

REVISIONS AS OF JUNE 3, 1995

AGREEMENT FOR OPERATING AND MAINTAINING
OTSEGO COUNTY RECREATIONAL AND SPORTS COMPLEX

THIS AGREEMENT is made effective as of this 8th day of AUGUST, 1995, by and among the County of Otsego, Michigan (the "County"), organized and existing under the constitution and laws of the State of Michigan, and Otsego County Sportsplex ("Sportsplex"), a Michigan non-profit corporation.

W I T N E S S E T H :

WHEREAS, the Otsego County Building Authority (the "Authority") has been incorporated by the County pursuant to Act 31 amended ("Act 31") for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, or maintaining, among other things, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for use for any legitimate public purpose for the benefit of the County; and

WHEREAS, Sportsplex has been incorporated pursuant to the provisions of Act 162 of the Michigan Public Acts of 1982, as amended, to construct, equip, lease or own, manage and operate a recreational and sports complex in the County, which includes, without limitation, an indoor ice skating rink and swimming pool for use be residents of the County and the public; and

WHEREAS, on August 2, 1994, the electors of the County authorized the County Board of Commissioners to levy a tax of not to exceed .8 mills (\$0.80 per \$1,000) for a period of 12 years, 1994 through 2005, inclusive (the "Capital Improvement Millage"), to provide the funds required to acquire or construct, furnish, and equip a recreational and sports complex which would include an indoor ice skating rink and swimming pool for use by the residents of the County and the public (the "Project"); and

WHEREAS, on August 2, 1994, the electors of the County also authorized the County Board of Commissioners (the "Board of Commissioners") to levy a tax of up to .15 mills (\$0.15 per \$1,000) for a period of 12 years, 1994 through 2005 (the "Sportsplex Operating Millage"), inclusive, to provide the funds required to operate the recreational and sports complex; and

WHEREAS, the Authority is currently undertaking the acquisition, construction, furnishing, and equipping of the Project for the County which will include a building of approximately 78,700 square feet and related site improvements to be used for a recreational and sports complex which will include, among other athletic facilities, an ice arena and a swimming pool

for use by the residents of the County and the public to be located on a site described on Exhibit A attached hereto; and

WHEREAS, the Authority is financing part of the cost of acquiring, constructing, furnishing, and equipping the Project through the issuance of building authority bonds (the "Bonds") payable from cash rentals to be paid by the County to the Authority pursuant to a contract of lease to be entered into between the County and the Authority (the "Contract of Lease"); and

WHEREAS, the Authority and Sportsplex have entered into an Agreement for Constructing an Otsego County Recreational and Sports Complex pursuant to which the Authority has appointed Sportsplex as its agent to supervise the acquisition, construction, furnishing, and equipping of the Project; and

WHEREAS, the County wishes to hire Sportsplex to operate the Project and the County and Sportsplex desire to set forth their mutual understandings and respective obligations with respect to the operation and maintenance of the Project

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL AGREEMENTS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. State of Project. Under the provisions of this Agreement, the County hereby hires Sportsplex to operate the Project for the County. Operation of the Project in Sportsplex shall begin upon completion of construction, provided that Sportsplex shall have received satisfactory recognition of its exemption pursuant to IRS Form 1023 as filed with the Internal Revenue Service requesting a determination that Sportsplex is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); provided that Sportsplex shall have the immediate right to begin such preliminary operations necessary to permit actual operations to begin when construction is completed.

2. Revenues.

A. Annual Budget. (i) Sportsplex has presented a 1995 budget to the County which is approved, a copy of which is attached hereto as Appendix A. The Otsego County Treasurer will, within two weeks of the execution hereof, make available \$94,044.34 from the 1995 Sportsplex Operating Millage to be used in accordance with the budget. By execution of this Agreement, both parties agree to the budget shown as Appendix .

(ii) Prior to July 1, 1996 and to each July 1st thereafter, Sportsplex shall prepare and present to the County a proposed budget for the operation of the Project for the subsequent fiscal year beginning January 1st.

