# THIRD AMENDED AND RESTATED ARENA MANAGEMENT AGREEMENT

BY AND BETWEEN

## THE CITY OF SAN JOSE

AND

## SAN JOSE ARENA MANAGEMENT, LLC

EFFECTIVE DATE: JULY 1, 2025

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**THIRD AMENDED AND RESTATED**
**ARENA MANAGEMENT AGREEMENT**

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**THIRD AMENDED AND RESTATED**
**ARENA MANAGEMENT AGREEMENT**

THIS THIRD AMENDED AND RESTATED ARENA MANAGEMENT AGREEMENT ("**Agreement**") is made effective as of July 1, 2025 ("**Effective Date**"), by and between CITY OF SAN JOSÉ, a municipal corporation ("**City**"), and SAN JOSE ARENA MANAGEMENT, LLC, a Delaware limited liability company ("**Manager**").

**RECITALS**

A. City and Manager (collectively, the "**Parties**" and individually, a "**Party**") are parties to a Second Amended and Restated Arena Management Agreement executed as of August 15, 2018 (but effective retroactively to a "Commencement Date" of July 1, 2015), as amended by a First Amendment dated December 4, 2018 ("**First Amendment to 2018 AMA**"), and a Second Amendment dated June 8, 2021 (collectively, "**2018 AMA**"). As used in this Agreement, the phrase "**2018 AMA Term**" (or words to that effect) means the period of time from July 1, 2015, through June 30, 2025.

B. Under the 2018 AMA (and the other Prior Arena Agreements described below), Manager has been leasing, managing and operating a regional multi-purpose sports and entertainment arena and related facilities ("**Arena Facilities**") located in downtown San José, California. The Arena Facilities include the following:

(1) The legal parcels of land described on **Attachment No. 1** (the "**Arena Land**");

(2) The building containing an approximately 18,000 seat arena, luxury suites, concession areas, offices, and related improvements, which building is located at 525 W. Santa Clara Street, San José, California 95113 ("**Arena Building**" or "**Arena**"), as shown on the site plan ("**Site Plan**") attached hereto as **Attachment No. 2**;

(3) The ramps, stairs, supports, loading and receiving areas, driveways, walkways, parking areas and other improvements located outside of the Arena Building, but within the boundaries of the Arena Land as shown on the SAP Center Boundary Exhibit attached hereto as **Attachment No. 3** ("**Arena Site Improvements**"), expressly excluding all public streets, public sidewalks and related improvements located outside of the boundaries of the Arena Land (the "**Public Right of Way**"), as shown on the SAP Center Boundary Exhibit;

(4) The parking lots located adjacent to the Arena Building and known as Lots A, B and C, together with the parking lot located south of Santa Clara Street across from the Arena Building and known as Lot D (collectively, "**On-Site Parking Facilities**"), also as shown on the Site Plan; and

(5) Furnishings, trade fixtures, equipment, vehicles and other tangible property located on or about the other Arena Facilities and/or used in connection with the operation of such other Arena Facilities, as more specifically described in Section 28.1.1 below ("**Arena FF&E**").

C. Manager (through its predecessors in interest) originally took possession of the Arena Facilities on or about August 20, 1993 ("**Possession Date**"), pursuant to an Agreement to Enter and a San Jose Arena Management Agreement, both dated October 24, 1991, as amended (collectively, "**1991 AMA**"). The 1991 AMA was superseded in its entirety by an Amended and Restated San Jose Arena Management Agreement dated December 19, 2000, as amended by several addenda


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and amendments thereto (collectively, "**2000 AMA**"). The 2000 AMA was superseded in its entirety by the 2018 AMA. The 1991 AMA, 2000 AMA and 2018 AMA are collectively referred to in this Agreement as the "**Prior Arena Agreements**."

D. City and Sharks Ice, LLC are parties to that certain Second Amended and Restated ice Centre Lease and Management Agreement dated as of October 1, 2020 (the "**Ice Centre Lease**") for the use and operation of the Ice Centre of San José, which is located at 1500 S. Tenth Street in San José, and is currently known as Sharks Ice at San Jose and Tech CU Arena ("**Ice Centre**"). The term of the Ice Centre Lease expires on June 30, 2051.

E. The San Jose Sharks NHL hockey team, which is owned by San Jose Sharks, LLC, plays its home games at the Arena, and uses the Ice Centre as its practice facility. Manager, Sharks Ice, LLC, and San Jose Sharks, LLC are all subsidiaries of Sharks Sports & Entertainment LLC.

F. In addition to serving as the home venue for the San Jose Sharks, the Arena serves as a major public assembly facility for other sporting events, concerts, family-friendly shows, conferences, corporate events, community events, and similar activities.

G. Throughout its possession of the Arena Facilities, Manager has demonstrated that it has the ability to bring significant specialized knowledge, expertise and experience to the management and operation of major public assembly facilities and to secure, devise and promote a broad range of sporting, cultural, educational, musical, recreational and other activities, events and entertainment at such facilities. In addition, the Arena has proven to be a major economic generator for the City, annually bringing over one million visitors to downtown San José and contributing tens of millions of dollars in economic impact, all at no risk to City for any operating losses.

H. From the opening of the Arena in 1993, City and Manager have spent tens of millions of dollars maintaining and improving the Arena Facilities, including a series of mechanical/electrical/plumbing (MEP) and technology upgrades, refreshes to finishes, selective space remodels, and safety improvements. Since 2013 alone, City has contributed approximately $22 million and Manager has contributed over $100 million to such improvements. However, the Arena is now the last remaining NHL venue that has not undergone a major renovation, and is currently not consistent with a number of NHL standards and other industry norms.

I. In order to keep the Arena competitive with other sports and entertainment venues in Northern California, City and Manager have agreed to undertake a major renovation of the Arena Facilities (the "**Renovation Project**"), which is more specifically described in the Agreement for the Renovation of SAP Center at San José dated concurrently with this Agreement and attached to this Agreement as **Attachment No. 21** ("**Renovation Agreement**"). City has agreed to contribute $350 million and Manager has agreed to contribute a minimum of $100 million towards the Renovation Project.

J. City and Manager also desire to extend Manager's lease of the Arena Facilities until June 30, 2051, continuing the lease, management, and operation of the Arena Facilities by Manager in order to realize long term benefits from their respective capital investment in the Arena, and to assure the continued status of the Arena as a major public assembly facility and economic asset for the City of San José.


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K. The Parties now wish to enter into this Agreement in order to formally memorialize the details of their agreement regarding the above matters. Rather than executing another amendment to the 2018 AMA, the Parties have elected to completely amend and restate the 2018 AMA in order to create a cohesive document that is easier to read and interpret.

L. The Parties intend that this Agreement shall supersede and replace the 2018 AMA in its entirety effective as of the Effective Date, but that (1) Manager's possession of the Arena Facilities shall be deemed to be continuous and uninterrupted from and after the Possession Date, and (2) the relationship, duties and obligations of the Parties established in the Prior Arena Agreements shall continue as updated and modified in this Agreement, subject to the more specific terms and conditions set forth below.

M. City's general goals and objectives for continuing and extending the relationship of the Parties pursuant to this Agreement include the following:

(1) To provide a wide variety of cultural, educational, entertainment, sporting and other activities and events to promote and serve the public interest;

(2) To retain the San Jose Sharks to play its home games in San José for the full term of this Agreement;

(3) To provide broad social and economic benefits to the City of San José and meet the demands of the local population;

(4) To promote as wide a use of the Arena Facilities as is practical and feasible, so that the citizens and public generally may enjoy and receive those benefits;

(5) To stimulate the economy of the community by utilizing the City's climatic, geographical, recreational, cultural, educational and commercial resources and advantages;

(6) To retain a high level of management, operation and maintenance of the Arena Facilities, in order to protect the capital investment in the Arena Facilities;

(7) To provide for the addition of significant capital improvements to the Arena Facilities that meet a high standard for design and construction and are in the best interests of the citizens of the City of San José;

(8) To optimize the use of the Arena Facilities while minimizing the net cost to City and avoiding City exposure to operating losses;

(9) To provide facilities and opportunities for groups and organizations from outside the greater San José community; and

(10) To assure the status of the Arena as a major public assembly facility in the City of San José.

N. Manager's general goals and objectives for continuing and extending the relationship of the Parties pursuant to this Agreement include the following:

(1) To keep the San Jose Sharks franchise in the City of San José, by retaining a facility for the team's home games that meets all NHL requirements and has other features of a modern, first class professional hockey arena;


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(2) To continue to manage the Arena on behalf of the City on a financially successful basis, to protect Manager's capital investment in the Arena Facilities and to continue as a major economic generator for San José's downtown area;

(3) To consistently provide Arena customers with superior services and experiences, while maintaining a safe venue and environment that is inclusive and accessible to all San José residents and respects the community's diversity;

(4) To ensure a source of funding for essential capital repairs and replacements, and for capital enhancements as needed to attract modern shows and other events, and to help keep the Arena competitive during the full term of this Agreement;

(5) To maintain uninterrupted sufficient parking supply and efficient venue access for customers from all modes of transportation, including automobiles and transit, as necessary to meet customer demand and ensure the continued vitality of the Arena;

(6) To institute procedures to identify and address potential adverse impacts of future projects in the Diridon Area with respect to parking, traffic and access, and endeavor to ensure that new projects will appropriately mitigate negative impacts on Arena operations;

(7) To enhance the connectivity and other technological capabilities of the Arena Facilities, to meet customer demand and support successful Arena operations consistent with "state of the art" industry standards;

(8) To maintain and expand existing revenue sources and generate miscellaneous new sponsorship revenues from ancillary activities such as indoor and outdoor signage and specific area branding within the Arena;

(9) To increase the visibility of the Arena and potential advertising opportunities by developing off-site signage locations, including the establishment of at least two digital freeway signs; and

(10) To continue to serve the community by growing charitable giving through the Sharks Foundation, maintaining a City-named sports franchise brand recognized around the world, and serving as a source of pride and inspiration for City residents.

## AGREEMENT

**NOW, THEREFORE,** in consideration of the foregoing Recitals, and in further consideration of the terms, covenants and conditions herein contained, the Parties mutually agree as follows:

## PART ONE
## RELATIONSHIP OF THE PARTIES

**SECTION 1. GENERAL EFFECT OF AGREEMENT.**

**1.1 Recitals.** The foregoing Recitals are hereby restated by reference and incorporated herein as terms and conditions of this Agreement.

**1.2 Effective Date and Execution Date.** This Agreement shall be valid and binding as of the last date that both Parties shall have signed this Agreement (the "**Execution Date**"), but the terms and conditions hereof shall be effective retroactive to July 1, 2025 (the "**Effective Date**").


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**1.3** **Prior Agreements**. By execution and delivery of this Agreement, the Parties hereby terminate certain prior agreements, amendments, addenda and other instruments between the Parties (the "**Prior Agreements**") described on the Schedule of Prior Agreements attached hereto as **Attachment No. 4**. Such termination shall be effective as of the ~~Commencement~~Effective Date without further action by the Parties. However, the Parties shall execute, deliver and record (where applicable) any instrument reasonably requested by either Party to specifically confirm the termination of any of the Prior Agreements.

**1.4** **Related Agreements**. ~~Prior to or concurrently~~In connection with this Agreement, a number of related agreements, amendments, and other instruments (the "**Related Agreements**") have been or shall be executed by the Parties or their Affiliates consistent with the terms and intent of this Agreement. A Schedule of Related Agreements is attached hereto as **Attachment No. 5**.

(a) In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any Related Agreements, the provisions of this Agreement shall control and govern.

**1.5** **Defined Terms**. Capitalized terms used in this Agreement shall have the definitions provided in various sections of this Agreement. A Schedule of Defined Terms is attached hereto as **Attachment No. 20**.

(a) In the event of any discrepancies between the definitions set forth in this Agreement and the definitions given in the Schedule of Defined Terms, the definitions in this Agreement shall control and govern.

**1.6** **Section References**. Section numbers referred to in this Agreement mean the corresponding numbered sections of this Agreement, unless otherwise specified herein.

**1.7** **Memorandum of Agreement**. Concurrently with the execution of this Agreement, the Parties will execute a recordable Memorandum of Agreement in form and substance mutually agreeable to the Parties, which shall (i) amend and supersede that certain Amendment to Memorandum of Management Agreement recorded on August 16, 2018, in the Official Records of Santa Clara County as Document 24004426; and (ii) summarize the provisions regarding the Term of this Agreement. Manager shall cause the Memorandum of Agreement to be recorded in the Official Records of Santa Clara County within ten (10) days after the Execution Date of this Agreement. Within thirty (30) days after the expiration or earlier termination of this Agreement, Manager shall execute and deliver to City a quitclaim deed in recordable form remising and releasing to City all of Manager's right, title and interest in and to the Arena Facilities and this Agreement, including the Memorandum of Agreement.

**SECTION 2. AUTHORITY, GUARANTY AND ASSIGNMENT.**

**2.1** **Parties and Delegation of Authority.**

2.1.1 Definitions. In this Agreement, the following terms shall have the meanings given below:

(a) **"Affiliate"** means any person or entity that, directly or indirectly, controls, is controlled by, or is under common control with the entity in question, excluding the NHL or any member clubs of the NHL (other than SJS LLC or the San Jose Sharks). The term "control" (including the terms "controlled by" and "under common control with") means the possession, direct or indirect, or the power to direct or cause the direction of the management and policies of an entity,


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whether through the ownership of Controlling Interests, by contract, or otherwise.

(b) "**AHL**" means the American Hockey League or any successor thereto.

(c) "**Arena Authority**" means The San Jose Arena Authority, a California nonprofit public benefit corporation, established by City to perform certain responsibilities on behalf of City with respect to overseeing the management and operation of the Arena.

(d) **"City"** means the City of San Jose, a municipal corporation and charter city of the State of California, and its City Council and/or City Manager, as the context may require. The term "City" includes City's predecessors and successors in interest.

(e) "**Controlling Interests**" means voting rights, capital interests, or other interests or rights that give the holder thereof the ability to control, directly or indirectly, all material decisions that would affect the ability of SSE, SJAM or SJS LLC to comply with their respective obligations under this Agreement and the Hockey Use Agreement. For the avoidance of doubt, a party holding 50% or more of the Controlling Interests must retain the power to control all material decisions affecting the management and operations of SSE, SJAM or SJS LLC, as applicable.

(f) **"Manager"** means SJAM.

(g) "**NHL**" means the National Hockey League or any successor thereto.

(h) "**Owner(s)**" means Plattner and the successors and assigns of the persons, trusts and entities comprising Plattner as may be approved or authorized pursuant to Section 2.3 below.

(i) "**Permitted Transferee**" has the meaning given in Section 2.3.4.

(j) "**Plattner**" means, individually and collectively, Hasso Plattner and/or his spouse, siblings and such siblings' spouses, lineal descendants of any of the foregoing, or trusts for the benefit of any of the foregoing, and their respective Affiliates.

(k) **"San Jose Barracuda"** means the professional hockey team operating pursuant to an AHL franchise, the owner of which is Sharks Minor Holdings LLC (a subsidiary of SJS LLC) as of the Execution Date.

(l) **"San Jose Sharks"** means the professional hockey team operating pursuant to an NHL franchise, the owner of which is SJS LLC as of the Execution Date.

(m) "**Sharks Ice**" means Sharks Ice, LLC, a Delaware limited liability company, the sole member of which is SSE as of the Execution Date. The term "Sharks Ice" includes its predecessors and successors in interest.

(n) "**SJAM**" means San Jose Arena Management, LLC, a Delaware limited liability company, the sole member of which is SSE as of the Execution Date. The term "SJAM" includes its predecessors and successors in interest.


