ARENA DESIGN AND CONSTRUCTION AGREEMENT

between

CITY OF SACRAMENTO

and

SACRAMENTO DOWNTOWN ARENA LLC

Dated as of: May 20, 2014

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ARENA DESIGN AND CONSTRUCTION AGREEMENT

This ARENA DESIGN AND CONSTRUCTION AGREEMENT (this "**Agreement**") is made and entered into as of May 20, 2014 (the "**Effective Date**"), between the City of Sacramento (the "**City**") and Sacramento Downtown Arena LLC, a Delaware limited liability company ("**ArenaCo**"). The City and ArenaCo are sometimes referred to herein as the "**Parties**" and each as a "**Party**."

BACKGROUND

Concurrently with the Parties' execution of this Agreement, the Parties, Sacramento Kings Limited Partnership, a California limited partnership ("**TeamCo**"), and Sacramento Basketball Holdings LLC, a Delaware limited liability company ("**HoldCo**"), are entering into the Comprehensive Project Agreement for the Sacramento Entertainment and Sports Center (the "**Comprehensive Agreement**") and all other "**Project Agreements**" (as such term is defined in the Comprehensive Agreement). Collaborating with the City, ArenaCo shall design, develop, and construct the Arena for the City on the Arena Land, together with all infrastructure necessary for the Arena (collectively, the "**Work**"), all in the manner set forth herein.

In anticipation of executing the Project Agreements, the City and HoldCo entered into (i) the Sacramento ESC Predevelopment Process Agreement, dated October 22, 2013, to govern certain predevelopment activities for the design and construction of the Arena (the "**Predevelopment Process Agreement**"), and (ii) the Sacramento ESC Predevelopment Expenses Reimbursement Agreement, dated September 24, 2013 (the "**Predevelopment Expenses Agreement**," and collectively with the Predevelopment Process Agreement the "**Predevelopment Agreements**"), to govern HoldCo's payment obligations for all expenses incurred by the City for Arena predevelopment activities, such as planning, design, development, and entitlement of the Arena.

The Parties now desire to enter into this Agreement for the purposes of amending, restating, retitling, and superseding the Predevelopment Agreements, as applicable, to (i) include certain additional provisions related to the planning, design, development, entitlement and construction of the Arena, (ii) clarify that the scope of reimbursable expenses for planning, design, development, entitlement and construction of the Arena extends beyond the predevelopment phase, (iii) conform with the other Project Agreements, and (iv) make certain other amendments. HoldCo now desires to enter into this Agreement for the limited purposes of assigning its rights and obligations in the Predevelopment Agreements pursuant to Section 1 of this Agreement.

With these background facts in mind, the City and ArenaCo agree as follows:

1. Modifications to Predevelopment Agreements

1.1 ***Predevelopment Process Agreement***. This Agreement hereby amends, supplements, retitles, and supersedes the Predevelopment Process Agreement

in its entirety, and HoldCo hereby assigns the Predevelopment Process Agreement to ArenaCo, and ArenaCo assumes from HoldCo all rights and obligations that have accrued under the Predevelopment Process Agreement as of the Effective Date and any and all rights that accrue after the Effective Date.

1.2 ***Predevelopment Expenses Agreement***. This Agreement hereby (A) retitles the Predevelopment Expenses Agreement as the "Sacramento ESC Development Expenses Reimbursement Agreement" (the "**Development Expenses Agreement**"), (B) replaces all references to the word "predevelopment" with "development" (without regard to capitalization), and (C) deletes Section 1.1(C)(7) of the Predevelopment Expenses Agreement. The Parties acknowledge and agree that the amendments to the Predevelopment Expenses Agreement are intended to extend the reimbursement obligations thereunder to cover all reimbursable expenses thereunder incurred by the City through Final Completion. HoldCo hereby assigns the Development Expenses Agreement to ArenaCo and ArenaCo assumes from HoldCo all rights and obligations that have accrued under the Development Expenses Agreement as of the Effective Date and any and all rights that accrue thereunder after the Effective Date.

2. **Agreement**. This Agreement consists of the provisions contained herein, together with the Exhibits and the following documents, which are incorporated by reference as if set forth in full in this Agreement:

(A) The Requirements for the Non-Discrimination in Employee Benefits by City Contractors Ordinance and The Declaration of Compliance;

(B) Any change orders reflecting Construction Work Modifications in accordance with this Agreement;

(C) Any future amendments to this Agreement executed by the Parties in accordance with Section 34.12;

(D) The Construction Documents (as may be amended from time to time in accordance therewith and this Agreement); and

(E) The City's Standard Specifications, excluding the public bidding requirements and anything specifically superseded through this Agreement or the Construction Documents.

Unless specifically noted otherwise, references to the "**Standard Specifications**" shall mean and refer to the Standard Specifications for Public Construction of the City of Sacramento approved by the Sacramento City Council on June 4, 2007 (Resolution No. 2007-350), and any subsequent amendments thereto approved by the Sacramento City Council or the Sacramento City Manager.

3. **Order of Interpretation**. This Agreement and the additional documents described in, and incorporated by reference pursuant to, Section 2 above, are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event of any inconsistency, conflict, or ambiguity between or among this Agreement and such additional documents, each shall take the following order of precedence:

(A) The Requirements for the Non-Discrimination in Employee Benefits by City Contractors Ordinance and The Declaration of Compliance;

(B) Any change orders reflecting Construction Work Modifications in accordance with this Agreement;

(C) This Agreement as may be amended by any amendments to this Agreement executed by the Parties in accordance with Section 34.12;

(D) The Construction Documents as may be amended by any amendments to such Construction Documents in accordance therewith and this Agreement; and

(E) The City's Standard Specifications, excluding the public bidding requirements.

4. **Collaborative and Cooperative Process**

4.1 ***ArenaCo Responsibilities***.

(A) ArenaCo shall procure, be responsible for, and shall lead all phases of, the Work. ArenaCo shall be the licensed general contractor for the Work and shall hire a licensed Arena Contractor pursuant to Section 19.1. ArenaCo shall have the right to retain such consultants and professionals as ArenaCo shall deem reasonably necessary in connection with its lead role with respect to the Work. As ArenaCo is responsible for timely delivering the Arena and paying for cost overages, ArenaCo shall make all final design, development, and construction decisions regarding the Work, provided that the Work adheres to the Quality Standard and the Preliminary Program. In the performance of its duties hereunder, ArenaCo shall exercise a standard of care, skill, and diligence as would be expected of a designer and general contractor highly experienced in the development and construction of arenas meeting the Quality Standard. ArenaCo shall also be responsible for causing the City to be invited to all Meetings in accordance with this Agreement. In each review of the City's comments as provided herein, ArenaCo shall consider the City's input in good faith, but shall retain its right to lead all phases of the planning,

design, land acquisition (except with respect to any land the City is acquiring), development, and construction of the Arena.

(B) ArenaCo shall have the right to (x) obtain private financing to finance all or any portion of the Work and (y) grant one or more Leasehold Mortgages or Mezzanine Financings (as both terms are defined in the Arena Agreement), and to have its equity interests pledged, as collateral for such financing. The Parties will cooperate to facilitate the financing of the Work. Such cooperation shall include, on the part of the City, the following:

(1) Collaboration with ArenaCo for implementation of the ArenaCo financing strategy, including, but not limited to, the efficient and timely documentation and closing of each loan facility or other source of funds from time to time.

(2) Participation in any commercially reasonable due diligence review of the Work and the Arena, the Parties and matters reasonably related thereto conducted by the provider(s) of any proposed source of funds, all in accordance with such provider(s)' usual, customary and prudent underwriting practices.

4.2 ***City Responsibilities***. The City shall be responsible for collaborating with ArenaCo in all phases of the Work (and in connection with ArenaCo's financing as described in Section 4.1), attending the Meetings, and responding timely to ArenaCo correspondence and requests for City input, including reasonably making available City staff and resources, all as necessary to complete the Work in the timeframes set forth herein and in the Schedule, as updated and amended from time to time in accordance herewith. To the extent permitted by Applicable Law, the City agrees to use commercially reasonable efforts to expedite (and to cause all applicable Governmental Authorities to expedite and cooperate in) the issuance of all licenses, permits and approvals required by Applicable Law in connection with the Work, including the Parking Facilities Demolition Work.

4.3 ***Intent.*** The Parties intend for the Design Work to be a cooperative, mutual endeavor in which the City and ArenaCo actively participate and work together with due diligence and good faith in accordance with the terms and conditions of this Agreement.

4.4 ***Information Sharing and Meetings***.

(A) *Coordination of Designated Representatives*. The Designated ArenaCo Representatives shall coordinate with the Designated City Representatives and keep the Designated City Representatives informed

regarding the progress of the design, development, and construction of the Arena and infrastructure necessary for the Arena, and any material issues that arise that may impact the Approved Budget or Schedule. The Designated ArenaCo Representatives and the Designated City Representatives shall develop a schedule for regular meetings to discuss the progress of the Work.

(B) *Meeting Participation*. To participate in the development process and to be involved and informed during all phases of the Work, both Parties will provide the other reasonable advance notice of and the opportunity to be present at all Meetings. Neither Party shall have any obligation to postpone or delay any Meeting that the other Party, after receiving reasonable notice, is unable to attend.

(C) *Information Sharing.* The Parties shall collaborate, participate in joint meetings (including the Meetings), and share information so that both Parties are reasonably informed during the Term. Specifically, the Designated ArenaCo Representatives shall (i) promptly respond to all reasonable requests for information regarding the Work from the Designated City Representatives; (ii) share with the Designated City Representatives all documents to be discussed at any Meetings; and (iii) share with the Designated City Representatives all plans, drawings, budgets, schedules, analyses, studies, and reports that are directly related to, and have (or will have) a material impact on, the Work, or are otherwise necessary for the City to be able to collaboratively participate in the process and provide the assistance, input, and comment required herein; provided nothing herein shall be deemed to require ArenaCo or the City to share any materials that are protected by attorney-client privilege.

4.5 ***City Review of Plan Submittals for the Design Work; ArenaCo Response***.

(A) *Generally*. Subject to ArenaCo's authority set forth in Section 4.1 above, the City has the right to review and comment at each step of the Design Work as set forth herein. The City shall have the right to approve the Design Work to the extent provided by this Agreement and Applicable Law. The Parties expressly acknowledge and agree that except as otherwise expressly provided herein or otherwise limited by Applicable Law, any approval or consent required of the City pursuant to this Agreement shall not be unreasonably withheld, conditioned, or delayed.

(B) *Review and Response*. After the City receives a Plan Submittal, the City shall provide ArenaCo with written comments. The amount of time available for the City's review of, and response to, each Plan Submittal

shall be specifically agreed upon by the City and established in the Schedule, and shall take into consideration the content and substance of each Plan Submittal. If the Plan Submittal consists of (1) Design Development Documents, (2) Construction Documents, or (3) any revisions to such documents, the City also may (but shall not be obligated to) provide ArenaCo with written notice that the City has reasonably determined that such documents do not comply with the Quality Standard or the Preliminary Program (documents not in such compliance are herein referred to as "**Not In Compliance**"). Any such notice shall detail the reasons for any such failure to comply.

(C) *ArenaCo Response*. ArenaCo shall consider every City comment and incorporate into any future Plan Submittals those comments that ArenaCo approves after reasonably considering and discussing with the City such comments in good faith. If ArenaCo receives timely written notice from the City that the City has reasonably determined that the (1) Design Development Documents, (2) Construction Documents, or (3) any revisions to such documents are Not In Compliance, ArenaCo shall cause the Architect to revise such applicable documents to bring the same into compliance prior to ArenaCo approving such Plan Submittals. Any dispute regarding compliance with this Section 4.5 will be mediated as set forth in Section 33 below.

4.6 ***City Input***. Subject to ArenaCo's authority set forth in Section 4.1 above, the City shall have direct input and will assist ArenaCo with a process and plan for design and construction of the Arena that achieves the best possible project within the Quality Standard, Preliminary Program, Schedule and Approved Budget. However, no City input, participation, or approvals permitted or required under this Agreement shall in any way obligate the City to pay for any Project Costs except as expressly set forth in the Funding Agreement and Section 21.7 of this Agreement.

5. Term

5.1 ***Term***. The term of this Agreement commences on the Effective Date and terminates upon Final Completion, unless terminated earlier as expressly provided for in this Agreement.

5.2 ***Early Termination***. This Agreement will terminate prior to Final Completion only (A) if either Party exercises a termination right expressly provided to it in this Agreement, or (B) upon the termination of the Comprehensive Agreement in accordance with Section 7.2 thereof.

6. **Location of Arena**. The Arena shall be located on the land as more particularly described on **Exhibit A** (the "**Arena Land**"), which Arena Land will be owned by the City in accordance with the other Project Agreements.

7. **Architect.** ArenaCo has selected AECOM as the Architect. ArenaCo is responsible for securing the engagement with the Architect and is responsible for all Architect costs and expenses, whether incurred before or after the Effective Date.

8. **Owner's Representatives**. ArenaCo has retained ICON to provide owner's representative and related services for the Work pursuant to that certain Owner's Representative and Project Management Agreement, dated as of June 1, 2013. The City has also retained Weston Sports and Entertainment as the City's separate representative, and all reasonable costs incurred by the City in connection with such engagement shall be Project Costs.

9. **Independent Engineer**. City may request that ArenaCo retain an outside engineer to conduct an independent analysis or peer review of the structural systems of the Arena, and all costs incurred in connection therewith shall be Project Costs.

10. **Schedule**. A detailed and comprehensive schedule for the Work is attached hereto as **Exhibit B** (as updated from time to time as provided herein, the "**Schedule**"). ArenaCo may modify and update the Schedule in its discretion, provided that the City shall have the right to review and approve any changes or updates to the Schedule that adversely modify the City's rights or obligations regarding the Work, including the City's review and comment rights and obligations, set forth herein. Any updates to the Schedule shall reflect (A) the timing of the City Financing and the ArenaCo Loan (as such terms are defined in the Funding Agreement) and (B) that the Work be completed by the Outside Final Completion Date, subject to Force Majeure Events, the funding of the City Contribution, and the City's compliance with its obligations under the Project Agreements.

11. **Budget**. The preliminary budget for the Work is attached hereto as **Exhibit C** (as amended from time to time, the "**Preliminary Budget**"). On the Budget Delivery Date, ArenaCo shall deliver to the City an update of the Preliminary Budget for the Work. The City shall have the right to review any changes or updates to the Preliminary Budget. The final budget for the Work will be finalized and approved by ArenaCo and its lender in connection with the preparation and approval of the other Construction Documents (as so approved, the "**Approved Budget**"). The Approved Budget may be approved and finalized in phases on the condition that all phases be approved and finalized by ArenaCo and its lenders by December 31, 2014. Any updates to the Preliminary Budget or Approved Budget, as applicable, shall reflect the current Plan Submittals; be consistent with the Quality Standard and the Preliminary Program; and reflect that the Work be completed by the Outside Final Completion Date, subject to Force Majeure Events, the funding of the City Contribution, and the City's compliance with its

obligations under the Project Agreements. Each Preliminary Budget and Approved Budget (and all updates thereto) shall be a comprehensive and detailed line-item budget estimate in a form used by ArenaCo and delivered to its lender that includes, without limitation, all Project Costs, including costs for the following: (A) the development expenses (e.g., third party design and pre-construction expenses); (B) demolition and removal of any existing facilities; (C) site preparation and grading; (D) environmental sampling, mitigation, and remediation (including compliance with CEQA requirements); (E) permits; (F) insurance; (G) utility improvements and relocations; (H) land acquisitions; (I) project representatives of the City and ArenaCo; (J) materials and labor for the Work; (K) the Preliminary Program; (L) offsite infrastructure included in the Work; (M) testing and inspection; (N) a contingency amount not less than 4% of the total budgeted Project Costs; and (O) reimbursable expenses payable to the City pursuant to the Development Expenses Agreement (e.g., expenses for plan review, testing and inspections for the Construction Work as set forth in this Agreement). The Parties expressly acknowledge and agree that ArenaCo shall have the right to reallocate amounts in any Preliminary Budget and Approved Budget, including, without limitation: (1) any actual cost savings; (2) contingencies based upon percentage of completion; and (3) any reallocations approved by ArenaCo's lender, on the condition that no such reallocation can result in a situation that is Not in Compliance.

12. **Schematic Design**. The final schematic site plan and design of and for the Arena (as set forth in the revised application submittal prepared by the Architect and identified as Entertainment and Sports Center – Final Revised, dated April 2014) was approved by the City Council on May 20, 2014 (the "**Schematic Design**").

13. **50% Design Development**

13.1 ***Delivery***. By the 50% Design Development Delivery Date, ArenaCo shall cause the Architect to prepare the 50% Design Development Documents for the Arena.

13.2 ***Meeting with Architect***. Without limiting ArenaCo's lead role with respect to the Work, the Parties shall collaborate and cooperate jointly with the Architect prior to the 50% Design Delivery Date to assist with the Architect's preparation of the 50% Design Development Documents.

13.3 ***Contents***. The 50% Design Development Documents shall be based on the Schematic Design, Preliminary Budget, and Schedule, and shall be in compliance with the Preliminary Program, the Quality Standard, and Applicable Law. The 50% Design Development Documents shall consist of development to a 50% level of drawings, specifications and other documents to fix and describe the size and character of the entire Arena as to structural, mechanical, and electrical systems, materials and other essential systems, which shall include, but not be limited to, the Design Requirements.

14. 100% Design Development

14.1 ***Delivery***. By the 100% Design Development Delivery Date, ArenaCo shall cause the Architect to prepare the 100% Design Development Documents for the Arena and all infrastructure necessary for the Arena.

14.2 ***Meeting with Architect***. Without limiting ArenaCo's lead role with respect to the Work, the Parties shall collaborate and cooperate jointly with the Architect prior to the 100% Design Development Delivery Date to assist with the Architect's preparation of the 100% Design Development Documents.

