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Coyote Center Development, LLC
4040 East Camelback Road, Suite 250
Phoenix, Arizona 85018
Attention: Robert P. Kaufman

C-4418

MIXED-USE

DEVELOPMENT AGREEMENT

by and among

CITY OF GLENDALE,
an Arizona municipal corporation ("City")

and

COYOTE CENTER DEVELOPMENT, LLC,
a Delaware limited liability company ("Entertainment Developer")

and

GLENDALE-101 DEVELOPMENT, LLC,
a Delaware limited liability company ("Retail/Residential Developer")

Dated as of November 29, 2001

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TABLE OF CONTENTS

		Page
ARTICLE 1	DEFINITIONS; INTERPRETATION	3
1.1	Definitions	3
1.2	Accounting Terms	10
1.3	Captions	10
1.4	Cross References	10
1.5	Terms	10
1.6	Exhibits	10
1.7	Language	10
ARTICLE 2	NO WAIVER OF CITY'S GOVERNMENTAL POWERS	11
ARTICLE 3	ENTERTAINMENT PROJECT AND RETAIL/RESIDENTIAL PROJECT; PARKING ADVERTISING AND PARKING NAMING RIGHTS	11
3.1	Description of Entertainment Project	11
3.2	Description of Retail/Residential Project	11
3.3	Parking Advertising and Parking Naming Rights	11
ARTICLE 4	ACQUISITION OF LAND; SURVEYS; PERMITS; CONVEYANCES OF PORTIONS OF PARKING LAND	12
4.1	Acquisition of Land	12
4.2	Applications and Approvals for Land Uses	13
4.3	Surveys	14
4.4	Approvals and Permits for Construction	15
4.5	Covenants, Conditions, Restrictions and Easements	15
4.6	Conveyances of Parking Land for Development	15
ARTICLE 5	MINIMUM DEVELOPMENT	26
5.1	Minimum Required Development	26
5.2	Issuance of City Financial Obligations	27
ARTICLE 6	INSURANCE	28
6.1	Entertainment Developer Insurance	28
6.2	Retail/Residential Developer Insurance	28
6.3	Waiver of Recovery	28
6.4	Specific Insurance Requirements	28

TABLE OF CONTENTS
(Continued)

		Page
ARTICLE 7	REPRESENTATIONS, WARRANTIES AND COVENANTS	29
7.1	Entertainment Developer Representations, Warranties and Covenants	29
7.2	Retail/Residential Developer Representations, Warranties and Covenants	30
7.3	City Representations, Warranties and Covenants	31
7.4	Mutual Covenants	31
ARTICLE 8	CONDITIONS PRECEDENT	32
8.1	Conditions Precedent for the Benefit of the Entertainment Developer	32
8.2	Conditions Precedent for the Benefit of the Retail/Residential Developer	33
8.3	Conditions Precedent for the Benefit of the City	33
ARTICLE 9	EVENTS OF DEFAULT; REMEDIES	34
9.1	Event of Default	34
9.2	Remedies	36
9.3	Rights and Remedies are Cumulative	37
9.4	Acceptance of Legal Process	37
ARTICLE 10	LENDER'S PROTECTION	38
10.1	Entertainment Developer Lender's Protection	38
10.2	Retail/Residential Developer Lender's Protection	40
ARTICLE 11	ARBITRATION	41
ARTICLE 12	MISCELLANEOUS	44
12.1	Entertainment Developer Representative	44
12.2	Retail/Residential Developer Representative	44
12.3	City Representative	44
12.4	Amendment; Waiver	44
12.5	Consent	45
12.6	Severability	45
12.7	Binding Effect	45
12.8	Relationship of Parties	45
12.9	Notices	45
12.10	Applicable Law	47

TABLE OF CONTENTS
(Continued)

Page

12.11 Time is of the Essence 47
12.12 Counterparts 47
12.13 Entire Agreement; Conflict 47
12.14 Conflicts of Interest 47
12.15 Saturday, Sunday or Holiday 48
12.16 Attorneys' Fees 48
12.17 Force Majeure 48
12.18 Agreed Extensions 49
12.19 Liability Limitation 49
12.20 Assignment and Delegation 49
12.21 Sale and/or Lease of Land or Improvements 50
12.22 Construction of Qualified Use Space 50
12.23 Estoppel Certificate 50
12.24 Recordation 50
12.25 Termination Pursuant to Arena Development Agreement 50
12.26 Termination Statement 50
12.27 Team's Legal Opinion 51

MIXED-USE DEVELOPMENT AGREEMENT

THIS MIXED-USE DEVELOPMENT AGREEMENT (this "**Agreement**") is dated as of November 29, 2001 (the "**Agreement Effective Date**"), and is entered into by and among the City of Glendale, an Arizona municipal corporation (the "**City**"); Coyote Center Development, LLC, a Delaware limited liability company (the "**Entertainment Developer**"); and Glendale-101 Development, LLC, a Delaware limited liability company (the "**Retail/Residential Developer**"). Capitalized terms that are used in this Agreement shall have the meanings ascribed to them in Section 1.1.

RECITALS:

A. On April 11, 2001, the City, Ellman Holdings, Inc., an Arizona corporation ("**Ellman**"), and Coyotes Hockey, LLC, a Delaware limited liability company (the "**Team**"), entered into a Memorandum of Agreement for Development of Hockey Arena Site (City of Glendale Contract C-4264) (the "**MOA**") setting forth the basic terms and conditions under which Ellman agreed to develop the Arena Facility, the Parking Improvements and the Infrastructure Improvements, all to be located in the City of Glendale. Ellman acquired the rights to purchase the Land (on which the Arena Development Project, the Entertainment Project and the Retail/Residential Project are contemplated to be developed), and has transferred those rights to the Entertainment Developer.

B. Pursuant to Section 21 of the MOA, Ellman delivered written notice to the City of the creation of each of Arena Development, LLC, a Delaware limited liability company (the "**Arena Developer**"), the Entertainment Developer and the Retail/Residential Developer, together with evidence reasonably acceptable to the City that each of the Arena Developer, the Entertainment Developer and the Retail/Residential Developer is in good standing in the State of Arizona. Accordingly, the Arena Developer has become a successor to Ellman under the MOA with respect to the Arena Development Project, the Entertainment Developer has become a successor to Ellman under the MOA with respect to the Entertainment Project, and the Retail/Residential Developer has become a successor to Ellman under the MOA with respect to the Retail/Residential Project.

C. As of the Agreement Effective Date, (i) the City, the Arena Developer and the Entertainment Developer are entering into that certain Arena Development Agreement (the "**Arena Development Agreement**") with respect to the development of the Arena Development Project; and (ii) the City, the Arena Manager, the Entertainment Developer, the Retail/Residential Developer and the Team are entering into that certain Arena Management, Use and Lease Agreement (the "**Arena Management Agreement**") with respect to the management and use of the Arena.

D. The City has determined that it is in the best interest of the City and its residents to (i) facilitate the development of the Arena Development Project in the manner described in the Arena Development Agreement; and (ii) provide for the management and use of the Arena in the manner described in the Arena Management Agreement. Such development, management and

use will benefit the City and its residents by providing a multi-purpose sports and entertainment facility, providing additional employment opportunities within the City, increasing the City's tax base, and stimulating additional development on properties in the vicinity of the Arena Development Project.

E. The development and operation of the Arena Development Project, the Entertainment Project and the Retail/Residential Project will require the Related Agreements.

F. The City anticipates that, as a result of the Team's commitment to relocate to the Arena in accordance with the Arena Management Agreement and to comply with the Team's covenant to play the Team's home games at the Arena Facility pursuant to Section 9.5 of the Arena Management Agreement, the Project will be developed and the City will achieve the expectations expressed in the pro forma financial information attached as Exhibit "A" to the Arena Management Agreement. The City's expectations for minimum development of the Entertainment Project and the Retail/Residential Project are set forth in Section 5.1, and the City's expectations for Qualified Tax Revenues from such minimum development are set forth in the Comparison Schedule. In order to assist in generating such Qualified Tax Revenues, the Entertainment Developer and the Retail/Residential Developer have agreed to timely develop or cause to be developed the minimum square footage of Qualified Use Space set forth in the Completion Schedule.

G. The Arena Development Agreement requires that the Team execute and deliver to the City that certain Team Guaranty (the "**Team Guaranty**"), which will provide for certain payments by the Team in the event that both (i) the Entertainment Developer and/or the Retail/Residential Developer fail to timely develop or cause to be timely developed the Qualified Use Space in the manner required by this Agreement, and (ii) an Initial Term Tax Shortfall or an Extended Term Tax Shortfall, as applicable, exists.

H. Pursuant to the Arena Development Agreement, the Entertainment Developer has agreed to transfer and convey the Parking Land to the City, the Arena Developer has agreed to cause the Parking Improvements to be constructed on the Parking Land, and the Parking Land and the Parking Improvements will become part of the Arena.

I. The parties hereto anticipate that the development of the Entertainment Project may require that portions of the Parking Land (and any Parking Improvements thereon) be conveyed by the City to the Entertainment Developer for development as part of the Entertainment Project, in which event the Entertainment Developer will provide to the City suitable replacements for the parking spaces that will be lost as a result of such conveyance. The parties hereto desire to provide for the manner by which any such conveyance will be implemented.

J. As of the Agreement Effective Date, Ellman, the Arena Developer, the Team, the Arena Manager, the Entertainment Developer and the Retail/Residential Developer are Affiliates.

K. The health, safety and general welfare of the people of the City are directly dependent upon the continual encouragement, development, growth and expansion of business,

commerce and tourism. Attraction of business and tourism to the City as a result of the development of the Project and its ancillary uses will be an important factor in the continued encouragement, promotion, attraction, stimulation, development, growth and expansion of the City. The development and promotion of a multipurpose sports and entertainment complex will provide significant benefits to the City.

L. In view of the foregoing, the City has determined that the development and construction of the Entertainment Project and the Retail/Residential Project pursuant to the terms of this Agreement, and the granting of rights in connection with the Arena Development Project to the other parties to the Arena Development Agreement, the Arena Management Agreement and this Agreement, are in the best interests of the City and the welfare of its residents and in accord with valid public purposes.

M. The actions by the City required under this Agreement and the Related Agreements are the exercise of the City's proprietary powers and are not the exercise of the City's governmental, legislative, judicial or regulatory powers. Nothing in this Agreement shall be construed as a limitation on the exercise by the City of its governmental, legislative, judicial or regulatory powers.

N. In reliance upon and in consideration of the obligations of the Entertainment Developer and the Retail/Residential Developer under this Agreement, the City has: (i) entered into the Arena Development Agreement and the Arena Management Agreement; (ii) initiated (or will initiate) action to issue the City Financial Obligations; and (iii) undertaken its other obligations under this Agreement and the Related Agreements. Upon execution hereof, the City may take additional action at substantial additional cost to accomplish its objectives as described in this Agreement and the Related Agreements.

AGREEMENT:

NOW, THEREFORE, in consideration of the covenants, agreements and obligations contained herein, the parties hereby enter into this Agreement as a "Development Agreement" within the meaning of A.R.S. § 9-500.05, and agree as follows:

ARTICLE 1

DEFINITIONS; INTERPRETATION

1.1 Definitions. As used in this Agreement, the following terms shall have the meanings indicated unless a different meaning is specifically provided or unless the context otherwise requires:

"**AAA**" shall have the meaning set forth in Article 11.

"**Affiliate**" of a specified Person means a Person who (a) controls, is directly or indirectly controlled by, or is under common control with, the specified Person; (b) owns, directly or indirectly, ten percent (10%) or more of the equity interests of the specified Person; or (c) is a general partner (if the specified Person is a partnership), managing member or manager (if the specified Person is a limited liability company), officer, director, non-financial institution trustee

or fiduciary of the specified Person or of any Person described in clause (a) or (b) above; or (d) is a member of the Immediate Family of the specified Person or the Person described in clauses (a) through (c) above. A Person shall be deemed to control another Person for the purposes of this definition if the first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

"**Agreement**" shall have the meaning set forth in the initial paragraph hereof.

"**Agreement Effective Date**" shall have the meaning set forth in the initial paragraph hereof.

"**Agreement Term**" shall have the meaning set forth in the Arena Management Agreement.

"**Applicable Law**" means any law, statute, ordinance, rule, regulation, order or determination of any Governmental Authority, or any recorded restrictive covenant or deed restriction, affecting the Entertainment Project, the Retail/Residential Project, the Parking Land and/or the Parking Improvements, including those applicable to environmental, zoning, building code, health and safety and other similar matters.

"**Approved Plans and Specifications**" shall have the meaning set forth in Section 4.6(h).

"**Approved Replacement Parking Plan**" shall have the meaning set forth in Section 4.6(c).

"**Arbitration**" shall have the meaning set forth in Article 11.

"**Arbitration Dispute**" shall have the meaning set forth in Article 11.

"**Arbitrator**" shall have the meaning set forth in Article 11.

"**Arbitrator List**" shall have the meaning set forth in Article 11.

"**Arena**" shall have the meaning set forth in the Arena Management Agreement.

"**Arena Developer**" shall have the meaning set forth in Recital B.

"**Arena Development Agreement**" shall have the meaning set forth in Recital C.

"**Arena Development Project**" shall have the meaning set forth in the Arena Development Agreement.

"**Arena Facility**" shall have the meaning set forth in the Arena Development Agreement.

"**Arena Facility Land**" shall have the meaning set forth in the Arena Development Agreement.

"**Arena Management Agreement**" shall have the meaning set forth in Recital C.

"**Arena Manager**" shall have the meaning set forth in the Arena Management Agreement.

"**A.R.S.**" means Arizona Revised Statutes.

"**Business Day**" means any day other than a Saturday, a Sunday or a public or bank holiday or the equivalent for banks generally under the laws of the State of Arizona. Use of the word "day", as opposed to "Business Day", means calendar day.

"**Challenge**" shall have the meaning set forth in Section 7.4(b).

"**City**" shall have the meaning set forth in the initial paragraph hereof.

"**City Approved Environmental Assessment Report**" shall have the meaning set forth in Section 4.6(e)(i).

"**City Approved Title Commitment**" shall have the meaning set forth in Section 4.6(d)(i).

"**City Charter**" means the city charter adopted by the voters of the City of Glendale as from time to time in effect.

"**City Commitment Amount**" shall have the meaning set forth in the Arena Development Agreement.

"**City Encumbrance**" shall have the meaning set forth in the Arena Management Agreement.

"**City Financial Obligations**" shall have the meaning set forth in the Arena Development Agreement.

"**City Manager**" means the City Manager of the City.

"**City Representative**" shall have the meaning set forth in Section 12.3.

"**Claim or Loss**" means any claim, cost, damage, demand, expense, loss, obligation or other liability (including reasonable attorneys' fees), including those relating to property, injury to or death of persons, loss of income and losses under workers' compensation laws and benefits.

"**Closing**" shall have the meaning set forth in Section 4.6(g).

"**Closing Date**" shall have the meaning set forth in Section 4.6(g).

"**Comparison Schedule**" shall have the meaning set forth in the Team Guaranty.

"**Completion Schedule**" shall have the meaning set forth in Section 5.1.

"**Conveyance Parcel**" shall have the meaning set forth in Section 4.6(b)(i).

"**Cross Easements**" shall have the meaning set forth in Section 4.2(a).

"**Developer's Deposit**" shall have the meaning set forth in the Arena Development Agreement.

"**Easement Parcel**" shall have the meaning set forth in Section 4.6(b)(i).

"**Ellman**" shall have the meaning set forth in Recital A.

"**Entertainment Developer**" shall have the meaning set forth in the initial paragraph hereof.

"**Entertainment Developer Approved Environmental Assessment Report**" shall have the meaning set forth in Section 4.6(e)(ii).

"**Entertainment Developer Approved Title Commitment**" shall have the meaning set forth in Section 4.6(d)(ii).

"**Entertainment Developer Assignee**" shall have the meaning set forth in Section 10.1(b).

"**Entertainment Developer Representative**" shall have the meaning set forth in Section 12.1.

"**Entertainment Project**" shall have the meaning set forth in Section 3.1.

"**Entertainment Project Land**" means, as of the time of application of this definition, (i) the Original Entertainment Project Land, excluding each portion of the Original Entertainment Project Land previously conveyed by the Entertainment Developer to the City pursuant to Section 4.6; and (ii) each portion of the Parking Land previously conveyed by the City to the Entertainment Developer pursuant to Section 4.6.

"**Equitable Litigation**" shall have the meaning set forth in Article 11.

"**Escrow Agent**" shall have the meaning set forth in Section 4.6(f).

"**Escrow Instructions**" shall have the meaning set forth in Section 4.6(f).

"**Estoppel Requester**" shall have the meaning set forth in Section 12.23.

"**Event**" shall have the meaning set forth in the Arena Management Agreement.

"**Event of Default**" shall mean any one of the "Events of Default" described in Sections 9.1(a), 9.1(b) and 9.1(c), as applicable.

"**Exculpatory Language**" means the following language:

> [Insert name of exculpating Person] acknowledges and agrees that (i) this [insert title of contract or agreement] imposes no contractual obligation on the City of Glendale; (ii) in the event of a default under this [insert title of contract or agreement], of any kind or nature whatsoever, [insert name of exculpating Person] shall look solely to Coyote Center Development, LLC at the time of the default for remedy or relief; and (iii) no elected official, officer, employee, agent, independent contractor or consultant of the City of Glendale shall be liable to [insert name of exculpating Person], or any successor in interest to [insert name of exculpating Person], with respect to this [insert title of contract or agreement].

"**Extended Term Tax Shortfall**" shall have the meaning set forth in the Team Guaranty.

