



City Council

Agenda Item

Subject: This donor recognition agreement is between PREMIER Bank and the City of Watertown for the Prairie Lakes Ice Arena.

Meeting: City Council - Feb 20 2024

From: Amanda Mack, City Manager

BACKGROUND INFORMATION:

This donor agreement memorializes the recognition of a \$1M donation by First PREMIER Bank/Premier Bankcard to be received by the City of Watertown toward the development of the Prairie Lakes Ice Arena. All signage with the exception of the donor wall recognition is being paid by First PREMIER so that the City can utilize 100% of the donation toward the development.

FINANCIAL IMPACT:

The \$1M contribution will be paid in 15 annual installments in the amount of \$66,666 per year.

SUGGESTED MOTION:

I move to approve and authorize the City Manager to execute the agreement between the City of Watertown, and First PREMIER Bank/ First PREMIER Bankcard pending review under the Naming Rights Agreement between the City of Watertown and Prairie Lakes Health System.

STAFF REFERENCE(S):

Dusty Rodiek

ATTACHMENT(S):

[PREMIER WTN ICE AGREE \(Final\)](#)

DONOR RECOGNITION AGREEMENT

PRAIRIE LAKES ICE ARENA

THIS DONOR RECOGNITION AGREEMENT (the "Agreement") is made and entered into this 18th day of January, 2024, (the "Effective Date") by and between the CITY OF WATERTOWN (the "City") and FIRST PREMIER BANK / PREMIER BANKCARD ("Donor") for the purpose of recognizing Donor's \$1,000,000 gift to the City of Watertown to facilitate development of the City's new, two-sheet ice arena known as the Prairie Lakes Ice Arena (the "Arena").

RECITALS

A. Donor is a business corporation headquartered in Sioux Falls, SD, operating as a financial services provider located within the City of Watertown and other communities throughout eastern South Dakota.

B. The City is currently constructing a two-sheet ice arena upon property legally described as "Lots 2-8 in Block 3 of The Lakes of Willow Creek First Addition to the Municipality of Watertown, in the County of Codington, South Dakota."

C. Donor has committed to a \$1,000,000 gift to the City to support the development of the Prairie Lakes Ice Arena and the City desires to recognize Donor's gift and wishes to name the Arena's competition sheet in Donor's honor.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the Parties do hereby agree as follows:

1. Gift to City. Donor has committed to gift the City One Million Dollars (\$1,000,000.00) consisting of fifteen (15) annual installments in the amount of Sixty-Six Thousand, Six Hundred and Sixty-Six Dollars and Sixty-Six Cents (\$66,666.66) over the term of this Agreement. The first such payment shall be made by March 31, 2024, and the final such payment shall be due by March 31, 2039.
2. Grant of Rights.
 - a. In recognition of Donor's gift, the City hereby names the competition rink in the Arena as the "PREMIER Rink" (the "Rink"). The City shall utilize the logo and branding attached hereto as Exhibit A. The Rink shall be referred to by the name, and the logo and branding shall be used whenever customary in all marketing, advertising and promotional materials, including print and electronic publications, print and electronic program guides, flyers, and the like, on websites, social media, press releases, tickets, and similar materials, and on applicable Arena Signage (collectively, "Marketing Materials").

- b. Subject to the terms and conditions set forth below, the City shall have the right to offer, grant, sell or otherwise convey the right to name, sponsor or advertise in any subordinate portion of the Rink, or other portion of the Arena, to third parties or to Donor by separate agreement ("Other Sponsor Rights").
 - i. The City agrees to grant Other Sponsor Rights only to reputable organizations.
 - ii. Any Other Sponsor Rights granted by City in the Rink shall be smaller than and may not obstruct Donor's nearby Signage.
 - iii. Any digital signage shall be under separate Scoreboard Sponsorship Agreement with the exception of digital time and audio announcements of welcoming the patrons to the Arena at the beginning of events and thanking the patrons for coming upon the end of events.
- c. The term of this Agreement shall be for 20 years from the date of opening of the PLIA to the public and through the completion of the hockey season; i.e. May 1, 2044. Donor shall have the first right to renew continued naming rights and shall notify the City 6 months prior to the completion of the term to allow for a new agreement to be negotiated and entered into between the Parties.
- d. Donor shall receive priority for game day tickets for all locations including but not limited to suites, ice patios, and loge seating areas. Tickets shall be purchased directly from User Groups (e.g. Youth Hockey Association and Junior Team) who shall be notified of this priority.

