

ARENA PARKING MANAGEMENT AGREEMENT

between

CITY OF SACRAMENTO

and

SACRAMENTO DOWNTOWN ARENA LLC

Dated as of: May 20, 2014

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ARENA PARKING MANAGEMENT AGREEMENT

This ARENA PARKING MANAGEMENT AGREEMENT (this "**Agreement**") is made and entered into as of May 20, 2014 (the "**Effective Date**"), between the CITY OF SACRAMENTO, a municipal corporation of the State of California (the "**City**"), and SACRAMENTO DOWNTOWN ARENA LLC, a Delaware limited liability company ("**ArenaCo**"). The City and ArenaCo are sometimes referred to in this Agreement as the "**Parties**" and each as a "**Party**."

BACKGROUND

Sacramento Kings Limited Partnership, a California limited partnership ("**TeamCo**"), owns and operates the National Basketball Association ("**NBA**") franchise currently known as the Sacramento Kings (the "**Team**").

Concurrently with the Parties' execution of this Agreement, the Parties, TeamCo, and Sacramento Basketball Holdings LLC, a Delaware limited liability company and the direct or indirect controlling owner of each of ArenaCo and TeamCo, 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). The Project Agreements include (i) the Arena Design and Construction Agreement between the City and ArenaCo (the "**Design and Construction Agreement**"), pursuant to which ArenaCo has agreed to design and construct a multipurpose entertainment and sports center, including administrative offices, practice facility, plazas, walkways, parking, and outdoor entertainment areas (the "**Arena**"), (ii) the Team Use Agreement between ArenaCo and TeamCo (the "**Team Agreement**"), pursuant to which ArenaCo has agreed to operate, maintain, and repair the Arena for, and license the use of the Arena to, TeamCo, and (iii) the Arena Management, Operations, and Lease Agreement between the Parties (the "**Arena Agreement**"), pursuant to which ArenaCo will lease the Arena from the City.

The Arena will be adjacent to or near the Parking Facilities, including the Parking Land, located thereunder.

The City and ArenaCo desire to enter into this Agreement, pursuant to which ArenaCo will use, operate, manage, maintain, replace, license, and repair the Parking Facilities.

With these background facts in mind, the City and ArenaCo agree as follows (terms not otherwise defined herein are used as defined in Section 19 below):

1. Grant of Use; Acknowledgement of Obligations; Term

1.1 Grant of Use.

- (A) *Grant of Use.* Subject to the terms, conditions, and reservations of this Agreement, the City hereby grants ArenaCo the right to use the Parking

Facilities during the Management Rights Term, which shall be used solely and exclusively for the operation, management, licensing, maintenance, replacement and repair of the Parking Facilities. ArenaCo shall not use the Parking Facilities or any portion thereof for any use other than as provided in this Agreement or the POMA.

- (B) *Compliance with Applicable Law.* ArenaCo's use and occupancy of the Parking Facilities shall comply with all Applicable Laws at all times and nothing in this Agreement shall constitute or be deemed to constitute a waiver by the City of the performance of its governmental functions or of any such Applicable Laws or of the duty of ArenaCo to comply with such Applicable Laws. The City shall comply with all Applicable Laws at all times in connection with its performance of this Agreement.
- (C) *Third Parties.* Subject to the terms and conditions of this Agreement, any of the rights (including exclusive rights) or obligations granted to ArenaCo under this Agreement regarding using, operating, managing, maintaining, licensing, replacing, or repairing the Parking Facilities may be exploited or satisfied directly by ArenaCo or indirectly through other Persons (including Affiliates of ArenaCo) pursuant to contracts with ArenaCo or any of its Affiliates; provided, however, that ArenaCo may not assign or delegate its obligation to manage the Parking Facilities to a third party (other than an Affiliate of ArenaCo), except in accordance with Section 3.3 and Section 5. All such contracts shall be subject to all Applicable Laws (including all applicable bonding and licensing requirements) and all terms and conditions of this Agreement and any other applicable Project Agreements.

1.2 Acknowledgement of City's Reserved Rights to Parking in Arena Agreement. Notwithstanding anything to the contrary contained in this Agreement, ArenaCo hereby acknowledges that pursuant to the Arena Agreement, ArenaCo has agreed to make available to the City the right to use without charge certain parking spaces in the Parking Facilities for "**City Events**" (as defined in the Arena Agreement), as follows:

- (A) *City Minor Event.* For any given City Minor Event (as defined in the Arena Agreement), ArenaCo shall make available to the City, without charge, a number of parking spaces at the Parking Facilities equal to one-third of the City's reasonable and good faith estimate of the number of attendees at such City Minor Event, but in no event more than 150 parking spaces. ArenaCo shall make such parking available during the period commencing at least 90 minutes prior to, and ending at least one hour after, such City Minor Event.

- (B) *City Civic Event.* Subject to any and all limitations set forth in the POMA (which shall in no event be more restrictive on the City's rights under this subsection than on the Team for Home Games (as such term is defined in the Team Agreement)), for any given City Civic Event (as such terms are defined in the Arena Agreement) (i) all attendees of such City Civic Event will be permitted to park at the Parking Facilities during the period commencing at least three hours prior to, and ending at least one hour after, such City Civic Event, and (ii) any parking fees charged for use of the Parking Facilities for attendees of such City Civic Event will be subject to the prior written approval of the City and any revenues therefrom will be City Event Revenues for purposes of the Arena Agreement. Notwithstanding the foregoing sentence, the City acknowledges and agrees that ArenaCo is entitled to retain all revenues in connection with all advertising, sponsorship, and promotional activity at the Parking Facilities. City agrees that it shall not exercise its rights under this Section 1.2(B) with respect to any non-holiday themed City Civic Event during the period between the Friday after Thanksgiving until New Year's Day.
- (C) *City Event Expenses.* All out of pocket expenses (without markup) actually incurred by ArenaCo or its Affiliates in connection with providing parking at the Parking Facilities for City Minor Events and City Civic Events that would not have been incurred by ArenaCo but for the Arena hosting such events will be City Event Expenses for purposes of (and as defined in) the Arena Agreement.

1.3 **Term.**

- (A) *Term: Generally.* The term of this Agreement (the "**Term**") commences on the Effective Date and expires on the Expiration Date, unless terminated earlier as expressly provided for in this Agreement. The Term includes the Management Rights Term.
- (B) *Management Rights Term.* The term of the City's grant of rights to ArenaCo to use the Parking Land and the Parking Facilities (the "**Management Rights Term**") commences on the Management Rights Commencement Date and expires on the Expiration Date, unless terminated earlier as expressly provided for in this Agreement. City covenants to release that portion of the Parking Facilities commonly known as Downtown Plaza West (Facility G) from the existing Master Site Lease and Master Project Lease no later than 70 days after the Effective Date.
- (C) *Early Termination.* This Agreement will terminate prior to the Expiration Date only (i) if either Party exercises a termination right expressly

provided to it in this Agreement, or (ii) upon the termination of the Comprehensive Agreement in accordance with Section 7.2 thereof.

2. Annual Fee. In consideration of ArenaCo's use of the Parking Facilities pursuant to the terms of this Agreement, ArenaCo shall, during the Management Rights Term, pay to the City an annual fee equal to ten dollars (\$10) (the "**Annual Fee**"). For any partial year during the Management Rights Term, the Annual Fee shall be prorated based upon the actual number of days in such partial year.

3. Taxes; Operations; Capital Repairs

3.1 ArenaCo's Sole Cost. It is the intent of the Parties that, subject to Sections 3.2(A) and 3.3(E), the POMA (but only to the extent the City is responsible for any obligations thereunder), and the Interim Agreement (and any replacement or renewal thereof), the City shall not be required to pay any costs or expenses or provide any services whatsoever in connection with the Parking Facilities during the Term, and ArenaCo shall be solely responsible for paying, throughout the Term, all costs (including capital costs) necessary to use, operate, manage, maintain, license, replace, and repair the Parking Facilities, including all costs of maintenance, repairs, replacements, renovation, remodeling, removal, alterations, improvements, insurance, Taxes, and all other costs, charges, expenses, and obligations of any kind now or at any time imposed upon or with respect to the Parking Facilities.

3.2 Taxes.

(A) Without limiting the generality of Section 3.1, ArenaCo shall be solely responsible for, and shall pay and discharge as and when due, all Taxes, to the extent allocable to the Management Rights Term, (i) upon or with respect to the Parking Facilities, or any portion thereof or any interest of ArenaCo therein or under this Agreement, expressly including any possessory interest Tax imposed on ArenaCo or any other occupant or user of the Parking Facilities, (ii) upon or with respect to ArenaCo's possession, operation, management, maintenance, alteration, repair, rebuilding, use, occupancy of or employment of personnel in the Parking Facilities, or any portion thereof, and (iii) on account of any excise, sales, use, rental, transaction, privilege, or like Taxes now or hereafter levied, assessed, or imposed against or on account of amounts payable by ArenaCo under this Agreement. ARENACO ACKNOWLEDGES AND AGREES THAT A POSSESSORY INTEREST SUBJECT TO PROPERTY TAXATION MAY BE CREATED BY ENTERING INTO THIS AGREEMENT, AND THAT ARENACO SHALL BE LIABLE FOR THE PAYMENT OF ANY POSSESSORY INTEREST TAX AND SHALL BE RESPONSIBLE FOR THE PAYMENT OF ANY TAX ASSOCIATED

WITH ARENACO'S BUSINESS ON OR USE OF THE PARKING FACILITIES, INCLUDING POSSESSORY INTEREST AND SALES TAXES.

- (B) ArenaCo shall have the right, at its sole cost and expense, to contest the amount, validity, or applicability, in whole or in part, of any Taxes affecting, against, or attaching to the Parking Facilities or any portion thereof and allocable to the Term by appropriate proceedings conducted in good faith and with due diligence.
- (C) Notwithstanding anything to the contrary in this Agreement, ArenaCo intends to treat the transactions contemplated by this Agreement for income tax purposes as provided in Section 8.1 of the Comprehensive Agreement. The City acknowledges and agrees that, unless otherwise required by Applicable Law, it shall not take any income tax position that is inconsistent with the intended treatment by ArenaCo described in such Section; provided, however, that the City is not providing any assurance that such positions and intended treatment by ArenaCo will be honored or respected by any taxing or other authority.

3.3 Operations and Management. Notwithstanding anything to the contrary in this Agreement, during the Management Rights Term, the operations and management of the Parking Facilities shall be performed directly by ArenaCo or an Affiliate of ArenaCo, or by an unrelated third party management company or a New Operator; provided, that, in each case, such unrelated third party management company or New Operator (other than the City) (A) has at least five years' experience in operating and managing parking facilities of comparable size and operations (including without limitation technological functionality) to the Parking Facilities, and (B) has been approved by the City, such approval not to be unreasonably withheld, conditioned, or delayed. During the Management Rights Term:

- (A) *Generally.* ArenaCo shall have the exclusive right to, and shall, operate and manage, set fees for (and, except as set forth in Section 1.2), shall have the right to allocate, use, and distribute in its sole and absolute discretion all revenues with respect to) the Parking Facilities on a 24 hour per day, year round basis. ArenaCo shall operate and manage the Parking Facilities in accordance with the Operations Standard. Notwithstanding anything to the contrary contained herein, the City shall be responsible at its sole cost and expense for any claims by a third party against ArenaCo to the extent arising before the Effective Date, but excluding any claims relating to the continuing presence or absence of Hazardous Substances or any continuing violations of Environmental Laws (the "**Pre-Existing Violations**").

- (B) *Plaza Operations Agreements.* The Parking Facilities are subject to the Plaza Operations Agreements. ArenaCo shall not take any action that would constitute, or could reasonably be expected to result in, a violation of the rights of Macy's West Stores, Inc., an Ohio corporation ("**Macy's**") 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 waives such rights and agrees that such actions will not constitute a violation of the Plaza Operations Agreements. In connection with work approved by City under this Agreement, the City waives any separate rights it has under the Plaza Operations Agreements to object to such work but not any other rights it has to object to the work under this Agreement, Applicable Law, or otherwise.
- (C) *Permits.* ArenaCo shall obtain and maintain (or cause to be obtained and maintained) all necessary licenses and permits required in connection with the operation, repair, and management of the Parking Facilities and, to the extent permitted by Applicable Law, the City shall use commercially reasonable efforts to expedite the process by which ArenaCo so obtains and maintains such licenses and permits that are to be obtained from the City.
- (D) *Utilities.* Subject to the terms of the other Project Agreements, ArenaCo shall be solely responsible for furnishing sufficient water, sewer, natural gas, heat, air-conditioning, electric, telephone, Internet and other utilities, hookups, capacities, janitorial services, trash pick-up, and other services as are necessary to operate the Parking Facilities.
- (E) *Interim Agreement for Management.* Concurrently with this Agreement, the Parties are entering into the Agreement for Interim Parking Management, attached hereto as Exhibit C (the "**Interim Agreement**"), to facilitate the transition of certain of ArenaCo's responsibilities under this Agreement on an interim basis, whereby the City will operate and manage the Parking Facilities for ArenaCo. The existence, expiration, or termination of the Interim Agreement shall not otherwise affect the City's or ArenaCo's rights or obligations hereunder; provided, the City agrees that ArenaCo shall not be liable to City under this Agreement for any acts or omissions of the City (including, without limitation, negligence and willful misconduct of the City, or its employees, agents, and contractors) arising under Interim Agreement (including any renewal or replacement thereof), and the City's performance under the Interim Agreement shall satisfy ArenaCo's obligations to City hereunder with respect to the services provided by the City during the term of the Interim Agreement

(and any renewal or replacement thereof). For the avoidance of doubt, if ArenaCo is responsible for any obligations that are not covered by the services provided by the City in the Interim Agreement, ArenaCo shall remain responsible for such obligations (and the City shall have no responsibility for such obligations). The Parties acknowledge and agree that the City Removal Inventory (as such term is defined in the Interim Agreement) may be removed by the City upon expiration of the Interim Agreement pursuant to the terms thereof.

- (F) *Initial Reconstruction of Parking Facilities.* Concurrently with this Agreement, the parties have entered into the Design and Construction Agreement. A portion of the Work (as defined in the Design and Construction Agreement) contemplated by the Design and Construction Agreement will involve demolition and partial reconstruction of a portion of the Parking Facilities. Without limiting ArenaCo's obligations in this Agreement, the Design and Construction Agreement shall govern the Work (including the insurance requirements referenced therein), and City shall have no additional notice or approval rights over the Work pursuant to this Agreement.
- (G) *Deferred Maintenance.* As of the Effective Date, there are certain deferred maintenance items associated with the Parking Facilities, as set forth in that portion of the Walker Parking Consultants Condition Appraisal and Capex Projects, dated January 2014, for the Parking Facilities ("**Walker Report**"). Upon the later to occur of commencement of the Management Rights Term or six months after the Effective Date, ArenaCo, at its sole cost and expense, shall commence implementation of the base repair program identified in the Walker Report ("**Base Repair Program**"), and complete the repairs contemplated by the Base Repair Program within the timelines set forth therein. The Parties acknowledge and agree that until the repairs identified in the Base Repair Program are completed, the Parking Facilities will not be in compliance with the Maintenance and Repair Standard (and are only required to meet such standard according to the timelines set forth in this Section 3.3(G)). ArenaCo shall have the right, at its sole cost and expense, to hire an independent third party parking consultant experienced with the operations and maintenance of parking facilities of similar size and operations reasonably acceptable to the Parties to verify the scope and timing of the Base Repair Program. If the third party parking consultant's conclusions with respect to the scope or timing of the repairs for the deferred maintenance are materially different from those set forth in the Base Repair Program, the Parties shall meet and discuss in good faith any modifications to the Base Repair Program.