"**Force Majeure**" means any of the following that prohibits, delays or materially interferes with the development or construction of the Entertainment Project and/or the Retail/Residential Project or any material portion of either: strikes; lock-outs; acts of the public enemy; the enactment, imposition or modification of any Applicable Law which occurs after the Agreement Effective Date and precludes performance under this Agreement; confiscation or seizure by any government or public authority; wars or war-like action (whether actual and pending or expected, and whether de jure or de facto); blockades; insurrections; riots; civil disturbances; governmental restrictions; epidemics; landslides; earthquakes; fires; hurricanes; floods; wash-outs; explosions; failure of major equipment or machinery critical to the development or construction of the Entertainment Project and/or the Retail/Residential Project for their respective intended purposes; nuclear reaction or radiation; radioactive contamination; or any other cause, whether of the kind herein enumerated or otherwise, which is not reasonably within the control of the party claiming the right to delay or postpone performance on account of such occurrence, but specifically excluding any financial condition, lack of funds, lack of financing, insolvency or bankruptcy of such party.

"**GAAP**" means generally accepted accounting principles in effect in the United States of America from time to time, as consistently applied.

"**GAAS**" means generally accepted auditing standards in effect in the United States of America from time to time, as consistently applied.

"**Governmental Authority**" means any federal, state and/or local agency, department, commission, board, bureau, administrative or regulatory body or other governmental instrumentality having jurisdiction over the Entertainment Project, the Retail/Residential Project, the Parking Land, the Parking Improvements and/or the transactions contemplated by this Agreement.

"**Immediate Family**" means any spouse, son, daughter or parent of any individual (by blood or by marriage), or any trust, estate, partnership, joint venture, limited liability company, corporation, operation or any other legal entity or business or investment enterprise directly or indirectly controlled by such spouse, son, daughter or parent.

"**Infrastructure Improvements**" shall have the meaning set forth in the Arena Development Agreement.

"**Infrastructure Land**" shall have the meaning set forth in the Arena Development Agreement.

"**Initial Term Tax Shortfall**" shall have the meaning set forth in the Team Guaranty.

"**Land**" means the land that is legally described on Exhibit "A" attached hereto.

"**Land Acquisition Agreement**" shall have the meaning set forth in the Arena Development Agreement.

"**MOA**" shall have the meaning set forth in Recital A.

"**Notice of Entertainment Developer Assignment**" shall have the meaning set forth in Section 10.1(b).

"**Notice of Retail/Residential Developer Assignment**" shall have the meaning set forth in Section 10.2(b).

"**Off-Site Parking Replacement**" shall have the meaning set forth in Section 4.6(a).

"**Off-Site Replacement Parcel**" shall have the meaning set forth in Section 4.6(b)(ii)(x).

"**On-Site Parking Replacement**" shall have the meaning set forth in Section 4.6(a).

"**Original Entertainment Project Land**" means the land described in the boundary survey of the "Original Entertainment Project Land" approved by the City pursuant to Section 4.3.

"**Original Parking Land**" means the land conveyed by the Entertainment Developer to the City pursuant to the Parking Land Deed.

"**Other Public Improvements Land**" shall have the meaning set forth in the Arena Development Agreement.

"**Parking Advertising**" means all permanent and temporary announcements, acknowledgements, banners, liquid electronic displays, monument and other signs, show bills and audio and visual commercial messages of any nature displayed, announced or otherwise presented at, in or on the Parking Improvements and/or the Parking Land.

"**Parking Improvements**" shall have the meaning set forth in the Arena Development Agreement.

"**Parking Land**" means, as of the time of application of this definition, (i) the Original Parking Land, excluding each portion of the Original Parking Land previously conveyed by the City to the Entertainment Developer pursuant to Section 4.6; and (ii) the portions of the Original Entertainment Project Land previously conveyed by the Entertainment Developer to the City

pursuant to Section 4.6 (and which have not been reconveyed to Entertainment Developer pursuant to Section 4.6).

"**Parking Land Deed**" shall have the meaning set forth in the Arena Development Agreement.

"**Parking Naming Rights**" means the exclusive rights to designate and/or assign a brand, company, product or other name to, or have a name association with or sponsorship of, the Parking Land and/or the Parking Improvements and/or any portion thereof.

"**Person**" means an individual, general or limited partnership, corporation, joint stock company, trust (including a business trust), unincorporated association, joint venture, limited liability company, Governmental Authority or other entity.

"**Plan Approval**" shall have the meaning set forth in the Arena Development Agreement.

"**Project**" means, collectively, the Arena Development Project, the Entertainment Project and the Retail/Residential Project.

"**Project Site Plan**" means the project site plan attached hereto as Exhibit "B", and to be approved by the City in accordance with Applicable Law as part of the Plan Approval.

"**Qualified Tax Revenues**" shall have the meaning set forth in the Team Guaranty.

"**Qualified Use**" shall have the meaning set forth in Exhibit "C" attached hereto.

"**Qualified Use Space**" means any improved area of the Entertainment Project Land and/or the Retail/Residential Project Land designed and constructed for any Qualified Use in accordance with Section 5.1.

"**Related Agreements**" means the Arena Management Agreement, the Safety and Security Agreement, the Arena Development Agreement and the Team Guaranty.

"**Released Party**" shall have the meaning set forth in Section 6.3.

"**Replacement Parking Improvements**" shall have the meaning set forth in Section 4.6(i).

"**Replacement Parking Plan**" shall have the meaning set forth in Section 4.6(b)(ii).

"**Request for Conveyance**" shall have the meaning set forth in Section 4.6(b).

"**Retail/Residential Developer**" shall have the meaning set forth in the initial paragraph hereof.

"**Retail/Residential Developer Assignee**" shall have the meaning set forth in Section 10.2(b).

"**Retail/Residential Developer Representative**" shall have the meaning set forth in Section 12.2.

"**Retail/Residential Project**" shall have the meaning set forth in Section 3.2.

"**Retail/Residential Project Land**" means the land described in the boundary survey of the "Retail/Residential Project Land" approved by the City pursuant to Section 4.3.

"**Safety and Security Agreement**" shall have the meaning set forth in the Arena Management Agreement.

"**Substantial Completion**" shall have the meaning set forth in the Arena Development Agreement.

"**Team**" shall have the meaning set forth in Recital A.

"**Team Guaranty**" shall have the meaning set forth in Recital G.

1.2 Accounting Terms. Any accounting term used in this Agreement shall have, unless otherwise specifically provided herein, the meaning customarily given in accordance with GAAP or GAAS, as applicable, and all financial computations hereunder shall be computed, unless otherwise specifically provided herein, in accordance with GAAP or GAAS, as applicable.

1.3 Captions. The captions of articles and sections of this Agreement are for convenient reference only and shall not be deemed to limit, construe, affect, modify or alter the meaning of such articles or sections.

1.4 Cross References. Any reference in this Agreement to a Section, Subsection, Article, Paragraph or Exhibit is a reference to a Section, Subsection, Article, Paragraph or Exhibit, as appropriate, of this Agreement, unless otherwise expressly indicated.

1.5 Terms. Whenever the context shall so require, all words herein in any gender shall be deemed to include the masculine, feminine or neuter gender, and all singular words shall include the plural, and all plural words shall include the singular.

The words "herein," "hereof," "hereunder," "hereby," "this Agreement" and other similar references shall mean and include this Agreement and all amendments hereof and supplements hereto unless the context clearly indicates or requires otherwise.

The words "include", "including," and other similar references shall mean "include, without limitation," and "including, without limitation," respectively.

The words "sole discretion" and other similar references shall mean "sole, absolute and unfettered discretion."

1.6 Exhibits. Each exhibit referred to herein shall be considered a part of this Agreement as fully, and with the same force and effect, as if such exhibit had been included herein in full.

1.7 Language. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party.

ARTICLE 2

NO WAIVER OF CITY'S GOVERNMENTAL POWERS

The Entertainment Developer and the Retail/Residential Developer acknowledge and agree that the City is entering into this Agreement pursuant to A.R.S. §9-500.05, and that nothing in this Agreement is intended, or shall be construed, to be a waiver or relinquishment of any of the governmental powers of the City.

ARTICLE 3

ENTERTAINMENT PROJECT AND RETAIL/RESIDENTIAL PROJECT; PARKING ADVERTISING AND PARKING NAMING RIGHTS

3.1 Description of Entertainment Project. The Entertainment Project shall generally include (i) entertainment, retail and other mixed uses, together with related parking and/or private infrastructure and any signage (including media boards, media towers and signage on parking lot lighting towers) located on the Entertainment Project Land; and (ii) the Parking Naming Rights and the Parking Advertising (including media boards, media towers and signage on parking lot lighting towers) placed by the Entertainment Developer at, on or in the Parking Land and/or the Parking Improvements pursuant to Section 3.3, all to be designed and built in accordance with the provisions of this Agreement, Applicable Law and the Plan Approval.

The Entertainment Project Land and all improvements from time to time constructed thereon, the rights of the Entertainment Developer under the Cross Easements, and the rights of the Entertainment Developer under Section 3.3 are collectively referred to herein as the "**Entertainment Project**."

3.2 Description of Retail/Residential Project. The Retail/Residential Project shall generally include the entertainment, office, residential, hotel, retail and other mixed uses, together with related parking and/or private infrastructure and signage (including media boards, media towers and signage on parking lot lighting towers) located on the Retail/Residential Project Land, all to be designed and built in accordance with the provisions of this Agreement, Applicable Law and the Plan Approval.

The Retail/Residential Project Land and all improvements from time to time constructed thereon and the rights of the Retail/Residential Developer under the Cross Easements are collectively referred to herein as the "**Retail/Residential Project**."

3.3 Parking Advertising and Parking Naming Rights.

(a) Parking Advertising. The Entertainment Developer shall have the sole and exclusive rights to post, exhibit, display and otherwise present, and to sell and license, all Parking Advertising to be posted, exhibited, displayed and presented at, on or in the Parking Land and/or the Parking Improvements during the Agreement Term, and to receive all revenue therefrom. All such Parking Advertising shall be posted, exhibited, displayed and presented (i) at the sole expense of the Entertainment Developer, and (ii) in accordance with this Agreement, Applicable Law and the Plan Approval.

The Entertainment Developer shall cause all Parking Advertising posted, exhibited, displayed and presented at, on or in the Parking Land and/or the Parking Improvements during the Agreement Term to comply with community decency standards (from time to time actually prevailing in the City) and to be maintained in a safe, clean and orderly condition, and shall cause any installation, repair, maintenance and/or removal of such Parking Advertising to be made in a manner and during such times as do not materially interfere with (i) the operation of the Parking Improvements for parking purposes, or (ii) the presentation of Events.

All contracts and agreements for the sale and/or license of Parking Advertising shall include the Exculpatory Language.

(b) Parking Naming Rights. The Entertainment Developer shall have the sole and exclusive rights to sell and license all Parking Naming Rights to be effective during the Agreement Term, and to receive all revenue therefrom. All exhibitions, displays and presentations pursuant to Parking Naming Rights shall be exhibited, displayed and presented (i) at the sole expense of the Entertainment Developer, and (ii) in accordance with this Agreement, Applicable Law and the Plan Approval.

The Entertainment Developer shall cause all such exhibits, displays and presentations at, on or in the Parking Land and/or the Parking Improvements during the Agreement Term to comply with community decency standards (from time to time actually prevailing in the City) and to be maintained in a safe, clean and orderly condition, and shall cause any installation, repair, maintenance and/or removal of such exhibits, displays and presentations to be made in a manner and during such times as do not materially interfere with (i) the operation of the Parking Improvements for parking purposes, or (ii) the presentation of Events.

All contracts and agreements for the sale and/or license of Parking Naming Rights shall include the Exculpatory Language.

(c) Right of Access. The City hereby grants to the Entertainment Developer and its agents, contractors, consultants and employees, the right of access to the Parking Land and the Parking Improvements for the purposes of posting, exhibiting, displaying, presenting, installing, repairing, maintaining and removing Parking Advertising and Parking Naming Rights. Such right of access shall be exercised in such manner as the Entertainment Developer, with the consent of the City, deems necessary to exercise the Entertainment Developer's rights and perform the Entertainment Developer's duties and obligations under this Section 3.3.

ARTICLE 4

ACQUISITION OF LAND; SURVEYS; PERMITS; CONVEYANCES OF PORTIONS OF PARKING LAND

4.1 Acquisition of Land. The Entertainment Developer covenants with, and represents and warrants to, the City that (i) the Entertainment Developer has the right to purchase the Land pursuant to the Land Acquisition Agreement; (ii) the Entertainment Developer will comply with its obligations, and enforce the obligations of the sellers, under the Land Acquisition Agreement; and (iii) upon satisfaction of all conditions precedent set forth in the Land Acquisition Agreement, the Entertainment Developer will acquire title to, and beneficial ownership of, the Land pursuant to the Land Acquisition Agreement. There shall be no amendment or modification of the Land Acquisition Agreement or any waiver or relinquishment of the rights of the Entertainment Developer under the Land Acquisition Agreement without the prior consent of the City.

After the City has approved the surveys of the Original Entertainment Project Land and the Retail/Residential Project Land pursuant to Section 4.3, and prior to the commencement of construction of the Retail/Residential Project, the Entertainment Developer shall convey to the Retail/Residential Developer fee title to the Retail/Residential Project Land. The Retail/Residential Developer shall accept such conveyance of fee title to the Retail/Residential Project Land.

4.2 Applications and Approvals for Land Uses.

(a) Approvals and Permits for Land Uses. Promptly after the execution of this Agreement, the Entertainment Developer and the Retail/Residential Developer shall make applications, submittals and requests to, and seek approvals and permits from, the City for Plan Approval and other zoning, rezoning, site plan review and other approvals and permits relating to the use of the Original Entertainment Project Land and the Retail/Residential Project Land as contemplated by this Agreement. Such applications, submittals and requests shall seek approvals and permits that will allow the Entertainment Project and the Retail/Residential Project to be developed in accordance with the Project Site Plan, with appropriate shared access, infrastructure and parking (pursuant to the Cross Easements). The Entertainment Developer and the Retail/Residential Developer shall, after submission of such applications, submittals and requests, diligently work with each other to pursue such approvals and permits. Any amendments or modifications to such applications, submittals and requests shall be consistent with the Project Site Plan or any modification thereof to which the parties hereto may agree prior to the initial issuance of such approvals and permits.

Following Plan Approval, the parties hereto shall (i) revise the Project Site Plan (or any amendment or modification thereof to which the parties hereto have previously agreed) to be consistent with such Plan Approval and in accordance with Applicable Law, and (ii) enter into and record in the Official Records of Maricopa County, Arizona, one or more cross easement agreements (as recorded, the "**Cross Easements**"), in form and with substance reasonably acceptable to each of the parties hereto, providing for shared use of and cross access to (x) the Parking Improvements for the benefit of the Entertainment Project Land and the

Retail/Residential Project Land, and (y) 500 parking spaces on or in the parking areas to be located on the Entertainment Project Land and/or the Retail/Residential Project Land for the benefit of the Arena, all in accordance with the Plan Approval.

The Entertainment Developer and the Retail/Residential Developer shall have the right, with the prior consent of the City, from time to time after the initial issuance of the approvals and permits described in this Section 4.2(a), to make application for and pursue such amendments and modifications thereof as the Entertainment Developer and the Retail/Residential Developer deem appropriate, provided that such amendments and modifications are consistent with this Agreement and the Project Site Plan (as may have been amended or modified pursuant to this Section 4.2(a)).

The Entertainment Developer and the Retail/Residential Developer acknowledge that all applications, submittals, requests, amendments and modifications described in this Section 4.2(a) will be subject to the review and approval processes of the City acting in its governmental capacity.

(b) Processing of Applications, Submittals and Requests for Approvals and Permits. The City has designated the City Manager as the contact person for the receipt and coordination of all applications, submittals and other requests for approvals and permits submitted by the Entertainment Developer and the Retail/Residential Developer to the City in connection with the planning of the Entertainment Project and the Retail/Residential Project. The City shall have the right from time to time to change the designation by delivering notice of such change to the Entertainment Developer and the Retail/Residential Developer not less than thirty (30) days in advance of the effective date of any such change.

In connection with such applications, submittals and requests to the City, so long as the Entertainment Developer and the Retail/Residential Developer comply with Applicable Law, the City agrees (i) to expedite the processing of such applications, submittals and requests for approvals and permits to the extent reasonably possible (but without the City being required by such commitment to hire additional staff); (ii) not to require any reviews or processes other than those required by Applicable Law; and (iii) to waive, to the extent legally permissible, all application, submittal and processing fees related thereto.

The City and the Entertainment Developer acknowledge and agree that the Entertainment Project and the Retail/Residential Project may each be constructed in phases and, accordingly, approvals and permits therefor may be requested and granted in phases.

4.3 Surveys. Promptly after the date of Plan Approval, the Entertainment Developer shall obtain survey(s) of the boundaries of (i) the proposed Original Entertainment Project Land, as shown by the Plan Approval; and (ii) the proposed Retail/Residential Project Land, as shown by the Plan Approval. The Entertainment Developer shall give a copy of each such survey to the City promptly after the Entertainment Developer obtains the same from the surveyor. The City shall cause each such survey (and any revised survey submitted pursuant to the immediately following paragraph of this Section 4.3) to be reviewed and a notice of approval or disapproval thereof to be given to the Entertainment Developer within fifteen (15) Business Days after the City's receipt of such survey.

Any notice of disapproval of any survey shall state in reasonable detail the basis for such disapproval. The failure by the City to give notice of approval or disapproval within such fifteen (15) Business Day period with respect to a given survey shall be deemed disapproval of such survey. Upon disapproval by the City of any survey submitted pursuant to this Section 4.3, the Entertainment Developer shall have the right to (i) submit a revised survey for review by the City under this Section 4.3, or (ii) submit the issue of the reasonability of the City's disapproval to Arbitration.

Promptly after the approval of a survey of each of the Original Entertainment Project Land and the Retail/Residential Project Land pursuant to this Section 4.3, the parties hereto shall execute and record, in the Official Records of Maricopa County, Arizona, an amendment to this Agreement, in form and with substance reasonably acceptable to each of the parties hereto, confirming the legal descriptions for the Original Entertainment Project Land and the Retail/Residential Project Land, both of which (together with the Parking Land) shall remain subject to the provisions of this Agreement. Such amendment to this Agreement shall not constitute nor imply any release of any party hereto.

