

## **RESOLUTION NO. R-23-42**

**A RESOLUTION DECLARING THE SYNTHETIC ICE RINK AND ASSOCIATED EQUIPMENT AS SURPLUS AND AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL FROM THE CITY OF MOBERLY, MISSOURI IN THE AMOUNT OF \$20,000.00 FOR THE SALE OF SUCH PROPERTY.**

**WHEREAS**, the items set forth in the attachment, Exhibit "A" are no longer necessary for any municipal public purpose of the City; and

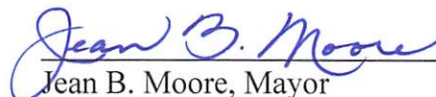
**WHEREAS**, the City Council finds that it is in the best interest of the citizens of the City of Gladstone that all of said items be sold to the City of Moberly, Missouri as approved by the City Manager.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:**

**THAT**, the items set forth in Exhibit "A" are hereby declared surplus property of the City of Gladstone; and

**FURTHER THAT**, the City Manager of the City of Gladstone, Missouri, is hereby authorized to sell the items set forth in Exhibit "A" to the City of Moberly, Missouri.

**INTRODUCED, READ, PASSED, AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 24TH DAY OF JULY 2023.**

  
Jean B. Moore, Mayor

ATTEST:

  
Kris Keller, City Clerk

# **Exhibit A**

## **(Synthetic Ice Rink and Associated Equipment)**

1. 200 Ice Skates and three (3) storage racks
2. Ice Skate Sharpener and miscellaneous sharpening parts
3. Floor scrubber used to clean ice
4. Ice rink components including railings, synthetic ice, and plywood
5. Five (5) Push Bars



## ***Request for Council Action***

**RES** ☒ # R-23-42

**BILL** ☐ # City Clerk Only

**ORD** ☐ # City Clerk Only

Date: 7/11/2023

Department: Parks & Recreation

Meeting Date Requested: 7/24/2023

Public Hearing: Yes ☐ Date: Click here to enter a date.

Subject: Surplus of Synthetic Ice Rink

Background: The City purchased and operated the Synthetic Ice Rink from 2012-2020. The ice rink is labor intensive to set up/take down each year. The skates and rink have not been used since last installed in the winter of 2019-2020.

Budget Discussion: N/A

Public/Board/Staff Input: Despite City Staff's best effort in marketing and creating an experience, the facility never took off as expected. The expense of installation each year and staff expense was far greater than that of the generated revenue, thus, it is City Staff's recommendation to surplus the rink and associated equipment. The City of Moberly contacted City Staff asking about the facility and have made an offer to purchase the equipment.

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor.

Justin Merkey  
Department Director/Administrator

JM  
City Attorney

BB  
City Manager

**COOPERATIVE AGREEMENT FOR PURCHASE**  
**OF SYNTHETIC ICE RINK**

THIS COOPERATIVE AGREEMENT FOR PURCHASE OF SYNTHETIC ICE RINK (this "**Agreement**") is made and entered into as of the 21<sup>st</sup> day of August 2023 by and between the **CITY OF MOBERLY, MISSOURI** a third-class city and a Missouri municipal corporation having a principal office at 101 West Reed Street, Moberly, Missouri 65270 (the "**City**") and the **CITY OF GLADSTONE, MISSOURI**, a third-class city and a Missouri municipal corporation having a principal office at 7010 N. Holmes, Gladstone, MO 64118 ("**Gladstone**") and together with the "**City**" the "**Parties**").

**RECITALS**

A. Sections 70.210 through 70.320 of the Revised Statutes of Missouri, as amended, authorize Missouri municipalities to contract with any Missouri political subdivision for the planning, development, construction, acquisition, or operation of any public improvement or facility, or for a common service, provided, that the subject and purposes of any such contract or cooperative action are within the scope of the powers of such municipality.

B. Gladstone owns a synthetic ice rink which is no longer in use and is willing to sell said rink to City under the terms and conditions provided herein.

C. City desires to feature an attraction in a new entertainment venue and is willing to purchase the rink from Gladstone for that purpose under the terms and condition provided herein.

**AGREEMENT**

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. **The Rink & Accessories.** The rink is a branded IcePro synthetic 44' x 76' oval rink. The following accessories are included with the rink: approximately 200 pairs of ice skates, railings, racks for skates, a skate sharpener and a floor scrubber.

2. **Consideration & Delivery.** The parties are in agreement that the price for the ice rink and all accessories is Twenty Thousand Dollars (\$20,000.00) payable by City to Gladstone prior to or at the time of delivery. The parties shall agree to a date for delivery at which point Gladstone will make available to City at a location to be named the rink and accessories for loading and transport by City at City's expense.