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(o) "**SJS LLC**" means San Jose Sharks, LLC, a Delaware limited liability company, the sole member of which is SSE as of the Execution Date. The term "SJS LLC" includes its predecessors and successors in interest.

(p) "**SSE**" means Sharks Sports & Entertainment LLC, a Delaware limited liability company. The term "SSE" includes its predecessors and successors in interest.

2.1.2 Role of Arena Authority. City has established Arena Authority, whose purposes include performing an oversight role on behalf of City respecting the operation of the Arena Facilities and acting as a liaison to the broader community concerning neighborhood impacts and the operation of the Arena Facilities.

(a) City and Manager mutually acknowledge (i) the importance of Arena Authority in facilitating communications between the City and Manager, overseeing the operations of the Arena (and other City-owned sports venues), and acting as a liaison to the broader San Jose community; and (ii) the importance of the role of the Executive Director of the Arena Authority in the continuing success of this relationship.

(b) In light of the foregoing, City agrees to consult with Manager prior to selecting any successor(s) to such Executive Director position, and to take Manager's comments into consideration when selecting any such successor(s).

2.1.3 Delegation of Authority by City. From time to time City may delegate to Arena Authority, in whole or in part, such rights, obligations and functions of City hereunder as City shall deem appropriate, subject to such requirements and limitations as City may designate in its sole discretion.

(a) In addition to the rights, obligations and functions delegated to Arena Authority pursuant to the terms of this Agreement, City may notify Manager from time to time in writing of any additional matters delegated to Arena Authority, whereupon Manager shall be entitled to rely without further investigation upon acts of Arena Authority within the scope of its delegated authority as set forth in such notification from City.

(b) Manager hereby acknowledges the delegation described above, and with respect thereto shall recognize Arena Authority for such purposes as acting on behalf of City hereunder.

(c) Unless otherwise provided, or the context requires otherwise, references in this Agreement to "City" shall include Arena Authority to the extent of its authority delegated to it by City pursuant to this Agreement or otherwise from time to time, of which Manager has been notified as provided above.

(d) The foregoing provisions shall not limit the authority of the City Manager to act on behalf of the City pursuant to any provision of this Agreement, or in accordance with any City ordinance, City Council resolution, or other Applicable Laws.

2.1.4 Delegation of Authority by Manager. Manager has designated the following officers as Manager's authorized representatives for purposes of this Agreement: President; Senior


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Vice President, SAP Center and Sharks Ice; and Senior Vice President, Chief Financial Officer. Instruments executed by any one of such officers in the name of or on behalf of Manager shall be deemed to be the acts of Manager for purposes of binding Manager to any obligation or duty hereunder.

(a) Manager may change its designated representatives by giving written notice to City as provided in this Agreement.

(b) No officer, director or other representative of Manager shall have the authority to bind Manager except those designated by Manager as provided herein.

**2.2 Guarantees by SSE and SJS LLC.** All payment and performance obligations of Manager under this Agreement (including payment of the Early Termination Fee (defined in Section 5.2.1(a) below) and performance under this Agreement and the Hockey Use Agreement) shall be guaranteed by SSE and SJS LLC pursuant to separate guaranty agreements to be executed by each of SSE (the "**SSE Guaranty**") and SJS LLC (the "**SJS Guaranty**") prior to or concurrently with this Agreement in the forms attached hereto as **Attachment No. 7-1** and **Attachment No. 7-2**, respectively. The obligations under this Section 2.2, and the obligations under the SSE Guaranty and SJS Guaranty, shall survive the termination of this Agreement. The SSE Guaranty and SJS Guaranty are Related Agreements as referenced in this Agreement.

**2.3 Assignment by Manager.**

2.3.1 Requirements for Assignment. Except as otherwise provided in Section 2.3.4 below with respect to Permitted Transfers, this Agreement may not be assigned, in whole or in part, by Manager or its Affiliates or Owners to any person or firm (an "**Assignee**") unless all of the following requirements are satisfied:

(a) City has approved of the Assignee as set forth in Section 2.3.2;

(b) Manager has concurrently assigned its rights under the Hockey Use Agreement (described in Section 3.1.1 below) to the Assignee;

(c) Manager and the Assignee have executed written instruments approved by City as set forth in Section 2.3.3; and

(d) To the extent required by Applicable Laws, the Assignee shall be at all relevant times duly qualified to do business in the State of California.

2.3.2 City Approval of Assignee. If Manager desires to assign its interest under this Agreement (and the Hockey Use Agreement) other than in connection with a Permitted Transfer, Manager shall first provide City with a written request for approval, including the name of each proposed Assignee and information regarding such proposed Assignee's experience, financial condition, and proposed on-site supervising manager. City's approval of any proposed Assignee shall not be unreasonably withheld or delayed.

(a) City may consider any or all of the following in providing or withholding its consent for a proposed Assignee:

(i) Financial capacity to fulfill all payment and performance obligations contemplated to be performed by Manager under this Agreement;

(ii) Reputation as to integrity;


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(iii) Record and experience and qualifications in managing comparable arenas in the United States;

(iv) Record and reputation in dealings with local government and community concerns; or

(v) Acceptance of the employment, contracting and hiring provisions set out in Section 14.1.2.

If a proposed Assignee meets the above requirements, then approval of such proposed Assignee shall be granted.

(b) If Manager wishes to submit a list of prospective Assignees for approval by City, Manager shall provide City with at least 4 names of prospective Assignees together with the information described above, and shall indicate which two are Manager's preferred choices. City may reject at most 2 of such prospective Assignees, but not both of Manager's preferred choices, on the basis stated in clause 2.3(a)(iv) above.

(c) All persons or firms that are not expressly disapproved by City in writing within 30 days after Manager delivers its request for approval shall be deemed approved.

2.3.3 Form of Assignment. To be a valid assignment under this Agreement, any Assignee (including a Permitted Transferee) must agree, pursuant to written instruments that are reasonably satisfactory to City, that such Assignee shall: (i) succeed to all of the rights and interests of Manager under this Agreement and the Hockey Use Agreement, and assume all of the liabilities and obligations of Manager thereunder (including all operating losses of Manager under this Agreement), and (ii) agree to cure any prior Event of Default of this Agreement committed by Manager.

2.3.4 Permitted Transfers. Notwithstanding anything to the contrary in this Agreement, the transfers and assignments described below shall be permitted without the consent or approval of City (each, a "**Permitted Transfer**"), but shall be subject to the requirements of Section 2.3.3. Any new owner, assignee or other transferee resulting from a Permitted Transfer is referred to in this Agreement as a "**Permitted Transferee**".

(a) A transfer of the San Jose Sharks to a new owner approved by the NHL, provided that (i) the new owner signs a replacement guaranty agreement on terms equivalent to the SSE Guaranty and/or the SJS Guaranty, as applicable, and directly or indirectly assures or assumes (as the case may be) all monetary and performance obligations contemplated to be performed by Manager under this Agreement and by SJS LLC under the Hockey Use Agreement, and (ii) at least two senior managers of SJAM (one of whom must be a facilities manager) remain in senior management positions following such sale for at least six months, to provide transition services.

Upon the new owner's execution of such replacement guaranty agreement(s), the original Guarantor shall be released from the SSE Guaranty and/or the SJS Guaranty, as applicable.


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(b) A transfer of the Controlling Interests in SSE, SJS LLC and/or SJAM to a new owner or owners approved by the NHL, provided that (i) SSE reaffirms the SSE Guaranty and SJS LLC reaffirms the SJS Guaranty, and (ii) at least two senior managers of Manager (one of whom must be a facilities manager) remain in senior management positions following such transfer for at least six months, to provide transition services.

(c) Any transfer by an Owner or Owners, individually or in the aggregate, such that after the transfer the applicable Ownership Warranties stated in Section 36.1.2 continue to be accurate.

(d) Any transfer by an Owner or Owners, individually or in the aggregate, such that after the transfer Plattner owns, directly or indirectly, 50% or more of the Controlling Interests in SJAM and SJS LLC.

(e) The assignment of this Agreement to any other entity in which Plattner owns, directly or indirectly, 50% or more of the Controlling Interests.

2.3.5 Hypothecation by Secured Party. Neither a hypothecation approved or permitted as provided by Section 29.2.2 nor any exercise by the approved or permitted secured party of its remedies shall be deemed an assignment for purposes of this Section 2.3.

**SECTION 3. USE OF ARENA BY SPORTS TEAMS.**

**3.1 San Jose Sharks.**

3.1.1 Definitions. In this Agreement, the following terms shall have the meanings given below.

(a) **"Hockey Use Agreement"** means the agreement, as amended from time to time as permitted by this Agreement, between Manager and SJS LLC governing the terms and conditions upon which the San Jose Sharks play their Home Games at the Arena, as further described below. The Hockey Use Agreement is a Related Agreement as referenced in this Agreement.

(b) "**Home Game**" means any hockey game designated by the NHL as a home game of the San Jose Sharks.

(c) "**NHL Rules**" means the constitution, bylaws, and all other rules, regulations, agreements, resolutions, policies, limitations, and interpretations of the NHL, as determined by the NHL from time to time; any Collective Bargaining Agreement between the League and/or its members and other parties; each as in effect as of the Execution Date and/or hereafter enacted, made or enforced.

(d) "**Post Season**" means the time period during each Term Year following the conclusion of the Regular Season, during which NHL teams play the division semi-finals, division finals, conference championship and Stanley Cup Championship games conducted by the NHL.

(e) "**Pre-Season**" means the time period during each Term Year prior to the start of the Regular Season, during which NHL teams play pre-season games, including exhibition games during training camp.


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(f) "**Regular Season**" means the time period during each Term Year during which NHL teams play their regular schedule of games, as determined by the NHL.

3.1.2 Hockey Use Agreement. The Arena is used as the regular Home Game facility for the San Jose Sharks pursuant to the Hockey Use Agreement. The original Hockey Use Agreement was executed as of October 24, 1991, and was amended by instruments dated December 21, 2000, July 1, 2015, and July 1, 2025.

(a) Pursuant to the Hockey Use Agreement, as amended, the following material provisions (among others) are currently in effect:

(i) SJS LLC shall at all times during the term of the Hockey Use Agreement maintain an NHL team franchise in good standing named "San Jose Sharks" or such other name as shall be selected by SJS LLC, which in any event shall contain the name "San Jose."

(ii) The Hockey Use Agreement shall expire on June 30, 2051; provided, however, that if this Agreement terminates prior to such date in accordance with the terms hereof, the Hockey Use Agreement shall terminate on the date that this Agreement terminates.

(iii) During the term of the Hockey Use Agreement, the San Jose Sharks shall play at least one Pre-Season Home Game and all Regular Season and Post-Season Home Games at the Arena, with limited exceptions as scheduled or approved by the NHL.

(iv) Manager and SJS LLC shall abide by all materially applicable NHL Rules.

(b) Notwithstanding anything to the contrary contained in the Hockey Use Agreement, Manager and SJS LLC may amend the Hockey Use Agreement from time to time; provided, however, that unless Manager first obtains City's written consent, which consent shall not be unreasonably withheld, Manager shall not agree to any amendment to the Hockey Use Agreement that would:

(i) Allow SJS LLC to assign or otherwise transfer its interests in the NHL team franchise to another person or entity except as permitted by Section 2.3 of this Agreement or approved by City in accordance with the procedures and standards set forth in the Hockey Use Agreement;

(ii) Allow the name of the team to be changed unless it includes "San Jose" in the name;

(iii) Terminate the Hockey Use Agreement prior to the termination of this Agreement, or extend the Hockey Use Agreement beyond the termination of this Agreement;

(iv) Release SJS LLC from the obligation to maintain an NHL member team that plays at least one Pre-Season Home Game and all Regular Season and Post-Season Home Games at the Arena, with limited exceptions as scheduled or approved by the NHL; or


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(v) Change any other provision such that it would be inconsistent with this Agreement or materially affect City's rights or Manager's obligations under this Agreement.

3.1.3 Compliance with NHL Rules. Manager is obligated to comply with the NHL Rules in connection with Home Games played by the San Jose Sharks at the Arena, including NHL Rules regarding alterations and improvements to the Arena Facilities, security measures, Home Game schedules, advertising and promotion, customer relations, website design and content, and so forth.

(a) Where applicable, the Parties shall exercise their respective rights and perform their obligations under this Agreement (and under the Hockey Use Agreement) in a manner that is consistent with the NHL Rules; provided, however, that nothing in the NHL Rules shall supersede or control over the express rights or obligations of City under this Agreement.

**Section 4. PROTECTION OF MARKET AREA.**

**4.1 Radius Clause.** The intent of this Section 4.1 is to focus Manager's management and promotional efforts on events held in San Jose.

4.1.1 Booking or Staging of Events. During the Term, Manager shall not book or assist in the booking, promotion, copromotion or staging of events at sports or entertainment venues similar to the Arena and located within a 75 mile radius of the Arena Facilities, except that such restriction shall not apply to the following:

(a) Any event that is in conjunction with the promotion of the same or similar event at the Arena;

(b) Any event at another facility located within the City of San Jose, including those owned by City (including the TechCU Arena operated by Sharks Ice) or San Jose State University; or

(c) Any event that is organized or sponsored by the NHL/AHL or other sports organization that involves or otherwise promotes the San Jose Sharks or the San Jose Barracuda; or

(d) Any other event that is approved in writing by City.

4.1.2 Management or Operation of Similar Facilities. During the Term, Manager shall not build, construct, manage or operate any substantially similar public assembly facility or facilities within a 75 mile radius of the Arena Facilities, unless Manager first obtains the express written approval of City as follows:

(a) City recognizes the changing circumstances in the market and consequently, City will review on a case-by-case basis any proposal from Manager to promote, manage or operate a substantially similar public assembly facility or facilities within a 75 mile radius of the Arena Facilities.

(b) Authorization to proceed with such undertaking shall be decided promptly after a request is made by Manager, and will be based on an evaluation by City as to whether the expanded operation (i) will protect or enhance Manager's ability to


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secure first-rate entertainment at the Arena, and (ii) will not adversely affect attendance achieved at non-hockey events at the Arena.

(c) Information provided by Manager relating to its request, which is identified by Manager as confidential trade secret information, will be treated by City as such and will not be disclosed without prior written notice to Manager and an opportunity for Manager to prevent disclosure to others through any appropriate legal means.

4.1.3 Management or Operation of Community Recreation Facilities. Nothing in this Agreement shall be deemed to prohibit Manager's involvement in (a) building, constructing, managing or operating community-based sports and recreation facilities located within a 75 mile radius of the Arena Facilities, or (b) booking, promoting or staging events at such community-based sports and recreation facilities.

**4.2 Right of First Opportunity to Manage Other Facilities.** The intent of this Section 4.2 is to protect Manager's substantial investment in the Arena Facilities by helping to ensure the continuing success of the Arena through coordinated management of any competing facility that is financially supported by City.

4.2.1 Right of First Opportunity.

(a) During the Term, if City constructs, finances, financially supports (for example, by credit enhancement) or participates in the construction of an arena or comparable facility (including an amphitheater) having fixed seating capacity in excess of 5,000 located in San Jose which is to be used for events typically held in comparable major arenas (a "**Competing Facility**"), then City shall grant (or cause the grant) to Manager of the first opportunity to manage such Competing Facility.

(i) Any action by City in its regulatory or police power capacity (e.g., planning, zoning, plan approval, code enforcement and inspection) shall not be construed as "participation in construction" for purposes of this section.

(b) If Manager elects to exercise its right to manage the Competing Facility, Manager shall be compensated with a reasonable fee or with a profit and loss position as the Parties may agree. Any terms and/or conditions offered to Manager shall be the same as would be offered to a third party manager.