- (H) *Maintenance and Repair Generally.* Except as set forth in Section 3.3(G) above, ArenaCo shall perform routine and regular maintenance and repairs so as to maintain the Parking Facilities and its fixtures, machinery, equipment, improvements, and other components in accordance with the Maintenance and Repair Standard.
- (I) *ArenaCo Election of PARCS Integrated or PARCS Matching.* To provide ArenaCo with flexibility in meeting its requirements to remain Compatible, ArenaCo shall have the ability to implement either PARCS Integrated or PARCS Matching. During any period after the initial six month term of the Interim Agreement that the City is subcontracted to manage day-to-day operations of the Parking Facilities (either by renewal or replacement of the Interim Agreement or otherwise), ArenaCo shall implement PARCS Integrated. The Parties acknowledge and agree that if ArenaCo is implementing PARCS Integrated and the City reasonably determines that it needs to modify PARCS, and such modifications will affect the Parking Facilities, ArenaCo shall be required to update the Parking Facilities to ensure that the same remain Compatible. In such event, the City will coordinate with ArenaCo on the City's bids associated with the modifications to PARCS to ensure that the Parking Facilities remain Compatible, and ArenaCo shall be responsible for the costs and expenses directly attributable to the Parking Facilities, and any additional modes or add-ons that serve only the Parking Facilities. In the event that the Interim Agreement expires or terminates without renewal or replacement, ArenaCo shall implement PARCS Matching, at its sole cost and expense.
- (J) *Additions and Capital Repairs.*
- (1) Subject to Section 3.3(J)(5), ArenaCo shall be solely responsible for, and shall timely make with reasonable diligence, all Additions and Capital Repairs required to comply with the Maintenance and Repair Standard, and other improvements consistent with the POMA and desired by ArenaCo which ArenaCo reasonably determines improve the value, operation, useable life, or quality of the Parking Facilities.
- (2) At least 30 days prior to the first day of each calendar year, ArenaCo shall provide to the City for the City's review and approval an annual capital repair plan setting forth all Additions and Capital Repairs work proposed to be performed in such year, together with (i) a reasonably detailed summary of all the Additions and Capital Repairs performed in the then current year and (ii) a report identifying, in reasonable detail, the variances

from the then current annual capital repair plan. The City shall have the right, without limiting any of its other rights or remedies set forth in this Agreement, to provide comments and objections to any annual capital repair plan (including with respect to items that the City believes must be addressed to ensure compliance with the Maintenance and Repair Standard) and ArenaCo shall consider, in good faith implementing such comments. ArenaCo may update its annual capital repair plan from time to time and will promptly provide to the City a copy of any updates thereto.

- (3) In addition to the annual capital repair plan described above, not less than every five years, ArenaCo shall cause an independent third party parking consultant highly experienced with the operations and maintenance of parking facilities reasonably acceptable to the Parties to prepare a five-year capital repair plan, which shall be similar to the detail provided in the Walker Report. The City shall be provided a copy of the report for its review and approval, which shall not be unreasonably withheld, conditioned, delayed. Upon the approval of the five-year capital repair plan by the Parties, ArenaCo shall complete the repairs contemplated by the report within the timelines set forth therein.
- (4) ArenaCo shall replace (and not repair) an item if it (i) is substantially worn out, (ii) has reached the end of its useful life and is either obsolete or uneconomical to maintain and fails to perform to original specifications, (iii) is not functioning correctly and cannot be repaired or cannot be economically repaired or operated, or (iv) is no longer deemed safe. All replacements shall be of at least a quality and functionality consistent with the item being replaced and otherwise comply with the Maintenance and Repair Standard.
- (5) Except as set forth in Section 3.3(F) above, at least 30 days prior to commencing any Additions and Capital Repairs Work, ArenaCo shall provide to the City, for the City's review and comment, ArenaCo's anticipated schedule for such work and the plans and specifications therefor as prepared by an engineer or architect licensed in the State of California. Without limiting the foregoing, ArenaCo shall not commence any Additions and Capital Repairs Work if the estimated costs are anticipated to be greater than \$50,000 without the prior written consent of City, which shall not be unreasonably withheld, conditioned or delayed; provided that City's prior approval shall not be required for improvements necessary to comply with 3.3(K) or the Plaza Operating

Agreements (unless the City's approval is expressly required thereunder), or the NBA Standards (as defined in the Project Agreements).

- (K) *Emergency and Repairs.* In the event of any Emergency, ArenaCo shall promptly notify the City of such Emergency, and ArenaCo shall take whatever steps are necessary to alleviate the Emergency. If ArenaCo or any of its Affiliates have not promptly made the repairs necessary to alleviate such Emergency, the City may (but is not obligated to), in addition to all other rights and remedies available to the City, make the repairs necessary to alleviate such Emergency. To the extent practicable, the City shall contact ArenaCo prior to the City taking any action pursuant to this Section 3.3(K) to discuss the actions to be taken with respect to the Emergency or such repairs and to attempt to avoid the duplication of efforts by ArenaCo (and its Affiliates) and the City. ArenaCo shall, within 15 days after written demand from the City, reimburse the City for all reasonable costs and expenses actually incurred by City and associated with respect to such Emergency. 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 the health, safety, or welfare of the municipality in an emergency situation.
- (L) *Security.* Subject to the City's obligations under Section 4.7 of the Arena Agreement, ArenaCo shall be responsible for, and pay for all costs associated with, maintaining and ensuring at all times public order and safety and security of the Parking Facilities in a manner that is consistent with the level of safety and security of parking facilities of comparable size and operations to the Parking Facilities.

3.4 City's Access Rights. ArenaCo shall permit the City or its authorized agents or representatives (including without limitation third party parking consultant) to enter the Parking Facilities at all reasonable times with reasonable prior notice (not less than 1 Business Day except in case of emergency) for the purposes of (A) inspecting the Parking Facilities and ArenaCo's compliance with the terms and conditions of this Agreement, and (B) during the last 36 months of the Management Rights Term, showing the Parking Facilities to other Persons who have indicated an interest in operating the Parking Facilities for the City upon expiration of the Management Rights Term; provided, however, that any such entry shall be conducted in such a manner as to minimize interference with the Parking Facilities operations. For clarification, nothing contained in this Section 3.4 or in any other provision of 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 the health, safety, or welfare of the municipality in an emergency situation.

4. **Audit Rights.** Subject to Applicable Law, the City's sole right to audit parking revenues is as set forth in the Arena Agreement.

5. **Assignment**

5.1 **Assignment.** Subject to Section 5.2, neither Party shall make or enter into an Assignment of this Agreement without the prior written consent of the other Party, not to be unreasonably withheld, conditioned, or delayed. With respect to ArenaCo, an Assignment of this Agreement includes any change in the control of ArenaCo, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of ArenaCo through the ownership or control of voting securities. In connection with any Assignment of this Agreement by ArenaCo (whether or not the City's consent is required therefor), ArenaCo shall provide the City with notice of such Assignment and all information reasonably requested by the City that relates to the ability of the assignee to satisfy the obligations of ArenaCo under this Agreement and, if such Assignment satisfies one of the conditions set forth in Section 5.2, all information reasonably requested by the City to confirm that such condition has been satisfied (provided, that if an Assignment of this Agreement is made pursuant to Section 5.2(D), then such information requested by the City shall be limited to evidence that an acquisition or change in control of the Team has occurred).

5.2 **Permitted Assignments.** The following Assignments shall be permitted without the consent of any Party:

- (A) A Party may make an Assignment of this Agreement to any Affiliate of such Party, provided that such Affiliate shall agree to be bound by all of the terms and conditions of this Agreement;
- (B) ArenaCo may delegate its rights or obligations with respect to the Parking Facilities in accordance with Section 1.1(C); and
- (C) Subject to Section 13, ArenaCo may pledge, grant a security interest in, encumber, or collaterally assign its interest in this Agreement or the equity interests in ArenaCo to secure indebtedness for borrowed money of ArenaCo; and
- (D) ArenaCo may make an Assignment of this Agreement to any Person (or an Affiliate thereof) that acquires, or obtains control of, the Team with the approval of the NBA.

- 5.3 *Contrary Assignments Void.*** Any Assignment of this Agreement made contrary to this Section 5 is void.
- 5.4 *Fee Mortgages.*** The City shall not mortgage or otherwise encumber the City's Fee Estate with any mortgage, deed of trust, security deed, deed to secure debt, or any other similar instrument or agreement constituting a lien upon, or similarly encumbering, the Fee Estate. For the avoidance of doubt, the Parties acknowledge and agree that this Section 5.4 does not restrict the City's right to grant leasehold interests with respect to the Parking Facilities in connection with any refinancing of the 1997 Bonds (as defined in the Comprehensive Agreement) as contemplated by Section 1.2 of the Comprehensive Agreement; provided, however, that in such event the Parties shall cause the execution, delivery, and recordation of appropriate SNDAs (as defined in the Arena Agreement) similar to those contemplated by Section 1.1(F) of the Arena Agreement.
- 5.5 *Permitted Licenses.*** ArenaCo shall have the right to issue licenses and other contracts for parking spaces or portions of the Parking Facilities in its sole discretion and without the prior consent of the City provided such licenses and other contracts are consistent with the terms of the POMA, and do not survive the Term. Notwithstanding the foregoing, ArenaCo shall not enter into any license or other occupancy agreements (including those contemplated by Section 1.1(C)) in a manner that circumvents the restrictions on Assignments set forth in this Section 5. By way of example, a license of all or substantially all of the Parking Land or the Parking Facilities for of all or substantially all of the then remaining Term will be deemed to be an Assignment of this Agreement and will be subject to the restrictions on Assignments set forth herein. Notwithstanding any licenses or other occupancy agreements, ArenaCo shall at all times remain liable for the performance of all of the covenants and agreements under this Agreement due on ArenaCo's part to be so performed.
- 6. *Insurance.*** During the Management Rights Term, ArenaCo, at ArenaCo's sole cost and expense, shall comply with the insurance requirements attached hereto as Exhibit B and made a part hereof, as the same may be revised in writing by mutual consent of the Parties from time to time.
- 7. *Damage or Destruction; Condemnation***
- 7.1 *Damage; Repair Obligation.*** In the event of damage to or destruction of the Parking Facilities, this Agreement shall remain in full force and effect and ArenaCo shall repair and restore the Parking Facilities, as applicable, to the Required Restoration Condition as soon as possible after the date of the damage or destruction, and in any event within 24 months after the date of the damage or destruction (which time shall be extended by such reasonable time as is commensurate with any reasonable delays due to Force Majeure Events,

adjustment or recovery of insurance, preparation of plans and specifications, bidding of contracts, the impact of any repairs and restoration with respect to any neighboring properties (including, without limitation, the Arena) and obtaining the necessary approvals from the City). In connection therewith, (i) the City shall have the right to review and approve (which approval shall not be unreasonably withheld, conditions, or delayed) all construction plans for such repair and restoration and to participate in the design and construction process to ensure that the reconstructed Parking Facilities will comply with the Operations Standard and the Maintenance and Repair Standard, and (ii) ArenaCo shall not approve any material changes in any material aspect of the Parking Facilities as originally constructed without the City's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed.

7.2 Insurance Proceeds. Any insurance proceeds paid under any property insurance for the Parking Facilities required to be maintained pursuant to Section 6 as a result of damage or destruction of the Parking Facilities shall be allocated and distributed (i) first, for the repair or restoration of the Parking Facilities pursuant to the provisions of Section 7.1, and (ii) then, the remainder to ArenaCo subject to the rights of ArenaCo Lender under any Security Interest.

7.3 Condemnation.

(A) *Total Condemnation.* In the event of any Condemnation Action, other than a temporary taking, that prevents the use of any portion of the Parking Facilities to the extent that the operations of ArenaCo or its Affiliates shall be materially impaired, in the reasonable judgment of ArenaCo, then ArenaCo shall have the right to terminate this Agreement by delivering written notice to the City within 90 days after the Condemnation Action becomes final (including all applicable appeals). If this Agreement is so terminated, any such termination shall be without penalty to ArenaCo or the City.

(B) *Partial Condemnation.* If ArenaCo does not have a right to terminate this Agreement as a result of a Condemnation Action or elects not to do so, ArenaCo will use commercially reasonable efforts to, at no cost to City, as promptly as practicable and in any event within 12 months after such Condemnation Action, repair and restore any damage to the Parking Facilities resulting from such Condemnation Action to the Required Restoration Condition (which time shall be extended by such reasonable time as is commensurate with any reasonable delays due to Force Majeure Events, adjustment or recovery of insurance, preparation of plans and specifications, bidding of contracts, and obtaining the necessary approvals from the City).

(C) *Proceedings.* To the maximum extent permitted by Applicable Law, ArenaCo and the City each shall have the right, at its own expense, to appear in any Condemnation Action and to participate in any and all hearings, trials, and appeals relating thereto even if this Agreement has been terminated. Each ArenaCo Lender shall also be entitled to appear and participate in any Condemnation Action and in any and all hearings, trials, and appeals relating thereto even if this Agreement has been terminated. Neither Party shall settle or compromise any right of the other Party to receive a Condemnation Award without the prior written consent of the other Party (and, with respect to ArenaCo's rights, the prior written consent of each ArenaCo Lender). Subject to the other provisions of this Section 7.3, in any Condemnation Action ArenaCo and the City shall each have the right to assert a claim for any Condemnation Awards for (i) the value of Parking Facilities and the Parking Land, (ii) the loss in value of its rights under this Agreement as if this Agreement had not terminated, and (iii) any other damages to which the City or ArenaCo, as applicable, may be entitled under Applicable Law.

7.4 *Condemnation Award.* Any Condemnation Awards awarded to either or both of City and ArenaCo shall be allocated and distributed as follows (notwithstanding any allocations of the Condemnation Awards made by the applicable Governmental Authority):

(A) *Agreement Terminated.* If this Agreement is terminated pursuant to the provisions of Section 7.3, (i) first, to the ArenaCo Lenders and the Mezzanine Lenders to pay the outstanding amounts of the Security Interests, and the Mezzanine Financing, respectively, and (ii) second, the remainder to the City.

(B) *Agreement Not Terminated.* If this Agreement is not terminated pursuant to the provisions of Section 7.3, (i) first, to the ArenaCo Lenders and the Mezzanine Lenders to resolve any impairment of their security, respectively, (ii) second, to pay for costs to repair and restore the Parking Facilities pursuant to the provisions of Section 7.3, and (iii) third, to the Parties pursuant to any allocations of the Condemnation Awards between the Parties made by the applicable Governmental Authority.

7.5 *Prompt Notice.* If either Party becomes aware of any damage or destruction of the Parking Land or the Parking Facilities, or any actual, contemplated, or threatened Condemnation Action, then such Party shall promptly notify the other Party and the ArenaCo Lender.

7.6 *Survival.* This Section 7 survives the expiration or earlier termination of this Agreement, but only insofar as such provisions relate to any damage or

destruction of the Parking Facilities (or insurance proceeds therefrom) or Condemnation Action (or Condemnation Award therefrom) that arose prior to the expiration or earlier termination of this Agreement.

