

LAND CONTRACT

This transfer is exempt from Real Estate Transfer Fee pursuant to Wisconsin Stats. Sections 77.25(2).

This Land Contract ("Contract") is entered into by and between the **City of Madison**, a Wisconsin municipal corporation ("Vendor"), and **Madison Ice Hartmeyer LLC**, a Wisconsin limited liability company ("Purchaser"). Vendor sells and agrees to convey to Purchaser, upon the prompt and full performance of this Contract by Purchaser, the following property, together with the rents, profits, fixtures and other appurtenant interest (all called the "Property"), in Dane County, State of Wisconsin:

Parcel A:

Part of Fractional West 1/2 of Southwest 1/4 of Section 31, Township 8 North, Range 10 East, in the City of Madison, Dane County, Wisconsin, described as follows:

Commencing at the Southwest corner of said Section 31; thence North along the West line of Section 31 for a distance of 33.0 feet to the North line of Commercial Avenue; thence East along the North line of Commercial Avenue, 470.7 feet to the Easterly line of the Chicago-Northwestern Railroad right-of-way and the point of beginning of this description; thence Northwesterly along said Easterly right-of-way line, 256.75 feet to the South line of property leased to the Yellow Truck Lines, Inc. of Madison, as described in Volume 197 of Miscellaneous, page 220 as Document Number 732766; thence Easterly along the South boundary of said leased lands, 282.5 feet to the West line of Ruskin Street; thence South along the West line of Ruskin Street, 250.3 feet to the North line of Commercial Avenue; thence West along the North line of Commercial Avenue 234.0 feet to the point of beginning, EXCEPT that part conveyed for street purposes as set forth in a Quit Claim Deed recorded in Volume 493 of Records, page 245 as Document Number 1387336.

Parcel B:

Part of Fractional West 1/2 of Southwest 1/4 of Section 31, Township 8 North, Range 10 East, in the City of Madison, Dane County, Wisconsin, described as follows:

Commencing at the Southwest corner of said Section 31; thence North along the West line of Section 31 for a distance of 33.0 feet to the North line of Commercial Avenue; thence East along the North line of Commercial Avenue, 704.7 feet to the West line of Ruskin Street; thence Northerly along the West line of Ruskin Street 250.3 feet to the Southeast corner of leasehold of Yellow Truck Lines, Inc. as recorded in Volume 197 of Miscellaneous, on page 220 as Document Number 732766; thence East parallel to Commercial Avenue 66.0 feet to the East line of said Ruskin Street and the point of beginning of this description, said point also being the Southwest corner of leasehold of Wheeler Transfer and Storage Company, which is recorded in Volume 227 of Miscellaneous, page 559 as Document Number 792771; thence East parallel to Commercial Avenue 250.0 feet; thence South on a line parallel to Ruskin Street 250.3 feet to the North line of Commercial Avenue; thence West along the North line of Commercial Avenue 250.0 feet to the East line of Ruskin Street; thence Northerly along East line of Ruskin Street, 250.3 feet to the point of beginning, EXCEPT that part conveyed for street purposes as set forth in a Quit Claim Deed recorded in Volume 493 of Records, page 245 as Document Number 1387336.

Together with the City's right, title and interest in Parcel C:

Ingress/Egress Easement and Building Encroachment Easement as set forth in Grant of Easement dated September 16, 1966 and recorded October 12, 1966 in the Office of the Register of Deeds for Dane County, Wisconsin in Volume 452 of Miscellaneous, Page 364 as Document Number 1171559; Amendment to Grant of Easement dated November 1, 1973 and recorded November 23, 1973 in the Office of the Register of Deeds for Dane County, Wisconsin in Volume 484 of Records, Page 82 as Document Number 1383555.

This is not homestead property.

DANE COUNTY
REGISTER OF DEEDS

DOCUMENT #
395605

08/17/2004 02:46:21PM

Trans. Fee:
Exempt #: 2

Rec. Fee: 23.00
Pages: 7

002386

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO: Theodore C. Widder
20 N. Carroll St.
Madison, WI 53703

Tax Parcel Nos.: 251-0810-313-0094-0
251-0810-313-0099-0

1. Purchase Price.

- a. Purchaser agrees to purchase the Property and to pay to Vendor the principal amount of \$550,000.00, plus interest in arrears, in the following manner: (a) the principal amount of \$3,651.66 shall be payable on July 30, 2004; and (b) the balance of \$548,640.01, together with interest in arrears from the date hereof on the balance outstanding from time to time at the rate of five percent (5%) per annum until paid in full, shall be payable as set forth in attached Exhibit A. Provided, however, the entire outstanding balance shall be paid in full on or before January 30, 2014 (the "Maturity Date").
- b. Following any default in payment and failure to cure within 15 days of written notice thereof, interest shall accrue at the rate of ten percent (10%) per annum on the entire amount in default (which shall include, without limitation, delinquent interest and, upon acceleration or maturity, the entire principal balance).
- c. Payments shall be applied first to interest on the unpaid balance at the rate specified and then to principal. No penalty shall be charged for prepayment.
- d. All payments are to be made payable to the City Treasurer and sent or personally delivered to Vendor at the address specified in Paragraph 9.

