

**Property Agreements Summary**  
**Downtown East Ramp**  
**Facility Agreement**

**Terms and Conditions:**

The metropolitan sports facilities commission is renting storage space from the Downtown East Municipal Ramp. The MSFC is renting 4 rooms as follows:

<u>Room</u>	<u>Square Footage</u>
S1	635
S2	775
S3A	525
S3B	600

**Scheduled Events:**

None

**Financial Requirements:**

Various insurances required

**Rental price and schedule of payments:**

The rent for the storage space is 4.00 dollars per square foot per year. The annual amounts do are as follows: \$2,540 for Room S1, \$3,100 for room S2, \$2,100 for room S3A, \$2,400 for room S3B.

**Length of agreement:**

The lease is a five year term from April 1<sup>st</sup> 2003 to March 31<sup>st</sup> 2008. There are currently no options for renewal.

**Contacts for the City of Minneapolis:**

Manager of Off Street Parking  
Traffic and Parking Services  
Hawthorne Transportation Center  
33 North 9<sup>th</sup> Street  
Minneapolis, MN 55403

**Contacts for other party:**

Metropolitan Sports Facilities Commission  
500 South 5<sup>th</sup> Street  
Minneapolis, MN 55415  
Attn: Executive Director

## LEASE AGREEMENT

THIS AGREEMENT, is made and entered into by and between the CITY OF MINNEAPOLIS, a political subdivision of the State of Minnesota, hereinafter referred to as "City" and the Metropolitan Sports Facilities Commission, a Minnesota body corporate and politic, hereinafter referred to as "Tenant";

IN CONSIDERATION of the covenants by and between the parties, IT IS HEREBY AGREED as follows:

### I. PREMISES

The City does hereby lease to Tenant, and Tenant does hereby take from the City, the area within the City's Downtown East Municipal Parking Ramp ("Ramp") consisting of: Rooms ("Rooms" in the plural or "Room" in the singular) S1, S2, and S3A and S3B ("Premises").

### II. PURPOSE/USE

The Premises shall be used for the purpose of dead space storage of team sporting materials and other goods and effects of the Tenant. The parties agree dead space storage, not being a term of art, is intended to describe materials and equipment destined for irregular use and not requiring access 24 hours per day seven days a week. It is also intended to mean that the stored materials and equipment are of such a nature that they need not and will not be removed or returned when the Metrodome is scheduled for a Sporting Team event.

Notwithstanding the need to limit access to storage space during Metrodome events, Tenant agrees that concessionaire equipment, currently identified to be pizza and hot dog grills, stored in the Premises are dead space items. Tenant promises that such concessionaire equipment shall at no time be placed in or moved by Ramp elevators and will only be taken to or from the Ramp by using its entrance and exit lanes. Tenant further promises that said concessionaire equipment will be moved into, from, or within the Ramp outside the time period extending from two hours preceding a scheduled start for Metrodome Event to two hours following its actual end.

Prior to taking possession of the Premises, the Tenant shall inspect the Premises promptly notify the City of any deficiencies it finds, and failing to provide such notice, the parties agree that the Premises were, on the date of occupancy, in good tenantable condition.

Tenant will not make substantial alterations, do any remodeling, redecorating, or make any additions to the Premises without the prior written approval of the City provided minor changes for day to day use such as the placement of movable shelves and similar storage devices shall not construed as an alteration. Upon termination of this Lease or Tenant surrender of any portion of the Premises, all alterations, additions or improvements on the Premises made by the City or Tenant shall be surrendered to the City with no obligation to Tenant.

Tenant, its employees, officers, agents, invitees, licensees, and contractors shall observe and comply with rules and regulations adopted by the City from time to time for the safety, care and cleanliness of the Premises and Ramp and for the preservation of good order therein.

Notwithstanding any provision contained in this Lease, no Tenant use of the Premises or Ramp shall be allowed at times or places which shall interrupt the City sale of parking; the orderly flow of traffic through its drive lanes; the public use of common areas, stairwells, or elevators; or otherwise interrupt access to or create a risk to the conduct of City business, its employees, agents, invitees or to public safety. No use shall be allowed which would impair or interfere with Ramp utilities including heating, air conditioning, or cleaning.