(c) If Manager does not elect to exercise its right to manage the Competing Facility, City shall not execute a contract with a third party to manage such Competing Facility on terms more favorable than those offered to Manager without first offering those terms to Manager.

4.2.2 No Right to Terminate Agreement. City's involvement in the construction or financing of a Competing Facility shall not give rise to any right on the part of Manager to terminate this Agreement under Section 38.3.6, provided that Manager has been offered the right to manage the Competing Facility as described above.

4.2.3 Excluded Facilities. This Section 4.2 shall not apply to (i) any outdoor stadium used for professional sports games such as football, soccer or baseball, or (ii) any facility used for recreation, entertainment, cultural or civic activities presented through City's Parks and


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Recreation Department, Office of Cultural Affairs or community and cultural arts organizations, including school facilities, the Performing Arts Center, Civic Auditorium and the Convention Center.

## PART TWO
## PRIMARY ECONOMIC TERMS

**SECTION 5. TERM.**

**5.1 Period of Agreement.** The term of this Agreement ("**Term**") shall be 26 years, subject to the following:

5.1.1 Dates. The Term shall commence as of the Effective Date (July 1, 2025) and terminate on June 30, 2051, subject to earlier termination in accordance with Section 5.2.1, Section 38.3.6, or other applicable provisions of this Agreement ("**Termination Date**").

5.1.2 Term Year (Fiscal Year). A "**Term Year**" (also referred to as a "**Fiscal Year**") shall consist of 12 consecutive calendar months during the Term, beginning on July 1st of a calendar year and ending on June 30th of the following calendar year. Each Term Year may be referred to by the last two digits of its beginning and ending calendar years or by only the last two digits of its ending calendar year. For example, the first Term Year may be referred to as "Term Year 25/26" or "FY 26" or similar designations.

**5.2 Manager's Termination Rights.** Although SSE currently intends that the San Jose Sharks will remain in San Jose for the entire Term of this Agreement, the Parties acknowledge that an unforeseen change in circumstances may occur in the future such that SSE and/or SJS LLC may decide to relocate the San Jose Sharks to a different city in which case Manager would terminate this Agreement prior to expiration of the Term.

5.2.1 Early Termination Right. Subject to Section 5.2.2., following the Renovation Project End Date (defined in the Renovation Agreement), but not before June 30, 2031, Manager, in its sole and absolute discretion, shall have the right ("**Early Termination Right**") to vacate the Arena and terminate this Agreement (and Manager and SJS LLC may elect to terminate the Hockey Use Agreement) prior to the expiration of the Term, upon Manager giving irrevocable notice of termination ("**2-Year Irrevocable Notice**") at least two (2) full Fiscal Years in advance of the early termination date designated in the notice "**Early Termination Date**") (which Early Termination Date shall be at the end of a Fiscal Year); provided, however, that Manager shall have first given a revocable notice of its intent to terminate ("**3-Year Revocable Notice**") at least three (3) full Fiscal Years in advance of the Early Termination Date. For example, if Manager wishes to terminate this Agreement (and the Hockey Use Agreement) on an Early Termination Date of June 30, 2043, then Manager must give City a 3-Year Revocable Notice by June 30, 2040, and a 2-Year Irrevocable Notice by June 30, 2041.

(a) Within twelve (12) months after giving its 2-Year Irrevocable Notice (i.e., at least 12 months prior to the Early Termination Date), Manager shall pay to City an early termination fee ("**Early Termination Fee**") in accordance with the schedule shown on **Attachment No. 6** ("**Schedule of Financial Terms**"), with the amount payable being the figure shown on the same line as the Term Year ending on the Early Termination Date. For example, if the Early Termination Date is June 30,


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2043, then the Early Termination Fee would be payable no later than June 30, 2042, in the amount of $119,552,750.

(b) Notwithstanding the foregoing, an Early Termination Fee will not be payable if Manager is expressly permitted to terminate this Agreement without payment of an Early Termination Fee pursuant to the terms of this Agreement.

(c) City and Manager acknowledge and agree that in determining the amount of the Early Termination Fee (i) they have exercised care to make a reasonable forecast of direct losses that may arise from the early termination of this Agreement and relocation of the San Jose Sharks to a different city and, (ii) such reasonable forecast of direct losses is not exact given that it would be infeasible to estimate such losses with precision, including due to the intangible nature of some of such losses and the number of residents and businesses that rely upon the presence of the San Jose Sharks in the City, and (iii) they have considered (A) the City's financial contributions to the Renovation Project; (B) the City's loss of revenue streams attributable to the San Jose Sharks operations; and (C) the detrimental effects of an early termination of this Agreement and relocation of the San Jose Sharks, including the loss of (1) intangible civic, social, and quality of life benefits, (2) national and international exposure, and (3) revenues and other direct and indirect economic and fiscal benefits.

(d) City and Manager further agree that Manager's election to exercise its right to vacate the Arena and terminate this Agreement (and the Hockey Use Agreement) prior to the expiration of the Term shall not be an Event of Default under this Agreement. Therefore, Manager's exercise of said Early Termination Right shall not entitle City to any injunctive relief, monetary damages, or any other remedies, other than the right to receive the Early Termination Fee as and when required by this Agreement. However, in order to help ensure the enforceability of the Early Termination Fee, the Parties agree that for the purposes of this Agreement the Early Termination Fee shall be construed as liquidated damages and not as a penalty.

(e) Consistent with the foregoing, City and Manager agree that the Early Termination Fee is a reasonable estimate of the losses to City resulting from an early termination of this Agreement and relocation of the San Jose Sharks and that payment of such amount as liquidated damages is not intended as a forfeiture or penalty within the meaning of California Civil Code Sections 3275 or 3369, but is intended to constitute liquidated damages to City pursuant to California Civil Code Section 1671. If the City collects an Early Termination Fee hereunder in connection with an early termination of this Agreement and relocation of the San Jose Sharks, the City hereby waives the right to collect, and shall not seek to collect, any additional monetary or other damages under this Agreement or the Hockey Use Agreement from SSE, Manager, or SJS LLC.

(f) As set forth in Section 38 below, if Manager fails to pay the Early Termination Fee as and when required by this Agreement, such failure shall be an Event of Default as defined in Section 38.1.1, in which case City shall be entitled to immediately exercise its remedies under Section 38.3, including the right to the entry of a Stipulated Judgment as described in Section 38.3.2.


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5.2.2 Extraordinary Termination Right. Notwithstanding anything in this Agreement to the contrary, if (i) Manager or any other party develops a new arena located within the City's jurisdictional limits, and (ii) SJS LLC enters into an agreement to have the San Jose Sharks NHL hockey team play its Home Games at such new arena on the terms and conditions set forth in Section 3.1.2(a) of this Agreement, then Manager may terminate this Agreement on the date that the new arena is substantially completed, without giving a 3-Year Revocable Notice or a 2-Year Irrevocable Notice.

(a) In the event of such termination of this Agreement, Manager shall not be required to pay an Early Termination Fee; provided, however, that if the San Jose Sharks move their Home Games to a location outside of the City's jurisdictional limits prior to June 30, 2047, then Manager shall be required to pay City an Early Termination Fee in accordance with the attached Schedule of Financial Terms. Manager's obligations under this Section 5.2.2(a) shall survive termination of this Agreement.

(b) The Parties anticipate that prior to construction of a new arena, other relevant terms and conditions regarding the disposition of the existing Arena Facilities and the use of the new arena will be determined.

**SECTION 6. ARENA FEES.**

**6.1 Amount and Types of Payments.** Subject to the terms and conditions of this Agreement, Manager shall make certain payments to or for the benefit of City (collectively, "**Arena Fees**"), as described below and depicted on the Schedule of Financial Terms (**Attachment No. 6**):

6.1.1 Contributions Towards Renovation Project Costs. Pursuant to Article V of the Renovation Agreement, Manager shall pay a minimum of One Hundred Million Dollars ($100,000,000) towards the Project Costs, as follows:

(a) Manager shall pay Twenty Five Million Dollars ($25,000,000) towards City's debt service on financing obtained by City to fund the Project Costs, in accordance with Section 5.01 (B) 2 of the Renovation Agreement.

(b) Manager shall pay at least Seventy Five Million Dollars ($75,000,000) towards directly funding the Project Costs, in accordance with Section 5.04 of the Renovation Agreement.

6.1.2 Capital Reserve Fund Contributions. Manager shall pay a total of Thirty Two Million Four Hundred Twenty Thousand Dollars ($32,420,000) to the Capital Reserve Fund, in accordance with Section 7.2.1.

6.1.3 Community and City Events Fund. Manager shall contribute a total of Two Million Six Hundred Thousand Dollars ($2,600,000) to the Community and City Events Fund, in accordance with Section 11.1.

6.1.4 San Jose Sharks Community Fund. Manager shall pay a total of Nine Million Seven Hundred Fifty Thousand Dollars ($9,750,000) to the San Jose Sharks Community Fund, in accordance with Section 11.2.


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6.1.5 Consideration.

(a) The consideration provided by Manager to City for entering into this Agreement, and for Manager's rights to use, occupy, possess, control, brand, operate and generate revenue from the Arena Facilities (including the Arena FF&E) during the Term in accordance with this Agreement (collectively, "**Possessory Interest Rights**"), includes the following:

(i) The Arena Fees payable by Manager as described above;

(ii) The grant by Manager of certain in-kind benefits to City (the value of which is estimated to be over Eleven Million Dollars ($11,000,000) over the Term), including the use of space within the Arena for City purposes as provided in Sections 11.3 and 11.4, and the use of a luxury suite and related Event tickets and parking passes as provided in Section 11.5;

(iii) The performance by Manager of its other obligations under this Agreement, many of which obligations are for the benefit of the downtown business area as well as the wider San Jose community; and

(iv) City's rights of ownership in the Arena Facilities and all Renovation Improvements, Alterations and additions to the Arena Facilities (including Arena FF&E) as provided in Section 29.1.1.

(b) Except as otherwise expressly provided in this Agreement, Manager shall have no obligation to make any other payments of any type to City for its Possessory Interest Rights, regardless of whether such types of payments: (i) are characterized as rent, additional rent, cost reimbursements, naming rights payments, parking lot fees, ticket revenues, advertising revenues, hockey revenues, use fees, suite rentals, media distribution fees, or otherwise; or (ii) are common in the sports and entertainment industry, now or in the future.

**6.2 Fee Credits.** Manager shall be entitled to a reduction in the amount of Arena Fees payable under this Agreement (in each case, a "**Fee Credit**") under the circumstances described below. Following the determination of the amount of any Fee Credit, Manager may deduct the Fee Credit from Manager's Capital Reserve Payments in accordance with Sections 7.3 and 7.4. Each Fee Credit described below is independent and cumulative of all other Fee Credits or other remedies that may apply.

6.2.1 PIT Credit. Manager shall be entitled to a Fee Credit ("**PIT Credit**") for City's share of Possessory Interest Taxes as described in Section 10.3.

6.2.2 Cost Increase Credits. Manager shall be entitled to a Fee Credit ("**Cost Increase Credit**") in each case for any of the following that may be applicable from time to time during the Term: (i) Disallowed Tax Increases as described in Section 10.2; and (ii) Living Wage Expenses as described in Section 10.4.

6.2.3 Force Majeure Credits. Manager shall be entitled to a Fee Credit ("**Force Majeure Credit**") if Manager's use of the Arena Facilities or any material portion thereof is blocked, reduced or restricted (either permanently or temporarily) for more than five calendar days due to any of the following events: (i) a Casualty as described in Section 31.1; or (ii) any other


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Force Majeure Event as described in Section 37.1. In each case, the amount of the Fee Credit shall be determined in accordance with the following:

(a) The amount of the daily Fee Credit shall be equal to the amount of Arena Fees payable for the Term Year in which the applicable event occurs, divided by 365.

(b) The number of days for which the daily Fee Credit shall apply shall be equal to the number of days (including the first five days) during which the Arena Facilities are rendered unusable as a public entertainment facility for hockey games and/or other forms of entertainment as contemplated by this Agreement, with full seating, vending, concessions, advertising and on-site parking capacity.

6.2.4 City Default Credit. Manager shall be entitled to a Fee Credit ("**City Default Credit**") pursuant to Section 38.2.1 if City has committed an Event of Default that can be cured with the payment of money only, and City fails to make such payment within the Applicable Cure Period.

**6.3 General Payment Terms.** Manager's obligation to pay the Arena Fees shall be subject to the following additional general terms:

6.3.1 Method of Payment. The Arena Fees shall be paid in US Dollars, by means of a check made payable to the City of San Jose and delivered to the Arena Authority, or by such other method of payment or to such other address as may be requested by City.

6.3.2 Proration of Payments. Unless otherwise provided in this Agreement (such as for an Event of Default), all Arena Fees and other obligations payable or calculated on the basis of a specified time period shall be equitably prorated if the actual time period is shorter or longer than the specified period.

(a) For example, if the Term terminates prior to June 30th of a Term Year (such as in the case of a Casualty), the Arena Fees for that Term Year shall be prorated based on the number of days from the start of the Term Year to the actual Termination Date.

(b) Where payment obligations vary based on the number of Event Days, such proration shall be based on the number of Event Days in the applicable period rather than calendar days.

6.3.3 Refunds. Any refunds due from City to Manager shall be payable within 180 days following receipt of a written statement from Manager to City with reasonable detail and supporting documents describing the reasons for the refund and the calculation of the amount of the refund.

**SECTION 7. CAPITAL RESERVE FUND CONTRIBUTIONS.**

**7.1 Maintenance of Capital Reserve Fund.** City shall continue to maintain a restricted fund named the "San Jose Arena Capital Reserve Fund" and designated by City as Fund 459 ("**Capital Reserve Fund**") to provide a source of funding for Capital Projects as described in Section 28.1. As of the Effective Date the Capital Reserve Fund shall include the balance remaining in the Capital Reserve Fund under the 2018 AMA, and thereafter shall be funded as described in Section 7.2.


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7.1.1 Control of Fund. City shall control the Capital Reserve Fund, but disbursements from the Capital Reserve Fund shall be made only for Capital Projects in accordance with Section 28.2 or as otherwise approved in accordance with the terms of this Agreement.

7.1.2 Interest. City shall maintain the Capital Reserve Fund in one or more interest-bearing accounts with financial institutions selected by City from time to time in its reasonable discretion. All interest earned on such account shall be added to the Capital Reserve Fund.

7.1.3 Roll-Over. Any monies in the Capital Reserve Fund (including interest earnings) not spent in any given Term Year shall remain in the account and constitute part of the Capital Reserve Fund without affecting City's continuing obligation to make payments to the Capital Reserve Fund in subsequent Term Years.

7.1.4 Reporting. City shall keep reasonably detailed records of all deposits to and disbursements from the Capital Reserve Fund, in accordance with City's standard practices and procedures. Manager shall have the right to inspect and/or receive copies of all records relating to the Capital Reserve Fund upon reasonable prior written request.

7.1.5 Termination. Upon termination of this Agreement, all monies in the Capital Reserve Fund shall belong to City.

**7.2 Payments to Capital Reserve Fund.** The Parties shall make payments to the Capital Reserve Fund as follows:

7.2.1 Payments by Manager. Manager shall pay a total of Thirty Two Million Four Hundred Twenty Thousand Dollars ($32,420,000) to City, which City shall deposit into the Capital Reserve Fund to be used only for Capital Projects as described in Section 28. Such total amount shall be paid in installments that are due and payable on August 1, 2025, and on August 1 of each calendar year from 2033 through 2049, in the amounts set forth on the Schedule of Financial Terms ("**Manager's Capital Reserve Payments**").

