



# BONNER COUNTY FAIR & RODEO

4203 N. Boyer Road • Sandpoint, ID 83864 • (208)263-8414 • Fax (208)265-2214

## Memorandum

**FAIR  
ITEM # 1**

**Date:** October 26, 2021  
**To:** Bonner County Board of Commissioners  
**From:** Darcey C. Smith  
Bonner County Fairgrounds & Facility Director  
**Re:** Bonner County and Sandpoint Community Center Corporation Lease Agreement

The Sandpoint Community Center Corporation has reached out to the Bonner County Fairgrounds and Bonner County regarding constructing an Ice Arena on parcel #RPS38350010020A. The Ice Arena is to be utilized as a community center providing activities, including but not limited to after-school youth programs, family skating, youth sports programs, youth and adult figure skating & hockey programs, youth and adult tournaments and ice shows, community events and educational programs.

During the non-ice season, the Bonner County Fairgrounds will be able to utilize the building during Fair & Rodeo season for activities, concerts, community events, shows, parties and educational programs.

The construction costs of the building will be 100% at the expense of the Sandpoint Community Center Corporation. This Lease shall not be assigned or sublet.

This Ice Arena will benefit our community in many ways, and is supported by the Bonner County Fair Board, Fair staff, and is recommended for approval by the BOCC.

**Distribution:** Original to Board of County Commissioners Office  
Copy to Bonner County Fairgrounds  
Copy to Auditor's Office  
Copy to the Sandpoint Community Center Corporation

A suggested motion would be: **Mr. Chairman, I move to approve the attached Lease Agreement between Bonner County and Sandpoint Community Center Corporation for the construction and use of an Ice Arena on parcel # RPS38350010020A and allow the Chairman to sign the contract.**

Recommendation: Acceptance:  yes  no

Date: 10/26/21

Dan McDonald, Chairman

**BONNER COUNTY AND SANDPOINT COMMUNITY CENTER CORPORATION  
LEASE AGREEMENT**

THIS LEASE AGREEMENT (herein "Lease") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between BONNER COUNTY, a political subdivision of the State of Idaho, whose address is 1500 Highway 2, Suite 308, Sandpoint, Idaho 83864 (herein "Lessor") and SANDPOINT COMMUNITY CENTER CORPORATION, an Idaho nonprofit corporation, whose address is 50 Dawn Way, Sandpoint, Idaho 83864 (herein "Tenant").

A. WHEREAS, Lessor holds title to certain vacant land currently designated for the purpose of holding public fairs and/or exhibitions, described as Parcel #RPS38350010020A, located at 4203 N. Boyer Road, Sandpoint, Idaho 83864 (hereinafter referred to as the "Leased Premises");

B. WHEREAS Lessor has the authority to regulate the use of the Leased Premises, and to lease the Leased Property described herein pursuant to Idaho Code § 31-836(4);

C. WHEREAS Tenant warrants to Lessor that it is and shall remain for the duration of this lease a nonprofit corporation organized for the purpose described in Idaho Code § 31-836(4);

D. WHEREAS if Tenant ceases to conduct activities fully within the scope of I.C. 31-836(4) then the termination provision of Paragraph 2.2.2 take effect.

E. WHEREAS Tenant desires to lease the Leased Premises for the purpose of erecting and operating an Ice Arena and other activities described herein;

F. WHEREAS, during the ice season (approximately October-April), the Ice Arena will be utilized as a community center providing, activities, including but not limited to after-school youth programs, family skating, youth sports programs, youth and adult figure skating & hockey programs, youth and adult tournaments and ice shows, community events and educational programs;

G. WHEREAS, during the non-ice season (approximately May-September), the Ice Arena will be utilized as a community center providing, but not limited to, activities such as after-school youth programs, indoor youth and adult sports such as indoor soccer, box lacrosse, in-line skating, Bonner County Fair and Rodeo activities, concerts, community events, shows, parties and educational programs;

H. WHEREAS the Ice Arena will add to the health and safety of Bonner County citizens;

I. WHEREAS Lessor desires that the Property be leased to the Tenant for the purpose of erecting and operating an Ice Arena;

J. WHEREAS Tenant shall have the sole responsibility of maintaining all improvements to the Property, and providing all supplies and equipment, and management of all programs;

K. WHEREAS, the parties desire to formalize this Lease pursuant to the terms of the Lease outlined herein;

**NOW, THEREFORE**, in consideration for the mutual covenants, conditions, agreements, representations and warranties contained herein, the parties agree as follows:

## **1. LEASED PREMISES.**

1.1 Lessor hereby agrees to lease to Tenant, and Tenant hereby agrees to lease from Lessor, that vacant real property located at 4203 N. Boyer Road, Sandpoint, Idaho 83864, described as a component of Parcel #RPS38350010020A, Records of Bonner County, and more particularly described in “**Exhibit A**,” attached hereto and incorporated herein by reference (herein the “Leased Premises”). As a condition precedent of this Lease, Tenant must secure all necessary land-use approvals from the governing land-use authority.

