

FINAL

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2015, Legislative Day No. 38

Bill No. 112-15

Introduced by Mr. Smith, Vice Chairman
(by request of the County Executive)

By the County Council, November 16, 2015

Introduced and first read on November 16, 2015
Public Hearing set for and held on December 21, 2015
Bill Expires February 19, 2016

By Order: Elizabeth E. Jones, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Amendment to Lease of County-owned property (at the
2 corner of Strawberry Lake Way and Piney Orchard Parkway in Odenton, Maryland)
3 to OR Investment Group, LLC
4

5 FOR the purpose of authorizing the amendment of the lease of a certain parcel at the
6 corner of Strawberry Lake Way and Piney Orchard Parkway in Odenton, Maryland,
7 to OR Investment Group, LLC.
8

9 WHEREAS, the County owns real property at the corner of Strawberry Lake Way
10 and Piney Orchard Parkway in Odenton, Maryland (“the Property”); and
11

12 WHEREAS, Piney Orchard Master Partnership, a Maryland general partnership, was
13 party to a Lease dated as November 30, 1990, recorded among the Land Records of
14 Anne Arundel County in Liber 5226, folio 296, by and between the County as
15 landlord and Piney Orchard Master Partnership, as tenant (the “Original Lease”) for
16 the Property; and
17

18 WHEREAS, Piney Orchard Master Partnership constructed certain improvements on
19 the Premises, namely an ice arena; and
20

21 WHEREAS, Piney Orchard Master Partnership and the County entered into an
22 Addendum to Lease on December 5, 1995 (the “Addendum”); the original Lease and
23 the Addendum are collectively referred to as the “Lease”); and
24

25 WHEREAS, Piney Orchard Master Partnership assigned all of its rights, title and
26 interest to Piney Orchard Ice Forum, L.L.C. pursuant to a Deed of Lease Assignment
27 dated February 15, 1996 and recorded among the Land Records of Anne Arundel

1 County, Maryland in Liber 7322, folio 646; and

2
3 WHEREAS, Piney Orchard Ice Forum, L.L.C. changed its name to SkateNation of
4 Piney Orchard, LLC (“SkateNation”) pursuant to a name change Amendment filed
5 with the State Department of Assessments and Taxation in Film F3939, Folio 2832 on
6 May 22, 1997; and

7
8 WHEREAS, SkateNation assigned all of its rights, title and leasehold interest to OR
9 Investment Group, LLC (“OR Investment”) pursuant to a Deed of Lease Assignment
10 dated February 28, 2001, and recorded among the Land Records of Anne Arundel
11 County, Maryland in Liber 10262, folio 630; and

12
13 WHEREAS, OR Investment has entered into a Purchase and Sale Agreement dated
14 September 18, 2015 (the “PSA”) by which it intends to assign all of its rights, title
15 and leasehold to the Property to Piney Ice, Inc. (“Piney Ice”), a Delaware Corporation
16 qualified to do business in the State of Maryland; and

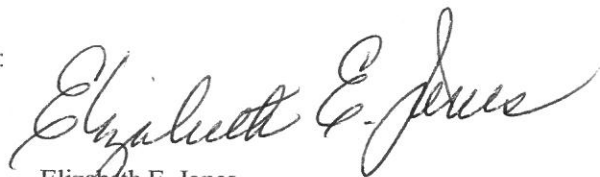
17
18 WHEREAS, the County and Piney Ice, are desirous of amending the Lease
19 Agreement dated November 30, 1990, to reflect the assignment of the lease from
20 OR Investment to Piney Ice, Inc., and to include an additional renewal term of
21 twenty-five (25) years, as set forth in the Second Addendum to Lease, attached
22 hereto as Exhibit A; now, therefore,

23
24 SECTION 1. *Be it enacted by the County Council of Anne Arundel County,*
25 *Maryland,* That the Second Addendum to Lease attached hereto as Exhibit A, which
26 changes the tenant to Piney Ice, Inc., and adds an additional renewal option, so that,
27 provided all options to extend the term of the Lease are timely exercised, the Lease will
28 expire on November 29, 2075 is hereby approved.

29
30 SECTION 2. *And be it further enacted,* That this Ordinance shall take effect 45 days
31 from the date it becomes law.