7.2.2 Payments by City. City shall contribute a total of Thirty Two Million Four Hundred Fifty Five Thousand Two Hundred Thirty Dollars ($32,455,230) to the Capital Reserve Fund, in installments that are due on August 1, 2025, and on August 1 of each calendar year from 2038 through 2049, in the amounts set forth on the Schedule of Financial Terms ("**City's Capital Reserve Payments**").

**7.3 Effect of Fee Credits.** Notwithstanding the provisions of Sections 6.1.2 and 7.2, if Manager is entitled to a Fee Credit, then the Parties' respective payments to the Capital Reserve Fund shall be modified as described below, subject to the provisions of Section 7.4.

7.3.1 PIT Credit. If Manager is entitled to a PIT Credit in accordance with Section 6.2.1, then Manager's Capital Reserve Payments shall be reduced by the amount of such PIT Credit, and City's Capital Reserve Payments shall be increased by the same amount, so that the total amount of payments for the applicable Term Year(s) remains the same.

7.3.2 Cost Increase Credits. If Manager is entitled to a Cost Increase Credit in accordance with Section 6.2.2, then Manager's Capital Reserve Payments shall be reduced by the amount of such Cost Increase Credit, and City's Capital Reserve Payments shall be increased by the same amount, so that the total amount of payments for the applicable Term Year(s) remains the same.


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7.3.3 Force Majeure Credits. If Manager is entitled to a Force Majeure Credit in accordance with Section 6.2.3, then Manager's Capital Reserve Payments shall be reduced by the amount of such Force Majeure Credit, but City's payments shall not change, so that the total payments to the Capital Reserve Fund for the applicable Term Year(s) shall be reduced by the amount of the Force Majeure Credit. However, nothing herein shall be deemed to be a waiver of Manager's or City's rights to seek recovery of its losses from insurance policies carried by either Party, in accordance with Part Nine of this Agreement.

7.3.4 City Default Credit. If Manager is entitled to a City Default Credit in accordance with Section 6.2.4, then Manager's Capital Reserve Payments shall be reduced by the amount of such City Default Credit, and City's Capital Reserve Payments shall be increased by the same amount, so that the amount of the total payments for the applicable Term Year(s) remains the same.

**7.4 Roll-Over Adjustments.** If Manager is entitled to any Fee Credits during any Term Year(s) in which Manager's Capital Reserve Payments are not payable, or are otherwise insufficient in amount to cover the amount of such Fee Credits, then the following shall apply:

(a) The Fee Credits shall be accumulated and "rolled-over" to the subsequent Term Years, and applied against Manager's Capital Reserve Payments as and when the amount of such payments are sufficient to cover the amount of such accumulated Fee Credits.

(b) For example, if during Term Years 26/27 through 32/33 the PIT Credits are an average of $30,000 per year, for a total of $210,000 for the seven years, then such PIT Credits will be applied in Fiscal Year 33/34 as follows:

(i) Manager's Capital Reserve Payment shall be reduced from $500,000 to $290,000, less any Fee Credit that applies for that Term Year; and

(ii) City's Capital Reserve Payment, which would otherwise be $-0- for 33/34, shall be equal to the amount of the PIT Credits taken by Manager as described above.

c) Without limiting the foregoing, any PIT Credits that accrue from the 2018 AMA Term (which are capped at $250,000 pursuant to Section 10.3.3), shall be "rolled-over" to Term Year 25/26 (and subsequent Term Years, if necessary) and applied against Manager's Capital Reserve Payments or Manager's payments towards City's debt service as described in Section 6.1.1 (a), whichever is due first.

**7.5 Effect of Termination Notice**. If for any reason this Agreement is terminated early (whether because Manager delivers to City an Early Termination Notice in accordance with Section 5.2.1, or the San Jose Sharks relocate to a new arena within San Jose as described in Section 5.2.2, or this Agreement is terminated in accordance with Section 38.3.5 due to an uncured Event of Default), then the Parties' obligatory payments to the Capital Reserve Fund shall be reduced proportionately to the amounts necessary to keep the Arena Facilities in good working condition for the remainder of the shortened Term. Such amounts shall be determined by the Parties in accordance with the procedures for agreeing on a Capital Budget as described in Section 28.2.

**7.6 One Time Disbursement for Temporary Parking Facility.** Notwithstanding anything to the contrary in this Agreement, Manager shall be entitled to obtain a one-time disbursement from the Capital Reserve Fund (subject to the availability of funds) to reimburse Manager for the costs of improving certain City-owned parcels with a temporary parking lot pursuant to a separate


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Property Use Agreement between Manager and City. The procedure for Manager to obtain such reimbursement shall be the same as for other reimbursements from the Capital Reserve Fund, as described in Section 28.2.4.

**SECTION 8. OPERATING EXPENSES.**

**8.1** **Manager's General Responsibility.** Except as otherwise expressly provided in Section 8.2 or other applicable provisions of this Agreement, Manager shall be solely responsible for paying all costs and expenses reasonably necessary to perform Manager's Management Duties as described in Section 12.1.2 and to pay for Ordinary Maintenance and Repairs as described in Section 13.1.1 (collectively, "**Operating Expenses**"). Expenses incurred for Capital Repairs and Replacements as described in Section 28.1.1 are not part of Operating Expenses, and shall be funded through the Capital Reserve Fund in accordance with Section 28.

8.1.1 Manager Responsible for Operating Losses. If Operating Expenses are greater than Operating Revenues (defined in Section 9.1), there will be cash losses ("**Operating Losses**"). Manager shall be solely responsible for obtaining funding from its own resources in order to cover such Operating Losses, such as cash contributions from Manager's members, financing from third party lenders, and so forth.

8.1.2 Limitation on City Obligations. In no event shall City be obligated to pay or reimburse Manager for any Operating Losses. Further, except as otherwise expressly provided in this Agreement, City shall not be liable to any of the Manager Invitees, Manager's lenders, sports franchisors, or other third parties for acts of Manager or for any other expenses arising out of Manager's operation and maintenance of the Arena Facilities.

**8.2** **City's Responsibility**. The following is a summary of certain Operating Expenses for which City is responsible. Payment for such Operating Expenses shall be made at City's cost, from City's own resources, subject to the terms and conditions of this Agreement.

8.2.1 Arena Public Safety Costs. City shall make payments to Manager from the Arena Public Safety Fund in accordance with Section 24.6, for Staffing Shortfall Fees (defined in Section 24.5.2, Peddler Permit Enforcement Costs (defined in Section 25.3.2) and Video Surveillance Equipment Costs (defined in Section 26.3).

8.2.2 Incremental TPMP Costs. If Manager incurs TPMP Costs for any Term Year in excess of $25,000 over the Baseline TPMP costs for that Term Year, City shall reimburse such Incremental TPMP Costs to Manager, all as defined in and in accordance with Section 23.1.7.

8.2.3 Arena TPMP Operations and Management. Subject to Sections 8.2.1 and 8.2.2 and other applicable provisions of this Agreement, during the entire Term, City shall implement the Arena TPMP as described in Section 23.1 in accordance with the Operations Manual established under the TPMP (all as modified from time to time in accordance with this Agreement), including operations and management of traffic and parking. Without limiting the foregoing, the Arena TPMP provides for implementation of the following:

(i) Signal Central staffing
(ii) Parking and code enforcement staffing
(iii) Neighborhood litter removal and clean up
(iv) Signal timing plan development


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(v) Traffic and parking studies
(vi) Traffic signal system upgrades
(vii) Traffic signage (static and portable)
(viii) Minor public capital improvements
(ix) Residential permit parking program
(x) Public information material

8.2.4 Arena Authority and Administration of Agreement. During the entire Term, City shall provide, at its sole cost, all funding for the Arena Authority (including personnel, program, office space and general operating expenses) and for all other services, facilities, infrastructure, and resources reasonably necessary to manage and implement City's obligations under this Agreement; oversee Manager's obligations under this Agreement; and coordinate communications between and among Manager, City, and third parties on all matters relating to the Arena or this Agreement; provided, however, that such obligation shall be subject to the following:

(a) A portion of such funding may be generated by Manager's leaseback of the City Suite upon agreement by both City (through the City Manager) and Manager.

(b) A portion of such funding shall be paid by Sharks Ice, LLC, under the Ice Centre Lease.

8.2.5 Insurance for Arena Facilities. During the entire Term, City shall maintain, at its sole cost, property insurance covering the Arena Facilities, as described in Section 30.

8.2.6 Pre-Existing Environmental Conditions. During the entire Term, City shall be solely responsible for all repairs to the On-Site Parking Facilities that involve penetrations in or removal, replacement or breaking of the asphalt surfaces, and for Remediation of all Pre-Existing Hazardous Substances, as described in Section 27.

8.2.7 Other City Obligations. City shall also be solely responsible for all Operating Costs (if any) payable in connection with the fulfillment of City's express obligations under this Agreement, including as described in Section 17.2.1 (maintenance of public roadway signs); Section 19.4 (fulfillment of City's parking obligations); and 28.4.2 (Code Upgrade Work with respect to City's Original Improvements).

**8.3 City Support for Reduction of Energy Costs.**

8.3.1. The Parties acknowledge and agree it is in their mutual best interests to reduce energy costs at the Arena, including by (i) installing solar power systems, fuel cells, battery storage systems, and other net positive energy production and storage facilities, where feasible; and (ii) taking advantage of special financing, grants, rebates, preferential rates, and other government-sponsored assistance programs, where available.

8.3.2 To achieve the Parties' shared energy cost reduction goals, City shall use best efforts to assist Manager in achieving energy cost savings whenever and wherever the City has a reasonable opportunity to do so (and where Manager needs City's involvement or support to do so) by taking actions such as the following:

(a) Participating in programs available to public agencies for low-cost funding, incentives or credits for alternative power systems, electric vehicle infrastructure and equipment, battery systems, and similar energy efficient infrastructure;


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(b) If City establishes or permits the establishment of a centralized utility infrastructure system that provides electricity service to the area around the Arena, City shall use best efforts to allow Manager to participate in such system at a rate structure that provides Manager the lowest electrical power rates made available to large commercial customers;

(c) At Manager's request, and with City's approval, interceding with PG&E on behalf of Manager to address construction-related priority needs as they arise from time to time; and

(d) Taking such other actions as reasonably requested by Manager to achieve reductions in energy costs at the Arena.

8.3.3 Subject to the terms set forth in this Section 8.3.3. and in Section 8.3.4. below, City shall have the right to be reimbursed by Manager for the reasonable out-of-pocket costs incurred by City in taking any of the actions described in Section 8.3.2 above.

(a) Prior to taking any actions under Section 8.3.2, City shall provide Manager for its review and approval an estimate of the out-of-pocket costs to be incurred by City in connection with such efforts. If Manger does not approve such estimate, the Parties shall meet and confer to try to resolve their differences and/or to determinate whether to proceed with the proposed actions.

(b) If Manager approves the cost estimate and City proceeds with the action, Manager shall reimburse City for its out-of-pocket costs within sixty (60) days after receipt of an invoice or other evidence reasonably acceptable to Manager documenting the out-of-pocket costs incurred by City.

8.3.4 In addition to the foregoing, to the extent City utilizes City credits, grants, or other financial resources to achieve energy cost savings for Manager's benefit, City shall have the right to receive other equitable financial compensation as may be agreed upon by the Parties at the time such cost savings measures are implemented.

8.3.5 For avoidance of doubt, nothing in this Section 8.3 shall be deemed to require City to directly provide for any energy systems or financial subsidies at City's cost.

**8.4** **Governmental Services**. Nothing in this Agreement shall modify City's obligation to provide municipal services to or for the benefit of Manager, the Arena, and the customers of the Arena on the same basis (and for the same fees, if any) as such services are provided to other members of the public under similar circumstances, including emergency fire, medical and police services; off-site street sweeping and trash removal; water, sewer and other utility services; crowd control for protected speech; and the like.

**SECTION 9. OPERATING REVENUES.**

**9.1** **Manager's General Benefit.** Except as otherwise expressly provided in this Agreement, as between City and Manager, Manager shall be entitled to all income, receipts, fees and other revenues generated by the operation of the Arena Facilities ("**Operating Revenues**"), including revenues from use or license agreements, subleases, concessions, food and beverage sales, On-Site Parking Facilities, retail sales, ticket sales, suite rentals, naming rights, image rights, signage,


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advertising, broadcast or other media distribution rights, websites, social media platforms, mobile applications, special promotions, and the like.

9.1.1 Manager Entitled to Operating Profit. If Operating Expenses are less than Operating Revenues, there will be cash profits ("**Operating Profits**"). Manager shall be solely entitled to Operating Profits, if any, from the Arena operations.

9.1.2 City Prohibited from Charging Fees. City shall have no right to directly or indirectly impose any fees or charges against any of the Manager Invitees (defined in Section 27.1.1) in connection with the use and operation of the Arena Facilities, except to the extent expressly provided in this Agreement. This provision shall not be construed to prohibit the sponsors or organizers of City Events or Community Events from charging admission fees to such Events.

9.1.3 New Revenue Sources. Subject to future discretionary approvals by City where necessary (including amendments to City's sign ordinance), and subject to conformance with the Governing Standards (defined in Section 12.1.3), Manager shall be entitled, at its cost (except as otherwise provided in this Agreement), to create new or expanded revenue sources and to retain all net Operating Revenues from such new or expanded revenue sources, whether or not funding for any prerequisite Capital Projects comes from the Capital Reserve Fund (if allowed under this Agreement) or from Manager's own funds. Examples of such Operating Revenues include the following:

(a) All revenues generated from digital signage structures installed by Manager along freeways in order to promote Arena Events, the San Jose Sharks, and Manager's other Affiliates (including SJS LLC) and their sponsors, as described in Section 17.

(b) All revenues generated from new Capital Enhancements (such as an atrium bar), as defined in Section 28.1.1.

(c) All revenues generated from licensing of additional areas of the Arena Facilities for naming and branding rights, and the installation of new interior and exterior signage, as described in Section 16.

(d) All revenues generated from distilled spirits advertising in additional locations throughout the Arena Facilities pursuant to the Alcohol Advertising Plan, as described in Section 14.1.5.

(e) All revenues generated by any components of the Renovation Project, as described in the Renovation Agreement.

**SECTION 10. TAXES AND OTHER GOVERNMENTAL CHARGES.**

**10.1 General Obligation to Pay.** During the Term, Manager shall pay or cause to be paid, before delinquency, all applicable fees, charges and Taxes resulting from Manager's possession, occupancy, management and use of the Arena Facilities, subject to the terms and conditions of this Section 10.

10.1.1 Notices. City shall promptly forward to Manager any notices or other information that City receives with respect to any Tax or proposed New Tax (defined below) applicable to the Arena Facilities, to the same extent that such information is delivered to City as the record owner of the Arena Land.


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**10.2** **Disallowed Tax Increases**. Manager shall be entitled to deduct from the Arena Fees, as a Cost Increase Credit pursuant to Section 6.2.2, any Disallowed Tax Increases (defined below) that are payable by Manager or any of Manager's Affiliates.

10.2.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings given below:

(a) "**Governmental Authority**" means any federal, state, regional or local governmental entity, political subdivision, agency, district, department, board, bureau, commission, authority or other administrative or regulatory body having jurisdiction over the Arena or Manager.

(b) "**City Authority**" means City and/or any other Governmental Authority that is formed by or under the control of City, including the Arena Authority.

(c) "**City-Approved Assessment District**" means an assessment district in which any City Authority owns one or more parcels of real property, provided that the City Authority (as the owner of such property) has voted affirmatively for the assessments to be imposed by such district.

(d) "**City Invitees**" has the meaning given in Section 27.1.2.

(e) "**Manager Invitees**" has the meaning given in Section 27.1.2.

(f) "**Manager Sponsored Activities**" means any Special Events (defined in Section 25.1) or other outdoor endeavors or special activities sponsored, promoted or pursued by Manager or any of Manager's Affiliates (defined in Section 2.1.1).

