

**MEMORANDUM**

**TO:** MAYOR AND CITY COMMISSION

**FROM:** CITY ATTORNEY'S OFFICE

**DATE:** February 15, 2016

**RE: Agreement for Purchase of Dasher Boards with Becker Arena Products, Inc., d/b/a Rink Equipment Resource**

Attached for your consideration is an Agreement with Becker Arena Products, Inc., d/b/a Rink Equipment Resource for the purchase of dasher boards to be used at The Lakeland Center. The dasher boards currently owned by The Lakeland Center are unusable for ice hockey or indoor soccer due to missing glass and hardware. The Lakeland Center recently signed a contract with an indoor soccer team that will begin play in November 2017. In addition, three potential minor league hockey teams have approached The Lakeland Center over the past 6 months about using the facility and TLC staff has had conversations with Tampa Bay Lightning representatives as well about use of the ice rink for local high school hockey that the Lightning currently oversees.

Rink Equipment Resource is a well-known manufacturer of ice rink equipment that also serves as a broker of used equipment. Through Rink Equipment Resource, The Lakeland Center has located a used dasher board system meeting its requirements. Pursuant to the attached Agreement, The Lakeland Center will purchase the dasher board system for a purchase price of \$82,000, including shipping. Rink Equipment Resource will supply any missing parts at no charge.

It is recommended that the City Commission approve the purchase of dasher boards for The Lakeland Center pursuant to the attached Agreement and authorize the appropriate City officials to execute the Agreement.

PCD  
attachment

**Sale Agreement for Equipment  
Rink Equipment Resource, Agent**

This is a contract of sale between the party identified below ("Buyer") and a party ("Principal") that will be disclosed after execution of this Agreement. Signing on behalf of Principal is Becker Arena Products, Inc., d/b/a Rink Equipment Resource ("RER"), Principal's fully authorized agent.

Recitals (Background):

- A. RER has located certain equipment or items for sale and referenced below, all of which is currently owned by Principal (the "Equipment"), and RER has presented information on the Equipment on RER's website or otherwise made its availability known to Buyer;
- B. Principal has authorized RER to enter into this Agreement on Principal's behalf to sell the Equipment to Buyer; and
- C. Buyer had decided to purchase the Equipment from Principal by entering into this Agreement with Principal, to be signed by RER.

Buyer: The Lakeland Center

Address: 701 Lime St., Lakeland FL 33815

Phone: 863-834-8134

Fax:

E-Mail: peter.caruso@lakelandgov.net

**Address for delivery, if different from the above:**

Item(s) to be purchased ("Equipment"), and price(s), including reference to display on Rink Equipment Resource's website: **Item 1044 (see Exhibit A), \$82,000 delivered. Must ship by April 15<sup>th</sup> 2016. Becker Arena Products owns this set of boards. Becker will review these boards to confirm the inventory is complete. This will include the fasteners to secure the boards sections together. Floor mounting fasteners vary from site to site and would be sold separately if needed by the buyer.**

Additional charges (if any): **All unloading is the responsibility of the purchaser.**

Total Price (prices and all additional charges): **\$82,000. 50% nonrefundable due now, balance due 1 week prior to shipment.**

Sales taxes or other transaction-based taxes, freight and insurance charges will be added, if appropriate. Buyer will pay such taxes and charges, or reimburse RER or Principal for paying them, whenever charged, even after delivery of Equipment.

Shipment date(s) Requested by Buyer:

Shipment date(s) confirmed by RER (See Section 6):

**The terms and conditions of this Agreement include those shown in Paragraphs 1-14 of the Terms and Conditions attached hereto or printed on the back hereof, all of which additional Terms and Conditions Buyer acknowledges having read and accepted.**

**Buyer**

Print Name: \_\_\_\_\_

**Principal, by Agent, Rink Equipment Resource**

Print Name: \_\_\_\_\_

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## ADDITIONAL TERMS AND CONDITIONS

1. **AGREEMENT.** After a credit check and such other due diligence as RER in its sole discretion may consider appropriate, RER, if it signs this Agreement, will sign this Agreement on behalf of the Principal. The information above and these terms and conditions are the entire agreement between Principal and the party identified above as "Buyer," and they supersede all other agreements and understandings, whether written or oral, between Principal and Buyer with respect to the purchase of the items listed above. Principal's acceptance of Buyer's offer to purchase the Equipment is conditional upon Buyer's agreement to these terms and conditions hereof, and none of Buyer's additional or different terms and conditions will apply or will have any effect unless Principal explicitly agrees to them in writing. After Buyer has signed it, this Agreement becomes effective when RER signs it on behalf of Principal. However, Principal has no obligation to sign or otherwise accept the Agreement, even after signature by Buyer.