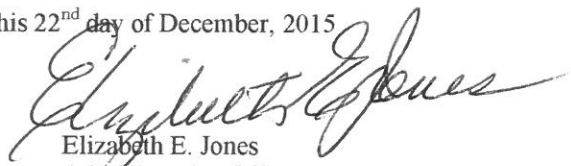
READ AND PASSED this 21st day of December, 2015

By Order:



Elizabeth E. Jones
Administrative Officer

PRESENTED to the County Executive for his approval this 22nd day of December, 2015



Elizabeth E. Jones
Administrative Officer

APPROVED AND ENACTED this 23rd day of December, 2015



Steven R. Schuh
County Executive

EFFECTIVE DATE: February 6, 2016

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
112-15. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES
OF THE COUNTY COUNCIL.



Elizabeth E. Jones
Administrative Officer

SECOND ADDENDUM TO LEASE

THIS SECOND ADDENDUM TO LEASE is entered into this 2nd day of November, 2015, by and between ANNE ARUNDEL COUNTY, MARYLAND (hereinafter referred to as the "Landlord") and PINEY ICE, INC., a Delaware corporation properly registered to do business in the State of Maryland (hereinafter referred to as the "Tenant").

WHEREAS, Landlord and Piney Orchard Master Partnership, a Maryland general partnership, entered into a lease agreement (the "Original Lease") dated as of November 30, 1990, recorded among the Land Records of Anne Arundel County in Liber 5226, folio 296, and as amended pursuant to an Addendum to Lease on December 5, 1995 and executed by Piney Orchard Master Partnership and Landlord (the "Addendum"; the Original Lease and the Addendum are collectively referred to as the "Lease") under the terms of which Piney Orchard Master Partnership leased from Landlord certain unimproved real property located at the corner of Strawberry Lake Way and Piney Orchard Parkway in Piney Orchard, Odenton, Maryland, said property being more particularly described on "Exhibit A" attached hereto (hereinafter referred to as the "Property"); and

WHEREAS, Piney Orchard Master Partnership constructed on the Property an ice rink facility known as "Piney Orchard Ice Arena"; and

WHEREAS, Piney Orchard Master Partnership assigned all of its rights, title and interest to Piney Orchard Ice Forum, L.L.C. pursuant to a Deed of Lease Assignment dated February 15, 1996 and recorded among the Land Records of Anne Arundel County, Maryland in Liber 7322, folio 646; and

WHEREAS, the name of Piney Orchard Ice Forum, L.L.C. was changed to SkateNation of Piney Orchard, LLC pursuant to a name change Amendment filed with the State Department of Assessments and Taxation in Film F3939, Folio 2832 on May 22, 1997; and

WHEREAS, SkateNation assigned all of its rights, title and leasehold interest to OR Investment Group, LLC ("OR Investment") pursuant to a Deed of Lease Assignment dated February 28, 2001 and recorded among the Land Records of Anne Arundel County, Maryland in Liber 10262, folio 630; and

WHEREAS, OR Investment has entered into a Purchase and Sales Agreement dated September 18, 2015 (the "PSA") by which it intends to assign all of its rights, title and leasehold interest to the Lease and the Premises to Tenant; and

WHEREAS Landlord consented to the Assignment via an Assumption and Estoppel Agreement as executed by Piney Ice, Inc. on October 27, 2015, attached hereto as "Exhibit B;"

u

WHEREAS, the Lease term commenced on November 30, 1990 and, provided all options to extend the term of the Lease are timely exercised, the Lease will expire on November 29, 2050; and

WHEREAS, Landlord and Tenant have agreed to modify the Lease to permit the Assignment and to provide for an additional option to extend the Lease term as further set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. Pursuant to the terms of the Assumption and Estoppel Agreement, the Tenant is hereafter Piney Ice, Inc.
2. The present text of Paragraph 1 of the Lease shall be and hereby is amended to add the following language at the end of the second sentence thereof: "and one (1) additional period of twenty-five (25) years." The third sentence is modified by deleting the words "such fifteen (15) year period," and inserting in lieu thereof the words "the applicable period." Therefore, provided all options to extend the term of the Lease are timely exercised, the Lease will expire on November 29, 2075.
3. This Second Addendum to Lease shall not be effective until approved by ordinance by the Anne Arundel County Council.
4. All terms and conditions of the Lease not amended by this Second Addendum to Lease shall remain in full force and effect as first made.

