

**MASTER AGREEMENT REGARDING
MULTIPURPOSE ARENA AND ADJACENT SUPPORT FACILITIES**

between

CITY OF FORT WORTH

and

EVENT FACILITIES FORT WORTH, INC.

dated as of _____, 2015

LIST OF EXHIBITS

Exhibit A – Definitions

Exhibit B – Depiction of Project Site, including City Land, City Licensed Land, Arena Group Facility Land, Arena Group Garage Land, Arena Group Surface Parking, and other Arena Group owned land

Exhibit C – Financing Model

MASTER AGREEMENT REGARDING
MULTIPURPOSE ARENA AND ADJACENT SUPPORT FACILITIES

THIS MASTER AGREEMENT REGARDING MULTIPURPOSE ARENA AND ADJACENT SUPPORT FACILITIES is entered into as of the Effective Date, by and between the CITY OF FORT WORTH, TEXAS, a duly incorporated home rule city of the State of Texas, and EVENT FACILITIES FORT WORTH, INC., a Texas non-profit corporation.

WITNESSETH:

WHEREAS, defined terms used in this Agreement have the meanings set forth in Exhibit A hereto, unless the context of the use of a term indicates otherwise; and

WHEREAS, a 1996 Coopers & Lybrand study found that a renovated and expanded downtown Fort Worth convention center should occur in three phases. Phase III contemplates demolition of the convention center arena and construction of the Arena Complex; and

WHEREAS, in 2000 Carter & Burgess developed a convention center master plan to achieve the goals set forth in the Coopers & Lybrand study in three phases and the City has accomplished Phases I and II; and

WHEREAS, the City's 2002 Will Rogers District Conceptual Plan envisioned the establishment of and confirmed the need for an arena on the City Land; and

WHEREAS in 2014 the City commissioned Hunden to conduct a convention and hospitality market feasibility study to evaluate public events facilities and the need for additional City public events facilities, and the Hunden study reaffirmed Coopers & Lybrand's finding that the City needs a new arena at a location in the cultural district to allow for the Phase III expansion of the downtown convention center; and

WHEREAS, the Arena Group concurs with the City's determination that it is in the best interests of the City to build the Arena Complex, to be located and constructed on the City Land; and

WHEREAS, the Arena Group Surface Parking shall be located on land owned by the Arena Group; and

WHEREAS, the Arena Group is a non-profit corporation that supports the Southwestern Exposition and Livestock Show d/b/a Fort Worth Stock Show & Rodeo and that, as a charitable contribution to the fine residents of the City, has committed to raising fifty percent of the Arena Project Budget as well as Overruns; and

WHEREAS, in addition to the Arena Group Contribution and Overruns, the Arena Group, as an additional charitable contribution to the residents of the City, is contributing the Donated Design Services in excess of \$50,000,000 in furtherance of the Arena Project; and

WHEREAS, in addition to its charitable contributions above, the Arena Group desires to develop, lease, manage and operate the Arena Complex for and from the City without charging the City any fees or expenses for development; and

WHEREAS, the Arena Group intends that the Arena Complex will be constructed as a first-class state-of-the-art facility on a par with other comparably-sized, municipally-owned, multipurpose arenas and community venue projects recently constructed in North America, and the Arena Complex will be designed to complement the architecture of the adjacent Will Rogers Memorial Center and to accommodate up to approximately 14,000 persons for agricultural, sports, school, community, family and entertainment events; and

WHEREAS, the Arena Project will benefit the City and its residents by increasing visitorship and tourism and the offerings available to residents through expanded public events space, sporting events, educational events and entertainment offerings that are anticipated to be financially self-sustaining, therefore lessening the burden on the City, and will allow for the Phase III expansion of the Fort Worth Convention Center; and

WHEREAS, on October 22, 2013 the City Council of the City adopted Ordinance No. 21011-10-2013, designating the Zone, allowing the City to use Local PFZ Funds to acquire, lease, construct, improve, enlarge and equip qualified projects, and requesting the Comptroller to deposit State PFZ Funds into a suspense account for use by the City to acquire, lease, construct, improve, enlarge and equip qualified projects, all as more specifically authorized and set forth in Section 351.1015, Texas Tax Code or for the payment of bonds or other obligations issued or incurred in connection such qualified projects; and

WHEREAS, on July 15, 2014, the City Council adopted Resolution No. 4327-07-2014, authorizing the Arena Project and designating methods of financing in accordance with the Act; and

WHEREAS, on August 12, 2014, the City Council adopted the 334 Election Ordinance, calling for and ordering the Election at which all qualified voters of the City would have the opportunity to authorize the Arena Project and designating methods of financing in accordance with the Act; and

WHEREAS, on November 4, 2014, the Election was held, and the qualified voters of the City authorized the Arena Project and designated methods of financing in accordance with the Act; and

WHEREAS, on November 18, 2014 the City Council adopted Resolution No. 4378-11-2014 finding and declaring that the results of the Election are that the Arena Project was approved in accordance with the Act, and that the City Council is authorized to impose the voter-approved taxes in order to generate 334 Revenues; and

WHEREAS, pursuant to the authority granted to the City in the Act, and in consideration of the undertakings of the Arena Group contained herein and the other agreements described herein and of the continuing economic benefits to be derived therefrom by the City and its citizens, the City, as authorized by its citizens at the Election, has agreed to join with the Arena Group in the financing and development of the Arena Project and to a Public Contribution; and

WHEREAS, on August 4, 2015, the City Council adopted Resolution No. 4498-08-2015, setting forth a funding plan for the City's financing of the Arena Project and reaffirming that the Arena Project will serve continuing public purposes and will be a public use; and

WHEREAS, based on the Financing Model as set forth in Exhibit C, the City projects that available resources, including estimated revenues in excess of expenses in the Culture and Tourism Fund and projected revenues in the Project Financing Zone Fund and the Venue Project Fund, will support issuance of financially viable Arena Complex Bonds on or before December 31, 2017, to fund the Public Contribution; and

WHEREAS, the City and the Arena Group have agreed to use diligent good faith efforts to attempt to reach final agreement on all of the Project Documents necessary to pursue the Arena Project; and

WHEREAS, in the event that such Project Documents have not been agreed to by the City and the Arena Group on or before December 31, 2015, then either party shall have the right to terminate this Agreement, in which event, neither party shall have any further liability to the other on account thereof; and

WHEREAS, the Arena Group currently estimates that the Arena Project Budget, as defined herein, will be approximately \$450,000,000, subject to subsequent adjustments based on the ultimate land acquisition and preparation costs and the completion of final design and architectural plans and final construction costs for the Arena Project; and

WHEREAS, as of the Effective Date, the Arena Group has expended approximately \$38,696,000 on the Arena Project and the City in partnership with Tarrant County has expended approximately \$14,248,800 on the Arena Project, as outlined more specifically in Schedules I and II, attached hereto and hereby made a part of this Agreement for all purposes; and

WHEREAS, the City, as authorized at the Election, has agreed to pay the Public Contribution in the manner described and pursuant to the provisions hereof; and

WHEREAS, the Arena Group Contribution, the Public Contribution and any Overruns, shall equal all costs of constructing, equipping, improving and developing the Arena Project, including the cost of any land or other real property required in connection therewith; and

WHEREAS, the Arena Group Contribution may be obtained and provided by the Arena Group in the manner provided in this Agreement from any sources determined by the Arena Group, including but not limited to the private funds and sources, sponsorships, naming rights, seat licenses, and pouring rights described herein; and

WHEREAS, the Public Contribution shall not be used to pay for any Overruns; and

WHEREAS, this Agreement sets forth the preliminary plan of the City and the Arena Group regarding the financing, development and operation of the Arena Complex, and the parties have agreed, subject to the negotiation, approval, execution and delivery of the Project Documents, to complete and implement the financing, development and operation plan consistent with the terms of this Agreement and the Project Documents as soon as practicable following the execution of the Project Documents;

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged and confessed by each of the parties hereto, the City and the Arena Group have agreed and do hereby agree as follows:

ARTICLE I

THE ARENA COMPLEX DEVELOPMENT

Section 1.1. Affiliated Arena Group Parties.

The Arena Group will have the right to assign responsibility for and control of the development, construction, operations and maintenance of the Arena Complex to Assignees; provided, that at least forty-five (45) calendar days prior to the effectiveness of any such assignment, the Arena Group must deliver written notice to the City of the name of the intended Assignee and the specific responsibilities that the Assignee will be expected to perform so that the City may verify with its bond counsel that the assignment will not adversely affect the tax-exempt status of the Arena Complex Bonds or otherwise conflict with official City disclosures made in connection with the issuance of the Arena Complex Bonds. If the City notifies the Arena Group within thirty (30) calendar days following receipt of such notice that, in the City's reasonable opinion, after consulting with its bond counsel, the assignment could adversely affect the tax-exempt status of the Arena Complex Bonds or otherwise conflict with official City disclosures made in connection with the issuance of the Arena Complex Bonds, the assignment will not take effect. If the City notifies the Arena Group that the assignment is permissible or if the City fails to provide the Arena Group with any written objection within thirty (30) calendar days following receipt of the Arena Group's notice, the assignment shall be deemed to take effect, and the Assignee must become a signatory to or otherwise be bound by the applicable Project Documents (in relation to the Assignee's assumption of responsibilities) and shall not take any actions that would adversely affect the tax-exempt status of the Arena Complex Bonds. The City acknowledges that the Arena Group intends to assign its rights and responsibilities to enter into the Arena Group Lease to an Assignee.

Section 1.2. Development of the Arena Complex.

Subject to the terms and conditions set forth in this Agreement, (a) the Arena Group (and its designee) shall plan, design, develop, construct, complete and make operational the Arena Complex; and (b) the respective funding commitments shall be funded from the sources and in the manner provided in Article II hereof.

Section 1.3. Ownership of the Arena Complex. Exemptions from Ad Valorem Taxes, and Sales Taxes during Construction.

(a) Subject to Section 3.4(e), the City shall own the Arena Complex on City Land for public purposes as provided herein and as set forth in the Act, and the Arena Group shall own the Arena Group Surface Parking. The City and the Arena Group shall jointly own all the Plans; provided, however, that neither party shall use any of such Plans for commercial purposes or purposes unrelated to the Arena Complex. Notwithstanding the foregoing, the Arena Group shall, subject to the Act, have exclusive rights and benefits to licensing and granting rights in the Plans as contemplated herein and in the Project Documents.