2. Taxes and Special Assessments. Purchaser promises to pay when due all taxes (unless Purchaser is otherwise exempt therefrom) and assessments levied on the Property or upon Vendor's interest in it and to deliver to Vendor on demand receipts showing such payment.

3. Indemnification and Insurance.

- a. Purchaser shall keep the improvements on the Property, as well as the contents, insured against loss or damage occasioned by fire, extended coverage perils and such other hazards as Vendor may require, without co-insurance, through insurers approved by Vendor, in the amounts of \$2,168,000.00 for the improvements and \$200,000.00 for the contents. Purchaser shall pay the insurance premiums when due. The policies shall contain the standard clause in favor of Vendor's interest and, unless Vendor otherwise agrees in writing, the original of all policies covering the Property, or a certificate thereof, shall be deposited with Vendor. Purchaser shall promptly give notice of loss to insurance companies and Vendor. Unless Purchaser and Vendor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged.
- b. Additionally, Purchaser shall carry commercial general liability insurance including contractual liability with no less than the following limits of liability, as may be adjusted, from time to time, by the City's Risk Manager: bodily injury, death and property damage of \$1,000,000.00 per occurrence. The policy or policies shall name Vendor as an additional insured. As evidence of this coverage, Purchaser shall furnish to Vendor a certificate of insurance on a form provided by Vendor.
- c. Purchaser shall be liable to and hereby agrees to indemnify, defend and hold harmless Vendor, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon Vendor or its officials, officers, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of Purchaser and/or its officials, officers, agents, employees, assigns, guests, invitees, lessees or subcontractors, in the performance of this Contract, whether caused by or contributed to by the negligent acts of Vendor, its officers, officials, agents, and employees.

4. Hazardous Substances; Indemnification. Purchaser represents and warrants that its use of the Property will not generate any hazardous substance, and it will not store or dispose on the Property nor transport to or over the Property any hazardous substance in violation of any applicable federal, state or local law, regulation or rule. Purchaser further agrees to hold Vendor harmless from and indemnify Vendor against any release of such hazardous substance

and any damage, loss, or expense or liability resulting from such release including all attorneys' fees, costs and penalties incurred as a result thereof except any release caused by the sole negligence or intentional acts of Vendor, its employees or agents. "Hazardous substance" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease or damage to or loss of use of real or personal property.

5. Title and Possession.

- a. Purchaser states that Purchaser is satisfied with the title as shown by the title evidence submitted to Purchaser for examination except: None.
- b. Purchaser agrees to pay the cost of future title evidence.
- c. Purchaser shall be entitled to take possession of the Property on July 30, 2004.

6. Waste. Purchaser covenants not to commit waste nor allow waste to be committed on the Property, to keep the Property in good and tenable condition and repair, to keep the Property free from liens superior to the lien of this Contract, and to comply with all laws, ordinances and regulations affecting the Property.

7. Deed. Vendor agrees that in case the purchase price with interest and other moneys shall be fully paid and all conditions shall be fully performed at the times and in the manner herein specified, Vendor will on demand, execute and deliver to Purchaser, a Quit Claim Deed of the Property.