3. Signage.

- a. Right to Signage & Other Exposure. In recognition of Donor's gift, Donor shall be entitled to the signage as depicted in Exhibit B to this Agreement, which is hereby approved and made a part of this Agreement. The Parties shall mutually determine the appearance, location, quantity, and size of all further Signage. Approvals shall not be unreasonably withheld, delayed or conditioned. The appearance, location, structure, and size of any and all signage and other forms of exposure shall conform to local regulations, building codes, and any other applicable laws.
- b. Installation Costs. Donor shall be responsible for all costs and expenses associated with the permitting, preparation, production, mounting and installation of all Signage under this Agreement. Donor shall also be responsible for all costs and expenses associated with the design of all Signage under this Agreement. All of these expenses shall be in addition to, and not a part of, the gift set forth in Section 1.

- c. Insurance, Manufacturer's Warranties and Ownership. Once installed, the City will own the Signage. Title to the Signage will be transferred to the City free and clear of security interests, liens and claims. The Donor will also transfer to the City any applicable manufacturers' warranties, which warranties must continue to be effective upon transfer to the City. The City shall insure the Signage against casualty loss in commercially reasonable amounts.
 - d. Power, Maintenance and Replacement Costs. The City shall be responsible for providing power for all Signage and paying the costs and expenses associated with the maintenance and repair of all Signage. The City will, at its expense, be responsible for completing routine maintenance and repairs, including bulb replacement, for the Donor's Signage. The Donor will pay for the replacement of the Donor's Signage (including the cost of the replacement Signage and its installation, and the cost of removing the old Signage) in the event: (i) the parties mutually agree the Donor Signage must be replaced due to ordinary wear or tear; (ii) the parties mutually agree replacement is needed or desirable due to changing technology or to enhance the appearance of the Arena, (iii) the Donor desires to change the Logo, subject to the City's approval, which approval will not be unreasonably withheld; or (iv) the Donor Signage has been damaged or has deteriorated beyond repair due to any cause. In the event the Donor's Signage is replaced due to damage as described in Subsection (iv) above, insurance proceeds received by the City for the casualty loss, will first be used to replace the Signage with the excess cost to be paid by the Donor.
4. Trademarks. The Parties agree that the Donor shall own all rights, title and interest in any logo or stylized form produced by Donor depicted on Signage. Donor shall license or otherwise acquire from the creator(s) of any designs or logos sufficient rights including rights in any copyright, to permit unrestricted use of the trademarks associated with the Signage. Donor hereby grants to the City a limited, non-exclusive, revocable and royalty-free license to use any logo or stylized form on any Signage, for any and all purposes related to the operation of the Arena during the Term, and grants to the City a right to sublicense such trademarks to parties holding events at the Arena for the sole purpose of referring to the location of sublicensee's events held at the Arena. City and sublicensees shall make no design or other changes to any of Donor's logos or stylized forms used on the Signage.
 5. Other Amenities to Donor. Donor shall have first right to purchase tickets to any of the loge, ice patios, and luxury suites, for all Jr. Team season games. All tickets shall be purchased directly from the entity coordinating ticket purchases for the games and City will advise the Jr. Team lessee of such first right.
 6. Submissions and Notices. Any notices required or permitted hereunder shall be considered as duly made if delivered by mail, express package or delivery service, facsimile or hand delivery to the Party for which it is intended at the following address:

To City:
City of Watertown
Attn: City Manager
P.O. Box 910
Watertown, SD 57201

To Donor:
First PREMIER Bank / PREMIER Bankcard
Attn: CEOs
P.O. Box 1348
Sioux Falls, SD 57101

