

RIGHT OF ENTRY AND REIMBURSEMENT AGREEMENT

THIS RIGHT OF ENTRY AND REIMBURSEMENT AGREEMENT (the “Agreement”) is made on this ____ day of June, 2024, by and between the City of Shakopee, Minnesota, a Minnesota municipal corporation (the “City”), and Canterbury Park Entertainment LLC, a Minnesota limited liability company (“Canterbury Park”).

RECITALS

A. As described in and pursuant to the terms of this Agreement, the City intends to construct roadways including Disc Drive and additional adjacent roadways (collectively, the “Roadways”) adjacent to and on property located in the City of Shakopee owned by Canterbury Park (PID Nos. 275270070, 275270030; 275270060; and 275270050) (collectively, the “Property”) according to the plans depicted on Exhibit A (the “Plans”). The Property is located within the City’s #18 Canterbury Commons TIF District (the “TIF District”). The construction of the Roadways according to the Plans shall herein be referred to as the “Project”.

B. Although Canterbury Park is responsible for the construction of the Roadways, Canterbury Park desires that the City construct the Roadways as a public project according to the Plans.

C. The City is willing to lead the construction of the Roadways because the Project will provide a benefit not only to Canterbury Park, but also to the City overall.

D. In order to allow the City to construct the Project, Canterbury Park desires to grant the City, its agents, employees, and contractors (the “City Parties”), the right to enter onto the Property for said purpose.

E. It is understood that in executing this Agreement, Canterbury Park is not granting the City Parties any permanent interest in, or exclusive use or possession of, the Property.

NOW, THEREFORE, in consideration of the above premises and their mutual promises, the parties agree as follows:

1. Incorporation of Recitals and Exhibit. The above recitals and the exhibits attached hereto are incorporated into this Agreement as if fully set forth herein.

2. Right of Entry. As of the effective date of this Agreement, Canterbury Park hereby grants to the City Parties the right to enter upon the Property for the purpose of constructing the Project as detailed in the Plans as attached hereto as Exhibit A and as located in the office of the City Engineer, and in accordance with all terms and conditions contained in this Agreement. The right of entry permitted by this Agreement shall extend only to such portion of the Property as is necessary to perform the tasks described in the Plans, only to such extent as may be reasonably required, and only to such time periods as may reasonably be necessary as related to the Project as agreed upon by the City and Canterbury Park.

3. Duties of City. In consideration for such right of entry, the City, on behalf of the City Parties, agree to:

- (a) Prior to commencing any work that directly affects the Property, provide Canterbury Park with a tentative timetable for the Project;
- (b) Do no unnecessary damage to the Property and, except for construction of the Project in accordance with the Plans, restore the Property to substantially the same condition in which it was found by the City Parties at the time of their entry upon the Property;
- (c) Acknowledging that there is a horse racing operation adjacent to Project, communicating to Canterbury Park when unusual noise (for example, blasting) and other disruptive impacts are to be scheduled so that measures can be taken to avoid or mitigate such impacts on that operation.
- (d) Require any party that enters onto the Property during the Project to carry liability insurance to the extent deemed reasonably necessary by the City, but no less than 2,000,000; and
- (e) Provide Canterbury Park a notice of completion when the City Parties complete the Project (the "Completion Date").

4. Reimbursement. Canterbury Park agrees that it will reimburse the City for its costs incurred with respect to the Project, specifically as follows:

- a. The actual costs the City pays to Shakopee Public Utilities (SPU) for installation of roadway lighting necessary for the Project. The estimated cost for street lighting for the Project is two hundred thousand dollars (\$200,000), as described in Exhibit B. Canterbury Park shall not be responsible for any costs that exceed 125% of the estimated total as described in Exhibit B.
- b. The actual costs the City pays to its contractor or contractors ("Contractor") to construct the Roadways. This portion of the work has been publicly bid and is estimated to cost \$4,419,649.75, as described in Exhibit B. In the event that the actual cost of the Project exceeds \$4,419,649.75, Canterbury Park shall be responsible for the additional costs. The estimated contingency for this portion of the Project is \$441,964.98.
- c. All administrative, engineering (including consultants for inspection, testing and surveying for the Project) and legal costs and fees incurred by the City related to the Project, estimated at \$1,000,000.00. Canterbury Park shall not be responsible for any costs that exceed 125% of the estimated total as described in Exhibit B.
- d. The total estimated cost of the Project, inclusive of construction, contingency, consultant fees, street lighting, administrative, engineering and legal costs is \$6,061,614.73. The actual cost of the Project will be determined upon completion of

the improvements. Canterbury Park shall not be responsible for any costs that exceed 125% of the estimated total as described in Exhibit B.