8. Default.

- a. Purchaser agrees that time is of the essence and (a) in the event of a default in the payment under this Contract of any principal or interest which continues for a period of fifteen (15) days following written notice thereof by Vendor (delivered personally or mailed by certified mail); or (b) in the event of a default in performance under this Contract of any other obligation of Purchaser which continues for a period of thirty (30) days following written notice thereof by Vendor (delivered personally or mailed by certified mail), or such reasonably extended time period as may be necessary to cure in the event the default is not a health or safety violation and cannot, because of its nature, be cured within said thirty (30) days; or (c) in the event of a default in the payment under the loan agreement and promissory note of even date hereof from the Purchaser to the Vendor of any principal or interest which continues for a period of fifteen (15) days following written notice thereof; then the entire outstanding balance under this Contract shall become immediately due and payable in full, at Vendor's option and without notice (which Purchaser hereby waives), and Vendor shall also have the following rights and remedies (subject to any limitations provided by law) in addition to those proved by law or in equity:
 - (i) Vendor may, at its option, terminate this Contract and Purchaser's rights, title and interest in the Property and recover the Property back through strict foreclosure with any equity of redemption to be conditioned upon Purchaser's full payment of the entire outstanding balance, with interest thereon from the date of default at the rate in effect on such date and other amount due hereunder (in which event all amounts previously paid by Purchaser shall be forfeited as liquidated damages for failure to fulfill this Contract and as rental for the Property if Purchaser fails to redeem); or
 - (ii) Vendor may sue for specific performance of this Contract to compel immediate and full payment of the entire outstanding balance, with interest thereon at the rate in effect on the date of default and other amounts due hereunder, in which event the Property shall be auctioned at judicial sale and Purchaser shall be liable for any deficiency; or

- (iii) Vendor may sue at law for the entire unpaid purchase price or any portion thereof;
or
- (iv) Vendor may declare this Contract at an end and remove this Contract as a cloud on title in a quiet-title action if the equitable interest of Purchaser is insignificant; and
- (v) Vendor may have Purchaser ejected from possession of the Property and have a receiver appointed to collect any rents, issues or profits during the pendency of any action under (i), (ii) or (iv) above.

Notwithstanding any oral or written statement or actions of Vendor, an election of any of the foregoing remedies shall only be binding upon Vendor if and when pursued in litigation and all costs and expenses, including reasonable attorneys fees of Vendor incurred to enforce any remedy hereunder (whether abated or not) to the extent not prohibited by law and expenses of title evidence shall be added to principal and paid by Purchaser, as incurred, and shall be included in any judgment.

- b. Upon the commencement or during the pendency of any action of foreclosure of this Contract, Purchaser consents to the appointment of a receiver of the Property to collect the rents, issues, and profits of the Property during the pendency of such action, and such rents, issues, and profits when so collected shall be held and applied as the court shall direct.
 - c. Purchaser shall not transfer, sell or convey any legal or equitable interest in the Property (by assignment of any of Purchaser's rights under this Contract or by option, long-term lease or in any other way) without the prior written consent of Vendor unless the outstanding balance payable under this Contract is first paid in full.
 - d. Vendor may waive any default without waiving any other subsequent or prior default of Purchaser.
9. **Notices.** All notices to be given under the terms of this Contract shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below:

For Vendor: City of Madison
 Community and Economic Development Unit
 Real Estate Section
 Attn.: Real Estate Manager
 215 Martin Luther King, Jr. Blvd., Suite LL-100
 P. O. Box 2983
 Madison, WI 53701-2983

For Purchaser : Madison Ice, Inc.
 c/o Dan O'Connell
 2940 Maple Run Drive
 Madison, WI 53719

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notices shall be given.

10. **Special Conditions.**

- a. As a condition of this Contract and the land contract of even date hereof between the parties pertaining to property located at 725 Forward Drive, Madison, Wisconsin, the Purchaser shall maintain a minimum of two ice sheets within the City of Madison for twenty (20) years from the date of the execution of both land contracts. The ice sheets, as well as the related meeting facilities (collectively, the "Facilities") shall be available for use by the "General Public" an average of five (5) hours per week, at rates determined by the Purchaser, during the months of October through March. The term "General Public" as used in this Contract is defined as all individuals, families and organizations that are not "Core Users," with the term "Core Users" being defined as the Dane County Youth Hockey Organization and its member clubs, including Madison

Youth Hockey Organizations, Figure Skating Club of Madison, high school athletic programs as participants in the Wisconsin Interscholastic Athletic Association, and the Speed Skating Club of Madison and successor organizations.

- b. The Purchaser shall implement programs to assure that individuals and families of all income levels have the opportunity to use the Facilities during those periods of time that the Facilities are not being utilized by the Core Users. In addition, the Purchaser shall promote the involvement of individuals and families of all income levels with the Core User programs.
- c. The Vendor agrees to meet with the Purchaser to discuss and assist with the planning and development for potential expansion and/or relocation of the Facilities within the City of Madison.

11. **Binding Effect.** All terms of this Contract shall be binding upon and inure to the benefits of the heirs, legal representatives, successors and assigns of Vendor and Purchaser.

Dated this 30th day of July, 2004.

CITY OF MADISON,
a Wisconsin corporation

By: [Signature]
David J. Cieslewicz, Mayor

By: [Signature]
Ray Fisher, City Clerk

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 20th day of July, 2004, the above named David J. Cieslewicz, Mayor of the City of Madison, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

[Signature]
Notary Public, State of Wisconsin
My Commission: expired 2-12-2006

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 19th day of July, 2004, the above named Ray Fisher, City Clerk of the City of Madison, acting in said capacity and known to me to be the person who executed the foregoing instrument and acknowledged the same.