14.3 ***Contents***. The 100% Design Development Documents shall be based on the 50% Design Development, the Preliminary Budget, and the Schedule, and shall be in compliance with the Preliminary Program, the Quality Standard, and Applicable Law. The 100% Design Development Documents shall consist of development to a 100% characterization of the Arena through the use of drawings, specifications, and other documents sufficient to fix and describe the size and character of the entire Arena as to structural, mechanical, and electrical systems, materials, and other essential systems, which shall include, but not be limited to, the Design Requirements.

15. Construction Documents

15.1 ***Delivery***. By the Construction Documents Delivery Date, ArenaCo shall cause the Architect to prepare the Construction Documents for the Arena.

15.2 ***Contents***. The Construction Documents shall be based on the 100% Design Development Documents, and the Preliminary Budget, and shall be in compliance with the Preliminary Program, the Quality Standard, and Applicable Law. The Construction Documents shall include detailed construction drawings and other Construction Documents setting forth in detail the requirements for the performance of the Work, including the quality of required materials and systems, and shall include without limitation:

(A) The Approved Budget;

(B) The Schedule;

(C) The Standard Specifications;

(D) The Design Requirements;

(E) Plans for all structural, mechanical, plumbing, electrical, fire, life safety, security and all other essential building systems;

(F) Utility and other infrastructure modification plans (including any street or other public right of way relocations, closings, or vacations);

(G) Lighting plans;

(H) Plans to incorporate shading devices and other design elements to mitigate direct sunlight in key areas of the Arena;

(I) Designs for public seating areas, suites, party suites, loge seats, club seats, courtside club seats, offices, concessions and merchandise spaces, scoreboards, video boards, sound systems, press and team areas, and public areas;

(J) A comprehensive signage plan;

(K) Parking and access plans; and

(L) Any and all additional drawings, renderings reports, tabulations, or narratives that may be needed to fully characterize and describe design.

16. Signage Plan

16.1 ***Included in Designs***. ArenaCo shall cause the Architect to prepare a comprehensive signage plan for the Arena, which signage plan shall be included in each Plan Submittal.

16.2 ***City Discretion***. The City staff shall prepare a recommendation to the Sacramento City Council for consideration of the proposed signage plan and determine if the City's code (the "**City Code**") will need amendment. ArenaCo acknowledges that the City Council's decision to amend the City Code is legislative and discretionary. This Agreement cannot and does not bind the City to amend the City Code.

17. Art in Public Places Program

17.1 ArenaCo shall comply with all requirements contained the City's Art in Public Places program applicable to the Arena and the Arena Land, and shall include in the 100% Design Development Documents and Construction Documents plans to satisfy such public art requirements.

17.2 The Sacramento Metropolitan Arts Commission ("SMAC") desires to remove and preserve the gazebo and related iron work that was constructed to fit the patio located on the Southwest corner of the Macy's Men's Store building. ArenaCo shall permit SMAC to perform such removal at SMAC's expense and shall coordinate the scheduling of such removal directly with SMAC so that SMAC may

perform the removal prior to and without delaying the demolition of the Macy's Men's Store building.

18. General Provisions Applicable to Contractors and Subcontractors; Means and Methods of Construction; Reporting

18.1 ***Oversight of Arena Contractor and Subcontractors***. ArenaCo shall perform, and shall require the Arena Contractor and all other contractors and subcontractors to perform, the Construction Work in a good and workmanlike manner, in accordance with this Agreement, the Construction Documents, Approved Budget, Schedule, and the other terms and conditions set forth herein and the other Project Agreements.

18.2 ***Compliance with Law***. In the prosecution of the Work, ArenaCo shall comply, and shall require the Arena Contractor and all other contractors and subcontractors to comply, with all Applicable Law affecting the Work, including all applicable State, City, and Federal occupational safety and health acts and regulations.

18.3 ***Compliance with CEQA***. The Work shall comply with the requirements of CEQA including the Mitigation Monitoring Plan for the Arena.

18.4 ***List of Contractors and Subcontractors; Copies of Contracts***. ArenaCo shall furnish, and shall cause the Arena Contractor to furnish, true and correct copies of each contract and subcontract not previously provided to the City with respect to any contractor or subcontractor hired in connection with the Work promptly after executing the same, together with an updated list of all outstanding contractors and subcontractors.

18.5 ***Means and Methods of Construction***. ArenaCo shall be responsible for, and shall require the Arena Contractor to be responsible for, the means and methods of construction, hiring and oversight of all construction personnel, site safety, and security, in connection with the performance of the Construction Work.

18.6 ***Quality Control and Testing Program***. Prior to commencing any Construction Work, ArenaCo shall provide the City with ArenaCo's (or Arena Contractor's) testing and quality control program.

18.7 ***No Unreasonable Interference with Surrounding Properties***. ArenaCo shall ensure, and shall require Arena Contractor to ensure, that during the Work there is no unreasonable interference with the use and operations of any properties not owned by ArenaCo or its affiliates in the vicinity of the Construction Work. ArenaCo designates its owner's representative, ICON, as the contact to coordinate and manage responses to any complaints received by City or ArenaCo in connection with any such interference. ArenaCo may replace ICON as such

contact by delivering prior written notice of the replacement to the City. The contact shall provide the City with, upon request, copies of all correspondence provided in response to any complaints.

18.8 ***Allocation of Infrastructure Costs***. Certain of the infrastructure necessary for the Arena may also be necessary for, and benefit, other projects in the area, including those being designed and constructed by ArenaCo or its affiliates in connection with the Work. ArenaCo shall, and shall require Arena Contractor to, reasonably account for and allocate such infrastructure costs between the Work and such other projects. Any infrastructure costs that are not directly attributable to the Work shall not be Project Costs. By way of example, if a sewer pipeline is being oversized to accommodate a capacity increase resulting from one or more of such other projects, ArenaCo shall allocate the incremental costs of the oversizing to such other projects. Similarly, any related offsite work by the City or third parties engaged by the City shall not be deemed Project Costs unless the same are directly attributable to the Work. The City shall provide written notice to, and consult with, ArenaCo, if (A) the City intends to charge the cost of any such offsite work to ArenaCo as a Project Cost and (B) such cost is not already included in the then current Preliminary Budget or Approved Budget.

18.9 ***Project Accounting***. ArenaCo shall provide (or cause to be provided) accounting services for the Work. ArenaCo acknowledges and agrees that it shall incorporate a system of accounting for the Work that will permit a commercially reasonable level of transparency commensurate with the City's significant investment in the Arena. Without limiting the generality of the foregoing, ArenaCo shall maintain correct and complete books and records with respect to tracking all Project Costs, the performance of all Work, and all payments made in connection therewith. ArenaCo shall keep the records for at least four years after the expiration of this Agreement. The City, and its attorneys and accountants, shall be entitled to inspect such records at the offices of ArenaCo during normal business hours upon not less than 3 days' prior written notice, provided that the scheduling of any such inspection shall be agreed to by ArenaCo and ArenaCo shall have the right to reasonably delay any such inspection in good faith in the event confidential matters are ongoing. Any inspections shall be limited to records pertaining to the Work only, and performed in a manner that does not unreasonably interfere with the operations of ArenaCo. The costs incurred by the City in this Section shall be Project Costs.

18.10 ***Project Reports***. ArenaCo shall provide (or cause to be provided) to the City monthly status and other progress reports regarding the Work in a form reasonably acceptable to the City no later than 30 days after the end of each month, containing at a minimum: (A) a reasonably detailed description of the status of construction progress; (B) the current Approved Budget, together with a comparison of the Approved Budget to Project Costs actually incurred through

the date of the report and a reasonably detailed explanation of all variances from the Approved Budget; (C) the current Schedule, together with a comparison of the Schedule to Work actually completed through the date of the report and a reasonably detailed explanation of all variances from the Schedule; (D) the then current estimate of the costs required to complete the Work; and (E) copies of such other reports or information regarding the Work that ArenaCo provides its lenders on a periodic basis.

18.11 ***Mechanic's Liens***. ArenaCo shall pay, and shall require Arena Contractor to pay, in full all persons who perform labor or provide materials for the Work. ArenaCo shall not, and shall require that Arena Contractor does not, create, permit, or suffer any choate mechanic's or materialmen's liens of any kind or nature to be filed or enforced against any property of the City (including the Arena or the Arena Land) for any such Work performed. ArenaCo shall have the right to contest any such claims or liens and during the pendency of such contest shall not be deemed in breach of this Agreement so long as and to the extent such contest tolls payment of, or ArenaCo has bonded against, the claims or liens. This Section 18.11 shall not be construed to apply to any liens in favor of the holder of a Leasehold Mortgage or a Mezzanine Lender (as defined in the Arena Agreement).

19. Arena Contractor Selection; Minimum Qualifications

19.1 ***Selection of Arena Contractor; Delegation of General Contractor Obligations***. It is acknowledged by the Parties that ArenaCo will delegate certain of its general contractor obligations and responsibilities to a third-party general contractor in connection with the performance of the Construction Work, which contractor (in addition to meeting any other requirements imposed by the Parties) shall be highly experienced in the development and construction of arenas meeting the Quality Standard (the "**Arena Contractor**"). Turner Construction Company served as the Preconstruction Consultant and the City hereby approves Turner Construction Company as the Arena Contractor if ArenaCo selects Turner Construction Company as the Arena Contractor. If ArenaCo selects a different Arena Contractor, such Arena Contractor shall be subject to the prior written approval of the City, such approval not to be unreasonably withheld, conditioned or delayed. Except upon the default of the Arena Contractor under the Contractor Agreement, ArenaCo shall not replace the Arena Contractor without the prior written approval of the City, such approval not to be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary contained in this Agreement, ArenaCo shall remain responsible for all Work and all of ArenaCo's other obligations and responsibilities contained in this Agreement without regard to whether any obligations or responsibilities have been delegated to the Architect, Arena Contractor, or any other consultants, contractors, subcontractors, or agents.

19.2 ***General Contractor's License***. Notwithstanding ArenaCo's belief that it qualifies for the owner/builder exemption under Section 7000 *et. seq*. of the California Business and Professions Code, both ArenaCo and the Arena Contractor must have and maintain a California general contractor's license prior to the commencement of any Construction Work through Final Completion.

19.3 ***Business Tax Certificate***. Both ArenaCo and the Arena Contractor must have and maintain a valid Business Operations Tax Certificate from the City, as required by the Sacramento City Code.

19.4 ***Contractor Agreement***. Prior to the execution of the construction contract pursuant to which ArenaCo will delegate performance of all or some portion of the Construction Work to the Arena Contractor (the "**Contractor Agreement**"), the City must approve the Contractor Agreement in writing, which approval shall not be unreasonably withheld, conditioned or delayed. The City's right to refuse to approve the Contractor Agreement shall be limited to the failure of the Contractor Agreement to comply or otherwise be consistent with Applicable Law, the Approved Budget, the Preliminary Program, the Quality Standard, the Schedule, and the remainder of this Section 19.4. The Contractor Agreement shall include a guaranteed maximum price, which shall correspond to the total amount of the Construction Work included in the Approved Budget, less those portions of the Construction Work (e.g., certain furniture, fixtures and equipment, such as a scoreboard) that ArenaCo may delegate to third parties with the City's approval, which the City will not unreasonably withhold, condition or delay. Notwithstanding the foregoing, the City's approval shall not be required for any such Construction Work delegated (A) to third parties with a cost of less than $5,000,000 or (B) to ICON with respect to the purchase of the scoreboard and other fixtures, furniture and equipment. ArenaCo and the Arena Contractor may phase agreement on the guaranteed maximum price on the condition that ArenaCo use commercially reasonable efforts to reach agreement with the Arena Contractor on the complete guaranteed maximum price for all Construction Work delegated to the Arena Contractor under the Contractor Agreement by December 31, 2014. The City shall be included as a notice party to the Contractor Agreement and to any contract with a third party for any portion of the Construction Work in excess of $5,000,000.

19.5 ***ArenaCo Responsible for Costs; Performance and Payment Bonds***. ArenaCo shall be responsible for entering into the Contractor Agreement, and shall be responsible for all costs and expenses payable to the Arena Contractor in connection with the Construction Work, subject to the terms of the Funding Agreement and Section 21.7 of this Agreement. Prior to Final Completion, the Construction Work shall be under ArenaCo's responsible care and charge, and ArenaCo, at no additional cost to the City, shall, or shall cause the Arena Contractor to, repair or restore any damage to or destruction of any portion of

the Construction Work in accordance with (including to the extent set forth in) Section 9 of the Arena Agreement. ArenaCo will require the Arena Contractor to obtain, keep, and maintain throughout the Term one or more performance and payment bonds from a qualified surety (in a form reasonably acceptable to the City) in a total amount equal to one hundred percent (100%) of the total costs included in the Approved Budget for the Construction Work, less those portions of the Construction Work that ArenaCo delegates to third parties in accordance with Section 19.4 (including any amounts for contingency for such Construction Work included in the Approved Budget). The performance and payment bond(s) shall secure the performance of ArenaCo's and Arena Contractor's obligations to perform that portion of the Construction Work delegated to Arena Contractor under the Contractor Agreement, and shall include as obligees any applicable lenders or trustees for the City Financing and ArenaCo Loan.

20. Permits

20.1 ***ArenaCo Responsibility***. ArenaCo represents and warrants that (A) ArenaCo has, or will have prior to the commencement of any Work, and shall require Arena Contractor to have prior to the commencement of any portion of any Work or services, all licenses, permits (including without limitation, a City Business Operations Tax Certificate), qualifications, and approvals of whatsoever nature required by Applicable Law for ArenaCo to perform such portion of the Work or provide such portion or phase of services under or in connection with this Agreement, and (B) ArenaCo will maintain, and shall require Arena Contractor to maintain, the same during the Term.

20.2 **City Staffing**. The City shall assign appropriate and sufficient planning, engineering, building, safety, and other staff to enable the City to complete its reviews of Plan Submittals in accordance with the review timelines included in the Schedule or set forth in this Agreement.

21. Commencement of the Construction Work; Performance; Modifications to Construction Documents

21.1 ***Conditions to the Commencement of Construction Work***.

(A) ArenaCo shall not perform any Construction Work unless and until the Construction Documents for the portion of the Construction Work to be performed comply with Sections 4.5, 15, 21.3, and 21.7, as applicable, of this Agreement.

(B) ArenaCo shall not perform any Construction Work that would constitute, or could reasonably be expected to result in, a violation of Macy's West Stores, Inc.'s rights under the Plaza Operations Agreements, unless, and then only to the extent that, ArenaCo has delivered to the City

amendments to the Plaza Operations Agreements, an agreement or an estoppel certificate, in any such case in form and substance reasonably acceptable to the City, pursuant to which Macy's West Stores, Inc. agrees to the performance of such Construction Work. The City waives any rights it has under the Plaza Operations Agreements to object to the Construction Work, but not any other rights it has to object to the Construction Work under this Agreement, Applicable Law, or otherwise.

21.2 ***Notice of Commencement of Construction Work***. ArenaCo agrees to notify the City at least 10 days prior to commencement of the Construction Work.

21.3 ***Requirements for Commencement of Construction Work Related to City Parking***. A portion of the Construction Work (the "**Parking Facilities Demolition Work**") will involve demolition and partial reconstruction of the City's parking spaces and related improvements as generally shown in **Exhibit D** attached hereto (the "**Parking Facilities for Demolition**"), which facilities are located both on and outside the Arena Land. To ensure coordination with the City's operation and transition of the Parking Facilities for Demolition, in addition to the other conditions to commencement of the Construction Work in this Agreement, the following conditions shall be satisfied prior to the commencement of any Parking Facilities Demolition Work, other than the commencement of abatement and salvage work:

(A) The Parties mutually agreeing on a reasonable time period (which shall be included in the Schedule) to permit the City (i) to coordinate with existing City parking customers and parking services subcontractors at any City parking facility wherever located in downtown Sacramento for the relocation of existing City parking customers to such other City parking facilities, and (ii) to identify and have ArenaCo remove, or caused to be removed, any parking facilities furniture, fixtures, and equipment that must be removed prior to commencing the Parking Facilities Demolition Work (the "**Parking Facilities FF&E**");

(B) The City's approval of the construction documents and schedule for any City Parking Facilities for Demolition to be reconstructed outside of the Arena Land (which approval shall not be unreasonably withheld, conditioned, or delayed but shall not be limited by Section 4.5), it being understood that such construction documents and schedule must provide (i) for the reconstruction of a sufficient number of parking spaces outside the Arena Land, that when coupled with the parking spaces outside the Arena Land that ArenaCo is preserving rather than demolishing, equals or exceeds 850 parking spaces, (ii) that each parking space (whether reconstructed or preserved) function independently of any other parking space and that there be no tandem parking, and (iii)

that ArenaCo complete the reconstruction of all such parking spaces no later than 10 years after ArenaCo's commencement of the Parking Facilities Demolition Work;

(C) ArenaCo providing the City with a copy of the demolition plan (including phasing), traffic control plan, and any other documents or applications required by Applicable Law, for the Parking Facilities Demolition Work; provided that the portion of the City parking lot commonly known as "Lot K" that is generally located under 24 Hour Fitness will remain open during the Parking Facilities Demolition Work, with entrance and exits to be located on 7th Street, unless otherwise agreed by the Parties;

(D) ArenaCo obtaining all licenses, permits, and approvals of whatsoever nature required by Applicable Law for ArenaCo to perform the Parking Facilities Demolition Work;

(E) ArenaCo removing, or causing to be removed, the Parking Facilities FF&E, and delivering the same to the location or locations designated by the City, in accordance with the Schedule, the applicable Construction Documents, and any removal procedures reasonably designated by the City; and

(F) The City and the JPA have Signed the Initial City Financing Document as contemplated by Section 3.2 of the Funding Agreement and ArenaCo has Closed the ArenaCo Loan as contemplated by Section 3.3 of the Funding Agreement.