- e. The City acknowledges and agrees that all costs of the Project to be reimbursed to the City by Canterbury Park are eligible for reimbursement under the terms of the Contract for Private Redevelopment applicable to the TIF District.

5. Escrow. Within ten business days following the City entering a contract with its Contractor to construct the Roadways, Canterbury Park will deposit with the City five percent (5%) of the costs of the Project in the amount of three hundred and three thousand eighty dollars and seventy-four cents (\$303,080.74), to be held by the City in escrow ("Escrow Amount"). The Escrow Amount will be applied towards Canterbury Park's final payment to the City for the Project.

6. Payment. The City shall be responsible for the timely payment to its consultant and Contractor pursuant to the City's contract or contracts related to the construction of the Roadways. Canterbury Park agrees that it shall reimburse the City for the City's costs as described in Paragraph 4 of this Agreement. Canterbury Park agrees that it shall reimburse the City in installments. Canterbury Park shall pay the City on a monthly basis, within 15 days after a written invoice has been provided by the City to Canterbury Park. The invoice must include a description of the work performed pursuant to the Project by the City's consultant or contractor.

7. Liability; Indemnification. The City, its officials, employees, contractors and agents shall not be liable or responsible in any manner to Canterbury Park, Canterbury Park's successors or assigns, or to any other person or persons for any claim, demand, damage, or cause of action of any kind or character arising out of or by reason of the execution of this Agreement or the performance of this Agreement, nor will Canterbury Park make any claim against the City for or on account of any injury, loss or damage resulting from the Project or the City's construction thereof. This provision shall not be deemed a waiver of any statutory immunities or liability limits available to the City under law. Canterbury Park agrees to hold harmless, indemnify, and defend the City, its officials, employees, contractors, and agents against any and all claims, expenses, and liabilities incurred, including reasonable attorneys' fees, arising out of, or in any way related to, the acts or omissions of Canterbury Park, its officers, employees, contractors, or agents in furtherance of its responsibilities under this Agreement.

8. Notices. Any notice or correspondence to be given under this Agreement shall be deemed to be given if delivered personally or sent by U.S. certified mail, return receipt requested to the following addresses with a copy sent via email to the following email addresses:

- a. As to the City: City of Shakopee
485 Gorman St.
Shakopee, MN 55379
Attn: City Administrator
Email: breynolds@shakopecmn.gov
- b. As to Canterbury Park: Canterbury Park Entertainment LLC
1100 Canterbury Park Rd

Shakopee, Minnesota 55379
Attn: Randy Sampson
Email: RSampson@canterburypark.com

9. Compliance with Laws. In performing their duties and obligations hereunder, the parties shall comply with all applicable state, federal, and local laws and regulations.

10. Binding Effect and Governing Law. This Agreement is binding on the parties and their respective successors and assigns and shall be governed by the laws of the State of Minnesota.

11. Waiver. Any waiver by either party of a breach of any provision of this Agreement will not affect, in any respect, the validity of the remainder of this Agreement.

12. Severability. The invalidity or unenforceability of any provision in this Agreement shall not in any way affect the validity or enforceability of any other provision, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions had never been part of the Agreement.

13. Entire Agreement; Amendment. This Agreement, including the recitals and attached exhibits which are incorporated in and made part of this Agreement, contains all of the agreements between the parties regarding this matter and may only be modified by a written amendment signed by both parties.

14. Term. This Agreement shall be in effect as of the date first written above and shall terminate upon the City's notice of completion of the Project pursuant to section 3(d) above.

[Signatures on following page.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their names and on their behalf, and is effective as of the date first written above.

CITY OF SHAKOPEE

By: _____
Matt Lehmen

Its: Mayor

By: _____
William H. Reynolds

Its: City Administrator

**CANTERBURY PARK
ENTERTAINMENT LLC**

By: _____
Randy Sampson

Its: Manager

[illegible]

EXHIBIT B
Estimate of Project Costs

	Estimate Based on Bid Award
COSTS	
Construction Cost (bid contract)	\$4,419,649.75
Streetlighting (SPUC)	\$200,000.00
Contingency	\$441,964.98
Subtotal	\$5,061,614.73
Administration, Engineering, Legal	\$1,000,000.00
Total Estimated Project Cost	\$6,061,614.73