Tenant shall not use, generate, store or dispose of, in or about the Premises, any hazardous substance, toxic chemical, pollutant, automotive or cooking fuel, grease, oil, food or consumables, perishables, or food preparation devices. Tenant shall not store material regulated by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or any similar hazardous material law or regulation (including without limitation any material containing asbestos or PCBs) and shall indemnify, defend and hold harmless the City from and against any claim, damage or expense arising out of the storage or use of any such substance, regardless of whether the City has approved its storage or use. This indemnification covenant shall be deemed to survive termination of this Lease.

Tenant shall promptly remove at its own expense any waste, refuse, garbage, or excess materials on the Premises or in areas adjoining the Ramp resulting from the exercise of rights contained herein.

### **III. TERM**

This Lease shall be for five years ("Term") commencing April 1, 2003 ("Commencement Date") and terminating March 31, 2008 ("Termination Date").

Either party has the option to cancel this Lease effective at any time upon not less than 60 days notice during the lease Term. Notice of cancellation shall be given as set forth in Article XVIII herein.

### **IV. RENT**

A. Tenant agrees to pay as rent ("Rent") for the Premises yearly amounts equaling: two thousand five hundred forty dollars (\$2,540.00) for Room S1, three thousand one hundred dollars (\$3,100.00) for Room S2, two thousand one hundred dollars (\$2,100.00) for Room S3A, and two thousand four hundred dollars (\$2,400.00) for room S3B. Said amounts are based on the rate of four dollars (\$4.00) per square foot per year as rent. The parties hereto agree the following data is an approximate measure of room area but shall be deemed sufficient for billing purposes:

<u>ROOM</u>	<u>SQUARE FOOTAGE</u>
S1	635 sq/ft.
S2	775 sq/ft
S3A	525 sq/ft
S3B	600 sq/ft

Payment for Rent of rooms S3A and S3B of the Premises shall commence with the Commencement Date. Payment for the use of rooms S1 and S2 shall commence with their occupancy by Tenant or January 1, 2004 whichever occurs first.

Article VII hereof notwithstanding, in the event Tenant fails to Pay Rent for Rooms S1 or S2 on January 1, 2004 as set forth in this Article, the parties agree Tenant shall be deemed as having surrendered any rights this Lease conveys for the use of said Rooms. In such case the City shall have the right to lease Rooms S1 and S2 to another party with no obligation to the Tenant.

Payments shall be monthly and be paid without offset or demand. Payments shall be by check made out to the "City of Minneapolis" and delivered to the City's parking operator for the Ramp.

- B. The parties hereto agree that at the time of the signing of this Lease, the City shall not charge the Tenant any operating cost for its use of the Premises. Notwithstanding the foregoing, Tenant shall have the right to negotiate with the City for one-time improvements or for the provision of certain operational activities related to its use of the Premises. Upon completion of any negotiations, provided Tenant and City agree, the City shall have the additional right to bill Tenant for any unforeseen one time or for any ongoing cost incurred in providing or maintaining the requested improvements. In the event operating improvements requested by the Tenant are of such nature that they can be separately metered and billed, Tenant shall at its own cost have service meters installed and be directly billed for the service.
- C. Tenant will not permit any mechanic's, laborer's, or materialmen's liens to stand against the Premises or Ramp for any labor or material furnished to or for the account of Tenant, or claimed to have been so furnished in connection with any work performed or claimed to have been performed, on or about the Premises.

#### **V. TAXES AND ASSESSMENTS**

If, during the term of this Lease, Tenant or any Sporting Team (as defined in Article X) using the Premises becomes or are found to be subject to any applicable tax law, Tenant shall pay or cause to be paid, before delinquency, all real property taxes or similar charges or impositions of any kind assessed in lieu of real property taxes, extraordinary or ordinary, unforeseen as well as foreseen, which are attributable to the occupancy, activities or operations of Tenant in the Ramp.

#### **VI. CITY'S RESPONSIBILITIES**

Subordinate to the necessity to provide safe and businesslike service to its parking patrons and Article II hereof, the City shall provide reasonable access to the Premises during normal Ramp business hours.