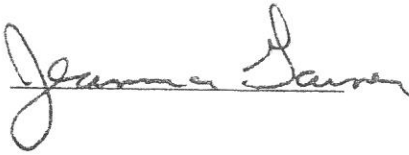
(Signatures appear on next page)

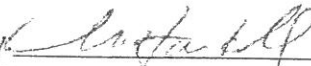
IN WITNESS WHEREOF, the parties hereto have duly executed or caused these presents to be executed the day and year first above written.

LANDLORD:

ATTEST:

ANNE ARUNDEL COUNTY, MARYLAND
A body corporate politic
Of the State of Maryland



By:  (SEAL)

Mark D. Hartzell
Chief Administrative Officer
Anne Arundel County, Maryland

11-6-15

ASSIGNEE:


PINEY ICE, INC.

By:  (SEAL)

Name: Lawrence S. Berger
Title: President

APPROVED FOR FORM AND LEGAL SUFFICIENCY

By:


Jason E. Fetterman
Anne Arundel County, Maryland
Office of Law

Date

11/6/15

EXHIBIT A

ALL THAT TRACT OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE FOURTH ASSESSMENT DISTRICT OF ANNE ARUNDEL COUNTY, MARYLAND, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING FOR THE SAME AT A POINT IN THE SIXTEENTH OR NORTH 45 DEGREES 45 MINUTES 50 SECONDS EAST 1237.07 FEET LINE OF THE LAND DESCRIBED IN THE QUITCLAIM DEED FROM THE UNITED STATES OF AMERICA TO PINEY ORCHARD LIMITED PARTNERSHIP, DATED JULY 16, 1986, AND RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND, IN LIBER 4120, FOLIO 104, THE SAID BEGINNING POINT BEING LOCATED 708.48 FEET FROM THE BEGINNING OF THE SAID SIXTEENTH LINE AND THE SAID BEGINNING POINT ALSO BEING IN THE FORTY-SIXTH OR NORTH 37 DEGREES 37 MINUTES 50 SECONDS EAST 1237.07 FEET LINE OF THE LAND DESCRIBED IN THE CONFIRMATORY DEED FROM WINWOOD CORPORATION, ET AL, TO PINEY ORCHARD MASTER PARTNERSHIP, DATED MARCH 1, 1988, AND RECORDED AMONG THE SAID LAND RECORDS IN LIBER NO. 4556, FOLIO 285, THE SAID BEGINNING POINT BEING 708.48 FEET FROM THE BEGINNING OF THE SAID FORTY-SIXTH LINE AND THE SAID BEGINNING POINT BEING POINT NO. 4431 AS SHOWN ON THE PLAT ENTITLED "PINEY ORCHARD WASTE WATER TREATMENT PLANT SITE" PREPARED BY RIEMER MUEGGE & ASSOCIATES, INC., AND RECORDED OR INTENDED TO BE RECORDED AMONG THE SAID LAND RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND; THENCE LEAVING THE SAID SIXTEENTH AND FORTY-SIXTH LINES AND RUNNING THROUGH A PORTION OF THE LAND DESCRIBED IN THE FIRST ABOVE MENTIONED DEED AND RUNNING WITH THE NORTHEAST SIDE OF A RIGHT OF WAY NOTED AS "PART OF LOT 25" ON THE ABOVE MENTIONED PLAT, THE FOLLOWING FOUR (4) COURSES AND DISTANCES, WITH BEARINGS REFERRED TO THE MARYLAND STATE PLANE COORDINATE SYSTEM, VIZ;