The budget shall estimate the maximum amount of revenue which the County can obtain from: (1) the Sportsplex Operating Millage during the next fiscal year, (2) any unexpended amounts from the prior year's operations, (3) estimated revenues from fees and charges proposed to be charged for the operation of the Project for such year, and (4) other sources including, but not limited to, gifts, grants, and donations.

Prior to October 1 each year, the Board of Commissioners shall approve a final budget for the operation of the Project which approval shall be accompanied by a resolution authorizing the levy of such amount of the Sportsplex Operating Millage as the Board of Commissioners deems appropriate. In addition, if sufficient money remains after payment of principal and interest due from the Capital Improvement Millage levied for such purposes, the Board of Commissioners may authorize its expenditure for capital improvement purposes after a request is received from Sportsplex. This authorization can be included in the final budget or in a separate resolution adopted by the Board of Commissioners.

If the Board of Commissioners fails to approve the budget by November 1st, Sportsplex shall submit a plan for closing the Project and on the following January 1st shall vacate the Project until the County Board of Commissioners approves the budget.

B. Quarterly Updates. Beginning in 1996, at least quarterly, on January 31, April 30, July 31, and October 31, Sportsplex shall file a Report on the operations of the Project for the preceding three month period ending December 31, March 31, June 30, and September 30 preceding, respectively.

C. Balanced Budgets and Corrections of Quarterly Deficits

Sportsplex agrees to operate the Project within the budgets approved by the Board of Commissioners. Should any quarter's operations result in a deficit for such quarter, Sportsplex agrees to (a) immediately meet with the Board of Commissioners to develop a satisfactory deficit correction plan, which may include increased fees or reduced expenses, or (b) should this action prove to be insufficient to correct, the deficit operations, Sportsplex agrees increase fee revenue sufficiently to insure that the deficit will be repaid in the next two quarters.

D. Failure to Operate Without a Deficit. Should Sportsplex fail to operate the Project within a balanced budget for more than six months, the County shall have the right to terminate this agreement.

E. 1996 Operations and 1995 Tax Levy. It is the present intention of the County to levy the full Sportsplex millage permitted by law in December of 1995.

3. Fixing and Revising Rates; Rate Covenant. Sportsplex shall propose rates and charges for the use of the Project by residents of the County and the general public. Sportsplex covenants to propose rates and charges which will be sufficient, after taking into account the tax revenues expected to be appropriated by the County pursuant to Section 2 hereof, and including revenue from any other sources, to provide for the payment of the administration and operation expenses of the Project, such expenses for maintenance as may be necessary to preserve the Project in good repair and working order and expenses incurred in any subsequent expansion of the Project; to provide for the payment of principal of and interest on the Bonds as and when they become due and payable; and to provide for such other expenditures and funds for the Project as are required by this Agreement. After approval of the County, rates shall be fixed and revised from time to time by Sportsplex to produce the foregoing amounts, and Sportsplex covenants and agrees to maintain at all times such rates for services furnished by the Project as shall be sufficient to provide for the foregoing.

4. Operating Year. The Project shall be operated on the basis of an operating year which shall coincide with the County's fiscal year.

5. Establishment of Funds and Accounts; Flow of Funds. All operating revenues from the Project, including such operating tax revenues appropriated by the County, may be used by Sportsplex to meet its obligations under this Agreement and shall be deposited as collected and set aside in a depository account to be known as the "receiving fund", and shall be transferred periodically in the manner and at the times and in the order of priority hereinafter specified:

a. Operation and Maintenance Fund. All revenues, except tax revenues, received from the Project shall be set aside as collected in a fund to be designated "operation and maintenance fund." Operating tax revenues shall be deposited in the Fund as follows: on March 1st, such taxes as have been received by the County Treasurer by that time, and on May 1st, or as soon thereafter as the County Treasurer receives such taxes from the delinquent tax revolving fund, the balance of such taxes. Every quarter from the revenues in the receiving fund, there shall first be set aside in the operation and maintenance fund, such amount as is required, taking into account the monies expected to be received from the Project operating levy, to provide for the payment of the Project's current expenses of administration, operation, and such maintenance as may be necessary on a quarterly basis to preserve the Project in good repair and working order.