The City does not warrant that Tenant use of the Premises shall be free from interruption. Any disruptions of use or access shall not be deemed an eviction or disturbance of any Tenant right to use or possess the Premise. The parties agree no loss of access or interruption of Tenant use

shall render the City liable for damage or relieve Tenant from performance of its obligations under this Lease.

Any duty of Tenant to inspect as described in Article II notwithstanding, the City offers and Tenant accepts the Premises on an "as is" and "where is" condition. The City makes no promise whatsoever to the usefulness of the Premises for Tenant purposes or to provide communications, signage, utilities or improvements except as may be agreed to subsequent to the execution of this Lease by both parties under the terms and conditions set forth herein. The City shall have no obligation to provide security to Tenant' Premises, property, employees, invitees, or to any Sporting Team or its property, employees, or invitees throughout the Term.

**VII. SURRENDER OF PREMISES**

Upon expiration or termination of this Lease, Tenant shall, at its expense, remove Tenant' personal property and that of all persons claiming under Tenant and quit and deliver up the Premises to the City peaceably and quietly in as good order and condition as they were in on the Commencement Date of this Lease or were thereafter placed by the City, reasonable wear and tear excepted. Any property left in the Premises thirty (30) days after the expiration or termination of this Lease may be disposed of by the City, as it deems expedient. Tenant shall thereupon promptly reimburse the City for all expenses incurred by it in such disposal.

Tenant shall have the right throughout the Term to vacate and surrender its right to use any of the Rooms (i.e. Rooms S1, S2, S3A and S3B) in the Premises provided Tenant provides the City with 30 days notice of its intent to vacate. The Tenant obligation to pay Rent for any Room so vacated shall cease on the date said Room is surrendered consistent with this Article VII. Tenant shall have no right to re-occupy a Room once surrendered and the City shall have the right to sublet said Room to another party with no further obligation to Tenant.

**VIII. TENANT LIABILITY, INDEMNIFICATION, AND INSURANCE**

Tenant agrees to defend, indemnify, and hold harmless the City, its officials, officers, agents, volunteers and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from any act or omission of Tenant, its subcontractors, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of this Lease, and against all loss by reason of the failure of Tenant to perform fully, in any respect, all obligations under this Lease.

In order to protect Tenant and those listed above under the indemnification provisions, Tenant agrees at all times during the term of this Lease, and beyond such term when so requested, to keep in force the following insurance coverages:

Limits

Commercial General Liability on an occurrence basis with Contractual liability coverage:

General Aggregate \$1,000,000

Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence – Combined Bodily Injury and Property Damage	
Automobile Liability – Combined single limit each Occurrence coverage or the equivalent covering owned, Non-owned, and hired automobiles	\$1,000,000
Workers’ Compensation and Employer’s Liability:	
Workers’ Compensation	Statutory
Employer’s Liability. Bodily injury by:	
Each accident:	\$100,000
Disease – Policy Limit	\$500,000
Disease – Each Employee	\$100,000

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required insurance limits. The above establishes minimum insurance requirements. It is the sole responsibility of Tenant to determine the need for and to procure additional insurance that may be needed in connection with the Lease.

Tenant shall furnish to the City updated Certificates during the term of the Lease as insurance policies expire. If Tenant fails to furnish proof of insurance coverage, the City can pursue any right or remedy allowed under the Lease, law, equity, and/or statute. Additional copies of insurance policies shall be submitted to the City upon request.

The City shall not be liable for theft, damage to or loss of property belonging to or in the possession of Tenant, its officers, agents, employees, contractors, licensees, or invitees. Tenant may, at its expense, obtain and keep in force fire and extended coverage insurance covering Tenant’s personal property, trade fixtures, furniture, and improvements made by Tenant.

Nothing in this agreement waives the immunities or limits of liability of the City under law or statute.

**IX. SIGNS**

With the exception of those signage rights conferred by a City recognized agreement prior to the Commencement Date, Tenant shall not cause the placement of any sign, lettering, advertisement, notice, or display on the windows or doors or on the outside of the perimeter of the Premises.