(b) The components of the Arena Complex located on the City Land and owned by the City and the Arena Group's Leasehold Interest therein are intended to be exempt from ad valorem taxes as set forth in the Act. The Arena Group acknowledges that the actions and tax-exempt status of its Assignees engaged in accordance with Section 1.1 could adversely affect the tax-exempt status of the property and that the City shall bear no responsibility or liability, financial or otherwise, for any changes in the tax-exempt status of the property that are attributable to Arena Group's Assignees. In addition, the parties recognize that the Act may be amended from time to time, and that no assurances can be given by the City that the Act will afford exemption from ad valorem taxes throughout the useful life of the Arena Complex. Notwithstanding the foregoing, the City shall cooperate with the Arena Group to preserve the tax-exempt status of the property during the term of the Arena Group Lease.

(c) During construction of the Arena Complex, the City and the Arena Group shall cooperate in seeking a determination from the Comptroller confirming that items of tangible personal property (including without limitation materials, equipment and supplies) acquired by the City or by the Arena Group pursuant to the Project Documents shall be exempt from sales and use taxes. If an exemption is granted, the City and the Arena Group shall take appropriate or necessary steps to maintain the exemption, including without limitation (i) structuring all construction contracts and subcontracts as "separated contracts" within the meaning of the Texas Tax Code, containing separately stated contract prices for materials and labor, (ii) executing and delivering an agreement or agreements between the City and the Arena Group providing for donation and assignment to the City of items of tangible personal property (including without limitation materials, equipment and supplies) purchased with funds disbursed out of the Project Account(s), as and when incorporated into the Arena Complex or as and when delivered to the City Land (including any staging area relating to the Arena Complex), (iii) the City's confirming in writing to the Arena Group the City's acceptance of delivery of each donation of such tangible personal property, and (iv) the Arena Group's issuing exemption certificates to its contractors and requiring that all contractors issue resale certificates to their subcontractors, in each case claiming appropriate exemption from tax. Notwithstanding the foregoing, Arena Group acknowledges and agrees that the tax-exempt status of its personal property is dependent on the Comptroller finding that such property is being used in furtherance of Arena Group's charitable purpose, that the City has no influence in the Comptroller's determination, and that the City shall bear no responsibility or liability, financial or otherwise, for any Comptroller determination that some or all of Arena Group's property is taxable; provided, however, the City shall cooperate with the Arena Group in obtaining a favorable determination from the Comptroller of tax-exempt status of its personal property.

Section 1.4. Design and Construction of the Arena Complex.

(a) The Arena Group shall have exclusive control over the planning, design, engineering and construction of the Arena Complex, except to the extent this Agreement expressly provides for the City's participation in that process. The Arena Group shall be responsible for meeting or requiring through its contracts with its contractors for meeting those requirements of law applicable to the construction of improvements on privately-owned real property in the State of Texas (including without limitation, if applicable, (i) United States Occupational Safety and Health Administration requirements, (ii) Americans with Disabilities Act requirements, (iii) requirements under Title VII of the Civil Rights Act of 1964, as amended, (iv) Age Discrimination in Employment Act requirements, (v) building codes and zoning requirements, and (vi) storm water, street, utility and related requirements). The Arena Group will provide copies of the construction contracts with the General

Contractor to evidence compliance with the requirements of law described in this subsection.

(b) While the City’s public art ordinance does not apply to the issuance of revenue bonds and the Arena Project, the Arena Group and the City recognize the importance that artistic attributes of the Arena Complex are enjoyed by the public. Accordingly, the Arena Group and the City agree that the enhanced architecture of the Arena Complex will have components similar to those of the existing adjacent Will Rogers Memorial Center including but not limited to extensive masonry detailing, tile murals, decorative terrazzo flooring, etc. The Arena Group will work with the City’s public art commission to obtain public input on exterior art. Due to the complexity related to contracting and coordinating this work as well as separating and tracking the cost for the enhanced architecture and integral artwork, the Arena Group will be responsible for commissioning any artwork and its installation as well as the installation of the enhanced architecture.

Section 1.5. Architect and Engineers.

The Arena Group shall have all authority, control and rights in selecting (including the procedures or methods of procurement and selection), terminating and replacing such design professionals as reasonably required for the design of the Arena Complex, including the Architect who shall have the primary responsibility for the architectural design of the Arena Complex.

Section 1.6. General Contractor.

The Arena Group shall consult with the City in selecting (including the procedures or methods of procurement and selection), terminating and replacing the General Contractor for the Arena Complex.

Section 1.7. City Participation in Designing the Arena Complex.

The City and the Arena Group (or its designee) shall participate in designing the Arena Complex and incorporate the following provisions in the applicable Project Documents:

- (a) The Arena Group shall not charge a development fee.
- (b) In accordance with the requirements between the Arena Group and the City with regard to the development and construction of the Arena Complex, the Arena Group shall contractually obligate the General Contractor to consult with the Director, or the Director's authorized designee, with respect to the Arena Group’s satisfaction of the City’s code requirements applicable to the construction of the Arena Complex.
- (c) The Director's participation in the design and construction of the Arena Complex shall include (i) participation in the design process and meetings, (ii) the enforcement of City code requirements applicable to the Arena Complex, (iii) verifying that the design of the Arena Complex conforms to City codes, general construction ordinances and regulations applicable to the Arena Complex, (iv) approving all connections or tie-ins between the Arena Complex and existing City streets, storm sewers and utilities and (v) approving the proposed vehicle access and circulation in order to maximize efficient and effective traffic flow to and from public streets, during both event and non-event days.
- (d) To ensure that neither the design nor the construction of the Arena Complex is delayed due to delays in the delivery of City responses or delays in other required City actions, the

City shall cause the Director, his designee and other City personnel to respond in an expeditious manner to all submissions and requests by the Arena Group, the Architect, the engineers or the General Contractor, which such response shall be binding on the City. By performing the functions described in this Section 1.7, the Director shall not, and shall not be deemed to, assume the obligations or responsibilities of the Architect, or the General Contractor, whose respective obligations pursuant to their respective agreements with the Arena Group shall not be affected by the Director's exercise of the functions described in this Section 1.7.

(e) The construction scopes of work for which MBE goals are established pursuant to Section 7.12 will identify the goals that have been set and describe the MBE elements and efforts to raise awareness and promote participation by MBE contractors, including outreach meetings for various scopes of work.

(f) Such other provisions as the parties may agree upon.

Section 1.8. City Permits and Inspectors.

(a) The Arena Group shall obtain, or cause to be obtained through contracts with the Architect or General Contractor, all City permits, licenses and approvals required by law, ordinance, or City code, or pursuant to the agreement between the Arena Group and the City regarding permitting requirements and procedures in connection with the construction of the Arena Complex and all other permits or approvals (if any) issued by other governmental agencies, to the extent required by law. To the extent permitted by law, the City shall waive any and all current, ongoing, or future fees that would otherwise be imposed by the City relating to the permit process for the Arena Project including, without limitation, stormwater impact fees, traffic impact fees, zoning and platting fees, and other development fees. The parties acknowledge and agree that this paragraph shall not be construed as a waiver by the City of any current or future applicable utility fees, including, but not limited to, those related to water, sewer, and stormwater and that the City shall have no obligation to refund or reimburse the Arena Group or any of its affiliates or assignees for any permitting or development fees that were paid for the Arena Project prior to the Effective Date of this Agreement.

(b) Due to the magnitude and complexity of the Arena Complex design and the need for consistency and certainty relating to code requirements in completing the design, the City and Arena Group agree that, unless otherwise pre-empted by applicable non-City law, so long as the Arena Group submits conceptual drawings of the Arena Complex to the City's Planning and Development Department on or before May 31, 2016, the Arena Complex shall be designed to comply with and be permitted under all applicable construction-related codes in effect as of the Effective Date, including, but not limited to: Fort Worth City Ordinances 19601-03-2011 (Adopting the 2009 International Building Code, with Local Amendments); 19603-03-2011 (Adopting the 2009 International Mechanical Code, with Local Amendments); 19604-03-2011 (Adopting the 2009 International Plumbing Code, with Local Amendments); 19605-03-2011 (Adopting the 2009 International Energy Conservation Code, with Local Amendments); 19607-03-2011 (Adopting the 2009 International Fire Code, with Local Amendments); and 21554-12-2014 (Adopting the 2014 National Electrical Code, with Local Amendments). If the Arena Group does not submit conceptual drawings of the Arena Complex to the City's Planning and Development Department by May 31, 2016, the design of the Arena Complex must satisfy all laws, ordinances, rules and regulations in effect at the time that application for a building permit to initiate construction of the Arena Complex is made.

(c) To facilitate and expedite (i) scheduling and conducting necessary inspections, (ii)

granting necessary permits and (iii) the completion of other required compliance with City ordinances, rules or regulations with respect to the design and construction of the Arena Complex, a third-party inspection firm shall be selected by mutual agreement of the parties and engaged by the Arena Group or the City. The City shall provide the firm with necessary authority to act on the City's behalf in performing all required inspections and ensuring compliance with applicable City ordinances, rules, and regulations as required from the City with regard to the construction of the Arena Complex. If the Arena Group engages the third-party firm, then the Arena Group shall be entitled to reimbursement by the City at cost for the services of the third-party firm. The amount reimbursed or otherwise paid by the City for services under this paragraph shall not count towards or otherwise be taken into account in calculating the amount of the Public Contribution.

Section 1.9. Contractor Assurances.

The Arena Group shall contractually obligate the General Contractor to provide the following assurances to protect the City and the Arena Group during and after construction: (i) procedures to ensure payment to and performance by the General Contractor's subcontractors, including payment and performance bonds to be furnished by those subcontractors if required by the Arena Group, (ii) indemnification (which shall include commitments to defend and hold harmless) consistent with indemnification provisions customarily provided by prime contractors for City-owned construction projects with a scope similar to that of the Arena Complex, and (iii) insurance, including, but not limited to, commercial liability, all-risks builders risks, workers compensation, errors and omissions/professional liability insurance for any engineering or design work (if applicable), auto liability and excess umbrella coverage, each in form and substance not less than is customary for a City-owned construction project with a scope similar to that of the Arena Complex. Each such indemnity and insurance policy shall name both the City and the Arena Group, and the Arena Group's affiliates, as joint indemnitees and as additional insureds, as the case may be. The City may from time to time request in writing that the Arena Group furnish to the City evidence of the insurance provided by the General Contractor.