8. Representations, Warranties, and Covenants

8.1 *Representations and Warranties of ArenaCo.* ArenaCo represents and warrants to the City that, as of the Effective Date:

- (A) *Organization.* ArenaCo is a limited liability company duly organized and validly existing under the laws of the State of Delaware. ArenaCo has all requisite power and authority to enter into this Agreement.
- (B) *Authorization; No Violation.* The execution, delivery and performance by ArenaCo of this Agreement have been duly authorized by all necessary action, will not violate the organizational documents of ArenaCo and will not result in the breach of, or constitute a default under, any material agreement to which ArenaCo is a party or by which ArenaCo or its material assets may be bound or affected. This Agreement has been duly executed and delivered by ArenaCo and constitutes valid and binding obligations of ArenaCo.
- (C) *No Conflicts.* This Agreement is not prohibited by and does not conflict with any judgments or decrees to which ArenaCo is a party or is otherwise subject.
- (D) *Litigation.* No suit is pending or, to the knowledge of ArenaCo, threatened against ArenaCo that could reasonably be expected to have a material adverse effect upon ArenaCo's performance under this Agreement or the financial condition or business of ArenaCo. There are no outstanding judgments against ArenaCo that would have a material adverse effect upon its assets, properties, or franchises.
- (E) *No Broker's Fees or Commissions.* ArenaCo has not incurred or created any liabilities or claims for broker's commissions or finder's fees in connection with the negotiation, execution or delivery of this Agreement.

8.2 *Representations and Warranties of the City.* The City represents and warrants to ArenaCo that, as of the Effective Date:

- (A) *Organization.* The City is a municipal corporation duly organized and validly existing under the laws of the State of California. The City has all requisite power and authority to enter into this Agreement.

- (B) *Authorization; No Violation.* The execution, delivery, and performance by the City of this Agreement have been duly authorized by all necessary action, will not violate the organizational documents of the City and will not result in the breach of, or constitute a default under, any material agreement to which the City is a party or by which the City or its material assets may be bound or affected. This Agreement has been duly executed and delivered by the City and constitutes valid and binding obligations of the City.
- (C) *No Conflicts.* This Agreement is not prohibited by and does not conflict with any judgments or decrees to which the City is a party or is otherwise subject.
- (D) *Litigation.* No suit is pending or, to the knowledge of the City, threatened against the City that could reasonably be expected to have a material adverse effect upon the City's performance under this Agreement, the Parking Land, the Parking Facilities, or the financial condition or business of the City other than as set forth on Schedule 8.2(D). There are no outstanding judgments against the City that would have a material adverse effect upon the Parking Facilities, the Parking Land, or the City's ability to perform its obligations under this Agreement.
- (E) *No Broker's Fees or Commissions.* The City has not incurred or created any liabilities or claims for broker's commissions or finder's fees in connection with the negotiation, execution, or delivery of this Agreement.

8.3 Mutual Covenants. Commencing with the Effective Date, each Party covenants and agrees to the other Party as follows:

- (A) *Additional Documents and Approval.* Each Party, whenever and as often as it shall be reasonably requested to do so by the other Party, shall execute or cause to be executed any further documents, take any further actions, and grant any further approvals as may be necessary in order to consummate the transactions provided for in this Agreement.
- (B) *Notice of Matters.* Should ArenaCo or the City receive knowledge about any matter that may constitute a breach of any of its representations, warranties, or covenants set forth in this Agreement, it shall promptly notify the other Party of the same in writing.

9. Default and Remedies

9.1 *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) Any failure by ArenaCo to pay the Annual Fee within 15 days after receipt of written notice from the City of failure to pay such Annual Fee when due.
- (B) ArenaCo materially breaches or fails to comply with any material provision of this Agreement applicable to ArenaCo other than the obligation to pay the Annual Fee, and such breach or noncompliance continues for a period of 60 days after written notice thereof by the City to ArenaCo; or, if such breach or noncompliance cannot reasonably be cured within such 60-day period, ArenaCo does not commence to cure such breach or noncompliance within such 60-day period or, after commencing to cure such breach or noncompliance, does not thereafter pursue such cure in good faith to completion.
- (C) Except as otherwise permitted under Section 13, the Management Rights are taken upon execution or by other process of law attached against ArenaCo, or is subject to any attachment by any creditor or claimant against ArenaCo and such attachment is not discharged or disposed of within 90 days after levy.
- (D) 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 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.

9.2 *City's Remedies.* If any ArenaCo Default occurs, the City shall have the right, at the City's election, subject to the rights of ArenaCo Lenders, if any, under Section 13, to exercise any one or more of the remedies described 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 in this Agreement.

- (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; provided, however, that the City may not terminate this Agreement for an ArenaCo Default except as provided in Section 9.2(C).
- (C) If the City prevails on any suit brought under Section 9.2(B), obtains a judgment for damages, specific performance, other equitable relief, or any combination of the foregoing, and ArenaCo either (i) fails to pay such damages within ten days after such judgment (including all applicable appeals thereto) becomes final, or (ii) 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 (including all applicable appeals thereto) becomes final but, subject to Force Majeure Events, in no event more than 120 days after such judgment (including all applicable appeals thereto) becomes final, then the City may, by written notice to ArenaCo and the ArenaCo Lender, (x) terminate this Agreement, which termination shall be effective on the date specified in such notice (which date may not be earlier than 30 days after the date of such notice or, if such notice is given during, or within 30 days prior to the commencement of, a Basketball Season (as defined in the Team Agreement), ten Business Days after the end of such Basketball Season), and following receipt of such notice, ArenaCo shall vacate the Parking Facilities on or before the effective date thereof, failing which, the City may institute dispossessory proceedings, or (y) if the ArenaCo Default for which the judgment was obtained relates to a material breach of Section 3.3 by ArenaCo, the City may, at the City's option, require ArenaCo to engage a new management company to operate and manage the Parking Facilities, which management company must (1) have at least five years' experience in operating and managing parking facilities of comparable size and operations (including without limitation technological functionality) to the Parking Facilities and (2) be approved by the City and the Arena Lender (such approval not to be unreasonably withheld, conditioned, or delayed).

9.3 City Event of Default. Unless otherwise expressly agreed by ArenaCo in writing, it shall be a "**City Event of Default**" under this Agreement if 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 60 days after written notice thereof by ArenaCo to the City; or, if such breach or noncompliance cannot reasonably be cured within such 60-day period, the City does not commence to cure such breach or noncompliance within such 60-day period or, after commencing to cure such breach or noncompliance, does not thereafter pursue such cure in good faith to completion.

9.4 ArenaCo's Remedies. If any City Event of Default occurs, ArenaCo shall have the right, at ArenaCo's election, subject to the rights of ArenaCo Lenders, if any, under Section 13, to exercise any one or more of the remedies described 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 ArenaCo at law or in equity, except as otherwise expressly stated in this Agreement.

- (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 Event of 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; provided, however, that ArenaCo may not terminate this Agreement for a City Event of Default, except as provided in Section 9.4(D).
- (C) If ArenaCo prevails on any suit brought under Section 9.4(B), obtains a judgment for damages, and the City fails to pay such damages within ten 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 this Agreement and the Arena Agreement until such judgment has been paid in full.
- (D) If ArenaCo prevails on any suit brought under Section 9.4(B) with respect to a material breach of the City's grant of rights to ArenaCo to use the

Parking Facilities as provided in this Agreement (including a breach of the City's obligation set forth in the second sentence of Section 1.3(B)), obtains a judgment for specific performance and the City fails to 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 (including all applicable appeals thereto) becomes final but, subject to Force Majeure Events, in no event more than 120 days after such judgment (including all applicable appeals thereto) becomes final, ArenaCo may, subject to the rights of ArenaCo Lender, if any, terminate this Agreement by written notice to the City, which termination shall be effective on the date specified in such notice (but not less than 30 days after the date of such notice).

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

10. Title; Surrender

10.1 Title. ArenaCo acknowledges and agrees that, upon the Management Rights Commencement Date and for the remainder of the Management Rights Term, the City will own and have title (free and clear of any liens, encumbrances, or security interests, other than those matters of record affecting the Parking Facilities as of the Effective Date and such additional matters as described in Project Agreements) to the Parking Land, the Parking Facilities, and all improvements that are now or hereafter permanently fixed to the Parking Land or to the Parking Facilities, notwithstanding the fact that the same may have been, or may be, as appropriate, acquired, financed, installed or placed on the Parking Land or in Parking Facilities by ArenaCo.

10.2 Surrender. During the last year of the Term, ArenaCo and City shall coordinate and cooperate such that (A) without limiting ArenaCo's obligations with respect to the Parking Facilities in this Agreement, the Parking Facilities remain fully operational during such year, and (B) City has reasonable access and rights to make modifications to the Parking Facilities to prepare for taking over operations immediately upon the Expiration Date. During the year prior to the last year of the Term, City and ArenaCo shall (at their shared cost) hire an experienced parking professional reasonably acceptable to the Parties to assess the Parking Facilities and recommend any modifications, repairs, replacements, or upgrades (the "**ArenaCo Surrender Obligations**") necessary to provide at least five years of useful life following the Expiration Date to all such facilities. ArenaCo shall perform all ArenaCo Surrender Upgrades during the last year of the Term at its own cost and expense. All modifications, repairs, replacements, or upgrades that are not ArenaCo Surrender Obligations, and that are either (A) required to

make the Parking Facilities compatible with the City's then-current parking operations because ArenaCo is implementing PARCS Matching; or (B) desired by City, shall be performed by ArenaCo (at ArenaCo's option) or City during the last year of the Term, at the City's sole cost and expense. Upon the Expiration Date, ArenaCo shall peaceably and quietly leave, surrender, and yield to the City (i) the Parking Land and the Parking Facilities, free of tenancies, in a reasonably clean condition, normal wear and tear excepted, and free of debris and otherwise in the condition required under this Agreement (including the requirements of Section 3.3; it being understood that, if ArenaCo is then-currently implementing PARCS Integrated, and the Parking Facilities are connected to and fully interfacing with PARCS consistent with other City parking facilities, upon the expiration of the Term, the Parking Facilities shall remain PARCS Integrated, (ii) all keys and codes for the Parking Facilities, and (iii) all plans and specifications, operating manuals, computer programs and software, and other personal property, tangible or intangible, used in connection with the operation or management of the Parking Facilities or the systems within the Parking Facilities (to the extent, in the case of any third party's personal property, the same are in the possession or control of ArenaCo or any of its Affiliates). Without limiting the foregoing, if at any time during the Term ArenaCo implemented PARCS Matching (or otherwise installed fiber optic or other communications facilities to connect the Parking Facilities independent of the City's systems), unless otherwise determined by the City, such facilities shall remain in place and shall become the property of City upon the Expiration Date. ArenaCo shall remove or cause to be removed at or prior to the Expiration Date any personal property of ArenaCo or any of ArenaCo's sublicensees to the extent the same are not used in connection with the operation or management of the Parking Facilities or the systems within the Parking Facilities, and shall repair, at ArenaCo's sole cost and expense, any damage to the Parking Facilities or the Parking Land caused by ArenaCo's removal of such personal property. To the extent ArenaCo fails to surrender the Parking Land and the Parking Facilities to the City in the condition required by this Section 10.2, the City shall have the right (in addition to all other rights and remedies under this Agreement), but not the obligation, to put the Parking Land and the Parking Facilities in such condition and ArenaCo shall reimburse the City promptly upon demand for any costs incurred by the City with respect thereto (including any costs incurred by the City with respect to removal, transportation, or storage of abandoned items of personal property).

- 10.3 Other Agreements.** The City acknowledges that it shall assume the rights, responsibilities, and obligations of ArenaCo under the POMA following the expiration or termination of this Agreement, and therefore ArenaCo shall not enter into any agreements for the Parking Facilities pursuant to this Agreement that would extend beyond the Term without City's prior written consent and approval. The City and ArenaCo acknowledge that in connection with the further development of the areas adjacent to the Arena, certain development uses may

require the grant of long term parking rights (such as for hotels and residences), and that the City may approve (or disapprove) such long term rights and agreements in connection with those development projects by ArenaCo or its Affiliates, provided that nothing herein shall alter limit the City's rights of review and approval under Applicable Law or powers or duties of the City (including the police powers of the City).

11. Indemnification

- 11.1 ArenaCo.** To the extent permitted by Applicable Law, ArenaCo agrees to indemnify and hold harmless the City and its officers, agents, and employees from and against any and all liabilities, damages, suits, claims, and judgments of any nature (including reasonable attorneys' fees and expenses) ("**Losses**") arising from or in connection with ArenaCo's, or ArenaCo's Affiliates, or their respective agents', contractors', employees', licensees', or invitees', use of the Parking Facilities and the Parking Land, except (A) to the extent such Losses arise from matters for which the City is required to indemnify ArenaCo pursuant to Section 11.2, (B) if such Losses were caused by the sole negligence of the City, or (C) any Losses for which the City is required to indemnify ArenaCo in the Interim Agreement.
- 11.2 The City.** To the extent permitted by Applicable Law, the City agrees to indemnify and hold harmless ArenaCo, its Affiliates and their owners, its officers, agents, and employees from and against any and all Losses arising from or in connection with (A) City's gross negligence or willful misconduct; and (B) Pre-Existing Violations.
- 11.3 Procedures.** If any Person that is entitled to indemnification for Losses under this Section 11 (the "**Indemnitee**") discovers or has actual notice of such Losses, the Indemnitee shall, within 20 days, notify (or cause to be notified) the Party that is liable therefor under this Section 11 (the "**Indemnifying Party**") in writing thereof together with a statement of such information respecting such matter as the Indemnitee then has; provided, however, the failure to notify the Indemnifying Party shall not relieve the Indemnifying Party from any liability that it may have to the Indemnitee except and solely to the extent that such failure or delay in notification shall have adversely affected the Indemnifying Party's ability to defend against, settle, or satisfy any such Losses. The Indemnifying Party shall be entitled, at its cost and expense, to appoint counsel ("**Defense Counsel**") to defend any such Losses by all appropriate legal proceedings provided the Indemnifying Party shall have first notified the Indemnitee of the Indemnifying Party's intention to do so within 20 days after the Indemnifying Party's receipt of such notice from the Indemnitee. If the Indemnitee elects to join in any defense of Losses (which shall be at the Indemnitee's sole cost and expense), the Indemnifying Party shall have full authority to determine all action to be taken

with respect thereto. If, after such opportunity, the Indemnifying Party elects not to defend such Losses, the Indemnitee shall have the right to appoint Defense Counsel to conduct the defense of such Losses in good faith, which defense will be vigorously and diligently prosecuted by the Indemnitee to a final conclusion or, with the consent of the Indemnifying Party (which shall not be unreasonably withheld, conditioned, or delayed), settlement, and the Indemnifying Party shall be bound by such final conclusion or approved settlement. If required by the Indemnifying Party, the Indemnitee shall cooperate fully with the Indemnifying Party and the Indemnifying Party's attorneys in contesting any such Losses or, if appropriate, in making any counterclaim or cross complaint against the Person asserting the Losses against the Indemnitee, but the Indemnifying Party will reimburse the Indemnitee for any expenses incurred by the Indemnitee in so cooperating. The Indemnifying Party shall pay to the Indemnitee in cash all amounts to which the Indemnitee may become entitled by reason of the provisions of this Section 11, such payment to be made within 30 days after such amounts are finally determined either by mutual agreement or by non-appealable judgment of a court of competent jurisdiction. Notwithstanding that the Indemnifying Party is actively conducting a defense or contest of any Losses against the Indemnitee, such Losses may be settled, compromised or paid by the Indemnitee without the consent of the Indemnifying Party; provided, however, that if such action is taken without the Indemnifying Party's consent, the Indemnifying Party's obligations with respect thereto shall be terminated, and the Indemnifying Party shall have no obligation to the Indemnitee. If the Indemnifying Party elects to defend such Losses, the Indemnifying Party shall have the right to conduct the defense of such Losses in good faith and settle the Losses in good faith without the prior consent of the Indemnitee so long as such settlement or compromise (A) does not cause the Indemnitee to incur any present or future material cost, expense, obligation or liability of any kind or nature, (B) does not require any admission or action or forbearance from action by the Indemnitee, and (C) the Indemnitee is released from all Losses.