2. Intentionally deleted.

3. **PRICE.** The price of the Equipment, or prices for various items of Equipment, are stated above. Unless otherwise explicitly agreed in writing by the parties, the prices stated exclude all taxes (whether national, state, local, or other) and all expenses of transportation and transportation insurance; all applicable taxes and all such expenses will be paid by Buyer.

4. **PAYMENT TERMS.** Unless otherwise explicitly accepted by the parties in writing, payment terms are: the entire purchase price payable before the projected date of shipment as stated above or provided later to Buyer by written notice. If the full amount required, including charges announced by RER for shipping and insurance, is not received by Principal by a date scheduled for shipment (or by a date rescheduled according to this Section 4), Principal may choose another date, notify Buyer, and delay shipment until the chosen date. If Principal has offered Buyer more favorable payment terms than payment in advance, and if Principal then has any doubt regarding Buyer's ability to pay the then remaining amount of the full amount with shipping charges and insurance, Principal may decline to deliver until Buyer adequately demonstrated its ability and willingness to pay the specified price(s) and other charges for the Equipment. In addition, if Principal agrees to deliver, and does deliver, the Equipment or any part of it before receiving payment in full, Principal retains a purchase money security interest in the Equipment until all payments due under this Agreement have been made, and Principal may file a UCC-1 form or similar document reserving or perfecting Principal's interest in the Equipment. If documentation of this sort requires Buyer's signature, Buyer will make the signed documentation available to Principal in a timely fashion or, if Buyer does not provide the documentation as required, Buyer hereby gives Principal the authority to sign on Buyer's behalf and file the documentation. Principal's rights under this Section and this Agreement will be in addition to all other rights and remedies available to Principal upon Buyer's default.

5. **FORCE MAJEURE.** Principal shall not be liable for any delays in the delivery of orders, due in whole or in part, directly or indirectly, to fire, act of God, strike, shortage of raw materials, supplies or components, retooling, upgrading of technology, delays by carriers, embargo, government order or directive, or any other circumstance beyond Principal's reasonable control.

6. **DELIVERY TERMS.** Principal will arrange for shipment and will arrange shipment with commercially reasonable promptness after payment terms are met. All risks of loss of or damage to the Equipment shift to Buyer, and delivery is complete, upon loading onto the common carrier at Principal's point of shipment. Principal will attempt to meet the Buyer's delivery request but shall be obligated only to the delivery schedule shown above as accepted by RER for Principal. Principal shall not be in default of performance due to a delay of reasonable duration resulting from any cause.

7. **CANCELLATION OR RETURN FEES.** If Buyer refuses to accept shipment of the Equipment, revokes its acceptance of the Equipment, or otherwise cancels its order for the Equipment, Buyer shall pay to Principal a fee equal to \$1,000 or 20% of the purchase price of the Equipment, whichever is greater. In no event shall Principal have any obligation to refund any portion of the charges incurred by Buyer for freight, duty, brokerage, insurance, or taxes relating to the transportation of the Equipment.

8. **INSPECTION AND ACCEPTANCE.** Buyer must inspect delivered Equipment and report claims for damages or shortages in writing within three (3) days of delivery or the Equipment shall be deemed irrevocably accepted and such claims shall be deemed waived. Claims against the transportation company or insurer are the responsibility of Buyer. In the event of any alleged damage or shortage, Buyer must permit RER to evaluate and review the Equipment. If a return of the Equipment is required, Buyer shall be responsible for packaging and insuring the Equipment so as to eliminate any damage to the Equipment during transit. Any freight, duty, brokerage, insurance, or taxes relating to the transportation of the Equipment to be paid by Buyer.

