

ANCHORAGE, ALASKA
AO No. 2023-116

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING**
2 **A FIVE (5) YEAR LEASE BETWEEN THE MUNICIPALITY OF ANCHORAGE**
3 **(LESSOR) AND O'MALLEY ICE AND SPORTS CENTER, LLC (TENANT) FOR**
4 **PREMISES LOCATED AT 1600 GAMBELL STREET, 1741 WEST NORTHERN**
5 **LIGHTS BOULEVARD AND 534 EAST 16TH AVENUE FOR THE CONTINUED**
6 **OPERATION OF THE GEORGE M. SULLIVAN ARENA, THE DEMPSEY**
7 **ANDERSON ICE ARENA, AND THE BEN BOEKE ICE ARENA.**

8
9 **WHEREAS**, the Municipal Charter §10.02 requires the Assembly to enact an
10 ordinance to “[c]onvey or lease, or authorize the conveyance or lease, of any interest
11 in lands of the municipality.”; and

12
13 **WHEREAS**, a lease is defined as a “contract by which a rightful possessor of real
14 property conveys the right to use and occupy that property in exchange for
15 consideration, usu[ally] rent.”¹; and

16
17 **WHEREAS**, the Municipality of Anchorage (the Municipality) has entered into a
18 contract with O'Malley Ice and Sport Center, LLC (O'Malley), which by its terms,
19 provides for O'Malley to be the sole occupant and operator of the municipal facilities
20 known as the Sullivan Arena, the Anderson Arena, and the Boeke Arena; and

21
22 **WHEREAS**, the terms of the contract require O'Malley to provide consideration to
23 the Municipality in the form of 50% of whatever revenues it generates from its
24 operation and occupation of the three Arenas; and

25
26 **WHEREAS**, the contract runs for a term of five (5) years, with O'Malley financially
27 compensating the Municipality in an amount of up to one million, four hundred
28 ninety-seven thousand and two dollars (\$1,497,002) for the exclusive use of all the
29 three Arenas; and

30
31 **WHEREAS**, the Assembly finds this contract conveys exclusive interest in public
32 property to O'Malley for a certain period of time in return for financial consideration
33 in the form of shared revenues, and as such, constitutes a lease of public property;²

34
35 **NOW THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:**

36
37 **Section 1.** The Assembly hereby approves the five (5) year lease of the properties
38 located at 1600 Gambell Street, 1741 West Northern Lights Boulevard, and

¹ *Lease*, BLACKS'S LAW DICTIONARY (7th ed. 1999).

² See John D. Alamari & Joseph M. Perillo, THE LAW OF CONTRACTS § 3.13 (Hornbook 4th ed. 2000) “a contract that is in every respect a lease will be treated as a lease despite an express provision that it is . . . not a lease.” *Id. citing M & I First Nat. Bank v. Episcopal Homes Engagement*, 195 Wis.2d 485, 536 (App. 1995)

1 534 East 16th Avenue, Anchorage, Alaska to O'Malley Ice and Sports Center, LLC
2 for the continued operation of the George M. Sullivan Arena, Dempsey Anderson
3 Ice Arena, and the Ben Boeke Ice Arena under the terms specified in Exhibit A
4 attached hereto.

5
6 **Section 2.** This Ordinance shall become effective immediately upon passage and
7 approval by the Anchorage Assembly

8
9 PASSED AND APPROVED by the Anchorage Assembly this _____ day
10 of _____, 2023.

11
12
13
14 _____
Chair of the Assembly

15 ATTEST:

16
17
18
19 _____
20 Municipal Clerk
21