The City will promptly review and respond (and provide reasonable detail of any objections) to any ArenaCo requests for approval under Section 21.3(B). If the City fails to respond to any such request for approval within 15 days, the City shall be deemed to have approved such request.

ArenaCo shall reconstruct the Parking Facilities for Demolition located outside the Arena Land in accordance with the construction documents and schedule approved by the City under Section 21.3(B).

The provisions of this Section and the last sentence of Section 4.2 related hereto shall survive any expiration of the Agreement.

21.4 ***Requirement for Demolition on Order for Possession Land***. ArenaCo shall not commence, exclusive of abatement and salvage, demolition of any improvements on the Order For Possession Land unless and until the City and the JPA have Signed the Initial City Financing Document and ArenaCo has Closed the ArenaCo Loan.

21.5 ***Performance***. ArenaCo shall, at its sole cost and expense (except as otherwise expressly provided in this Agreement or the other Project Agreements), (A) perform or require the performance of the Construction Work in accordance with and subject to the terms of this Agreement and the other Project Agreements, and (B) perform and observe all of the covenants and conditions contained in such agreements to be performed and observed by ArenaCo. Reciprocally, City shall at its sole cost and expense (except as otherwise expressly provided in this Agreement or the other Project Agreements) perform and observe all of the covenants and conditions contained in this Agreement, and the other Project Agreements as such agreements to be performed and observed by City.

21.6 ***Compliance with City Documents***. ArenaCo shall comply, and shall require the Arena Contractor and all other contractors and subcontractors performing Construction Work to comply, with the terms and provisions set forth in the City documents included in Exhibit E attached hereto.

21.7 ***Modifications to Construction Work***. The Parties acknowledge that they may each desire to modify the Construction Documents and the scope of the Construction Work from time to time (each modification, a "Construction Work Modification").

(A) If ArenaCo desires to implement a Construction Work Modification, it shall submit written notice thereof to the City, together with an estimate of any additional Project Costs attributable thereto and such plans, specifications and other information as is reasonably necessary for the City to understand and comment on such Construction Work Modification and to determine whether such Construction Work Modification complies with the Quality Standard and the Preliminary Program. Any such submission by ArenaCo shall be treated as a Plan Submittal and, except as expressly provided to the contrary in this Section 21.7 with respect to timing of the City's review and right to object, the Parties shall act with respect any such submission as described in Section 4.5. If the City reasonably believes that the Construction Work Modification does not comply with either the Quality Standard or the Preliminary Program, it may provide written objection thereto to ArenaCo within 15 days after its receipt of such submission from ArenaCo. If the City fails to so object to such submission within such 15-day period, ArenaCo may implement such Construction Work Modification. If the City so objects within such 15-day period, ArenaCo shall not implement the Construction Work Modification until the Parties agree that the Construction Work Modification complies with the Quality Standard and the Preliminary Program, which agreement the City shall not unreasonably withhold, condition or delay. Notwithstanding the

foregoing, ArenaCo may implement field change directives without prior written notice to the City on the conditions that (i) ArenaCo provides written notice thereof to the City Designated Representative as soon as reasonably practicable, and (ii) the field change directive complies with the Quality Standard and the Preliminary Program. If ArenaCo estimates the Project Costs attributable to any such Construction Work Modification, including any and all associated architectural, engineering, and contractors and subcontractors' fees, are more than $5,000,000 in excess of the total Project Costs as set forth in the Approved Budget (including any amounts for contingency included in the Approved Budgets), ArenaCo shall not implement the Construction Work Modification unless and until it has demonstrated to the City, to the City's reasonable satisfaction, that it has the funds necessary to implement the Construction Work Modification or deposited an amount equal to its estimate of such excess Project Costs either (i) in the ArenaCo Account (as defined in the Funding Agreement) or (ii) in an account established with any holder of any Leasehold Mortgage or any pledgee of ArenaCo's equity, which deposited amount shall, in either case, be funded to pay for the cost of such Construction Work Modification on a progress basis.

(B) The City may request a Construction Work Modification in writing and, if the City does so, ArenaCo shall promptly consider such request and discuss it with the City in good faith. After such consideration and discussion, and in any event within 15 days after ArenaCo's receipt of such written request from the City, ArenaCo must respond to any such request in writing (a "**Response to Request for Modification**"). If, at its discretion, ArenaCo is willing to implement any such City requested Construction Work Modification, such Response to Request for Modification shall include a written estimate of any additional Project Costs attributable to the City's requested Construction Work Modification, including any and all associated architectural, engineering, and contractors' and subcontractors' fees. The City shall have 15 days after its receipt of any such Response to Request for Modification to agree, in writing, to fund such additional Project Costs and to authorize ArenaCo to implement such Construction Work Modification at the City's expense, in which event, within 15 days after the City's delivery of such written agreement and authorization to ArenaCo, the City shall deposit an amount equal to ArenaCo's estimate of such additional Project Costs into the City Account (as defined in the Funding Agreement).

(C) If the Parties are unable to resolve a dispute regarding this Section, the dispute will be mediated as set forth in Section 33 below.

22. Prevailing Wage/Labor Compliance

22.1 ***Prevailing Wage.*** ArenaCo shall comply, and shall cause Arena Contractor and all subcontractors performing any Work to comply, with the rates of wages currently established by the Director of Industrial Relations under provisions of Sections 1773 of the Labor Code of the State of California, a copy of which is on file in the office of the City Clerk of the City. The City has an approved Labor Compliance Program. Electronic Web submittal of Labor Compliance Reports is effective May 1, 2007. ArenaCo shall submit, and shall cause Arena Contractor and all subcontractors performing any Work to submit, certified payrolls and labor compliance documentation electronically, at the discretion of and in the manner specified by the City.

22.2 ***Submittals***. Electronic submittal will be a web-based system. ArenaCo, Arena Contractor and all subcontractors performing any Work will be given a Log On identification and password to access the City reporting system. Use of the system may entail additional data entry of weekly payroll information including: employee identification, labor classification, total hours worked and hours worked in the performance of any Work, wage and benefit rates paid, etc. ArenaCo's or Arena Contractor's payroll and accounting software might be capable of generating a "comma delimited file" that will interface with the software. This requirement will be "flowed down" to every lower-tier subcontractor and vendor required to provide labor compliance documentation. All questions regarding this Labor Compliance Program should be directed to the department's contracts staff or Contracts Services at (916) 808-8195.

23. Inspection of the Construction Work by the City

23.1 The City, its agents, contractors, and licensees shall have the right of access, for themselves and their authorized representatives, to the entire job site (including the Arena and all portions thereof) to conduct inspections for purposes of verifying Substantial Completion, Final Completion and compliance with this Agreement and all Applicable Laws. Such access shall be upon prior notice given to the Arena Contractor onsite. The City shall defend, hold harmless, and indemnify ArenaCo and the Arena Contractor, from and against any and all Liabilities arising from the City's failure to provide such prior notice to the Arena Contractor. All costs for such inspections that are required by Applicable Law, or, if not required by Applicable Law, all reasonable costs incurred for such inspections, shall be Project Costs.

23.2 Without limiting the foregoing City inspection rights, the City shall have the right to have one (or more if the City reasonably deems necessary) full time inspectors on the Arena Land to monitor the Construction Work. No prior notice to the

Arena Contractor is necessary for any such full time inspectors. All reasonable costs for such full time inspectors shall be Project Costs.

23.3 Nothing in this Agreement shall be deemed to infringe on or limit the power or duty of the City (including the police and emergency service powers of the City) to act to provide for health, safety, or welfare in an emergency situation.

24. Acceptance Not Release

24.1 ***Defective Work***. ArenaCo shall correct any defective work or materials that may be discovered before or after Final Completion, whether or not such defect was previously noticed or identified by the City. The inspection of the Construction Work, or any part thereof, shall not relieve ArenaCo or Arena Contractor of any of its obligations to perform satisfactory work as herein specified.

24.2 ***City Inaction***. Failure or neglect on the part of the City or any of its officers, employees or authorized agents to discover, identify, condemn, or reject defective or imperfect work or materials shall not be construed to imply an acceptance of such work or materials, if such defect or imperfection becomes evident at any time prior to Final Completion, nor shall such failure or neglect be construed as barring City from enforcing ArenaCo's or Arena Contractor's warranty(ies) or otherwise recovering damages or such a sum of money as may be required to repair or rebuild the defective or imperfect work or materials whenever the City may discover the same, subject only to any statutes of limitation that may apply to any such claim.

25. Substantial Completion. ArenaCo shall use commercially reasonable efforts to cause the Substantial Completion Date to occur on or before the Outside Substantial Completion Date, subject to Force Majeure Events, the funding of the City Contribution, and the City's compliance with the Project Agreements. If at any time ArenaCo reasonably determines that the Outside Substantial Completion Date will not be met, ArenaCo shall promptly provide written notice thereof to the City. After the Substantial Completion Date, the City will have the right to inspect the Construction Work to prepare a "punch-list" of items reasonably required to be completed or repaired prior to Final Completion. ArenaCo will cause the Arena Contractor to complete, or cause to be completed, all reasonable punch-list items by the Outside Final Completion Date subject to Force Majeure Events, the funding of the City Contribution, and the City's compliance with the Project Agreements.

26. Record Drawings and Other Documents. As soon as reasonably practicable after the Substantial Completion Date, ArenaCo shall furnish to the City (A) three copies of as-built drawings, and (B) three copies of the operating and maintenance data binders, together with electronic copies of all of the foregoing, for the Arena.

27. **Final Completion**. ArenaCo shall use commercially reasonable efforts to cause Final Completion to occur no later than the Outside Final Completion Date, subject to Force Majeure Events, the funding of the City Contribution, and the City's compliance with the Project Agreements.

28. **Required Insurance**. During the Term, ArenaCo shall obtain and maintain all insurance coverages required to be obtained and maintained under the Arena Agreement.

29. **Requirement to Cause Self-Accrual for Use Tax Receipts**. ArenaCo shall require all contractors and subcontractors performing any Work (including the Arena Contractor, the Architect, the Preconstruction Consultant, and ICON) to perform use tax self-accrual, thereby ensuring that all use taxes generated in connection with all eligible purchases of materials, fixtures, furniture, machinery, equipment, and supplies, for the Work are allocated directly to the City, and the City receives its full share of the use taxes payable in connection therewith.

30. **Indemnity**. ArenaCo hereby defends, holds harmless and indemnifies the City, its officers, employees, and agents, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, whether arising on or off the site of the Work, including, but not limited to, any fees and costs reasonably incurred by outside counsel and the City's staff attorneys (when acting as lead counsel or co-counsel but not when merely monitoring outside counsel) and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "**Liabilities**"), for personal injury or death, damage to personal, real or intellectual property or the environment, mechanic's and materialmen's liens, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform the Work by ArenaCo, Arena Contractor, the Architect, the Preconstruction Consultant, or any subcontractor or agent, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether (A) such Liabilities are caused in part by a party indemnified hereunder, or (B) such Liabilities are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to any Liability to the extent arising from (1) the negligence or willful misconduct of, or defects in design furnished by, the City, its agents, servants, or independent contractors who are directly responsible to the City, (2) breach by the City of this Agreement or any other Project Agreement, or (3) the City's failure to contribute the City's Contribution. The existence or acceptance by the City of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of the City's rights under this Section, nor shall the limits of such insurance limit the liability of ArenaCo hereunder. The provisions of this Section shall survive any expiration or termination of the Agreement.

31. Warranty

31.1 ***Generally***. Except as otherwise expressly provided in the Agreement, and excepting only items of routine maintenance, ordinary wear and tear and negligence, willful misconduct, abuse or neglect by City, ArenaCo warrants and guarantees all Work executed and all supplies, materials and devices of whatsoever nature incorporated in or attached to the Work, or otherwise provided as a part of the Work pursuant to the Agreement, to be free of defects in workmanship and materials for a period of one year after the Substantial Completion Date. ArenaCo shall repair or replace all work or material, together with any other work or material that may be displaced or damaged in so doing, that may prove defective in workmanship or material within this one year warranty period without expense or charge of any nature whatsoever to the City.

31.2 ***City Right of Self Help***. In the event that any defect in workmanship or material covered by the foregoing warranty results in a condition that constitutes an immediate hazard to health or safety of the public or any person or property, the City shall have the right, upon not less than 2 days' notice to ArenaCo (except for immediate hazards) and provided ArenaCo fails to commence the applicable repair during such time, to immediately repair, or cause to be repaired, such defect, and ArenaCo shall pay to the City on demand all costs and expenses for such repair. The City shall perform, or cause to be performed, any such repairs pursuant to the same standards as applicable to the Work. The foregoing statement relating to hazards to the health or safety of the public or any person or property shall be deemed to include both temporary and permanent repairs that may be required as determined in the reasonable discretion and judgment of the City.

31.3 ***Assignment of Warranties***. In addition to the above, ArenaCo shall make a written assignment of ArenaCo's rights under all manufacturer's and other product warranties to the City, prior to Final Completion, provided that ArenaCo shall remain a beneficiary under all such warranties.

31.4 ***Warranty Claims***. ArenaCo shall take commercially reasonable efforts to enforce all warranty and similar claims with respect to the Construction Work at ArenaCo's cost and expense.

31.5 ***Additional Coverage of Performance and Payment Bond***. The Arena Contractor's performance and payment bond hereunder shall secure the performance of ArenaCo and Arena Contractor's obligations under this Section, and ArenaCo and its surety under the performance and payment bond shall be jointly and severally liable for these obligations.

32. Default and Remedies; Termination

32.1 ***ArenaCo Default***. Each of the following events will, unless otherwise expressly agreed by the City in writing, constitute an "ArenaCo Default" under this Agreement:

(A) ArenaCo materially breaches or fails to comply with any material provision of this Agreement applicable to ArenaCo, and such breach or noncompliance continues for a period of 30 days after written notice thereof by the City to ArenaCo; or, if such breach or noncompliance cannot reasonably be cured within such 30-day period, ArenaCo does not commence to cure such breach or noncompliance within such 30-day period or, after commencing to cure such breach or noncompliance, does not thereafter pursue such cure in good faith to completion.

(B) ArenaCo files a petition in bankruptcy or insolvency, or for reorganization or arrangement under any Applicable Laws related to bankruptcy or insolvency, or voluntarily takes advantage of any such Applicable Laws by answer or otherwise, or dissolves or makes a general assignment for the benefit of creditors, or involuntary proceedings under any such Applicable Laws or for the dissolution of ArenaCo are instituted against ArenaCo, or a receiver or trustee is appointed for the Arena or for all or substantially all of ArenaCo's property, and such involuntary proceedings are not dismissed or such receivership or trusteeship vacated within 90 days after such institution or appointment.

Notwithstanding the foregoing, in no event shall an ArenaCo Default be deemed to exist unless and until the holder of any Leasehold Mortgage receives notice of the same as contemplated by Section 34.14.

32.2 ***City's Remedies***. If any ArenaCo Default occurs, the City shall have the right, at the City's election, to exercise any one or more of the following remedies, subject to the rights of Leasehold Mortgages and Mezzanine Lenders (as more fully described in Section 34.14 below). Exercise of any of such remedies shall not prevent the concurrent or subsequent exercise of any other remedy provided for in this Agreement or otherwise available to the City at law or in equity, except as otherwise expressly stated herein.

(A) The City may, at the City's option but without obligation to do so, and without releasing ArenaCo from any obligations under this Agreement, make any payment or take any action as the City deems necessary or desirable to cure any ArenaCo Default in such manner and to such extent as the City in good faith deems necessary or desirable. ArenaCo shall pay the City, upon demand, all reasonable advances, costs, and expenses of

the City in connection with making any such payment or taking any such action, including reasonable attorneys' fees, together with interest on all such amounts at the Default Rate from the date of payment of any such advances, costs, and expenses by the City.

(B) The City may sue ArenaCo for and obtain damages, specific performance, other equitable relief, or any combination of the foregoing.

(C) If the City prevails on any suit brought under Section 32.2(B) above, obtains a judgment for damages, specific performance, other equitable relief, or any combination of the foregoing and ArenaCo either (1) fails to pay such damages within 30 days after such judgment becomes final and non-appealable, or (2) fails to otherwise comply with such judgment within the time periods set forth therein or, if no time periods are set forth therein, within a reasonable period of time after such judgment becomes final and non-appealable but, subject to Force Majeure Events, in no event more than 120 days after such judgment becomes final and non-appealable, then, subject to any rights identified in Section 34.14 of the holder of any Leasehold Mortgage, the City may, by written notice to ArenaCo, terminate this Agreement, which termination shall be effective on the date specified in such notice (but not less than 30 days after the date of such notice).

(D) If ArenaCo fails to obtain and maintain in full force and effect any insurance that ArenaCo is required to obtain and maintain under this Agreement, ArenaCo shall immediately provide written notice thereof to the City. After such notice is received by the City, or if the City discovers such failure and notifies ArenaCo thereof, then, notwithstanding any cure periods described in Section 32.1(A), the City may immediately withhold all payments due or that become due in connection with the Construction Work (including without limitation any payments to be made by the City pursuant to the Funding Agreement) until notice is received by the City that such insurance has been restored in full force and effect or replaced in compliance herewith and that the premiums therefor have been paid for a period reasonably satisfactory to the City's Division of Risk Management. In addition, the City may require ArenaCo to suspend any and all Construction Work and ArenaCo shall do so immediately after its receipt of written notice thereof from the City. ArenaCo shall not permit any Construction Work to resume until notice is received by the City that such insurance has been restored in full force and effect or replaced in compliance herewith and that the premiums therefor have been paid for a period reasonably satisfactory to the City's Division of Risk Management. The City shall have no responsibility or liability for any costs incurred by ArenaCo, Arena Contractor, or any other

Person as a result of any such suspension of the Construction Work. Without limiting any other indemnity provisions contained herein, ArenaCo shall be solely responsible for, and hereby defends, indemnifies, and holds harmless the City, its officers, employees, and agents against and from, any and all damages, claims, losses, actions, costs, or other expenses of any kind incurred by any Person as a direct or indirect result of any suspension of any Construction Work.