Section 1.10. Construction Contracts.

The Arena Group shall, subject to the terms of this paragraph, have the sole right and responsibility to negotiate and enter into all contracts necessary for the design, engineering, construction and completion of the Arena Complex containing such terms and provisions as agreed by the Arena Group, subject to such requirements as provided in Section 1.11 below. The Arena Group shall provide to the City a copy of each construction contract with the General Contractor to which the Arena Group or one of its Assignees is a party. Notwithstanding the foregoing, the Arena Group shall ensure that competitive prices are achieved and that resources are maximized by obtaining multiple quotes or bids or otherwise engaging in a competitive procurement process for the construction of the Arena Complex; provided, however, the City acknowledges and agrees that the Donated Design Services shall not be subject to these requirements. The Arena Group shall not award any contract in connection with the Arena Complex to or for the direct or indirect benefit of Arena Group, its officers, or employees.

Section 1.11. Additional Requirements.

In connection with the design and construction of the Arena Complex, the Arena Group shall contractually obligate the following entities or persons to take the following actions and to undertake the following responsibilities; provided, however, the City acknowledges and agrees that the Donated

Design Services shall only be subject to the requirements in subsections (a), (b), and (d), if applicable:

(a) The Architect shall provide to the Director copies of schematic design, design development and construction plans and specifications for the Arena Complex (including revisions) as such plans and specifications are completed and approved or accepted by the Arena Group and shall be available, in accordance with the requirements between the Arena Group and the City with regard to the development and construction of the Arena Complex, to discuss with the Director comments the Director may have concerning such plans and specifications (provided that the Arena Group shall have sole discretion and full right and authority to make decisions regarding such comments);

(b) The Architect shall provide to the Director at least three sets of construction documents approved or accepted by the Arena Group, signed and sealed by one or more registered professional architects or engineers licensed in the State of Texas;

(c) In accordance with the requirements between the Arena Group and the City with regard to the development and construction of the Arena Complex, the Arena Group or such person selected by and contracting with the Arena Group shall provide the Director with a copy of the detailed construction schedule outlining the major items of work of each major construction contractor, and any revisions to such schedule;

(d) The Arena Group or such person selected by and contracting with the Arena Group will invite the Director to attend the Arena Group "Owner's" meetings regarding the design and construction of the Arena Complex in accordance with the requirements between the Arena Group and the City with regard to the development and construction of the Arena Complex and will keep the Director reasonably advised and informed as to the proceedings of any such meetings that the Director does not attend as well as any other matters related to the design and construction proceedings, as may reasonably be requested by the Director;

(e) The Arena Group or such person selected by and contracting with the Arena Group shall provide the Director with reasonable advance notice of regularly-scheduled design and construction meetings and shall not prohibit the Director from attending and participating in such meetings;

(f) The General Contractor shall comply with the Arena Group's covenant to fully comply with the good faith effort commitments with regard to making contract opportunities available to qualified minority-owned businesses as more fully set forth in Section 7.12 of this Agreement.

(g) The General Contractor shall be responsible for maintaining reasonable vehicular and pedestrian access to property and buildings on the City Land that abut City right-of-way, including the provision of temporary facilities, including pavements and utilities, until permanent facilities are in place or existing facilities are restored;

(h) The General Contractor shall arrange for site security within designated areas under construction, except as otherwise expressly required by its contract with the Arena Group;

(i) The General Contractor shall comply with, and shall require that its agents and contractors comply with, all applicable laws and regulations regarding the use, removal, storage,

transportation, disposal and remediation of hazardous materials;

(j) The General Contractor shall notify the Arena Group and shall not proceed without the Arena Group obtaining the Director's approval (which shall not be unreasonably withheld or delayed) with regard to all field changes that directly result in material changes to preexisting plans for the Arena Complex connections with City streets, storm sewers and utilities;

(k) The appropriate engineers designated by the Arena Group shall cause all appropriate soils and materials testing to be conducted by certified independent laboratories and shall furnish to the City copies of reports of such testing.

(l) The General Contractor shall promptly repair, restore or correct, on a commercially reasonable basis, all damage caused by the General Contractor or its subcontractors to property or facilities of the City, and shall reimburse the City for out-of-pocket costs actually incurred by the City that are directly related to the City's necessary emergency repairs of such damage;

(m) The General Contractor shall provide reasonable advance notice to the Director of any scheduled pre-final (if any) and final inspection of the Arena Complex following substantial completion of construction and shall not prohibit the Director from being present during such inspection(s);

(n) The General Contractor shall obtain correction of defective work, and shall perform warranty work (or shall cause such work to be performed) within the applicable corrective period as required in its contract with the Arena Group;

(o) The Arena Group will obtain from its General Contractor and provide the Director with a sufficient number of copies of all building systems, training, operation and maintenance manuals for the Arena Complex within one hundred twenty (120) calendar days following completion of construction in accordance with the requirements between the Arena Group and the City with regard to the development and construction of the Arena Complex; and

(p) The General Contractor shall provide the Arena Group with a sufficient number of complete as-built drawings for the Arena Complex within one hundred twenty (120) calendar days following completion of construction to allow the Arena Group to provide one such set to the Director in accordance with the requirements between the Arena Group and the City with regard to the development and construction of the Arena Complex.

If any of the foregoing entities or persons shall fail in a material respect to perform any of its contractual obligations described above (or in Section 1.7, Section 1.8 or Section 1.9), the Arena Group shall use good faith efforts to enforce, to the extent practicable, such contractual obligations against such entities or persons.

Section 1.12. Naming Rights, Sponsors and Signage.

Pursuant to the Arena Group Lease, the Arena Group shall have all authority, control and rights in selecting the name or names of the Arena Complex, as well as the sponsor or sponsors for which the various portions of the Arena Complex will be named from time to time, and all signage (subject to generally applicable limitations in the City Code), branding, service, concession, seat license, pouring or other rights, including without limitation, the right to retain all proceeds therefrom. Any naming or sponsorship agreements entered into by the Arena Group shall be subject to the City's approval, such approval not to be unreasonably withheld, conditioned, or delayed. Such

rights, licenses and sponsorships shall be structured in a manner that they will not adversely affect the tax-exempt status of the City’s Arena Complex Bonds.

Section 1.13. Marketing.

Advertising placed within the boundaries of the Arena Project, including any marquee, pylon, monument or directional signs, will not be restricted, except by safety, environmental, zoning and other like regulations, and the City shall provide the necessary permits and authorizations. Signage shall be done in a first-class manner. In addition, the City acknowledges that it is desirable and appropriate for additional signage (including advertising and directional signage) for the Arena Project in order to provide directional and informational guidance to patrons to be placed outside the boundaries of the Arena Project, such as on certain highways, roadways, etc. near the Arena Project (including, without limitation, signage near Interstate 30, signage at the corner of W Lancaster Avenue and University Drive, and/or a marquee sign on Montgomery Street). The City agrees to cooperate with the Arena Group in the development of a Sign Agreement that contemplates these objectives.

Section 1.14. Intellectual Property Rights.

The Arena Group shall own all intellectual property rights in, to and relating to the Arena Complex, whether now in existence or created in the future save and except pre-existing City-owned intellectual property, including but not limited to, the “Molly” logo. Arena Group’s rights shall include without limitation all copyrights, trademarks, trade dress and merchandising rights in the Arena Complex, all names, logos and likenesses, as well as all rights to protect, enforce and license any or all of the foregoing. Any logo shall be subject to the City’s approval, such approval not to be unreasonably withheld, conditioned, or delayed. Notwithstanding the generality of the foregoing, the Arena Group hereby grants to the City a worldwide, royalty-free, non-exclusive, perpetual (for the duration of any applicable copyright) license to use and to sublicense the name, logos, and likenesses of the Arena Complex and any and all components thereof in general informational and promotional materials, including, but not limited to, publications and promotional materials prepared and distributed by the Fort Worth Convention and Visitors Bureau, the Fort Worth Chamber of Commerce, and other similar promotional organizations; provided, however, that any such material, whether produced by the City or a sublicensee shall not be commercial or for-profit in nature and shall clearly attribute, to the extent applicable, the copyright, trademark, or similar ownership rights of the Arena Group.

ARTICLE II

COSTS AND FINANCING OF THE ARENA PROJECT

Section 2.1. The Arena Project Costs.

The Project Costs shall consist of the following:

- (a) Costs incurred by the Arena Group prior to the Effective Date and related to the Arena Project as detailed in Schedule I of this Agreement;
- (b) Costs incurred by the City prior to the Effective Date and related to the Arena Project as detailed in Schedule II of this Agreement;

(c) The following costs if actually incurred and payable by either party after the Effective Date:

1. acquisition and preparation costs of the City Land, including any and all awards in condemnation proceedings, if any, to acquire any part of the City Land, including without limitation all environmental remediation necessary with respect to the City Land;
2. costs incurred by the Arena Group to construct, equip and furnish the Arena Project as detailed in the Arena Project Budget;
3. costs of environmental assessments covering the Arena Project and covering the land and infrastructure related to the Arena Project (and assessments of costs if remediation is needed or required on any portion of the Arena Project which, without such remediation, may adversely affect any portion of the Arena Project);
4. costs of soil conditions reports and evaluation of soil removal, reclamation, fill and improvements requirements;
5. costs of all on-site and off-site work to cause utilities to be available at the Arena Project, utility relocation and street abandonment;
6. costs of addressing zoning and-land use issues to allow the development and construction of the Arena Project as contemplated by this Agreement, including costs of obtaining any required variances or special-use permits;
7. costs of extinguishing existing liens, easements and other encumbrances imposed upon or otherwise affecting the Arena Project;
8. costs in connection with removing, or providing security for, any material lien or encumbrance that arose in connection with the design, engineering, construction, equipping or furnishing of the Arena Project;
9. costs of determining and complying with special development restrictions, including, but not limited to archaeological and historical significance requirements;
10. costs of all other due diligence performed or to be performed by or for the parties pertaining to the Arena Project (such as, by means of example only but without limitation, assessment of transportation, groundwater, and other impacts and related impact fee requirements; completion of required traffic studies and transportation requirements [local and regional]; and assessment of potential infrastructure, utility, parking, signage, and drainage needs and requirements);
11. costs incurred for any “related infrastructure” (as such term is defined in the Act) that is not located on the City Land and that is reasonably necessary as a result of the construction and development of the Arena Project, including without limitation (A) costs incurred by the Arena Group for demolition, grading, paving, constructing, landscaping, installing lighting and striping the parking areas, and parking structures, (B) costs of detention facilities and other related infrastructure improvements, and (C) costs of acquiring right-of-way for designing and

constructing various necessary roadway improvements which otherwise might constitute “related infrastructure”; for avoidance of doubt, the Arena Group and the City shall mutually agree whether, and to what extent, a proposed improvement constitutes “related infrastructure” for purposes of this provision;

12. costs incurred by the Arena Group to integrate the Arena Group Surface Parking into the Arena Complex parking system;
13. permit, license and inspection fees incurred by the Arena Group and not otherwise reimbursed by the City in accordance with Section 1.8(c);
14. fees and expenses of the General Contractor, subcontractors, consultants and similar persons incurred by the Arena Group in connection with the planning, design, engineering, construction, equipping and furnishing of the Arena Project;
15. costs incurred by the Arena Group in complying with the requirements of Section 1.11 hereof;
16. actual and reasonable general and administrative expenditures of the Arena Group allocable to the administration or oversight of the activities contemplated in this Agreement by the Arena Group in connection with the construction, equipping and furnishing of the Arena Project (provided that none of these costs are to be reimbursed or otherwise borne by the City);
17. with the exception of inspection and permitting personnel costs that are reimbursed by the City under Section 1.8(c), all other out-of-pocket costs of the City or the Arena Group paid out or incurred related to the Arena Project that are expended for and that are attributable to the construction of the Arena Project or the acquisition of the City Land or Arena Group Land; and
18. such other costs and expenses as the parties hereto shall mutually approve in writing.