[Signature]
Notary Public, State of Wisconsin
My Commission: is permanent.

Approved as to form:

Michael P. May
Michael P. May, City Attorney

7-19-04
Date

Approved:

002391

Dean Brassler
Dean Brassler, City Comptroller

7/19/04
Date

Approved:

Kevin Houlihan
Kevin Houlihan, Risk Manager

7/21/04
Date

MADISON ICE HARTMEYER LLC,
a Wisconsin limited liability company

By its Managing Member:

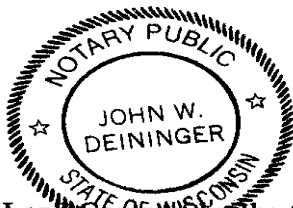
MADISON ICE, INC.,
a Wisconsin not-for-profit corporation

By: Dan O'Connell
Dan O'Connell, President

By: Tom Groth
Tom Groth, Vice President

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 30 day of July, 2004, the above named Dan O'Connell, President, and Tom Groth, Vice President, of Madison Ice, Inc., a Wisconsin not-for-profit corporation, the Managing Member of Madison Ice Hartmeyer LLC, a Wisconsin limited liability company, known to me to be the persons who executed the above and foregoing instrument and acknowledged that they executed the foregoing instrument as such officers as the deed of such corporation, by its authority.



John W. Deininger
Notary Public, State of Wisconsin
My Commission: exp. 11-11-07

Execution of this Land Contract by the City of Madison is authorized by Amended Third Substitute Resolution No. 61584, ID No. 35176, adopted by the Common Council of the City of Madison on June 15, 2004.

Drafted by the City of Madison Real Estate Section.
Jerry Lund

Project No. 7528

EXHIBIT A

AMORTIZATION SCHEDULE

002392

Principal: \$550,000

- Terms:**
- 1 - Ten year term, twenty year amortization, with balloon payment
 - 2 - Interest rate of 5%, compounded semi-annually
 - 3 - Semi-annual payments
 - 4 - Debt service payments of \$43,819.86 per year
 - 5 - Purchase closed on July 30, 2004

	<u>Payment Date</u>	<u>Beginning Balance</u>	<u>Principal Payments</u>	<u>Interest Payments</u>	<u>Total Payments</u>	<u>Ending Balance</u>
						550,000.00
1	7/30/2004	550,000.00	3,651.66	0.00	3,651.66	546,348.34
2	1/30/2005	546,348.34	8,251.22	13,658.71	21,909.93	538,097.12
3	7/30/2005	538,097.12	8,457.50	13,452.43	21,909.93	529,639.62
4	1/30/2006	529,639.62	8,668.94	13,240.99	21,909.93	520,970.68
5	7/30/2006	520,970.68	8,885.66	13,024.27	21,909.93	512,085.02
6	1/30/2007	512,085.02	9,107.80	12,802.13	21,909.93	502,977.22
7	7/30/2007	502,977.22	9,335.50	12,574.43	21,909.93	493,641.72
8	1/30/2008	493,641.72	9,568.89	12,341.04	21,909.93	484,072.83
9	7/30/2008	484,072.83	9,808.11	12,101.82	21,909.93	474,264.72
10	1/30/2009	474,264.72	10,053.31	11,856.62	21,909.93	464,211.41
11	7/30/2009	464,211.41	10,304.64	11,605.29	21,909.93	453,906.77
12	1/30/2010	453,906.77	10,562.26	11,347.67	21,909.93	443,344.51
13	7/30/2010	443,344.51	10,826.32	11,083.61	21,909.93	432,518.19
14	1/30/2011	432,518.19	11,096.98	10,812.95	21,909.93	421,421.21
15	7/30/2011	421,421.21	11,374.40	10,535.53	21,909.93	410,046.81
16	1/30/2012	410,046.81	11,658.76	10,251.17	21,909.93	398,388.05
17	7/30/2012	398,388.05	11,950.23	9,959.70	21,909.93	386,437.82
18	1/30/2013	386,437.82	12,248.98	9,660.95	21,909.93	374,188.84
19	7/30/2013	374,188.84	12,555.21	9,354.72	21,909.93	361,633.63
20	1/30/2014	361,633.63	361,633.63	9,040.84	370,674.47	0.00
			<u>550,000.00</u>	<u>218,704.87</u>	<u>768,704.87</u>	