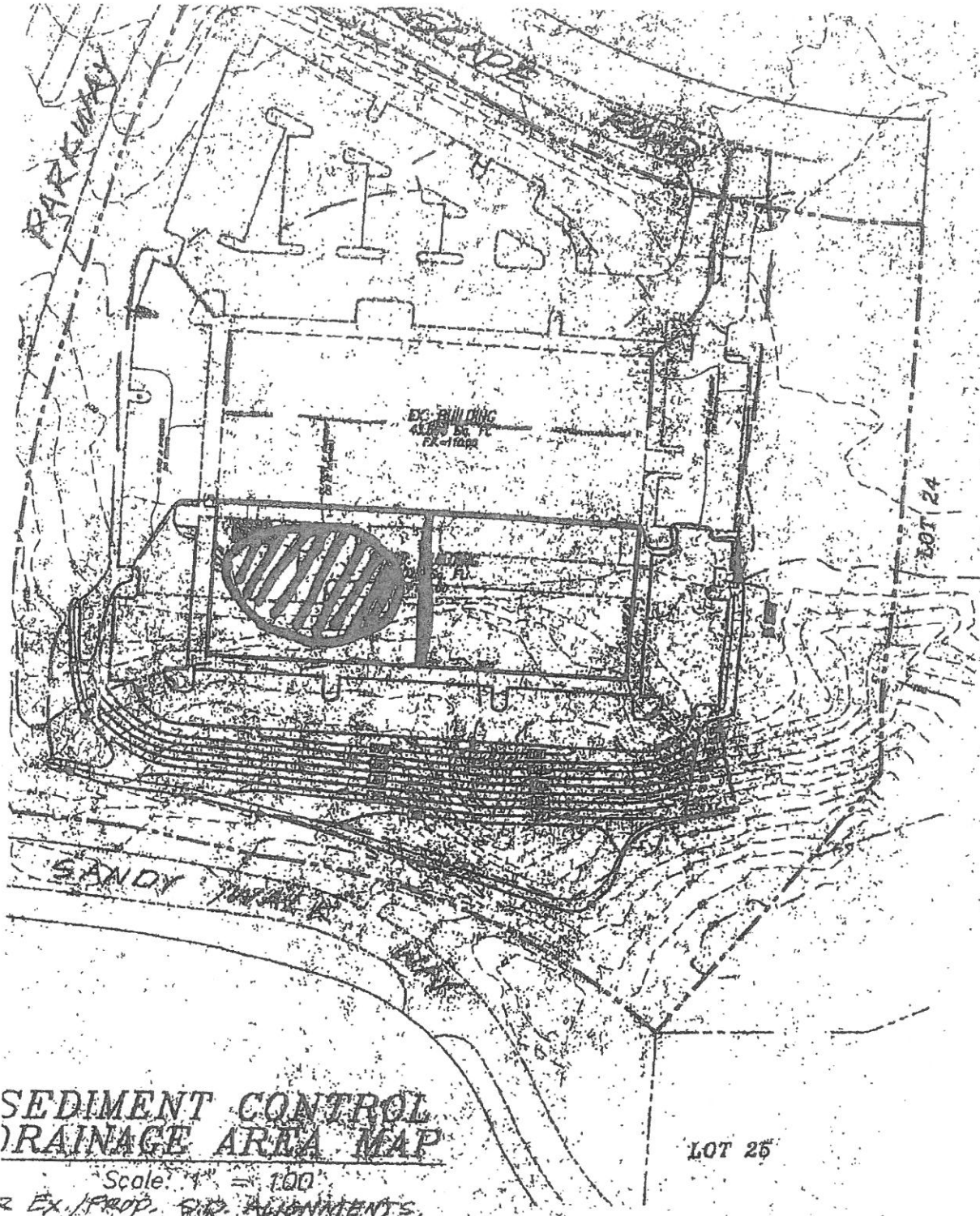
- (1) 336.52 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 570.00 FEET AND CHORD BEARING NORTH 31 DEGREES 50 MINUTES 20 SECONDS WEST A DISTANCE OF 331.65 FEET,
- (2) NORTH 43 DEGREES 17 SECONDS WEST 114.04 FEET,
- (3) NORTH 48 DEGREES 45 MINUTES 08 SECONDS WEST 85.00 FEET AND
- (4) NORTH 03 DEGREES 45 MINUTES 08 SECONDS WEST 35.36 FEET TO POINT NO. 4423 ON THE SOUTHEAST RIGHT OF WAY LINE OF PINEY ORCHARD PARKWAY (WIDTH VARIABLE); THENCE CONTINUING AND RUNNING THROUGH PART OF THE LAND DESCRIBED IN THE FIRST ABOVE MENTIONED DEED AND ALSO RUNNING WITH THE SAID SOUTHEAST RIGHT OF WAY LINE OF PINEY ORCHARD PARKWAY THE FOLLOWING TWO COURSES AND DISTANCE, VIZ:
 - (5) NORTH 41 DEGREES 14 MINUTES 53 SECONDS EAST 79.38 FEET AND
 - (6) 288.44 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1515.00 FEET AND CHORD BEARING NORTH 44 DEGREES 33 MINUTES 40 SECONDS EAST A DISTANCE OF 288.00 FEET TO INTERSECT THE SEVENTEENTH LINE OF THE LAND DESCRIBED IN THE FIRST ABOVE MENTIONED DEED AND TO ALSO INTERSECT THE FORTY-SEVENTH LINE OF THE LAND DESCRIBED IN THE SECOND ABOVE-MENTIONED DEED; THENCE CONTINUING AND RUNNING WITH THE SAID SOUTHEAST RIGHT OF WAY LINE OF PINEY ORCHARD PARKWAY AND RUNNING THROUGH PART OF THE LAND DESCRIBED IN THE SECOND ABOVE MENTIONED DEED.
- (7) 259.36 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1515.00 FEET AND CHORD BEARING NORTH 54 DEGREES 55 MINUTES 11 SECONDS EAST A DISTANCE OF 259.06 FEET TO POINT NO. 592; THENCE LEAVING PINEY ORCHARD PARKWAY AND RUNNING WITH THE SOUTHWEST RIGHT OF WAY LINE OF RIVERSCAPE ROAD AS SHOWN ON THE ABOVE MENTIONED PLAT AND CONTINUING AND RUNNING THROUGH PART OF THE LAND DESCRIBED IN THE SECOND ABOVE MENTIONED DEED THE