b. Capital Improvement Fund. Out of the remaining revenues in the receiving fund, there may be next set aside in the capital improvement fund such sums as Sportsplex may deem advisable. All monies in the capital improvement fund shall be used solely for capital improvements such as capital purchases, equipment (including Zambonis), and repairs, replacements, improvements, enlargements or extensions to the Project.

c. Appropriations of operating moneys or capital improvement moneys from the County.

Any amount of operating moneys which are appropriated to the project by the Board of Commissioners from the Sportsplex Operating Millage may be used for operations or capital improvements so long as the expenditures are included in the budget required by paragraph 2 or approved by a specific resolution of the Board of Commissioners.

d. Surplus Fund. Subject to having been approved in the budget required by paragraph 2 or to a specific approval by the Board of Commissioners, revenues remaining in the receiving fund at the end of any fiscal year after all periodic transfers have been made therefrom as above required shall be deemed to be surplus and may be left in the receiving fund or may be transferred to a fund to be designated "surplus fund" and subsequently transferred to any of the funds herein authorized. All revenues raised by rates and charges for use of the Project shall be used solely for the Project.

6. Investments. All monies in three several funds of the Project shall be deposited with a bank or trust company designated by the County and approved by Sportsplex. The Treasurer of Sportsplex shall provide monthly bank accounts and bank reconciliations to the County Treasurer. The monies in the several funds of the Project may be kept in one bank account, in which event the monies in the bank account shall be allocated on the books and records to the respective funds as herein provided. Monies in the several funds and accounts shall be invested by the County Treasurer as authorized by law.

7. Sportsplex Cash Rental Payments. Sportsplex agrees to pay to the County as cash rental for the Project, such amounts as are surplus to the operation of the Project and are not reasonably necessary for capital improvements.

8. Repairs. Sportsplex shall, at all times during the term of this Agreement, keep the Project and the premises in good condition and repair, shall make all necessary and desirable repairs, restorations and replacements thereof, structural and nonstructural, seen or unforseen, and shall use all reasonable

precautions to prevent waste, damage or injury. Sportsplex shall also maintain in good repair and free from dirt, snow, ice, rubbish and other obstructions or encumbrances, the sidewalks, parking areas, yards, plantings, gutters and curbs in front of and adjacent to the premises.

9. Operation and Maintenance. Sportsplex shall, at all times during the term of this Agreement, operate and maintain the Project and the premises. Operation and maintenance shall include (but not be limited to) the providing of all utilities, snow removal, exterior ground care and all personnel services, equipment and supplies of whatever nature as shall be necessary or expedient for the operation and maintenance of the Project and the premises. Premiums for insurance required to be carried upon or with respect to the Premises or the use thereof and taxes or assessments levied upon any party hereto on account of the ownership or use thereof or rentals or income therefrom shall likewise be deemed operation and maintenance expenses. Sportsplex may employ such persons in such capacities as it deems advisable and may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the Project.

10. County Performance of Repairs and Maintenance. In the event that Sportsplex fails or neglects to make all necessary repairs or to properly maintain the Project or the premises or fulfill its other obligations as set forth in this Agreement, the County or its agents may, but are not in any way obligated to make such repairs, maintaining the Project and premises, or fulfilling such obligations. All costs and expenses incurred as a consequence of the County's actions shall be repaid by Sportsplex to the County within thirty days after Sportsplex receives copies of the receipts showing payment by the County for such repairs, maintenance or other obligations. Except in the case of emergency, the County shall give Sportsplex ten days written notice before taking any such action.