1.2 **Permitted Use.** Tenant is authorized to erect and operate an Ice Arena and community center activities as set forth below.

1.2.1 During the ice season (approximately October-April), the Ice Arena will be utilized as a community center providing, activities, including but not limited to after-school youth programs, family skating, youth sports programs, youth and adult figure skating & hockey programs, youth and adult tournaments and ice shows, community events and educational programs. These approximate dates are subject to adjustment depending on evolving public responses and arena needs as subsequently mutually agreed in writing by the parties.

1.2.2 During the non-ice season (approximately May-September), the Ice Arena will be utilized as a community center providing, but not limited to, activities such as after-school youth programs, indoor youth and adult sports such as indoor soccer, box lacrosse, in-line skating, Bonner County Fair and Rodeo activities, concerts, community events, shows, parties and educational programs. These approximate dates are subject to adjustment depending on evolving public responses and arena needs as subsequently mutually agreed in writing by the parties.

## **2. TERM.**

2.1 **Term.** Lessor hereby agrees to lease, and Tenant hereby agrees to rent the Leased Premises as described in Attached “**Exhibit A**” for a term of Ninety-Nine (99) consecutive years commencing on October 1<sup>st</sup>, 2021.

2.2 **Termination.** This Lease may be terminated by either party with a One (1) year (365 Calendar days) Notice of Intent to Terminate Lease, delivered by or through Certified Mail to the other party. Said cancellation shall have no force or effect except as specifically outline within this paragraph:

2.2.1 If the Tenant chooses to terminate this Lease at any time prior to the expiration of the Term as described in Section 2.1 above, then the ownership of all permanent improvements such as the building (including HVAC, electrical, IT wiring, plumbing, flooring, sinks, attached counters, attached cabinets, etc.), landscaping and its appurtenances, hardscaping and its appurtenances, parking area(s), etc., shall pass to the Lessor, or its assigns, *at no cost* to Lessor, or any other party of material interest. Termination by Lessor will likewise occur should the leased premises no longer be used for the purpose authorized pursuant to Idaho Code 31-836(4).

2.2.2 If the Lessor chooses to terminate this Lease for cause at any time prior to the expiration of the Term as described in Section 2.1 above, Lessor shall obtain a current property appraisal by not less than three (3), qualified, third-party real estate appraisers. Said property appraisals shall include all permanent improvements including, but not limited to, the building (including HVAC, electrical, IT wiring, plumbing, flooring, sinks, attached counters, attached cabinets, etc.), landscaping and its appurtenances, hardscaping and its appurtenances, parking area(s), etc. The average of the three appraisals shall determine the amount due and payable to the Tenant for early termination of this Lease, and said payment shall be made to the Tenant by the Lessor, prior to the start of said One Year (365 Calendar day) time period of said termination. The valuation process shall involve the Lessor and Lessee choosing their own appraisers who each jointly select a third appraiser. A simple majority of appraisers valuation shall control.

### **3. RENT.**

3.1 Tenant agrees to pay Lessor rent for the Leased Premises in the amount of \$1.00 per year, due and payable before December 31 of each rental year.

3.2 In the event this Lease is terminated prior to the end of the Term of the Lease, rent shall be prorated to the date of termination, and Tenant shall be refunded any and all rent paid and unearned as of the date of termination, together with any other sums paid by Tenant for periods beyond the date of termination.

### **4. TENANT'S FIXTURES**

4.1 Tenant may install on, over, or under the Leased Premises such fixtures and equipment as Tenant deems desirable for the purpose of the Lease, and all of said items shall remain Tenant's personal property whether or not affixed to the Leased Premises. Tenant may remove Tenant's personal property from the Leased Premises at any time, but shall repair any damage caused to Leased Premises by said removal.