To the extent Project Costs are to be paid with funds from the 334 Revenues, such funds shall be used only to pay those costs allowed under the Act. The Project Costs delineated in this Section 2.1 do not constitute an exhaustive list of expenses that can legally be paid using State PFZ Funds, Local PFZ Funds, or 334 Revenues. The City may reimburse itself from these revenue sources for other costs in accordance with applicable law; provided, however, only the City-incurred costs meeting the definition of Project Costs and applicable to the City under this Section 2.1 shall be taken into account in calculating the Public Contribution.

Section 2.2. Project Budget and Master Plan.

As soon as practicable after the Arena Group determines (but prior to the Funding) that the Architect's preliminary or conceptual plans for the Arena Complex are satisfactory, and after an initial estimate of total Project Costs has been determined based on such plans, which estimate must also be satisfactory to the Arena Group, the Arena Group shall deliver to the City (i) a set of Master Plans, and (ii) the Arena Project Budget. The Arena Group shall deliver to the City any updates to the Master Plans and the Arena Project Budget that are delivered to the Arena Group. The City and the Arena Group currently estimate that the Arena Project Budget will be approximately

\$450,000,000, subject to subsequent adjustments based on the ultimate land acquisition and preparation costs and the completion of final design and architectural plans. The contribution of public funds by the City is limited to the Public Contribution, and the Public Contribution shall not be used to pay for any Overruns. No material change shall be made by the Arena Group in the Arena Project Budget unless (i) such change is disclosed to the City, and (ii) to the extent such change causes the Project Costs to exceed \$450,000,000, the Arena Group shall be responsible for Overruns.

Section 2.3. Venue Project Fund and Cost Account.

(a) In accordance with City of Fort Worth Resolution 4387-12-2014, the City has established the Venue Project Fund as the venue project fund for the Arena Project. The Venue Project Fund shall consist of separate accounts as are necessary to comply with the terms and conditions of the Public Financing and as are necessary for funding the payment of the City's portion of Project Costs. The Venue Project Fund shall include (i) the Public Project Cost Account for payment of the City's portion of Project Costs pursuant to the procedure set forth in Section 2.6, and (ii) other accounts as may be required in the proceedings authorizing the City's Arena Complex Bonds issued by the City and any bonds issued pursuant to Section 2.8, including without limitation a Public Debt Service Account. The City may establish subaccounts within the Public Project Cost Account and the Public Debt Service Account to assist in the administration thereof.

(b) The Public Project Cost Account shall be maintained at a current depository bank for City funds and shall not be commingled with any other funds of the City. The City acknowledges that the funds in the Public Project Cost Account shall be dedicated solely to the payment of Project Costs. The Public Project Cost Account shall be administered and controlled (including signatory authority) by the City and funds in such account shall be disbursed in the manner provided in Section 2.6. Pending disbursement of funds in the Public Project Cost Account, the City shall invest such funds only in investments permitted and authorized by applicable law and the City's investment policy as in effect from time to time. All income earned on such investments shall be deposited in, and shall become part of, the Public Debt Service Account or the Public Project Cost Account, at the option of the City; provided, however, that investment earnings attributable to any tax-exempt Arena Complex Bonds shall be accounted for separately and, to the extent Section 148 of the Code applies to the Arena Complex Bonds, such investment earnings may be subject to rebate to the United States of America.

(c) If funds remain in the Public Project Cost Account after the completion of the Arena Complex and the payment of all Project Costs pursuant to the terms hereof, then such funds may be used by the City for any lawful purpose.

Section 2.4. Arena Group Project Cost Account.

(a) The Arena Group shall establish the Arena Group Project Cost Account at a depository institution that has one or more branches located in the City, into which account the Arena Group Contribution shall be deposited or, if applicable, each Arena Group Deposit shall be deposited (if not deposited directly into the Disbursement Account) and into which account any subsequent contributions by the Arena Group for Overruns shall be deposited. The Arena Group acknowledges that funds in the Arena Group Project Cost Account shall be dedicated solely to the payment of Project Costs. The Arena Group Project Cost Account shall be administered and controlled (including signatory authority) by the Arena Group and funds in such account shall be disbursed by the Arena Group in the manner provided in Section 2.6. Pending disbursement of funds in the Arena

Group Project Cost Account, the Arena Group may invest all or any portion of such funds in any investment authorized by applicable law. All income earned on such investment shall be deposited in and should become part of the Arena Group Project Cost Account.

(b) If funds remain in the Arena Group Project Cost Account after the completion of the Arena Complex and the payment of all Project Costs pursuant to the terms hereof, then such funds shall thereafter be the exclusive property of the Arena Group and shall be available for use by the Arena Group for any lawful purposes as determined by the Arena Group.

Section 2.5. Disbursement Account.

On or prior to the Funding Date, the Arena Group shall establish an account designated as the Disbursement Account, into which account funds transferred from the Public Project Cost Account in accordance with Section 2.6 and the Arena Group Project Cost Account in accordance with Section 2.6 shall be deposited (or, if applicable, into which Arena Group Deposits shall be deposited) and out of which account Project Costs shall be paid pursuant to Section 2.6. The parties acknowledge that the Disbursement Account is a trust account and shall be dedicated solely to the payment of Project Costs. The Disbursement Account shall not be commingled with any other City or Arena Group funds. The Disbursement Account shall be managed and administered (including signatory authority) by the Arena Group. Funds in the Disbursement Account shall be segregated in such a manner as may be necessary to not cause the Arena Complex Bonds to lose their status as tax-exempt under the Code.

Section 2.6. Funding Agreement.

Funds shall be periodically disbursed from the Public Project Cost Account by the City and from the Arena Group Project Cost Account by the Arena Group to the Disbursement Account, and from the Disbursement Account by the Arena Group in direct payment of such Project Costs, in accordance with the Funding Agreement which the Arena Group and the City agree to cooperate in negotiating and will include, without limitation, the following provisions:

(a) The full amount of the Public Contribution shall be deposited into the Public Project Cost Account on or before December 31, 2017, or Arena Group may terminate the Agreement in accordance with Article VI.

(b) The City shall use its reasonable and best efforts to obtain funds from the issuance, sale, and delivery of one or more series of Arena Complex Bonds in an amount that is net after providing for the payment of issuance costs, the creation of reserves, and the deposit of capitalized interest, and upon terms and conditions that conform to applicable law, and that are satisfactory to the City, equal to the full amount of the Public Contribution. The City anticipates the City Council passing an ordinance or resolution on or before December 31, 2016, providing authority to issue the Arena Complex Bonds. In the event the City Council has not provided such authority by that date, Arena Group may terminate this Agreement in accordance with Section 6.1(c).

(c) The Arena Group shall use its reasonable and best efforts to obtain funds equal to the Arena Group Contribution from commercial and private sources, including cash, equity, third party contributions or pledges or financing upon reasonable terms and conditions that are acceptable to the Arena Group.

(d) The Funding Agreement shall include the anticipated cash flow schedule based on

the Arena Project Budget.

(e) In the Arena Group's sole discretion, the Arena Group has the right but not the obligation to move forward with construction of the Arena Facility and make funds available for Project Costs from the Arena Group Contribution until such time as the full amount of the Public Contribution is deposited in the Disbursement Account. If the Arena Group elects to commence construction of the Arena Facility prior to the full amount of the Public Contribution being deposited in the Disbursement Account, the parties shall negotiate long term licenses or leases of City Land to the Arena Group that would commence if (i) the City fails to provide the Public Contribution in accordance with the Funding Agreement and (ii) the Arena Group elects to fund the portion of the Arena Complex to be funded by the Public Contribution.

(f) The Funding Agreement shall include provisions for submittal of Payment Certificates to the City and the timely subsequent disbursement of funds to the Disbursement Account from the Arena Group Project Cost Account by the Arena Group and the Public Project Cost Account by the City. The City shall cause the Director or his designee to respond promptly and expeditiously to all requests by the Arena Group or its designee relating to Payment Certificates.

(g) Payment Certificate shall mean a written certificate prepared by the Arena Group:

(i) which (A) reasonably identifies and represents that the identified Project Costs are due and owing and authorized to be paid pursuant to such Payment Certificate, (B) certifies that the amounts payable do not include contract retentions (other than those that are due) and (C) identifies the portion of such amount (if any) to be transferred to the Disbursement Account from the Public Project Cost Account and the portion of such amount to be transferred to the Disbursement Account from the Arena Group Project Cost Account (or to be deposited directly into the Disbursement Account by the Arena Group as an Arena Group Deposit);

(ii) which has attached to it a copy of an invoice(s) relating to such Project Costs which reasonably identifies the payee (or payees), the goods, services and/or materials provided by such payee (or payees) and the total amount due and owing with respect to such goods, services and/or materials ;

(iii) which, in the case of any Project Cost covered by such Payment Certificate that was incurred in connection with services, goods or materials provided by the General Contractor or any other contractor, has been executed by the Architect for the purpose of confirming that such services, goods or materials have been satisfactorily delivered or completed as the case may be;

(iv) which, in the case of any Project Cost associated with a reasonable general or administrative expense of a party under Section 2.1(c)(16) has been executed by the Independent Auditor; and

(v) which has been executed by the Arena Group or its designee to certify that the fees, costs, expenses and other charges reflected on the Payment Certificate constitute Project Costs and are due and owing.