4.4 Approvals and Permits for Construction. Before commencement of construction of any part of the Entertainment Project or the Retail/Residential Project, the Entertainment Developer or the Retail/Residential Developer (as applicable) shall obtain, or cause to be obtained, all approvals and permits required for such construction.

The City has designated the Head of the Building Department of the City as the contact person for the receipt and coordination of all applications, submittals and requests for approvals and permits relating to the construction of the Entertainment Project and the Retail/Residential Project. The City shall have the right, from time to time, to change such designation by delivering notice of such change to the Entertainment Developer and the Retail/Residential Developer not less than thirty (30) days in advance of the effective date of any such change.

In connection with such applications, submittals and requests to the City, so long as the Entertainment Developer and the Retail/Residential Developer comply with Applicable Law, the City agrees (i) to expedite the processing of such applications, submittals and requests for approvals and permits to the extent reasonably possible (but without the City being required by such commitment to hire additional staff), and (ii) not to require any reviews or processes other than those required by Applicable Law. All such applications, submittals and requests to the City are subject to the approval and permit process of the City, and the approvals and permits granted (upon payment of related fees and charges) will be granted by the City acting in its governmental capacity.

4.5 Covenants, Conditions, Restrictions and Easements. Each of the Entertainment Developer and the Retail/Residential Developer shall have the right, without the consent of the City, but subject to Applicable Law and any City consents required in its governmental capacity, to subject all or parts of the Entertainment Project Land and the Retail/Residential Project Land to such covenants, conditions, restrictions and easements, and to subdivide such land in such manner, as may be reasonably required to develop, construct and provide for the future operation, maintenance and repair of the Entertainment Project and the Retail/Residential

Project, as contemplated by and consistent with the provisions of this Agreement and the Arena Development Agreement.

4.6 Conveyances of Parking Land for Development.

(a) Acknowledgment. The parties hereto acknowledge that the successful development of the Entertainment Project may require, and the Project Site Plan contemplates, that portions of the Parking Land may, from time to time during the Agreement Term, be conveyed by the City to the Entertainment Developer for development as part of the Entertainment Project. Any such conveyance will likely decrease the number of parking spaces on the Parking Land, and the parties therefore agree that the Entertainment Developer must, as a condition to any such conveyance, provide for adequate replacement parking in the manner described in this Section 4.6. Such replacement parking shall, after approval of the location thereof pursuant to Section 4.6(c), be constructed by the Entertainment Developer on either (i) a portion of the Parking Land (an "**On-Site Parking Replacement**"), or (ii) a portion of the Entertainment Project Land (an "**Off-Site Parking Replacement**") to be conveyed by the Entertainment Developer to the City pursuant to this Section 4.6.

(b) Request for Conveyance. From and after Plan Approval and the conveyance of the Original Parking Land to the City, the Entertainment Developer may, from time to time, submit to the City a request (each, a "**Request for Conveyance**") that the City convey to the Entertainment Developer one or more portions of the Parking Land (together with access thereto) for development as part of the Entertainment Project. Each Request for Conveyance shall be made by the Entertainment Developer in the manner described in this Section 4.6(b), and shall include the following:

(i) Survey(s). An ALTA/ACSM survey of (x) the portion of the Parking Land that the Entertainment Developer requests to be conveyed to the Entertainment Developer pursuant to this Section 4.6 (each, a "**Conveyance Parcel**"), and (y) the portion of the Parking Land (if any) that the Entertainment Developer requests be subject to an easement providing access to such Conveyance Parcel (each, an "**Easement Parcel**"). Such survey(s) shall include (1) a legal description of the Conveyance Parcel, (2) a legal description of the Easement Parcel (if any), and (3) a certification of the total parking spaces then included in the Conveyance Parcel and the Easement Parcel (if any).

(ii) Replacement Parking Plan. A replacement parking plan (each, a "**Replacement Parking Plan**") showing the location and nature of the replacement parking spaces that the Entertainment Developer proposes to provide to the City to replace the parking spaces that the City will lose as a result of the City's conveyance of the Conveyance Parcel and the Easement Parcel (if any) to the Entertainment Developer. Each Replacement Parking Plan shall include the following:

(x) with respect to an Off-Site Parking Replacement, (1) an ALTA/ACSM survey (including a legal description) of the portion of the Entertainment Project Land on which the permanent replacement parking is proposed to be constructed (the "**Off-Site Replacement Parcel**") and the portion of the Entertainment Project Land (if any) on which access to the Off-Site Replacement Parcel is proposed to be constructed, (2) drawings showing

the number and location of the replacement parking spaces and traffic circulation patterns to be constructed by the Entertainment Developer on the Off-Site Replacement Parcel, and (3) if the replacement parking is proposed to be in the form of a parking structure, drawings showing the elevations and floor plates of such parking structure; or

(y) with respect to an On-Site Parking Replacement, (1) a drawing showing the location of the portion of the Parking Land on which the permanent replacement parking is proposed to be constructed by the Entertainment Developer; (2) drawings showing the number and location of the replacement parking spaces and traffic circulation patterns to be constructed by the Entertainment Developer as the permanent replacement parking; (3) if such replacement parking is proposed to be in the form of a parking structure, drawings showing the elevations and floor plates of such parking structure; and (4) drawings showing the number and location (whether on the Parking Land or the Entertainment Project Land) of the replacement parking spaces and traffic circulation patterns for temporary replacement parking to be provided by the Entertainment Developer during the construction of the permanent replacement parking.

(c) Review and Approval of Request. The City shall cause each Request for Conveyance submitted by the Entertainment Developer to the City (and any revised Request for Conveyance submitted by the Entertainment Developer pursuant to this Section 4.6(c)) to be reviewed and a notice of approval or disapproval thereof to be given to the Entertainment Developer within thirty (30) days after the City's receipt of such Request for Conveyance from the Entertainment Developer.

The City's review shall be limited to determining whether the Request for Conveyance complies with this Agreement, Applicable Law and the Plan Approval, and provides reasonably suitable replacement parking in a location no further from the exterior face of the Arena Facility than the furthest parking space from the exterior face of the Arena Facility included in the first 5,500 parking spaces constructed as the original Parking Improvements. Following such review, the City shall (i) approve such Request for Conveyance without any conditions, (ii) approve such Request for Conveyance with such conditions as are stated in the City's notice of approval, or (iii) disapprove such Request for Conveyance. The failure by the City to give notice of approval or disapproval within such thirty-day period with respect to any Request for Conveyance shall be deemed disapproval of such Request for Conveyance.

Upon (a) approval by the City of any Request for Conveyance (or any revision thereof) with conditions that are not acceptable to the Entertainment Developer, or (b) disapproval by the City of any Request for Conveyance (or any revision thereof), the Entertainment Developer shall have the right to either (x) submit a revised Request for Conveyance for review by the City under this Section 4.6(c), or (y) submit the issue of the reasonability of the City's conditions to approval or disapproval, as applicable, to Arbitration.

Such Request for Conveyance that, pursuant to this Section 4.6(c), is (I) approved by the City without conditions or with conditions that are acceptable to the Entertainment Developer, or (II) approved by the Arbitrator pursuant to Arbitration shall, upon such approval, become the "**Approved Replacement Parking Plan**."

(d) Title Matters.

(i) Off-Site Replacement Parcel. Following the approval of the Approved Replacement Parking Plan pursuant to Section 4.6(c), if the Approved Replacement Parking Plan contemplates an Off-Site Parking Replacement, then the Entertainment Developer shall obtain and provide to the City, at the Entertainment Developer's cost and expense, an ALTA owner's extended coverage title insurance commitment for the Off-Site Replacement Parcel, issued by a title insurer reasonably acceptable to the City and in an amount reasonably agreed to by the City and the Entertainment Developer as the value of the Off-Site Replacement Parcel. Such title insurance commitment shall be accompanied by copies of any recorded documents referenced therein.

The Entertainment Developer shall give a copy of such title insurance commitment to the City promptly after the Entertainment Developer obtains the same from the title insurer. The City shall cause such title insurance commitment (and any revised title insurance commitment submitted by the Entertainment Developer pursuant to this Section 4.6(d)(i)) to be reviewed and a notice of approval or disapproval thereof to be given to the Entertainment Developer within fifteen (15) Business Days after the City's receipt of such title insurance commitment. The standard for the City's approval or disapproval for any exception set forth in such title insurance commitment shall be whether such exception will materially, adversely affect the right and/or ability of the City to use the land described therein for replacement parking purposes as contemplated by this Agreement and the Arena Management Agreement. The City shall not disapprove any lien or other encumbrance described in such title insurance commitment that may be discharged by the Entertainment Developer's payment of money at the related Closing, but may condition the City's approval of such title insurance commitment on the Entertainment Developer's causing such lien or encumbrance to be fully satisfied and discharged as of such Closing.

Any notice of disapproval of a given title insurance commitment shall state in reasonable detail the basis for such disapproval. The failure by the City to give notice of approval or disapproval within such fifteen (15) Business Day period with respect to a given title insurance commitment shall be deemed disapproval of such title insurance commitment. Upon disapproval by the City of a given title insurance commitment submitted pursuant to this Section 4.6(d)(i), the Entertainment Developer shall have the right to (a) submit a revised title insurance commitment for review by the City under this Section 4.6(d)(i), or (b) submit the issue of the reasonability of the City's disapproval to Arbitration. Each such title insurance commitment approved pursuant to this Section 4.6(d)(i) shall be a "**City Approved Title Commitment**".

(ii) Conveyance Parcel and Easement Parcel. Following the approval of the Approved Replacement Parking Plan pursuant to Section 4.6(c), the Entertainment Developer shall, at the Entertainment Developer's cost and expense, obtain (and provide to the City a copy of) an ALTA owner's extended coverage title insurance commitment for the Conveyance Parcel and the Easement Parcel (if any) issued by a title insurer reasonably acceptable to the Entertainment Developer and in the amount reasonably agreed to by the City and the Entertainment Developer as the value of the Conveyance Parcel and the Easement Parcel (if any). Such title insurance commitment shall be accompanied by copies of any recorded documents referenced therein.

The Entertainment Developer shall cause such title insurance commitment to be reviewed and a notice of approval or disapproval thereof to be given to the City within fifteen (15) Business Days after the Entertainment Developer receives such title insurance commitment from the title insurer. The standard for the Entertainment Developer's approval or disapproval for any exception set forth in such title insurance commitment shall be whether such exception will materially, adversely affect the right and/or ability of the Entertainment Developer to use the Conveyance Parcel and the Easement Parcel (if any) for development as part of the Entertainment Project as contemplated by this Agreement. The Entertainment Developer shall not disapprove any lien or other encumbrance described in such title insurance commitment that may be discharged by the City's payment of money at the related Closing, but may condition the Entertainment Developer's approval of such title insurance commitment on the City's causing such lien or encumbrance to be fully satisfied and discharged as of such Closing.

Any notice of disapproval of a given title insurance commitment shall state in reasonable detail the basis for such disapproval. The failure by the Entertainment Developer to give notice of approval or disapproval within such fifteen (15) Business Day period with respect to a given title insurance commitment shall be deemed disapproval of such title insurance commitment. Upon disapproval by the Entertainment Developer of a given title insurance commitment pursuant to this Section 4.6(d)(ii), the City shall have the right to submit the issue of the reasonability of the Entertainment Developer's disapproval to Arbitration. Each such title insurance commitment approved pursuant to this Section 4.6(d)(ii) shall be an "**Entertainment Developer Approved Title Commitment**".

(e) Environmental Assessments.

(i) Off-Site Replacement Parcel. Following the approval of the Approved Replacement Parking Plan pursuant to Section 4.6(c), if the Approved Replacement Parking Plan contemplates an Off-Site Parking Replacement, then the Entertainment Developer shall, at the request of the City, obtain and provide to the City, at the Entertainment Developer's cost and expense, a report of an ASTM Phase I environmental assessment (and a report of a Phase II environmental assessment if recommended by the report for the Phase I assessment) for the Off-Site Replacement Parcel, issued by an environmental site assessment firm reasonably acceptable to the City.

The Entertainment Developer shall give a copy of such environmental assessment report to the City promptly after the Entertainment Developer obtains the same. The City shall cause such environmental assessment report (and any revised environmental assessment report submitted by the Entertainment Developer pursuant to this Section 4.6(e)(i)) to be reviewed and a notice of approval or disapproval thereof to be given to the Entertainment Developer within fifteen (15) Business Days after the City's receipt of such environmental assessment report.

Any notice of disapproval of any such environmental assessment report shall state in reasonable detail the basis for such disapproval. The failure by the City to give notice of approval or disapproval within such fifteen (15) Business Day period with respect to a given environmental assessment report shall be deemed disapproval of such environmental assessment report. Upon disapproval by the City of any environmental assessment report submitted pursuant to this Section 4.6(e)(i), the Entertainment Developer shall have the right to (a) submit a revised

environmental assessment report for review by the City under this Section 4.6(e)(i), or (b) submit the issue of the reasonability of the City's disapproval to Arbitration. Each such environmental assessment report approved pursuant to this Section 4.6(e)(i) shall be a "**City Approved Environmental Assessment Report.**"

(ii) Conveyance Parcel and Easement Parcel. Following the approval of the Approved Replacement Parking Plan pursuant to Section 4.6(c), the Entertainment Developer shall have the right to obtain, at the Entertainment Developer's cost and expense, a report of an ASTM Phase I environmental assessment (and a report of a Phase II environmental assessment if recommended by the report for the Phase I assessment) for the Conveyance Parcel and the Easement Parcel (if any), issued by an environmental site assessment firm reasonably acceptable to the Entertainment Developer.

The Entertainment Developer shall give a copy of such environmental assessment report to the City promptly after the Entertainment Developer obtains the same. The Entertainment Developer shall cause such environmental assessment report to be reviewed and a notice of approval or disapproval thereof to be given to the City within fifteen (15) Business Days after the Entertainment Developer's receipt of such environmental assessment report.

Any notice of disapproval of any such environmental assessment report shall state in reasonable detail the basis for such disapproval. The failure by the Entertainment Developer to give notice of approval or disapproval within such fifteen (15) Business Day period with respect to a given environmental assessment report shall be deemed disapproval of such environmental assessment report. Upon disapproval by the Entertainment Developer of any environmental assessment report submitted pursuant to this Section 4.6(e)(ii), the City shall have the right to submit the issue of the reasonability of the Entertainment Developer's disapproval to Arbitration. Each such environmental assessment report approved pursuant to this Section 4.6(e)(ii) shall be an "**Entertainment Developer Approved Environmental Assessment Report.**"

(f) Opening of Escrow; Escrow Instructions. Following the approval of the Approved Replacement Parking Plan pursuant to Section 4.6(c), the City Approved Title Commitment (if applicable) pursuant to Section 4.6(d)(i), the Entertainment Developer Approved Title Commitment pursuant to Section 4.6(d)(ii), the City Approved Environmental Assessment Report (if applicable) pursuant to Section 4.6(e)(i), and any Entertainment Developer Approved Environmental Assessment Report pursuant to Section 4.6(e)(ii), the Entertainment Developer and the City shall promptly deliver a fully executed copy of this Agreement to an escrow agent reasonably acceptable to the City and the Entertainment Developer (the "**Escrow Agent**"), and this Agreement shall, upon such delivery, constitute escrow instructions to the Escrow Agent with respect to the transactions contemplated by this Section 4.6. The Entertainment Developer and the City agree to execute and deliver to the Escrow Agent any additional or supplemental instructions as may be necessary or convenient to implement the terms of this Section 4.6 and to close such transactions, provided such additional or supplemental instructions are consistent with, and do not in any way modify, amend or supercede this Section 4.6. Any such additional or supplemental escrow instructions, together with the escrow instructions set forth in this Section 4.6, as they may be amended by the Entertainment Developer and the City from time to time, are hereinafter collectively referred to as the "**Escrow Instructions.**" The Escrow Instructions may be supplemented by such standard

form terms and provisions as the Escrow Agent may provide to the Entertainment Developer and the City in writing; provided, however, that the Entertainment Developer, the City and the Escrow Agent (by its opening of the escrow contemplated hereby) acknowledge and agree that in the event of any conflict between any provision of any such standard term or provision provided by the Escrow Agent and the Escrow Instructions, the Escrow Instructions shall govern and apply.

(g) Closings; Closing Dates. The closing of each of the transactions for which an escrow is opened pursuant to Section 4.6(f) (each, a "**Closing**") shall take place at the offices of the Escrow Agent on a date (each, a "**Closing Date**") to be (i) mutually designated by the Entertainment Developer and the City promptly after the completion of the corresponding Replacement Parking Improvements, and (ii) not later than fifteen (15) days after the completion of such Replacement Parking Improvements. The City and the Entertainment Developer shall, promptly following the completion of such Replacement Parking Improvements in accordance with the Approved Plans and Specifications, execute and deliver to the Escrow Agent a written statement that the Replacement Parking Improvements have been completed in accordance with the Approved Plans and Specifications.

(h) Design of Replacement Parking Improvements. Following the approval of the Approved Replacement Parking Plan pursuant to Section 4.6(c), the City Approved Title Commitment (if applicable) pursuant to Section 4.6(d)(i), the Entertainment Developer Approved Title Commitment pursuant to Section 4.6(d)(ii), the City Approved Environmental Assessment Report (if applicable) pursuant to Section 4.6(e)(i), and any Entertainment Developer Approved Environmental Assessment Report pursuant to Section 4.6(e)(ii), the Entertainment Developer shall, at the Entertainment Developer's cost and expense, cause a design professional (to be selected in accordance with any applicable public contracting requirements and approved by the City) to prepare such plans and specifications as are required to acquire from all Governmental Authorities all permits for, and to complete the construction of, the replacement parking described in such Approved Replacement Parking Plan. Any contract or agreement for the preparation of such plans and specifications shall be between the Entertainment Developer and such design professional, shall include the Exculpatory Language and shall be approved by the City. All such plans and specifications shall be consistent with the provisions of this Agreement, the Approved Replacement Parking Plan, Applicable Law and the Plan Approval.