11. Alterations. After approval of the Board of Commissioners, Sportsplex may make such alterations, changes, additions or improvements in or to the interior or exterior of the Project or premises as it shall determine to be beneficial to the Project. Sportsplex shall make any changes or alterations in, on or about the Project which may be required by any applicable statute, charter, ordinance or governmental regulation or order. All alterations and improvements shall be at Sportsplex's sole expense. All alterations and improvements shall be the property of the County and shall remain upon and be surrendered to the County with the Project and the premises at the termination of this Agreement. Sportsplex shall save the County and the members of the Board of Commissioners harmless and free from all cost or damage in respect to any alterations to the Project or the premises.

12. Property Insurance. Upon occupancy of the premises or final payment to the contractor, whichever occurs first, the County shall provide property insurance which shall cover all real and personal property on the premises on a 100% replacement cost basis. Such policy shall be on an all risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without limitation, flood, theft, vandalism, and malicious mischief. Coverage shall also include the cost of debt service on the Bonds, the loss of rental income, and extra expense, for a period of 12 months, incurred by reason of the total or partial loss or damage to the Project caused by an insured peril. The cost of such insurance shall be paid from operating revenues of the Project.

13. Liability Insurance. Upon occupancy of the premises or final payment to the contractor, whichever occurs first, the County shall provide, comprehensive/commercial general liability insurance protecting Sportsplex, the County and the members of the Board of Commissioners of the County, and the Authority and the members of the Commission of the Authority, and their respective agents, officers and employees. Such insurance shall be in limits of not less than \$1,000,000 per occurrence for injury or death to any one person, not less than \$3,000,000 per occurrence for injury or death to more than one person, and not less than \$500,000 per occurrence for property damage. The cost of such insurance shall be paid from the operating revenues of the Project.

14. Policies. Sportsplex, the County, and the Authority shall all be named insureds on all insurance policies required hereunder and all insurance proceeds shall be payable to Sportsplex, the County, and the Authority as their respective interests may appear. Upon request, the County shall provide Sportsplex with certified copies of the insurance policies or other evidence indicating that the insurance is in effect and that Sportsplex shall be notified in writing at least thirty days prior to cancellation, nonrenewal or any material reduction of such coverage. All insurance maintained pursuant to this Agreement shall contain a clause or endorsement under which the insurer waives all rights of subrogation against any and all of the parties to this Agreement, and their respective officers, commissioners, agents, and employees, with respect to losses payable under the policy.

Claims for loss due to damage to the premises under any policies maintained pursuant to this Agreement shall be adjusted with the insurance companies by the County after advice from Sportsplex. The proceeds of any insurance shall be paid to the County, which shall deposit the funds in the capital improvement fund for the purpose of paying the cost of repair and restoration.

All policy forms, limits and deductibles shall be subject to approval by the County. Unless otherwise required of

any contractors, Sportsplex shall be responsible for the payment of costs not covered by the insurance policies required in this Agreement above because of the existence of any deductibles.

15. Damage or Destruction. In the event of the partial or total destruction of the Project during or after construction, or if the Project is for any reason made unusable, Sportsplex shall have no duty to operate the Project until it is repaired. Sportsplex shall give the County immediate notice of any damage or destruction.

If the County determines that it is in their best interest to repair, restore, or replace the Project, the County shall cause the prompt repair, replacement, and rebuilding of the Project. In such event, all insurance proceeds received by the County or the Authority, on account of such damage or destruction, less the actual cost, fees and expenses, if any, incurred in connection with adjustment of the loss, shall be deposited in the capital improvement fund and applied to pay for the cost of the restoration, including the cost of temporary repairs or for the protection of property pending the completion of permanent restoration, and shall be paid out from time to time as restoration progresses.

In no event shall the County be required to repair, replace, or rebuild the Project, nor to pay any of the costs or expenses thereof beyond or in excess of any insurance proceeds, plus any funds that Sportsplex contributes. To the extent the estimated cost of repairs exceeds the amount of any insurance proceeds, Sportsplex may pay such costs or expenses of repairs beyond or in excess of any insurance proceeds. Such amounts shall be deposited in the capital improvement fund prior to commencement of such repairs or restoration. If the actual costs of such repairs or restoration is less than the estimated cost, the amount of such excess, including any excess insurance proceeds, shall remain on deposit in the capital improvement fund. If the actual costs exceed the estimated cost, the County shall pay such additional amounts, which shall be reimbursed by Sportsplex as soon as there are sufficient Project revenues to do so after payment of operation and maintenance expenses and principal and interest on the Bonds.