(h) Upon the sale of the Arena Complex Bonds and the deposit of the Public Contribution in the Disbursement Account, the City shall fund one hundred percent (100%) of the

Project Costs until such time as the expended Public Contribution equals the expended Arena Group Contribution. At such time as the amounts expended from both the Public Contribution and the Arena Group Contribution are equal, the City and the Arena Group shall fund the Disbursement Account equally upon receipt of Payment Certificates until such time as both have expended the full amount of the Public Contribution and Arena Group Contribution, respectively. Thereafter, the Arena Group shall fund one hundred percent (100%) of the Overruns.

Section 2.7. City's Funding Commitment.

(a) Subject to the termination rights set forth in Section 6.1, the City shall provide the Public Contribution by depositing the Available Bond Proceeds in the Public Project Cost Account to pay Project Costs on a pari passu basis with the Arena Group Contribution and in accordance with the Funding Agreement. The City shall provide reasonably satisfactory assurances to the Arena Group that the Public Contribution will be available to pay Project Costs as and when needed.

(b) Commencing on the Effective Date, the City shall use good faith efforts to arrange the financing of the Public Contribution by issuing the Arena Complex Bonds as soon as practicable after July 1, 2017. The principal amount, structure, maturities, interest rates, provisions and specific terms of the Arena Complex Bonds shall be as approved by the City. It is provided, however, that none of the Arena Complex Bonds shall (i) be a general obligation of the City, (ii) be secured by or payable from ad valorem taxes levied by the City, (iii) be secured by, guaranteed by or payable by the Arena Group or its owners, or any of their affiliates or related parties or (iv) be secured by a lien, security interest or any similar interest on the Arena Complex.

(c) The parties acknowledge and agree that the issuance of Arena Complex Bonds in an aggregate principal amount that exceeds \$225,000,000.00 shall not result in any increase in the amount of the Public Contribution.

(d) The parties further acknowledge that issuance of debt in support of a portion of the Public Contribution not to exceed \$20,000,000.00 may be delayed in order to allow the evaluation of the revenues provided from applicable venue taxes and the treatment of such revenue under the Code and regulations promulgated thereunder. Arena Group shall not object to such delay provided that funding is made available in accordance with the schedule agreed to by the parties.

Section 2.8. Arena Group's Funding Commitment.

(a) Subject to the termination rights set forth in Section 6.1, the Arena Group shall provide the Arena Group Contribution which shall be deposited in the Arena Group Project Cost Account as and when needed to pay Project Costs on a pari passu basis with the Public Contribution and may provide funding and pay expenses in advance of the Public Contribution in accordance with Section 2.6(e), with all such funding to be detailed in and performed in accordance with the Funding Agreement. The Arena Group shall provide reasonably satisfactory assurances to the City and any bond insurer for the Arena Complex Bonds that the Arena Group Contribution will be available to pay Project Costs as and when needed. Notwithstanding the foregoing, if, prior to the Funding Date, the Arena Group determines that the aggregate of the Arena Group Contribution and the Available Bond Proceeds will not fully fund the Arena Project, the Arena Group shall have the right to terminate this Agreement and the Project Documents without further obligation or liability.

(b) If any Overruns are incurred, the Arena Group shall promptly pay, or at the Arena Group's election, contribute to the Arena Group Project Cost Account from time to time as necessary, cash in

an amount equal to such Overruns.

(c) The Arena Group shall determine the manner and method of obtaining funds with which to make the Arena Group Contribution and to pay for any Overruns and it may obtain and provide the Arena Group Contribution and any Overruns from any source, including but not limited to, cash, equity, any revenue generated from the Arena Complex, personal or permanent seat license revenue, or third party contributions, financings or pledge agreements; provided, that such licenses, contributions, financings or pledge agreements will be structured in such a manner as to not cause the Arena Complex Bonds to not be treated as tax-exempt obligations under the Code.

(d) The Arena Group reserves the right to request the City to use reasonable efforts to issue Incremental Funding to aid the Arena Group in providing the Arena Group Contribution. If the City is so requested, the Arena Group shall obligate itself to make Arena Group Funding Payments sufficient to pay all debt service requirements for such Incremental Funding. If the City agrees to comply with a request to provide Incremental Funding, it will pledge all of the Arena Group Funding Payments as the payment of and as the security for such bonds, and will use its good faith efforts to issue taxable bonds secured solely by the Arena Group Funding Payments (and any other revenues determined by the Arena Group) to generate any portion of the Arena Group Contribution or any Overruns. Arena Group shall ensure that required debt service payments on Incremental Funding have been provided for before declaring an operating surplus under Section 4.1(d). Bonds issued as part of the Incremental Funding, if any, shall not be secured by or payable from any portion of the 334 Revenues, State PFZ Funds, Local PFZ Funds, or the Base Rent, or by any other funds or resources of the City.

Section 2.9. Funding; Funding Date.

(a) Subject to the City and the Arena Group reaching final agreement on the Project Documents, the City and the Arena Group each shall use good faith efforts to consummate their respective financings and to make their respective contributions or deliveries in accordance with Section 2.7 and Section 2.8 as soon as is practicable for the consummation of both such contributions. The City shall deliver written notice to the Arena Group identifying the proposed sale date of the Arena Complex Bonds. The Arena Group shall use good faith efforts to deliver to the City, not later than the tenth business day after the date on which the City's notice of the proposed sale date is delivered to the Arena Group, the status of the financing necessary for the Arena Group Contribution (or for the delivery of the assurances thereof), subject to customary exceptions and conditions.

(b) The Funding for the transactions contemplated in Section 2.7, Section 2.8 and Article 4 shall occur on the Funding Date. The City and the Arena Group each shall use good faith efforts to keep the other party advised regarding the status of such party's financing efforts. The City and the Arena Group shall coordinate their financing efforts to cause the Funding to occur on the earliest practicable date or dates at a time and place to be agreed upon by the Arena Group and the City. The City shall use good faith efforts to effectuate the sale of the Arena Complex Bonds as soon as feasible, based on the anticipated revenue streams from the 334 Revenues, State PFZ Funds, and Local PFZ Funds.

Section 2.10. Right to Audit.

The Arena Group and the City shall each have the right to audit, upon reasonable notice and, at its own expense, all expenditures and financial records related to the Arena Project, including the records related to the Project Account(s). Upon written request by the Arena Group, the City shall

give the Arena Group access to all records controlled by, or in the direct or indirect possession of the City (other than records subject to legitimate claims of attorney-client privilege) relating to the Public Project Cost Account, and permit the Arena Group to review such records in connection with conducting a reasonable audit of such account. Upon written request by the City, the Arena Group shall give the City access to all records controlled by, or in the direct or indirect possession of the Arena Group (other than records subject to legitimate claims of attorney-client privilege) relating to the Arena Group Project Cost Account and the Disbursement Account, and permit the City to review such records in connection with conducting a reasonable audit of such accounts. The City and the Arena Group shall reasonably cooperate with the assigned independent auditors (internal or external) in this regard, and shall retain and maintain all such records for at least six years from the date of completion of the Arena Complex.

ARTICLE III

THE LAND

Section 3.1. The Arena Complex Site.

The City shall acquire, as provided in this Article III, own and lease to the Arena Group (as provided in Article IV) the City Land. Upon the City's written request from time to time, the Arena Group (i) shall furnish to the City copies of soils and other geotechnical reports relating to the City Land that previously were obtained by the Arena Group, the Architect or the General Contractor, and (ii) shall use good faith efforts to have the entities that rendered such reports address same to the City.

Section 3.2. City Land Acquisition.

The City shall acquire the City Land by purchase, gift, donation or the exercise of the power of eminent domain. The City shall make the City Land available to the Arena Group for the Arena Complex, as contemplated by the Project Documents. Notwithstanding the foregoing, the Arena Group shall transfer and convey the Arena Group Facility Land to the City with a reversionary interest requiring the Arena Group Facility Land to be used as the Arena Facility, and the Arena Group shall transfer and convey the Arena Group Garage Land to the City with a reversionary interest requiring the Arena Group Garage Land to be used as the Arena Garage; provided, however, the reversionary interests in any conveyances as described in this sentence shall terminate in the event that the Southwestern Exposition and Livestock Show, the Arena Group, and the Arena Group's Assignees all dissolve or otherwise terminate.

Section 3.3. Streets.

At the Arena Group's request and in accordance with the Master Plan, the City may consider closing any streets or alleys that would constitute any portion of the site for the Arena Complex, but is not obligated to do so under this Agreement. If any such closure occurs, the City agrees to waive any fees including but not limited to administrative processes, re-platting fees, and actual land costs for the right-of-way.

Section 3.4. Parking Requirements.

(a) By execution of this Agreement, the City licenses to the Arena Group City rights and

interest as of the Effective Date in the land shown in Exhibit B for the limited purpose of constructing the Arena Garage with the period of such license to continue until at least such time as construction of the Arena Garage is complete.

(b) Arena Group shall construct the Arena Garage on the Arena Group Garage Land and the land shown in Exhibit B in accordance with the terms of this Agreement.

(c) Arena Group retains ownership of the Arena Group Garage Land and the Arena Garage during construction. The City shall at all times retain its ownership and other rights in the land shown in Exhibit B.

(d) Arena Group covenants and agrees that on completion of the construction of the Arena Garage and deposit of the Available Bond Proceeds in the Public Project Cost Account, Arena Group shall take all actions necessary to vest title in the City in the Arena Garage and the Arena Group Garage Land, subject to Section 3.2 of this Agreement. In the event the Available Bond Proceeds have not been deposited in the Public Project Cost Account by December 31, 2017, the Arena Group may elect, in its sole discretion, to retain ownership of the Arena Garage and Arena Group Garage Land, and the parties agree to negotiate in good faith regarding the operation of the Arena Garage and any associated ground lease or similar arrangement, if required.