(g) "**Possessory Interest Tax**" means a property tax assessed under California law based on Manager's property rights under this Agreement and the resulting taxable interest held by Manager in the Arena Facilities.

(h) "**Tax**" means all of the following:

(i) Any "general tax" or "special tax" as defined by Section 1 of Article 13C of the California Constitution, which is imposed by any Governmental Authority, regardless of the manner of imposition or the beneficiary, for the purpose of raising funds for general or specific governmental purposes; and

(ii) Any "assessment" as defined by Section 2 of Article 13D of the California Constitution, which is imposed upon real property by any Governmental Authority for a special benefit conferred upon the property; and

(iii) A "fee" or "charge" as defined by Section 2 of Article 13D of the California Constitution, which is imposed upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a "property-related service" as defined by Sections 2 and 6 of said Article 13D. Parking usage fees, charged by the City on any City-owned and/or operated parking facility, shall be established at City's sole discretion and such fees, as adjusted from time to time, are excluded from the definition of "Tax" as contemplated in this Agreement.


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(i) "**New Tax**" means (i) any Tax that is not imposed as of the Commencement Date of the 2018 AMA, or (ii) that portion of any existing Tax that is extended or increased following the Commencement Date of the 2018 AMA.

(j) "**Disallowed Tax Increases**" means any or all of the following New Taxes that are imposed or assessed by any City Authority or City-Approved Assessment District, to the extent that any City Authority or City-Approved Assessment District receives revenues or other funding therefrom:

(i) Any New Tax on tickets or other admission to sporting or entertainment events, to the extent applicable to the Arena or to Manager Sponsored Activities;

(ii) Any New Tax on parking or other New Tax that principally targets the Arena, the use of the Arena, or Manager Sponsored Activities;

(iii) Any New Tax on parking or other New Tax for which at least 25% of revenues are generated by Manager and/or Manager Invitees;

(iv) Any New Tax payable in connection with a special benefit district, maintenance district, business district, or other assessment district that includes the Arena and which is not expressly approved by Manager;

(v) Any New Tax on gross receipts, income, capital gains, or sales generated by activities at the Arena and/or Manager Special Activities, unless such Tax is one of general application imposed or assessed against all applicable taxpayers within the jurisdiction of the relevant City Authority; and

(vi) Any New Tax on water, electricity, gas and local telephone services provided to the Arena.

**10.3 Possessory Interest Taxes.** Manager acknowledges that its interest under this Agreement (i.e., Possessory Interest Rights) may create a taxable property interest that is subject to Possessory Interest Tax, and that Manager shall be obligated to pay any such Tax, subject to the following:

10.3.1 Cooperation by City. City agrees to cooperate with Manager in future discussions or actions relating to valuation or assessment of any Possessory Interest Taxes imposed in connection with this Agreement.

10.3.2 Credit for City's Allocation of Possessory Interest Taxes. To the extent that a Possessory Interest Tax is assessed and payable by Manager, Manager shall be entitled to deduct from Manager's Capital Reserve Payments, as a PIT Credit pursuant to Section 6.2.1, any portion of such Possessory Interest Tax that is allocated to and received by City or any other City Authority.

10.3.3 PIT Credit for 2018 AMA Term. Notwithstanding the foregoing, with respect to the Possessory Interest Taxes assessed and payable by Manager for the period of time from July 1, 2015 through June 30, 2025 (i.e., the 2018 AMA Term), the PIT Credit shall not exceed a total of Two Hundred Fifty Thousand Dollars ($250,000). Such amount is based on the current estimate of total Possessory Interest Taxes due for said period of time.


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(a) To the extent that the PIT Credit for the 2018 AMA Term is known as of the Effective Date of this Agreement, then such PIT Credit shall be applied against the Capital Reserve Fund payments for Term Year 25/26, as follows:

(i) Manager's Capital Reserve Payment for Term Year 25/26 shall be reduced from $1,420,000 to $1,170,000, or by a lesser amount dependent on actual Possessory Interest Taxes incurred by Manager; and

(ii) City's Capital Reserve Payment for Term Year 25/26 shall be increased from $2,300,000 to $2,550,000, or by a lesser amount dependent on actual Possessory Interest Taxes incurred by Manager.

(b) To the extent that the PIT Credit for the 2018 AMA Term is not known as of the Effective Date of this Agreement, then once the actual amount of Possessory Interest Taxes for the 2018 AMA Term has been finally determined (following the results of any applicable appeals), Manager shall notify City of the same, and City shall then calculate and notify Manager of the remaining amount of the PIT Credit due for the 2018 AMA Term. Such remaining PIT Credit shall then be applied against Manager's future payments as provided in Section 7.4(c).

**10.4** **Living Wage Exemption**. Manager shall be exempt from City's living wage requirements, in accordance with the following:

10.4.1 Living Wage Policy. Council Policy 3-3 ("**Living Wage Policy**") requires that employers who are awarded certain service contracts with City or who receive certain levels of direct financial assistance from City must pay their employees a specified wage and provide other specified employment benefits. The Living Wage Policy does not apply to leases with tenants who have not been awarded service contracts with City through a competitive bidding process or who have not received direct financial assistance from City.

10.4.2 Application of Living Wage Policy to Arena Facilities. City hereby reaffirms that the Living Wage Policy does not apply with respect to (i) the use, operation, maintenance, repair, improvement, or management of the Arena Facilities, or (ii) the parking ~~lot operating~~management agreement to be entered into by the Parties with respect to the Milligan Off-Site Parking Facility, as described in Section 19.5.1.

10.4.3 Credit for Living Wage Expenses. If City's living wage requirements are hereafter expanded, replaced, or otherwise amended such that Manager would become subject to the Living Wage Policy (or any substantially equivalent City ordinance) in connection with the activities contemplated by this Agreement, then Manager shall be entitled to deduct from the Arena Fees, as a Cost Increase Credit pursuant to Section 6.2.2, an equitable amount based on the increase in Operating Expenses incurred by Manager as a result of such living wage requirements (the "**Living Wage Expenses**").

**SECTION 11. EXPENSES PAYABLE BY MANAGER FOR CITY AND COMMUNITY BENEFIT.**

**11.1** **Community and City Events Fund.** As part of the Arena Fees payable by Manager to City, Manager shall maintain a separate fund within its accounts ("**Community and City Events Fund**") to which Manager shall credit $100,000 on each August 1st during the entire Term. Allocations from the Community and City Events Fund shall be made to partially offset Event Charges as described in


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Section 11.1.4 below. Any balance (up to a limit of $50,000) remaining in the Community and City Events Fund on July 31st of each year shall be carried over to the next Term Year. All carryover funds shall be added to the initial balance on August 1st of each Term Year so that the beginning balance on August 1st will be $100,000 plus any carryover amount (up to a total limit of $150,000). Upon written request by City (but not more often than once each calendar quarter) Manager shall provide City with a year-to-date accounting of how the amounts in the Community and City Events Fund have been used during the applicable Term Year. Manager shall also provide to City, on an annual basis, a statement of sources and uses for the Community and City Events Fund.

11.1.1 City Events. The term "**City Events**" as used herein means Events pre-qualified by the Arena Authority based on criteria established by City consistent with the Parties' historical practices. City Events shall not include Events that are of a nature and on a scale that would otherwise be booked by Manager.

(a) Manager agrees to use its reasonable best efforts, consistent with the Parties' historical scheduling practices, to provide up to ten (10) dates annually for City Events.

(b) Manager shall not charge facility rental fees for City Events. However, Manager shall be reimbursed for other Event Charges as described in Section 11.1.4.

11.1.2 Community Events. The term "**Community Events**" as used herein means Events that are not of the commercial nature otherwise generally booked by Manager, but (i) are otherwise appropriate for the Arena, (ii) are promoted by community organizations, and (iii) do not meet the criteria of a City Event.

(a) Manager agrees to use its reasonable best efforts, consistent with the Parties' historical scheduling practices (described below), to provide dates for Community Events under guidelines established by Manager with City.

(i) City recognizes Manager's priority rights in booking and scheduling events including San Jose Sharks hockey games, and any other professional sports franchise games, family shows, and other sports and entertainment events.

(ii) Manager shall use its reasonable best efforts, consistent with historical scheduling practices, to accommodate Community Events to the extent possible within its then existing booking, scheduling, and rental rate policies, and to provide adequate lead-time for organizers to successfully plan such Events.

(b) Manager shall be entitled to charge facility rental fees for Community Events, and shall be reimbursed for other Event Charges as described below.

11.1.3 Historical Scheduling Practices. The Parties acknowledge and agree that their historical scheduling practices include the following procedures, which the Parties shall continue to follow for the scheduling of both City Events and Community Events:

(a) Manager and the Arena Authority shall work cooperatively with the Event sponsor or organizer to select a few tentative dates for the Event. Manager shall place a tentative hold on such dates up to one year in advance.


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(b) Approximately 45 days prior to the scheduled Event, Manager shall advise the sponsor or organizer in writing of the final date selected for the Event.

11.1.4 Event Charges and Requirements. Manager agrees to provide organizers of City Events and Community Events with an estimated budget for facility rental fees (for Community Events only) and other Event Charges that are likely to be billed in connection with the proposed City Event or Community Event.

(a) The term "**Event Charges**" shall mean any facility rental fees (if applicable) and any actual expenses incurred by Manager for set-up, dismantling, cleaning, event staff, and other expenses over and above normal operation and maintenance of the Arena (such as incremental utility expenses).

(i) Manager agrees to consider special rate packages for Event Charges for City Events and Community Events. However, Manager shall not be obligated to financially support City Events or Community Events (outside of the Community and City Events Fund) unless Manager agrees in advance, in Manager's sole discretion.

(ii) If City does not provide written direction to draw Event Charges from the Community and City Events Fund, or if there are insufficient funds remaining in the account, Manager shall bill the sponsor or organizer of the City Event or Community Event for Event Charges.

(b) The organizers of all City Events and Community Events shall be required to execute Manager's standard license agreement and provide evidence of insurance in accordance with Manager's standard minimum requirements consistent with the provisions of this Section 11.1.

(c) The organizers of any City Event or Community Event that receives financial support from Manager (including waived facility rental fees and/or reimbursed Event Charges) shall be required to provide public acknowledgment of such support, by including Manager, the San Jose Sharks and/or their Affiliates as sponsors of such Event on any promotional materials associated with the Event.

11.1.5 Community and City Events Policy. City has established a written policy for the administration of the Community and City Events program through the Arena Authority, including application procedures and priorities for the award of allocations from the Community Events Fund.

(a) Manager shall have no duty to familiarize itself with such policy, and shall incur no cost, expense or liability for any matters arising from or relating to said policy.

(b) In the event of any inconsistency between the policy and this Agreement, the provisions of this Agreement shall control as between City and Manager.

**11.2 Council Discretionary Funds.**

11.2.1 San Jose Sharks Community Fund. As part of the Arena Fees payable by Manager to City, Manager and/or its Affiliates shall pay $375,000 to City on August 1st of each Term Year, which City shall deposit into restricted accounts, to be allocated for the following purposes:


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(a) $250,000 shall be allocated equally to each City Council District to be used to support educational, recreational and cultural purposes.

(b) $125,000 shall be allocated for any public purpose as determined by the City Council from time to time, including constituent outreach, provided that these funds may not be used for capital expenditures or City personnel expenses.

At the conclusion of each Term Year, any unspent monies provided for in this Section 11.2 shall be carried forward into the following Term Year to be used for their intended purposes.

11.2.2 Public Acknowledgement. City agrees to provide public acknowledgment of the contribution of such funds by Manager and/or its Affiliates, as well as transparency regarding the use of such funds, in accordance with the following:

(a) In City Council Agendas and Minutes, Budget reports and other City documents relating to the allocation or use of the foregoing funds (including proposed resolutions approving events, services or activities funded in whole or in part by such funds), the source of such funding shall be identified as the San Jose Sharks Community Fund, the Sharks Community Fund, or Sharks Supported funding.

(b) Promotional materials, signage, newsletters and other public communications regarding any event, service, or other activity funded in whole or in part by the $250,000 portion of the San Jose Sharks Community Fund shall specify the source of such funding to the extent practical.

(c) Manager and its Affiliates shall have the right to include, in their promotional materials and other public communications, information regarding their contributions to the San Jose Sharks Community Fund and the uses for which the funds have been allocated.

**11.3 Hall of Fame.** Prior to the Effective Date, Manager has been providing wall space in the Arena for the San Jose Sports Hall of Fame ("**HOF**") plaques and other program elements. However, due to the need to reclaim wall space as part of the Renovation Project, Manager's responsibilities regarding the HOF program will terminate as of April 30, 2029 ("**HOF Display End Date"**), in accordance with the following:

11.3.1 Manager's Responsibilities until HOF Display End Date. From the Effective Date until the HOF Display End Date, Manager's responsibilities shall be limited to the following:

(a) Manager shall be required to display only the following HOF elements on the publicly accessible walls of the Arena:

(i) Plaques for the individuals inducted into the HOF for the four (4) most recent years (on a rolling basis), not to exceed a total of twenty (20) individual plaques at any one time;

(ii) The Special Olympic Athlete of the Year plaque, the High School Athlete of the Year plaque, and the Amateur Athlete of the Year plaque, each of which contains the names of annual honorees; and

(iii) A sign directing viewers to the Sports Authority website, which contains the full list of HOF inductees over the years.


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(b) With respect to the HOF elements to be displayed, the following shall apply:

(i) City shall provide all plaques and signage at no cost to Manager;

(ii) Manager install the elements at no cost to City;

(iii) Manager shall display the elements in locations that are typically accessible to members of the public and others visiting the Arena; and

(iv) Manager shall, as part of its Ordinary Maintenance and Repair duties, keep the elements in good, clean condition, ordinary wear and tear excepted.

(c) The HOF elements located at the Arena that are not required to be displayed (including plaques removed each year on a rolling basis to make room for the newer plaques) shall be handled as follows:

(i) At Manager's expense, Manager shall remove the plaques from the Arena walls (and repair any damage to the walls), package each individual plaque in a manner that is safe for shipping, and label each package with appropriate identification;

(ii) City shall work with the San Jose Sports Authority to locate an appropriate alternative custodian for each plaque, which may be the honoree's school, team or other institution, the honoree's home, or other place of significance to the honoree;

(iii) Manager shall ship each plaque to the new custodian as directed in writing by the San Jose Sports Authority or City; provided, however, that Manager will be responsible for shipping costs only for destinations within the Continental United States; and

(iv) Until each plaque is shipped, Manager shall store the plaques in a safe and secure location of its choice, at Manager's expense.

11.3.2 Manager's Responsibilities after HOF Display End Date. After the HOF Display End Date, Manager shall have no responsibility for the handling or display of the HOF plaques, subject to the following:

(a) Manager shall, at its cost, package and ship to City (at such location as directed by City) all plaques remaining in Manager's possession as of the HOF Display End Date, including the plaques awarded for the prior four years, the Special Olympics, High School and Amateur Athlete plaques, and older plaques that have not yet been shipped to new custodians as described above.

(b) Manager shall not be responsible for any costs or expenses associated with finding a new location to display the HOF plaques, which location (if any) shall be selected by City in consultation with the Sports Authority.

(c) Manager shall not be responsible for any costs or expenses associated with the establishment of any new HOF display area or the installation of the HOF elements in any new area.