### **5. CONSTRUCTION AND ALTERATION OF IMPROVEMENTS ON THE LEASED PREMISES.**

5.1 Lessor hereby authorizes Tenant, at Tenant's sole responsibility and expense and in accordance with applicable law, construct on the Leased Premises an Ice Arena and any

improvements consistent with the purposes described in Section 1.2 herein, and is further authorized to make such repairs, additions, alterations and improvements thereto as Tenant may deem desirable, so long as the construction meets all applicable codes and Tenant obtains applicable permits for such construction. Lessor shall not be obligated to maintain, replace or rebuild any improvements thereon, except for the repair of damages caused directly by Lessor.

5.2. Fee title to all improvements constructed on the Leased Premises by Tenant, except for public infrastructure, and all additions, alterations and improvements thereto made by Tenant, even though a part of the realty, shall be and remain in title with the Tenant during the term of this Lease. Provided that, however, upon the termination, or expiration, of this Lease for whatever reason, Tenant's improvements, including any buildings constructed on the Leased Premises, shall become the property of Lessor in accordance with Section 2.2 above, except for Tenant's fixtures and personal property that are not permanently attached.

5.3. Tenant shall not permit any lien to stand against the Leased Premises for work done or materials furnished by or on behalf of Tenant, provided that Tenant may contest the validity of such lien, but upon a final determination of the validity thereof, Tenant shall cause the lien to be satisfied and released of record. Any such prohibited lien shall constitute a material breach of Tenants obligations.

5.4. Tenant may sell any improvements, alterations or additions made by Tenant on the Leased Premises to a third party, subject, however, to the provisions of this Lease.

## **6. TAXES, UTILITY CHARGES, ETC.**

6.1. Tenant agrees to pay all real property taxes and assessments on the Leased Premises and all personal property taxes on Tenant's property for the period this Lease is in effect, with taxes and assessments to be prorated to the first and last days of the term. In the event that any taxes or assessments levied or assessed against the Leased Premises become due and payable during the term of this Lease and may be legally paid in installments, Tenant may pay such tax or assessments in installments and shall be liable only for those installments prorated to the first and last days of the term. Tenant shall have the right to contest the amount or validity of all or any part of the taxes and assessments which Tenant is required to pay pursuant to this Lease and, for that purpose, Tenant shall have the right to file in the name of Lessor all such protests or other instruments and to institute and prosecute all such proceedings Tenant may deem necessary for the purpose of such contest. Any refund of any taxes or assessments Tenant has paid pursuant to this Lease shall belong to Tenant, and Lessor agrees to pay the same to Tenant promptly in the event payment thereof is initially made to Lessor. The tenant can apply for property tax exemptions and cancellations from year to year.

6.2. Tenant agrees to pay all charges for electricity, gas, water, sewer, garbage, telephone and any other utility services used by Tenant on the Leased Premises during the term of this Lease, subject to any obligation of Lessor as may be set forth in a separate scheduling and use agreement.

6.3. Except as otherwise specifically provided for in this Lease, Tenant shall, at its sole cost and expense, keep and maintain the Leased Premises, including sidewalks, landscaping

and driveways located on the Leased Premises, in good order and condition and repair, reasonable wear and tear and casualty damage excepted, and shall suffer no waste with respect thereto; provided, however, that Tenant shall have no obligation to re-build any improvements on the Leased Premises that are damaged or destroyed and in the event of any damage or destruction to the improvements on the Leased Premises, Tenant may demolish and remove such improvements. Lessor has no responsibility to maintain or pay for any part of the maintenance or replacement of the Leased Premises.

## **7. INDEMNIFICATION.**

7.1. Tenant, during the term of this Lease, agrees to indemnify, defend and hold harmless Lessor from any and all liability, claims, damages, expenses (including reasonable attorney's fees and reasonable attorney's fees on any appeal), causes of action, suits, proceedings or judgments, arising from injury to or death of any person or damage to or destruction of any property on the Leased Premises caused by Tenant, its assigns, agents, contractors or employees.

7.2. Lessor, during the term of this Lease, agrees to indemnify, defend and hold harmless Tenant from and against any and all liability, claims, damages, expenses (including reasonable attorney's fees and reasonable attorney's fees on any appeal), causes of action, suits, proceedings or judgments, arising injury to or death of any person or damage to or destruction of any property occurring in the portion of the property owned by Lessor or its adjoining streets, sidewalks or public rights-of-way (except those occurring in the interior of Tenant's building), unless caused by the willful or negligent act or omission of Tenant, its agents, contractors or employees.