If the County determines not to use the proceeds of insurance for the repair or restoration of the Project, the amount of such insurance proceeds shall be applied by the County to the payment of the Bonds as required by Federal Law. In the event such insurance proceeds or excess insurance proceeds exceed the aggregate amount of future cash rental payments, the amount of such excess shall remain County property.

16. Indemnification. Sportsplex shall indemnify and hold the County, County Officers, and the members of the Board of Commissioners and its agents, officers, and employees, harmless from and against all costs, expenses, liabilities, losses,

damages, injunctions, suits, actions, fines, penalties, claims and demands of every kind or nature, including reasonable attorney's fees, by or on behalf of any person, party or governmental authority whatsoever arising out of (a) any failure by Sportsplex to perform any of its obligations under this Agreement, (b) any accident, death, injury, or damage which occurs in or about the premises, however occurring, (c) any matter arising out of the condition, occupation, maintenance, alteration, repair, use, or operation of the premises or any part of it, (d) the contest or challenge by Sportsplex of any imposed tax, assessment, or other charges, or (e) any other matter arising from or relating to the occupation of the premises by Sportsplex.

17. Operational Integrity. The County covenants and agrees with Sportsplex, subject to the performance by Sportsplex of all of the terms, covenants, and conditions of this Agreement to permit Sportsplex to operate the project for the County.

18. Inspection. Without notice, the County, through its officers, employees or agents, may enter upon the Project at any time during the term of this Agreement for the purpose of inspecting the Project and determining whether Sportsplex is complying with the covenants, agreements, terms, and conditions hereof.

19. Sportsplex Representations and Warranties. Sportsplex represents and warrants that:

a. Sportsplex is a Michigan nonprofit corporation which is exempt from federal income taxation under Section 501(c)(3) of the Code, duly organized, validly existing, and in good standing under the laws of the State of Michigan.

b. Sportsplex has all requisite corporate power and authority to lease and operate the Project and carry on its business as now conducted and as Sportsplex contemplates such business to be conducted in the future.

c. The execution, delivery, and performance by Sportsplex of this Agreement is within its corporate powers, has been duly authorized by all necessary action, and does not contravene or constitute a default under any provision of applicable law or regulations or of the Articles of Incorporation or Bylaws of Sportsplex, or of any agreement, judgment, injunction, order, decree, or other instrument binding upon it.

d. The officers of Sportsplex who will execute this Agreement, and all other documents, instruments, and agreements required to be delivered or contemplated hereunder are or will be duly authorized to execute the same.

e. This Agreement constitutes a valid and binding agreement of Sportsplex, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting the enforcement of creditors' rights and by general principles of equity.

f. There is no action, suit, or proceeding pending or, to the knowledge of Sportsplex, threatened against Sportsplex before any court or arbitrator or any governmental body, agency, or official in which an adverse decision would materially and adversely affect the ability of Sportsplex to make any of its payment obligations under this Agreement or which in any manner questions the validity of this Agreement.

20. Sportsplex Covenants. Sportsplex covenants and agrees that so long as this Agreement shall remain in effect and until the full and final payment and performance of all obligations hereunder, unless the County waives compliance in writing:

a. Sportsplex will promptly inform the County of any occurrence which constitutes an event of default as defined in this Agreement or which, with the giving of notice or the lapse of time, or both, would constitute such an event of default and of any other occurrence which materially affects its financial condition adversely or its ability to comply with its obligations under this Agreement.

