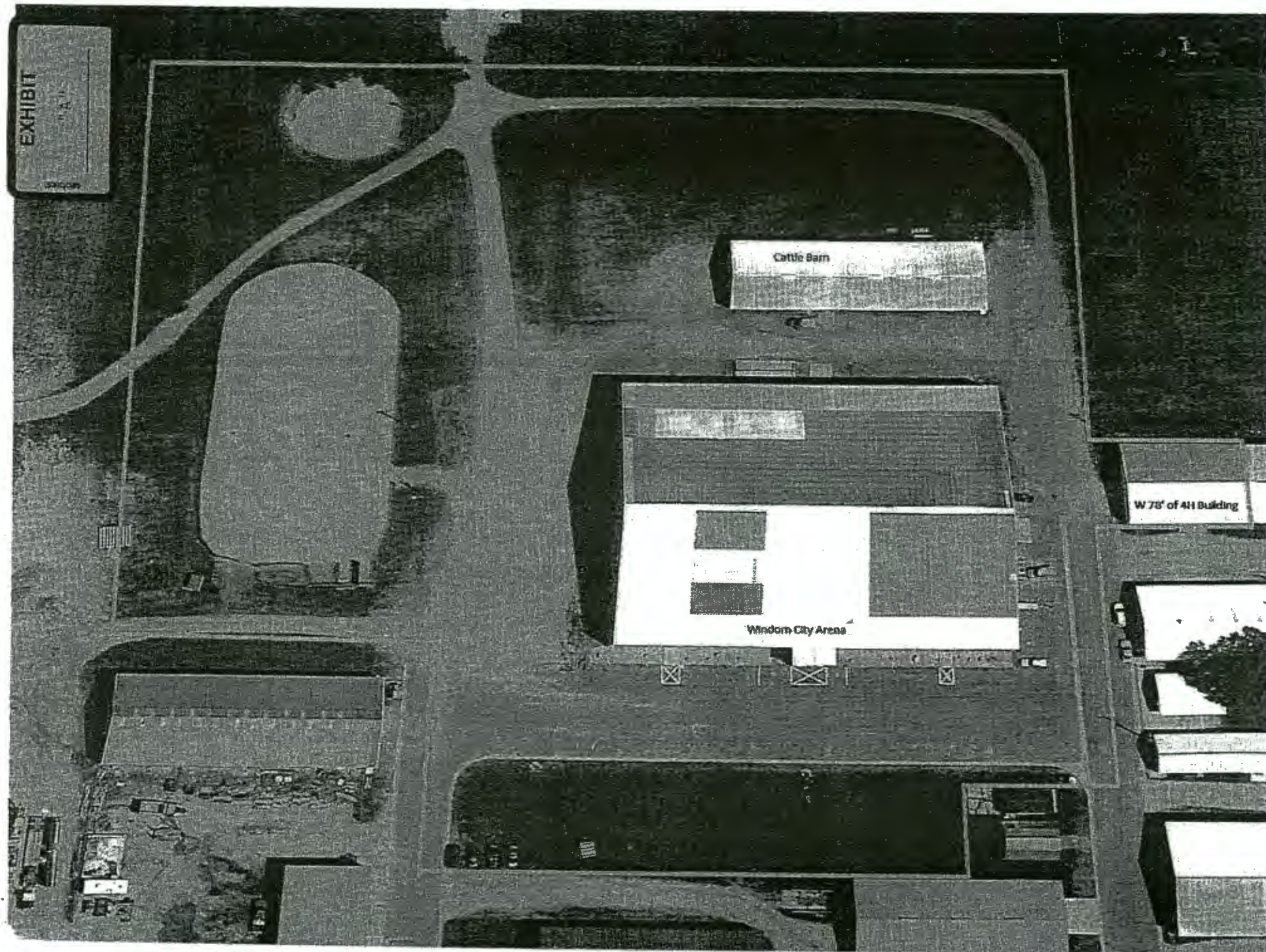
This instrument was drafted by:
Ronald J. Schramel
Atty. Reg. No. 254757
Schramel Law Office
906 Fourth Avenue - PO Box 505
Windom, MN 56101
P - 507-831-1301 F - 507-831-4200
schramellaw@windomnet.com

EXHIBIT

Cattle Barn

W 78' of 4H Building

Windom City Arena



Arena Improvement Agreement

The Board met to consider the City of Windom Arena improvement to add a concrete refrigerated slab and upgrade condenser and compressor equipment to meet federal standards with such equipment to be placed outside in a fenced area east of existing arena. Following consent with proposed conditions the City met and requested certain changes that the Fair Board agrees with and said agreement is set forth in below paragraph and numbers 1-5.