The Entertainment Developer shall provide copies of such plans and specifications to the City promptly after the Entertainment Developer's receipt of such plans and specifications from such designer. The City shall cause such plans and specifications (and any revised plans and specifications submitted pursuant to this Section 4.6(h)) to be reviewed and a notice of approval or disapproval thereof to be given to the Entertainment Developer within thirty (30) days after the City's receipt of such plans and specifications.

The City's review shall be limited to determining whether such plans and specifications comply with this Agreement, the Approved Replacement Parking Plan, Applicable Law and the Plan Approval. Following such review, the City shall (i) approve such plans and specifications without any conditions, (ii) approve such plans and specifications with such conditions as are stated in the City's notice of approval, or (iii) disapprove such plans and specifications. The

failure by the City to give notice of approval or disapproval of such plans and specifications within such thirty-day period shall be deemed disapproval of such plans and specifications.

Upon (a) approval by the City of any such plans and specifications (or any revision thereof) with conditions that are not acceptable to the Entertainment Developer, or (b) disapproval by the City of any such plans and specifications (or any revision thereof), the Entertainment Developer shall have the right to either (x) submit revised plans and specifications for review by the City under this Section 4.6(h), or (y) submit the issue of the reasonability of the City's conditions to approval or disapproval, as applicable, to Arbitration.

Such plans and specifications that, pursuant to this Section 4.6(h), are (I) approved by the City without conditions or with conditions that are acceptable to the Entertainment Developer, or (II) approved by the Arbitrator pursuant to Arbitration shall, upon such approval, become the "**Approved Plans and Specifications.**"

(i) Construction of Replacement Parking. Following the approval of the Approved Plans and Specifications pursuant to Section 4.6(h), the Entertainment Developer shall, at the Entertainment Developer's cost and expense, cause the replacement parking improvements (the "**Replacement Parking Improvements**") contemplated by the Approved Plans and Specifications to be constructed by a contractor or construction manager at risk to be selected in accordance with any applicable public contracting requirements and approved by the City. Any contract or agreement for the construction of the Replacement Parking Improvements shall be between the Entertainment Developer and such contractor or construction manager at risk, shall include the Exculpatory Language and shall be approved by the City. Prior to the commencement of the work described in such contract or agreement, the Entertainment Developer shall, with respect to an On-Site Parking Replacement, (i) provide to the City evidence reasonably satisfactory to the City of the availability of monies sufficient to pay, and the existence of reasonably satisfactory disbursement procedures for the payment of, all amounts that the Entertainment Developer will incur in causing the Replacement Parking Improvements to be completed, and (ii) provide or cause to be provided to the City a payment and performance bond for such work, in form and with substance reasonably acceptable to the City.

The Entertainment Developer shall enforce the provisions of any such contract or agreement, and shall require timely construction of the Replacement Parking Improvements in a good and workmanlike manner, in accordance with the provisions of this Agreement, the Approved Plans and Specifications and Applicable Law.

The Entertainment Developer shall, at all times during the construction of the Replacement Parking Improvements, cause the land on which such Replacement Parking Improvements are being constructed to remain free and clear of any liens related to the construction of the Replacement Parking Improvements, and shall cause any such lien to be released (whether by payment or provision of a bond satisfactory to cause such release) within thirty (30) days after the filing or recording of notice of the same.

During the course of construction of the Parking Replacement Improvements, the City, its employees, agents, engineers and/or consultants shall have the rights, at reasonable times during construction hours, to be present at the site of such construction and to observe work being

performed in connection with such construction; provided, however, that in exercising such rights, (i) the City shall comply with Applicable Law; (iii) the City shall give the Entertainment Developer and the contractor or construction manager at risk reasonable advance notice of such presence; and (iii) the City shall not materially interfere with any construction activity at such site.

(j) Right of Access. The City hereby grants to the Entertainment Developer and its agents, contractors, consultants and employees, the right of access to the Parking Land and the Parking Improvements for the purposes of obtaining or preparing such surveys, assessments and plans, and performing such other acts, as the Entertainment Developer reasonably deems necessary to exercise the Entertainment Developer's rights and perform the Entertainment Developer's duties and obligations under this Section 4.6.

(k) Conveyance Consideration. The consideration to be provided by the Entertainment Developer for the conveyance to the Entertainment Developer of a Conveyance Parcel (and any related Easement Parcel) pursuant to this Agreement shall be (i) the Entertainment Developer's conveyance and transfer to the City of the Off-Site Replacement Parcel, with respect to an Off-Site Parking Replacement, or (ii) the Entertainment Developer's transfer to the City of the Replacement Parking Improvements, with respect to an On-Site Parking Replacement.

(l) Closing Procedures.

(i) Deliveries by Entertainment Developer. The Entertainment Developer shall, with respect to each Closing, deliver or cause to be delivered to the Escrow Agent (with copies to the City), prior to the commencement of construction of the Replacement Parking Improvements, the following:

(1) If the Closing is for an Off-Site Parking Replacement, a special warranty deed (in a form reasonably acceptable to the City and the Entertainment Developer) by which the Entertainment Developer conveys the Off-Site Replacement Parcel (and any access easement contemplated by the Approved Replacement Parking Plan) to the City (subject only to the exceptions shown on the City Approved Title Commitment other than liens and encumbrances to be satisfied by the Entertainment Developer at such Closing) duly executed and acknowledged in recordable form by the Entertainment Developer;

(2) If the Closing is for an Off-Site Parking Replacement, an affidavit of property value for the Off-Site Replacement Parcel as required by Applicable Law, duly executed by the Entertainment Developer;

(3) If the Closing is for an Off-Site Parking Replacement, a non-foreign affidavit as required by Applicable Law, duly executed by the Entertainment Developer;

(4) An affidavit of property value for the Conveyance Parcel as required by Applicable Law, duly executed by the Entertainment Developer;

(5) An assignment and transfer of warranties (in a form reasonably acceptable to the City and the Entertainment Developer) by which the Entertainment Developer transfers to the City all of the Entertainment Developer's right, title and interest in all of the warranties (whether contractual, statutory or under common law) running in favor of the Entertainment Developer with respect to the Replacement Parking Improvements;

(6) Proof reasonably satisfactory to the City and the Escrow Agent of the Entertainment Developer's existence and good standing;

(7) Proof reasonably satisfactory to the City and the Escrow Agent of the power and authority of the natural persons executing and/or delivering the documents described in this Section 4.6(l)(i) to act for and bind the Entertainment Developer; and

(8) Such other documents as may be reasonably required by the Escrow Agent or the City to implement the applicable Closing.

If, pursuant to Section 4.6(d)(i), the Entertainment Developer is required to satisfy any lien on or encumbrance against an Off-Site Replacement Parcel, the Entertainment Developer shall, at least two (2) Business Days before the Closing Date, deliver to the Escrow Agent immediately available funds in an amount sufficient to fully satisfy and discharge such lien or encumbrance.

(ii) Deliveries by City. The City shall, with respect to each Closing, deliver or cause to be delivered to the Escrow Agent (with copies to the Entertainment Developer), within five (5) Business Days after the City's receipt of the copies of the documents delivered by the Entertainment Developer to the Escrow Agent pursuant to Section 4.6(l)(i), the following:

(1) A special warranty deed (in a form reasonably acceptable to the City and the Entertainment Developer) by which the City conveys the Conveyance Parcel (and any access easement across the Easement Parcel contemplated by the Approved Replacement Parking Plan) to the Entertainment Developer (subject only to the exceptions shown on the Entertainment Developer Approved Title Commitment other than liens and encumbrances to be satisfied by the City at such Closing) duly executed and acknowledged in recordable form by the City;

(2) An affidavit of property value for the Conveyance Parcel as required by Applicable Law, duly executed by the City;

(3) A non-foreign affidavit as required by Applicable Law, duly executed by the City;

(4) If the Closing is for an Off-Site Parking Replacement, an affidavit of property value for the Off-Site Replacement Parcel as required by Applicable Law, duly executed by the City;

(5) Proof reasonably satisfactory to the Entertainment Developer and the Escrow Agent of the power and authority of the natural persons executing and/or delivering the documents described in this Section 4.6(l)(ii) to act for and bind the City; and

(6) Such other documents as may be reasonably required by the Escrow Agent or the Entertainment Developer to implement the applicable Closing.

If, pursuant to Section 4.6(d)(ii), the City is required to satisfy any lien on or encumbrance against a Conveyance Parcel and/or an Easement Parcel, the City shall, at least two (2) Business Days before the Closing Date, deliver to the Escrow Agent immediately available funds in an amount sufficient to fully satisfy and discharge such lien or encumbrance.

(iii) Closing by Escrow Agent. Upon the Escrow Agent's (i) verification that the Escrow Agent has received all of the documents, instruments and monies required to be provided to the Escrow Agent pursuant to this Section 4.6(l) with respect to a given Closing, (ii) determination that the title insurer that issued the Entertainment Developer Approved Title Commitment and the City Approved Title Commitment (if applicable) is able to and will issue the applicable title insurance policy(ies), and (iii) receipt of a written statement by the City and the Entertainment Developer (or a copy of an award made pursuant to Arbitration stating) that the Replacement Parking Improvements have been completed in accordance with the Approved Plans and Specifications, the Escrow Agent shall close the applicable escrow created pursuant to Section 4.6(f) with respect to such Closing by doing the following:

(1) The Escrow Agent shall, using the amounts delivered to the Escrow Agent pursuant to Section 4.6(l)(i) and Section 4.6(l)(ii), respectively, satisfy the liens and encumbrances (if any) described in Section 4.6(l)(i) and Section 4.6(l)(ii), respectively.

(2) The Escrow Agent shall record the deed to which Section 4.6(l)(ii)(1) refers, and any deed delivered pursuant to Section 4.6(l)(i)(1), in the Official Records of Maricopa County, Arizona.

(3) The Escrow Agent shall file the affidavit of property value to which Section 4.6(l)(i)(4) and Section 4.6(l)(ii)(2) refer, and any affidavit of property value delivered pursuant to Section 4.6(l)(i)(2) and Section 4.6(l)(ii)(4), in the manner required by Applicable Law.

(4) The Escrow Agent shall deliver the non-foreign affidavit described in Section 4.6(l)(ii)(3) to the Entertainment Developer, and the non-foreign affidavit described in Section 4.6(l)(i)(3) to the City.

(5) The Escrow Agent shall deliver the assignment and transfer of warranties described in Section 4.6(l)(i)(5) to the City.

(6) The Escrow Agent shall make the pro-rations required by this Agreement with respect to such Closing.

(7) The Escrow Agent shall prepare, for execution by the Entertainment Developer and the City, a settlement statement for the transaction closed in such Closing.

(m) Taxes and Assessments. All real property taxes and Salt River Project assessments levied against the Conveyance Parcel and any Off-Site Replacement Parcel, as applicable, and payable prior to the year in which such land is conveyed pursuant to this Section 4.6, shall be paid in full by the fee owner of such land prior to the date of such conveyance. All real property taxes and Salt River Project assessments levied against such land and payable in the year in which such land is conveyed pursuant to this Section 4.6, shall be prorated between the Entertainment Developer and the City as of the date of the Closing of such conveyance (based on the number of calendar days in the calendar year in which such conveyance occurs and the most recent available tax statements). To the extent the land conveyed is not a separate tax parcel, the real property taxes and Salt River Project assessments to be prorated shall be deemed to be the result of (i) dividing the sum of the real property taxes and Salt River Project assessments levied against the tax parcel in which the land to be conveyed is located, and (ii) multiplying the result in clause (i) by the number of acres in the land to be conveyed. All such real property taxes and Salt River Project assessments levied against the land to be conveyed and payable in the year after conveyance of such land shall be paid by the fee owner of such land after such conveyance.

After any conveyance pursuant to this Section 4.6, the Entertainment Developer and the City shall take such actions as are required to establish the land conveyed as a separate tax parcel.

(n) Escrow Fees and Other Costs. All fees of the Escrow Agent, title insurance fees, recording costs and other closing costs incurred in connection with any conveyance under this Section 4.6 (except for costs incurred in connection with any satisfaction of any lien or encumbrance to be satisfied and discharged by the City) shall be paid by the Entertainment Developer.

(o) Prohibition Against Certain Title Matters. To enable the Entertainment Developer to acquire title to each Conveyance Parcel free and clear of any title matter that would preclude or limit the use of such Conveyance Parcel for development as part of the Entertainment Project, the City shall not, without the prior consent of the Entertainment Developer, subject the Parking Land or the Parking Improvements or any portion of either, to any easement, covenant, condition, restriction, lien or encumbrance, or transfer any interest therein, except for City Encumbrances that provide for the release of the Parking Land and the Parking Improvements for conveyance in accordance with this Section 4.6.

ARTICLE 5

MINIMUM DEVELOPMENT

5.1 Minimum Required Development. The Entertainment Developer and the Retail/Residential Developer shall plan, design and construct, on the Entertainment Project Land and/or the Retail/Residential Project Land, the following minimum square feet of Qualified Use Space, in accordance with the following schedule (the "**Completion Schedule**"):

Deadline for Completion	Cumulative Minimum Square Footage of Qualified Use Space
6 months after Substantial Completion	800,000
30 months after Substantial Completion	900,000
42 months after Substantial Completion	1,100,000
54 months after Substantial Completion	1,300,000
66 months after Substantial Completion	1,450,000
78 months after Substantial Completion	1,600,000

For purposes of this Article 5, the phrase "construct" shall mean, with respect to a given area of Qualified Use Space, (i) the completion (not including interior finished surfaces) of the foundation, floor, walls and roof, including all windows and doors, of the building in which such area of Qualified Use Space is located, and (ii) the completion of the perimeter enclosure (whether partial or full) of any Qualified Use Space that is not within a building and, in each case, the installation of water, sewer, electrical, gas (to the extent appropriate), telephone and similar services (excepting only extensions thereof which would typically be a part of tenant improvements). The square footage of Qualified Use Space within a building shall be calculated by measuring from the exterior face of each exterior wall of such space, and shall include the combined Qualified Use Space areas of each of the floors in such building. The square footage of Qualified Use Space that is not within a building (including any rooftop Qualified Use Space) shall be calculated by measuring from the perimeter of such Qualified Use Space.

5.2 Issuance of City Financial Obligations. The Entertainment Developer and the Retail/Residential Developer acknowledge that (i) the City has, pursuant to the Arena Development Agreement, agreed to issue the City Financial Obligations in order to provide all or substantially all of the City Commitment Amount; and (ii) the City anticipates that it will, as a result of the development of the Project, receive Qualified Tax Revenues in accordance with the Comparison Schedule.

The City's sole and exclusive remedy with respect to the failure (for whatever reason) by the Entertainment Developer and the Retail/Residential Developer (i) to have planned, designed and constructed the minimum square feet of Qualified Use Space on the Entertainment Project Land and/or the Retail/Residential Project Land required by the Completion Schedule, or (ii) to have otherwise complied with the Completion Schedule, shall be to enforce the City's rights under the Team Guaranty.

Neither the Entertainment Developer nor the Retail/Residential Developer shall have any financial or other obligation with respect to the City Financial Obligations.

ARTICLE 6

INSURANCE

6.1 Entertainment Developer Insurance. The Entertainment Developer shall, so long as the Entertainment Developer holds fee title to the Entertainment Project Land or any portion thereof, at its cost and expense, obtain and maintain or cause to be obtained and maintained in full force and effect, the liability insurance coverages described in Exhibit "D" attached hereto.

6.2 Retail/Residential Developer Insurance. The Retail/Residential Developer shall, so long as the Retail/Residential Developer holds fee title to the Retail/Residential Project Land or any portion thereof, at its cost and expense, obtain and maintain or cause to be obtained and maintained in full force and effect, the liability insurance coverages described in Exhibit "E" attached hereto.

6.3 Waiver of Recovery. Notwithstanding any provision to the contrary in this Agreement, no party hereto (each a "**Released Party**") shall be liable to any other party hereto, or to any insurance company (by way of subrogation or otherwise) insuring any other party hereto, for any Claim or Loss, even though such Claim or Loss might have been occasioned by the negligence of the Released Party, its agents or employees, if and to the extent such Claim or Loss is covered by insurance benefiting the party suffering such Claim or Loss or against whom such Claim or Loss is made.

6.4 Specific Insurance Requirements. All insurance required hereby shall be by valid and enforceable policies issued by insurance companies rated not lower than A-VII in Best's Rating Guide (most current edition) and authorized to do business in Arizona. The policy of insurance of each party shall be endorsed: (a) to provide that the coverage shall not be invalid due to any act or omission of the Entertainment Developer, the Retail/Residential Developer or their respective agents; and (b) to provide that the waiver of recovery (subrogation) set forth above shall not invalidate or have any adverse effect on the insuring agreements or liability of the insurer under the policy. So long as the Entertainment Developer or the Retail/Residential Developer (as applicable) holds fee title to the Entertainment Project Land or the Retail/Residential Project Land (as applicable), the Entertainment Developer and the Retail/Residential Developer (as applicable) shall deliver to the City certificates evidencing the insurance coverage required herein, confirming that the premiums therefor have been paid and consenting to the waiver of recovery (subrogation) as herein provided. If any insurance coverage required under this Agreement is to be issued on a "claims made" form as opposed to the "occurrence" form, the retroactive date for coverage shall be no later than the Agreement Effective Date and shall provide in the event of cancellation or non-renewal that the discovery period for insurance claims (tail coverage) shall be limited to the longest applicable statute of limitations plus two (2) years.

ARTICLE 7

REPRESENTATIONS, WARRANTIES AND COVENANTS

7.1 Entertainment Developer Representations, Warranties and Covenants. The Entertainment Developer represents and warrants to, and covenants with, the other parties hereto as follows:

(a) Organization; Authorization. The Entertainment Developer is a limited liability company, duly organized and validly existing under the laws of the State of Delaware; the Entertainment Developer has all requisite power and authority to enter into this Agreement; and the execution, delivery and consummation of this Agreement by the Entertainment Developer have been duly authorized.