32.3 ***City Default***. Each of the following events will, unless otherwise expressly agreed by ArenaCo in writing, constitute a "**City Default**" under this Agreement:

(A) The City materially breaches or fails to comply with any material provision of this Agreement applicable to the City, and such breach or noncompliance continues for a period of 30 days after written notice thereof by ArenaCo to the City; or, if such breach or noncompliance cannot reasonably be cured within such 30-day period, the City does not commence to cure such breach or noncompliance within such 30-day period or, after commencing to cure such breach or noncompliance, does not thereafter pursue such cure in good faith to completion.

(B) The City files a petition in bankruptcy or insolvency, or for reorganization or arrangement under any Applicable Laws related to bankruptcy or insolvency, or voluntarily takes advantage of any such Applicable Laws by answer or otherwise, or dissolves or makes a general assignment for the benefit of creditors, or involuntary proceedings under any such Applicable Laws or for the dissolution of the City are instituted against the City, or a receiver or trustee is appointed for all or substantially all of the City's property, and such involuntary proceedings are not dismissed or such receivership or trusteeship vacated within 90 days after such institution or appointment.

32.4 ***ArenaCo's Remedies***. If any City Default occurs, ArenaCo shall have the right, at ArenaCo's election, to exercise any one or more of the following remedies. Exercise of any of such remedies shall not prevent the concurrent or subsequent exercise of any other remedy provided for in this Agreement or otherwise available to ArenaCo at law or in equity, except as otherwise expressly stated herein.

(A) ArenaCo may, at ArenaCo's option but without obligation to do so, and without releasing the City from any obligations under this Agreement, make any payment or take any action as ArenaCo deems necessary or desirable to cure any City Default in such manner and to such extent as ArenaCo in good faith deems necessary or desirable. The City shall pay ArenaCo, upon demand, all reasonable advances, costs, and expenses of

ArenaCo in connection with making any such payment or taking any such action, including reasonable attorneys' fees, together with interest on all such amounts at the Default Rate from the date of payment of any such advances, costs, and expenses by ArenaCo.

(B) ArenaCo may sue the City for and obtain damages, specific performance, other equitable relief, or any combination of the foregoing.

(C) If ArenaCo prevails on any suit brought under Section 34.4(B), obtains a judgment for damages, and the City fails to pay such damages within 10 days after such judgment (including all applicable appeals thereto) becomes final, then ArenaCo may off-set the amount of such unpaid judgment against the next installment(s) of the Annual Fee payable under the Arena Agreement until such judgment has been paid in full.

(D) Notwithstanding anything to the contrary contained in this Agreement, ArenaCo may not and shall not terminate this Agreement for any City Default.

32.5 ***Waiver.*** The Parties hereby waive any and all rights to consequential, punitive, or exemplary damages for an ArenaCo Default or a City Default, as the case may be.

33. Mediation

33.1 ***Process***. Any dispute relating to matters requiring the mutual agreement of the Parties under this Agreement or to resolve a dispute regarding compliance with the Quality Standard or the Preliminary Program shall be resolved in accordance with this Section.

33.2 ***Direct Communication***. The parties shall first set forth their positions in the dispute in written correspondence. Each Party shall respond within 5 days after receipt of the other's letter until the earlier of an agreement being reached by the Parties and 10 days after the date of the first written correspondence regarding the dispute.

33.3 ***Non-binding Mediation***.

(A) If the dispute is not resolved through direct communication, either Party may request appointment of a neutral and properly credentialed mediator with expert knowledge and practical experience regarding the subject in dispute.

(B) The requesting party shall provide a list of three possible mediators to the non-requesting party. The non-requesting party shall then select the mediator to be used to mediate the dispute from that list.

(C) The Parties shall then participate in good faith in a one-day, non-binding mediation session. Notwithstanding the foregoing, the Parties may agree in writing to extend the mediation proceedings.

(D) Any mediation proceedings shall take place in the City, unless otherwise mutually agreed by the Parties.

(E) The cost of the mediation shall be divided equally between the Parties.

33.4 ***Mediation Failure***. If the Parties do not resolve the dispute after engaging in this mediation process, either Party shall be entitled to pursue its rights and remedies under this Agreement.

34. Miscellaneous

34.1 ***Approvals***. Except for the Construction Documents and other approvals which by Applicable Law require City Council approval, all of which shall be subject to the approval of the City Council, all City approvals under this Agreement may be made by the City Manager or the City Manager's designee.

34.2 ***Assignment***. Subject to this Section 34.2, a Party may not assign or otherwise transfer this Agreement or its rights or obligations hereunder without the other Party's prior written consent, which may not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, ArenaCo may assign or encumber this Agreement or its rights or obligations hereunder without the City's prior written consent to any party to whom ArenaCo is permitted to assign, or for whose benefit ArenaCo is permitted to encumber, without the City's prior written consent, its leasehold interest under the Arena Agreement. An assignment or other transfer made contrary to this section is void.

34.3 ***Notices***. Any notice or other communication under this Agreement must be in writing and will be considered properly given and effective only when mailed or delivered in the manner provided by this section to the persons identified below. A notice or other communication that is mailed will be effective or will be considered to have been given on the third day after it is deposited in the U.S. Mail (certified mail and return receipt requested), addressed as set forth below, with postage prepaid. A notice or other communication sent in any other manner will be effective or will be considered properly given when actually delivered.

If to the City: John Dangberg Assistant City Manager City of Sacramento 915 I Street, Fifth Floor Sacramento, CA 95814 *With copies to*: Matthew Ruyak Assistant City Attorney City of Sacramento 915 I Street, Fourth Floor Sacramento, CA 95814 Jeffrey Massey Senior Deputy City Attorney City of Sacramento 915 I Street, Fourth Floor Sacramento, CA 95814	*If to ArenaCo:* John Rinehart, CFO Sacramento Basketball Holdings LLC One Sports Parkway Sacramento, CA 95834 Facsimile: (916) 928-6983 *With copies to:* Mark Friedman, Owner 1530 J Street, Suite 200 Sacramento, CA 95814 Jeffrey K. Dorso, Esq. Pioneer Law Group, LLP 1122 S Street Sacramento, CA 95811 Facsimile: (916) 496-8500 Katten Muchin Rosenman LLP 525 W. Monroe, Suite 1900 Chicago, IL 60661 Attention: Adam R. Klein Facsimile: (312) 902-1061

Either Party may from time to time designate a different address, facsimile number or persons for notices by giving notice to that effect to the other Party in accordance with the terms and conditions of this section.

34.4 ***City's Purpose of Review***. The City's review of any designs, plans, specifications, or other documents, and its oversight of any Work, are performed solely for its own purposes and benefit, and the City is not liable to ArenaCo or any third party for defects in such documents or any Work, or the operations and maintenance standards to be applied thereto.

34.5 ***Force Majeure***. Failure in performance by any Party under this Agreement due to a Force Majeure Event shall not be deemed a breach of this Agreement. In addition, when this Agreement provides a time for the performance of any obligation, the time provided is extended if compliance is not possible due to a Force Majeure Event. The extension time shall equal to one day for each day the Force Majeure Event prevents compliance. "**Force Majeure Event**" means any act, event, or condition that is beyond the reasonable control of the Party asserting the Force Majeure Event, if it prevents or delays such Party from performing any obligation under this Agreement, including, without limitation, the following: any act of public enemy, terrorism, blockade, war, insurrection,

civil disturbance, explosion or riot; epidemic; landslide, earthquake, fire, storm, flood, or washout or other catastrophic weather event; any other act of God; strike, lockout or other industrial disturbance; labor disputes or strikes, title dispute; other litigation, or the failure by Macy's Store West Inc. to execute and deliver the amendments to the Plaza Operating Agreements, agreement or estoppel certificate necessary to satisfy the condition precedent to the commencement of Construction Work described in Section 21.1(B).

34.6 ***Severability***. If a court with jurisdiction rules that any nonmaterial part of this Agreement is invalid, unenforceable, or contrary to law or public policy, then the rest of this Agreement remains valid and fully enforceable.

34.7 ***Obligations of the City and ArenaCo***. The obligations and undertakings of the City and ArenaCo under or in accordance with this Agreement are obligations solely of the City and ArenaCo. Except as otherwise expressly stated in this Agreement, no recourse shall be had, whether in contract, in tort, or otherwise against any officer, director, employee, agent, member, volunteer, or representative of the City or ArenaCo in his or her individual capacity on account of any obligation or undertaking of or any act or omission by the City or ArenaCo under or pursuant to this Agreement.

34.8 ***Time of the Essence***. Time is of the essence in the performance of this Agreement.

34.9 ***Binding Effect***. This Agreement binds and inures to the benefit of the Parties' successors and permitted assigns.

34.10 ***Waiver***. A Party's failure to insist on strict performance of this Agreement or to exercise any right or remedy upon breach of this Agreement will not constitute a waiver of the performance, right, or remedy. A Party's waiver of another Party's breach of any provision in this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision. A waiver is binding only if set forth in a writing signed by the waiving Party.

34.11 ***Interpretation***. This Agreement is to be interpreted and applied in accordance with California law, except that that the rule of interpretation in California Civil Code section 1654 will not apply. The term "including" shall mean "including, without limitation" and "including, but not limited to" and shall not be interpreted to imply any limitation on the more general preceding provision unless otherwise expressly stated. All references in this Agreement to Sections or Exhibits refer to the Sections and Exhibits of this Agreement unless otherwise expressly stated. Each Exhibit referenced in this Agreement is incorporated herein by reference and made a part hereof. The headings and captions of the

Sections and Exhibits are included for convenience only and shall have no effect upon the construction or interpretation of this Agreement.

34.12 ***Integration and Modification***. This Agreement and the Development Expenses Agreement) set forth the Parties' entire understanding regarding the matters set forth in those agreements and are intended to be their final, complete, and exclusive expression of those matters. This Agreement and the Development Expenses Agreement may be modified only by another written agreement signed by both Parties.

34.13 ***Relationship of the Parties***. The Parties do not intend to create any agency, partnership, joint venture, trust, or other relationship with duties or incidents different from those of parties to an arm's-length contract.

34.14 ***No Third-Party Beneficiaries***. Except as set forth in this Section 34.14, this Agreement is solely for the benefit of the City and ArenaCo and their permitted successors and assigns. Nothing in this Agreement, express or implied, is intended to (A) confer upon any Person other than the City and ArenaCo and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (B) authorize anyone not a Party to this Agreement to maintain an action pursuant to or based on this Agreement. Notwithstanding the foregoing, (i) all affiliates of ArenaCo and (ii) the holder of any Leasehold Mortgage or any pledge of ArenaCo's equity are each intended direct third party beneficiaries of this Agreement with the right of direct enforcement of the provisions set forth herein. The Parties agree that the provisions of Section 16 of the Arena Agreement (authorizing Leasehold Mortgages and Mezzanine Lenders and granting certain rights and protections to Leasehold Mortgagees and Mezzanine Lenders) are hereby incorporated by reference. Each Leasehold Mortgagee shall be entitled to all of the rights and protections set forth in the Arena Agreement with respect to this Agreement, including specifically Section 16.7 (notice and cure rights), as if such provisions were included in this Agreement.

34.15 ***Representations***. Each Party hereby represents and warrants to the other that it has all necessary right, power, and authority to enter into this Agreement. Additionally, each Party represents and warrants that the execution and delivery of this Agreement and the performance and observance of all obligations and conditions to be performed or observed by each Party hereunder have been duly authorized by all necessary action of ArenaCo and the City. This Agreement, when fully executed and delivered by the City and ArenaCo, shall constitute the legal, valid, and binding obligation of the City and ArenaCo, enforceable in accordance with the terms hereof.

34.16 ***Attorney's Fees***. The Parties shall bear their own costs and attorneys' fees incurred in connection with this Agreement.

34.17 ***Alternative Delivery***. When a Party is obligated to deliver a document or similar item to the other Party, the recipient may, in its sole discretion, opt for a review of that item without taking physical or electronic delivery.

34.18 ***Counterparts***. The Parties may sign this Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same Agreement. Facsimile signatures or signatures transmitted by e mail or other electronic means shall be effective to bind the Parties.

34.19 ***Governing Law***. This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be the state courts of California located in Sacramento County or the U.S. District Court for the Eastern District of California in Sacramento.

34.20 ***Counting of Days***. Days are calculated using days the Sacramento City Attorney's Office is open. California Code of Civil Procedure section 12a applies to this Agreement.

34.21 ***Disclosure of Records***. All non-public documents shared by the Parties hereunder shall be treated as confidential to the extent permitted by law. All documents submitted to the City may be subject to disclosure pursuant to the California Public Records Act. However, if any documents, in whole or in part, are set apart and clearly marked "trade secret" or "confidential" when provided to the City, the City shall give notice to ArenaCo of any request for the disclosure of those documents. ArenaCo shall then have 5 days from the date it receives that notice to enter into an agreement with the City, satisfactory to the City Attorney, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney fees) incurred by City in any legal action to compel the disclosure of those documents under the California Public Records Act. ArenaCo shall have sole responsibility for defense of the actual "trade secret" or "confidential" designations.

34.22 ***Effectiveness***. Notwithstanding anything in this Agreement to the contrary, the effectiveness of this Agreement is conditioned upon the NBA's approval of the Team Agreement and the Arena Agreement, which approval is required for the effectiveness of both such agreements pursuant to the terms thereof. ArenaCo shall promptly deliver to the City a copy of the letter from the NBA confirming such approval upon ArenaCo's receipt thereof.

34.23 ***Estoppel Certificate***. Each of the Parties shall, upon the reasonable request of the other (or any current or prospective source of financing for the City, ArenaCo

or any transferee or assignee, including Leasehold Mortgagee), and in each case within 10 days after the other Party has requested it, execute and deliver to the appropriate Persons a certificate in recordable form stating:

(A) That this Agreement is unmodified and is in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect as modified and stating the modifications or, if this Agreement is not in full force and effect, that such is the case);

(B) That, to the knowledge of the Party providing the certificate, there are no defaults by it or the other Party under this Agreement (or specifying each such default as to which it may have knowledge);

(C) The Effective Date, the then-current anticipated Outside Substantial Completion Date, and the then-current anticipated Outside Final Completion Date;

(D) That the Schedule attached to the certificate is the then-current Schedule for the Work;

(E) That the Approved Budget attached to the certificate is the then-current Approved Budget for the Work;

(F) To the knowledge of the Party providing the certificate, whether there are any counterclaims against the enforcement of any Party's obligations under this Agreement; and

(G) Any other matters reasonably requested.

35. **LEED Certification**. ArenaCo shall submit its LEED Certification Score Sheet to the US Green Building Council and obtain a LEED Gold Certification within one year after completion of the first Basketball Season played by the Team in the Arena.

36. **Definitions and Terms.** Capitalized terms in this Agreement have the definitions set forth in this section.

"**50% Design Development Documents**" means the 50% design development documents described in Section 13 as approved by ArenaCo (after following the process for review and response in Section 4.5).

"**50% Design Development Delivery Date**" is set forth in the Schedule.

"**100% Design Development Documents**" means the 100% design development documents described in Section 14 as approved by ArenaCo (after following the process for review and response in Section 4.5).

"**100% Design Development Delivery Date**" is set forth in the Schedule.

"**Affiliate**" is defined in the Comprehensive Agreement.

"**Agreement**" is defined in the introductory paragraph of this Agreement.

"**Applicable Law**" means any law, statute, ordinance, rule, regulation, order, determination, or requirement of any Governmental Authority, expressly including (A) the City's "Art in Public Places" ordinance, and any related rules or regulations, (B) the Final Environmental Impact Report for the Sacramento Entertainment and Sports Center & Related Development (including the Event Transportation Management Plan and the Mitigation Monitoring Plan), certified on May 20, 2014, as the same may be amended, restated, or otherwise modified from time to time, and (C) all laws, statutes, ordinances, rules, regulations, orders, determinations, or requirements of any Governmental Authority relating to pollution or the protection of the environment, health, safety, or natural resources, including those relating to the use, handling, transportation, treatment, storage, release, or discharge of hazardous materials.

"**Approved Budget**" is defined in Section 11.

"**Architect**" is defined in Section 7.

"**Arena**" means the multipurpose entertainment and sports center, including practice facilities, administrative offices, plazas, walkways, parking, and outdoor entertainment areas, to be developed on the Arena Land.

"**Arena Agreement**" means the Arena Management, Operations, and Lease Agreement between the Parties, dated as of the Effective Date, as the same may be amended from time to time.

"**ArenaCo**" is defined in the introductory paragraph of this Agreement.

"**ArenaCo Default**" is defined in Section 32.1.

"**ArenaCo Loan Availability Date**" is defined in the Funding Agreement.

"**Arena Contractor**" is defined in Section 19.1.

"**Arena Land**" is defined in Section 6.1.

"**Basketball Season**" is defined in the Team Agreement.

"**Budget Delivery Date**" is set forth in the Schedule.

"**CEQA**" means the California Environmental Quality Act, as amended, together with all regulations and rules promulgated thereunder.

"**City**" is defined in the introductory paragraph of this Agreement.

"**City Contribution**" is defined in Section 34.5.

"**City Default**" is defined in Section 32.3.

"**City Financing**" is defined in Section 10.

"**City Funding Availability Date**" is defined in the Funding Agreement.

"**Close the ArenaCo Loan**" is defined in the Funding Agreement.

"**Comprehensive Agreement**" is defined in the Background.

"**Construction Documents**" means the documents described in Section 15.2 as approved by ArenaCo (after following the process for review and response in Section 4.5). Without limiting the foregoing, the Construction Documents shall include the Standard Specifications.

"**Construction Documents Delivery Date**" is set forth in the Schedule.

"**Construction Work**" means that portion of the Work relating to the construction of the Arena and the infrastructure necessary therefor, which includes any demolition, environmental mitigation, site preparation, and grading work.