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**11.4** **City Use of Arena Facilities.** Prior to the Effective Date, Manager has been providing office space and common area facilities in the Arena for the Arena Authority's use (collectively, the "**Arena Authority Facilities**"). However, as part of the Renovation Project, the Arena Authority Facilities (as well as Manager's management offices) will need to be relocated to space outside of the Arena. Accordingly, Manager's responsibilities regarding the Arena Authority Facilities will terminate on a specified date ("**Arena Authority Office End Date**") as set forth in a written notice given by Manager to City and Arena Authority in advance of such date, in accordance with the following:

11.4.1 Determination of Arena Authority Office End Date. The Arena Authority Office End Date will be determined by Manager based on the date that Manager needs to move the Arena Authority out of the Arena to reasonably accommodate the Renovation Project. Manager will give as much prior notice to City and Arena Authority as it reasonably can, but in any event not less than six (6) months' notice in advance of the Arena Authority Office End Date.

11.4.2 Arena Authority and City Obligations after Receipt of Notice to Relocate.

(a) On or before the Arena Authority Office End Date, the Arena Authority shall, at no cost to Manager, vacate its offices and remove all of its furniture, office equipment, furnishings and other personal property from the Arena.

(b) City and/or Arena Authority shall be responsible for finding a replacement office location for the Arena Authority, and for paying all costs associated with the leasing, housing, and/or furnishing of such office. Both Parties acknowledge and agree that it would be beneficial for the new Arena Authority office to be located in close proximity to Manager's relocated management offices, but neither Party is obligated to do so.

11.4.3 Manager's Obligations Prior to Arena Authority Office End Date. Until the Arena Authority Office End Date, Manager shall continue to provide, at no charge to City or Arena Authority, the Arena Authority Facilities, along with substantially the same services as provided prior to the Effective Date, including as follows:

(a) Manager shall provide utilities, janitorial services, and general repair and maintenance for such Arena Authority Facilities. However, the Arena Authority shall be responsible for its own office equipment, furnishings, and supplies.

(b) City Invitees shall also be provided with access the Arena Authority Facilities on an as-needed basis, in connection with meetings and other events from time to time conducted by City.

11.4.4 General Access to Building and On-Site Parking Facilities. City Invitees, while in the performance of their duties, shall have reasonable access to the Arena at all times, subject to reasonable security measures as may be imposed by Manager.

(a) Access by City Invitees to the Exclusive Use Areas as defined in Section 28.1.1 shall be limited to the extent necessary to perform City's obligations under this Agreement or under circumstances where access to private property is generally permitted for City agents.


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(b) There shall be no charge for access (including parking) as described above even though such access may occur during Events; provided, however, that such access shall not entitle City Invitees to have viewing rights to Events except as otherwise expressly provided in this Agreement. Parking shall be in designated areas and shall be subject to availability.

**11.5 Luxury Suite and Event Tickets.** Prior to the Effective Date, Manager has been providing City with the exclusive right to use concourse level luxury suite C11, together with related Event tickets and parking passes, for all Events at the Arena. However, as part of the Renovation Project, the suite used by City will need to be relocated to the penthouse level. Accordingly, commencing on the Effective Date, Manager shall provide City, as part of the consideration for entering into this Agreement, admission rights to Events at the Arena, at no charge to City, in accordance with the following:

11.5.1 Suite P41. City shall have the exclusive right to use penthouse level luxury suite P41 ("**Suite P41**") for all Events at the Arena where the penthouse level is open and available for use by Arena customers, subject to the following:

(a) Manager, at no charge to City, shall provide Suite P41 with standard maintenance and services provided to other suite holders, but City shall pay for food, beverages, and special services at Manager's standard, non-discriminatory rates.

(b) Manager agrees that whenever Manager elects, at its own cost, to refurbish luxury suites that are similarly situated to Suite P41 (e.g., suites on the penthouse level), Manager shall refurbish Suite P41 such that the fixtures and furnishings provided in Suite P41 are generally as good as those provided in other similarly situated luxury suites

(c) City shall conform, and shall cause all of City Invitees to conform, to any non-discriminatory rules and regulations issued by Manager or SJS LLC regarding the use of the luxury suites.

11.5.2 Suite and Club Tickets.

(a) Manager shall provide City, for each Event at the Arena where the penthouse level is open and available for use by Arena customers: (i) 21 tickets for access to Suite P41; (ii) at the request of the Arena Authority and to the extent reasonably available, up to 4 lower bowl tickets without access to the club; and (iii) up to 8 related parking passes allocable to Suite P41 ticket holders, and up to 2 related parking passes allocable to the lower bowl ticket holders, with the total number of parking passes not to exceed a total of 10 per Event.

(b) To the extent the Event promoter determines the penthouse level of the Arena will be closed for a particular Event, Manager shall provide City, in lieu of the tickets and passes listed above, the following: (i) at the request of the Arena Authority and to the extent reasonably available, up to 21 lower bowl tickets in place of the 21 Suite P41 tickets, plus up to 4 additional lower bowl tickets, all without access to the club, and (ii) up to 10 related parking passes allocable to such lower bowl ticket holders.


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(c) Arena Authority shall submit its request indicating the number of lower bowl tickets desired pursuant to (a) and (b) above, if any, at least 5 days prior to the Event. Any lower bowl tickets not requested by Arena Authority by such date may be offered for sale to the general public.

(d) All such tickets and parking passes shall be provided directly to City, and shall be distributed by City (through the Arena Authority) for civic purposes in accordance with a written policy established by City in compliance with the Fair Political Practices Commission (FPPC) Regulation 18944.1.

(i) Manager shall have no duty to familiarize itself with City's ticket distribution policy, and shall incur no cost, expense or liability for any matters arising from or relating to said policy.

(ii) In the event of any inconsistency between the policy and this Agreement, the provisions of this Agreement shall control as between City and Manager.

(e) If Federal and/or State taxing authorities treat the distribution of tickets from Manager to City, or from City to the ultimate recipients, as taxable transfers or taxable compensation of any type, then City (and not Manager) shall be responsible for all reporting and withholding requirements related thereto.

11.5.3 Suite Relocation Option.

(a) The Parties acknowledge that Manager is currently exploring potential modernization improvements to the Arena's penthouse level, which may include suites (including Suite P41), restrooms and terrace locations. To facilitate Manager's ability to implement such penthouse level improvements, City agrees that Manager shall have the option ("**Suite Relocation Option**"), if reasonably necessary in connection with such improvements, to substitute City's rights to use of Suite P41 with the right to use a replacement suite within any level of the Arena ("**Replacement Suite**"), subject to the following:

(i) Such Replacement Suite shall have capacity for at least 21 seats and/or standing room only places;

(ii) The Replacement Suite shall have sight lines to the Arena floor that are generally as good as the sight lines from Suite P41, to the extent reasonably available;

(iii) The Replacement Suite shall have fixtures and furnishings that are generally as good as those in Suite P41; and

(iv) City shall continue to receive the same number of lower bowl tickets and parking passes per Event, and on the same terms, as set forth in Section 11.5.2.

Manager shall have the right to exercise the Suite Relocation Option only by giving written notice thereof (the "**Suite Relocation Notice**") to City not later than sixty (60) days before the date that the relocation becomes effective ("**Suite Relocation Date**"), which notice shall be accompanied by a floor plan and photographs depicting the Replacement Suite


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and an explanation as to why the relocation is needed to implement the penthouse level improvements. City shall relinquish all rights to use Suite P41 as of the Suite Relocation Date. Upon request of either Party, City (through the City Manager) and Manager shall execute a memorandum of understanding or other written agreement memorializing the substitution of Suite P41 with the Replacement Suite.

11.5.4 Voluntary Suite Agreements. Notwithstanding the foregoing, the City (through the City Manager) and Manager may at any time mutually agree to change the location of the City's suite, change the number of tickets and parking passes provided to City, alter the amenities and services provided to the City's suite, and modify any other aspect of the City's suite and/or admission rights to Events, such as (by way of example) for the following purposes:

(a) If, based on the phasing of work for the Renovation Project, Manager does not need to relocate the City's suite immediately upon the Effective Date, then Manager may, by written notice to City, give City permission to continue using Suite C11 until such time as the Renovation Project necessitates moving the City to Suite P41.

(b) If during any Term Year City wishes to raise funds by granting back Suite P41 to Manager, then pursuant to a separate written agreement between City (through the City Manager) and Manager, City may grant back to Manager the right to use Suite P41 in whole or in part, on such terms and conditions as the Parties may mutually agree.

## PART THREE
## GENERAL OPERATION AND MANAGEMENT

### SECTION 12. MANAGER'S GENERAL RIGHTS AND DUTIES.

**12.1 Engagement of Manager.** Under the Prior Arena Agreements, City engaged Manager as the sole operator of the Arena Facilities, and subject to the terms of this Agreement City shall continue to engage Manager as the sole operator of the Arena Facilities. As such, Manager is the party with the sole responsibility, authority and right to operate, manage and maintain the Arena Facilities for the Term of this Agreement. Manager hereby accepts such continuing engagement, and undertakes and agrees to act in such capacity in accordance with the terms of this Agreement, including performing the Management Duties described below and all other services and obligations of Manager expressly set forth in this Agreement.

12.1.1 General Scope of Management. Manager shall operate the Arena Facilities as an independent contractor and not as an agent of or for City. Without limiting the express terms of this Agreement, Manager's responsibilities, authority and rights shall include the following:

(a) Manager shall pay all Operating Expenses and shall be responsible for all Operating Losses, if any, as described in Section 8.1.

(b) Manager shall be entitled to generate and receive all Operating Revenues and shall benefit from all Operating Profits, if any, as described in Section 9.1.

(c) Manager shall carry out the Management Duties as described in this Section 12, including administration of Arena Contracts as described below.


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(d) Manager shall perform Ordinary Maintenance and Repairs as described in Section 13.

(e) Manager shall cause Capital Repairs and Replacements to be made as described in Section 28, subject to reimbursement from the Capital Reserve Fund.

12.1.2 Management Duties. Within the authority granted to Manager, Manager shall, except as otherwise expressly provided in this Agreement, at its sole cost and expense, perform and furnish, during the Term, all management services, labor and materials appropriate to carry out the following duties (collectively, "**Management Duties**"):

(a) All things reasonably necessary for the orderly and efficient administration, management, and operation of the Arena Facilities consistent with their use as major public assembly facilities, including the specific duties listed in Section 12.2.3 below; and

(b) All bookings for the Arena, using reasonable good faith efforts, taking into account then-current market conditions, competing venues, attendance patterns, and all other relevant facts and circumstances, to:

(i) Secure, arrange and promote Events at the Arena of a type and quality that comparable managers would be willing to book at other arenas meeting the Applicable Performance Standard; and

(ii) Promote and optimize, to the greatest extent practical and feasible, the use of the Arena Facilities as major public assembly facilities.

12.1.3 Governing Standards. In performing its Management Duties, Manager agrees to act (and cause Manager Invitees to act) in compliance with the terms of this Agreement and the following standards and requirements (collectively, "**Governing Standards**"):

(a) "**Applicable City Policies and Guidelines,**" which term shall mean policies and guidelines, including design guidelines governing additions and alterations to the Arena Facilities, established from time to time by City by an ordinance or resolution of the City Council, provided that Manager has been notified in writing of such policies and guidelines. Further, as used in this Agreement the term "Applicable City Policies and Guidelines" shall be limited to those policies and guidelines of the City that are in effect as of the Effective Date of this Agreement and any new policies or guidelines that:

(i) Are consistent with, and in furtherance of the provisions of this Agreement;

(ii) Do not unreasonably interfere with, impede or impair the ability of Manager to effectively and soundly manage and operate (or of the San Jose Sharks to use) the Arena Facilities;

(iii) Do not materially increase Manager's costs or other obligations under this Agreement; and

(iv) Do not substantially adversely affect a material source of revenue for the Arena or have a material effect on the operation of the Arena;


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(b) "**Applicable Community Standard**," which term shall mean a standard with respect to the matters described in Section 14 (including pricing, the advertising and serving of alcoholic beverages and tobacco products, and the payment of wages) that is equal to comparable major arenas or stadiums in the San Francisco Bay Area, except as otherwise expressly provided in this Agreement;

(c) "**Applicable Construction Codes**," which term shall mean all Applicable Laws governing physical design or condition of construction or requiring access and seating for individuals with disabilities;

(d) "**Applicable Laws,**" which term shall mean the applicable provisions of the San José Municipal Code and all other applicable statutes, ordinances, laws, rules, regulations, orders and requirements of any Governmental Authority having jurisdiction respecting the use or manner of use of the Arena Facilities or the construction, maintenance and operation thereof, including Applicable Construction Codes;

(e) "**Applicable Performance Standard,**" which term shall mean a standard of performance, operation (including bookings) and maintenance that is equal to or exceeding those generally applicable to comparable major arenas in the United States constructed contemporaneously with the Arena Facilities, at which NBA and/or NHL games are played, except for the matters governed by the Applicable Community Standard; and

(f) "**Applicable Permit Requirements**," which term shall mean the conditions of approval and other requirements imposed in connection with any permits, licenses or other governmental authorizations obtained by Manager or any Manager Invitees, or required to be obtained by Manager or Manager Invitees, with respect to the management, operation, use, maintenance, repair or improvement of the Arena Facilities, including any alcoholic beverage license, building permit, health permit, and the like.

12.1.4 Acceptance of Arena. Subject to all obligations, covenants, representations, warranties and indemnities of City under this Agreement, Manager shall accept the management and operation of the Arena in its present condition without any additional representation by City, its employees, representatives or agents.

12.1.5 Person in Charge. Manager agrees to employ, as the person in charge of supervising and implementing the Management Duties, a person experienced in the management of one or more comparable major arenas in accordance with the Applicable Performance Standard. Manager agrees to give City notice of the name and contact information for any such person selected by Manager from time to time.

**12.2 Specific Management Duties.** Subject to the Governing Standards and except as otherwise expressly provided in this Agreement, Manager, at its sole cost and expense, shall have the following specific responsibilities, authority and rights.

12.2.1 Arena Contracts. Manager shall be solely responsible for negotiating, undertaking and administering all leases, licenses, use agreements, bookings, service contracts, sponsorship and advertising agreements, and other agreements pertaining to the use, operation, maintenance and occupancy of the Arena Facilities, including any amendments


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thereto (collectively, "**Arena Contracts**"), upon such terms and conditions as Manager may determine, subject to the requirements set forth in Section 12.2.2 below. Without limiting the foregoing, Manager may do the following:

(a) Lease certain areas in the Arena for the exclusive use of SJS LLC and their Affiliates as specified in the Hockey Use Agreement;

(b) Lease, license, rent, use or permit the use of all or any part of the Arena Facilities for Events or other appropriate purposes, subject to certain uses and rights reserved by City as described in Section 11;

(c) Employ or contract for such workers, mechanics, laborers, clerks, legal counsel, consultants, accountants and other employees and contractors as are reasonably necessary or appropriate in the management and operation of the Arena Facilities, including guards and ushers and janitorial services;

(d) Enter into service contracts, supply contracts, and all other agreements for the procurement of such materials, services, supplies and equipment as are reasonably necessary or appropriate in the management and operation of the Arena Facilities, including contracts for electricity, gas, telephone, elevators, escalators, engineering services, and vermin extermination;

(e) Procure and maintain in force and effect public liability, workers' compensation, and such other insurance and bonds as are required of Manager under this Agreement;

(f) Operate or grant concession privileges for the vending and sale of food and beverages (including alcoholic beverages), programs, blankets, souvenirs, novelties, retail merchandise and similar articles, and other articles, or for the renting of any such articles;

(g) Enter into contracts for the promotion of Events booked by Manager for the Arena, and for the sale of tickets to such Events;

(h) Enter into sponsorship, scoreboard, advertising, and other promotional agreements, and sell and install fixed and non-fixed signs or advertising and other promotional materials on or about the Arena Facilities, all as permitted under this Agreement;

(i) Enter into agreements to permit, license or engage in the broadcast or transmission of all or any part of Events at the Arena, and sell exclusive radio, cable, internet and television rights for such Events; and

(j) Take and omit such other actions, enter into such other agreements, documents, and instruments, and engage in such other transactions, as are reasonably necessary or appropriate in connection with the management, operation, maintenance, improvement and administration of the Arena Facilities.