(b) No Violation. The execution, delivery and performance of this Agreement by the Entertainment Developer will not result in the breach of or constitute a default under any loan or credit agreement, or any other agreement, instrument, judgment or decree, to which the Entertainment Developer is a party or by which the Entertainment Developer or its assets may be bound or affected. All consents and approvals of any Person (including members of the Entertainment Developer) required in connection with the Entertainment Developer's execution, delivery and performance of this Agreement have been obtained.

(c) Litigation. Other than as disclosed by the Entertainment Developer to the other parties hereto, no suit is pending against the Entertainment Developer which could have a material adverse affect upon the Entertainment Developer's performance under this Agreement. There are no outstanding judgments against the Entertainment Developer that could have a material adverse affect upon the Entertainment Developer's performance under this Agreement.

(d) No Conflicts. This Agreement is not prohibited by and does not conflict with any other agreement, instrument, judgment or decree to which the Entertainment Developer is a party or is otherwise subject.

(e) No Violation of Laws. As of the Agreement Effective Date, the Entertainment Developer has received no notice asserting any noncompliance in any material respect by the Entertainment Developer with Applicable Law; and the Entertainment Developer is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency or other Governmental Authority which is in any respect material to the transactions contemplated hereby.

(f) Single Purpose Entity. The Entertainment Developer's articles of organization provide that the Entertainment Developer's sole purpose and authorized activity is (a) to (i) acquire the Land; (ii) convey the Arena Facility Land, the Parking Land, the Infrastructure Land and the Other Public Improvements Land to the City; (iii) convey the Retail/Residential Project Land to the Retail/Residential Developer; and (iv) develop, own, sell, lease and manage the Entertainment Project, all in accordance with this Agreement; and (b) to pay certain Arena operating expense shortfalls as described in, and take certain actions under, the Arena Management Agreement, and the Entertainment Developer shall not, so long as this

Agreement remains in effect, amend or revise such articles to permit the Entertainment Developer to have any other purpose or engage in any other activity. As of the Agreement Effective Date and so long as this Agreement remains in effect, the Entertainment Developer shall be a single purpose entity.

7.2 Retail/Residential Developer Representations, Warranties and Covenants. The Retail/Residential Developer represents and warrants to, and covenants with, the other parties hereto as follows:

(a) Organization; Authorization. The Retail/Residential Developer is a limited liability company, duly organized and validly existing under the laws of the State of Delaware; the Retail/Residential Developer has all requisite power and authority to enter into this Agreement; and the execution, delivery and consummation of this Agreement by the Retail/Residential Developer have been duly authorized.

(b) No Violation. The execution, delivery and performance of this Agreement by the Retail/Residential Developer will not result in the breach of or constitute a default under any loan or credit agreement, or any other agreement, instrument, judgment or decree, to which the Retail/Residential Developer is a party or by which the Retail/Residential Developer or its assets may be bound or affected. All consents and approvals of any Person (including members of the Retail/Residential Developer) required in connection with the Retail/Residential Developer's execution, delivery and performance of this Agreement have been obtained.

(c) Litigation. Other than as disclosed by the Retail/Residential Developer to the other parties hereto, no suit is pending against the Retail/Residential Developer which could have a material adverse affect upon the Retail/Residential Developer's performance under this Agreement. There are no outstanding judgments against the Retail/Residential Developer that could have a material adverse affect upon the Retail/Residential Developer's performance under this Agreement.

(d) No Conflicts. This Agreement is not prohibited by and does not conflict with any other agreement, instrument, judgment or decree to which the Retail/Residential Developer is a party or is otherwise subject.

(e) No Violation of Laws. As of the Agreement Effective Date, the Retail/Residential Developer has received no notice asserting any noncompliance in any material respect by the Retail/Residential Developer with Applicable Law; and the Retail/Residential Developer is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency or other Governmental Authority which is in any respect material to the transactions contemplated hereby.

(f) Single Purpose Entity. The Retail/Residential Developer's articles of organization provide that the Retail/Residential Developer's sole purpose and authorized activity is (a) to (i) acquire the Retail/Residential Project Land; and (ii) develop, own, sell, lease and manage the Retail/Residential Project, all in accordance with this Agreement; and (b) to pay certain Arena operating expense shortfalls as described in, and take certain actions under, the Arena Management Agreement, and the Retail/Residential Developer shall not, so long as this

Agreement remains in effect, amend or revise such articles to permit the Retail/Residential Developer to have any other purpose or engage in any other activity. As of the Agreement Effective Date and so long as this Agreement remains in effect, the Retail/Residential Developer shall be a single purpose entity.

7.3 City Representations, Warranties and Covenants. The City represents and warrants to, and covenants with, the other parties hereto as follows:

(a) Authority. The execution, delivery and performance of this Agreement by the City have been duly authorized by the Glendale City Council and no additional or further act by any other Governmental Authority is required to authorize such execution, delivery and performance.

(b) No Conflicts. This Agreement is not prohibited by, and does not conflict with, any other agreement, judgment or decree to which the City is a party or is otherwise subject.

(c) No Violation of Laws. The execution, delivery and performance of this Agreement by the City will not violate the City Charter, the Glendale City Code or any ordinance or resolution of the City. As of the Agreement Effective Date, the City has not received any notice asserting any noncompliance in any material respect by the City with any Applicable Law relating to the transactions contemplated hereby; and the City is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency or other Governmental Authority which is in any respect material to the transactions contemplated hereby.

(d) Litigation. Other than as disclosed by the City to the other parties hereto, no suit is pending against the City which could have a material adverse affect upon the City's performance under this Agreement. There are no outstanding judgments against the City that could have a material adverse affect upon the City's performance under this Agreement.

7.4 Mutual Covenants.

(a) Additional Documents and Approval. Each of the parties hereto, whenever and as often as such party shall be reasonably requested to do so by any other party hereto, shall execute or cause to be executed any additional documents, take any additional actions and grant any additional approvals consistent with the provisions of this Agreement as may be necessary or expedient to consummate the transactions provided for in, and to carry out the purpose and intent of, this Agreement.

(b) Challenges. The City, the Entertainment Developer and the Retail/Residential Developer each agree to, in good faith, contest any challenge to the validity, authorization and enforceability of this Agreement (each a "**Challenge**"), whether asserted by a taxpayer or any other Person. The City, the Entertainment Developer and the Retail/Residential Developer shall strive, in good faith, to agree jointly upon counsel to defend any such Challenge. The parties shall share equally the costs of contesting the Challenge. The City, the Entertainment Developer and the Retail/Residential Developer shall take all ministerial actions and proceedings necessary or appropriate to remedy any apparent invalidity of, lack or defect in

authorization of, or illegality of, or to cure any other defect of, this Agreement that has been asserted or threatened in any Challenge. The City, the Entertainment Developer and the Retail/Residential Developer shall promptly give notice to the other parties hereto of any Challenge of which the party giving notice acquires knowledge.

(c) Notice of Matters. If any of the parties hereto acquires knowledge of any matter that may constitute a breach of any of its representations, warranties or covenants set forth herein which arises after the Agreement Effective Date, it shall promptly give notice of the same to the other parties hereto.

(d) Compliance with Laws. During the Agreement Term, the City, the Entertainment Developer and the Retail/Residential Developer each shall, in connection with this Agreement and their respective use of, and the exercise of their respective rights to the Entertainment Project, the Retail/Residential Project and the Arena Development Project, comply with all Applicable Law.

(e) Survival of Covenants and Warranties. All covenants, representations and warranties contained in this Agreement shall survive the execution and delivery of this Agreement. No action taken pursuant to or related to this Agreement shall be deemed to constitute a waiver by the party taking such action of compliance with any covenant, representation, warranty, condition or agreement herein.

ARTICLE 8

CONDITIONS PRECEDENT

8.1 Conditions Precedent for the Benefit of the Entertainment Developer. Notwithstanding anything to the contrary set forth herein, the Entertainment Developer's obligations under this Agreement are expressly conditioned upon the fulfillment or satisfaction of each of the following conditions precedent, any of which may be waived only in writing by the Entertainment Developer in its sole and absolute discretion:

(a) On the Agreement Effective Date, the City, the Arena Manager, the Entertainment Developer, the Retail/Residential Developer and the Team shall have executed and entered into the Arena Management Agreement;

(b) On the Agreement Effective Date, the City, the Arena Developer and the Entertainment Developer shall have executed and entered into the Arena Development Agreement; and

(c) Prior to the commencement of construction of the Entertainment Project, the Entertainment Developer shall have timely requested and obtained all permits and approvals required to complete such construction in accordance with Applicable Law and in the manner contemplated by this Agreement, or the Entertainment Developer shall be reasonably satisfied that such permits and approvals, timely requested, will be obtained within a time period which will permit the Entertainment Developer to so complete such construction.

The Entertainment Developer shall have the right to terminate this Agreement, by notice of termination given to each of the other parties hereto, if (i) the conditions precedent stated in clauses (a) and (b) of this Section 8.1 are not satisfied (unless waived by the Entertainment Developer) prior to the date that is the tenth day after the Agreement Effective Date; or (ii) the condition precedent stated in clause (c) of this Section 8.1 is not satisfied or waived by the Entertainment Developer on or before May 1, 2003. In the event of such termination, no party hereto shall have any further obligations under this Agreement to any other party hereto.

8.2 Conditions Precedent for the Benefit of the Retail/Residential Developer. Notwithstanding anything to the contrary set forth herein, the Retail/Residential Developer's obligations under this Agreement are expressly conditioned upon the fulfillment or satisfaction of each of the following conditions precedent, any of which may be waived only in writing by the Retail/Residential Developer in its sole and absolute discretion:

(a) On the Agreement Effective Date, the City, the Arena Manager, the Entertainment Developer, the Retail/Residential Developer and the Team shall have executed and entered into the Arena Management Agreement;

(b) On the Agreement Effective Date, the City, the Arena Developer and the Entertainment Developer shall have executed and entered into the Arena Development Agreement; and

(c) Prior to the commencement of construction of the Retail/Residential Project, the Retail/Residential Developer shall have timely requested and obtained all permits and approvals required to complete such construction in accordance with Applicable Law and in the manner contemplated by this Agreement, or the Retail/Residential Developer shall be reasonably satisfied that such permits and approvals, timely requested, will be obtained within a time period which will permit the Retail/Residential Developer to so complete such construction.

The Retail/Residential Developer shall have the right to terminate this Agreement, by notice of termination given to each of the other parties hereto, if (i) the conditions precedent stated in clauses (a) and (b) of this Section 8.2 are not satisfied (unless waived by the Retail/Residential Developer) prior to the date that is the tenth day after the Agreement Effective Date; or (ii) the conditions precedent stated in clause (c) of this Section 8.2 is not satisfied or waived by the Retail/Residential Developer on or before May 1, 2003. In the event of such termination, no party hereto shall have any further obligations under this Agreement to any other party hereto.

8.3 Conditions Precedent for the Benefit of the City. Notwithstanding anything to the contrary set forth herein, the City's performance of its obligations under this Agreement is expressly conditioned upon the fulfillment or satisfaction of each of the following conditions precedent, any of which may be waived only in writing by the City in its sole and absolute discretion:

(a) On the Agreement Effective Date, the City, the Arena Manager, the Entertainment Developer, the Retail/Residential Developer and the Team shall have executed and entered into the Arena Management Agreement;

(b) On the Agreement Effective Date, the City, the Arena Developer and the Entertainment Developer shall have executed and entered into the Arena Development Agreement; and

(c) On or before the date described in Section 12.3(c)(vii) of the Arena Development Agreement, the Team shall have executed and delivered to the City the Team Guaranty.

The City shall have the right to terminate this Agreement, by notice of termination given to each of the other parties hereto, if (i) the conditions precedent stated in clauses (a) and (b) of this Section 8.3 are not satisfied (unless waived by the City) prior to the date that is the tenth day after the Agreement Effective Date; or (ii) the condition precedent stated in clause (c) of this Section 8.3 is not satisfied or waived by the City on or before the date described therein. In the event of such termination, no party hereto shall have any further obligations under this Agreement to any other party hereto.

ARTICLE 9

EVENTS OF DEFAULT; REMEDIES

9.1 Event of Default.

(a) By Entertainment Developer. Each of the following events shall constitute an "**Event of Default**" by the Entertainment Developer:

(i) If the Entertainment Developer fails to make any payment or distribution to be made by the Entertainment Developer hereunder at the time and in the manner required by this Agreement, and such failure is not cured within thirty (30) days after the Entertainment Developer's receipt of notice of such failure from any other party hereto;

(ii) If any representation or warranty made by the Entertainment Developer in this Agreement at any time proves to have been incorrect in any material respect as of the time made, and if the Entertainment Developer fails to cause such representation or warranty to become correct within thirty (30) days after the Entertainment Developer's receipt of notice from any other party hereto that such representation or warranty was incorrect; provided, however, that if it is reasonably possible to cause such representation or warranty to become correct but is not reasonably possible to cause such representation or warranty to become correct within such thirty-day period, such cure period shall be for an unlimited period of time so long as the Entertainment Developer commences such cure within such thirty-day period and thereafter diligently pursues such cure;

(iii) If the Entertainment Developer materially breaches any covenant or provision of this Agreement other than as referred to in Section 9.1(a)(i), Section 9.1(a)(ii) or Section 5.1 (for which the Retail/Residential Developer shall have no remedy and for which the City shall look solely to the Team under the Team Guaranty, as contemplated by Section 5.2), and such breach is not cured within thirty (30) days after the Entertainment Developer's receipt from any other party hereto of notice of such breach; provided, however, that if it is reasonably possible to cure such breach but is not reasonably possible to cure such breach within such thirty-

day period, such cure period shall be for an unlimited period of time so long as the Entertainment Developer commences such cure within such thirty-day period and thereafter diligently pursues such cure;

(iv) If the Entertainment Developer becomes insolvent; or admits in writing its inability to pay its debts as they mature; or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of a receiver or trustee for it or for a substantial part of its property or business; or

(v) If there is an Event of Default by the Retail/Residential Developer under this Agreement.

(b) By Retail/Residential Developer. Each of the following events shall constitute an "**Event of Default**" by the Retail/Residential Developer:

(i) If the Retail/Residential Developer fails to make any payment or distribution to be made by the Retail/Residential Developer hereunder at the time and in the manner required by this Agreement, and such failure is not cured within thirty (30) days after the Retail/Residential Developer's receipt of notice of such failure from any other party hereto;

(ii) If any representation or warranty made by the Retail/Residential Developer in this Agreement at any time proves to have been incorrect in any material respect as of the time made, and if the Retail/Residential Developer fails to cause such representation or warranty to become correct within thirty (30) days after the Retail/Residential Developer's receipt of notice from any other party hereto that such representation or warranty was incorrect; provided, however, that that if it is reasonably possible to cause such representation or warranty to become correct but is not reasonably possible to cause such representation or warranty to become correct within such thirty-day period, such cure period shall be for an unlimited period of time so long as the Retail/Residential Developer commences such cure within such thirty-day period and thereafter diligently pursues such cure;

(iii) If the Retail/Residential Developer materially breaches any covenant or provision of this Agreement other than as referred to in Section 9.1(b)(i), Section 9.1(b)(ii) or Section 5.1 (for which the Entertainment Developer shall have no remedy and for which the City shall look solely to the Team under the Team Guaranty, as contemplated by Section 5.2), and such breach is not cured within thirty (30) days after the Retail/Residential Developer's receipt from any other party hereto of notice of such breach; provided, however, that if it is reasonably possible to cure such breach but is not reasonably possible to cure such breach within such thirty-day period, such cure period shall be for an unlimited period of time so long as the Retail/Residential Developer commences such cure within such thirty-day period and thereafter diligently pursues such cure;

(iv) If the Retail/Residential Developer becomes insolvent; or admits in writing its inability to pay its debts as they mature; or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of a receiver or trustee for it or for a substantial part of its property or business; or

(v) If there is an Event of Default by the Entertainment Developer under this Agreement.

(c) By City. Each of the following events shall constitute an "**Event of Default**" by the City:

(i) If the City fails to make any payment or distribution to be made by the City hereunder at the time and in the manner required by this Agreement, and such failure is not cured within thirty (30) days after the City's receipt of notice of such failure from any other party hereto;

(ii) If any representation or warranty made by the City in this Agreement at any time proves to have been incorrect in any material respect as of the time made, and if the City fails to cause such representation or warranty to become correct within thirty (30) days after the City's receipt of notice from any other party hereto that such representation or warranty was incorrect; provided, however, that that if it is reasonably possible to cause such representation or warranty to become correct but is not reasonably possible to cause such representation or warranty to become correct within such thirty-day period, such cure period shall be for an unlimited period of time so long as the City commences such cure within such thirty-day period and thereafter diligently pursues such cure;

(iii) If the City materially breaches any covenant or provision of this Agreement other than as referred to in Section 9.1(c)(i) or Section 9.1(c)(ii), and such breach is not cured within thirty (30) days after the City's receipt from any other party hereto of notice of such breach; provided, however, that if it is reasonably possible to cure such breach but is not reasonably possible to cure such breach within such thirty-day period, such cure period shall be for an unlimited period of time so long as the City commences such cure within such thirty-day period and thereafter diligently pursues such cure;

(iv) If an Event of Default by the City occurs under Article 9 of the Arena Development Agreement; or

(v) If the City becomes insolvent; or admits in writing its inability to pay its debts as they mature; or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of a receiver or trustee for it or for a substantial part of its property or business.

9.2 Remedies.

(a) Entertainment Developer Remedies. Except with respect to an Event of Default by the Retail/Residential Developer under Section 5.1 (for which the Entertainment Developer shall have no remedy), following an Event of Default by any party hereto, the Entertainment Developer shall have the right to seek from such party compensatory, but not consequential or punitive, damages arising out of such Event of Default. In addition, the Entertainment Developer shall have the right to seek an award and/or order requiring specific performance by such party of such party's obligations under this Agreement. The Entertainment Developer hereby waives, with respect to any Event of Default by such party, any claim or right to consequential or punitive damages and any right to terminate this Agreement or the rights of

such party under this Agreement, and acknowledges that such party is relying on such waiver in entering into this Agreement.