11.4 *Procedures.* The obligations contained in this Section 11 will survive the expiration or earlier termination of this Agreement but only with respect to an event that may give rise to Losses that occur prior to such termination.

12. Estoppel Certificate; Memorandum of Agreement

12.1 *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 of their Affiliates or any transferee or assignee), and in each case within ten Business 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 Management Rights Commencement Date, and the then-current Expiration Date;
- (D) The date(s) to which any financial obligation of the Party has been paid under this Agreement;
- (E) 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
- (F) Any other matters reasonably requested.

12.2 Memorandum of Agreement. At any time ArenaCo may cause a memorandum of this Agreement or any amendment hereto to be recorded in the recorder's office for the County of Sacramento and the Parties shall each pay and discharge fifty percent (50%) of costs, fees, and taxes in connection therewith. The form of such memorandum (and any amendment thereto in the event that this Agreement is amended) shall be subject to the approval of the City (not to be unreasonably withheld, conditioned, or delayed) prior to the recordation thereof, and the City shall sign such memorandum when so requested by ArenaCo.

13. Security Interests

13.1 Right to Obtain Security Interests. Notwithstanding anything to the contrary contained in this Agreement, ArenaCo shall have the right, without the City's consent, to execute and deliver one or more Security Interests encumbering ArenaCo's interest in this Agreement ("**Management Rights**") or the direct or indirect ownership interests in ArenaCo at any time and from time to time provided that (A) no such Security Interest shall encumber the Fee Estate, (B) the proceeds from the debt secured by such Security Interest specifically intended for the Parking Facilities will not be used for purposes other than the negotiation of all Project Agreements, the design, development, construction, financing, management, maintenance, repair, replacement, leasing, or operation of the Parking Facilities, and (C) each ArenaCo Lender must be an Institutional Lender. The City shall not be required to join in or subordinate the Fee Estate to any

Security Interest and no such Security Interest shall extend to or affect the Fee Estate. Each Security Interest shall provide that the ArenaCo Lender shall send to the City copies of all notices of default sent to ArenaCo in connection with the Security Interest or the debt secured thereby, provided that the failure to provide any such notice shall not affect the validity of the notice as against ArenaCo.

13.2 *Effect of a Security Interest.* Notwithstanding anything to the contrary in this Agreement, ArenaCo's making of a Security Interest shall not be deemed to constitute an Assignment of the Management Rights, nor shall any ArenaCo Lender, as such, or in the exercise of its rights under this Agreement, be deemed to be an assignee or transferee of a lender in possession of the Management Rights so as to require such ArenaCo Lender, as such, to assume or otherwise be obligated to perform any of ArenaCo's obligations under this Agreement except when, and then only for so long as, such ArenaCo Lender has acquired ownership and possession of the Management Rights pursuant to a Foreclosure Event (as distinct from its rights under this Agreement to cure defaults or exercise ArenaCo Lender's Cure Rights). No ArenaCo Lender (or other Person acquiring the Management Rights pursuant to a Foreclosure Event) shall have any liability beyond its interest in this Agreement nor shall ArenaCo Lender (or any person acquiring the Management Rights pursuant to a Foreclosure Event under a Security Interest) be liable under this Agreement unless and until such time as it becomes the owner of the Management Rights. Without further notice to or consent from the City, the City recognizes and agrees that a ArenaCo Lender may acquire directly, or may cause its assignee, nominee, or designee to acquire, the Management Rights through a Foreclosure Event and such party shall enjoy all the rights and protections granted to ArenaCo Lender under this Agreement with the same force and effect as if such party were the ArenaCo Lender itself.

13.3 *Foreclosure; Further Assignment.* Notwithstanding anything to the contrary in this Agreement, any Foreclosure Event, or any exercise of rights or remedies under any Security Interest, shall not be deemed to violate this Agreement or require the consent of the City. If a ArenaCo Lender or a successor or assignee of a ArenaCo Lender, or an Affiliate thereof acquires ArenaCo's Management Rights following a Foreclosure Event, or if a ArenaCo Lender or a successor or assignee of a ArenaCo Lender, or an Affiliate thereof enters into a New Agreement, such ArenaCo Lender or successor or assignee of a ArenaCo Lender, or an Affiliate thereof, successor, assign or Affiliate of ArenaCo Lender shall enjoy all of the rights and protections granted to ArenaCo Lender under this Agreement with the same force and effect as if such successor, assign or Affiliate were the ArenaCo Lender itself and may thereafter assign or transfer this Agreement or such New Agreement without prior notice to or consent of the City's, provided the assignee or transferee expressly agrees in writing to assume and to perform all of the obligations under this Agreement or such New Agreement, as the case

may be, from and after the effective date of such assignment or transfer. No ArenaCo Lender (or person acquiring the Management Rights pursuant to a Foreclosure Event under a Security Interest) shall have any liability beyond its interest in this Agreement nor shall ArenaCo Lender (or person acquiring the Management Rights pursuant to a Foreclosure Event under a Security Interest) be liable under this Agreement unless and until such time as it becomes, and then only for so long as it remains, the owner of the Management Rights.

- 13.4 *Notice of Security Interests.*** Promptly after ArenaCo enters into any Security Interest, ArenaCo shall request the ArenaCo Lender thereunder to deliver to the City a true and correct copy of the Security Interest together with written notification specifying the name and address of the ArenaCo Lender. Such ArenaCo Lender shall be entitled to all the rights and protections of a ArenaCo Lender under this Agreement (as against both the City and any successor holder of the Fee Estate) from and after (and only from and after) such date as the City receives the foregoing materials. The City agrees to acknowledge to ArenaCo and such ArenaCo Lender the City's receipt of any such materials and, following notification thereof, notice of any Assignment of such Security Interest and to confirm that such ArenaCo Lender is or will be, upon closing of its financing or its acquisition of an existing Security Interest, entitled to all of the rights and protections granted to ArenaCo Lender under this Agreement with the same force and effect as if such successor, assign or Affiliate were the ArenaCo Lender itself, in this Agreement, including after any premature termination of this Agreement. If the City has received notice of any Security Interest, then such notice shall automatically bind the City's successors and assigns.
- 13.5 *Modifications Required by ArenaCo Lender.*** If, in connection with obtaining, continuing, or renewing any financing for which the Management Rights, or the direct or indirect equity interests in ArenaCo, represents collateral in whole or in part, the ArenaCo Lender requires any modifications of this Agreement as a condition to such financing, then the City shall, at ArenaCo's or such ArenaCo Lender's request, promptly consider any such modifications in good faith. If such modifications do not (A) modify the Annual Fee or the Term, or (B) lessen the City's rights or increase the City's obligations under this Agreement by more than a de minimis amount in the reasonable judgment of the City, then the City shall execute and deliver to ArenaCo an amendment to this Agreement to effect such modifications.
- 13.6 *Further Assurances.*** Upon request by ArenaCo or by any existing or prospective ArenaCo Lender, the City shall deliver to the requesting party such documents and agreements as the requesting party shall reasonably request to further effectuate the intentions of the Parties as set forth in this Agreement, including a separate written instrument in recordable form signed and acknowledged by the City setting forth and confirming, directly for the benefit of ArenaCo Lender and

its successors and assigns, any or all rights of ArenaCo Lender; provided, however, that ArenaCo shall reimburse the City immediately upon demand therefor for any and all reasonable third party costs or expenses actually incurred by the City in complying with this Section 13.6.

13.7 Protection of ArenaCo Lenders. Notwithstanding anything to the contrary set forth in this Agreement, if, and only for so long as, any Security Interest is in effect (and the City shall have been notified thereof as provided above), the following shall apply:

- (A) *Lease Impairments.* Any Lease Impairment made without First ArenaCo Lender's prior written consent (or any deemed consent under its Security Interest) shall be null, void, and of no further force or effect, and shall not bind ArenaCo, ArenaCo Lender, or New Operator. For clarification, this Section 13.7(A) shall be inapplicable during any period that no Security Interest is in effect.
- (B) *Copies of Notices.* If the City shall give any notice to ArenaCo under this Agreement, then the City shall at the same time and by the same means give a copy of such notice to any ArenaCo Lender. No notice to ArenaCo shall be effective unless and until such notice has been duly given to ArenaCo Lender, provided the City has received notice of such ArenaCo Lender pursuant to Section 13.4. No exercise of the City's rights and remedies under or termination of this Agreement shall be deemed to have occurred or arisen or be effective unless the City has given like notice to each ArenaCo Lender as this Section 13.7(B) requires. Any such notice shall describe in reasonable detail the alleged ArenaCo default or other event allegedly entitling the City to exercise such rights or remedies.
- (C) *ArenaCo's Cure Period Expiration Notice.* If ArenaCo is in default under this Agreement and the cure period applicable to ArenaCo expires without cure of ArenaCo's default, then the City shall promptly give notice of such fact to any ArenaCo Lender, which notice shall describe in reasonable detail ArenaCo's default (an "**ArenaCo's Cure Period Expiration Notice**").
- (D) *Right to Perform Covenants and Agreements.* Any ArenaCo Lender shall have the right, but not the obligation, to perform any obligation of ArenaCo under this Agreement and to remedy any default by ArenaCo. The City shall accept performance by or at the instigation of a ArenaCo Lender in fulfillment of ArenaCo's obligations, for the account of ArenaCo, and with the same force and effect as if performed by ArenaCo. No performance by or on behalf of such ArenaCo Lender shall cause it to

become a lender in possession or otherwise cause it to be deemed to be in possession of the Parking Facilities or bound by or liable under this Agreement.

- (E) *Notice of Default and Cure Rights.* Upon receiving any notice of default, any ArenaCo Lender shall have the right within the same cure period granted to ArenaCo under this Agreement, plus the additional time provided for below within which to take (if any ArenaCo Lender so elects) whichever of the actions set forth below in the remainder of this Section 13.7 shall apply as to the default described in such notice of default (such actions, "**ArenaCo Lender's Cure**"; and a ArenaCo Lender's rights to take such actions, including pursuit of an Enforcement Action, "**ArenaCo Lender's Cure Rights**").
- (F) *Monetary Defaults.* In the case of a monetary default, any ArenaCo Lender shall be entitled (but not required) to cure such default within a cure period consisting of ArenaCo's cure period under this Agreement extended through the date 30 days after such ArenaCo Lender shall have received ArenaCo's Cure Period Expiration Notice as to such monetary default.
- (G) *Nonmonetary Defaults Curable Without Obtaining Possession.* In the case of any nonmonetary default that any ArenaCo Lender is reasonably capable of curing without obtaining possession of the Parking Facilities (excluding in any event a Personal Default), such ArenaCo Lender, provided that the Annual Fee shall continue to be paid timely during the pendency of such extended cure period, shall have the right (but not the obligation) to cure such nonmonetary default by taking the following actions:
 - (1) Within a period consisting of ArenaCo's cure period for such nonmonetary default, extended through the date 30 days after receipt of ArenaCo's Cure Period Expiration Notice as to such default, such ArenaCo Lender shall provide written notice to the City of such ArenaCo Lender's intention to take all reasonable steps necessary to remedy such default (it being understood that such notice is a statement of intention and not an obligation); and
 - (2) Duly commence the cure of such nonmonetary default within such extended period, and thereafter (during and after such extended period) diligently prosecute to completion the remedy of such default, but, subject to Force Majeure Events, in no event more than 120 days after ArenaCo Lender's receipt of ArenaCo's Cure Period Expiration Notice as to such default.

- (3) For the purposes of this Section 13.7(G), a nonmonetary default will not be deemed incapable of cure by an ArenaCo Lender simply because the timeline for performance of the underlying obligation has passed.
- (H) *Defaults Curable Only by Obtaining Possession and Personal Defaults.* In the case of (i) a nonmonetary default that is not reasonably susceptible of being cured by such ArenaCo Lender without obtaining possession of the Parking Facilities or (ii) a Personal Default by ArenaCo, such ArenaCo Lender shall be entitled (but not required) to proceed as described in Sections 13.7(I) and 13.7(J) (provided that (x) the Annual Fee shall continue to be paid timely during the pendency of such extended cure period, and (y) with respect to any nonmonetary defaults outstanding under Section 13.7(G), such ArenaCo Lender shall be exercising its ArenaCo Lender's Cure Rights thereunder).
- (I) *During Cure Period.* At any time during the cure period (if any) that applies to ArenaCo, extended through the date that is 90 days after such ArenaCo Lender's receipt of ArenaCo's Cure Period Expiration Notice as to such nonmonetary default, or if no cure period applies to ArenaCo, then within 90 days after such ArenaCo Lender's receipt of notice of such default, such ArenaCo Lender shall be entitled to institute proceedings, and (subject to any stay in any Bankruptcy Proceedings affecting ArenaCo or any injunction, unless such stay or injunction is lifted) provided that from and after the institution of such proceedings, such ArenaCo Lender shall diligently prosecute the same to completion, to obtain possession of the Parking Facilities as security interest holder (including possession by a receiver), or acquire directly, or cause its assignee, nominee, or designee to acquire, the Management Rights through a Foreclosure Event, or foreclose on its pledged collateral, as applicable (the obtaining of such possession or the completion of such acquisition, "**Control of the Parking Facilities**").
- (1) *Further Cure After Control of Parking Facilities.* Upon obtaining Control of the Parking Facilities (whether before or after expiration of any otherwise applicable cure period), such ArenaCo Lender or, in the event the Management Rights are acquired through a Foreclosure Event, such New Operator, shall then be entitled (but not required) to proceed with reasonable diligence and reasonable continuity to cure such nonmonetary defaults as are then reasonably susceptible of being cured by such Security Interest or New Operator (excluding ArenaCo's Personal Defaults, which ArenaCo Lender need not cure), within a reasonable time under the circumstances but, subject to Force Majeure Events, in

no event more than 120 days after ArenaCo Lender obtains Control of the Parking Facilities.

- (2) *Effect of Cure.* Upon the cure of a default by such ArenaCo Lender or New Operator, as the case may be, in accordance with this Agreement, this Agreement shall continue in full force and effect as if no default(s) had occurred. ArenaCo Lender's exercise of ArenaCo Lender's Cure Rights shall not be deemed an assumption of this Agreement in whole or in part.