9. **NO WARRANTY.** Buyer has examined photographs of the Equipment and recognizes that the photographs will not show all irregularities and defects. Buyer has had the opportunity to inspect the Equipment and has either satisfied itself of the condition of the Equipment or declined to inspect the Equipment. The Equipment is being sold "as is," without warranty of any kind. In particular, but without limiting the foregoing sentence, the parties agree that the Equipment is subject to NO warranties of merchantability or of fitness for a particular purpose.

10. **LIMITATIONS ON WARRANTY.** **ATTENTION: THIS PROVISION LIMITS THE LIABILITY OF PRINCIPAL WITH RESPECT TO THE PRODUCT(S) COVERED BY THIS AGREEMENT.** Under no circumstances shall Principal be liable for any indirect, consequential, collateral, special or incidental damages (including, without limitation, loss of profits or goodwill) whether such claim is based on contract, negligence, strict tort, warranty or any other basis. In no case will Principal's liability be greater than Buyer's purchase price of the particular Equipment involved in any claim.

11. **LIMITATION OF ACTIONS.** Any actions or claims by Buyer under this Agreement must be brought within six (6) months after shipment of the Equipment covered by this Agreement.

12. **VALIDITY; AMENDMENT.** If any provision of this Agreement is found to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions shall not be affected. After this Agreement has been accepted in writing by RER, it becomes binding on Principal and Buyer as accepted, and thereafter no amendment or cancellation of this Agreement is valid unless in writing and signed by both parties.

13. **GOVERNING LAW; DISPUTES.** This Agreement shall be governed by and construed in accordance with the internal laws (and not the laws of conflicts) of the State of Minnesota. For settlement of any and all claims that might arise by or against RER in connection with this Agreement, or disputes between RER and Buyer in connection with this Agreement, Buyer consents to the exclusive jurisdiction of the State Courts of the State of Minnesota located in Hennepin County, Minnesota. For settlement of any and all claims that might arise by or between Principal and Buyer in connection with this Agreement, Buyer and Principal consent to the exclusive jurisdiction of the State Courts of the State of Principal's domicile.

14. **MISCELLANEOUS.** Any notice required or permitted under this Agreement is valid if it is in writing, addressed to the Buyer's address shown above or Principal's address shown below, and sent by mail or nationally recognized commercial courier. Notices are effective upon receipt. All clerical errors are subject to correction. The failure of Principal to enforce at any time any of the provisions of this Agreement will not be construed to be a waiver of such provisions or of the right of Principal to enforce such provisions in the future in the same or different circumstances. Buyer may not assign any rights under this Agreement without the prior written consent of Principal. Buyer recognizes that Principal is not the manufacturer of the Equipment or parts.

## EXHIBIT "A"



### **PRODUCT DETAILS:**

**Item #: 1044**

**Category:** Dasher Boards

**Type:** Indoor Ice Hockey steel frame construction

**Make:** BAP

**Model:** 6.0

**Asking Price:**

**Location:** Savage, MN

**Date New:** 2001

**Date Available:** 6/23/2015

**Cosmetic Condition:** Excellent

**Hours Used:**

**Operating Condition:** Excellent

**Reason for Sale:** Rink Closed

**Operating Manual:** No

**Warranty:** No

**Service Manual:** No

**In Use Presently:** No



**Additional Information:** Only used for 10 years and then the rink closed!

- 200' x 85' x 28'
- (1) 10' Equipment Gate in Radius
- (2) 3' Access Gates
- (6) 2-1/2' Player Gates
- (1) 6' Access Gate
- 5/8" x 6' High Tempered Glass on Both Ends
- 1/2" x 6' High SEAMLESS Tempered Glass on Both Sides
- 12' High Netting for Entire Perimeter
- Full Players Boxes & Elevated Floors

New this set sells for over \$125,000! We have both sets of dashers from this twin rink—they are mirror images of one another. We have the detailed drawings of this rink showing all gate placement etc. Packaged & ready for shipment. Rare opportunity for a set of dashers this new and in excellent condition!