(b) Retail/Residential Developer Remedies. Except with respect to an Event of Default by the Entertainment Developer under Section 5.1 (for which the Retail/Residential Developer shall have no remedy), following an Event of Default by any party hereto, the Retail/Residential Developer shall have the right to seek from such party compensatory, but not consequential or punitive, damages arising out of such Event of Default. In addition, the Retail/Residential Developer shall have the right to seek an award and/or order requiring specific performance by such party of such party's obligations under this Agreement. The Retail/Residential Developer hereby waives, with respect to any Event of Default by such party, any claim or right to consequential or punitive damages and any right to terminate this Agreement or the rights of such party under this Agreement, and acknowledges that such party is relying on such waiver in entering into this Agreement.

(c) City Remedies. Except with respect to an Event of Default by the Entertainment Developer and/or the Retail/Residential Developer under Section 5.1 (for which the City shall look solely to the Team under the Team Guaranty, as contemplated by Section 5.2), following an Event of Default by any party hereto, the City shall have the right to seek from such party compensatory, but not consequential or punitive, damages arising out of such Event of Default. In addition, the City shall have the right to seek an award and/or order requiring specific performance by such party of such party's obligations under this Agreement. The City hereby waives, with respect to any Event of Default by such party, any claim or right to consequential or punitive damages and any right to terminate this Agreement or the rights of such party under this Agreement, and acknowledges that such party is relying on such waiver in entering into this Agreement.

9.3 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement (including the exclusive remedy provided to the City in the Team Guaranty for any breach by the Entertainment Developer and/or the Retail/Residential Developer of Section 5.1) and subject to the limitations set forth in Section 9.2, including the waivers of consequential and punitive damages and termination rights set forth therein, the rights and remedies of the parties hereto are cumulative and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Event of Default or any other Event of Default.

9.4 Acceptance of Legal Process.

(a) Service on the Entertainment Developer. In the event any legal or equitable action is commenced by any party hereto against the Entertainment Developer, service of process on the Entertainment Developer shall be made by personal service upon the President of the Entertainment Developer, or in such other manner as may be authorized by law.

(b) Service on the Retail/Residential Developer. In the event any legal or equitable action is commenced by any party hereto against the Retail/Residential Developer, service of process on the Retail/Residential Developer shall be made by personal service upon

the President of the Retail/Residential Developer, or in such other manner as may be authorized by law.

(c) Service on City. In the event that any legal or equitable action is commenced by any party hereto against the City, service of process on the City shall be made by personal service upon the City Clerk of the City of Glendale, Arizona, or in such other manner as may be authorized by law.

ARTICLE 10

LENDER'S PROTECTION

10.1 Entertainment Developer Lender's Protection.

(a) Estoppel Certificates for Entertainment Developer. Each party hereto (other than the Entertainment Developer) shall from time to time, within fifteen (15) days after receipt from the Entertainment Developer of a request therefor, deliver to the Entertainment Developer (or to such other party as the Entertainment Developer may designate in such request, including any lender providing or considering providing financing to the Entertainment Developer), a certificate, signed by or on behalf of the party receiving such request, stating, as of the date of such certificate: (i) whether this Agreement is in full force and effect; (ii) whether this Agreement has been amended and, if so, the date and substance of each such amendment; (iii) whether, to the receiving party's knowledge after reasonable inquiry, there exists (or with the passage of time and/or the giving of notice there will exist) any Event of Default by the Entertainment Developer and, if so, the nature of such Event of Default; and (iv) such other information pertaining to this Agreement and then available to the public as the Entertainment Developer may reasonably request in such request. The Entertainment Developer may give any such certificate to, and any such certificate may be relied upon by, the Person to whom it is addressed.

(b) Assignment of Entertainment Developer Rights. Notwithstanding any other provision of this Agreement to the contrary, the Entertainment Developer shall have the right, without any additional consent or approval of any other party hereto, to assign to any lender providing financing to the Entertainment Developer, as security for such financing, the rights of the Entertainment Developer under this Agreement. The Entertainment Developer shall, not later than thirty (30) days after such assignment becomes effective, give the other parties hereto notice (the "**Notice of Entertainment Developer Assignment**") of such assignment, and the Notice of Entertainment Developer Assignment shall include the name and address of the assignee (the "**Entertainment Developer Assignee**"). Each of the other parties hereto agrees to, upon request therefor from the Entertainment Developer and/or the Entertainment Developer Assignee, deliver to the Entertainment Developer Assignee a written acknowledgement, executed by or on behalf of such party, of receipt of a given Notice of Entertainment Developer Assignment. Nothing in this Section 10.1(b) shall alter, amend, reduce or excuse the Entertainment Developer from performing the Entertainment Developer's obligations under this Agreement.

Following receipt of a Notice of Entertainment Developer Assignment, no party hereto shall enter into or consent to any amendment, modification or termination of this Agreement without the prior written consent of the Entertainment Developer Assignee named in such Notice of Entertainment Developer Assignment.

The Entertainment Developer hereby authorizes and directs each other party hereto, following such party's receipt of (i) a Notice of Entertainment Developer Assignment; (ii) the Entertainment Developer Assignee's written notice of a default by the Entertainment Developer under the terms and conditions of the financing secured by the assignment described in such Notice of Entertainment Developer Assignment; and (iii) the Entertainment Developer Assignee's request for payment, to make any payments to be made by such party to the Entertainment Developer under this Agreement directly to the Entertainment Developer Assignee. No party hereto shall have any obligation to verify or investigate the existence of any claimed default described in the Entertainment Developer Assignee's notice.

(c) Notices to Entertainment Developer Assignee. Following receipt from the Entertainment Developer of a Notice of Entertainment Developer Assignment, each party hereto shall, contemporaneously with giving any notice to the Entertainment Developer under this Agreement, send a copy of such notice to the Entertainment Developer Assignee named in such Notice of Entertainment Developer Assignment in the manner described in Section 12.9 and addressed to such Entertainment Developer Assignee at the address of such Entertainment Developer Assignee set forth in such Notice of Entertainment Developer Assignment.

(d) Entertainment Developer Assignee's Right to Cure Entertainment Developer Event of Default. Following the delivery by the Entertainment Developer of a Notice of Entertainment Developer Assignment to each of the other parties hereto, the Entertainment Developer Assignee named therein shall have the right to cure any Event of Default by the Entertainment Developer, whether then existing or thereafter arising. No party hereto shall exercise any remedy under this Agreement or otherwise with respect to any such Event of Default by the Entertainment Developer until at least sixty (60) days after such party has given such Entertainment Developer Assignee written notice of such Event of Default and the Entertainment Developer Assignee's right to cure such Event of Default; provided, however, that if such Entertainment Developer Assignee commences such a cure within such sixty (60) day period, such party shall not exercise any such remedy with respect to such Event of Default so long as such Entertainment Developer Assignee is diligently pursuing such cure.

If an Entertainment Developer Assignee succeeds to the interest of the Entertainment Developer under this Agreement, such Entertainment Developer Assignee shall not be (i) bound by any amendment, modification or termination of this Agreement (entered into after the date on which the Notice of Entertainment Developer Assignment was given) without such Entertainment Developer Assignee's written consent, or (ii) bound by, or liable for the cure of, any failure by the Entertainment Developer to perform any obligation under this Agreement that arose prior to the date on which such Entertainment Developer Assignee succeeded to the interest of the Entertainment Developer under this Agreement.

10.2 Retail/Residential Developer Lender's Protection.

(a) Estoppel Certificates for Retail/Residential Developer. Each party hereto (other than the Retail/Residential Developer) shall from time to time, within fifteen (15) days after receipt from the Retail/Residential Developer of a request therefor, deliver to the Retail/Residential Developer (or to such other party as the Retail/Residential Developer may designate in such request, including any lender providing or considering providing financing to the Retail/Residential Developer), a certificate, signed by or on behalf of the party receiving such request, stating, as of the date of such certificate: (i) whether this Agreement is in full force and effect; (ii) whether this Agreement has been amended and, if so, the date and substance of each such amendment; (iii) whether, to the receiving party's knowledge after reasonable inquiry, there exists (or with the passage of time and/or the giving of notice there will exist) any Event of Default by the Retail/Residential Developer and, if so, the nature of such Event of Default; and (iv) such other information pertaining to this Agreement and then available to the public as the Retail/Residential Developer may reasonably request in such request. The Retail/Residential Developer may give any such certificate to, and any such certificate may be relied upon by, the Person to whom it is addressed.

(b) Assignment of Retail/Residential Developer Rights. Notwithstanding any other provision of this Agreement to the contrary, the Retail/Residential Developer shall have the right, without any additional consent or approval of any other party hereto, to assign to any lender providing financing to the Retail/Residential Developer, as security for such financing, the rights of the Retail/Residential Developer under this Agreement. The Retail/Residential Developer shall, not later than thirty (30) days after such assignment becomes effective, give the other parties hereto notice (the "**Notice of Retail/Residential Developer Assignment**") of such assignment, and the Notice of Retail/Residential Developer Assignment shall include the name and address of the assignee (the "**Retail/Residential Developer Assignee**"). Each of the other parties hereto agrees to, upon request therefor from the Retail/Residential Developer and/or the Retail/Residential Developer Assignee, deliver to the Retail/Residential Developer Assignee a written acknowledgement, executed by or on behalf of such party, of receipt of a given Notice of Retail/Residential Developer Assignment. Nothing in this Section 10.2(b) shall alter, amend, reduce or excuse the Retail/Residential Developer from performing the Retail/Residential Developer's obligations under this Agreement.

Following receipt of a Notice of Retail/Residential Developer Assignment, no party hereto shall enter into or consent to any amendment, modification or termination of this Agreement without the prior written consent of the Retail/Residential Developer Assignee named in such Notice of Retail/Residential Developer Assignment.

The Retail/Residential Developer hereby authorizes and directs each other party hereto, following such party's receipt of (i) a Notice of Retail/Residential Developer Assignment; (ii) the Retail/Residential Developer Assignee's written notice of a default by the Retail/Residential Developer under the terms and conditions of the financing secured by the assignment described in such Notice of Retail/Residential Developer Assignment; and (iii) the Retail/Residential Developer Assignee's request for payment, to make any payments to be made by such party to the Retail/Residential Developer under this Agreement directly to the Retail/Residential

Developer Assignee. No party hereto shall have any obligation to verify or investigate the existence of any claimed default described in the Retail/Residential Developer Assignee's notice.

(c) Notices to Retail/Residential Developer Assignee. Following receipt from the Retail/Residential Developer of a Notice of Retail/Residential Developer Assignment, each party hereto shall, contemporaneously with giving any notice to the Retail/Residential Developer under this Agreement, send a copy of such notice to the Retail/Residential Developer Assignee named in such Notice of Retail/Residential Developer Assignment in the manner described in Section 12.9 and addressed to such Retail/Residential Developer Assignee at the address of such Retail/Residential Developer Assignee set forth in such Notice of Retail/Residential Developer Assignment.

(d) Retail/Residential Developer Assignee's Right to Cure Retail/Residential Developer Event of Default. Following the delivery by the Retail/Residential Developer of a Notice of Retail/Residential Developer Assignment to each of the other parties hereto, the Retail/Residential Developer Assignee named therein shall have the right to cure any Event of Default by the Retail/Residential Developer, whether then existing or thereafter arising. No party hereto shall exercise any remedy under this Agreement or otherwise with respect to any such Event of Default by the Retail/Residential Developer until at least sixty (60) days after such party has given such Retail/Residential Developer Assignee written notice of such Event of Default and the Retail/Residential Developer Assignee's right to cure such Event of Default; provided, however, that if such Retail/Residential Developer Assignee commences such a cure within such sixty (60) day period, such party shall not exercise any such remedy with respect to such Event of Default so long as such Retail/Residential Developer Assignee is diligently pursuing such cure.

If a Retail/Residential Developer Assignee succeeds to the interest of the Retail/Residential Developer under this Agreement, such Retail/Residential Developer Assignee shall not be (i) bound by any amendment, modification or termination of this Agreement (entered into after the date on which the Notice of Retail/Residential Developer Assignment was given) without such Retail/Residential Developer Assignee's written consent, or (ii) bound by, or liable for the cure of, any failure by the Retail/Residential Developer to perform any obligation under this Agreement that arose prior to the date on which such Retail/Residential Developer Assignee succeeded to the interest of the Retail/Residential Developer under this Agreement.

ARTICLE 11

ARBITRATION

Any Event of Default or any other dispute between or among the parties hereto under, in connection with or relating to this Agreement (each, an "**Arbitration Dispute**") shall be submitted to arbitration ("**Arbitration**") under this Article 11.

The parties hereto shall maintain a list (the "**Arbitrator List**") of four (4) or more individuals who the parties hereto have mutually agreed are qualified to resolve Arbitration Disputes. The individuals from time to time listed on the Arbitrator List shall be independent of each party hereto (and their respective Affiliates) and shall hold no financial interest in, or have any

material financial or personal relationship with, any of the parties hereto (or their respective Affiliates). The parties shall attempt to agree to the initial Arbitrator List within thirty (30) days after the Agreement Effective Date.

An individual shall remain on the Arbitrator List until removed by the consent of all of the parties hereto; provided that if any individual on the Arbitrator List dies, refuses to serve or for any other reason is unable to serve, the parties shall designate an additional individual to fill the vacancy on the Arbitrator List thereby created. An individual shall be added to the Arbitrator List only upon the consent of all of the parties hereto; provided that if a vacancy on the Arbitrator List is not filled within thirty (30) days after any party hereto gives the other parties notice of the event that caused such vacancy, the remaining individuals on the Arbitrator List shall, upon request by any party hereto, choose an individual to fill such vacancy.

If, at any time after the 30th day after the Agreement Effective Date, there are fewer than four (4) individuals on the Arbitrator List and the parties hereto are unable to identify a sufficient number of additional individuals to increase the Arbitrator List to four (4) individuals, then, at the request of any party hereto, the selection of individuals sufficient to cause the Arbitrator List to include four (4) individuals shall be made by the regional vice president (or his/her equivalent) of the American Arbitration Association (the "**AAA**") with authority over Arizona.

The individual to be designated as the arbitrator (the "**Arbitrator**") for a given Arbitration Dispute shall be selected from the Arbitrator List by the consent of the parties hereto, or at the request of any party, by random selection from the Arbitrator List.

The Arbitration shall be conducted by the Arbitrator at a location in Maricopa County, Arizona selected by the Arbitrator. The Arbitration shall be conducted under the Arizona Arbitration Act, subject to this Agreement and any other documents executed by the parties hereto. The Arbitrator shall follow the commercial rules of the AAA, but shall have discretion to vary from such rules in light of the nature or circumstances of a given Arbitration Dispute; provided that the Arbitrator shall, in all events, be constrained by the provisions of this Article 11.

The parties shall make reasonable efforts to agree on discovery rules and the extent and scope of discovery with respect to any Arbitration Dispute. In the event the parties are not able to agree on such rules and the extent and the scope of such discovery, all issues relating to such discovery shall be resolved by the Arbitrator in his/her sole discretion. Unless waived by each of the parties participating in the Arbitration, the Arbitrator shall conduct an Arbitration hearing at which the participating parties and their respective counsel may be present and have the opportunity to present evidence and examine and cross-examine witnesses. Witnesses shall, unless waived by the parties, present testimony under oath.

If the Arbitrator determines that the matters or issues involved in any Arbitration Dispute are outside the scope of the Arbitrator's expertise, the Arbitrator shall have the right to obtain and rely on experts with respect to such matters and issues. The cost of any expert retained by the Arbitrator shall be a cost of the Arbitration to be paid as directed by the Arbitrator. Any information obtained by the Arbitrator from an expert engaged by the Arbitrator shall be disclosed by the Arbitrator to the parties to such Arbitration Dispute, and each such party shall

have the right to present evidence and/or testimony from such party's own expert with respect to such matter or issue.

The parties hereto shall cooperate in good faith to permit a conclusion of the Arbitration hearing within thirty (30) days following the submission of the Arbitration Dispute to the Arbitrator.

If the Arbitration results in a determination by the Arbitrator that an Event of Default has occurred, the provisions of Article 9, including the waivers of consequential and punitive damages and termination rights set forth therein, shall govern the damages and other remedies which may be implemented or ordered by the Arbitrator. Neither the requirement to utilize nor the pendency of any Arbitration shall in any way invalidate any notices or extend any cure periods applicable to an Event of Default as provided in Article 9.

The parties hereto shall use Arbitration exclusively, rather than litigation, as a means of resolving all Arbitration Disputes. Notwithstanding any other provision of this Article 11 to the contrary, in the event any party hereto desires to seek interim equitable relief with respect to an Arbitration Dispute in the form of a temporary restraining order, preliminary injunction or other interim equitable relief concerning an Arbitration Dispute, including specific performance, provisional remedies, stay of proceedings in connection with special action relief or any similar relief of an interim nature, either before the beginning of, or at any point in, the Arbitration concerning such Arbitration Dispute, such party may initiate the appropriate litigation to obtain such interim equitable relief ("**Equitable Litigation**"). Nothing herein shall be construed to suspend or terminate the obligation of any party hereto to promptly proceed with the Arbitration concerning the Arbitration Dispute that is the subject of such Equitable Litigation while such Equitable Litigation (and any appeal therefrom) is pending. Regardless of whether such interim relief is granted or denied, or whether such Equitable Litigation is pending or any appeal is taken from the grant or denial of such relief, the parties shall at all times diligently proceed to complete the Arbitration. Any interim relief granted in such Equitable Litigation, or any appeal therefrom, shall remain in effect until, and only until, the Arbitration concerning the Arbitration Dispute that is the subject of such Equitable Litigation results in a settlement agreement or the issuance of an award following Arbitration.