**X. ASSIGNMENT OR SUBLEASE BY TENANT**

Tenant shall have no right to assign or sublet the Premises. Notwithstanding the foregoing, the City and Tenant have agreed the Minnesota Twins, Minnesota Vikings, and Minnesota Gophers and concessionaires selling food products associated with events in the Metrodome (“Sporting

Teams”) shall be allowed use of the Premises. This right to use is conditioned on the promise that the Sporting Teams will be notified, provided with a copy of this Lease, and agree to comply with all its terms and conditions prior to Sporting Team occupancy of the Premises or portion thereof. Tenant further agrees that performance of any Tenant duty under this Lease, including the payment of Rent and the obligation to insure and indemnify, or otherwise protect the City from any liability resulting from Tenant or Sporting Team use shall be construed as remaining at all times as a duty of the Tenant. Tenant agrees any liability resulting from Sporting Team use of the Ramp or Premises shall be construed as a Tenant liability.

#### **XI. COMPLIANCE WITH ORDINANCES, RULES, AND REGULATIONS: NUISANCE**

Tenant agrees that it shall comply with all Federal, State and Local laws and ordinances in its use of the Premises and shall at its own expense procure and maintain all required permits and approvals that may be required for the exercise of its rights under this Lease.

Tenant shall not violate any condition imposed by the standard fire or commercial liability insurance policy issued for the Ramp, or permit anything to be done which would in any way be deemed to be extra hazardous or to increase the rate of fire insurance coverage on the Ramp or its contents.

#### **XII. INDEPENDENT CONTRACTOR**

Any and all personnel of Tenant or other persons, while engaged in the performance or any activity under this Lease, shall have no contractual relationship with the City, and any and all claims that may or might arise under the workers' compensation act of the State of Minnesota on behalf of the personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment including without limitation claims of discrimination against Tenant, its officers, agents, contractors, or employees shall in no way be the responsibility of the City; and Tenant shall defend, indemnify, and hold the City, its officers, agents and employees harmless, its officers, agents and employees harmless from any and all such claims, regardless of any determination of any pertinent tribunal, agency, board, commission, or court. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the City, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, workers' compensation, disability, severance pay and P.E.R.A.

#### **XIII. ASSIGNMENT BY CITY**

The City shall have the right to transfer and/or assign all of its rights, interests and obligations in the Premises and the Ramp, provided, however, that any transfer or assignment shall be subject to the provisions of this Lease.

#### **XIV. EMINENT DOMAIN**

If the Premises are taken for public use under right of eminent domain, this Lease shall expire on the date when possession is taken. Damage awards of any kind shall belong solely to the City.

## **XV. RESTORATION AND REPAIR**

If the Ramp is damaged by fire, water damage due to sprinkler malfunction, leakage, water line breaks, structural or utility failure, the elements, or any other casualty, the City shall have the right to terminate this Lease with no further obligation to Tenant, provided that it gives written notice to Tenant within ninety (90) days after the damage or destruction or it determines, such determination being in its sole discretion, that said damage cannot be repaired, whichever occurs earlier. The City shall not be responsible to Tenant for damage to or destruction of Tenant furniture, furnishings, equipment, or other personal property in, on or about the Premises resulting directly or indirectly from such damage.

## **XVI. HOLDING OVER**

The parties hereto agree this Lease does not provide or allow for any holding over after the expiration or termination of this Lease.

## **XVII. DEFAULT BY TENANT**

Tenant may be deemed to be in default if Rent or any other payment due under this Lease remains unpaid for fifteen (15) days after written notice from the City.

In the event Tenant fails to perform a non-monetary covenant and the City deems such nonperformance to be a default, Tenant shall be allowed 30 days upon receipt of notice of the default to provide a cure, or if the default is of such nature that it cannot be cured within 30 days, to provide a written explanation of its failure to correct the same. In its explanation Tenant shall further describe a process for correcting the default and shall commence and pursue with all diligence all necessary steps for curing the default. Notwithstanding any provision contained herein, if a Tenant default is of such a nature that it presents a risk to public safety or health or otherwise presents an immanent or substantial risk to City property, the City may, upon making such determination, enter onto the Premises and take such actions as are necessary to cure the default and to bill Tenant for any expenses it incurs.