FOLLOWING THREE (3) COURSES AND DISTANCES, VIZ:

- (8) SOUTH 73 DEGREES 42 MINUTES 36 SECONDS EAST 34.74 FEET,
- (9) SOUTH 27 DEGREES 43 MINUTES 03 SECONDS EAST 234.67 FEET AND
- (10) 337.57 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 716.00 FEET AND CHORD BEARING SOUTH 41 DEGREES 13 MINUTES 26 SECONDS EAST A DISTANCE OF 334.54 FEET TO POINT NO. 4434; THENCE LEAVING RIVERSCAPE ROAD AND RUNNING THROUGH PART OF THE LAND DESCRIBED IN THE SECOND ABOVE MENTIONED DEED THE FOLLOWING TWO (2) COURSES AND DISTANCES, VIZ:
 - (11) SOUTH 37 DEGREES 37 MINUTES 49 SECONDS WEST 420.29 FEET AND
 - (12) SOUTH 75 DEGREES 04 MINUTES 27 SECONDS WEST 261.52 FEET TO THE PLACE OF BEGINNING.

CONTAINING 9.037 ACRES OF LAND, MORE OR LESS, AS SHOWN ON A PLAT ENTITLED "PINEY ORCHARD WASTE WATER TREATMENT PLAT SITE" BY RIEMER MUEGGE AND ASSOCIATES, INC., DATED 10-3-90, AND RECORDED AMONG THE PLAT RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND, AS PLAT NO. 6913. IN PLAT BOOK 132, PAGE 40.