3. **Condition of Rink.** Gladstone purchased and began using the rink in December of 2012 and continued using the rink until 2019. Only one side of the rink was used, and the other side is like new. The accessories are in usable condition. The rink and accessories are sold "as is" meaning in their

current condition at the time of sale and without any warranty or guarantee by Gladstone. If a manufacturer's warranty still exists, Gladstone agrees to assign said warranty to City.

**4. Right to Inspect.** The City is granted the right to inspect the rink and accessories prior to concluding the purchase and within thirty (30) days of the execution by both parties of this Agreement. If during that 30-day period, the City concludes that the rink or the accessories are not suitable for their intended use then this Agreement may be declared null and void. Gladstone will cooperate with City to arrange for such an inspection upon request.

**5. No Waiver of Sovereign Immunity; Limited Public Liability; No Personal Liability.** Nothing in this Agreement shall be construed or deemed to constitute a waiver of the City's or Gladstone's sovereign immunity. The parties hereto agree that in no event shall the City or Gladstone or any of their respective officials, agents, attorneys, employees, or representatives have any liability in damages or any other monetary liability to each other or any successor, assign, heir or personal representative of each other in respect of any suit, claim, or cause of action arising out of this Agreement and each party hereby waives any such claim. No official, officer, agent, attorney, employee, or representative of the City or Gladstone shall be personally liable to each other or their successors, assigns, heirs or personal representatives in the event of any default or breach by any party under this Agreement.

**6. Notices.** Any Notice required by this Agreement shall be deemed given if deposited in the United States Mail, first class, postage prepaid and addressed as hereinafter specified.

If to the City:                      City of Moberly  
   101 West Reed Street – City Hall  
   Moberly, Missouri 65270  
   Attn: City Manager

If to Gladstone:                      City of Gladstone  
   7010 N. Holmes Street  
   Gladstone, Missouri 64118  
   Attn: Justin Merkey

Each party shall have the right to specify that notice is to be addressed to another address by giving to the other party Ten (10) days written notice thereof.

**7. Entire Agreement; Amendment.** The parties agree that this Agreement constitutes the entire agreement between them and that no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the parties and when authorized and approved by the Moberly City Council.

**8. Relationship of the Parties; No Third Party Right.** Nothing contained in this Agreement nor any act of Gladstone or the City shall be deemed or construed to create a partnership or agency relationship between the parties, or their agents or representatives and this Agreement is and shall be limited to the specific purposes set out in this Agreement. Other than as expressly provided in this Agreement, no party shall be the agent of, or have any rights to create any obligations or liabilities



binding on, the other party. The parties do not intend to confer any benefit under this Agreement on any person or entity other than the named parties hereto.

9. **Severability.** In the event any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

10. **Binding Effect.** Except as otherwise expressly provided in this Agreement, the covenants, conditions and agreements contained in this Agreement shall bind and inure to the benefit of Gladstone, the City, and their respective successors and permitted assigns.

11. **Choice of Law; Venue.** This Agreement and its performance shall be governed by and construed by the laws of the State of Missouri applicable to contracts made and to be performed wholly within such state, without regard to choice or conflict of laws provisions. The parties hereto agree that any action at law, suite in equity, or other judicial proceeding arising out of this Agreement shall be instituted only in the Circuit Court of Randolph County, Missouri or in the Federal District Court for the Eastern District of Missouri and waive any objections based upon venue or *forum non conveniens* or otherwise.

12. **Execution; Counterparts.** Each person executing this Agreement in a representative capacity warrants and represents that he or she has authority to do so, and upon request by the other party, proof of such authority will be furnished to the requesting party. This Agreement may be executed at different times and in two or more counterparts, and all counterparts so executed shall for all purposes constitute one and the same instrument, binding on the parties hereto, notwithstanding that both parties may not have executed the same counterpart. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement is sought.

IN WITNESS WHEREOF, the City and Gladstone have each caused this Agreement to be executed in multiple original counterparts in their respective names and attested to as of the date first above written.

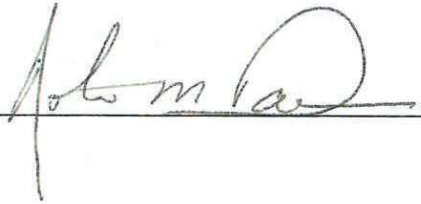
CITY OF MOBERLY, MISSOURI  
(the "City")

By:   
Mayor

ATTEST:

By: Shannon Hance  
Shannon Hance, City Clerk

CITY OF GLADSTONE, MISSOURI  
("Gladstone")

By: \_\_\_\_\_

ATTEST:

  
\_\_\_\_\_  
City Clerk