(J) *Forbearance by the City.*

- (1) So long as a ArenaCo Lender shall be diligently exercising its ArenaCo Lender's Cure Rights, including the commencement and pursuit of an Enforcement Action, within the applicable cure periods set forth above, the City shall not, to the extent permitted under this Agreement, (i) re-enter the Parking Facilities to cure the ArenaCo Event of Default, (ii) bring a proceeding on account of such default to (a) re-enter the Parking Facilities to cure the ArenaCo Event of Default, (b) dispossess ArenaCo or other occupants of the Parking Facilities, (c) terminate the Management Rights, or (d) replace the management company pursuant to Section 9.2(C), or (iii) accelerate payment of the Annual Fee or any other amounts payable by ArenaCo under this Agreement. Upon (A) any cessation of a ArenaCo Lender exercising ArenaCo Lender's Cure Rights, or (B) the expiration of the applicable cure period, as extended in connection with ArenaCo Lender's Cure Rights, without cure, the City may, upon notice to such ArenaCo Lender, exercise any of the City's rights under this Agreement with respect to dispossession or termination. Notwithstanding the foregoing, the City shall have the right to re-enter the Parking Facilities, or bring a proceeding to so re-enter the Parking Facilities, to cure the applicable ArenaCo Event of Default if the ArenaCo Lender that is exercising its ArenaCo Lender's Cure Rights does not have Control of the Parking Facilities at such time; provided, however, that (1) the City gives prior written notice thereof to such ArenaCo Lender, and (2) no such cure by the City shall be deemed to diminish any of the ArenaCo Lender's Cure Rights. Nothing in this Section 13.7(J)(1) will be deemed to diminish or other restrict the City's access rights under Section 3.4.
- (2) Nothing in this Section 13 shall, however, be construed to either (i) extend the Term beyond the Expiration Date that would have

applied if no default had occurred or (ii) require any ArenaCo Lender to cure any Personal Default by ArenaCo as a condition to preserving this Agreement or to obtaining a New Agreement (but this shall not limit such ArenaCo Lender's obligation to seek to obtain Control of the Parking Facilities, and thereafter consummate a Foreclosure Event, by way of ArenaCo Lender's Cure Rights, if such ArenaCo Lender desires to preclude the City from terminating this Agreement on account of a Personal Default of ArenaCo).

(3) Nothing in this Section 13 shall preclude the City from exercising its rights to sue for damages, specific performance, or other equitable relief (excluding "self-help", dispossession, termination, or engagement of new management company) under Section 9.2(B).

(K) *ArenaCo Lender's Right to Enter Parking Facilities.* The City and ArenaCo authorize each ArenaCo Lender to enter the Parking Facilities and the Parking Land as necessary to effect ArenaCo Lender's Cure and take any action(s) reasonably necessary to effect ArenaCo Lender's Cure without such action being deemed to give ArenaCo Lender possession of the Parking Facilities or the Parking Land.

(L) *Rights of New Operator Upon Acquiring Control.* If any New Operator shall acquire the Management Rights pursuant to a Foreclosure Event and shall continue to exercise ArenaCo Lender's Cure Rights as to any remaining defaults (other than Personal Defaults, which New Operator need not cure), then any Personal Defaults by ArenaCo shall no longer be deemed defaults and the City shall recognize the rights of such New Operator hereunder as if such New Operator were ArenaCo.

(M) *Interaction Between Agreement and Security Interest.* ArenaCo's default as grantor under a Security Interest shall not constitute a default under this Agreement, except to the extent that ArenaCo's actions or failure to act in and of itself constitutes a breach of this Agreement. The exercise of any rights or remedies of a ArenaCo Lender under a Security Interest, including the consummation of any Foreclosure Event, shall not constitute a default under this Agreement (except to the extent such actions otherwise constitute a breach of this Agreement).

13.8 First ArenaCo Lender's Right to a New Agreement.

(A) If this Agreement shall terminate by reason of the City exercising any right it has under this Agreement to terminate, a rejection in ArenaCo's

bankruptcy, or option of ArenaCo to treat this Agreement as terminated under 11 U.S.C. § 365(h)(1)(A)(i), or any comparable provision of law, the City shall promptly give notice of such termination to any ArenaCo Lender of which the City has notice. The City shall, upon a ArenaCo Lender's request given within 30 days after such ArenaCo Lender's receipt of such notice, enter into (and if the City fails to do so, shall be deemed to have entered into) a new lease of the Parking Facilities effective as of (or retroactively to) the date of the termination of this Agreement, for the remainder of the Term, as if no termination had occurred, with a New Operator on the same terms and provisions of this Agreement, including all rights, options, privileges, and obligations of ArenaCo under this Agreement, but excluding any requirements that have already been performed or no longer apply (a "**New Agreement**"), provided that the First ArenaCo Lender shall, at the time of execution and delivery of such New Agreement, (i) pay the City any and all Annual Fees and other sums then due under this Agreement (determined as if this Agreement had not been terminated), and (ii) cure any nonmonetary defaults (other than Personal Defaults, which First ArenaCo Lender need not cure) under this Agreement (determined as if this Agreement had not been terminated) or, if such nonmonetary default is of a nature that it cannot with due diligence be cured upon such execution and delivery, then the First ArenaCo Lender shall (x) upon such execution and delivery, advise the City of its intention to take all steps necessary to remedy such nonmonetary default (other than Personal Defaults, which First ArenaCo Lender need not cure), and (y) promptly and duly commence the cure of such default and thereafter diligently prosecute to completion the remedy of such default, which completion must be achieved within a reasonable time under the circumstances, subject to Force Majeure Events. In no event, however, shall the New Operator be required to cure a Personal Default of ArenaCo as a condition to obtaining or retaining a New Agreement or otherwise. From the date this Agreement terminates until the date of execution and delivery of any such New Agreement (the "**New Agreement Delivery Date**"), the City may, at its option, perform the day-to-day operations, maintenance, and repair of the Parking Facilities and the Parking Land; provided, however, the City shall not (1) operate the Parking Facilities or the Parking Land in an unreasonable manner, (2) grant use rights to the Parking Facilities or the Parking Land except to New Operator. Notwithstanding anything to the contrary contained herein, if the provisions of this Section 13.8 are triggered by reason of the City exercising its right to terminate this Agreement pursuant to Section 9.2(C)(i) by reason of ArenaCo's failure to pay damages within ten days after the City obtains a judgment therefor, then all rights of all ArenaCo Lenders under this Section 13.8 shall

automatically terminate if the City has not received payment in full in respect of such judgment by the date that is 60 days after such termination.

(B) The following additional provisions shall apply to any New Agreement:

- (1) *Form and Priority.* Any New Agreement (or, at the City's option, a memorandum thereof) shall be in recordable form. Such New Agreement shall not be subject to any rights, liens, or interests other than permitted exceptions and other exceptions to title existing as of the date of such New Agreement which were not created by the City. The New Agreement shall be expressly made subject to any rights of ArenaCo prior to the termination of this Agreement.
- (2) *Adjustment for Net Income/Net Loss.* On the New Agreement Delivery Date, if during the period from the termination date of this Agreement to the New Agreement Delivery Date the revenue derived from the Parking Facilities and actually received by the City (excluding from income the amount of any Annual Fee payable under this Agreement and actually received by the City) exceeds the expenses actually incurred by the City in connection with the Parking Facilities, then, on the New Agreement Delivery Date, the City shall pay to the New Operator the amount of such excess. Alternatively, if during such period the City's expenses exceed the City's revenues, then, on the New Agreement Delivery Date, the New Operator shall pay to the City the amount of such excess. In either event, the New Operator shall, on the New Agreement Delivery Date, pay to the City all sums required to be paid the City pursuant to this Agreement.
- (3) *Assignment of Certain Items.* On the New Agreement Delivery Date, the City shall assign to New Operator all of the City's right, title and interest in and to all moneys (including security deposits, insurance proceeds, and condemnation awards), if any, then held by, or payable to, the City that ArenaCo (or ArenaCo Lender) would have been entitled to receive but for termination of this Agreement. On the New Agreement Delivery Date, the City shall also transfer to New Operator all service contracts, and net income collected by the City in connection with the operation of the Parking Facilities during the period between termination of this Agreement and the New Agreement Delivery Date.

- (4) *Separate Instrument.* The City hereby agrees, at the request of any ArenaCo Lender, to enter into a separate instrument (and memorandum thereof in recordable form) memorializing such ArenaCo Lender's rights under this Section 13.8.

13.9 *Priority of Security Interests.* If there is more than one Security Interest, then whenever this Agreement provides the holder of a Security Interest with the right to consent or approve or exercise any right granted in this Agreement, the exercise or waiver of same by the First ArenaCo Lender shall control and be binding upon the holder(s) of all junior Security Interests.

13.10 *Liability of ArenaCo Lender.* If a New Operator shall acquire ArenaCo's Management Rights through a Foreclosure Event or a New Agreement shall be granted to a New Operator pursuant to Section 13.8, such New Operator shall be liable for the performance of all of ArenaCo's covenants under this Agreement or such New Agreement, as the case may be, from and after the effective date of such Foreclosure Event or New Agreement. If (A) the New Operator is a ArenaCo Lender or its assignee, nominee or designee, (B) such ArenaCo Lender, or its assignee, designee or nominee, as applicable, then assigns this Agreement or the New Agreement to a third party assignee, and (C) such third party assignee delivers to the City an agreement under which such assignee assumes and agrees to perform all the terms, covenants, and conditions of this Agreement or such New Agreement, in form reasonably acceptable to the City, the ArenaCo Lender, or its assignee, designee, or nominee, as applicable, shall be automatically and entirely released and discharged from the performance, covenants, and obligations of the New Operator under this Agreement or the New Agreement, thereafter accruing.

13.11 *Casualty and Condemnation Proceeds.* If a casualty or a Condemnation Action shall occur with respect to all or any portion of the Parking Facilities or Parking Land and restoration is to occur pursuant to the provisions of this Agreement, any insurance proceeds shall be handled in accordance with Section 7. The City understands that ArenaCo may irrevocably appoint ArenaCo Lender as its representative to participate in any settlement regarding, and with regard to, the disposition and application of said insurance proceeds or Condemnation Awards. The City will recognize and deal with ArenaCo Lender for such purposes. The City hereby acknowledges that no election by ArenaCo not to restore in the event of a casualty or Condemnation Action shall be effective unless ArenaCo Lender's consent has been granted to such election.

13.12 *Mezzanine Lenders as ArenaCo Lenders.* The Parties agree that each lender under a Mezzanine Financing (as hereinafter defined) (each such lender, a "**Mezzanine Lender**") is intended to and shall be entitled to substantially the same protections and rights set forth in this Section 13 as provided to an

ArenaCo Lender, modified as appropriate to reflect the nature of the limited liability company or limited partnership interest or stock pledge, as applicable, in favor of each such Mezzanine Lender, mutatis mutandis. If requested by ArenaCo in connection with a Mezzanine Financing, the Parties agree to negotiate, in good faith and with due diligence, an amendment to this Agreement or a separate agreement, containing commercially reasonable terms and conditions in order to specifically reflect such protections and rights set forth in this Section 13 as applicable to a Mezzanine Lender. As used herein, a "**Mezzanine Financing**" means a financing transaction which is secured by, inter alia, a pledge or collateral assignment of any or all of the limited liability company or limited partnership interests or the corporate stock of ArenaCo (or any entity holding a direct or indirect interest in ArenaCo), as applicable, either together with or in lieu of a Security Interest (provided that if the same lender holds both a Security Interest and such a pledge or collateral assignment, such lender shall be an ArenaCo Lender).

14. Parking Facilities Free of Mechanics' and Materialmens' Liens

14.1 *Generally.* ArenaCo shall pay for all labor and services performed for, and all materials used by or furnished to, ArenaCo or its agents with respect to the Parking Facilities. ArenaCo shall indemnify and hold the City harmless from and keep the Parking Facilities free from any liens, claims, demands, encumbrances or judgments, including all costs, liabilities and attorneys' fees with respect thereto, created or suffered by reason of any labor or services performed for, or materials used by or furnished to, ArenaCo or its agents with respect to the Parking Facilities. The foregoing obligation of ArenaCo shall survive the termination of this Agreement; the City shall have the right, at all times, to post and keep posted on the Parking Facilities any notices permitted or required by law, or which the City may deem proper, for the protection of the City and the Parking Facilities, and any other party having an interest therein, from mechanics' and materialmens' liens including, without limitation, a notice of non-responsibility. In the event ArenaCo is required to post an improvement bond with a public agency in connection with any work performed by ArenaCo on or to the Parking Facilities, ArenaCo shall include the City as an additional obligee.

14.2 *Notice of Lien; Bond.* Should any liens be filed against, or any action be commenced affecting, the Parking Facilities or ArenaCo's interest in the Parking Facilities as a result of a failure by ArenaCo to satisfy its obligations in Section 14.1, ArenaCo shall give the City notice of such lien or action within five business days after ArenaCo receives notice of the filing of the lien or the commencement of the action. ArenaCo shall have the right, but not the obligation, to contest any such lien or action. In the event that ArenaCo shall not, within 30 days following later of (A) the imposition of such lien or (B) if

ArenaCo contested such lien, a final non-appealable judgment affirming such lien and rejecting ArenaCo's contest, cause such lien to be released of record by payment or posting of a proper bond, the City shall have, in addition to all other rights and remedies provided herein and by law, the right, but not the obligation, to cause the same to be released by such means as the City shall deem proper, including payment of the claim giving rise to such lien or posting of a proper bond. All such sums paid by City and all expenses incurred by the City in connection therewith, including attorneys' fees and costs, shall be payable to the City by ArenaCo on demand by the City.

15. Mediation

15.1 *Process.* Any dispute between the Parties under this Agreement shall be resolved in accordance with this section.

15.2 *Direct Communication.* As soon as reasonably possible after a dispute is identified, each Party shall set forth their positions in the dispute in written correspondence delivered to the other Party. Within 15 days after delivery, representatives of each Party shall meet at a mutually agreed time and place to attempt, with diligence and in good faith, to resolve and settle the dispute.

15.3 *Non-binding Mediation.*

- (A) *Resort to Mediation.* If the dispute is not resolved through direct communication as provided in Section 15.2 by the date that is ten days after the initial meeting, any Party to such dispute may request appointment of a neutral and properly credentialed mediator with expert knowledge and practical experience regarding the subject in dispute.
- (B) *Choice of Mediators.* 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) *Length of Mediation.* The Parties shall then participate in good faith in a one-day, non-binding mediation session. Notwithstanding the foregoing, the Parties may agree to extend the mediation proceedings.
- (D) *Location.* Any mediation proceedings shall take place in the City, unless otherwise mutually agreed by the Parties.
- (E) *Cost Sharing.* The cost of the mediation shall be divided equally between the Parties to the dispute.