If Tenant fails to cure a default as set forth herein the City shall have the right to immediately terminate this Lease, reoccupy the Premises or any portion thereof, and seek damages available to the City at law or in the event that damages are inadequate to remedy the default, obtain equity relief as a competent court may deem appropriate.

Any termination by the City of this Lease or of any right of use granted hereby shall occur with no obligation to Tenant except as expressly set forth herein. Tenant waives any claim for damages, moving expense, loss of business, or inconvenience resulting from a termination of this Lease whether said termination is an exercise of right or as a matter of its discretion.

## **XVIII. NOTICES**

Any notice or demand, which may or must be given or made by a party, under the terms of this Lease or any statute or ordinance, shall be in writing and shall be sent registered or certified mail to the other party addressed as follows:

TO TENANT: Metropolitan Sports Facilities Commission  
500 South 5<sup>th</sup> St.  
Minneapolis, Minn. 55415  
Attn: Executive Director

TO CITY: Manager of Off Street Parking  
Traffic and Parking Services  
Hawthorne Transportation Center  
33 North 9<sup>th</sup> Street  
Minneapolis, Minn. 55403

Either party may designate a different addressee or address at any time by giving written notice thereof as above provided. Any notice delivered by hand shall be deemed received upon actual delivery.

## **XIX. QUIET ENJOYMENT**

The City covenants that it is well seized of and has good right to lease the Premises, will warrant and defend the title thereto and will indemnify against any damage and expense which Tenant may suffer by reason of any lien, encumbrance, restriction, or defect in its title to or the description of the Premises. The City further warrants and covenants that, upon prompt paying of Rent or other payments which may become due and the performance of all provisions, promises, and covenants herein, the Premises may be used for the purposes herein contemplated throughout the Term of this Lease.

Tenant agrees to permit the City, its officers, agents, employees, and contractors to enter the Premises at all reasonable times to inspect, make repairs, alterations, or improve the City's Ramp. Said right to enter shall include the right to install Ramp controls and monitoring devices or any parking controls and communications which it deems necessary. There shall be no diminution of Rent by Tenant nor liability on the part of the City by reason of inconvenience, annoyance, or injury to business due to the City's exercise of this right to enter.

## **XX. WAIVER OF COVENANTS**

Failure of the City or Tenant to insist, in any one or more instances, upon strict performance of any term, covenant, or condition of this Lease or to exercise any option in it shall not be construed as a waiver or a relinquishment for the future of the term, covenant, condition, or option, but the same shall remain in full force and effect. The receipt by the City of rents with knowledge of a breach in any of the terms, covenants, or conditions of this Lease to be kept and performed by Tenant shall not be deemed to have waived any provision of this Lease unless expressed in writing and signed by the City and Tenant.

## **XXI. DAMAGE BY TENANT**

Tenant shall take all necessary and reasonable precautions in its use of the Premises and adjoining areas to prevent damage to its personal property and the City Ramp and property and equipment contained therein. Tenant shall periodically inspect the Premises and determine the location of all sprinklers or similar hazards presented to its property, employees, agents, or staff. Tenant shall protect sprinklers and lighting mounted in the Premises from damage and loss. Tenant accepts responsibility for any loss, including property and loss of business, occurring due to sprinkler discharges whether or not the same are due to activities by the City, its agents or employees or as otherwise contemplated in Article XV hereof.

Damage to the Premises or Ramp occurring due to Tenant use or the negligence of its employees, assigns, sublessees, agents, or invitees shall be promptly repaired in such fashion as approved in advance by the City. Damage shall be construed to include, but not be limited to, chipping, gouging, or defacing interior or exterior areas of the ramp as well as breaking of sprinklers, lights, windows, doors, spills, or damage to parking access control equipment. In the event Tenant fails to promptly repair such damage within a reasonable period, the City shall be allowed to provide such repairs and bill Tenant for its expenses in the same.