## **8. ASSIGNMENT AND SUBLETTING.**

8.1 Tenant may not assign this Lease. Tenant may not sublet the whole or any part of the Leased Premises.

## **9. DEFAULT.**

9.1 Either party shall be deemed to be in default of this Lease only upon the expiration of ninety (90) days, (thirty (30) days in the event of failure to pay money) from the receipt of written notice from the other party specifying the particulars in which such party has failed to perform the obligations of this Lease unless that party, prior to the expiration of said ninety (90) days, has rectified the particulars specified in the notice. However, such party shall not be in default if such failure (except the failure to pay money) cannot be rectified within said ninety (90) day period and such party is using good faith and commercially reasonable efforts to rectify the particulars.

9.2 If the defaulting party is Tenant, Lessor may, upon ninety (90) days prior written notice to Tenant, (i) terminate this Lease and re-enter the Leased Premises, or (ii) re-enter the Leased Premises without terminating this Lease and sublet the whole or any part thereof, for the account of Tenant, upon as favorable terms and conditions as the market will allow. In the latter event, (a) Lessor shall have the right to collect any rent which may thereafter become due and payable under such sublease and to apply the same first, to the

payment of any expenses incurred by Lessor in dispossessing Tenant and in subletting the Leased Premises, and second, to the payment of the Rent herein reserved and to the fulfillment of Tenant's other covenants hereunder, and (b) Tenant shall be liable for amounts equal to the several installments of rent as they would under the terms of this Lease become due, less any amounts actually received by Lessor and applied on account of rent as aforesaid.

9.3 If the defaulting party is Lessor, Tenant may incur any expenses necessary to perform the obligation of Lessor as specified in such notice and may deduct such expenses from the rents thereafter to become due, including, but not limited to, demand for repayment of the prorated portions of any or all of the pre-paid rents made by Tenant, and Lessor hereby agrees to repay said prorated portions of said pre-paid rents.

9.4 If the default of Lessor is material, Tenant may also cancel this Lease.

9.5 The failure of a party to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of any rights or remedies that said party may have, and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained. The performance of each and every covenant and agreement by Lessor contained in this Lease is a condition precedent to the right to collect rents or enforce this Lease.

9.6 In addition to the remedies set forth in this Lease, Lessor and Tenant shall have all other remedies provided by law or statute to the same extent as if fully set forth herein word for word. No remedy herein conferred upon, or reserved to Lessor or Tenant shall exclude any other remedy herein or by law provided, but each shall be cumulative.

## **10. COMPLIANCE WITH LAWS.**

10.1 Tenant agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the Leased Premises. Tenant may contest the validity of any such law, ordinance, rule or regulation but shall indemnify, defend and hold Lessor harmless against the consequences of any violation thereof by Tenant.

## **11. NOTICES.**

11.1 Any notice provided for herein or desired hereunder shall be in writing and shall be given by personal delivery, by United States mail or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, return receipt requested, addressed to the person and address designated below or, in the absence of such designation, to the person and address shown on the then current real property tax rolls of the county in which the Leased Premises is located. All notices to Lessor or Tenant shall be sent to the person and address set forth below:

County: Bonner County  
1500 Highway 2, Suite 308  
Sandpoint, Idaho 83864  
Attn: Board of Commissioners

District: Sandpoint Community Center Corporation  
50 Dawn Way  
Sandpoint, Idaho 83864  
Attn: Robert Pierce

The address to which notices are to be given may be changed at any time by either party by written notice to the other party. All notices given pursuant to this Lease shall be deemed given upon receipt.

11.2 For the purpose of this Lease, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address outlined above and as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified above, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (a) the date of the attempted delivery or refusal to accept delivery, (b) the date of the postmark on the return receipt, or (c) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

11.3 The parties agree that a copy of all notices given hereunder shall also be given to such other persons and addresses as Tenant or Lessor may designate in writing to the other party.

## **12. ATTORNEYS' FEES.**

12.1 If either party to this Lease initiates or defends any legal action or proceeding with the other party in any way connected with this Lease, the prevailing party in such legal action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall NOT be entitled to recover from the losing party its reasonable costs and attorneys' fees. If either party to this Lease initiates or defends litigation with a third party because of the violation of any term, covenant, condition or provision of this Lease, or obligation of the other party to this Lease, then the party so litigating shall be entitled to reasonable attorneys' fees and costs (including its reasonable costs and attorney's fees on any appeal) incurred in connection with such litigation from the other party to this Lease.

## **13. MEMORANDUM OF LEASE.**

13.1 The parties may elect to not record this Lease and record a Memorandum of Lease instead. In that event, a Memorandum of Lease shall be executed, and acknowledged, by all parties and recorded in Bonner County, where the Leased Premises are located.

## **14. ARTICLE HEADINGS.**

14.1 The article headings of this Lease are inserted only for reference and do not affect the terms and provisions hereof.