- 15.4 Mediation Failure.** If the Parties do not resolve the dispute after engaging in this mediation process, each Party shall be entitled to bring an appropriate action or proceeding in any court of competent jurisdiction to vindicate its rights under this Agreement.
- 15.5 ArenaCo Lender.** In no event shall a ArenaCo Lender or its designee be subject to or bound by the provisions of this Section 15 unless and until such ArenaCo Lender or such designee has succeeded to the interests of ArenaCo under this Agreement.
- 16. Condition of the Existing Parking Facilities.** The Parking Facilities on the Parking Land as of the Effective Date are provided to ArenaCo "AS IS" and "WHERE IS" and with all faults, and ArenaCo has responsibility for the physical condition of the Parking Facilities during the Management Rights Term. Except as otherwise set forth in the Project Agreements, City has not made, does not make, and has not authorized anyone else to make any representation as to the present or future physical condition, value, presence or absence of Hazardous Substances, financing status, leasing, operation, use, tax status, income and expenses, compliance with Environmental Laws or any other matter or thing pertaining to the Parking Facilities being provided. ArenaCo acknowledges that neither City nor any agent of City has made any representation or warranty with respect to the condition of the Parking Facilities or with respect to the suitability of the same for the conduct of ArenaCo's business, nor is City or any agent of City responsible for making any modifications, alterations or improvements or agreed to make any modification, alteration or improvement, to the Parking Facilities. ArenaCo further acknowledges that it has independently investigated the Parking Land and is satisfied that the Parking Facilities are suitable for ArenaCo's intended use. By taking possession of the Parking Facilities, subject to the Pre-Existing Violations, ArenaCo shall be deemed to have accepted the Parking Facilities as being in satisfactory condition and repair and to have accepted the Parking Facilities in their condition existing as of the date of such possession, subject to all Applicable Laws and all covenants, conditions, restrictions, easements and other matters of public record. Similarly, subject to the Work, City acknowledges that it has been operating the Parking Facilities prior to the Effective Date, and therefore, as of the Effective Date, the condition of the Parking Facilities is consistent with the Operating Standard and the Maintenance and Repair Standard, and City shall have no claims against ArenaCo for the condition of the Parking Facilities existing as of the Effective Date.
- 17. Hazardous Substances.** ArenaCo shall not use, generate, manufacture, produce, store, release, discharge, or dispose of, on, under or about the Parking Land, or transport to or from the Parking Land, any Hazardous Substances or allow its agents or any other person or entity to do so; provided that standard fuel or other automobile operating fluids (such as antifreeze, motor oil and transmission fluid) within an automotive shell or otherwise typical in the use of automobiles and other transportation vehicles, or

commonly used in the operation of a parking garage shall not constitute a violation of this Section if in compliance with Applicable Law.

18. Miscellaneous

18.1 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.

<p><i>If to the City:</i> John Dangberg Assistant City Manager City of Sacramento 915 I Street, Fifth Floor Sacramento, CA 95814</p> <p><i>With copies to:</i> Matthew Ruyak Assistant City Attorney City of Sacramento 915 I Street, Fourth Floor Sacramento, CA 95814</p> <p>Jeffrey Massey Senior Deputy City Attorney City of Sacramento 915 I Street, Fourth Floor Sacramento, CA 95814</p> <p>Matt Eierman Parking Manager City of Sacramento Department of Public Works 300 Richards Boulevard, Suite 213 Sacramento, CA 95811</p>	<p><i>If to ArenaCo:</i> John Rinehart, CFO Sacramento Basketball Holdings, LLC One Sports Parkway Sacramento, CA 95834 Facsimile: (916) 928-6983</p> <p><i>With copies to:</i> Mark Friedman, Owner 1530 J Street, Suite 200 Sacramento, CA 95814</p> <p>Jeffrey Dorso, Esq. Pioneer Law Group, LLP 1122 S Street Sacramento, CA 95811 Facsimile: (916) 496-8500</p> <p>Adam R. Klein, Esq. Katten Muchin Rosenman LLP 525 W. Monroe Street Chicago, IL 60661-3693 Facsimile: (312) 902-1061</p>
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Either Party may from time to time designate a different address or 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.

- 18.2 City's Purpose of Review.** The City's review of any designs, plans, specifications, or other documents or inspection of any property or improvements in connection with this Agreement 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 other improvements related thereto, or the operations and maintenance standards to be applied thereto.
- 18.3 Force Majeure.** Failure in performance by either 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 be 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 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; and strike, lockout, or other industrial disturbance.
- 18.4 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.
- 18.5 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.
- 18.6 Time of the Essence.** Time is of the essence in the performance of this Agreement.
- 18.7 Binding Effect.** This Agreement binds and inures to the benefit of the Parties' successors and assigns.
- 18.8 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.

- 18.9 Interpretation.** This Agreement is to be interpreted and applied in accordance with California law, except 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 into this Agreement 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.
- 18.10 Integration and Modification.** This Agreement sets forth the Parties' entire understanding regarding the matters set forth in this Agreement and is intended to be their final, complete, and exclusive expression of those matters. It may be modified only by another written agreement signed by both Parties.
- 18.11 Conflicts among Project Agreements.** To the extent of any conflict or inconsistency between or among any of the Project Agreements, such conflict or inconsistency shall be resolved pursuant to Section 11.12 of the Comprehensive Agreement. In the event of any conflict between this Agreement and the Plaza Operations Agreements, with respect to matters between parties to the Plaza Operations Agreements other than matters solely between the City and ArenaCo, the Plaza Operations Agreements shall control, including but not limited to the provisions of the Plaza Operations Agreements relating to insurance, restoration after casualty, and condemnation.
- 18.12 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.
- 18.13 Attorneys' Fees.** Except as otherwise expressly stated herein, the Parties shall bear their own costs and attorneys' fees incurred in connection with this Agreement.
- 18.14 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.
- 18.15 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.

- 18.16 *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.
- 18.17 *Disclosure of Records.*** All non-public documents shared by the Parties 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 five 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 attorneys' fees) incurred by the 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.
- 18.18 *Payments.*** If any payment under this Agreement is required to be made on a day other than a Business Day, the date of payment shall be extended to the next Business Day.
- 18.19 *Interest.*** Except as otherwise expressly set forth in this Agreement, any payment required under this Agreement that is not timely made shall bear interest at the Interest Rate from the due date until paid in full.
- 18.20 *NO WAIVER OF GOVERNMENTAL IMMUNITY.*** NO PROVISION FOR INSURANCE, INDEMNIFICATION, CASUALTY, LOSS, OR SHARED EXPENSE SHALL BE CONSTRUED TO BE A WAIVER BY THE CITY OF ANY GOVERNMENTAL IMMUNITY AS TO AMOUNTS OR TYPES OF LIABILITY FOR THE USE, OCCUPANCY, OR OPERATION OF THE PARKING FACILITIES OR THE PARKING LAND OR EXERCISE OF RIGHTS AND OBLIGATIONS UNDER THIS AGREEMENT.
- 18.21 *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.

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

"Additions and Capital Repairs" means, collectively, any capital improvements, capital additions, capital repairs, capital replacements, capital restoration, or other capital work with respect to the Parking Facilities, including the furniture, fixtures, machinery, or equipment thereat, the depreciable life of which, according to U.S. generally accepted accounting principles, consistently applied, is in excess of one year. Without limiting the foregoing, Additions and Capital Repairs may include without limitation: (A) redesigning the layout and traffic flow patterns for Parking Facilities; (B) grading and paving or repaving the Parking Facilities; (C) constructing additional drive aisles and furnishing and installing barriers and additional lighting and fixtures, including necessary wiring; and (D) furnishing and installing cashier terminals, booths, signage, and other parking control equipment.

"Affiliate" of a specified Person means a Person who is directly or indirectly controlling, controlled by, or under common control with, the specified Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of the specified Person whether through the ownership of voting securities or by contract.

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

"Annual Fee" is defined in Section 3.1.

"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), dated as of the Effective Date, 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.

"Arena" is defined in the Background.

"Arena Agreement" is defined in the Background.

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

"ArenaCo Default" is defined in Section 9.1.

"**ArenaCo Lender**" means the holder of a Security Interest (including any trustee, servicer or administrative agent acting on behalf of the holder or holders of a Security Interest) other than ArenaCo or any Affiliate of ArenaCo.

"**ArenaCo Lender's Cure**" is defined in Section 13.7(E).

"**ArenaCo Lender's Cure Rights**" is defined in Section 13.7(E).

"**ArenaCo's Cure Period Expiration Notice**" is defined in Section 13.7(C).

"**Arena Land**" is defined in the Background.

"**Assignment**" means any sale, transfer, assignment, pledge, encumbrance, or any other transfer, including transfers as security for obligations, of this Agreement or a Party's rights or obligations under this Agreement.

"**Bankruptcy Proceeding**" means any bankruptcy, insolvency, reorganization, composition, or similar proceeding under the United States Bankruptcy Code or any similar state or federal statute for the relief of debtors.

"**Base Repair Program**" is defined in Section 3.3(G)

"**Business Day**" means any day that the Sacramento City Attorney's Office is open. California Code of Civil Procedure Section 12a applies to this Agreement. The use of the word "day," instead of "Business Day," means a calendar day.

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

"**City Civic Event**" is defined in Section 1.2

"**City Event of Default**" is defined in Section 9.3.

"**City Event Expenses**" is defined in Section 1.2

"**City Event Revenues**" is defined in Section 1.2.

"**City Events**" is defined in the Arena Agreement.

"**City Minor Event**" is defined in Section 1.2

"**Claim**" is defined in Section 13.3.

"**Compatible**" means either (A) PARCS Integrated, or (B) PARCS Matching.

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

"Condemnation Action" means a taking by any Governmental Authority (or other Person with power of eminent domain) by exercise of any right of eminent domain.

"Condemnation Award" means all sums, amounts or other compensation for the Parking Facilities payable to the City or ArenaCo, as applicable, as a result of, or in connection with, any Condemnation Action.

"Control of the Parking Facilities" is defined in Section 13.7(l).

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

"Defense Counsel" is defined in Section 11.3.

"Design and Construction Agreement" is defined in the Background.

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

"Emergency" means any condition or situation that presents an imminent and significant threat (or if not immediately acted upon will present an imminent and significant threat) to the health or safety of users of the Parking Facilities or to the structural integrity of the Parking Facilities or any portion thereof.

"Enforcement Action" means, with respect to any Security Interest and ArenaCo Lender, the occurrence of any of the following events: (A) any judicial or non-judicial foreclosure proceeding, the exercise of any power of sale, the taking of an assignment in lieu of foreclosure, the obtaining of a receiver, or the taking of any other enforcement action against the Management Rights or any portion thereof or ArenaCo, including the taking of possession or control of the Management Rights or any portion thereof, (B) any acceleration of, or demand or action taken in order to collect, all or any indebtedness secured by all or any portion of the Management Rights (other than giving of notices of default and statements of overdue amounts), (C) any exercise of any right or remedy available to ArenaCo Lender under any and all loan documents evidencing the debt secured by the Management Rights (collectively, the **"Management Rights Loan Documents"**), at law, in equity, or otherwise with respect to ArenaCo or any portion of the Management Rights, other than the giving of notices of default and statements of overdue amounts, or (D) any active negotiation (including the exchange of written correspondence regarding the same and the scheduling and subsequent attending of negotiations, whether in person or via telephone) between ArenaCo and ArenaCo Lender with respect to a workout following any default by ArenaCo under the terms and conditions of the Management Rights Loan Documents; provided, however, that any Enforcement Action shall be deemed to continue for a period of 60 days following final non-appealable judgment of a court of competent jurisdiction or cessation of any of the events or activities identified in subclauses (A) through (D) above.

"Environmental Law" means all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substances, or pertaining to environmental conditions on, under, or about any of the properties described in this Agreement, as now or may at any later time be in effect, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [42 USCS §§9601 et seq.]; the Resource Conservation and Recovery Act of 1976 (RCRA) [42 USCS §§6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) [33 USCS §§1251 et seq.]; the Toxic Substances Control Act (TSCA) [15 USCS §§2601 et seq.]; the Hazardous Materials Transportation Act (HMTA) [49 USCS §§1801 et seq.]; the Insecticide, Fungicide, Rodenticide Act (7 USCS §§136 et seq.); the Superfund Amendments and Reauthorization Act [42 USCS §§6901 et seq.]; the Clean Air Act [42 USCS §§7401 et seq.]; the Safe Drinking Water Act [42 USCS §§300f et seq.]; the Solid Waste Disposal Act [42 USCS §§6901 et seq.]; the Surface Mining Control and Reclamation Act [30 USCS §§1201 et seq.]; the Emergency Planning and Community Right to Know Act [42 USCS §§11001 et seq.]; the Occupational Safety and Health Act [29 USCS §§655 and 657]; the California Underground Storage of Hazardous Substances Act [Health and Safety Code §§25280 et seq.]; the California Hazardous Substances Account Act [Health and Safety Code §§25100 et seq.]; the California Safe Drinking Water and Toxic Enforcement Act [Health and Safety Code §§24249.5 et seq.]; the Porter-Cologne Water Quality Act [Water Code §§13000 et seq.], together with any amendments of or regulations promulgated under the statutes cited above, and any other federal, state or local law, statute, ordinance or regulation now in effect or later enacted that pertains to the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use.

"Expiration Date" means the date on which the Team Agreement expires pursuant to Section 2.3.3 of the Team Agreement, which date will be the Initial Expiration Date, the First Renewal Expiration Date, or the Second Renewal Expiration Date (as such terms are defined in the Team Agreement), as applicable.

"Fee Estate" means the City's fee title interest in the Parking Land and the Parking Facilities.

"First ArenaCo Lender" means the holder of the Security Interest constituting a first lien on the Management Rights.

"Force Majeure Event" is defined in Section 18.3.

"Foreclosure Event" means a foreclosure, trustee's sale, deed, transfer, assignment or other conveyance in lieu of foreclosure, or other similar exercise of rights or remedies under any Security Interest, including the occurrence of any transfer of title to the encumbered estate by operation of or pursuant to any Bankruptcy Proceeding, in each

case whether the transferee is a ArenaCo Lender, a party claiming through a ArenaCo Lender, or a third party.

"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 Parking Facilities or the Parties.

"Hazardous Substances" means: (A) those substances included within the definitions of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste, or pollutant or contaminant under any Environmental Law; (B) those substances listed in the United States Department of Transportation Table [49 CFR § 172.101], or by the Environmental Protection Agency, or any successor agency, as hazardous substances [40 CFR Part 302]; (C) other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state or local laws or regulations; and (D) any material, waste, or substance that is one of the following; a petroleum or refined petroleum product; asbestos; polychlorinated biphenyl; designated as a hazardous substance pursuant to 33 USCS §1321 or listed pursuant to 33 USCS §1317; a flammable explosive; or a radioactive material.

"Indemnitee" is defined in Section 11.3.

"Indemnifying Party" is defined in Section 11.3.

"Institutional Lender" means: (A) any of the following having a total net worth or shareholders' equity (on the date when its Security Interest is executed and delivered, or on the date of such ArenaCo Lender's acquisition of its Security Interest by assignment from the previous ArenaCo Lender) of at least Three Hundred Million Dollars (\$300,000,000): a bank, trust company, insurance company, credit union, savings bank, pension, welfare or retirement fund or system, real estate investment trust (or an umbrella partnership or other entity of which a real estate investment trust is the majority owner), finance company, public or quasi-public agency, authority, or other entity, federal or state agency regularly making or guaranteeing mortgage loans, investment bank, or a subsidiary of a Fortune 500 company (such as AT&T Capital Corporation or General Electric Capital Corporation); (B) a real estate mortgage investment conduit or securitization trust; (C) a trustee or issuer of collateralized mortgage obligations or similar investment entity (provided that such trustee, issuer, or other entity is publicly traded or is sponsored by an entity that otherwise constitutes an Institutional Lender); (D) any entity of any kind actively engaged in commercial real estate financing having a total net worth or shareholders' equity (on the date when its Security Interest is executed and delivered, or on the date of such ArenaCo Lender's acquisition of its Security Interest by assignment from the previous ArenaCo Lender) of at least Three Hundred Million Dollars (\$300,000,000); (E) the NBA, or any of its Affiliates; or (F) a Person that is a wholly owned subsidiary of or is a combination of any one or more of the Institutional Lenders listed in subparagraphs (A) through (E) hereof,

including any of the foregoing when acting as trustee for other lender(s) or investor(s), whether or not such other lender(s) or investor(s) are themselves Institutional Lenders. An Institutional Lender also includes any financing entity which serves to further the financing structure in connection with a financing transaction that utilizes other Institutional Lenders for the purpose of financing, collateral assignment, guaranty, participation, and other functions which coordinate and cooperate with Institutional Lenders.