12.2.2 General Requirements for Arena Contracts. Except as otherwise expressly provided in this Agreement, all Arena Contracts shall be executed by Manager as manager of the Arena Facilities. In addition, the following terms and conditions shall apply to Arena Contracts:


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(a) All Arena Contracts shall be subject and subordinate to the terms of this Agreement.

(b) All of Manager Invitees operating under Arena Contracts shall be required to operate in conformance with the Governing Standards.

(c) Any Arena Contract that extends beyond the Term of this Agreement and that could not be terminated by City upon 90 or fewer days' notice without penalty, payment for early termination or other pre-condition if this Agreement is terminated and City (or a third party) assumes the management and operation of the Arena, shall be made only with the prior written approval of City, which shall not be unreasonably withheld or delayed.

(i) Upon the expiration or earlier termination of this Agreement, City (or a third party successor to Manager) shall have the right to terminate any Arena Contract unless City has previously approved it or otherwise agreed in writing.

12.2.3 Other Specific Management Duties. Without limiting the generality of the foregoing, Manager shall undertake and perform the following services and responsibilities to the extent they are reasonably necessary and appropriate, consistent with the terms and purposes of this Agreement, the Governing Standards, and the use of the Arena Facilities as major public assembly facilities:

(i) Negotiating, executing and enforcing Arena Contracts, including developing rental rate schedules, user fees and services charges;

(ii) Event booking and promotion;

(iii) Box office services;

(iv) Developing equipment inventory systems;

(v) Developing marketing and advertising plans;

(vi) Employee recruiting, selection and training, and personnel management and supervision;

(vii) Formulating operating policies and preparing operating manuals;

(viii) Developing accounting systems and controls, preparing annual budgets, and analyzing and evaluating annual budgets;

(ix) Developing computer software and systems;

(x) Developing food and beverage operations;

(xi) Developing security and crowd control plan;

(xii) Developing preventive and major maintenance plan;

(xiii) Preparing maintenance reporting systems;

(xiv) Developing janitorial standards and procedures;


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(xv) Developing energy management operational systems;

(xvi) Sponsorship marketing and development of a sales plan and advertising;

(xvii) Marketing of club seats and spaces in premium areas such as club, bunker and loge suites, penthouse lounge areas, theater boxes, and other specially-priced seating and viewing areas ("**Premium Areas**");

(xviii) Operating On-Site Parking Facilities; and

(xix) Related functions involved in operating and maintaining the Arena Facilities.

12.2.4 Record Keeping and Reports to City. Manager shall maintain business offices in the Arena, or an off-site location in close proximity to the Arena, where it shall maintain current, accurate and reasonably detailed records relating to the management, operation and maintenance of the Arena, all in accordance with good accounting and management practices. Such records shall be maintained by Manager in either electronic or paper form, for at least four years following the Term Year to which such records apply.

(a) Upon reasonable request by City, City shall have the right to inspect, at Manager's offices, such documents, reports or other information as may be reasonably required for City to confirm, support, explain or describe the performance by Manager of its obligations under this Agreement, or for City to administer its specific rights of review, approval or enforcement of this Agreement.

(i) If City does not inspect Manager's records or give Manager written notice of any concerns or disagreements regarding such records within such four year period, City shall be deemed to have been waived any right to thereafter inspect or object to such records.

(ii) Each Party shall pay the cost of its agents, employees and contractors needed to conduct or make data available for such inspection.

(b) In addition, Manager shall provide City with monthly reports regarding the number and type of Events held at the Arena and the number of persons in attendance at each such Event. Such reports shall be provided within 30 days following the end of each calendar month during the Term.

(c) To the extent it is able to do so under Applicable Laws, City shall ensure the confidentiality of all records and other documents it receives that contain business, proprietary, or other confidential information of Manager or its Affiliates, to the reasonable satisfaction of Manager.

**12.3 Compliance with Laws.** Except as expressly provided to the contrary in this Agreement, Manager shall, throughout the Term, comply, at its sole cost and expense, with all Applicable Laws respecting the use or manner of use of the Arena Facilities or the construction, maintenance and operation thereof.

12.3.1 Applicable Permits. Manager shall obtain and keep in full force and effect all applicable permits and licenses and other authorizations required for the use and operation of the Arena Facilities, except that Manager shall have no obligation with respect to licenses or


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permits required or related to the City's obligations under Section 27 (Environmental Compliance).

12.3.2 Capital Projects. Other than Manager's obligations under Section 27 (Environmental Compliance), this Section 12.3 shall not require any work requiring a capital expenditure by Manager even if a capital alteration, repair or change is required to conform the Arena Facilities to Applicable Laws, which work shall be governed by Section 28.4 (Code Upgrade Work).

**12.4 Patents and Copyrights**. In addition to the general contract requirements in Section 12.2.2, Manager shall require by contract that all persons holding or promoting Events at the Arena Facilities obtain all necessary approvals for or arising from the use of patented and/or copyrighted materials, equipment, devices, processes, or dramatic rights used on or incorporated in the conduct of any Events held at the Arena Facilities.

(a) Manager shall indemnify and hold City harmless from any breach of patent or copyright rights or patent or copyright infringements or violations of patent or copyright laws, except that this sentence shall not apply to City Events or Community Events.

(b) City shall indemnify and hold Manager harmless from any breach of patent or copyright rights or patent or copyright infringements or violations of patent or copyright laws with respect to City Events or Community Events.

**SECTION 13. ORDINARY MAINTENANCE AND REPAIRS.**

**13.1 Ordinary Maintenance and Repairs.** The ordinary maintenance and repair of the Arena Facilities shall be governed by the following provisions:

13.1.1 Manager's Obligations. Manager, at its sole cost and expense, shall perform (or cause to be performed) all Ordinary Maintenance and Repairs needed to be made to the Arena Facilities (including the Arena FF&E) as shall meet or exceed the Applicable Performance Standard, but in any event not less than maintenance standards and requirements set forth in applicable manuals and specifications provided by equipment manufacturers and suppliers.

(a) As used in this Agreement, the term "**Ordinary Maintenance and Repairs**" means work that is reasonably necessary to keep elements of the Arena Facilities in good working order (without materially improving or extending their useful life), consistent with the Parties' historical practices. For example, Ordinary Maintenance and Repairs would include changing filters, belts or inexpensive motors; lubricating moving parts; painting walls; cleaning carpets; and fixing broken seats.

(b) The cost of Ordinary Maintenance and Repairs, including the purchase of expendable items needed for such work consistent with the Parties' historical practices, shall be charged as an Operating Expense for which Manager is responsible as described in Section 8.1. However, Manager shall not be responsible for the cost of Capital Repairs and Replacements as defined in Section 28.1.1, the cost of which shall be paid via disbursements from the Capital Reserve Fund.


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(c) Manager also shall not be responsible for Extraordinary Repair Work as defined in Section 28.1.1, which shall be performed by City at its sole cost and expense.

13.1.2 On-Site Parking Facilities.

(a) Ordinary Maintenance and Repairs to be performed by Manager to the On-Site Parking Facilities shall include general maintenance and care of the surface, resurfacing (including adding oil or aggregate on top of the asphalt), striping and signage and day to day sweeping and litter removal.

(b) Notwithstanding the foregoing, City shall perform all repairs and replacements to the On-Site Parking Facilities that involve penetrations in or removal, replacement or breaking of the asphalt surface (including all repaving necessary to repair any penetration). The costs of such repairs shall either be reimbursed from the Capital Reserve Fund or be borne solely by City, as provided in Section 28.1.2; provided that Manager shall pay for all costs of repaving or repairs necessitated by acts of Manager or Manager Invitees.

13.1.3 Other Exterior Areas.

(a) After Arena Events, Manager shall perform and pay for the cost and expense of trash removal and sweeping of the Off-Site Parking Facilities that Manager operates and the City public walkways and sidewalks immediately adjoining the Arena Facilities, to the extent that extraordinary debris results from customers of the Arena Facilities.

(b) City shall be responsible at its sole expense for street sweeping.

**13.2 Annual Maintenance Budget and Records.**

13.2.1 Maintenance Budget. For each Term Year, Manager shall prepare and submit to City, in a form reasonably satisfactory to City, a detailed programmatic budget ("**Maintenance Budget**") describing the anticipated Ordinary Maintenance and Repairs for the Arena Facilities (including Arena FF&E) for that Term Year, including the anticipated costs thereof.

(a) Manager shall submit a preliminary Maintenance Budget to City no later than June 1 preceding the commencement of each Term Year. City shall have the right to review the preliminary Maintenance Budget for compliance with the provisions of this Section 13.2.

(b) Manager shall consider all comments provided by City, and both Parties shall use reasonable good faith efforts to resolve any differences regarding the Maintenance Budget prior to the commencement of the applicable Term Year.

(c) Manager shall give City written notice of any material changes, modifications or other adjustments to the Maintenance Budget within a reasonable period of time after such adjustments are made.

(i) Within a reasonable period of time following the end of a Term Year, Manager shall give City a summary of the actual costs and expenses incurred for Ordinary Maintenance and Repairs for such Term Year.


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13.2.2 Maintenance Records. The records maintained by Manager in accordance with Section 12.2.4 above shall include reasonably detailed records of all Ordinary Maintenance and Repair work performed by Manager, including copies of estimates, purchase orders, contracts, invoices, receipts, and service reports. City shall have the right to inspect such records as provided above.

**SECTION 14. APPLICABLE COMMUNITY STANDARD.**

**14.1 Where Conformance is Required.** Manager shall conform, and shall cause the Manager Invitees to conform, to the Applicable Community Standard as defined in Section 12.1.3 (a standard equal to comparable major arenas or stadiums in the San Francisco Bay Area) in connection with pricing, hiring, entertainment in Premium Areas, smoking, sale and consumption of alcoholic beverages, advertising, and certain other activities, subject to the following terms and conditions:

14.1.1 Pricing. Upon reasonable request by the Arena Authority, Manager shall report to and consult with the Arena Authority in connection with Manager's establishment of prices for food and beverages and parking, and Event Charges for Community Events or City Events as described in Section 11.1.4. Subject to Section 39 (Mediation), City reserves the right to object to such Event Charges if they materially differ from the Applicable Community Standard. If the Arena Authority notifies Manager of any disagreement regarding such Event Charges, the Parties shall meet and confer in good faith to address such disagreement. If the Parties cannot resolve the disagreement between them, the unresolved issues may be submitted to Mediation as a Disputed Matter under Section 39.

14.1.2 Hiring Policies.

(a) Manager shall undertake reasonable good faith efforts to hire San Jose residents for Arena staff positions based on their experience and the requirements of the position. Manager shall encourage its service contractors to do the same. Among applicants who are comparably qualified for positions, a preference shall be given for those with San Jose addresses.

(b) In accordance with the Non-Discrimination Policy attached as **Attachment No. 8** to this Agreement, Manager has adopted and published a non-discrimination policy on account of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin. Manager shall include a provision prohibiting discrimination in all of its contracts with its contractors. Manager shall encourage all contractors to monitor and enforce their non-discrimination policies.

(c) Manager shall pay its employees' wages that are comparable to those paid to employees in comparable job classifications in other comparable major arenas and stadiums in the Northern California area.

(i) As set forth in Section 10.4.2, Manager is not subject to City's Living Wage Policy as in effect on the ~~Commencement~~Effective Date.

(d) For Capital Projects implemented by Manager as described in Section 28.6.2, Manager shall comply with all Applicable Laws regarding the competitive bidding of contracts and the payment of prevailing wages (to the extent Applicable Laws


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impose such requirements on Manager), and will indemnify City against any claims made alleging a failure to so comply.

(e) To implement the above-stated policies, Manager shall undertake the following steps:

(i) Employment policies will be conspicuously posted in areas accessible to employees;

(ii) General advertising for available positions will note that Manager is an equal opportunity employer who gives a preference to San Jose residents;

(iii) Advertisements will be placed in media targeted at and circulated in San Jose among the local community; and

(iv) Any union or other employee group which becomes active at the Arena will be advised of Manager's policies, and Manager will cooperate with the union or other employee group to advance those policies.

(f) Manager shall make reasonable good faith efforts to develop, through cooperative efforts with qualified, experienced and reputable local agencies and organizations actively engaged in employment skills development, programs for the economically disadvantaged, such as participating in a training program to develop a well-trained, experienced workforce at the Arena.

14.1.3 Entertainment in the Premium Areas.

(a) Manager shall have the right to permit all forms of entertainment (including employee costumes) and dancing in the Premium Areas, subject to the following:

(i) City may regulate entertainment (including employee costumes) when minors are permitted access to the Premium Areas, and may regulate nudity at all times, in accordance with and subject to General City Ordinances (described in Section 14.2).

(ii) Except as provided in subpart (i) above, all entertainment (including employee costumes) shall be permitted, subject to General City Ordinances (and other Applicable Laws) proscribing criminal behavior.

(iii) Dancing by customers shall be permitted subject to General City Ordinances.

(b) To the extent (and only to the extent) expressly provided above, Manager's rights under this Section 14.1.3 may be subject to further restrictions or limitations under General City Ordinances (defined below), without any compensation to Manager.

14.1.4 Smoking and Tobacco Advertising.

(a) The provisions of Chapter 9.44 of the San Jose Municipal Code (Regulation of Smoking) shall govern smoking in or around the Arena Facilities. Without limiting the foregoing, smoking shall be prohibited inside the Arena Building entirely, and


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shall be prohibited outside of the Arena Building except in certain designated smoking areas as permitted by Chapter 9.44.

(b) The distribution of tobacco products or samples shall be prohibited in or around the Arena Facilities.

(c) The advertising of tobacco products shall be prohibited in or around the Arena Facilities.

14.1.5 Alcohol Consumption and Advertising.

(a) Manager may serve beer, wine, and distilled alcoholic beverages anywhere in the Arena that may be permitted under Applicable Laws and Applicable Permits, including the Premium Areas, restaurant, concourse area, and Arena bowl seats.

(b) Manager may, in Manager's sole discretion, impose specific limitations on alcohol and sales such as purchase limits, size limits, and sale cut-off times. In addition, Manager may prohibit alcohol sales in connection with certain types of Events, such as children's shows and religious gatherings.

(c) Manager shall develop and implement a program to educate and train employees (including parking lot attendants, vendors, ticket takers, and security) to promote responsible alcohol use at Events.

(d) Manager shall comply with the alcoholic beverage advertising requirements of **Attachment No. 9** (the "**Alcohol Advertising Plan**") and shall not allow advertising of alcoholic beverages in any locations within or about the Arena Facilities in any manner prohibited in the Alcohol Advertising Plan without the prior written consent of the City Manager, which consent shall not be unreasonably withheld based on conformance with the Applicable Community Standard.

14.1.6 General Matters Related to Applicable Community Standard.

(a) In addition to the foregoing specific limitations on the advertising of tobacco products and alcoholic beverages, the content of Arena Advertising shall be subject to the general restrictions and policies set forth in Section 15.2.

(b) City and Manager agree to meet and confer from time to time for purposes of developing and maintaining effective noise and crowd control programs.

(c) Manager may allow festival seating in the Arena if such seating is consistent with the Applicable Performance Standard and Manager determines it can be done safely for a given Event.

(d) Manager may impose more stringent restrictions than those set forth above, if it deems advisable.