(e) The Arena Garage will have parking spaces available to accommodate patron parking for events occurring at the Arena Facility. In addition, the Parking Agreements will, among other things, outline the process for selection of the parking operator and standards established to ensure that non-Arena Facility events do not divert parking to the Arena Garage unless overflow parking is required. In addition, the Arena Group recognizes the City’s obligations regarding that certain lease between the City and the Fort Worth Museum of Science and History, a public document on file in the City Secretary’s Office as City Secretary Contract No. 43957. The Arena Group acknowledges that the City anticipates an amendment to such lease that will affect the use of the parking; the impact of this amendment and other parking related issues will be further defined in the Parking Agreements or other applicable Project Documents.

ARTICLE IV

LEASE MATTERS

Section 4.1. Arena Group Lease.

The Arena Group Lease shall include the following material terms, and such other terms as are customary for a long-term triple-net operating agreement or lease of facilities similar to those contemplated for the Arena Complex:

(a) The Arena Group Lease shall be for an initial lease term commencing on and as of the dates on which the Arena Facility is occupied by the Arena Group and extends for a period of thirty (30) years. The Arena Group shall have the option to renew such lease for two (2) successive renewal periods of twenty (20) years each.

(b) The Arena Group Lease shall be structured as a “triple-net” agreement. The Arena Group shall have the obligation to pay all operating, maintenance and utility costs of the Arena

Complex, shall be obligated to maintain the same in first class condition, reasonable wear and tear excepted, and shall have the right to retain and receive all revenues generated therefrom. The Project Documents shall also address the Arena Group's agreement to fund any reasonable and necessary event day costs incurred by the City for traffic control and security in connection with an event at the Arena Complex, and will identify parties eligible to provide traffic management and security services, maximum rates to be paid, and criteria by which staffing levels will be established. If indoor security is requested by the Arena Group or an event holder at the Arena Complex, the Arena Group will be solely responsible for providing or causing the event holder to provide all indoor security during events at the Arena Complex.

(c) During the initial term of the Arena Group Lease, in addition to non-monetary consideration in the form of public benefits as set forth in this Agreement and to be set forth in the Arena Group Lease, the tenant will be obligated to pay or cause to be paid to the City monetary consideration in the form of Base Rent equal to the total of the annual amount of One Dollar (\$1.00) commencing on the commencement date of the Arena Group Lease approximately in the year 2019 and annually throughout the initial term of the Arena Group Lease.

(d) The Arena Group shall retain any and all operating surpluses resulting from the operation of the Arena Complex and use the surpluses to fund (i) an operating reserve fund; (ii) an Arena Complex capital maintenance fund; (iii) an Arena Complex capital improvement fund; and (iv) advance payments on outstanding Incremental Funding, if any. Deposits by the Arena Group into any of the funds may be invested in any manner in the Arena Group's sole discretion. Funds in the Arena Complex capital improvement fund may be used in the Arena Group's sole discretion for capital improvements or maintenance to the adjacent Will Rogers Memorial Center complex or the Arena Group Surface Parking. Upon termination or non-renewal of the Arena Group Lease, any funds remaining in the operating reserve fund shall accrue to the City therefore lessening the burden on the City and shall be used solely for the purpose of Arena Complex operations. Upon termination or non-renewal of the Arena Group Lease, any funds remaining in the capital maintenance fund shall accrue to the City therefore lessening the burden on the City and shall be used solely for the purpose of Arena Complex capital maintenance. Upon termination or non-renewal of the Arena Group Lease, any funds remaining in the capital improvement fund shall be used first to fund any outstanding principal and interest on any Incremental Funding; funds remaining in the capital improvement fund after provision has been made for all such outstanding Incremental Funding shall accrue to the Arena Group and may be used in the Arena Group's sole discretion for any lawful purpose related to the Arena Group's charter.

(e) The Arena Group shall have the right to lease and license the use of the Arena Complex and related improvements for any lawful use not inconsistent with the Act.

(f) For so long as any Incremental Funding is outstanding that are payable from and secured by the Arena Group Funding Payments, the Arena Group shall pay the Arena Group Funding Payments to the City, including rent that is additional to the Base Rent under the Arena Group Lease, in an amount sufficient to pay debt service on such Incremental Funding on a level basis for a 30 year term. The payment of such additional rent shall be paid on a prorated monthly basis commencing on the date that the improvements for the Arena Facility are substantially complete and ready for use by the Arena Group, or as otherwise required by the financing documents pursuant to which such Incremental Funding is issued. If the option to extend the Arena Group Lease is exercised, then the Arena Group shall continue to be responsible for all operating expenses relating to the Arena

Complex, subject to the right to retain all revenues and deposit in the funds described in Section 4.1(d).

(g) The Arena Group Lease shall contain the customary provisions for repair, maintenance, insurance, indemnity, hazardous materials, default and remedy, casualty and condemnation, assignment and compliance with laws which are typical for a major multipurpose arena.

(h) In no event shall the Arena Group or its affiliates be precluded from mortgaging the Arena Group's Leasehold Interest in the Arena Complex.

(i) The Arena Group Lease shall be structured to take into account that the City intends to issue its Arena Complex Bonds as obligations, the interest on which is excluded from gross income of the holders thereof under the Code.

(j) The Arena Group Lease shall address any payment required to be made to a school district under Section 334.044 of the Act.

ARTICLE V

CONDITIONS

Section 5.1. Conditions to the City's Obligations.

The City shall have no obligation to deposit the Public Contribution or to consummate on the Funding Date the other transactions described herein, unless the following conditions have been satisfied:

- (a) The Arena Group shall have executed and delivered the Project Documents;
- (b) The Arena Group shall have delivered the Master Plans and the Arena Project Budget;
- (c) The Arena Group shall have timely performed all of the material covenants, agreements and obligations required hereunder to be performed by the Arena Group on or before the Funding Date and shall not be in default under the Project Documents or this Agreement; and
- (d) The Arena Group shall have satisfied its obligations with respect to the Arena Group Contribution and the Arena Group Funding Payments or delivered assurances of the availability thereof as and when needed, as required by Section 2.8, simultaneously with the City's deposit of the Public Contribution, as required by Section 2.7.

Section 5.2. Conditions to the Arena Group's Obligation.

The Arena Group shall have no obligation to deposit the Arena Group Contribution, to develop the Arena Complex as set forth herein or to consummate on the Funding Date the other transactions described herein, unless the following conditions have been satisfied:

- (a) The City shall have executed and delivered the Project Documents;

- (b) The City shall have purchased or acquired exclusive possession of all of the City Land,
- (c) The City shall have adopted a resolution approving the Project Documents and authorizing and directing the City Manager and other City officials to perform, fulfill and carry out the City's obligations under this Agreement and the Project Documents;
- (d) The City shall have timely performed all of the material covenants, agreements and obligations required hereunder to be performed by the City on or before the Funding Date and shall not be in default under the Project Documents or this Agreement; and
- (e) The City shall have deposited the Public Contribution, as required by Section 2.7, simultaneously with the Arena Group's satisfaction of its obligations with respect to the Arena Group Contribution or delivery of assurances of the availability thereof as and when needed, as required by Section 2.8.

ARTICLE VI

TERMINATION

Section 6.1. Termination.

This Agreement may be terminated under the following circumstances:

- (a) By the mutual written consent of the City and the Arena Group;
- (b) By the Arena Group if official City Council action authorizing the issuance of the Arena Complex Bonds has not been taken by December 31, 2016;
- (c) By the Arena Group if the Funding shall not have occurred by December 31, 2017;
- (d) By the Arena Group pursuant to Sections 2.7 or 2.8; or
- (e) By the City if, upon commencement of the Arena Group Lease, it is determined that the Arena Complex is no longer being used for purposes authorized by the Act and only after the City has notified the Arena Group of these unauthorized uses and provided the Arena Group a reasonable opportunity of no more than ninety 90 days to cure any violations.

Section 6.2. Termination Procedure.

If either party determines that it wishes to terminate this Agreement pursuant to Section 6.1(b), Section 6.1(c), or Section 6.1(d) (as applicable), then such party must deliver a written notice to the other party to the effect that the notifying party thereby terminates this Agreement. The notice must be in writing and must specify in reasonable detail the factual basis for the termination of this Agreement.

Section 6.3. Termination upon Execution of Project Documents.

On the date of the execution of any particular Project Document, any provision in such executed Project Document that conflicts with or contradicts any provision in this Agreement shall automatically supersede such provision in this Agreement and the remaining provisions of this Agreement as it relates to such Project Document shall automatically terminate and be deemed to

have been fully performed by both the City and the Arena Group.

ARTICLE VII

MISCELLANEOUS

Section 7.1. Further Agreements.

The City and the Arena Group agree to use their good faith efforts to complete and execute, as soon as practicable following the execution of this Agreement, all Project Documents necessary, appropriate or desirable to carry out the transactions agreed to by the parties in this Agreement.

Section 7.2. GOVERNING LAW.

THIS AGREEMENT SHALL BE INTERPRETED AND THE RIGHTS OF THE PARTIES DETERMINED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES APPLICABLE THERETO AND THE LAWS OF THE STATE OF TEXAS APPLICABLE TO AN AGREEMENT EXECUTED, DELIVERED AND PERFORMED IN SUCH STATE.

Section 7.3. Compliance with Laws.

The Arena Group and the City shall comply in all material respects with all applicable laws, including, but not limited to, the Act, in connection with the design, engineering, construction, equipping, furnishing, and operation of the Arena Complex.

Section 7.4. Venue for Actions.

The venue for any legal action arising out of this Agreement shall lie exclusively in Tarrant County, Texas.

Section 7.5. Taxes.

The City covenants that if, in the future, the City imposes any form of tax (other than as set forth in the Election and the Project Documents) without the mutual agreement of the Arena Group, which is imposed or levied exclusively on any portion of the Arena Project or the Arena Group that will be assessed on advertising, tickets, concessions, catering, parking, rent or other revenue streams of the Arena Project, then the Arena Group will receive a dollar for dollar offset in the economic arrangements of the Arena Group Lease, which offset and the calculation of same shall be established in the Project Documents.

Section 7.6. Force Majeure.

If either party is unable, either in whole or part, to fulfill its obligations under this Agreement due to a Force Majeure Event, the obligations so affected by such Force Majeure Event will be suspended only during the continuance of such Force Majeure Event.

Section 7.7. Representatives.

(a) During the term of this Agreement, the City Manager (and, where expressly provided for in this Agreement, the Director or the designee thereof) shall have full authority to administer this Agreement on behalf of the City. The Arena Group shall be entitled to rely on the authority of the

City Manager (or, where indicated, the Director or his designee) for such purposes under this Agreement.