"**Construction Work Modification**" is defined in Section 21.7.

"**Contractor Agreement**" is defined in Section 19.4.

"**Default Rate**" means an annual interest rate equal to the Interest Rate plus five percent (5%).

"**Design Development Documents**" means the 50% Design Development Documents and the 100% Percent Design Development Documents.

"**Design Requirements**" means the design requirements described in the Agreement for Architectural Services between the Architect and ArenaCo, dated August 27, 2013, including the following: (A) detailed site plan; (B) floor plans; (C) grading; (D) building elevations; (E) building cross-sections; (F) building materials; (G) a comprehensive signage plan, as described in Section 16; (H) Building Code and Energy Conservation (Title 24) analysis; (I) commissioning plan; (J) sustainability description with LEED score sheet that achieves a LEED Gold Certification; (K) detailed specifications; (L) mechanical, electrical, plumbing, and audio/video plans; (M) landscape and planting plans; (N) stormwater and drainage plans; and (O) demolition plans.

"**Design Work**" means that portion of the Work relating to the development and design of the Arena and the infrastructure necessary therefor.

"**Designated ArenaCo Representatives**" means a limited number of individuals, identified in writing by ArenaCo, from the Architect, Preconstruction Consultant, ICON, Arena Contractor, and other contractors or consultants engaged with regard to the Work, with the sufficient design, engineering, construction, or other relevant knowledge and experience to competently respond to the City's requests under Section 4.4.

"**Designated City Representatives**" means a limited number of individuals with knowledge of one or more aspects of the Work who are identified and designated in writing by the City, from time to time, for purposes of communicating with the Architect, Preconstruction Consultant, ICON, Arena Contractor and any other contractors or consultants engaged with regard to the Work, for the purposes set forth in this Agreement.

"**Development Expenses Agreement**" is defined in Section 1.2.

"**Effective Date**" is defined in the introductory paragraph of this Agreement.

"**Final Completion**" means (A) the final completion of the design, development, construction, furnishing, and all other aspects of the Work substantially in accordance with the Contractor Agreement, Construction Documents, Approved Budget and Schedule, Quality Standard, the Preliminary Program, all Applicable Laws, and all other requirements of this Agreement, including the completion of the punch-list type items referred to in Section 25; and (B) the issuance of all governmental approvals necessary to use, occupy, and operate all aspects and areas of the Arena, in accordance with the terms of this Agreement and the other Project Agreements.

"**Force Majeure Event**" is defined in Section 34.5.

"**Funding Agreement**" means the Arena Finance and Funding Agreement between the Parties, dated as of the Effective Date, as the same may be amended from time to time.

"**Governmental Authority**" means any federal, state, or local entity, political subdivision, agency, department, commission, board, bureau, administrative, or regulatory body, or other instrumentality having jurisdiction over the Parties, the Work, the Arena Land, the Arena, or any other properties or rights that are the subject of this Agreement.

"**HoldCo**" is defined in the Background.

"**ICON**" means ICON Venue Group, LLC, a Delaware limited liability company.

"**Include**" or "**including**" means including without limitation. It is non-exhaustive.

"**Interest Rate**" means the annual "prime" lending rate of interest published from time to time by the Wall Street Journal or its successor plus two percent (2%). If, at any time during the Term, the Wall Street Journal or its successor no longer announces a "prime" lending rate, then the Interest Rate shall be the annual interest rate that is announced by a national bank reasonably selected by the Parties and having an office in Sacramento, California as such national bank's "prime" lending rate, plus two percent (2%). The Interest Rate shall change and be adjusted upon each announcement by the Wall Street Journal or its successor (or any substitute national bank selected by the Parties pursuant to this definition) of each change in the "prime rate" used to determine the Interest Rate in the manner described in this definition. All interest to be paid pursuant to this Agreement shall be computed on the basis of a 360-day year consisting of 12 months of 30 days each.

"**JPA**" is defined in the Funding Agreement.

"**Liabilities**" is defined in Section 30.

"**Meetings**" means all meetings and briefings as well as teleconferences or video conferences with the Architect, Preconstruction Consultant, Arena Contractor or any other contractors, subcontractors or consultants engaged with regard to the Work, where ArenaCo, ICON, or Arena Contractor, as ArenaCo's representative, will also be present or participating; provided that the Parties do not intend for the City to be involved in the day to day meetings, rather the intent is for the City to be invited to participate in all meetings where material decisions are being made regarding all or any portion of the Arena. The term Meetings does not include City meetings solely with Weston Sports and Entertainment, ArenaCo meetings solely with ICON, or any other meetings solely with a Party's own attorneys, financial advisors, or similar confidential consultants, which may only be attended by the other Party by invitation only.

"**NBA**" means the National Basketball Association.

"**Not In Compliance**" is defined in Section 4.5(B).

"**Order for Possession Land**" is defined in the Arena Agreement.

"**Outside Final Completion Date**" means January 1, 2018, subject to Force Majeure Events, the funding of the City Contribution, and the City's compliance with its obligations under the Project Agreements.

"**Outside Substantial Completion Date**" means October 1, 2017, subject to Force Majeure Events, the funding of the City Contribution, and the City's compliance with its obligations under the Project Agreements.

"**Owner's Representative**" is defined in Section 8.

"Parking Facilities Demolition Work" is defined in Section 21.3.

"**Parking Facilities FF&E**" is defined in Section 21.3.

"Parking Facilities for Demolition" is defined in Section 21.3.

"**Party**" or "**Parties**" is defined in the introductory paragraph of this Agreement.

"**Person**" means any individual, trust, estate, partnership, joint venture, company, corporation, association, limited liability company, or other legal entity, business organization, or enterprise.

"**Plan Submittal**" means any submittal to the City under Sections 10, 11, 13, 14, 15, 18.6, 21.3, and 21.7 of this Agreement.

"**Plaza Operations Agreements**" means (A) the Construction, Operation And Maintenance Agreement, dated as of November 30, 1992 and recorded on October 15, 1993 in Book 93 1015, Page 2019 of the Official Records of Sacramento County, California, (B) Cross-Easement Agreement, dated as of November 30, 1992, and recorded on October 15, 1993, in Book 93 1015, Page 2018 of the Official Records of Sacramento County, California, and (C) Parking Operation and Maintenance Agreement, dated as of November 30, 1992, and recorded on October 15, 1993, in Book 93 1015, Page 2020 of the Official Records of Sacramento County, California, all as the same may be amended, restated, modified, or supplemented from time to time in accordance with the terms thereof.

"**Preconstruction Consultant**" means Turner Construction Company, which was previously selected by ArenaCo to assist with preconstruction services.

"**Predevelopment Expenses Agreement**" is defined in the Background.

"**Predevelopment Process Agreement**" is defined in the Background.

"**Preliminary Budget**" is defined in Section 11.

"**Preliminary Program**" means the size and components of the Arena described in the Schematic Design. The Parties acknowledge that, as the Work progresses, the Preliminary Program will likely be modified by the Parties from time to time to adapt to market studies, NBA rules regarding the design and construction of NBA arenas, including the NBA Arena Standards Manual, consistently applied, Sacramento Kings' requirements, City and public input, and the demands of the site. ArenaCo shall provide notice to the City of all amendments to the Preliminary Program. Any material changes to the Preliminary Program shall be in writing and, unless required by such NBA rules, mutually agreed upon by the Parties.

"**Project Agreements**" is defined in the Background.

"**Project Costs**" means the cost of the Work, together with certain related predevelopment and land acquisition costs as shown in the Preliminary Budget and the Approved Budget.

"**Quality Standard**" means a level of design and construction appropriate for a first class and state of the art NBA arena. By way of example, the Parties consider Amway Center (Orlando), Barclay's Center (Brooklyn), Chesapeake Energy Arena (Oklahoma City), and Pepsi Center (Denver) to be first class and state of the art NBA arenas. The Quality Standard also includes the standards set forth in any applicable NBA rules, including the NBA Arena Standards Manual and other rules related to technology and guest experience.

"**Response to Request for Modification**" is defined in Section 21.7.

"**SMAC**" is defined in Section 17.2.

"**Schedule**" is defined in Section 10.

"**Schematic Design**" is defined in Section 12.

"**Sign the Initial City Financing Document**" is defined in the Funding Agreement.

"**Standard Specifications**" is defined in Section 2.

"**Substantial Completion Date**" means the later of (A) the date on which the City receives from ArenaCo a copy of the a certificate of the Architect certifying that all of the Work has been substantially completed in accordance with the Construction Documents and the Contractor Agreement (excluding normal punch-list items to be completed pursuant to the terms of this Agreement), and (B) the date on which the City issues to ArenaCo the certificate(s) of occupancy, which may be temporary, providing that the Arena is ready for use and occupancy for its intended purposes in accordance with Applicable Laws. The Parties shall document the Substantial Completion Date in writing

"**Team**" is defined in the Comprehensive Agreement.

"**Team Agreement**" is defined in the Comprehensive Agreement.

"**Term**" means the duration of this Agreement, as described in Section 5.

"**Work**" is defined in the Background.

* * *

City of Sacramento By:_____ John F. Shirey City Manager Date:_____, 2014	**SACRAMENTO DOWNTOWN ARENA LLC**, a Delaware limited liability company By: Sacramento Basketball Holdings LLC, its Sole Member By: _____ Name: _____ Its: _____ Date:_____, 2014
Approved as to Form Sacramento City Attorney By:_____ Matthew D. Ruyak Assistant City Attorney	Approved as to Legal Form Pioneer Law Group, LLP By:_____ Jeffrey K. Dorso Attorneys for ArenaCo

For the limited purposes of assigning its rights and obligations in the Predevelopment Agreements pursuant to Section 1 of this Agreement:

Sacramento Basketball Holdings LLC

By: _____
Name: _____
Its: _____

Date:_____, 2014

Exhibit A
to
Arena Design and Construction Agreement

Description of Arena Land

(see attached)

Exhibit "A"

Legal Description for Sacramento Entertainment & Sports Center District

All that certain real property situate in the City of Sacramento, County of Sacramento and State of California described as follows:

Being all of Lots A-2, A-4, AC-1, AC-2, AC-3, AC-4, E-2, GS-3, H, M-2, P, R-1, R-2, S-3, T, U-4, U-5, V, Y-1, Y-2 and a portion of lots F, R, G, U-2 and U-3 of that certain Parcel Map filed for record on July 29, 1970 in Book 3 of Parcel Maps at Page 24, Sacramento County Official Records, also being all of that certain real property described in the Quitclaim Deed to the City of Sacramento filed for recorded on December 26, 2013 at Book 20131226 Page 0696 Sacramento County Official Records, also being a portion of Parcel One as described in the deed to Downtown Plaza Sacramento, LLC recorded on August 14, 2012 at Book 20120814 Page 1600, Sacramento County Official Records and also being a portion of that certain parcel of land described in the deed to the Redevelopment Agency of the City of Sacramento recorded on October 31, 1979 in Book 791031, Page 1981, Sacramento County Official Records and being more particularly described as follows:

Beginning at the southwesterly corner of Parcel R-2, said point being the intersection of the easterly right of way line of 5th Street with the northerly right of way line of "L" Street as said parcels and streets are shown and delineated on that certain Parcel Map filed for record July 29, 1970 in Book 3 of Parcel Maps at Page 24, Sacramento County Official Records;

Thence along the easterly line of 5th Street North 18°29'01" East a distance of 604.97 feet;

Thence leaving said easterly right of way line of 5th Street, South 11°30'54" East for a distance of 130.63 feet;

Thence South 71°33'00" East for a distance of 314.46 feet;

Thence South 26°30'00" East for a distance of 15.33 feet;

Thence South 71°33'00" East for a distance of 75.35 feet to the westerly line of Parcels 1 through 5 as said parcels are shown and delineated on that certain Parcel Map recorded July 29, 1981 in Book 65 of Parcel Maps at Page 41, Sacramento County Official Records;

Thence along said westerly line, South 18°27'50" West for a distance of 69.01 feet;

Thence leaving said westerly line South 71°32'10" East a distance of 26.32 feet;

Thence South 18°27'50" West a distance of 31.58 feet to the intersection with the former centerline of the abandoned "K" Street as shown and delineated on that certain Parcel Map filed for record on March 21, 1980 in Book 56 of Parcel Maps at Page 15, Sacramento County Official Records;

Thence along said centerline of "K" Street, South 71°31'05" East a distance of 165.10 feet to the westerly line of that certain parcel of land described in the deed to 630 K Street Partners LLC, a California Limited Liability Company recorded on June 20, 2013 in Book 20130620, Page 0626 Sacramento County Official Records;

Thence leaving said centerline and along said westerly line and along the arc of a non-tangent curve, concave to the northwest, whose radial bears South 73°45'04" East, having a radius of 38.50 feet, through a central angle of 92°13'59" for a distance of 61.98 feet;

Thence North 71°31'05" West a distance of 1.20 feet;

Thence South 18°29'35" West a distance of 170.33 feet to the southwest corner of said lands;

Thence leaving said westerly line and along the southerly line of Lands of 630 K Street Partners LLC South 71°32'19" East a distance of 100.32 feet to the westerly right of way line of 7th Street;

Thence leaving said southerly line and along said westerly right of way line South 18°28'23" West a distance of 30.00 feet to the northeasterly line of Lands of Jafar Nassar, River Valley Properties, Inc. Williaan O. Noack and Yvonne P. Noack, Trustees of the Wyn Trust and Ratib and Shomisa Norzei as described in the deed recorded on May 6, 2013 in Book 20130506, Page 1501, Sacramento County Official Records;

Thence leaving said westerly right of way line and along said northerly line North 71°32'19" West a distance of 80.26 feet to the northwesterly corner of said lands;

Thence leaving said northerly line and along the westerly line of said lands and the westerly line of the lands of the Marshall Hotel Investors LP, recorded on November 13, 2009 in Book 20091113, Page 1391 Sacramento County Official Records, South 18°28'23" West a distance of 140.32 feet to the northerly right of way line of "L" Street;

Thence leaving said westerly lines and along said northerly right of way line North 71°33'32" West a distance of 280.79 feet;

Thence continuing along said northerly right of way line North 71°29'06" West a distance of 357.02 feet to the **Point of Beginning**.

EXCEPTING THEREFROM the following described portion of land;

Commencing at the southwesterly corner of Parcel R-2, said point being the intersection of the easterly right of way line of 5th Street with the northerly right of way line of L Street as said parcels and streets are shown on that certain Parcel Map filed for record July 29, 1970 in Book 3 of Parcel Maps at Page 24, Sacramento County Official Records;

Thence along the easterly line of 5th Street North 18°29'01" East a distance of 222.81 feet to the **Point of Beginning**;

Thence leaving said line South 71°31'12" East a distance of 4.27 feet;

Thence North 18°28'48" East a distance of 135.67 feet;

Thence North 71°31'12" West a distance of 4.26 feet to the easterly right of way line of 5th Street;

Thence along said right of way line, South 18°29'01" West a distance of 135.67 feet to the **Point of Beginning**

The above described exception lies below an Elevation of 2.17 feet (0.00 feet as shown on Book 3 of Parcel Maps at Page 24) and above the inclined planes formed by the elevations of the top deck of the existing concrete parking structure as shown and delineated on that certain Parcel Map recorded in Book 3 of Parcel Maps at Page 24, Sacramento County Official Records;

ALSO FURTHER EXCEPTING THEREFROM the following described parcel:

Beginning at the southwesterly corner of Parcel R-2, said point being the intersection of the easterly right of way line of 5th Street with the northerly right of way line of "L" Street as said parcels and streets are shown and delineated on that certain Parcel Map filed for record July 29, 1970 in Book 3 of Parcel Maps at Page 24, Sacramento County Official Records;

Thence along the easterly line of 5th Street North 18°29'01" East a distance of 604.97 feet;

Thence leaving said easterly right of way line of 5th Street, South 11°30'54" East for a distance of 130.63 feet;

South 71°33'00" East a distance of 314.46 feet;

Thence South 26°30'00" East a distance of 18.86 feet;

Thence North 71°33'00" West a distance of 152.56 feet;

Thence along the arc of a tangent curve, concave to the southeast, having a radius of 190.00 feet, through a central angle of 89°57'01" for a distance of 298.29 feet;

Thence South 18°29'59" West a distance of 93.94 feet;

Thence along the arc of a tangent curve, concave to the northeast, having a radius of 190.00 feet, through a central angle of 29°23'19" for a distance of 97.46 feet;

Thence South 18°30'54" West for a distance of 101.50 feet to the northerly right of way line of "L" Street;

Thence along the northerly right of way line of "L" Street, North 71°29'06" West a distance of 75.00 feet to the **Point of Beginning.**

The lower vertical limit of the above described exception is Elevation 36.0 and has no upper vertical limit.