7. Indemnity by the City. The City agrees to protect, indemnify and save harmless Donor, its related and affiliated entities, its authorized agents, and any director, officer, executive or representative of any of them, from and against any and all expenses, damages, claims, suits, actions, judgments and costs whatsoever, including reasonable attorneys' fees arising out of, or in any way connected with, the operation of the Arena by the City, provided that the City shall be given prompt notice of any such action or claim.
8. Indemnification by Donor. Subject to the terms and conditions of this Agreement, Donor, jointly hereby agrees to indemnify, defend, and hold harmless the City, its elected and appointed officials, agents, officers, city council members, employees, consultants, agents, volunteers, and their respective successors and assigns from and against all costs, damages, liabilities, claims, causes of actions, and expenses (including reasonable attorney's fees but only to the extent set forth below in this Section 7 ("Losses")) of any kind or nature resulting from (i) the content of any Signage, recognition items or any messages or promotions displayed and/or broadcast hereunder in the form furnished and/or approved by the Donor, including without limitation, claims, demands, or litigation alleging Signage, recognition items, promotions, or messages are defamatory, constitute illegal competition, or unfair trade practices, contain infringement of trademarks, trade names or service marks, constitute a violation of intellectual property rights or constitute a violation of rights of privacy or infringement of copyrights and proprietary rights, (ii) the willful misconduct and the negligent acts, errors and omissions of the Donor and its respective officers, directors, employees, agents and contractors while performing the installation or replacement of the Donor's Signage, and (iii) the breach or default of the Donor of this Agreement. If the City learns of any Losses, the City will give the Donor prompt notice in writing of the Losses.
9. Reservation of Rights. Any rights not specifically granted to Donor by the City under this Agreement shall be and remain the property of the City.
10. Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State of South Dakota. If either Party seeks to present a dispute to a court, then such court shall be the Circuit Court for the Third Judicial Circuit, Codington County, South Dakota. Each Party hereby waives any right it may have to present any dispute arising from or in any manner related to this Agreement to any United States District Court.
11. Disputes and Attorneys' Fees. It is the intent of the Parties to attempt in good faith to resolve any dispute first through negotiation. If legal action is brought by either Party to interpret or enforce any provisions of this Agreement, each Party shall bear its own attorneys' fees

for any resulting litigation, arbitration or any other dispute resolution that may be entered into by the Parties.

- 12. Execution and Delivery Required. This shall not be considered to be a binding agreement unless and until signed by both Parties as provided below, which shall be only after the authorizing resolution takes effect. This Agreement may be executed in counterparts.
- 13. Subordinate to Prairie Lakes Healthcare Systems Naming Rights Agreement. Donor acknowledges and is informed that the naming of the competition rink and the signage and references to the PREMIER Rink under the terms of this Agreement is subordinate to the City's Naming Rights Agreement with Prairie Lakes Healthcare System for the Ice Center. Use of the name "Prairie Lakes Ice Arena" shall be used by Donor in all instances in which business is conducted or information released whereby a reference is made to the ice center. A copy of the City's agreement with Prairie Lakes Healthcare System is available upon request.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first above written.

CITY OF WATERTOWN

FIRST PREMIER BANK / PREMIER BANKCARD

Amanda Mack
City Manager


By: Brenda Bethke
Its: SVP Marketing, Communications and Strategy

Attest:

Kristen Bobzien
Finance Office

State of South Dakota)
)SS:
County of Codington)

On this _____ day of _____, 2024, before me, the undersigned officer, personally appeared Amanda Mack and Kristen Bobzien, who acknowledged themselves to be the City Manager and Finance Officer, respectively, of the City of Watertown, a municipal corporation, and that they as such City Manager and Finance Officer, being authorized so to do, executed

Exhibit B:

PREMIER signage and branding shall include, but not be limited, to the following:

- 1. Entrance signage to the PREMIER Rink as shown below:



- 2. Signage on the north end of the PREMIER Rink as shown below:



3. Signage on the south end of the PREMIER Rink as shown below (Please note: PREMIER "P" will actually be located to the window's right):

4.



5. Two dasher boards. One adjacent to the PREMIER Rink penalty box and one adjacent to the PREMIER Rink home bench.

6. PREMIER logo at center ice as shown below.