(b) During the term of this Agreement, the Arena Group shall designate the Arena Group Representative. The Arena Group may designate a permanent or temporary replacement as the Arena Group Representative by delivering a written notice to the City executed by the Arena Group. If the Arena Group assigns its rights under this Agreement to an Assignee, the Assignee shall ensure that one or more of its senior executive officers possesses the authority to be exercised by the Arena Group Representative. From and after the date of any assignment to the Assignee, the officer or officers designated by the Assignee shall serve as the Arena Group Representative. The City shall be entitled to rely on the authority of the Arena Group Representative for such purposes under this Agreement.

Section 7.8. Obligations to Defend Validity of Agreement.

If litigation is filed by a third party against the Arena Group or the City in an effort to enjoin either party's performance of this Agreement, the parties hereto who are named as parties in such action shall take all commercially reasonable steps to support and defend the validity and enforceability of this Agreement. Either party may intervene in any such matter in which the other party hereto has been named as a defendant. Each party shall be responsible for its attorneys' fees and costs of litigation.

Section 7.9. Confidentiality.

Operation of any publicly owned facility such as the Arena Complex necessarily involves competition with other public and private venues in matters of pricing and contractual arrangements. The Arena Group has advised the City that the information to be included in the Project Documents may contain confidential commercial information relating to the Arena Group and its business and affairs that is protected from public disclosure under applicable law, and that premature disclosure thereof will have a material adverse business and financial impact on the Arena Group. Accordingly, the City agrees that it will follow all procedures established by applicable law that give the Arena Group the right to contest the public disclosure of confidential commercial and business information relating to the Arena Group and its affiliated business entities.

Section 7.10. Successors and Assigns.

The provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. This Agreement may not be assigned without the prior written consent of the other party hereto. It is specifically understood and agreed that the Arena Group may not assign this Agreement to any for-profit entity whose purposes are substantially different from those set forth in the Arena Group's Restated Articles of Incorporation filed April 17, 2002 with the Texas Secretary of State.

Section 7.11. Non-Compete Covenant.

(a) In General.

In executing this Agreement, the parties agree that the Arena Complex is intended, throughout the Arena Group Lease term, to serve as the pre-eminent venue in the City for all rodeo, sporting, music, theatrical, and similar events that typically target audiences of more than 5,500 and

less than 15,000 attendees. It is also the intent of both parties to promote the success of the Arena Complex, Will Rogers Memorial Center, and the Convention Center by avoiding inappropriate competition of existing or future venues; however, the parties recognize that Fort Worth is a rapidly-growing community that may be appropriately served by additional or larger venues in the future, so long as they do not jeopardize the success of the Arena Complex.

(b) Development of Competing Facilities

In recognition thereof and of the significant public and private contribution and operating risk being undertaken by the Arena Group, the City shall covenant, except as noted below, that it will not knowingly, during the initial Arena Group Lease term, directly or indirectly, own, manage, operate, control, finance, sponsor, develop, provide City-owned land or in any other way participate in development of any permanent indoor or outdoor commercial sports, entertainment or multipurpose arena, venue or complex with an attendance capacity of more than 5,500 and less than 15,000 attendees per performance and located anywhere within the City excluding Texas Motor Speedway, Will Rogers Memorial Center, Fort Worth Botanic Gardens, and the Fort Worth Convention Center. Notwithstanding the generality of the foregoing, the Arena Group acknowledges and agrees that the City is currently a party to a number of economic development and other incentive-type agreements and that this provision shall in no way impair or restrict the City's rights and obligations to perform in accordance with such agreements that are in place as of the Effective Date. Renewal of subsequent terms, if exercised by the Arena Group, will require a determination by both parties if this provision should continue, based on the City's demographics and market at that time, to avoid a resulting operating loss for the Arena Group.

Notwithstanding the generality of the foregoing, the City shall not be precluded from offering economic incentives or general assistance to a venue or complex of a fundamentally different character and purpose than the one described herein as determined by the mutual agreement of the City and Arena Group. The Arena Group and the City agree that outdoor sports venues such as major or minor league baseball fields or soccer complexes and indoor or outdoor aquatic facilities are of a fundamentally different character and purpose and are not precluded by this Agreement. Any contractual participation or economic incentives by the City in these specific project types will, unless mutually-agreed by the City and the Arena Group, include a prohibition on those venue operators from holding separately-ticketed concerts or other events suitable for the Arena Complex, Convention Center or Will Rogers Memorial Complex.

In the event, the City desires to enter into an agreement that the City thinks may violate this provision or either party becomes aware of any action or occurrence that is reasonably believed to violate this Section 7.11, the parties agree to negotiate in good faith to redress any alleged or anticipated violation. In the event it is determined that a violation has occurred or will occur and results in damages or adverse operational impacts on the Arena Complex, the parties agree that the negotiations may include monetary or other considerations, including, but not limited to, potential subsidies or other payments to make the damaged party whole for its damages, and that the solution negotiated between the parties may be reflected in the form of an amendment to the Arena Group Lease, an agreement for economic development program grants authorized by Chapter 380, Texas Local Government Code, or other instrument deemed appropriate by the parties at the time.

It is understood and agreed that this Section 7.11 does not impose any kind of financial obligation on the City and that, in accordance with Article 11, Sections 5 and 7 of the Texas Constitution, any subsidy or payment that may subsequently be negotiated between the parties in

order to resolve an alleged violation of this Section 7.11 will be subject to appropriation by the City Council at the time of such resolution.

(c) Competition Between Arena Complex and Other City-Owned Facilities

During the Arena Group Lease term, the Arena Group shall have a first right of refusal for any concert, family entertainment event, ice-related event, sporting-related event, or an event that requires more than 5,500 seats and is a commercial undertaking.

During the Arena Group Lease term, the City shall have a first right of refusal for any consumer show event, trade show event, equestrian event, or convention event that it may host in the Fort Worth Convention Center or the Will Rogers Memorial Center. It is further acknowledged and agreed that the City will proceed as soon as feasible with the decommissioning and removal of the current Fort Worth Convention Center arena in order to accommodate the expansion of the Fort Worth Convention Center.

The Arena Group and the City recognize their obligation based on this Section 7.11; however, the parties acknowledge that client preference for a specific venue should be considered. In such instance, the Arena Group and the City agree to reasonably cooperate in order to accommodate such event sponsors at their preferred venue.

Section 7.12. Minority Business Enterprises (MBEs) Subcontracting Opportunities.

The Arena Group and the City acknowledge that the Arena Complex will contain significant specialized construction elements for which only one source may be available or for which subcontracting or supplier opportunities are negligible. However, the Arena Group will cooperate with the City's Office of Business Diversity to identify construction elements for which meaningful subcontracting or supplier opportunities are available and to establish an achievable and appropriate level of MBE participation for those elements in accordance with the processes set forth in the City's Business Diversity Ordinance, Chapter 20, Article X of the City Code. Working with and through the General Contractor, the Arena Group will ensure opportunities are presented in such a manner that a number of MBE contractors can qualify to submit proposals and bids for subcontracting elements that have been identified and agreed to by the City's Office of Business Diversity as the areas in which MBE opportunities exist. The General Contractor will be required to use good faith efforts to meet or exceed these agreed-to levels.

Section 7.13. Entire Agreement: Amendment.

This Agreement (including the Exhibits attached hereto) and the other documents delivered pursuant hereto and referenced herein constitute the full and entire understanding and agreement between the parties with regard to the subject matter hereof and thereof and supersede any prior or contemporaneous, written or oral agreements or discussions between the parties. Neither this Agreement nor any term hereof may be amended, waived, discharged or terminated, except by a written instrument signed by the parties hereto.

Section 7.14. Waiver.

No term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provision of this Agreement, except by written instrument of the party

actions proximately resulting from its own individual acts or omissions.

Section 7.18. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

Section 7.19. Titles and Subtitles.

The titles of the articles, sections, paragraphs and subparagraphs of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

Section 7.20. Notice and Cure.

A party's failure to perform any obligation or agreement required to be performed hereunder after the Funding Date shall not constitute a breach or default hereunder until and unless the non-defaulting party gives the defaulting party written notice of the non-performance and the defaulting party then fails to cure such non-performance by the 10th day after the date on which such notice is given.

Section 7.21. Review of Counsel; Costs of Negotiating this Agreement.

The parties acknowledge that each party and its counsel have had the opportunity to review and revise this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or exhibits hereto. Each party shall be solely responsible for and shall pay its attorneys and consultants in connection with the negotiation, execution and delivery of this Agreement and the Project Documents. No such costs shall be included or payable, directly or indirectly, as a Project Cost under Section 2.1, and neither party shall include any portion of such costs, either directly or indirectly, in determining the amount that party has contributed toward the Arena Complex.

Section 7.22. Signature Authority.

The person signing this Agreement hereby warrants that he or she has the legal authority to execute this Agreement on behalf of his or her respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. The other party is fully entitled to rely on this warranty and representation in entering into this Agreement.

Section 7.23. No Change in Purpose of Arena Group.

From the Effective Date until expiration or earlier termination of the Arena Group Lease, the Arena Group will not change the scope of purposes for which it was organized, as reflected in its Restated Articles of Incorporation filed April 17, 2002 with the Texas Secretary of State unless the City provides the Arena Group with advance written approval of any such change.

This Agreement has been executed and delivered as of the date first written above.

CITY OF FORT WORTH:

EVENT FACILITIES FORT WORTH, INC.

a Texas non-profit corporation

By: _____
David Cooke
City Manager

By: _____
Name:
Title:

Date: _____

Date: _____

APPROVED AS TO FORM AND
LEGALITY:

By: _____
Peter Vaky
Deputy City Attorney

Contract Authorization:

ATTEST:

By: _____
Mary J. Kayser
City Secretary

EXHIBIT A

DEFINITIONS

“*334 Election Ordinance*” means Ordinance No. 21374-08-2014 adopted by the City Council of the City on August 12, 2014, calling for and ordering a special election to be held on November 4, 2014 at which all qualified voters of the City would have the opportunity to vote for the purpose of approving and implementing Resolution No. 4327-07-2014.

“*334 Revenues*” means collectively: (i) an admissions tax on each ticket sold as admission to an event held at the Arena Complex, at a rate not to exceed ten percent (10%) of the price of the ticket; (ii) a livestock facility use tax on each stall or pen used or occupied by livestock during an event held on one or more consecutive days in which the Arena Complex is used, not to exceed twenty dollars (\$20.00) in the aggregate per stall or pen rental for any event; and (iii) a parking tax on each motor vehicle parking in a parking facility that is determined by the City to serve, or that will serve, the Arena Complex, not to exceed five dollars (\$5.00) for each motor vehicle.