## **15. RIGHTS OF SUCCESSORS.**



15.1 All of the rights and obligations under this Lease shall bind and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto.

## **16. MORTGAGE.**

16.1 Tenant, or any assignee of Tenant, may NOT place a mortgage, or deed of trust on any improvements constructed by Tenant on the Leased Premises and on Tenant's interest in the Leased Premises unless agreed to in writing by the BOCC.

## **17. INSURANCE.**

17.1 **Tenant's Liability Insurance.** During the Lease term, Tenant shall pay for and maintain commercial general liability insurance with broad form property damage coverage. This policy shall insure Tenant's activities and those of Tenant's employees, officers, agents, servants, contractors, customers, clients, visitors, guests, or other licensees or invitees with respect to the Premises against loss, damage, or liability for personal injury or bodily injury (including death) or loss or damage to property with a combined single limit loss of not less than One Million Dollars (\$1,000,000) and a deductible of not more than \$10,000. Such policy shall name Lessor as an additional insured.

## **18. PROHIBITION OF CONSTRUCTION OR OPERATION.**

18.1 Notwithstanding anything in this Lease to the contrary, if proceedings are commenced within Six (6) months after the date hereof, by any person or entity before any governmental authority or court having jurisdiction (whether local, state or federal) for the purpose of prohibiting or enjoining construction by Tenant on the Leased Premises and/or Tenant's operation of its business thereon, Tenant may at any time thereafter so long as said proceedings have not been dismissed with prejudice, terminate this Lease by notice to Lessor, and Lessor hereby agrees to reimburse all, or any unused portions, of said rent as defined in Section 3 above.

## **19. GENERAL PROVISIONS.**

19.1. This Lease shall not be assigned or sublet. All of the provisions contained in this Lease shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto.

19.2. In the event of any violation or threatened violation by any person of any of the easements, covenants or restrictions contained in this Lease, Lessor and Tenant shall each have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Lease.

19.3. If any term, covenant, condition or agreement of this Lease or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease or the application of such term, covenant, condition or agreement to persons or

circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition or agreement of this Lease shall be valid and shall be enforced to the extent permitted by law.

19.4. This Lease contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Lease shall be construed as a whole and not strictly for or against any party.

19.5. In construing the provisions of this Lease and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

19.6. The provisions of this Lease are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

19.7. This Lease shall be construed under and governed by the laws of the state of Idaho.


19.8. Each party signing this Lease represents and warrants to the other that it has the authority to enter into this Lease; that the recitals relating to their respective purposes and authority are true and correct; that the execution and delivery of this Lease has been duly authorized; that their performance under this Lease will not be in violation of any laws, rules or regulations to which they are subject; and that upon signing and delivery, this Lease shall be binding upon and enforceable against the party on signing. Provided that, however, this Lease must be approved by a majority of the Board of County Commissioners in order to be binding and effective.

[SIGNATURE PAGE TO FOLLOW]

SIGNATURES: By their signatures below, all parties to this Lease signify their acceptance of all obligations, rights, and duties specified within; provided that, however, the Lease must be approved by a majority of the Board of County Commissioners in order to be binding and effective.

**LESSOR**

County of Bonner, State of Idaho  
Board of County Commissioners:



\_\_\_\_\_  
Dan McDonald, Chairman

Date 10/26/21

**TENANT**

Sandpoint Community Center Corporation

\_\_\_\_\_  
Robert N. Pierce, President

Date \_\_\_\_\_



Jessi Webster <jessi.webster@bonnercountyid.gov>

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**Re: Good news**

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**Darcey Smith** <darcey.smith@bonnercountyid.gov>  
To: Jessi Webster <jessi.webster@bonnercountyid.gov>

Fri, Oct 22, 2021 at 11:37 AM

Darcey C. Smith  
Bonner County Fair  
Fairgrounds and Facility Director  
darcey.smith@bonnercountyid.gov  
208-263-8414

----- Forwarded message -----

From: **Scott Bauer** <scott.bauer@bonnercountyid.gov>  
Date: Tue, Oct 12, 2021, 10:50 AM  
Subject: Re: Good news  
To: Dan McDonald <dan.mcdonald@bonnercountyid.gov>  
Cc: Dr Robert Pierce <idahovet@gmail.com>, Darcey Smith <darcey.smith@bonnercountyid.gov>

Yes, Darcey can write the memo and agendize it. Essentially, Legal has approved. Darcey, please have Jim Snyder verify the assessor parcel number in the agreement.

[Quoted text hidden]

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