Such written settlement agreement or award shall be the binding, final determination on the merits of the Arbitration Dispute (including any equitable relief but excluding any award of attorneys' fees or costs awarded or granted in the Equitable Litigation), shall supersede and nullify any decision in the Equitable Litigation on the merits of the Arbitration Dispute, and shall preclude any subsequent litigation on such merits, notwithstanding any determination to the contrary in connection with any Equitable Litigation granting or denying interim relief or any appeal therefrom. The parties agree that any disputes which arise out of such a written settlement agreement or award shall be resolved exclusively by Arbitration pursuant to this Article 11, provided that any party may institute legal proceedings in a court of competent jurisdiction to enforce judgment upon an Arbitration award in accordance with Applicable Law. The fees and costs of the Arbitrator shall be borne as directed by the Arbitrator; provided, however, that the prevailing party(ies) in any Arbitration shall be entitled to reimbursement for any costs of such proceeding, reasonable attorneys' fees, reasonable costs of investigation and any other expenses incurred in connection with such Arbitration in the manner directed by the Arbitrator.

ARTICLE 12

MISCELLANEOUS

12.1 Entertainment Developer Representative. Steven Ellman shall be the Entertainment Developer's authorized representative (the "**Entertainment Developer Representative**") who shall act as liaison and contact person among the Entertainment Developer and the other parties hereto in administering and implementing the provisions of this Agreement. The Entertainment Developer shall have the right to designate a substitute Entertainment Developer Representative by providing notice of such designation to the other parties hereto. The Entertainment Developer Representative, or his authorized designee, shall respond to a request for the Entertainment Developer's approval, consent or waiver under this Agreement within ten (10) days after receipt of such request or within such other period as may be expressly required by this Agreement or agreed to in writing by the parties hereto. Except as expressly stated otherwise in this Agreement, the Entertainment Developer Representative's failure to respond to any such request within such ten (10) day or other applicable period shall be conclusively deemed the Entertainment Developer's denial of such request.

12.2 Retail/Residential Developer Representative. Steven Ellman shall be the Retail/Residential Developer's authorized representative (the "**Retail/Residential Developer Representative**") who shall act as liaison and contact person among the Retail/Residential Developer and the other parties hereto in administering and implementing the provisions of this Agreement. The Retail/Residential Developer shall have the right to designate a substitute Retail/Residential Developer Representative by providing notice of such designation to the other parties hereto. The Retail/Residential Developer Representative, or his authorized designee, shall respond to a request for the Retail/Residential Developer's approval, consent or waiver under this Agreement within ten (10) days after receipt of such request or within such other period as may be expressly required by this Agreement or agreed to in writing by the parties hereto. Except as expressly stated otherwise in this Agreement, the Retail/Residential Developer Representative's failure to respond to any such request within such ten (10) day or other applicable period shall be conclusively deemed the Retail/Residential Developer's denial of such request.

12.3 City Representative. The City Manager of the City shall be the City's authorized representative (the "**City Representative**") who shall act as liaison and contact person among the City and the other parties hereto in administering and implementing the provisions of this Agreement. The City shall have the right to designate a substitute City Representative by providing notice of such designation to the other parties hereto. The City Representative, or his authorized designee, shall respond to a request for the City's approval, consent or waiver under this Agreement within ten (10) days after receipt of such request or within such other period as may be expressly required by this Agreement or agreed to in writing by the parties hereto. Except as expressly stated otherwise in this Agreement, the City Representative's failure to respond to any such request within such ten (10) day or other applicable period shall be conclusively deemed the City's denial of such request.

12.4 Amendment; Waiver. No alteration, amendment or modification hereof shall be valid unless evidenced by a written instrument executed by the parties hereto with the same

formality as this Agreement. The failure of any party hereto to insist in any one or more instances upon the strict performance of any of the covenants, agreements, terms, provisions or conditions of this Agreement, or to exercise any election or option herein contained, shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision, condition, election or option, but the same shall continue and remain in full force and effect. No waiver by any party hereto of any covenant, agreement, term, provision or condition of this Agreement shall be deemed to have been made unless expressed in writing and signed by an appropriate official or officer on behalf of such party.

12.5 Consent. Unless otherwise specifically provided herein, no consent or approval by any party hereto permitted or required under the terms of this Agreement shall be valid unless the same shall be in writing, signed by the party by or on whose behalf such consent or approval is given.

Except with respect to the City acting in its governmental capacity, whenever in this Agreement the consent or approval of any party hereto is required, unless expressly stated to the contrary, the granting of such consent or approval shall be governed by a standard of reasonableness. If any party hereto contends that such standard has not been met, the matter shall be resolved pursuant to Arbitration. In the event that such Arbitration results in a determination that such standard has not been met, the failure to meet such standard shall not constitute a default under this Agreement, operate to terminate this Agreement or give rise to any right to damages as a result thereof, and the sole remedy for such failure shall be the right to specific performance of the reasonableness standard (including the recovery of the arbitrator(s)' and reasonable attorneys' fees and costs in such Arbitration in the manner described in Article 11).

12.6 Severability. If any article, section, subsection, term or provision of this Agreement, or the application thereof to any party or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of the article, section, subsection, term or provision of this Agreement, or the application of the same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining article, section, subsection, term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12.7 Binding Effect. Except as may otherwise be provided herein to the contrary, this Agreement and each of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto, and their respective permitted successors and assigns.

12.8 Relationship of Parties. No partnership or joint venture is established by this Agreement, or any other agreement referred to in this Agreement, between or among any of the parties hereto.

12.9 Notices. All notices, disclosures, demands, consents, approvals, statements, requests, responses, acknowledgements and invoices to be given under this Agreement shall be in writing, signed by the party or officer, agent or attorney of the party giving such notice, disclosure, demand, consent, approval, statement, request, response, acknowledgement and/or invoice, and shall be deemed effective (i) upon receipt if hand delivered or sent by telecopy or

overnight courier service; or (ii) upon delivery or the date of refusal if sent by the United States mail, postage prepaid, certified mail, return receipt requested, in either case addressed as follows:

To the Entertainment Developer:	Steven Ellman Coyote Center Development, LLC 4040 East Camelback Road, Suite 250 Phoenix, Arizona 85018 Facsimile No. (602) 840-8101
with copy to:	Robert P. Kaufman General Counsel Coyote Center Development, LLC 4040 East Camelback Road, Suite 250 Phoenix, Arizona 85018 Facsimile No. (602) 840-8101
To the Retail/ Residential Developer:	Steven Ellman Glendale-101 Development, LLC 4040 East Camelback Road, Suite 250 Phoenix, Arizona 85018 Facsimile No. (602) 840-8101
with copy to:	Robert P. Kaufman General Counsel Glendale-101 Development, LLC 4040 East Camelback Road, Suite 250 Phoenix, Arizona 85018 Facsimile No. (602) 840-8101
To the City:	City Manager City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301 Facsimile No. (623) 847-1399
with copy to:	City Attorney City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301 Facsimile No. (623) 915-2391

Any party hereto may from time to time, by notice given to the other parties hereto pursuant to the terms of this Section 12.9, change the address to which notices, disclosures, demands, consents, approvals, statements, requests, responses, acknowledgements and invoices to such party are to be sent or designate one or more additional Persons to whom notices, disclosures,

demands, consents, approvals, statements, requests, responses. acknowledgements and invoices are to be sent.

12.10 Applicable Law. This Agreement has been prepared in the State of Arizona and shall be governed in all respects by the laws of the State of Arizona.

12.11 Time is of the Essence. Time is of the essence of this Agreement and every term or performance hereunder.

12.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

12.13 Entire Agreement; Conflict. This Agreement, together with the Related Agreements, supersedes any prior understanding or written or oral agreements among the parties hereto respecting the within subject matter, except for Section 9 of the MOA, and contains the entire understanding between the parties with respect thereto. In the event of any conflict between any provision in the Recitals to this Agreement and any provision in any Article of this Agreement, the provision in the Article shall govern.

12.14 Conflicts of Interest. Each member, official, representative and employee of the City shall, at all times while this Agreement is in effect, be bound by all applicable laws pertaining to conflicts of interest, and, to the extent prohibited by such laws, not have any personal interest, direct or indirect, in this Agreement or participate in any decision relating to this Agreement that relates to his or her personal interest or the interest of any entity in which he or she is, directly or indirectly, interested.

A.R.S. § 38-511 provides political subdivisions of the State of Arizona, including the City, with the right to cancel contracts under certain circumstances. Each of the parties hereto acknowledges that the provisions of A.R.S. §38-511, which are hereby incorporated in this Agreement by this reference, may create a situation in which the City might have a right to cancel this Agreement pursuant to A.R.S. § 38-511. Neither the Entertainment Developer nor the Retail/Residential Developer shall knowingly take any action that could create a right of cancellation under A.R.S. § 38-511 with respect to this Agreement.

Each of the parties hereto hereby agrees to the following procedures with respect to A.R.S. § 38-511, to the extent permitted by A.R.S. § 38-511:

(a) City Notice. By separate notice to each of the other parties hereto given upon execution of this Agreement, the City shall provide to such parties the names of the persons significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City;

(b) Submission. Each of the parties hereto (other than the City) shall have the right to, from time to time during the three (3) years after the Agreement Effective Date, give notice to the City of the name of any person that such party proposes to employ. The City shall, within thirty (30) days after the City's receipt of such notice, deliver to such party a certificate stating whether the person named in such notice was, for the purposes of A.R.S. § 38-511,

significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City;

(c) Reliance. The party receiving such certification shall be entitled to rely on the accuracy of each certification provided by the City pursuant to Section 12.14(b); and

(d) Cancellation. If circumstances arise that could result in the City having the right to cancel this Agreement pursuant to A.R.S. § 38-511, the City shall give notice of such circumstances to each of the other parties hereto, which notice shall describe such circumstances. The City shall not cancel this Agreement pursuant to A.R.S. § 38-511 by reason of such circumstances unless and until the following conditions precedent to such cancellation have been satisfied:

(i) Each of the parties hereto (other than the City) shall have, within thirty (30) days after its receipt of the City notice to which the first sentence of this Section 12.14(d) refers, either (x) presented to the City Manager of the City a statement of the actions that such party proposes to take with respect to such circumstances and the reasons why such party asserts that the City should waive its right to cancel this Agreement pursuant to A.R.S. § 38-511 by reason of such circumstances, or (y) failed to present such a statement;

(ii) Within thirty (30) days after the expiration of the thirty-day period described in the immediately preceding paragraph, such City Manager shall have submitted to the City Council of the City a written recommendation whether the City should waive any right to cancel this Agreement pursuant to A.R.S. § 38-511 by reason of such circumstances; and

(iii) Within sixty (60) days after the receipt by the City Council of the City of such written recommendation such City Council shall, after consideration of such recommendation, determine whether to cancel this Agreement pursuant to A.R.S. § 38-511 by reason of such circumstances or waive any right to such cancellation.

12.15 Saturday, Sunday or Holiday. If the final date of any period provided for herein for the performance of an obligation or for the taking of any action falls on a day other than a Business Day, then the time of such period shall be deemed extended to the next Business Day.

12.16 Attorneys' Fees. In the event of any controversy, claim or dispute between or among the parties arising from or relating to this Agreement, the prevailing party(ies) shall be entitled to recover reasonable costs, expenses and attorneys' fees. For all purposes of this Agreement and any other documents relating to this Agreement, the terms "attorneys' fees" or "counsel fees" shall be deemed to include paralegals and legal assistants' fees, and wherever provision is made herein or therein for the payment of attorneys' or counsel's fees or expenses, such provision shall include, but not be limited to, such fees and expenses incurred in any and all Arbitration, judicial, bankruptcy, reorganization, administrative or other proceedings, including appellate proceedings, whether such fees or expenses arise before proceedings are commenced or after entry of a final judgment.

12.17 Force Majeure. Failure in performance by any party hereunder shall not be deemed an Event of Default, and the non-occurrence of any condition hereunder shall not give rise to any right otherwise provided herein, when such failure or non-occurrence is due to Force

Majeure. An extension of time for the performance by any party hereunder attributable to Force Majeure shall be limited to the period of delay due to such Force Majeure, which period shall be deemed to commence from the time of the commencement of the Force Majeure. Notwithstanding the foregoing, however, no Force Majeure shall excuse the Entertainment Developer, the Retail/Residential Developer or the City from timely paying any money as provided in this Agreement.

12.18 Agreed Extensions. Times of performance under this Agreement may also be extended as mutually agreed upon in writing by the parties hereto. However, any failure to agree to a proposed extension of time for performance shall not be deemed grounds for delay or failure to timely cure an Event of Default hereunder.

12.19 Liability Limitation. Notwithstanding and prevailing over any contrary provision of, or implication in, this Agreement, no member, elected official, official, employee, agent, or consultant of the City, and no direct or indirect equity holder, officer, employee or agent of the Entertainment Developer or the Retail/Residential Developer, shall be liable to any other party hereto or any successors in interest thereof, in the event of any Event of Default or other breach by the City, the Entertainment Developer or the Retail/Residential Developer, for any amount which may become due to such other party or any successors in interest thereof, or on any other obligation under the terms of this Agreement, except any such obligations which result from their criminal acts with respect hereto (i.e., acts which would constitute crimes were they prosecuted therefor and convicted thereof).

12.20 Assignment and Delegation. Except as set forth below, no party hereto shall assign or transfer any of such party's rights, or delegate any of such party's duties and/or obligations, under this Agreement without the consent of the other parties hereto, which consent shall not be unreasonably withheld.

(a) Entertainment Developer. The Entertainment Developer shall have the right, without the consent of any other party hereto, to assign and transfer the Entertainment Developer's rights, duties and/or obligations under this Agreement (i) to any Affiliate of the Entertainment Developer; and (ii) to any Person after the Entertainment Developer and/or the Retail/Residential Developer have constructed 1,600,000 square feet of Qualified Use Space as required by Section 5.1.

(b) Retail/Residential Developer. The Retail/Residential Developer shall have the right, without the consent of any other party hereto, to assign and transfer the Retail/Residential Developer's rights, duties and/or obligations under this Agreement (i) to any Affiliate of the Retail/Residential Developer; and (ii) to any Person after the Entertainment Developer and/or the Retail/Residential Developer have constructed 1,600,000 square feet of Qualified Use Space as required by Section 5.1.

Immediately upon any such assignment, transfer and/or delegation becoming effective, the assignor and the assignee shall execute an assignment and assumption agreement evidencing such assignee's assumption of such obligations in such form and content as is reasonably acceptable to the parties hereto. Upon the execution of such assignment and assumption agreement, the assignor under such agreement shall, without further action, be released from all

liabilities and obligations thereafter arising under this Agreement if the assignee is not an Affiliate of the assignor.

12.21 Sale and/or Lease of Land or Improvements. Nothing in this Agreement is intended to, or shall, limit, restrict, prohibit or otherwise adversely affect the ability and right of the Entertainment Developer and/or the Retail/Residential Developer to, without the consent of the City, sell, convey, lease, rent or otherwise transfer portions of or interests in the Entertainment Project Land and/or the Retail/Residential Project Land (and/or any improvements constructed thereon) at such times and pursuant to such terms and conditions as the Entertainment Developer and/or the Retail/Residential Developer, in their respective sole and unfettered discretion, deem appropriate. No purchaser, lessee, tenant, or other transferee of any portion of or interest in the Entertainment Project Land and/or the Retail/Residential Project Land (and/or any improvements constructed thereon) shall, by reason of such sale, conveyance, lease, rental or transfer, be deemed to have assumed the rights or obligations of the Entertainment Developer and/or the Retail/Residential Developer under this Agreement, including the obligations of the Entertainment Developer and/or the Retail/Residential Developer set forth in Section 5.1.

12.22 Construction of Qualified Use Space. Any Qualified Use Space constructed on the Entertainment Project Land and/or the Retail/Residential Project Land by any Person shall be deemed Qualified Use Space for the purposes of Section 5.1.

12.23 Estoppel Certificate. Each party hereto (an "**Estoppel Requester**") shall have the right, from time to time, to give notice to the other parties hereto of the claim of the Estoppel Requester that all of covenants, duties and obligations of the Estoppel Requester under this Agreement have been fully performed as of the date of such request. If, within fifteen (15) Business Days after such notice is given by the Estoppel Requester, any other party hereto fails to assert, by notice given to the Estoppel Requester, that the covenants, duties and obligations of the Estoppel Requester under this Agreement have not been fully performed, all of the covenants, duties and obligations of the Estoppel Requester under this Agreement shall be deemed fully performed as of the date of such request.

12.24 Recordation. The City shall, within ten (10) days after the execution and acknowledgment of this Agreement by all of the parties hereto, record this Agreement in the Official Records of Maricopa County, Arizona, as required by A.R.S. § 9-500.05.

12.25 Termination Pursuant to Arena Development Agreement. In the event the Arena Development Agreement is terminated pursuant to Section 8.3, Section 8.4 or Article 9 of the Arena Development Agreement, such termination shall, without further action by any party hereto, terminate this Agreement as of the effective date of the termination of the Arena Development Agreement.

12.26 Termination Statement. Promptly following the termination of this Agreement pursuant to its terms, the parties hereto shall execute and record a statement confirming the termination of this Agreement in a form and with substance reasonably acceptable to the parties hereto.

12.27 Team's Legal Opinion. The Entertainment Developer and the Retail/Residential Developer hereby agree that the City's obligations to perform under this Agreement and the Related Agreements, including the City's obligation to provide the City Commitment Amount pursuant to the Arena Development Agreement, are conditioned on, and will not become effective until, (a) the Team's execution of the Related Agreements to which the Team is a party does not result in the breach of or constitute a default under any loan or credit agreement or any other agreement, instrument, judgment or decree to which the Team is a party or by which the Team or its assets may be bound or affected, and (b) the City shall have received an opinion of the Team's counsel acceptable to the City to such effect. The provisions of this Section 12.27 are in addition to any other conditions that must be satisfied before the City will be obligated to perform under this Agreement or the Related Agreements.

(Signatures on following page)

IN WITNESS WHEREOF, the parties hereto have entered in this Agreement as of the day and year first hereinabove written.