“*Act*” means Chapter 334, Local Government Code, as amended.

“*Agreement*” means the “Master Agreement regarding Multipurpose Arena and adjacent Support Facilities”, entered into as of the Effective Date, by and between the City and the Arena Group.

“*Architect*” means the “*architect*” as defined in *Section 1.5*.

“*Arena Complex*” means collectively, the Parking and the Arena Facility that are constructed for agricultural, sports, school, community, family and entertainment events.

“*Arena Complex Bonds*” means any issues of bonds or other obligations to be approved, authorized, and issued by the City, in one or more series, in accordance with the Act, as further set forth in the Funding Agreement, that are secured and payable as from a senior or junior lien pledge of (A) 334 Revenues, (B) Local PFZ Funds, and (C) State PFZ Funds.

“*Arena Complex Disbursement Trust Account*” or “*Disbursement Account*” means the Disbursement Account created pursuant to *Section 2.5*.

“*Arena Facility*” means collectively, a multipurpose arena, adjacent support facilities, and any related infrastructure located on the City Land.

“*Arena Garage*” means the parking garage being constructed in accordance with this Agreement.

“*Arena Group*” means Event Facilities Fort Worth, Inc., a Texas non-profit corporation, and its Assignees.

“*Arena Group Contribution*” means all payments of Project Costs by the Arena Group up to \$225,000,000 as described in *Section 2.8* less any expenditures made by the Arena Group prior to the Effective Date as shown on Schedule I.

“*Arena Group Deposit*” means deposits made to the Arena Group Project Cost Account pursuant to *Section 2.6(f)*.

“*Arena Group Excess Payments*” means funds paid by the Arena Group exceeding 50% of the Project Costs to be paid pursuant to any Payment Certificate, provided that the Public Contribution has not been fully utilized for any such Payment Certificate.

“*Arena Group Facility Land*” means the land so identified on Exhibit B.

“*Arena Group Funding Payments*” means all payments the Arena Group obligates itself to pay to the City in addition to the Base Rent pursuant to *Section 2.8(d)*.

“*Arena Group Garage Land*” means the land so identified on Exhibit B.

“*Arena Group Land*” means collectively, the Arena Group Facility Land, the Arena Group Garage Land and other Arena Group owned land so identified on Exhibit B.

“*Arena Group Lease*” means the components of the Arena Complex located on the City Land and owned by the City and the Arena Group’s Leasehold Interest to be created pursuant to *Article IV* and hereafter entered into by the Arena Group and the City.

“*Arena Group Project Cost Account*” means the account created pursuant to *Section 2.4*.

“*Arena Group Representative*” means Mike Groomer, or any subsequent individual however, designated by the Arena Group who has full authority to administer the Agreement on behalf of the Arena Group.

“*Arena Group Surface Parking*” means surface parking existing as of the Effective Date on Arena Group Land as identified on Exhibit B and anticipated to provide parking for the Arena Complex in accordance with the terms of the Parking Agreements.

“*Arena Group’s Leasehold Interest*” means Arena Group’s leasehold interest in the components of the Arena Complex located on the City Land and owned by the City, as further described in *Article IV*.

“*Arena Project*” means the Arena Complex, the Arena Group Surface Parking and related land and infrastructure; provided, however, the Arena Group and the City shall mutually agree as to the nature and scope of what constitutes related land and infrastructure.

“*Arena Project Budget*” means the written preliminary budget setting forth the aggregate amount of the Project Costs and identifying in reasonable detail each material cost item including the line items set forth in the document to be prepared and submitted by the Arena Group in accordance with Section 2.2, subject to subsequent adjustments based on the ultimate land acquisition and preparation costs and the completion of final design and architectural plans and final construction costs for the Arena Project.

“*Assignee*” or “*Assignees*” means any non-profit corporation formed by one or more parties affiliated with the Arena Group for the purposes of lessening the burdens of the City and to encourage agricultural pursuits and that will seek federal income tax exemption under Section 501(c)(3) of the Code to which the Arena Group assigns any of its rights or obligations under this Agreement.

“*Available Bond Proceeds*” means the net available proceeds (after the payment of all costs and expenses of the financing, including reserve fund or other deposits required by the financing) of the Arena Complex Bonds, issued in accordance with the Act, and as further set forth in the Funding Agreement.

“*Base Rent*” means the payment due to the City pursuant to the Arena Group Lease in *Section 4.1*.

“*City Land*” means the land so identified on Exhibit B and includes City Licensed Land.

“*City Licensed Land*” means the land identified on Exhibit B that is being licensed by the City to the Arena Group in accordance with Section 3.4.

“*City*” means the City of Fort Worth, Texas, a duly incorporated home rule city of the State of Texas.

“*Code*” means the Internal Revenue Code of 1986 as amended.

“*Comptroller*” means the Texas Comptroller of Public Accounts.

“*Director*” means a City department head or employee of the City designated by the City Manager.

“*Disbursement Account*” or “*Arena Complex Disbursement Trust*” means the account created pursuant to *Section 2.5*.

“*Donated Design Services*” means design services contracted for by the Arena Group and including, without limitation, costs for: 1) land planning, design, architectural, engineering and other consultant and employment costs for preparation of plans, specifications, designs and operations, and 2) costs for appropriate construction oversight and assessments by the Architect and engineers.

“*Effective Date*” means the date on which the City and the Arena Group have both executed and delivered the Agreement.

“*Election*” means the special election held on November 4, 2014 held in accordance with the 334 Election Ordinance.

“*Force Majeure Event*” means each instance of: acts of God; strikes, lockouts, failure or inability to secure materials or labor, or other industrial disturbances; acts of public enemies; wars; blockades; insurrections; riots; epidemics; public health crises; earthquakes; fires; floods; casualty; damage; restraints or prohibitions by any court, board, department, commission, or agency of the United States or of any state; declaration of a state of disaster or of emergency by the federal, state, county, or City government in accordance with applicable law; condemnation; issuance of a Level Orange or Level Red Alert by the United States Department of Homeland Security; any arrests and restraints; civil disturbances; or explosions; or some other reason beyond the reasonable control of the party seeking a delay.

“*Funding*” means the parties’ contributions to the costs of constructing the Arena Project made in accordance with *Section 2.9*.

“*Funding Agreement*” means the agreement between the Arena Group and the City to establish the schedule for City contributions to the Disbursement Account.

“*Funding Date*” means the date on which the City can complete its financings and make the Public Contribution as further described in *Section 2.7*, and on which the Arena Group can complete its financing and make the Arena Group Contribution (or deliver assurances of the Arena Group Contribution), as further described in *Section 2.8*.

“*General Contractor*” means an individual satisfying the description in *Section 1.6*.

“*Hunden*” means Hunden Strategic Partners.

“*Incremental Funding*” means non-recourse special revenue bonds issued by the City, as further described in *Section 2.8(d)*.

“*Independent Auditor*” means an independent certified public accountant or a firm of

independent certified public accountants selected by the City Manager, for the purpose of confirming that the amount reflected in the invoices attached to a Payment Certificate with respect to any Project Cost associated with a reasonable general or administrative expense of a party under *Section 2.1(c)(16)* is consistent with the terms of the written contract pursuant to which such Project Cost was incurred pursuant to *Section 2.6(b)*.

“*Local PFZ Funds*” means incremental hotel-associated local tax revenue from the Zone.

“*Master Plans*” means the set of preliminary or conceptual plans that reasonably identify the proposed locations of the parking tracts and of the Arena Complex, the parking facilities and the infrastructure on the land.

“*MBE*” means minority business enterprise.

“*Overruns*” means the payment of Project Costs in excess of the Arena Project Budget and after the Public Project Cost Account and Arena Group Project Cost Account are depleted pursuant to *Section 2.8(b)* and *Section 2.8(c)*.

“*Parking*” means the Arena Garage and additional surface parking serving the Arena Facility.

“*Parking Agreements*” means, collectively, agreements for interim construction parking and permanent parking at the Arena Complex, Arena Group Surface Parking and Will Rogers Memorial Center.

“*Payment Certificate*” means a written certificate prepared by the Arena Group pursuant to *Section 2.6*.

“*Plans*” means all the Arena Complex architectural drawings, renderings, designs, plans and specifications.

“*Project Account(s)*” means collectively, the Public Project Cost Account, the Arena Group Project Cost Account, and the Disbursement Account.

“*Project Costs*” means collectively, the costs of the Arena Project as set forth in *Section 2.1*.

“*Project Documents*” means, collectively, the Funding Agreement, the Parking Agreements, the Arena Group Lease, the Sign Agreement, and such other agreements as the City and the Arena Group parties may mutually agree to, execute and deliver.

“*Public Contribution*” means the amount payable by the City, from the net available

proceeds of the Arena Complex Bonds and any other funding sources, for Project Costs of the Arena Project that does not exceed the lesser of (i) 50% of the actual Project Costs, or (ii) \$225,000,000 less any expenditures made by the City prior to the Effective Date as shown on Schedule II.

“Public Debt Service Account” means an account created as may be required by the Arena Complex Bonds, which is to be maintained as directed by the proceedings authorizing the Arena Complex Bonds.

“Public Financing” means the use of public funds in the Funding of the Arena Project.

“Public Project Cost Account” means an account into which the Public Contribution shall be deposited and out of which account funds shall be transferred to the Disbursement Account.

“Sign Agreement” means the sign agreement between the City and the Arena Group as described in *Section 1.13*.

“Venue Project Fund” means the fund created pursuant to City of Fort Worth Resolution 4387-12-2014 as provided in the Act.

“State PFZ Funds” means incremental hotel-associated state tax revenue from the Zone.

“Zone” means the area designated as Project Financing Zone Number One, City of Fort Worth, Texas, according to Ordinance No. 21011-10-2013 as adopted by the City Council of the City on October 22, 2013.

EXHIBIT B

**DEPICTION OF PROJECT SITE, INCLUDING CITY LAND, CITY LICENSED
LAND, ARENA GROUP FACILITY LAND, ARENA GROUP GARAGE LAND,
ARENA GROUP SURFACE PARKING, AND OTHER ARENA GROUP OWNED
LAND**

[to be attached]

EXHIBIT C
FINANCING MODEL

[to be attached]