## **XXII. ADDITIONAL COSTS**

Tenant shall have the right to rent and use up to four parking stalls on a month to month basis. The four stalls are to be allocated one for each Tenant occupied Room for which Rent has been paid. Provided rent for the parking stalls has been paid on a timely basis, each stall so taken shall be reserved for Tenant use on a 24 hour basis. The parking stalls rented by Tenant shall be in an area of the Ramp selected by the City but shall be in reasonably close proximity to the Rooms of the Premises.

Tenant shall within 30 calendar days of January 1, 2004 notify the City of how many parking stalls it desires to rent. The rent for each stall taken will Rent shall be invoiced separately and paid as an additional cost as set forth herein.

Rent for parking stalls shall be \$125.00 per month and will be subject to periodic increases provided rent does not exceed that charged the public for a reserved stall in the Ramp. The right to rent parking stalls shall be subject to use restrictions and sanctions imposed monthly parkers from the general public who park in the Ramp. Failure to comply with these restrictions may result, in addition to customary sanctions, in the loss of the right to use parking stalls as granted herein.

## **XXIII. USE OF TRACTORS, PULL CARTS, ELEVATORS AND STAIRS**

Notwithstanding those provisions of this Lease limiting Tenant use, with prior City approval Tenant shall have the right to transport stored materials from the Premises through the Ramp to its sporting events in the Metrodome or such place as it may require. Said right to transport shall be subordinate to the City's obligation and need to control traffic and provide service to its

parking customers and Tenant agrees to comply with any rules or restrictions the City may place on the use of such transportation.

In drive areas of the Ramp, including its entrances and exits, Tenant shall at all times be limited to the use of one tractor or pickup truck.

In the event a City parking representative or agent instructs Tenant to cease, due to a public or property risk, its use of tractors, pull carts, or trucks, of Ramp stairs or elevators, Tenant shall immediately discontinue its activities until such use can safely resume.

#### **XXIV. MAINTENANCE AND OPERATING EXPENSES**

Tenant shall at its sole cost and expense maintain the Premises by making ordinary day to day repairs thereon and keeping every part in good and sanitary order, condition, and repair. Tenant shall pay all operating expenses which may become due and payable due to the exercise of rights under this Lease.

#### **XXV. CONSTRUCTION OF OFFICE TOWER**

As of the Commencement Date, the City is contemplating the details of another structure on top of its Ramp. In the event that this structure is erected and requires all or a portion of the Premises, the City shall with 60 days notice to Tenant, have the right to terminate the right of Tenant to lease and use all or a portion of the Premises or Ramp.

Upon terminating the right or rights of the Tenant as set forth in the preceding paragraph, the City shall return a prorated share of the monthly Rent paid for those portions of the Premises taken. The calculation of the prorated share shall be based on the date on which the City actually reoccupies the portion of the Premises it requires.

#### **XXVI. KEYS TO PREMISES**

The City shall re-key each of the Rooms of the Premises and deliver to Tenant a copy of each new key. The City agrees it will not generally distribute Premises' Room keys among its parking operator staff and will take reasonable precautions to assure that any keys it retains will be held by management and engineering staff with an essential need to have access to the Premises.

#### **XXVII. MISCELLANEOUS**

If any term or provision of this Lease, with the exception of those terms or provisions which pertain to the quiet enjoyment and occupancy of the Premises by Tenant for its intended business purpose, is deemed invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease shall be valid and enforceable to the extent permitted by law.

This Lease is declared to be a Minnesota contract, and all of the terms of the Lease shall be construed according to the laws of the State of Minnesota.

Tenant agrees it will not sell, loan, assign, donate, or otherwise transfer the right to any parking stalls granted under the terms of this Lease. No parking rights are conferred except as expressly provided for herein.

CITY OF MINNEAPOLIS

METROPOLITAN SPORTS FACILITIES COMMISSION

By: N/A  
Mayor

By: [Signature]  
Its: [Signature]

Countersigned: 2-2  
Finance Officer  
for

By: [Signature]  
Its: EXECUTIVE DIRECTOR

Approved as to Form: J.M. [Signature]  
Assistant City Attorney

Department Head [Signature]  
Director of Public Works