"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 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.

"Interim Agreement" is defined in Section 3.3(E).

"Lease Impairment" means any (A) cancellation, amendment, modification, rejection surrender (whether voluntary or otherwise), or termination of this Agreement (other than a termination by the City pursuant to the City's rights as expressly provided hereunder), including upon a casualty or condemnation affecting the Parking Facilities or the Parking Land, (B) consent, or affirmative acquiescence, by ArenaCo to a sale of any property, or interest in any property, under 11 U.S.C. § 363 or otherwise in any Bankruptcy Proceeding by the City, (C) exercise of any right of ArenaCo to treat this Agreement as terminated under 11 U.S.C. § 365(h)(1)(A)(i) or any comparable provision of law, or (D) subordination of this Agreement or the Management Rights to any other estate or interest in the Parking Facilities or the Parking Land.

"Losses" is defined in Section 11.1.

"Macy's" is defined in Section 3.3(B).

"Maintenance and Repair Standard" means a level of maintenance and repair that (A) is appropriate for and consistent with the Arena and other retail, office and hotel business in the downtown plaza area being proposed in connection therewith; (B) complies with all Applicable Law; and (C) remains Compatible with PARCS during the Term. Without limiting the foregoing, compliance with the Maintenance and Repair Standard shall include ArenaCo meeting maintenance and repair standards consistent with then-

current City practices for facilities in the downtown area. These City maintenance and repair standards currently include: all ordinary maintenance and repair of the Parking Facilities and replacement of supplies that are normally performed on a day-to-day basis in order to keep the Parking Facilities operating in an efficient, clean, safe, and good condition), which shall include, without limitation: replacing bulbs, fluorescent tubes, metal halide bulbs, or other lamps; replacing tickets in ticket issuing machines; replacing printer ribbons, journal and receipt tape; replacing arms on traffic entry and exit gates; cleaning revenue control equipment; maintaining security and access system; repairing, replacing and cleaning signs; regular cleaning of offices, bathrooms, personnel stations, entry/exit lanes, and general parking areas, stairwells, regular washing of all windows; regular cleaning of office and personnel stations' floors, walls, ceilings, and glass; regular removal of graffiti, and the regular removal of debris and oil; cleaning of the elevators and lobby areas; removal of all trash; cleaning expansion joints, railings, windows and ledges, light fixtures, doors, and frames; replenish soap, paper towels, toilet paper, seat covers; sanitize and clean toilets and sinks; clean floors, light fixtures, walls, partitions, stairs, air louvers, and grilles; inspect stand pipes and damaged wheel stops; periodic shampoo and steam cleaning of rugs and carpets in offices; removal of cobwebs, carbon, and dust; providing monthly safety inspections of life safety systems, call boxes, elevators, fire control, and mechanical ventilation systems; providing monthly safety inspections of the condition of the Parking Facilities; identifying and removing all potential hazards; painting areas needing touch-up; landscaping plant maintenance; and maintain and repair all mechanical, electrical, and utility facilities and systems that are a part of or serve the Parking Facilities (including, without limitation, sprinkler and fire control systems, parking revenue control equipment, mechanical venting systems, lighting and emergency lighting systems, rollup doors, and traffic barriers); and (2) the following long term maintenance standards as needed to maintain the standard described herein: re-apply cove sealant; re-rout/seal floor cracks and joints on the roof level and lower levels; re-coat the urethane traffic topping; re-apply concrete sealer; replace expansion joints; maintain, repair, and replace elevators; repair non-working light fixtures; clean floor drains and lines; replace lighting system; upgrade fire alarm system along with elevator replacement; perform PT tendon repair every year; repaint parking stalls and traffic markings; pressure-wash the façade; paint interiors and façade. If at any time during the Term, the Parties cannot agree on whether a level of maintenance and repair meets the Maintenance and Repair Standard, the Parties shall reasonably agree on an independent third party parking consultant experienced with the operations and maintenance of parking facilities of similar size and operations to assist the Parties in making such determination. If after engaging the third party parking consultant the Parties cannot agree on the standard, the Parties shall follow the provisions set forth in Section 15.

"Management Rights" means ArenaCo's rights, titles, and interests arising under this Agreement.

"Management Rights Commencement Date" means the ESC Land Closing Date (as such term is defined in the Property Conveyance Agreement and Joint Escrow Instructions between the City, SBH Downtown LLC, a Delaware limited liability company, SBH Natomas LLC, a Delaware limited liability company, SBH Real Estate Group LLC, a Delaware limited liability company, and SG Downtown LLC, a Delaware limited liability company, dated as of the Effective Date).

"Management Rights Term" is defined in Section 1.3(b).

"Master Site Lease and Master Project Lease" means (A) that certain Master Site Lease between City and City of Sacramento Financing Authority, dated December 14, 1999 (as amended), and recorded in the Sacramento County Clerk and Recorder's Office at Book 19991214 and Page 1004, and (B) that certain Master Project Lease between City and City of Sacramento Financing Authority, dated December 14, 1999 (as amended), and recorded in the Sacramento Clerk and Recorder's Office at Book 19991214 and Page 1005, respectively.

"Mezzanine Financing" is defined in Section 13.12.

"Mezzanine Lender" is defined in Section 13.12.

"NBA" is defined in the Background.

"New Agreement" is defined in Section 13.8.

"New Agreement Delivery Date" is defined in Section 13.8(A).

"New Operator" means a Person, including, without limitation, ArenaCo Lender or its assignee, nominee or designee, that (A) acquires the Management Rights through a Foreclosure Event, or (B) enters into a New Agreement with the City under Section 13.8.

"Operations Standard" means (subject to changing standards of parking facilities of comparable size and operations) meeting operations standards consistent with then-current City practices for facilities in the downtown area. These operations standards currently are a level of operation that: (A) provides "first-class" parking services of a standard at least consistent with that existing prior to this Agreement (which standard constitutes "first-class" for purposes hereof), and which can efficiently and safely accommodate vehicular and pedestrian traffic entrance and exit volumes during events at the Arena and other high peak times in the City downtown area; (B) includes, at a minimum, industry standard level of cleanliness in all Parking Facilities open to patrons; (C) complies with all Applicable Law; and (D) complies with the POMA. The City represents and warrants that the Parking Facilities comply with the foregoing requirements as of the Effective Date. Without limiting the foregoing (but subject to changing standards of parking facilities of comparable size and operations), compliance with the Operations Standard shall include ArenaCo: (1) managing and supervising the

operation of the Parking Facilities, subject to, and in accordance with all the terms and provisions of this Agreement and the POMA; (2) providing and maintaining standards of public health and cleanliness; (3) keeping all areas of the Parking Facilities in good order and repair and in good and safe condition; (4) regulating and supervising the parking of motor vehicles in the Parking Facilities in a manner that will facilitate the orderly, efficient, fast, and safe parking of the vehicles and prevent obstruction of traffic on adjoining streets; (5) requiring employees to wear name badges and post placards at booths; (6) keeping lights in good working order; (7) treating all members of the public with courtesy; do all other things reasonably necessary for the safe and efficient operation of the Parking Facilities; (8) providing and managing custodial maintenance services; (9) ensuring that parking lot customers receive consistently high levels of service and that customers in the lots experience no undue delays in entering or leaving lots; (10), ensuring all employees maintain professional grooming standards and are in full uniform while on duty; (11) ensuring that all parking equipment is clean and in good working order at all times; (12) ensuring all exit booths are clean and maintained in a professional manner at all times; and (13) providing quality control by use of a third party "mystery shop". If at any time during the Term, the Parties cannot agree on whether a level of operations meets the Operations Standard, the Parties shall reasonably agree on an independent third party parking consultant experienced with the operations and maintenance of parking facilities of similar size and operations to assist the Parties in making such determination. If after engaging the third party parking consultant the Parties cannot agree on the standard, the Parties shall follow the provisions set forth in Section 15.

"PARCS" means the certified Parking Access and Revenue Control Systems, as may be updated and replaced from time to time, used by the City at its other City parking facilities.

"PARCS Integrated" means the various Parking Facilities components (gate arms, ticket dispensers, payment stations, cashier stations, validation systems, etc.) remain connected and functional with PARCS, in which case ArenaCo would enter into a subcontract with the City to run the Parking Facilities. For PARCS Integrated, ArenaCo, through the subcontract with the City, shall have the right to utilize the PARCS hub and the City's fiber optic systems and related conduit and facilities that provide connectivity from the Parking Facilities to the PARCS hub. Upon the expiration of the Term or earlier termination of this Agreement, the City will have the ability to assume control and operation of the Parking Facilities by connecting the Parking Facilities components through the City's network to the City's central control system, without replacement of any Parking Facilities components.

"PARCS Matching" means the various Parking Facilities components (gate arms, ticket dispensers, payment stations, cashier stations, validation systems, etc.) are connected to a standalone hub that will be constructed and installed by ArenaCo, at its sole cost and expense, on or about the Parking Land. For PARCS Matching, although the system

would not be connected to or able to communicate with PARCS, the system would be required to be maintained at a similar level to PARCS. If ArenaCo elects PARCS Matching, given that both City and ArenaCo desire an efficient handover of the Parking Facilities at the expiration or termination of this Agreement, ArenaCo shall at all times consider in good faith continuing to ensure that any upgrades, replacements or modifications thereafter are compatible with PARCS to the extent possible under the circumstances; provided however, that: (i) nothing herein shall require ArenaCo to expend additional funds to maintain such compatibility for PARCS Matching and (ii) ArenaCo shall retain sole discretion to determine whether to maintain such compatibility.

"Parking Facilities" means the Parking Land and the parking facilities and related infrastructure and equipment commonly known as Downtown Plaza West (Facility G), Downtown Plaza East (Facility K), and Downtown Plaza Central (Facility U), as may be reconfigured or replaced from time to time during the development and construction of the Arena and surrounding areas, which provide parking for the Arena and provide various other businesses in the adjacent development located in the City of Sacramento downtown area. Notwithstanding anything to the contrary contained herein, the City owns the Parking Facilities.

"Parking Land" means the land depicted in Exhibit A (as may be adjusted in the event that any Parking Facilities are demolished or reconstructed in connection with the Work).

"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.

"Personal Default" means any nonmonetary default under this Agreement that is not susceptible to cure by a ArenaCo Lender.

"Plaza Operations Agreements" means the (i) 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, (ii) 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 (iii) the Parking Operation and Maintenance Agreement (as same may be amended and restated, the "POMA"), dated as of November 30, 1992, and recorded on October 15, 1993, in Book 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, including, without limitation the amended and

restated agreements that the parties intend to enter into following the date of this Agreement.

"**Pre-Existing Violations**" is defined in Section 3.3(A).

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

"**Required Restoration Condition**" means, with respect to any damage or destruction of the Parking Facilities or the Parking Land (including due to a partial Condemnation Action), the condition of the Parking Facilities and the Parking Land, after repair and restoration that (A) is equal to or better than the condition immediately preceding such damage or destruction, and (B) complies with the terms and conditions of this Agreement (including the Maintenance and Repair Standard and the Operations Standard).

"**Security Interest**" means a security interest, or any similar other instrument or agreement constituting a lien upon, or similarly encumbering, the Management Rights held by a lender other than ArenaCo or an Affiliate of ArenaCo as renewed, restated, modified, consolidated, amended, extended, or assigned (absolutely or collaterally) from time to time.

"**Tax**" means any general or special, ordinary or extraordinary, tax, imposition, assessment, levy, usage fee, excise, or similar charge (including any ad valorem or other property taxes), however measured, regardless of the manner of imposition or beneficiary, that is imposed by any Governmental Authority. Without limiting the generality of the foregoing, "Tax" expressly includes any and all assessments or similar charges imposed by the Downtown Sacramento Partnership, Property Based Improvement District.

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

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

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

"**Term**" is defined in Section 1.3.

"**Walker Report**" is defined in Section 3.3(G)

"**Work**" is defined in the Design and Construction Agreement.

* * *

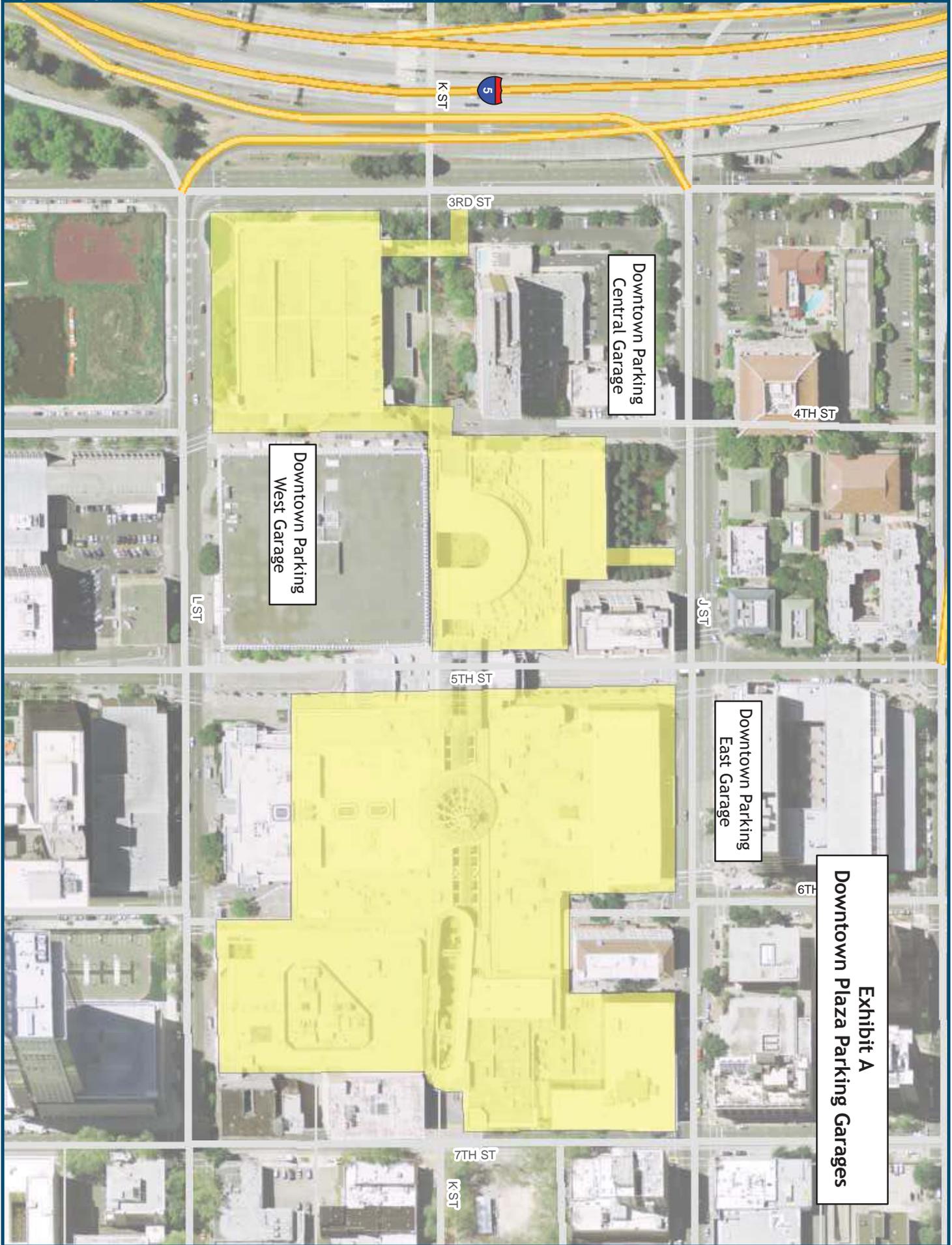
IN WITNESS WHEREOF, the Parties have entered in this Agreement as of the day and year first above written.