b. It is expected that the premises will be exempt from payment of real estate taxes. To the extent that the premises or the Project become subject to any form of ad valorem taxation, Sportsplex shall pay and discharge, before the same become delinquent, all taxes and assessments of whatever nature which may be levied or assessed against the premises or the Project, unless and to the extent only that such taxes or assessments shall be contested in good faith by appropriate proceedings and Sportsplex shall have set aside on its books adequate reserves with respect thereto.

c. Sportsplex shall maintain its existence as a Michigan nonprofit corporation in good standing in the state of Michigan and shall comply with all governmental laws, regulations, and orders applicable to it, the failure to comply with which would have a material adverse effect on the financial condition, business, or operations of Sportsplex or would affect the validity or enforceability of this Agreement.

d. Sportsplex shall maintain its tax-exempt status under federal income tax laws and regulations and none of its revenues, income or profits, either realized or unrealized, and none of its other assets or property will be distributed to any of its employees, or inure to the benefit

of any private person, association or corporation, other than for the lawful corporate purpose of Sportsplex.

e. Subject to Section 20(b) hereof, Sportsplex shall not create or permit to exist any lien, mortgage, pledge, or other encumbrance on the premises.

21. Environmental Matters. Sportsplex will not permit any of the premises to be contaminated or the source of contamination of any other property, by any substance that is now or hereafter regulated by or subject to any applicable federal, state, or local law, ordinance, rule, regulation or order that regulates or is intended to protect public health or the environment or that establishes liability for the investigation, removal, or clean up of, or damage caused by, any environmental contamination, including, without limitation, any law, ordinance, rule, regulation, or order that regulates or prescribes requirements for air quality, water quality, or the disposition, transportation, or management of waste materials or toxic substances (the foregoing are collectively referred to herein as "environmental laws").

At its sole cost and expense, Sportsplex shall: (1) pay when due the cost of compliance with all relevant environmental laws; (2) keep the premises free of any lien imposed pursuant to any environmental laws; and (3) furnish the County with any reports on environmental assessments/audits of the premises.

Sportsplex shall indemnify and hold the County and the members of the Board of Commissioners, and its agents, officers, and employees, harmless from and against all costs, expenses, liabilities, losses, damages, injunctions, suits, actions, fines, penalties, claims and demands of every kind or nature, including reasonable attorney's fees, that shall be asserted against or incurred by any of the foregoing by reason of (a) any representation or warranty by Sportsplex in this section being inaccurate in any material respect; (b) any failure of Sportsplex to perform any of its obligations under this section; or (c) any past, present, or future condition or use of any part of the premises (whether known or unknown), other than an "excluded condition or use", including without limitation, liabilities arising under any environmental law. An "excluded condition or use" of the premises is one that (A) does not exist or occur, to any extent, at any time before Sportsplex has permanently given up possession and control of the premises, and (B) was not caused, or permitted to exist, in whole or in part, by any act or omission of Sportsplex. Indemnification of the County under this section shall not limit any other right or remedy that is available to the County. The indemnification under this section shall survive the termination of this Agreement.

22. Events of Default. Each of the following shall constitute an event of default:

a. Sportsplex fails to submit and operate within the budgets required by Section 2.

b. Sportsplex fails to pay when due any amount of the cash rental payment required of it in Section 7 of this Agreement and such failure shall continue for ten days.

c. Sportsplex fails to pay when due any amounts paid by the County for repairs or maintenance pursuant to this Agreement, and such failure shall continue for thirty days after notification from the County of the obligation by Sportsplex to make such payments.

d. Any representation or warranty made by Sportsplex in this Agreement, or which is contained in any certificate or other document delivered at any time pursuant to this Agreement proves to have been incorrect or incomplete in any material respect when made or deemed to be made.

e. Sportsplex fails to observe or perform any covenant or agreement contained in this Agreement or in any certificate or other document delivered pursuant to this Agreement (other than those covered by clauses a and b above) for thirty days after written notice thereof shall have been given to Sportsplex by the County.

f. Sportsplex files a petition in bankruptcy, insolvency, dissolution or for reorganization or arrangement under the laws of the United States or of any state, or voluntarily takes advantage of any such law or act or is dissolved or makes an assignment for the benefit of creditors.

g. If involuntary proceedings under any bankruptcy law or insolvency act or for the dissolution of a corporation are instituted against Sportsplex or if a receiver or trustee is appointed for all or substantially all of the property of Sportsplex and such proceedings are not dismissed or such receivership or trusteeship vacated within ninety days after such institution or appointment.

h. Sportsplex ceases to operate the Project or indicates its intention to do so.