ALSO FURTHER EXCEPTING THEREFROM the following described parcel:

Commencing at the southwesterly corner of Parcel R-2, said point being the intersection of the easterly right of way line of 5th Street with the northerly right of way line of "L" Street as said parcels and streets are shown and delineated on that certain Parcel Map filed for record July 29, 1970 in Book 3 of Parcel Maps at Page 24, Sacramento County Official Records;

Thence along the easterly line of 5th Street North 18°29'01" East a distance of 604.97 feet;

Thence leaving said easterly right of way line of 5th Street, South 11°30'54" East for a distance of 130.63 feet;

Thence South 71°33'00" East for a distance of 314.46 feet;

Thence South 26°30'00" East for a distance of 15.33 feet;

Thence South 71°33'00" East for a distance of 75.35 feet to the westerly line of Parcels 1 through 5 as said parcels are shown and delineated on that certain Parcel Map recorded July 29, 1981 in Book 65 of Parcel Maps at Page 41, Sacramento County Official Records;

Thence along said westerly line, South 18°27'50" West for a distance of 69.01 feet;

Thence South 71°32'10" East for a distance of 26.32 feet;

Thence South 18°27'50" West a distance of 31.58 feet to the intersection with the former centerline of the abandoned "K" Street as shown and delineated on that

certain Parcel Map filed for record on March 21, 1980 in Book 56 of Parcel Maps at Page 15, Sacramento County Official Records and the **Point of Beginning**;

Thence along said centerline of "K" Street, South 71°31'05" East a distance of 165.10 feet to the westerly line of that certain parcel of land described in the deed to 630 K Street Partners LLC, a Limited Liability Company recorded on June 20, 2013 in Book 20130620, Page 0626 Sacramento County Official Records;

Thence leaving said centerline and along said westerly line and along the arc of a non-tangent curve, concave to the northwest, whose radial bears South 73°45'04" East, having a radius of 38.50 feet, through a central angle of 92°13'59" for a distance of 61.98 feet;

Thence leaving said westerly line North 71°31'05" West a distance of 87.89 feet;

Thence North 26°30'00" West a distance of 56.55 feet to the centerline of the former "K" Street;

Thence along said centerline South 71°31'05" East for a distance of 1.23 feet to the **Point of Beginning**;

The above described exception area has a lower vertical limit of elevation 36.0 feet and has no vertical upper limit.

ALSO FURTHER EXCEPTING THEREFROM the following described parcel:

Commencing at the southwesterly corner of Parcel R-2, said point being the intersection of the easterly right of way line of 5th Street with the northerly right of way line of "L" Street as said parcels and streets are shown and delineated on that certain Parcel Map filed for record July 29, 1970 in Book 3 of Parcel Maps at Page 24, Sacramento County Official Records;

Thence along the easterly line of 5th Street North 18°29'01" East a distance of 604.97 feet;

Thence leaving said easterly right of way line of 5th Street, South 11°30'54" East for a distance of 130.63 feet;

Thence South 71°33'00" East for a distance of 314.46 feet;

Thence South 26°30'00" East for a distance of 15.33 feet to the **Point of Beginning.**

Thence South 71°33'00" East for a distance of 75.35 feet to the westerly line of Parcels 1 through 5 as said parcels are shown and delineated on that certain Parcel Map recorded July 29, 1981 in Book 65 of Parcel Maps at Page 41, Sacramento County Official Records;

Thence along said westerly line, South 18°27'50" West for a distance of 69.01 feet;

Thence South 71°32'10" East for a distance of 26.32 feet;

Thence South 18°27'50" West a distance of 31.58 feet to the intersection with the former centerline of the abandoned "K" Street as shown and delineated on that certain Parcel Map filed for record on March 21, 1980 in Book 56 of Parcel Maps at Page 15, Sacramento County Official Records;

Thence along said centerline North 71°31'05" West for a distance of 1.23 feet;

Thence North 26°30'00" West for a distance of 142.13 feet to the **Point of Beginning.**

The above described exception area has a lower vertical limit of elevation 36.0 feet and has no vertical upper limit.

ELEVATION NOTE:

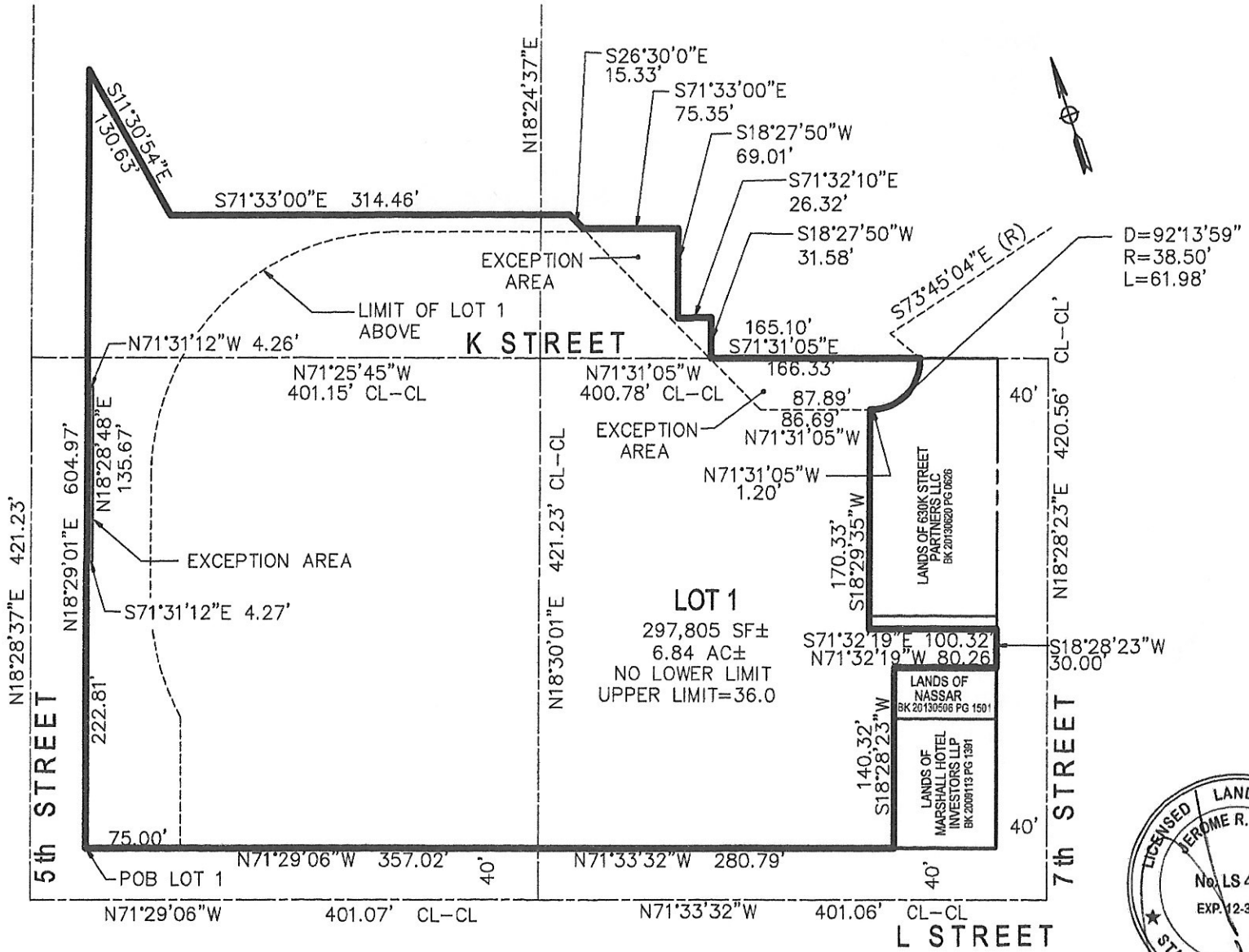
Elevations shown herein are based on the National Geodetic Control Monument JS1113, being a brass disk set in the top of a granite step located at the southwest entrance to the federal building located at the northeast corner of the intersection of 8th Street and "I" Street in the City of Sacramento, California and has a published elevation of 31.55 feet based on the North American Vertical Datum of 1988.

The elevations shown herein are 2.17 feet higher than the elevations referenced on 3 PM 24, 56 PM 15 and 65 PM 41, Official Records Sacramento County. Elevation 0.00 on 3 PM 24 is Elevation 2.17 herein.

The above described parcel is shown on Exhibit "B" attached hereto and made a part hereof.

LICENSED LAND SURVEYOR
JEROME R. JONES
No. LS 4922
EXP. 12-31-14
STATE OF CALIFORNIA

5/13/14



GRAPHIC SCALE

125 62.5 0 125 250

1 in = 125 ft

LICENSED LAND SURVEYOR
JEROME R. JONES
No. LS 4922
EXP. 12-31-14
STATE OF CALIFORNIA

5/13/14

EXHIBIT "B"

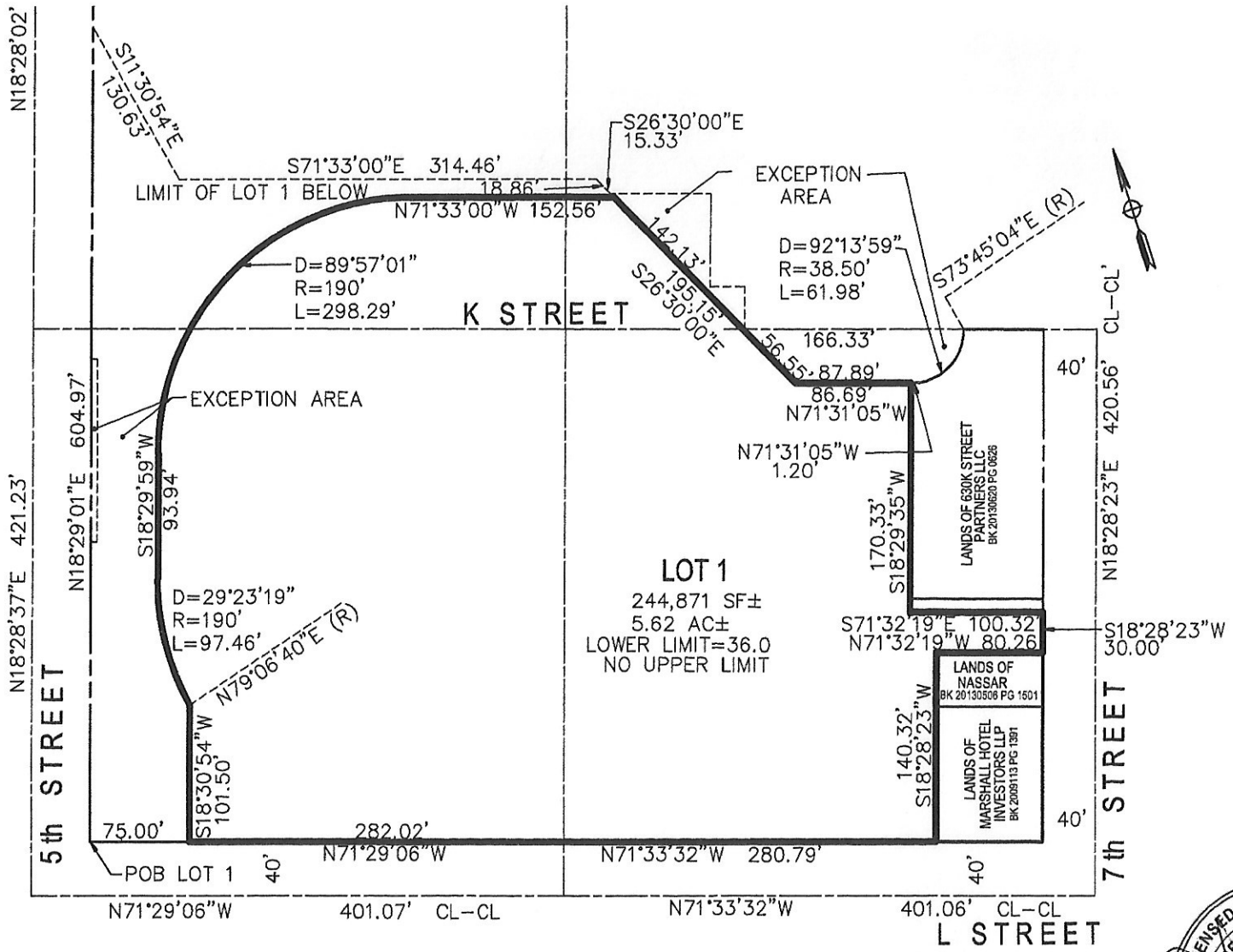
PLAT TO ACCOMPANY

SACRAMENTO ENTERTAINMENT & SPORTS CENTER DISTRICT

SACRAMENTO, CALIFORNIA

mortonpitalo

MORTON & PITALO, INC.
CIVIL ENGINEERING • LAND PLANNING • LAND SURVEYING
LANDSCAPE ARCHITECTURE • TRAFFIC ENGINEERING
75 Iron Point Circle, Suite 120 • Folsom, CA 95630
phone: 916.984.7621 • fax: 916.984.9617
survey email: staking@mpengr.com • web: www.mpengr.com



LICENSED LAND SURVEYOR
JEROME R. JONES
No. LS 4922
EXP. 12-31-14
STATE OF CALIFORNIA

5/13/14

GRAPHIC SCALE

125 62.5 0 125 250

1 in = 125 ft

EXHIBIT "B"

PLAT TO ACCOMPANY

SACRAMENTO ENTERTAINMENT & SPORTS CENTER DISTRICT

SACRAMENTO, CALIFORNIA

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survey email: staking@mpengr.com • web: www.mpengr.com

Exhibit B
to
Arena Design and Construction Agreement

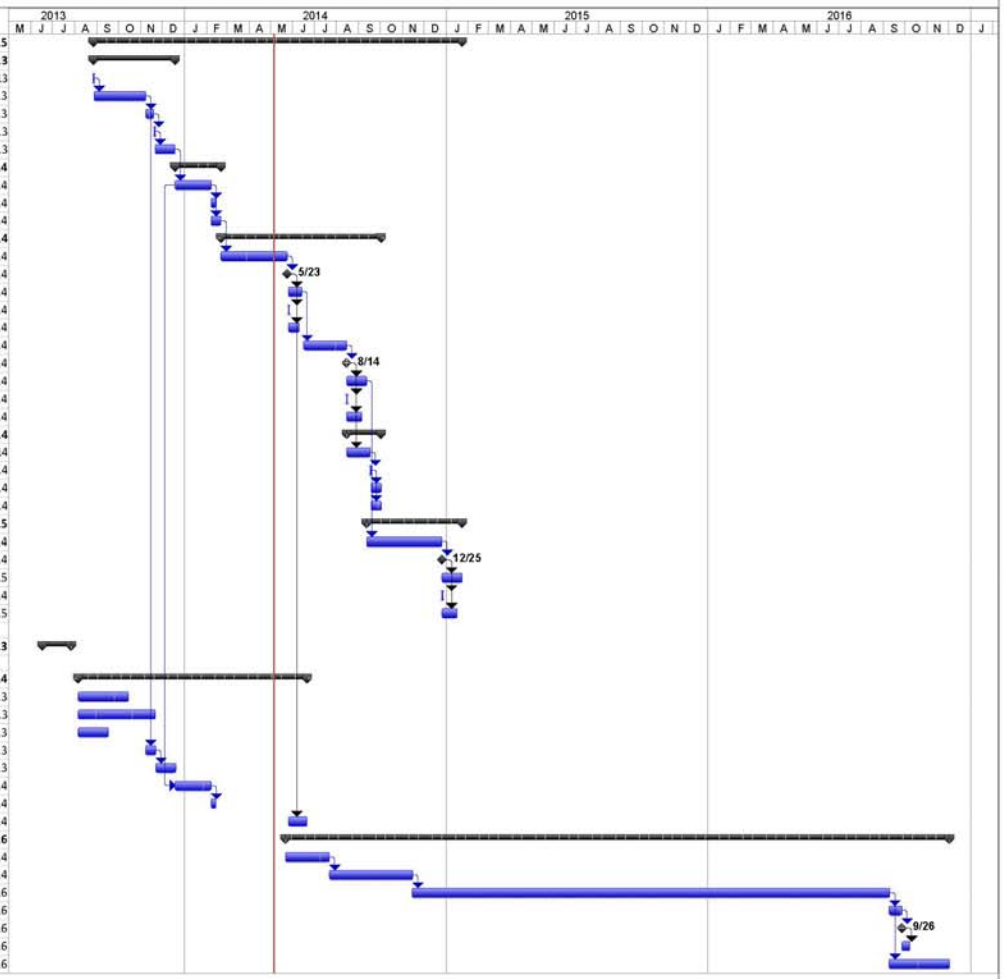
Schedule

(see attached)