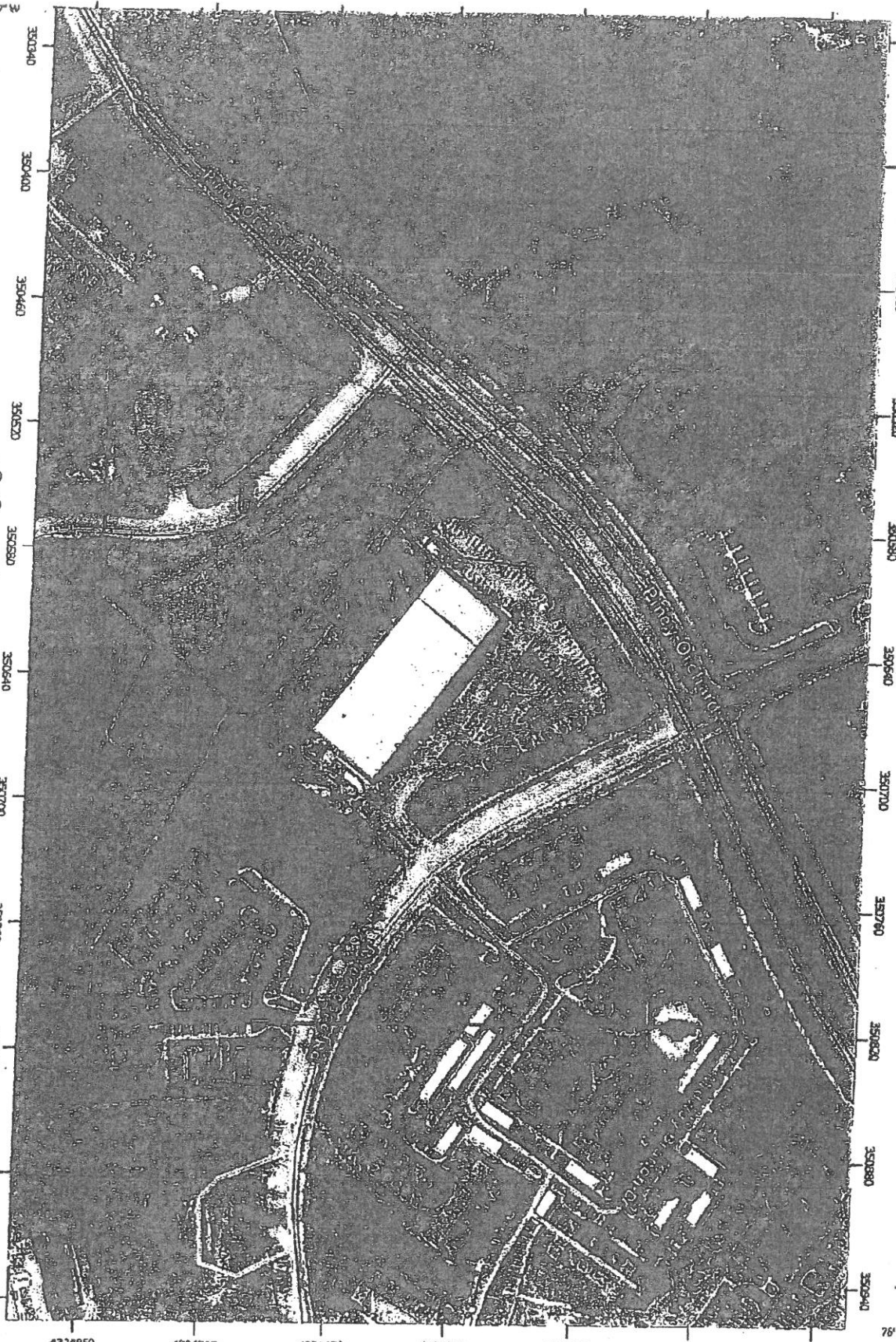
THE IMPROVEMENTS THERBON BEING KNOWN AS NO. 8781 PINEY ORCHARD PARKWAY.



**SEDIMENT CONTROL
DRAINAGE AREA MAP**

Scale: 1" = 100'

2 Ex. Prop. Sid. Alignments,
(SEE SHT. 5 OF 6)



Map Scale: 1:2,880 if printed on A landscape (11" x 8.5") sheet

0 40 80 160 240 Feet

0 40 80 160 240 Meters

DVB - Downer-Hammondon - "B"

UXB - Udoorthents - "C"

SOILS MAP

SCALE: 1" = 200'

ASSUMPTION AND ESTOPPEL AGREEMENT

THIS ASSUMPTION AND ESTOPPEL AGREEMENT (the "Agreement") is entered into this 21st day of October, 2015, by and between **PINEY ICE, INC.**, a Delaware corporation properly registered to do business in the State of Maryland ("Assignee") and **ANNE ARUNDEL COUNTY, MARYLAND** ("Owner").

RECITALS

WHEREAS, Piney Orchard Master Partnership, a Maryland general partnership, is party to that certain Lease dated as of November 30, 1990, recorded among the Land Records of Anne Arundel County in Liber 5226, Folio 296, by and between Owner as Landlord and Piney Orchard Master Partnership, as Tenant (the "Original Lease") for certain real property at the corner of Strawberry Lake Way and Piney Orchard Parkway in Odenton, Maryland (the "Property"); and

WHEREAS, Piney Orchard Master Partnership constructed or had constructed certain improvements on the Premises, namely an ice arena (the "Improvements"; the Property and Improvements are collectively referred to as the "Premises"); and

WHEREAS, Piney Orchard Master Partnership and Owner entered into an Addendum to Lease on December 5, 1995 (the "Addendum"; the original Lease and the Addendum are collectively referred to as the "Lease"); and

WHEREAS, Piney Orchard Master Partnership assigned all of its rights, title and interest to Piney Orchard Ice Forum, L.L.C. pursuant to a Deed of Lease Assignment dated February 15, 1996 and recorded among the Land Records of Anne Arundel County, Maryland in Liber 7322, Folio 646; and