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

Exhibit A
to
Arena Parking Management Agreement

Parking Land

(see attached)



Downtown Parking
Central Garage

Downtown Parking
West Garage

Downtown Parking
East Garage

Exhibit A
Downtown Plaza Parking Garages

Exhibit B
to
Arena Parking Management Agreement

Insurance

1. Insurance

1.1 Required Insurance. ArenaCo shall, at its sole expense, unless otherwise expressly agreed by the City in writing, procure and maintain in full force and effect at all times during the Management Rights Term, the following:

- (A) Property insurance for the Parking Facilities covering real property, personal property, business income, and extra expense for all risks of physical loss or damage written on the broadest available Cause of Loss Form acceptable to the City in an amount not less than the Minimum Property Insurance Coverage with no coinsurance penalty provisions. "**Minimum Property Insurance Coverage**" means, at any given time, 100% of the full replacement cost (new without deduction for depreciation) of the Parking Facilities. Property coverage shall include earthquake, earthquake sprinkler leakage, and flood, and (i) such earthquake coverage have a limit equal to (or greater than) the Minimum Property Insurance Coverage if such a limit is available at commercially reasonable rates (failing which such earthquake coverage shall have reasonable limits or sub-limits that are determined by "Probable Maximum Loss" calculations which are acceptable to the City) and (ii) such earthquake sprinkler leakage and flood coverage shall have reasonable limits or sub-limits that are determined by "Probable Maximum Loss" calculations which are acceptable to the City. Property coverage shall also include boiler and machinery coverage. Business income and extra expense coverage shall contain limits sufficient to cover all direct and indirect loss of income and additional expenses for the business operations of the Parking Facilities for the appropriate period of time necessary to complete repairs of all real and personal property. Business income coverage shall include an extended period of indemnity of at least 12 months. Any deductibles or self-insured retentions must be declared and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed), provided that in no event will the amount of coverage, after taking into account any such deductibles or self-insured retentions, be less than the Minimum Property Insurance Coverage.
- (B) Commercial general liability insurance (CGL) written on an "occurrence" policy form and covering liability for death, bodily injury, personal injury, and property damage with limits of \$10,000,000 per occurrence relating, directly or indirectly, to ArenaCo's business operations, conduct, or use or occupancy of the Parking Facilities. Such coverage shall include all activities and operations conducted by

any Person on or about the Parking Facilities, and any work performed by or on behalf of ArenaCo at the Parking Facilities. Coverage should be as broad as ISO policy form CG 0001, or any replacement thereof that becomes standard in the insurance industry, or an equivalent form acceptable to the City. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the Parking Facilities project/location or the general aggregate limit shall be twice the required occurrence limit. If a Products/Completed Operations aggregate limit applies, either the Products/Completed Operations aggregate limit shall apply separately to the Parking Facilities project/location or the Products/Completed Operations aggregate limit shall be twice the required occurrence limit. ArenaCo shall require all of ArenaCo's contractors, subcontractors, vendors, agents, and representatives involved in work or operations at the Parking Facilities to meet the CGL requirements of this section with limits of at least \$2,000,000 per occurrence and \$4,000,000 aggregate. Any deductibles or self-insured retentions must be declared and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed).

- (C) Automobile Liability covering death, bodily injury, and property damage for the operation of all owned, non-owned, leased, and hired vehicles with limits of \$5,000,000 per accident. ArenaCo shall require all of ArenaCo's contractors, subcontractors, vendors, agents, and representatives involved in work or operations at the Parking Facilities to meet the Automobile Liability requirements of this section with limits of \$2,000,000 per accident. Any deductibles or self-insured retentions must be declared and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed).
- (D) Workers' Compensation insurance as required by the State of California with statutory limits and Employers' Liability insurance with a limit of no less than \$3,000,000 per accident for bodily injury or disease. ArenaCo shall require all of ArenaCo's contractors, subcontractors, vendors, agents, and representatives involved in work or operations at the Parking Facilities to meet the Workers' Compensation requirements of this section. Any deductibles or self-insured retentions must be declared and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed).
- (E) Pollution insurance for the benefit of ArenaCo and the City covering first and third party claims with limits of \$5,000,000 each occurrence or claim and \$10,000,000 Policy Annual Aggregate. Any deductibles or self-insured retentions must be declared and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed).
- (F) Builder's Risk insurance covering real property, personal property, consequential loss of revenue (rents and earnings) and customary "soft costs" for up to 24 months, including interest costs or expenses because of delay of start-up due to an insured loss. Coverage shall be for all risks of physical loss or damage written

on the broadest available Cause of Loss Form acceptable to the City for the Minimum Property Insurance Coverage with no coinsurance penalty provisions. Coverage shall include earthquake, earthquake sprinkler leakage, and flood with reasonable limits or sub-limits that are determined by "Probable Maximum Loss" calculations which are acceptable to the City. ArenaCo shall require all of ArenaCo's contractors, subcontractors, vendors, agents, and representatives involved in work or operations on site at the Parking Facilities to provide a "Property Installation Floater" covering damage to real property, personal property, machinery, or equipment impaired, broken, or destroyed, including transit to the construction site or while awaiting installation or testing at the construction site. Any deductibles or self-insured retentions must be declared and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed).

- (G) Professional Liability insurance covering design errors and omissions with limits no less than \$5,000,000 each occurrence or claim and \$10,000,000 Policy Annual Aggregate. Any deductibles or self-insured retentions must be declared and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed).
- (H) Garagekeepers' liability policy with minimum limit of not less than \$50,000 per vehicle and \$1,000,000 per occurrence. Any deductibles or self-insured retentions must be declared and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed).

1.2 General Provisions for ArenaCo's Insurance.

- (A) The obligations of ArenaCo set forth in this Exhibit B are independent of ArenaCo's waiver, indemnification, or other obligations under this Agreement and shall not be construed or interpreted in any way to restrict, limit, or modify ArenaCo's waiver, indemnification, or other obligations or to in any way limit ArenaCo's liability under this Agreement.
- (B) All insurance policies required under this Exhibit B (including endorsements thereto) shall, unless otherwise expressly agreed by the City in writing, be issued by insurance companies authorized to do business in the State of California and rated "A-VIII" or better by A.M. Best Company (or equivalent).
- (C) All CGL policies required under Section 1.1(B) shall be endorsed to name the City, the holders of Security Interests, and their respective officers, officials, employees, agents, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of ArenaCo and its contractors, subcontractors, agents, representatives, and employees. Such additional insured coverage should include completed operations and be provided by an endorsement (at least as broad as ISO Form CG 20 10 11 85 or

through the combination of GC2038 04/13 and CG2037 04/13). For any claims related to the Parking Facilities, all CGL policies shall be primary insurance as respects the City, the holders of Security Interests, and their respective officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, the holders of Security Interests, and their respective officers, officials, employees, agents, or volunteers shall be excess of the required CGL policies and shall not contribute with them. ArenaCo shall maintain the above additional insured coverage (including Products/Completed Operations) for an additional ten years beyond the expiration or earlier termination of this Agreement. ArenaCo shall require all contractors, subcontractors, vendors, agents, and representatives involved in work or operations at the Parking Facilities to meet the requirements of this section.

- (D) ArenaCo's automobile liability policy shall contain or be endorsed to contain the City, the holders of Security Interests, and their respective officers, officials, employees, agents, and volunteers as additional insureds with respect to liability arising out of the operation of all owned, non-owned, leased, and hired vehicles. Additional insured coverage can be provided in the form of an endorsement to ArenaCo's insurance (at least as broad as ISO Form CA2048 Designated Insured Endorsement). For any claims related to automobile liability, the automobile liability policy shall be primary insurance as respects the City, the holders of Security Interests, and their respective officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, and the holders of Security Interests, and their respective officers, officials, employees, agents, and volunteers, shall be excess of the required automobile liability insurance and shall not contribute with it. ArenaCo shall require all contractors, subcontractors, vendors, agents, and representatives involved in work or operations at the Parking Facilities to meet the requirements of this section.
- (E) All policies for property insurance, pollution insurance, and builder's risk insurance required under this Agreement shall name ArenaCo, the City, any holders of Security Interests, and such other Persons who have an insurable interest in the Parking Facilities as "loss payees" to the extent of their insurable interest in the Parking Facilities.
- (F) ArenaCo shall require its insurers to waive rights of subrogation against the City and the holders of Security Interests, and their respective officers, officials, employees, agents, or volunteers, which any insurer of ArenaCo may acquire by virtue of the payment of any loss. ArenaCo shall obtain any endorsements that may be necessary to effect this waiver of subrogation. Workers' Compensation policies required under this Exhibit B shall be endorsed with a waiver of subrogation in favor of the City and the holders of Security Interests, and their respective officers, officials, employees, agents, and volunteers, for all work performed. ArenaCo waives any claims against the City and the holders of

Security Interests, and their respective officers, officials, employees, agents, and volunteers, to the extent such claims are covered by the insurance required by this Exhibit B (or would have been so covered if such insurance was procured and maintained as required in this Exhibit B), and such insurance shall not prohibit the foregoing waiver. ArenaCo shall require all contractors, subcontractors, vendors, agents, and representatives involved in work or operations at the Parking Facilities to (i) to obtain such a waiver of subrogation in favor of ArenaCo, the City, and the holders of Security Interests, and their respective officers, officials, employees, agents, and volunteers, from their respective insurers, and (ii) to waive any claims against ArenaCo, the City, and the holders of Security Interests, and their respective officers, officials, employees, agents, and volunteers, to the extent such claims are covered by the insurance required by this Exhibit B (or would have been so covered if such insurance was procured and maintained as required in this Exhibit B), and such insurance shall not prohibit the foregoing waiver.

- (G) If any coverage required is written on a claims-made coverage form:
- (1) The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work.
 - (2) Insurance must be maintained and evidence of insurance must be provided for at least ten years after completion of contract work.
 - (3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work, date, ArenaCo must purchase extended reporting period coverage for a minimum of ten years after completion of contract work and require all contractors, subcontractors, vendors, agents, and representatives involved in the applicable work or operations at the Parking Facilities to do the same.
- (H) If ArenaCo or any of its contractors, subcontractors, vendors, agents, representatives, or employees involved in work or operations of the Parking Facilities maintain higher limits than the minimums shown in this Exhibit B, the City and the holders of Security Interests require and shall be entitled to coverage for the higher limits maintained by such Person(s). Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City and the holders of Security Interests. ArenaCo shall require all contractors, subcontractors, vendors, agents, and representatives involved in work or operations at the Parking Facilities to comply with this section.
- (I) ArenaCo shall ensure that the Products/Completed Operations coverage in the CGL policy (Section 1.1(B)), the Pollution insurance (Section 1.1(E)), and the

Professional Liability insurance (Section 1.1(G)) remain in effect for a period of ten years after the expiration or earlier termination of this Agreement.

1.3 Adjustment. The foregoing coverages, policy limits, and deductibles shall be reviewed every five years and may be adjusted if prudent, considering levels of inflation, risk of loss, premium expenses, and other relevant factors, including the then practice of other prudent property owners in the vicinity of the Parking Facilities and other prudent owners of parking facilities of comparable size and operations to the Parking Facilities; provided, however, that the amount of property damage insurance shall never be less than the Minimum Property Insurance Coverage.

1.4 Required Insurance Policy Clauses. Each policy of insurance required to be carried pursuant to the provisions of this Exhibit B shall contain (A) a provision that no act or omission of any of the insureds shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained, (B) an agreement by the insurer that such policy shall not be canceled, modified, or denied renewal without at least 30 days' prior written notice to each Party and all other named or additional insureds, and (C) with respect to property insurance, a waiver of subrogation by the insurer to any right to recover the amount of any loss resulting from the negligence of the City, ArenaCo, the holders of Security Interests, or any of their contractors, subcontractors, vendors, agents, representatives, or employees.

1.5 Blanket or Umbrella Policies. The insurance required to be carried by ArenaCo pursuant to the provisions of this Exhibit B may, at ArenaCo's option, be effected by blanket or umbrella policies issued to ArenaCo covering the Parking Facilities and other properties owned or leased by ArenaCo or Affiliates thereof, provided such policies otherwise comply with the provisions of this Agreement and provide to the Parking Facilities not less than the specified coverage, including, the specified coverage for all insureds required to be named as insureds under this Agreement.

1.6 Delivery of Evidence of Insurance. With respect to each and every one of the insurance policies required to be procured or maintained under the terms of this Agreement, (A) on or before the date that each such policy is required to be first procured, (B) at least 30 days before the expiration of any such policy, and (C) otherwise from time to time upon the City's reasonable request therefor, ArenaCo shall deliver to the City and to the holders of Security Interests evidence showing that such insurance (including any endorsements required by this Agreement) is in full force and effect. Such evidence shall include certificates of insurance issued by a responsible officer of the issuer of such policies, or in the alternative, a responsible officer of an agent authorized to bind the named issuer, setting forth the name of the issuing company, the coverage, limits, deductibles, and the term thereon. By no later than (i) 30 days after the effective date of any insurance policy required under this Agreement, ArenaCo shall provide the City and the holders of Security Interests with reasonable evidence that premiums have either been paid in full or, if the premiums are payable in installments, the installments have been paid to date and (ii) 120 days after the effective date of any issuance policy required under this Agreement, ArenaCo shall provide the City and the holders of Security Interests with a complete copy of such insurance policy and all endorsements thereto.

1.7 No Insurable Interest in the City's Insurance. Notwithstanding any Applicable Law or custom to the contrary, no insurable interest is conferred upon ArenaCo under policies of insurance carried by the City and the City is in no way accountable to ArenaCo regarding the use of any insurance proceeds arising from any claim.

Exhibit C
to
Arena Parking Management Agreement

Interim Agreement

(see attached)

Schedule 8.2(D)
to
Arena Parking Management Agreement

Litigation

1. CASE NO.: 34-2014-00156358
CASE TITLE: CITY OF SACRAMENTO
vs.
STATE OF CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM, US
BANK A NATIONAL ASSOCIATION, C-III ASSET MANAGEMENT LLC, and
DOES 1 through 50, inclusive.

2. CASE NO.: 34-2013-80001489
CASE TITLE: ISAAC GONZALEZ, JAMES CATHCART, and JULIAN CAMACHO,
vs.
KEVIN JOHNSON, JOHN SHIREY, JOHN DANGBERG,
CITY OF SACRAMENTO, and DOES 1 through 40, inclusive.