23. Remedies in Event of Default. If any event of default as defined in this Agreement shall occur and be continuing:

(a) the County shall have the right, but not the obligation, to take any of the following action:

(i) The County may terminate this Agreement, or without terminating this prohibits Sportsplex from entering the premises.

(ii) As principal tenant of the Authority, the County shall have the right to enter the premises at all times.

(b) Sportsplex shall have the duty to promptly transfer or assign to the County all money, bank accounts, and assets of any kind related to operation of the Project upon any event of default.

The rights provided for in this Section 23 are cumulative and are not exclusive of any other rights, powers, privileges, or remedies provided by law or in equity.

24. Waivers. No failure or delay on the part of the County or Sportsplex in exercising any right, power, or remedy hereunder shall operate as a waiver thereof. No single or partial exercise by the County or Sportsplex of any right or remedy shall preclude other or future exercise thereof or the exercise of any other right or remedy.

25. Term of Agreement. The initial term of this Agreement shall become effective as of the day and year first above written and shall remain in effect for a period of twelve years.

26. Option to Renew. Upon expiration of the initial term of this Agreement, the County shall have the option of extending the initial term hereof for a maximum of two additional renewal terms of five years each.

27. Assignment. Sportsplex agrees not to sell, assign, mortgage, pledge or in any way transfer this Agreement or permit anyone other than the general public to use the premises, in whole or in part, except as set forth in this Agreement.

28. Amendment. This Agreement contains the entire understanding and agreement of the parties as to the subject matter hereof and may be amended only by written agreement of all parties who are then bound by the terms hereof.

29. Notices. All notices, requests, and other communications to any party hereunder shall be in writing and shall be given to such party at its address set forth below or such other address as such party may hereafter specify:

If to Sportsplex: Otsego County Sportsplex
101 West Main Street
Gaylord, MI 49735
Attn: President

If to the County: County of Otsego
255 West Main Street
Room 202
Gaylord, MI 49735
Attn: Otsego County Coordinator

30. Severability. In case any one or more of the provisions contained in this Agreement or any document, instrument or agreement required hereunder should be declared invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein or therein shall not in any way be affected or impaired thereby.

31. Controlling Documents. To the extent any provisions of this Agreement are silent with respect to or inconsistent with any provisions of the Contract of Lease or the Bond Authorizing Resolution, the provisions of the Contract of Lease or the Bond Authorizing Resolution shall control.

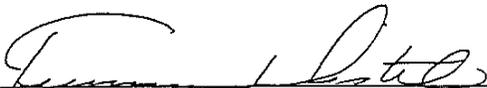
32. Governing Law. This Agreement and the rights and obligations of the parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Michigan.

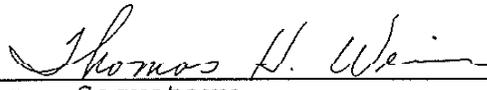
33. Captions. The captions contained in this Agreement are for convenience for reference only and shall not limit or define the provisions of this Agreement or affect the interpretation or construction thereof.

34. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed to be an original, but all such counterparts taken together shall constitute but one and the same agreement.

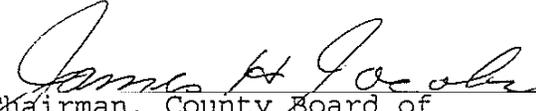
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.

OTSEGO COUNTY SPORTSPLEX

By: 
Its: President

By: 
Its: Secretary

COUNTY OF OTSEGO

By: 
Chairman, County Board of
Commissioners

By: 
County Clerk

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