ENTERTAINMENT DEVELOPER:

COYOTE CENTER DEVELOPMENT, LLC,
a Delaware limited liability company

By: Center Ice Development, Inc.,
an Arizona corporation,
its manager

By: _____
Name: Steven M. Ellman
Its: Chairman & C.E.O

RETAIL/RESIDENTIAL DEVELOPER:

GLENDALE-101 DEVELOPMENT, LLC,
a Delaware limited liability company

By: E224 Holdings, Inc.,
an Arizona corporation,
its manager

By: _____
Name: Steven M. Ellman
Its: Chairman / C.E.O

CITY:

ATTEST:

_____
City Clerk

CITY OF GLENDALE,
an Arizona municipal corporation

By: _____
Name: Ed Beasley
Title: ~~Asst. City Attorney~~
Mayor

APPROVED AS TO FORM:

_____
City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 29th day of November, 2001, by Steven M. Ellman, the Chairman & CEO of Center Ice Development, Inc., an Arizona corporation, the manager of Coyote Center Development, LLC, a Delaware limited liability company, on behalf of the limited liability company.

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

M. Dawn Lovstad
Notary Public

My commission expires:
Aug 6, 2003

OFFICIAL SEAL
M. DAWN LOVSTAD
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
My Comm Expires Aug. 6, 2003

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 29th day of November, 2001, by Steven M. Ellman, the Chairman & CEO of E224 Holdings, Inc., an Arizona corporation, the manager of Glendale-101 Development, LLC, a Delaware limited liability company, on behalf of the limited liability company.

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

M. Dawn Lovstad
Notary Public

My commission expires:
Aug 6, 2003

OFFICIAL SEAL
M. DAWN LOVSTAD
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
My Comm Expires Aug. 6, 2003

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 29th day of November, 2001, by Ed Beasley, the Asst. City Manager of the City of Glendale, an Arizona municipal corporation, on behalf of the City.

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

Notary Public

My commission expires:

OFFICIAL SEAL
ROSE-YVETTE ESQUIVIAS
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Feb. 19, 2002

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 29th day of November, 2001, by Ed Beasley, the Asst City Attorney of the City of Glendale, an Arizona municipal corporation, on behalf of the City.

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

Notary Public

My commission expires:

OFFICIAL SEAL
ROSE-YVETTE ESQUIVIAS
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Feb. 19, 2002

EXHIBIT "A" TO MIXED-USE DEVELOPMENT AGREEMENT

Legal Description of Land

(See Section 1.1)

PARCEL NO. 1:

PART A:

The Northeast quarter of the Northwest quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the North 55 feet; and

EXCEPT the following described property:

That portion of the Northeast quarter of the Northwest quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at a brass cap in a handhole marking the Northwest corner of said Section 9;

thence North 88 degrees 08 minutes 03 seconds East 1920.97 feet, along the North line of said Section 9;

thence South 1 degree 51 minutes 57 seconds East 55.00 feet to the South right-of-way line of Glendale Avenue and the POINT OF BEGINNING;

thence South 86 degrees 06 minutes 52 seconds West 598.61 feet;

thence South 62 degrees 32 minutes 34 seconds West 4.76 feet, to the East line of the Northwest quarter of the Northwest quarter of said Section 9;

thence North 0 degrees 01 minutes 51 seconds East 23.17 feet, along said East line to the South right-of-way line of Glendale Avenue;

thence North 88 degrees 08 minutes 03 seconds East 601.76 feet along said South right-of-way line to the POINT OF BEGINNING.

PART B:

The Northwest quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the East 414 feet thereof; and

EXCEPT the North 55 feet thereof.

PART C:

The South half of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the East 33 feet thereof; and

EXCEPT the South 45.00 feet of the North 73.78 feet of the West 4 feet of the East 49.00 feet thereof; and

EXCEPT that certain ditch known as a sub-lateral to lateral 20 of Arizona canal as depicted and described in that certain Deed recorded in Book 115 of Deeds, Page 446.

PART D:

The Southeast quarter of the Northwest quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT that certain ditch known as a sub-lateral to lateral 20 of Arizona canal as depicted and described in that certain Deed recorded in Book 115 of Deeds, Page 446.

PARCEL NO. 2:

The North 566 feet of the Southeast quarter of the Northeast quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the East 45 feet thereof.

PARCEL NO. 3:

The South 469 feet of the North 501 feet of the Southwest quarter of the Northeast quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO. 4:

PART A:

The Northeast quarter of the Northeast quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the North 55 feet thereof; and

EXCEPT the East 45 feet thereof; and

EXCEPT COMMENCING at the Point of Intersection of the South line of the North 55 feet and the West line of the East 45.00 feet of said Northeast quarter of Section 9;

thence Westerly 45.00 feet along said South line of the North 55.00 feet to a point;

thence in a Southeasterly direction to a point on said West line of the East 45.00 feet that is 45.00 feet South from said Point of Intersection;

thence Northerly to the Point of Intersection.

PART B:

The North 450 feet of the East half of the Northwest quarter of the Northeast quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the North 55 feet thereof.

PARCEL NO. 5:

PART A:

The South 159 feet of the Southwest quarter of the Northeast quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT any portion lying within the South 469 feet of the North 501 feet of said Southwest quarter of the Northeast quarter of the Northeast quarter.

PART B:

The East 414 feet of the Northwest quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the North 55 feet thereof.

PARCEL NO. 6:

PART A:

The South 94 feet of the Southeast quarter of the Northeast quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the East 45 feet thereof; and

EXCEPT any portion lying within the North 566 feet of said Southeast quarter of the Northeast quarter of the Northeast quarter.

PART B:

The South 210 feet of the East half of the Northwest quarter of the Northeast quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT any portion lying within the North 450 feet of said East half of the Northwest quarter of the Northeast quarter of the Northeast quarter.

PART C:

The West half of the Northwest quarter of the Northeast quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the North 55 feet thereof.

PART D:

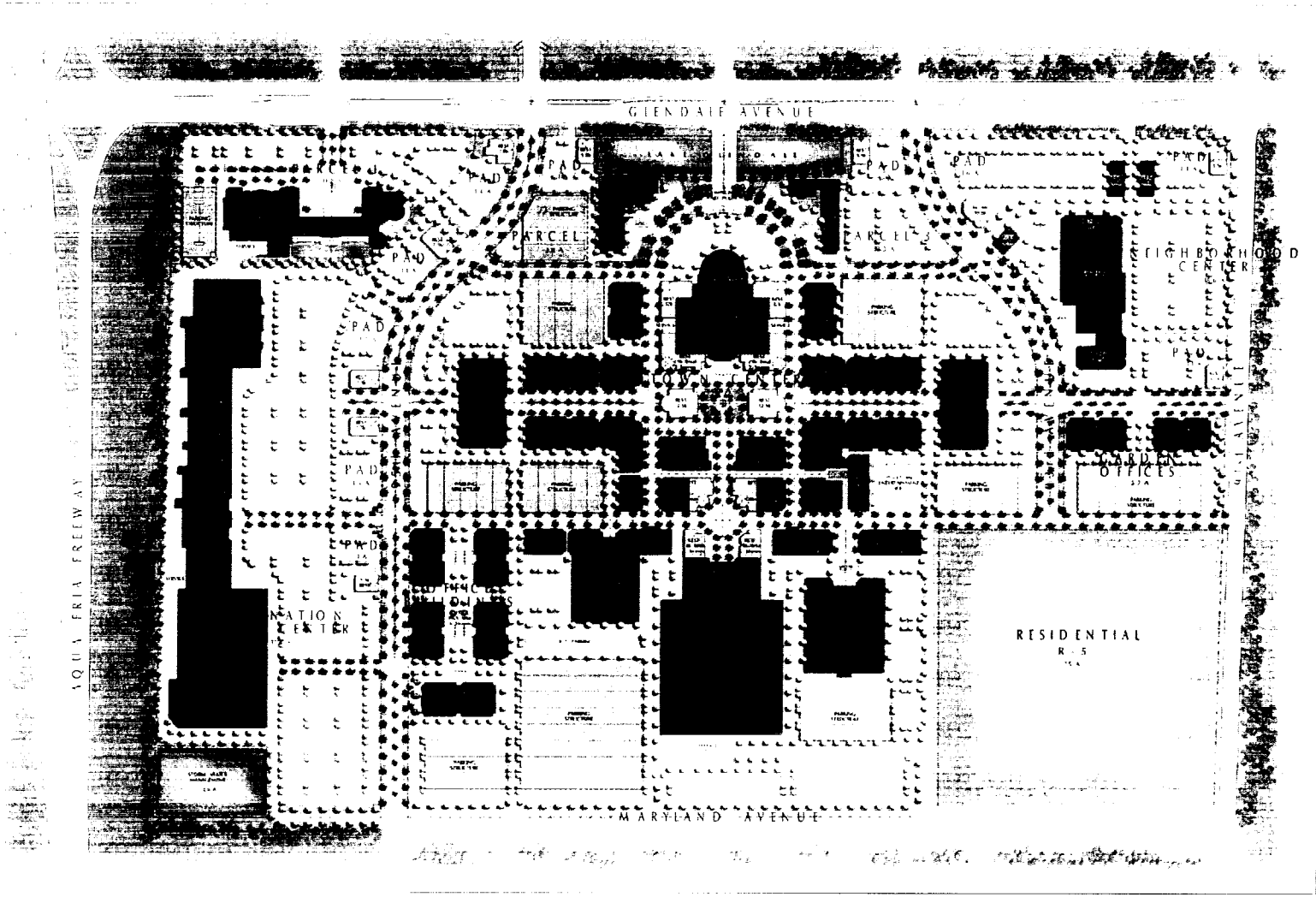
The North 32 feet of the Southwest quarter of the Northeast quarter of the Northeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

EXHIBIT "B" TO MIXED-USE DEVELOPMENT AGREEMENT

Project Site Plan

(See Sections 1.1 & 4.2)

Attached



THE ELLMAN COMPANIES

glendale TOWN CENTER

DEVELOPMENT DESIGN GROUP INCORPORATED

EXHIBIT "C" TO MIXED-USE DEVELOPMENT AGREEMENT

Description of Qualified Use

(See Sections 1.1 & 5.1)

"**Qualified Use**" means the use, to the extent permitted by Applicable Law, of the Entertainment Project Land and/or the Retail/Residential Project Land for the offering for license, lease, rental, sale or other use of goods, products and/or services in a manner that subjects the license, lease, rental, sale or use transaction to transaction privilege and use taxes and/or excise taxes under the Glendale City Code, as from time to time amended, including, to the extent subject to City transaction privilege and use taxes and/or excise taxes, the following:

1. Antiques, crafts and collectibles sales (retail);
2. Apparel and accessories sales (retail);
3. Art galleries and art studios (retail);
4. Bakeries (retail);
5. Beauty shops, barber shops, shoe repair, tailor shops and other personal services establishments (retail);
6. Bookstores, florists, gift shops and other specialty uses (retail);
7. Building supplies, home improvement and hardware sales (retail);
8. Child care facilities (retail);
9. Copying and printing facilities (retail);
10. Drugstores (retail);
11. Fuel and lubricant sales (retail);
12. Furniture and appliance sales and rentals (retail);
13. Grocery and food sales (retail);
14. Health, exercise and spa facilities (retail);
15. Hotels, motels and other lodging facilities;
16. Laundry, cleaning and dry-cleaning facilities (retail);
17. Merchandise sales and rentals (retail);
18. Music and/or dance schools (retail);
19. Plant Nurseries (retail);
20. Recreational facilities;
21. Repair services for small appliances, bicycles, watches, musical instruments and similar items (retail);
22. Restaurants, cafeterias, taverns, bars, delicatessens, self-service, take-out and drive-thru restaurants, outdoor dining and catering services (retail);
23. Travel agency and/or ticket stores (retail);
24. Vehicle sales and leasing (retail);
25. Vehicle parts and accessories sales (retail);
26. Vehicle service facilities, including car washes (retail); and
27. Veterinary clinic (retail).

Notwithstanding any provision to the contrary in the Mixed-Use Development Agreement to which this exhibit is attached, only fifty percent (50%) of the actual area of (i) hotels, motels and

other lodging facilities (other than any retail stores or restaurants located therein, for which 100% of the actual area shall be counted), and (ii) the Team's practice facility (other than any retail stores or restaurants located therein, for which 100% of the actual area shall be counted) shall be counted toward Qualified Use Space required by Section 5.1 of the Mixed-Use Development Agreement.

Capitalized terms that are used but not otherwise defined in this Exhibit "C" shall have the meanings set forth in Section 1.1 of the Mixed-Use Development Agreement, to which this Exhibit is attached.

EXHIBIT "D" TO MIXED-USE DEVELOPMENT AGREEMENT

Insurance Required of Entertainment Developer

(See Section 6.1)

Definitions. Capitalized terms that are used but not otherwise defined in this Exhibit "D" (this "**Exhibit**") shall have the meanings set forth in Section 1.1 of the Mixed-Use Development Agreement (the "**Mixed-Use Development Agreement**") to which this Exhibit is attached.

The Entertainment Developer shall maintain the following insurance coverages during the period set forth in Section 6.4 of the Mixed-Use Development Agreement, or for such additional time as required in any section below.

- Statutory Workers' Compensation
- Commercial General Liability
- Excess Liability.

The above coverages shall comply with the following:

a. Statutory Workers' Compensation: The Entertainment Developer shall maintain statutory workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over all employees of the Entertainment Developer.

b. Commercial General Liability: The Entertainment Developer shall maintain commercial general liability insurance covering all operations by or on behalf of the Entertainment Developer on an occurrence basis insuring against bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products and completed operations. The policy shall contain severability of interest provisions and shall be at least as broad as Insurance Service Office (ISO) form 1986. The limits of commercial general liability insurance required of the Entertainment Developer shall be no less than the following:

$1,000,000 bodily injury and property damage each occurrence
$2,000,000 general aggregate (annual)
$2,000,000 products / completed operations aggregate, and
$1,000,000 personal and advertising injury.

In the event the commercial general liability insurance policy is written on a "claims-made" basis, the retroactive date shall be no later than the Agreement Effective Date. Coverage shall extend for at least five (5) years after termination of the Mixed-Use Development Agreement and shall be evidenced by annual certificates of insurance.

c. Excess Liability: The Entertainment Developer shall maintain excess liability insurance on an occurrence basis, insuring against bodily injury, personal injury, and

property damage, and all other coverages as specified in Section b (commercial general liability) of this Exhibit over and above the limits required for each such coverage. The limits of excess liability insurance shall be no less than the following:

$10,000,000 each occurrence
$10,000,000 annual aggregate.

Total per occurrence limits of $10,000,000 may be satisfied in any combination of primary and excess policies of insurance. Any applicable retention shall be the sole responsibility of the Entertainment Developer.

EXHIBIT "E" TO MIXED-USE DEVELOPMENT AGREEMENT

Insurance Required of Retail/Residential Developer

(See Section 6.2)

Definitions. Capitalized terms that are used but not otherwise defined in this Exhibit "E" (this "**Exhibit**") shall have the meanings set forth in Section 1.1 of the Mixed-Use Development Agreement (the "**Mixed-Use Development Agreement**") to which this Exhibit is attached.

The Retail/Residential Developer shall maintain the following insurance coverages during the period set forth in Section 6.4 of the Mixed-Use Development Agreement, or for such additional time as required in any section below.

- Statutory Workers' Compensation
- Commercial General Liability
- Excess Liability.

The above coverages shall comply with the following:

a. Statutory Workers' Compensation: The Retail/Residential Developer shall maintain statutory workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over all employees of the Retail/Residential Developer.

b. Commercial General Liability: The Retail/Residential Developer shall maintain commercial general liability insurance covering all operations by or on behalf of the Retail/Residential Developer on an occurrence basis insuring against bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products and completed operations. The policy shall contain severability of interest provisions and shall be at least as broad as Insurance Service Office (ISO) form 1986. The limits of commercial general liability insurance required of the Retail/Residential Developer shall be no less than the following:

$1,000,000 bodily injury and property damage each occurrence
$2,000,000 general aggregate (annual)
$2,000,000 products / completed operations aggregate, and
$1,000,000 personal and advertising injury.

In the event the commercial general liability insurance policy is written on a "claims-made" basis, the retroactive date shall be no later than the Agreement Effective Date. Coverage shall extend for at least five (5) years after termination of the Mixed-Use Development Agreement and shall be evidenced by annual certificates of insurance.

c. Excess Liability: The Retail/Residential Developer shall maintain excess liability insurance on an occurrence basis, insuring against bodily injury, personal injury, and property damage, and all other coverages as specified in Section b (commercial general liability) of this Exhibit over and above the limits required for each such coverage. The limits of excess liability insurance shall be no less than the following:

$10,000,000 each occurrence
$10,000,000 annual aggregate.

Total per occurrence limits of $10,000,000 may be satisfied in any combination of primary and excess policies of insurance. Any applicable retention shall be the sole responsibility of the Retail/Residential Developer.

RECEIVED
City Managers Office

MAY - 8 2003

City of Glendale

COYOTE CENTER DEVELOPMENT, LLC
4040 East Camelback Road, Suite 250
Phoenix, Arizona 85018

May
~~April~~ 2, 2003

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

Re: Assignment of Rights of Entertainment Developer under Mixed Use Development Agreement by and between Coyote Center Development, LLC ("CCD") and the City of Glendale (the "Development Agreement")

Dear Sir/Madam:

The letter serves as a notice pursuant to Section 10.1(b) of the Development Agreement that CCD has made a collateral assignment of the rights of the Entertainment Developer under the Development Agreement to Stearns Bank Arizona National Association and American Bank of St. Paul (together, "Lenders") as security for financing provided by Lender to CCD. Lenders' addresses are as follows:

Stearns Bank Arizona National Association
9225 East Shea Boulevard
Scottsdale, Arizona 85260-6173

American Bank of St. Paul
1578 University Avenue West
Gateway Center Four
St. Paul, Minnesota 55104

Sincerely,

Coyote Center Development, LLC, a
Delaware limited liability company

By: _____
Name: Tim Wright
Title: Senior Vice President

cc: City of Glendale; Attn: City Attorney