Following consideration of the change in traffic and concession patterns and in consideration of the City of Windom's recognition of likely concession rental decrease the Fair Board hereby consents to the improvement on the following conditions:

1. That the concrete refrigerated slab and equipment project be approved and installed by the City of Windom.
2. That the outside equipment and fenced area be per Option "A" as presented same being 41' more or less N to S and 29' E of arena.
3. That any change in the equipment placement and fenced area that increases by either direction more than 5% shall require the revisiting and re-approval of consent by Fair Board.
4. That the City provide and install the sand needed to properly cover cement rink for fair use and groom same during the fair as part of Arena labor provided. That the sand placement and depth shall be at the sole discretion of the City. Further, the ownership, storage and use at all other times of the sand is recognized to be the property of the City of Windom. Fair Board is not responsible for installation, grooming, or removing the sand during annual 10 day Fair Board Arena usage. That the hockey rink boards (dasher boards) will remain erected on cement rink during annual Fair Board usage. That only city employees may operate city equipment for this rink work.
5. That the city shall compensate anticipated lost revenue for prime concession space by a one-time lump sum payment of \$8,100.00 due upon signing.

That this action supersedes the Fair Board action taken on 12-14-2017 and 2-13-2018.

The Fair Board and City of Windom agree with the within provisions.

Cottonwood County Fair Board, by

C. Michael Hanson

C. Michael Hanson, Chair

4-10-18

Date

City of Windom, by

Steve Nasby

Steve Nasby, City Administrator

16 April 2018

Date

Dominic Jones

Dominic Jones, Mayor

4-16-18

Date

Joseph J. Langel
Direct Phone: (612) 225-6837
jjl@ratwiklaw.com



December 20, 2022

City Council
City of Windom
444 9th Street
P.O. Box 38
Windom, MN 56101-0038

Via e-mail

RE: Fair Grounds Lease
Our File No. 5116-0002

Dear Council Members:

This firm represents the Cottonwood County Agricultural Society (Fair Board) concerning the ongoing discussions about the continued use of the Arena. On the agenda for tonight's Council meeting is an "Action Item" concerning the continued use of the Arena for horse shows. The apparent intent is to eliminate all usage of the Arena for such events because of the cost of installing and removing the required footing in the Arena. That cost has been an issue since the City installed the refrigerated concrete slab, which cannot handle large equipment given the way it was designed.

The Fair Board and the City entered into a 30-year Fair Grounds Lease in 2016 that established the right of the Fair Board to use the Arena 14 days a year, including 10 days for the Cottonwood County Fair. There are no terms in that Agreement that allow the City to unilaterally alter the Fair Board's use. At that time, the Arena had a dirt floor.

In 2018 the City desired to modify the Arena by adding a refrigerated concrete slab and associated equipment. The Fair Board agreed to the improvement pursuant to the terms set forth in the Arena Improvement Agreement. Nothing in that Agreement changed the Fair Board's right to use the Arena, as previously set forth in the Fair Grounds Lease. Furthermore, the City agreed to install the requisite footing over the concrete for use during the Fair. The footing, of course, is for the safety of the animals and for people riding or otherwise in the vicinity of those animals. Nothing in the Agreement allows the City to unilaterally cease installation of that footing.

Any attempt to unilaterally deprive the Fair Board of its use of the Arena constitutes a breach of the Fair Grounds Lease. That is true whether the action is to expressly refuse Fair

Over 35 Years of Service

Board use of the Arena, or to discontinue installation of the footing, which effectively prevents Fair Board use. Either way, the Lease is breached. If the footing is not installed, then the Arena Improvement Agreement is breached as well.

There is apparently some discussion of modifying the footing to use only sand. The term "sand" in the Agreement is shorthand for the established footing, which of course is not just sand; it is a sand and clay mixture. It has always been a mixture because a mixture is required to provide a proper footing for animals. A mixture has been used ever since the concrete was installed because it is necessary, and everyone involved was aware of that. Pure sand is dangerous, to both animals and people, and cannot be used as the footing.

The Fair Board is aware that the financial aspects of the prior arrangements made between the Board and the City are not as expected by the City. The City, however, is bound by those agreements; it cannot unilaterally terminate or alter them simply because the costs are higher than desired. The Fair Board expects the agreements to be fulfilled consistent with the terms of those agreements and the past conduct of the parties, meaning the required footing will continue to be provided so that the Arena can continue to be used as intended.

Regards,



Joseph J. Langel

c: Fair Board

RRM: 486845