EXHIBIT B

SACRAMENTO ENTERTAINMENT AND SPORTS CENTER PROJECT SCHEDULE

ID	Task Name	Duration	Start	Finish
1	**DESIGN:**	**368 days**	**Tue 8/27/13**	**Thu 1/22/15**
2	**CONCEPT DESIGN**	**82 days**	**Tue 8/27/13**	**Wed 12/18/13**
3	Conceptual Design Kick-off Meeting	1 day	Tue 8/27/13	Tue 8/27/13
4	Concept Design	52 days	Wed 8/28/13	Thu 11/7/13
5	Client Review & Approval of Concept Design	7 days	Fri 11/8/13	Mon 11/18/13
6	NBA "30 Day" Pre-Schematic Design Meeting	1 day	Wed 11/20/13	Wed 11/20/13
7	NBA "30 Day" Pre-Schematic Design Review Period	20 days	Thu 11/21/13	Wed 12/18/13
8	**SCHEMATIC DESIGN:**	**46 days**	**Thu 12/19/13**	**Thu 2/20/14**
9	Schematic Design	36 days	Thu 12/19/13	Thu 2/6/14
10	City Review & Comment on Schematic Design Package	5 days	Fri 2/7/14	Thu 2/13/14
11	Client Review & Approval of Schematic Design	10 days	Fri 2/7/14	Thu 2/20/14
12	**DESIGN DEVELOPMENT:**	**159 days**	**Fri 2/21/14**	**Wed 10/1/14**
13	Develop 50% DD Package	66 days	Fri 2/21/14	Fri 5/23/14
14	Release 50% DD Package	0 days	Fri 5/23/14	Fri 5/23/14
15	Client Review & Approval of 50% DD	15 days	Mon 5/26/14	Fri 6/13/14
16	Deliver 50% DD Package to the City	1 day	Mon 5/26/14	Mon 5/26/14
17	City Review & Comment on 50% DD Package	11 days	Mon 5/26/14	Mon 6/9/14
18	Develop 100% DD Package	44 days	Mon 6/16/14	Thu 8/14/14
19	Release 100% DD Package	0 days	Thu 8/14/14	Thu 8/14/14
20	Client Review & Approval of 100% DD Package	20 days	Fri 8/15/14	Thu 9/11/14
21	Deliver 100% DD Package to the City	1 day	Fri 8/15/14	Fri 8/15/14
22	City Review & Comment on 100% DD Package	15 days	Fri 8/15/14	Thu 9/4/14
23	**DEVELOP & NEGOTIATE GMP (BASED UPON 100% DD's):**	**34 days**	**Fri 8/15/14**	**Wed 10/1/14**
24	Prepare GMP Package (100% DDs)	23 days	Fri 8/15/14	Tue 9/16/14
25	Contractor to Submit GMP Cost Proposal	1 day	Wed 9/17/14	Wed 9/17/14
26	Project Team Review of GMP Cost Proposal	10 days	Thu 9/18/14	Wed 10/1/14
27	Client & City Review & Approval of GMP	10 days	Thu 9/18/14	Wed 10/1/14
28	**CONSTRUCTION DOCUMENTS:**	**95 days**	**Fri 9/12/14**	**Thu 1/22/15**
29	Develop 100% Construction Documents Package	75 days	Fri 9/12/14	Thu 12/25/14
30	Release 100% CD's	0 days	Thu 12/25/14	Thu 12/25/14
31	Client Review & Approval of 100% CD's	20 days	Fri 12/26/14	Thu 1/22/15
32	Deliver 100% CD's to the City	1 day	Fri 12/26/14	Fri 12/26/14
33	City Review & Comment on 100% CD's	15 days	Fri 12/26/14	Thu 1/15/15
34				
35	**CONTRACTOR SELECTION FOR PRECONSTRUCTION SERVICES:**	**30 days**	**Mon 6/17/13**	**Fri 7/26/13**
46				
47	**PRE-CONSTRUCTION:**	**229 days**	**Tue 8/6/13**	**Fri 6/20/14**
48	Contractor Begins Pre-Construction	50 days	Tue 8/6/13	Mon 10/14/13
49	Preliminary Program Cost Estimate	77 days	Tue 8/6/13	Wed 11/20/13
50	Development of Community Workforce & Training Agreement	30 days	Tue 8/6/13	Mon 9/16/13
51	Concept Design Estimate Support	10 days	Fri 11/8/13	Thu 11/21/13
52	On-Going Costing Support & Oversight	20 days	Fri 11/22/13	Thu 12/19/13
53	Schematic Design Estimate Support	36 days	Thu 12/19/13	Thu 2/6/14
54	Finalize Schematic Design Estimate	5 days	Fri 2/7/14	Thu 2/13/14
55	Finalize 50% Design Development Estimate	20 days	Mon 5/26/14	Fri 6/20/14
56	**CONSTRUCTION:**	**661 days**	**Thu 5/22/14**	**Thu 12/1/16**
57	Abatement & Salvage Work	43 days	Thu 5/22/14	Mon 7/21/14
58	Existing Building Demolition & Enabling Work	84 days	Tue 7/22/14	Fri 11/14/14
59	Arena Construction	476 days	Fri 11/14/14	Fri 9/9/16
60	NBA Arena Review Period	12 days	Fri 9/9/16	Mon 9/26/16
61	Substantial Completion	0 days	Mon 9/26/16	Mon 9/26/16
62	Kings Move-In	9 days	Tue 9/27/16	Fri 10/7/16
63	Project Closeout	60 days	Fri 9/9/16	Thu 12/1/16



Project Start Date: Mon 6/3/13

Task | Split | Milestone | Summary | Project Summary | External Tasks | External Milestone | Inactive Task | Inactive Milestone | Inactive Summary | Manual Task | Duration-only | Manual Summary Rollup | Manual Summary | Start-only | Finish-only | Progress | Deadline

Tue 5/6/14

* This is a working document that will change on a regular basis *

Page: 1 of 1

Exhibit C
to
Arena Design and Construction Agreement

Preliminary Budget

(see attached)

Exhibit C

New Sacramento Arena - Preliminary Budget Summary

ID #	Group	ESC Budget
Project Budget		
100	START-UP EXPENSES	$ 1,487,000
200	SALES & MARKETING	$ 3,175,000
300	LAND ACQUISITION & SITE DEVELOPMENT	$ 34,000,000
400	DESIGN/PROFESSIONAL SERVICES	$ 20,351,890
500	LEGAL & GOVERNMENTAL SERVICES	$ 4,969,000
600	PROJECT ADMINISTRATION	$ 11,079,965
700	CONSTRUCTION	$ 297,517,717
750	SYSTEMS & EQUIPMENT	$ 51,100,000
800	PERMITS, TESTING, FEES & SPECIAL TAXES	$ 22,221,665
900	INSURANCE, FINANCING & TRANSACTION COSTS	$ 8,877,278
	Sub Total	**$ 454,779,515**
1000	CONTINGENCY	$ 22,220,485
TOTAL PROJECT BUDGET		**$ 477,000,000**
GRAND TOTAL PROJECT BUDGET		

BUDGET AS OF MAY 1, 2014

PAGE: 1 OF 1

Exhibit D
to
Arena Design and Construction Agreement

Parking Facilities Demolition Work

(see attached)

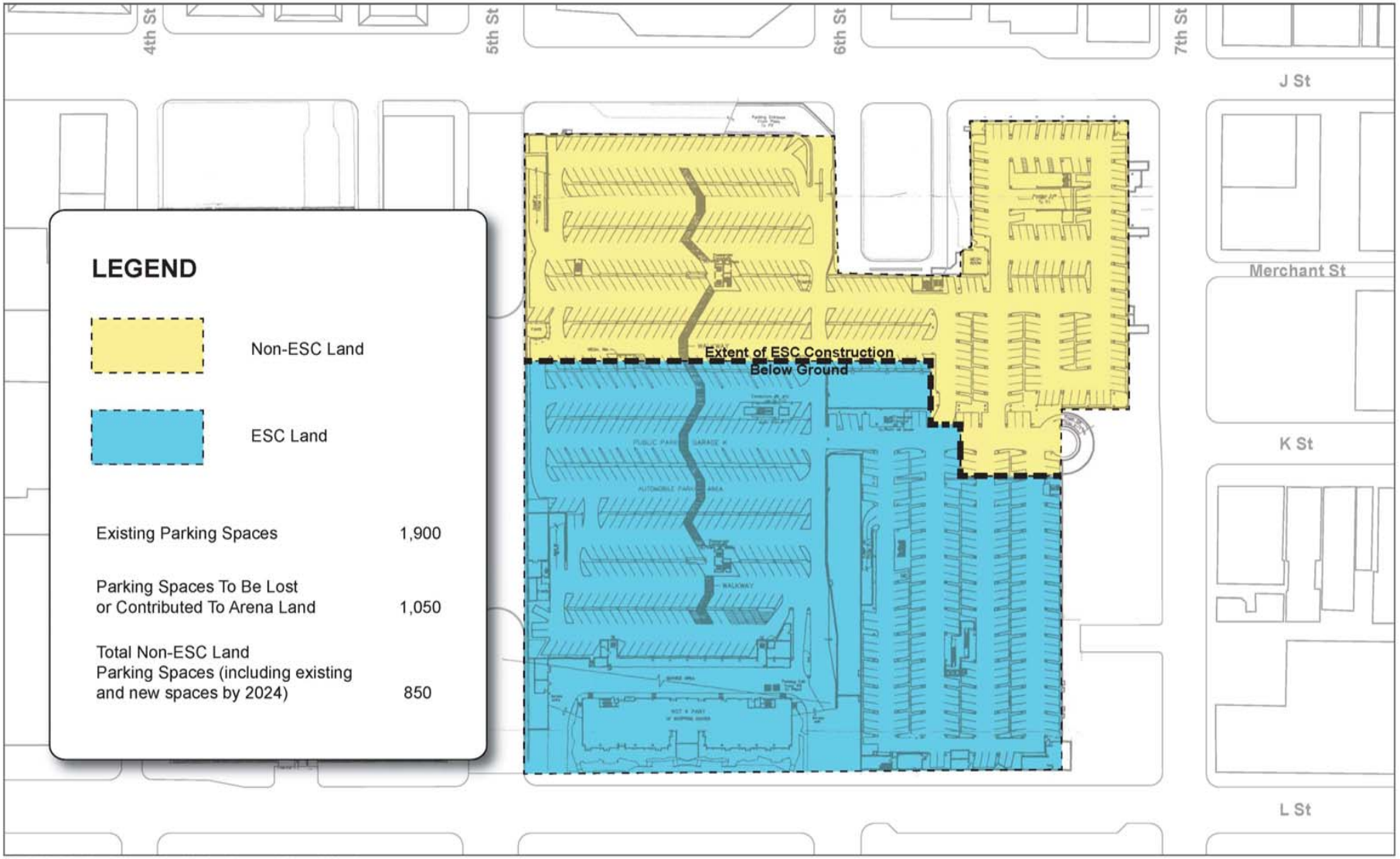


Exhibit D: Parking Facilities Demolition Work

May 1, 2014

AECOM

Exhibit E
to
Arena Design and Construction Agreement

City Documents

- Drug Free Workplace Policy and Affidavit (see attached)

- California Labor Code Relating to Apprentices on Public Works Projects (see attached)

- Minimum Qualifications Questionnaire (see attached)

- Workers Compensation Certificate (see attached)

- Labor Compliance Requirements and Manual (see attached)

DRUG-FREE WORKPLACE POLICY AND AFFIDAVIT

BID PROPOSAL MAY BE DECLARED NONRESPONSIVE IF THIS FORM (COMPLETED) IS NOT ATTACHED.
Pursuant to City Council Resolution CC90-498 dated 6/26/90 the following is required.

The undersigned contractor certifies that it and all subcontractors performing under this Agreement will provide a drug-free workplace by:

1. Publishing a "Drug-Free Workplace" statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2. Establishing a Drug-Free Awareness Program to inform employees about:

a. The dangers of drug abuse in the workplace.
b. The contractor's policy of maintaining a drug-free workplace.
c. Any available drug counseling, rehabilitation, and employee assistance program.
d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

3. Notify employees that as a condition of employment under this Agreement, employees will be expected to:

a. Abide by the terms of the statement.
b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace.

4. Making it a requirement that each employee to be engaged in the performance of the Agreement be given a copy on the "Drug-Free Workplace" statement.

5. Taking one of the following appropriate actions, within thirty (30) days of receiving notice from an employee or otherwise receiving such notice, that said employee has received a drug conviction for a violation occurring in the workplace:

a. Taking appropriate disciplinary action against such an employee, up to and including termination; or
b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement or other appropriate agency.

***** I certify that no person employed by this company, corporation, or business has been convicted of any criminal drug statute violation on any job site or project where this company, corporation or business was performing was within three years of the date of my signature below.

EXCEPTION: _____ _____ _____
Date **Violation Type** **Place of Occurrence**

If additional space is required use back of this form.

*** The above statement will also be incorporated as a part of each subcontract agreement for any and all subcontractors selected for performance on this project.**

IN THE EVENT THIS COMPANY, CORPORATION, OR BUSINESS IS AWARDED THIS CONSTRUCTION AGREEMENT, AS A RESULT OF THIS BID; THE CONTRACTOR WITH HIS/HER SIGNATURE REPRESENTS TO THE CITY THAT THE INFORMATION DISCLOSED IN THIS DOCUMENT IS COMPLETE AND ACCURATE. IT IS UNDERSTOOD AND AGREED THAT FALSE CERTIFICATION IS SUBJECT TO IMMEDIATE TERMINATION BY THE CITY.

The Representations Made Herein On This Document Are Made Under Penalty Of Perjury.

CONTRACTOR'S NAME: _____

BY: _____ **Date:** _____
Signature **Title**

Effects of violations: a. Suspension of payments under the Agreement. **b.** Suspension or termination of the Agreement**. c.** Suspension or debarment of the contractor from receiving any Agreement from the City of Sacramento for a period not to exceed five years.

CALIFORNIA LABOR CODE

RELATING TO

APPRENTICES ON PUBLIC WORKS PROJECTS

See following links: www.dir.ca.gov and/or www.leginfo.ca.gov

MINIMUM QUALIFICATIONS QUESTIONNAIRE

Sacramento City Code Section 3.60.020 authorizes the Sacramento City Council to adopt standard minimum qualifications for bidders on competitively bid public works construction projects, and requires, among other provisions, that a bidder meet such minimum qualifications at the time of bid opening in order to bid. On July 31, 2007, the City Council adopted Resolution No. 2007-574 establishing these standard minimum qualifications. Pursuant to City Code section 3.60.020, a bidder failing to meet these minimum qualifications at the time of bid opening shall not be considered a responsible bidder for purposes of bidding on the subject project.

All bidders must demonstrate compliance with the minimum qualifications established by Resolution No. 2007-574 by completing all of the questions contained in this questionnaire. Bidder responses shall be limited to those operating business units, offices, branches and/or subsidiary divisions of the bidder that will be involved with the performance of any project work if awarded the contract. If a bidder answers "yes" to any single question, fails to submit a fully completed questionnaire, or submits false information, this will result in a determination that the minimum qualifications are not met, and the bidder shall not be considered a qualified bidder for purposes of bidding on this contract. If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet these minimum qualifications for the Joint Venture to be considered a qualified bidder.

The City of Sacramento ("City") shall make its determination on the basis of the submitted questionnaire, as well as any relevant information that is obtained from others or as a result of investigation by the City. While it is the intent of this questionnaire to assist the City in determining whether bidders possess the minimum qualifications necessary to submit bids on the City's competitively bid public works construction contracts, the fact that a bidder submits a questionnaire demonstrating that it meets these minimum qualifications shall not in any way limit or affect the City's ability to: (1) review other information contained in the bid submitted by the bidder, and additional relevant information, and determine whether the contractor is a responsive and/or responsible bidder; or (2) establish pre-qualification requirements for a specific contract or contracts.

By submitting this questionnaire, the bidder consents to the disclosure of its questionnaire answers: (i) to third parties for purposes of verification and investigation; (ii) in connection with any protest, challenge or appeal of any action taken by the City; and (iii) as required by any law or regulation, including without limitation the California Public Records Act (Calif. Gov't Code sections 6250 et seq.). Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the bidder submitting the questionnaire. If any information provided by a bidder becomes inaccurate, the bidder shall immediately notify the City and provide updated accurate information in writing, under penalty of perjury.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 2007-574

DATE ADOPTED: July 31, 2007

QUESTIONNAIRE

NOTICE: **For firms that maintain other operating business units, offices, branches and/or subsidiary divisions that will not be involved with the performance of any project work if the firm is awarded the contract, references hereafter to "your firm" shall mean only those operating business units, offices, branches and/or subsidiary divisions that will be involved with the performance of any project work.**

All of the following questions regarding "your firm" refer to the firm (corporation, partnership or sole proprietor) submitting this questionnaire, as well as any firm(s) with which any of your firm's owners, officers, or partners are or have been associated as an owner, officer, partner or similar position within the last five years The firm submitting this questionnaire shall not be considered a responsible bidder if the answer to any of these questions is "yes", or if the firm submits a questionnaire that is not fully completed or contains false information.

1. **Classification & Expiration Date(s) of California** Contractor's License Number(s) held by firm:

_____

2. Has a contractor's license held by your firm and/or any owner, officer or partner of your firm been revoked at anytime in the last five years?

☐ Yes ☐ No

3. Within the last five years, has a surety firm completed a contract on your firm's behalf, or paid for completion of a contract to which your firm was a party, because your firm was considered to be in default or was terminated for cause by the project owner?

☐ Yes ☐ No

4. At the time of submitting this minimum qualifications questionnaire, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either California Labor Code section 1777.1 (prevailing wage violations) or Labor Code section 1777.7 (apprenticeship violations)?

☐ Yes ☐ No

5. At any time during the last five years, has your firm, or any of its owners, officers or partners been convicted of a crime involving the awarding of a contract for a government construction project, or the bidding or performance of a government contract?

☐ Yes ☐ No

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 2007-574

DATE ADOPTED: July 31, 2007

6. Answer either subsection A or B, as applicable:

A. Your firm has completed three or more government construction contracts in Sacramento County_within the last five years: Within those five years, has your firm been assessed liquidated damages on three or more government construction contracts in Sacramento County for failure to complete contract work on time?

NOTE: If there is a pending administrative or court action challenging the assessment of liquidated damages on a government contract within the last five years, you need not include that contract in responding to this question.

☐ Yes ☐ No ☐ Not applicable

OR

B. Your firm has not completed at least three government construction contracts in Sacramento County within the last five years: Within the last three years, has your firm been assessed liquidated damages on three or more government construction contracts for failure to complete contract work on time?

NOTE: If there is a pending administrative or court action challenging an assessment of liquidated damages on a government contract within the last three years, you need not include that contract in responding to this question.

☐ Yes ☐ No ☐ Not applicable

7. In the last three years has your firm been debarred from bidding on, or completing, any government agency or public works construction contract for any reason?

NOTE: If there is a pending administrative or court action challenging a debarment, you need not include that debarment in responding to this question.

☐ Yes ☐ No

8. Has CAL OSHA assessed a total of three or more penalties against your firm for any "serious" or "willful" violation occurring on construction projects performed in Sacramento County at any time within the last three years?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 2007-574

DATE ADOPTED: July 31, 2007

9. Answer either subsection A or B, as preferred:

A. In the last three years has your firm had a three year average Workers' Compensation experience modification rate exceeding 1.1?

☐ Yes ☐ No

OR

B. In the last three years has your firm had a three-year average incident rate for total lost workday cases exceeding 10?