WHEREAS, the name of Piney Orchard Ice Forum, L.L.C. was changed to SkateNation of Piney Orchard, LLC ("SkateNation") pursuant to a name change Amendment filed with the State Department of Assessments and Taxation in Film F3939, Folio 2832 on May 22, 1997; and

WHEREAS, SkateNation assigned all of its rights, title and leasehold interest to OR Investment Group, LLC ("OR Investment") pursuant to a Deed of Lease Assignment dated February 28, 2001, and recorded among the Land Records of Anne Arundel County, Maryland in Liber 10262, Folio 630; and

WHEREAS, OR Investment intends to assign all of its rights, title and leasehold interest to the Lease and the Premises to Assignee pursuant to a Purchase and Sales Agreement dated September 18, 2015 (the "PSA") and in accordance with an Assignment and Assumption of Lease (the "Assignment") to be executed after final approval of the Second Addendum to the Lease by the County, and recorded in the Land Records of Anne Arundel County, Maryland immediately upon executing. ; and

M

WHEREAS, Pursuant to the PSA, Assignee intends to enter into a sublease agreement with OR Leasing, LLC for a portion of the Premises that consists of already pre-prepared site work for the construction and operation of an indoor soccer and other recreational facility as shown on Exhibit A attached hereto (the "Sublease").

NOW, THEREFORE, based on the mutual covenants herein contained and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. Assumption. As of the Effective Date, Assignee assumes and agrees to be bound and agrees to observe, perform and discharge all obligations and duties of OR Investment under the Lease.
2. Owner Consent. Owner hereby consents to the Assignment and the Sublease contingent upon approval by the Anne Arundel County Council.
3. Release. Owner and Assignee agree that from and after the Effective Date, OR Investment shall have no further liability under the Lease except as to matters arising before the Effective Date and as to the sublease.
4. Defaults. By execution of this Agreement, Owner hereby represents to Assignee that as of the Effective Date, said Lease is in full force and effect, that there are no known defaults by the Lessee thereunder, and all payments due under the terms of the Lease have been paid in full through the 30th day of September, 2015. From and after the Effective Date, Assignee agrees to pay all rent, taxes, fees, and other expenses due and owing under the Lease. Assignees' failure to do so shall constitute a material breach of this Agreement and the Lease.
5. Notices. Any and all notices, demands or communications required to be given under the Lease after the date of this Agreement to Assignee and/or Assignee's Mortgagee shall be in writing and sent by certified mail, as follows:

Piney Ice, Inc.
c/o Blackstreet Capital Holdings, LLC
5425 Wisconsin Avenue, Suite 701
Chevy Chase, MD 20815
Attn: Lawrence Berger
Fax: 240-223-1331

and

Anne Arundel County, Maryland
Office of Central Services, Real Estate Division
2660 Riva Road
Annapolis, Maryland 21401

6. Binding Effect. This Agreement shall be binding on the parties hereto and their respective successors and assigns.

7. Governing Law. This Agreement shall be interpreted and construed under the laws of the State of Maryland, and any action related thereto shall be brought exclusively in a court of competent jurisdiction located in Anne Arundel County, Maryland.

8. Counterparts. This Agreement may be signed in counterparts which together shall form one fully executed original document.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

WITNESS/ATTEST:

[Handwritten signature]

PINEY ICE, INC.

By: *[Handwritten signature]* (SEAL)

STATE OF MARYLAND)
)
COUNTY OF)

To Wit:

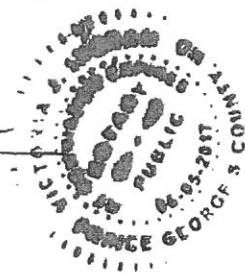
On this 29 day of October, 2015 appeared Lawrence Berger, who acknowledged himself to be the President of Piney Ice, Inc., a Maryland corporation limited liability company ("Assignee") and that he in such capacity, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained, on behalf of the Assignee, by signing his name in such capacity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Handwritten signature: Victoria J. Newlin]

VICTORIA J. NEWLIN Public
Notary Public-Maryland
Prince George's County
My Commission Expires
June 05, 2017

My Commission expires:



ANNE ARUNDEL COUNTY, MARYLAND
A body corporate and politic of the
State of Maryland

[Handwritten signature]

By: *[Handwritten signature]* (SEAL)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

[Handwritten signature]
OFFICE OF LAW
Jason Fetterman

11/24/15
DATE