NOTE: Incident rates represent the number of lost workday cases per 100 full-time workers and is to be calculated as: (N/EH) x 200,000, where

N	**=**	**number of lost workday cases (as defined by the U.S. Dept. of Labor, Bureau of Labor Statistics)**
EH	**=**	**total hours worked by all employees during the calendar year**
200,000	**=**	**base for 100 equivalent full-time working (working 40 hours per week, 50 weeks per year)**

☐ Yes ☐ No

10. In the past three years, has the federal EPA, Region IX or a California Air Quality Management District or Regional Water Quality Control Board assessed penalties three or more times, either against your firm, or against the project owner for a violation resulting in whole or in part from any action or omission by your firm on a project on which your firm was a contractor in Sacramento County*?*

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

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In the past three years, has the federal EPA, Region IX or a California Air Quality Management District or Regional Water Quality Control Board assessed a single penalty of $100,000 or more, either against your firm, or against the project owner for a violation resulting in whole or in part from any action or omission by your firm on a project on which your firm was the contractor in Sacramento County*?*

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

12. In the past three years, have civil penalties been assessed against your firm pursuant to California Labor Code 1777.7 for violation of California public works apprenticeship requirements, three or more times?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

13. In the past three years, has a public agency in California withheld contract payments or assessed penalties against your firm for violation of public works prevailing wage requirements, three or more times?

NOTE: If there is a pending administrative or court action appealing a withholding or penalty assessment, you need not include that withholding or penalty assessment in responding to this question.

☐ Yes ☐ No

14. Has your firm been assessed penalties for violation of public works prevailing wage requirements in California, in an aggregate amount for the past three years of $50,000 or more?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

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VERIFICATION AND SIGNATURE

I, the undersigned, certify and declare that I have read all the foregoing answers to this Minimum Qualifications Questionnaire, and know their contents. The matters stated in these Questionnaire answers are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed at _____, on _____.
(Location) (Date)

Signature: _____

Print name: _____

Title: _____

NOTE: If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must submit a separate Minimum Qualifications Questionnaire.

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City of SACRAMENTO
Department of Public Works

WORKER'S COMPENSATION CERTIFICATION

Tallac Village Street Light Replacement Project
(PN: T15103203)

In accordance with Article 5 (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the below certificate must be signed and filed with the awarding body prior to performing any work under this contract. Labor Code Section 3700, inter alia, states the following:

"Every employer shall secure the payment of compensation in one or more of the following ways:

"(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.

"(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

To be signed by authorized corporate officer or partner or individual submitting the Proposal. If Bidder is: (example)

1. An individual using a firm name, sign: "John Doe, an individual doing business as Blank Company."
2. An individual doing business under his own name, Sign: your name only.
3. A co-partnership, sign: "John Doe and Richard Doe, co-partners doing business as Blank Company, by, John Doe, co-partner.
4. A corporation, sign: "Blank Company, by John Doe, Secretary." (or other title)

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

DATE: _____ Contractor_____

By _____
Signature

City of SACRAMENTO

Labor Compliance Reference Guide

Prepared: January 2014

Kirsten Wise, Labor Compliance Officer

Department of General Services

City of SACRAMENTO

Start- Up Documents Due Prior to Start of Construction:

1. **Certification Statement of Contractor:**
   a) If there is any contractor working as an "Independent Contractor", "Owner-Operator", "Sole Proprietor" or "Leased Worker" the certification form must be filled out.
   b) The original is to be submitted prior to, or concurrent with, the first payroll in which the Independent Contractor, Owner-Operator, Sole Proprietor or Leased Worker commences work.

2. **Authorization Letter for Signing Certified Payroll**
   a) To be signed by company officer or owner and uploaded into LCPtracker prior to the first Certified Payroll Report.
   b) This document lets the Labor Compliance Department know whom is authorized to sign certify payroll reports and other documents on behalf of the Contractor.

3. **Fringe Benefit Statement:**
   a) Asterisk or note any form of benefits that are included in the payroll reports "hourly" rate of pay for each trade used.
   b) If fringe payments are made directly to the employee in lieu of fringes please note "paid in cash" under the applicable fringe payment and breakdown the amount that is paid to the employee in cash.
   c) Must be re-submitted when wage rates are updated, with effective dates and/or any changes in fringes are made.

4. **DAS-140- Public Works Contract Award Information Form:**
   a) Contract award information must be sent to your Apprenticeship Committee if you are approved to train apprentices. If you are NOT approved to train apprentices you must send the information to ALL applicable Apprenticeship Committees in your craft or trade in the area of the Public Works Project.
   b) After you have completed the DAS-140 Form mail the original(s) to the appropriate Joint Apprentice Training Committee(s) within (10) days of the date of the execution of the prime contractors subcontract, but in no even later than the first day in which the contractor has workers employed upon the public work (CA Labor Code 1777.5 (e))
   c) Upload a copy of the form or all forms submitted with proof of deliver to the LCPtracker.net program under the e-Documents Tab. The form of proof can be certified mail or fax confirmation.
   d) All Applicable Joint Apprentice Training Committee (s) may be found at: http://www.dir.ca.gov/Databases/das/pwaddrstart.asp/

e) Templates available for download can be found at: http://www.dir.ca.gov/DAS/PublicWorksForms.htm or on LCPTracker.net under the e-Documents tab.

5. **DAS-7- Agreement to Train Apprentices Form:**
   a) IF Applicable:
      i. Submit your DAS-7 or equivalent certification and upload into LCPtracker.net under the e-Documents tabs and inform the labor compliance person monitoring your project. This form can be submitted with your DAS-140 form.

6. **DAS-142 Request for Dispatch of an Apprentice Form:**
   a) Send to the Joint Apprentice Training Committees (JATC) in your craft or trade in the geographic area of the Public Works Project to request the dispatch of an apprentice before starting work at the site and as needed throughout the project.
   b) Employment of Apprentices on Public Works project- (a) Contractor(s) shall employ registered apprentice(s), as defined by Chapter 4 (commencing with Section 3070) of Division 3, during the performance of a Public Work Project in accordance with the required (1) hour of work performed by an apprentice for every (5) hours of labor performed by a journeyman, unless covered by one of the exemptions enumerated in the Labor Code Section 1777.5 or this subchapter.
   c) Provide a copy of your apprenticeship program's standards if they operate under a different ration then the California Labor Codes & Regulations.
   d) Template available for download can be found at: http://www.dir.ca.gov/DAS/PublicWorksForms.htm

City of SACRAMENTO

Documents Required During the Life of the Construction Project

1. **CAC-2- Training Fund Contribution Form:**
   a) All Contractors must submit a CAC-2 Form monthly for the prior month's hours.
   b) This form is now available to be filled out on the DIR website. The link is as follow: https://www.dir.ca.gov/das/tf/cac2.asp. You must enter all requested information in order to ensure successful submission and processing of your payment. You will need to have a working printer currently connected to your computer in order to print the complete paper form in the end of this session that you will upload in to LCPtracker.net and send with your payment when mailed.
   c) If applicable fringes are paid directly to an approved Union Shop please state so on the CAC-2 form and upload into LCPtracker.net under e-Documents tab.

2. **Training Fund Contribution Letter Form:**
   a) All Contractors must submit a Training Fund Contribution Letter monthly for the prior month's hours.
   b) If applicable and fringes are paid directly to an approved Union Shop please submitted the Union Status Letter stating that the Contractor is up to date with all fringe and training fund contributions for the requested month. The letter should specify the month, project name, and project number.
   c) If you can't provide a letter and the DAS has not been updated with your contribution at Contractor may provide a copy of a cancelled check submitted to the proper JATC or the DAS with the amount that matches that on the CAC-2. You may check the status of your contributions submitted to DAS online at: http://www.dir.ca.gov/CAC/trainingfund/Tfsearch.html. This may also be submitted in lieu of the Training Fund Contribution Letter.

3. **Certified Payroll Reports CPR's and/or Non-Performance Reports:**
   a) To be submitted by all Contractors working on the project. These reports are submitted via the City of Sacramento contracted electronic reporting program, LCPtracker.net which can be found online at www.lcptracker.net . If you do not

already have a user name and password for this website please contact your labor compliance officer with the City of Sacramento to be set up.

b) Submit CPR/NPR weekly; starting (10) calendar days after the close of your pay period. This is when you begin onsite/offsite "craft" labor. This may mean you have weeks in between work on a particular job. NPR's will need to be submitted for that timeframe.

4. Apprenticeship Certification and/or Apprentice Agreement:

a) The first time an apprentice is listed on a certified payroll report an "Apprenticeship Certification" or Apprentice Agreement (DAS-1 form) must be submitted for each apprentice utilized.

b) Please upload the Apprenticeship Certification or DAS-1 form in the e-Documents section of LCPtracker.net, add the apprentice ID and pertinent information under the employee information and notify the labor compliance officer in your department that approval is need prior to certification of payroll.

5. Miscellaneous Documents:

a) Authorization for Deductions:

   i. Voluntary deductions require an Authorization for Deductions form; garnishments require a copy of notice (redact personal information).

b) Receipt for Payment of Back Wages:

   i. For use when wage errors require supplemental wage payment (s).

City of SACRAMENTO

Helpful Links and Contact Information:

1. **Department Of Industrial Relations (DIR):**
   Web-Link: http://www.dir.ca.gov/
   Contact DIR: http://www.dir.ca.gov/Contactus.html

2. **Division of Labor Standards Enforcement (DLSE):**
   Web-Link: http://www.dir.ca.gov/dlse/dlsepublicworks.html

3. **Division of Apprenticeship Standards (DAS):**
   Web-Link: http://www.dir.ca.gov/das/das.html

   Apprentice Certification:
   Web-Link: http://www.dir.ca.gov/das/appcertpw/AppCertSearch.asp

   CAC Public Works Training Fund Contributions:
   Web-Link: http://www.dir.ca.gov/CAC/trainingfund/Tfsearch.html

4. **California General Prevailing Wage Determination:**
   Web-Link: http://www.dir.ca.gov/OPRL/pwd/ (Journeymen)
   http://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp (Apprentice)

5. **Davis Bacon Wage Determination Rates:**
   Web-Link: http://www.wdol.gov/dba.aspx

6. **Public Works Information- Frequently Asked Questions:**
   Web-Link: http://www.dir.ca.gov/das/publicworksfaq.html

7. **LCPtracker.net**
   Web-link: https://lcpprod.lcptracker.net/Lcp/WebForms/Login.aspx
   Support Phone Number: 714-669-0052 Option 4
   E-mail: support@lcptracker.com

City of SACRAMENTO

Checklist of Documents Required for Labor Compliance on LCPTracker.net

- ✓ **PW300 -** This is due within 10 days of precon meeting and needs to be uploaded.
- ✓ **Authorization Letter for Signing Certified Payroll -** This is due prior to the submission of the first Certified Payroll Report
- ✓ **Checklist of Labor Law Requirements -** prime due this on or before precon meeting, subs need to have this finished within 10 days of precon meeting.
- ✓ **Fringe Benefit Statement -** due with first CPR and must be submitted for each subcontractor as well
- ✓ **DAS140 -** due prior to commencing work on a project (one for each determination)
- ✓ **DAS142 -** due 72 hours prior to the report date on a project (one for each determination)
- ✓ **CAC2 -** due monthly- one for each determination (due on the 15th day of the month for work performed during the preceding month) If Union Contractor please upload for with amounts paid and where money was paid to even if it is not the CAC.
- ✓ **Training Fund Contribution Confirmation Letter** – this is due monthly for the duration of the project. Both CAC-2 and Training Fund Contribution Letters are to be uploaded to LCPtracker.net.
- ✓ **CPR's-** Certified payroll is due within 10 days of pay period end date

LCPtracker.net phone support is available at (714) 669-0052 Option 4; if they do not pick up please leave a message and they will get back to you. All calls are logged in with a date and time, but if you don't leave a message you will not get a phone call back. **E-mail support is available at support@lcptracker.com.** To assist those at support please include your User ID, a direct call back number, contact name and a brief description of the issue you are facing.

All forms are available under the e-Documents tab on LCPtracker. It is best practice to use the forms that have been provided to you under that e-docs tab to increase efficiency in processing pay request and remain compliant.

City of SACRAMENTO

Apprentices on Public Work Projects

Summary of requirements

California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

1. Submit contract award information
2. Employ registered apprentices
3. Make training fund contributions

Submit contract award information

If you are a contractor already approved to train apprentices (a member of a DAS recognized Apprenticeship Committee
"Contractors who are already approved to train apprentices must provide contract award information to the apprenticeship committee for each applicable apprenticeable craft or trade that has approved the contractor in the area of the site of the of the public works project." The Contract Award Information must be in writing and submitted to the applicable committee(s) within 10 days of the date of the prime or subcontract but in no event later than the first day the contractor has workers employed on the public works project. You may use form DAS 140 for this purpose. This is simply a notification of award; it is not automatically a request for dispatch of a registered apprentice.

If you are not already approved to train by an Apprenticeship Committee
Contractors not already approved to train apprentices must submit Contract Award Information (DAS 140) to **every** apprenticeship program in the geographic area of the public works project, **for each craft you intend to employ on the project.** You can determine which apprenticeship programs are approved in specific geographic locations by clicking on the following link http://www.dir.ca.gov/databases/das/pwaddrstart.asp
The Contract Award Information must be in writing and submitted to the applicable committee(s) within 10 days of the date of the prime or subcontract but in no event later than the first day the contractor has workers employed on the public works project. This is simply a notification of award; it is not automatically a request for dispatch of a registered apprentice.

Employ registered apprentices

A contractor on a public works project must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. Title 8 California Code of Regulations, Section 230.1.for each separate craft at the end of a project. **Please check the DAS Important notices to determine if any exemptions exist for your craft or trade.** http://www.dir.ca.gov/DAS/PublicWorksForms.htm

All contractors must request dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (excluding Saturdays, Sundays and Holidays) before the date on which apprentices are required. A DAS 142 form is provided for this purpose. All requests for dispatch must be in writing and sent by first class mail, fax or email.

Contractors who do not receive a sufficient number of apprentices from their initial request, must request dispatch apprentices from all other apprenticeship committees, if more than one exists in the area of the public works project. To determine which apprenticeship programs are approved for your craft or trade in a specific geographic location click the following link http://www.dir.ca.gov/databases/das/pwaddrstart.asp

Make training fund contributions

Contractors who are awarded public works jobs must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices. This nominal fee contributes to the assurance that new apprentices coming into the craft will be guaranteed the highest level of training and as skilled craftsmen retire, the trade will survive.

Contractors who contribute to an apprenticeship program are entitled to a full credit in the amount of those contributions. Contractors who do not contribute to an apprenticeship program must submit their contributions to the California Apprenticeship Council, P. O. Box 101325, Pasadena, California 91189-0005.

Training fund contributions to the Council are due and payable on the 15th day of the month for work performed during the preceding month. The contribution should be paid by check and be accompanied be a completed training fund contribution form or a letter containing the following information:

1. The name, address and telephone number of the contractor making the contribution.
2. The contractor's license number.
3. The name and address of the public agency that awarded the contract.
4. The jobsite location, including the county where the work was performed.
5. The contract or project number.
6. The time period covered by the enclosed contributions.
7. The contribution rate and total hours worked by apprenticeable occupation.
8. The name of the program(s) that provide apprentices, if any.
9. The number of apprentice hours worked, by apprenticeable occupation and by program.

Subject to change for most recent documentation please click on the following link: http://www.dir.ca.gov/das/DASApprenticesOnPublicWorksSummaryOfRequirements.htm

Are you exempt?

What are the instances in which a contractor on a public works project is considered exempt from the requirements of LC 1777.5?

They are:

1. Labor Code 1777.5 does not apply to general contractors whose contract is under $30,000.
2. When the craft or trade is not apprenticeable.
3. When the contractor holds a sole proprietor license and no workers were employed by the contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
4. When the project is a federal project and the funding of the project does not contain any city, county, and/or state monies unless the project is administered by a state agency in which case the apprenticeship requirements apply.
5. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

What if I am exempt from the requirements of California Labor Code Section 1777.5 as my situation falls under one of the exemptions listed above. Do I still have to provide a "Notice of Contract Award" (DAS 140 form) to the applicable program?

You do not have to submit a "Notice of Contract Award". However, for purposes of letting the applicable program know of your exemption, you may, nevertheless, want to provide the form to the applicable program so they are aware of your exemption.

What is a registered apprentice?

An apprentice is someone who has signed an agreement with an employer, an approved apprenticeship program or program sponsor, and whose agreement is registered with the Division of Apprenticeship Standards (DAS). Only an approve apprenticeship program can provide a contractor with a registered apprentice on public works projects.

Do programs that provide apprentices for public works projects provide workers compensation benefits for the apprentice they send out to jobs or is the responsibility of the contractor and/or subcontractor?

This responsibility lies with the contractor and/or subcontractor.

How can I find the names of the applicable approved apprenticeship programs/committees?

1. Contact the DAS District office whose assigned geographic areas of responsibility cover the county/ies in which the public works project is located.
2. Visit our interactive website

As a contractor who has been awarded a public works contract, and has my own employees, am I still *required hiring registered* apprentices?

Yes. **Important Notice:** see changes in Code of Regulations setions 230.1, regarding the employment of apprentices on Public Works

I am a non-union contractor. Am I required to hire an apprentice?

Yes, you must request dispatch from all approved program s in the geographic area of the project.

Can I employ my friend, family, or my own employee who is still beginning to learn a particular trade, as an apprentice?

No. The law requires that you employ only apprentices who are registered with an approved program. However, if your friend or your employee is a registered apprentice, and has been dispatched to you by an approved apprenticeship program, yes you can.

What happens if I employed my friend who is not a registered apprentice and I paid him the journeyman rate?

You may employ your friend and pay him journey wages but this does not affect the apprenticeship requirements.

What are the benefits and advantages to hiring a registered apprentice?

The benefits of hiring an apprentice registered in a state approved program are:

1. Lower pay rate than the journeyman pay rate.
2. Elimination of recruitment programs for workers who are already trained.
3. Creates a diversified and flexible workforce and larger pool of employees with specific skills.
4. Increases productivity; employees in a structured training program are motivated to achieve.

City of SACRAMENTO

FORMS

All of these forms are avaialbe on LCPtracker.net under the eDocuments tab and by clicking on the Download Document Templates button.

If you have your own form please contact your Labor Compliance Officer with the City of Sacramento prior to uploading or submitting in LCPtracker.