**14.2 Effect of City Ordinances.**

14.2.1 Definitions. As used in this Section 14 only, the following terms have the meanings given below:

(a) A "**General City Ordinance**" means an ordinance or resolution adopted by the City Council or other City Authority that (i) is generally applicable to all sports and


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entertainment or businesses operating within the City, OR (ii) is no more restrictive than the Applicable Community Standard.

(b) "**Targeted City Ordinance**" means an ordinance or resolution adopted by the City Council or other City Authority that (i) is not general in application, but rather is principally directed at or solely applicable to the Arena; AND (ii) is more restrictive than the Applicable Community Standard.

14.2.2 Restriction on Manager's Rights.

(a) A General City Ordinance that restricts or limits Manager's rights under Section 14.1.3 (Entertainment in the Premium Areas) or Section 14.1.5 (Alcohol Consumption and Advertising) shall not be a breach of this Agreement, but if such Ordinance has a material adverse effect on Manager's Operating Revenues, City agrees to negotiate in good faith to establish an equitable Fee Credit to offset such economic impact.

(b) A Targeted City Ordinance that restricts or limits Manager's rights under Section 14.1 shall be a breach of this Agreement, and in such case Manager shall be entitled to a remedy under Section 38 to compensate Manager for the economic harm caused thereby.

## PART FOUR
## ADVERTISING AND SIGNAGE

**SECTION 15. ADVERTISING AND NAMING RIGHTS.**

**15.1 General Rights**. Subject to compliance with the other applicable provisions of this Agreement, Manager shall have the exclusive right to do the following (either directly or through licenses or other contract rights granted to third parties), and to retain, allocate and distribute all Operating Revenues therefrom, all on such terms and conditions as may be determined by Manager:

15.1.1 Arena Advertising. Manager shall have the exclusive right to market, sell, license, post, exhibit, display, install, publish, and present all advertising, signage, trademarks and trade names, logos, slogans, sponsorship and promotional activities, designations, graphic displays, commercial announcements, and other commercial messages of every kind and nature within or about the Arena Facilities, or regarding the Events at the Arena (except City Events and Community Events), whether in audio, visual, physical, digital or other formats, and whether the type or mode of communicating the message now exists or is developed in the future (collectively, "**Arena Advertising**").

15.1.2 Media Distribution. Manager shall have the exclusive right to control all broadcasts, reproductions, exhibitions, distributions, reports and transmittals of the pictures, videos, recordings, descriptions and accounts of all professional sports games and other Events at the Arena (except City Events and Community Events), whether in analog, digital or other formats; whether disseminated locally, nationally, or internationally; and whether disseminated by radio, television, telephone, cable, websites, streaming services, mobile applications, social media platforms, or other method of transmission or communication.

15.1.3 Naming Rights. Manager shall have the exclusive right to name (or brand) the Arena as a whole in accordance with Section 15.3, and to name (or brand) any amenities comprising a part of the Arena Facilities, and to sell, license, distribute, display, publish, and present


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images of the same. Such right includes the right to display such names and/or related logos and slogans on Signage located on or in the Arena concourses, the entrances to the Arena, the exterior of the Arena or any other portions of the Arena Facilities, subject to Section 16.

**15.2 Advertising Content Regulations.**

15.2.1 Viewpoint Neutral Advertising Limitations. The content of all Arena Advertising shall conform to the Applicable Community Standard and, where applicable, the Alcohol Advertising Plan.

(a) It shall be deemed to be a violation of the Applicable Community Standard for any Arena Advertising to contain content that:

(i) Promotes the sale or use of tobacco products, marijuana or cannabis related products (other than CBD Products as defined in subparagraph (c) below), including but not limited to depicting such products or images;

(ii) Promotes the sale or use of firearms or other weapons or related products;

(iii) Promotes "adult" goods or services, including content that promotes, encourages or appears to promote or encourage a transaction related to, or uses brand names, trademarks, slogans or other materials which are identified with films rated "X" or "NC-17", video games rated M or AO, adult products, any adult book/video store, adult theater, or other form of adult entertainment, adult internet sites, and escort services as defined in Chapter 20.200 of the San Jose Municipal Code;

(iv) Includes language or images of nudity or sexual acts, or language or images that are obscene, vulgar, or profane, or prurient sexual suggestiveness including content that described, depicts or represents sexual activities or aspects of the human anatomy in a way that the average adult, applying the Applicable Community Standard, would find appeals to the prurient interest of minors or adults in sex;

(v) Depicts obscene material or image of nudity. Content shall be considered "obscene" if an average person would find that the material, taken as a whole, appeals to lewd curiosity; depicts or describes, in an offensive way, sexual conduct or excretory functions; and taken as a whole, lacks serious literary, artistic, political, or scientific value. "Nudity" is construed as the depiction of a state of undress as to expose any part or portion of the pubic or anal region or genitalia of any person or any portion of the breast at or below the areola of any female person;

(vi) Is false, deceptive or misleading;

(vii) Depicts unlawful content, violence or anti-social behavior or relates to illegal goods or activities, or otherwise promotes, encourages, or appears to promote or encourage unlawful or illegal behavior or activities, or content that portrays images or descriptions of graphic violence, including dead, mutilated or disfigured human beings or animals, the act


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of killing, mutilating or disfiguring human beings or animals, or intentional infliction of pain or violent action toward or upon a person or animal, or that depicts weapons, implements or devices used in an act or acts of violence or harm on a person or animal or that appear to be aimed or pointed at the viewer or observer in a menacing manner;

(viii) Promotes, encourages, or appears to promote or encourage the use or possession of unlawful or illegal goods or services;

(ix) Holds a person or group up to public ridicule, derision, embarrassment, or defamation, such that a reasonable person using the Applicable Community Standard would interpret the material to ridicule or mock or be otherwise abusive or hostile toward or to debase the dignity or stature of an individual or group of individuals;

(x) Creates a clear-and-present danger of causing riot, disorder, or other imminent threat to public safety, peace, or order;

(xi) Depicts content or images intended to promote a particular religion, religious idea or viewpoint;

(xii) Promotes or opposes a political party, promotes or opposes any state or local ballot measure or the election of any candidate or group of candidates for federal, state, judicial or local government offices, or content that is political in nature or contains political messaging including advertisements involving political or judicial figures and/or advertisements involving an issue that is political in nature such that it directly or indirectly implicates the action, inaction, prospective action or policies of a governmental entity, or content that expresses or advocates an opinion, position or viewpoint on a matter of public debate about economic, political, religious or social issues; or

(xiii) Depicts City graphics, logos or representations without the express written consent of the City, or contains content averse and/or adverse to the commercial interests of the City of San Jose, or tends to disparage City of San Jose services and/or government services generally.

(b) The Parties agree that the above limitations are reasonable and necessary for the public welfare, are a material part of the consideration for this Agreement, and will not unreasonably restrict Manager's ability to maximize Operating Revenues from Arena Advertising.

(c) City acknowledges that the advertising of CBD Products is not a violation of the Applicable Community Standard, and that therefore advertising of CBD Products is permitted, subject to reasonable restrictions where appropriate based on Applicable Laws. As used herein, the term "**CBD Products**" means foods, beverages, dietary supplements, veterinary products, cosmetics, and other similar products infused with and/or containing cannabidiol with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.


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15.2.2 Policy Concerning Commercial Advertising. Except as expressly provided below, all Arena Advertising is intended to be for commercial purposes only, including both Off-Site Commercial Speech and On-Site Commercial Speech, in order to maximize Operating Revenues. For the purpose of this Section, a commercial purpose is one that promotes a commercial transaction, such as the sale or use of products, services and/or entertainment for financial benefit, which is offered to the public generally.

(a) This policy shall not prohibit Manager from displaying announcements, materials or information related to Events or other programs, services, or activities sponsored or promoted by Manager or Manager's Affiliates.

(b) This policy also shall not prohibit announcements, materials or information sponsored or promoted in whole or in part by any Governmental Authority in order to advance public health, safety or welfare or other government purposes. However, nothing herein shall be construed to permit any Governmental Authority (including City) to display or distribute any announcements, materials or information in, on or about the Arena Facilities without the prior written consent of Manager in Manager's sole discretion.

(c) In adopting this policy, it is the Parties' declared intent and purpose to prohibit the display or distribution of any announcements, materials or information that individually or in combination would cause any of the Arena Facilities to become a public forum for the dissemination, debate, and/or discussion of public issues, it being understood that Manager's operation of the Arena constitutes a private property right.

**15.3 Naming Rights**. The Parties' respective rights and obligations concerning Naming Right to the Arena Facilities shall be subject to the following:

15.3.1 Definitions. In this Agreement, the following terms shall have the meanings given below:

(a) "**Approved Venue Sponsor**" means a Sponsor that has been approved (or deemed approved) by the City Manager to hold the Naming Rights, pursuant to Section 15.3.3 below.

(b) "**Naming Rights**" means the right to determine the name of a structure, entrance, room, area or other amenity comprising a part of the Arena Facilities.

(c) "**Sponsor**" means a person, company, Governmental Authority, or other enterprise that has entered into an agreement with Manager or SJS LLC or one of their Affiliates pursuant to which such enterprise (i) leases, licenses or uses space, advertising assets or amenities within or about the Arena Facilities; (ii) conducts or participates in promotions, public relations, or marketing activities within or about the Arena Facilities, (iii) provides products, goods, entertainment or services within or about the Arena Facilities, or (iv) actively promotes, advertises, displays, or offers its products, goods, entertainment or services within or about the Arena Facilities.

(d) "**Venue Logo**" means a graphic design incorporating the Venue Name. The Venue Logo consists of a primary logo associated with the long name to be used on a


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regular basis, and an alternate secondary logo associated with the short name to be used for ancillary purposes.

(e) "**Venue Marks**" means the Venue Name, Venue Logo, and/or any stylized form or combination thereof.

(f) "**Venue Name**" means the official word, term or phrase by which the Arena is called. The Venue Name consists of a long name to be used on a regular basis, and an alternate short name to be used where reference to the long name is not reasonably practical, as determined in good faith by Manager.

(g) "**Venue Naming Rights**" means the right to determine the Venue Name and Venue Logos, and rights ancillary thereto, as described below.

(h) "**Venue Naming Rights Agreement**" means a written agreement between Manager and an Approved Venue Sponsor pursuant to which Manager grants exclusive Venue Naming Rights to the Approved Venue Sponsor for a specified term.

15.3.2 Exclusive Venue Naming Rights. City, as the owner of the Arena, has the ultimate right to determine the Venue Name. Subject to the terms and conditions of this Section 15.3, City hereby transfers and grants to Manager the exclusive right to determine the Venue Name, and to change the Venue Name from time to time during the Term of this Agreement, including through a sale of the Venue Naming Rights to an Approved Venue Sponsor pursuant to a Venue Naming Rights Agreement.

(a) Nothing in this Agreement shall be construed to give City any rights to share in Operating Revenues from the sale of the Venue Naming Rights or the Naming Rights to any other amenity comprising part of the Arena Facilities.

(b) City shall not be a party to any Venue Naming Rights Agreement entered into after the ~~Commencement~~Effective Date of this Agreement, and shall have no right to approve of any such agreement. However, Manager shall not enter into any Venue Naming Rights Agreement after the ~~Commencement~~Effective Date of this Agreement that would be inconsistent with this Agreement, or would materially affect City's rights or Manager's obligations under this Agreement.

(c) City shall have no approval rights as to the naming of any amenities comprising a part of the Arena Facilities, including interior components of the Arena Building and exterior components of the Arena Building or the On-Site Parking Facilities. However, all Signage associated with the naming of such amenities shall comply with the provisions of Section 16.

15.3.3 Approval of Venue Name and Venue Logo. The Venue Name and Venue Logo shall be subject to approval by the City Manager as follows:

(a) City has the right, in its sole discretion, to prohibit a Venue Name other than "San Jose Arena," unless the Venue Name is determined pursuant to a sale of the Venue Naming Rights to an Approved Venue Sponsor.

(b) Manager may from time to time present one or more names of potential Venue Naming Rights Sponsors to the City Manager for approval. In determining


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whether to approve any potential Sponsors, the City Manager shall reasonably act in accordance with the Applicable Community Standard. The City Manager shall have 30 days from receipt of the proposed names to approve or disapprove of the same. No response from the City Manager within 30 days shall be deemed approval of the Sponsors whose names were submitted.

(c) Once Manager has decided to grant the Venue Naming Rights to an Approved Venue Sponsor, Manager shall work with the Approved Venue Sponsor to develop the proposed Venue Name and Venue Logos, which shall include the name "San Jose" in the long name and primary logo. Manager shall present the Venue Name (both long and short versions) and Venue Logo (both primary and secondary versions) to the City Manager for approval, which approval shall not be unreasonably withheld or delayed. If the City Manager does not respond within 30 days from receipt of the request for approval, the Venue Name and Venue Logo shall be deemed approved as submitted.

(d) Upon request by the City Manager, Manager shall meet with the Arena Authority in good faith to determine guidelines for the appropriate use of the short name and secondary logo, based on circumstances where it is not practical to use the long name and primary logo.

15.3.4 Use of Venue Marks by City.

(a) Following approval of a new Venue Name, City shall use its commercially reasonable efforts to use the Venue Name (and, where appropriate, the Venue Logo) in all of its applicable correspondence, websites, advertising, promotion, maps, press releases, and other communications referring to the Arena.

(b) The City shall not have any rights in the Venue Marks, or in any other marks owned by Manager or the Approved Venue Sponsor. However, Manager hereby grants to City (and shall cause the Approved Venue Sponsor to grant to City) a limited, non-exclusive, royalty free, personal, non-transferable license to use the Venue Marks for the sole purpose of City's compliance with subsection (a) above.

15.3.5 Existing Naming Rights Agreement. As of the Effective Date of this Agreement, City has approved "SAP Center at San Jose" as the Venue Name and related Venue Marks and Signage pursuant to a Venue Naming Rights Agreement between SAP Global Marketing, Inc., a Delaware corporation ("**SAP Global**"), Manager and City dated effective as of July 1, 2023 (the "**SAP Venue Naming Rights Agreement**"), the term of which currently expires on June 30, 2028.

(a) In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the SAP Venue Naming Rights Agreement, the following shall apply:

(i) As between SAP Global and Manager, and as between SAP Global and the City, the parties' respective rights and obligations shall be governed by the SAP Venue Naming Rights Agreement.

(ii) As between Manager and the City, the Parties' respective rights and obligations shall be governed by this Agreement.


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(b) Upon the reasonable request of either Manager or SAP Global, the City Manager shall execute and deliver, for and on behalf of the City, an amendment to the SAP Venue Naming Rights Agreement, an estoppel certificate, or other document for the purpose of clarifying the parties' rights and obligations under the SAP Venue Naming Rights Agreement consistent with the provisions of this subsection (b).

(c) Manager and SAP Global may from time to time extend the SAP Venue Naming Rights Agreement, or may terminate it, without notice to or approval by City.

(d) Manager and SAP Global also may from time to time amend the SAP Venue Naming Rights Agreement without notice to or approval of City; provided, however, that unless Manager first obtains the City Manager's written consent, which consent shall not be unreasonably withheld or delayed, Manager shall not agree to any amendment to the SAP Venue Naming Rights Agreement that would:

(i) Allow SAP Global to change the Venue Name, Venue Logo or exterior Signage;

(ii) Increase City's obligations or burdens; or

(iii) Change any other provision such that it would be inconsistent with this Agreement, or would materially affect City's rights or Manager's obligations under this Agreement.

15.3.6 Signage Displaying Venue Marks. The approved Venue Marks may be displayed on Signage located within the Arena Building in compliance with Section 16.1, and on Signage located on the exterior of the Arena Building in compliance with Section 16.2.

15.3.7 Costs Related to Advertising, Naming Rights and Signage.

(a) Manager, its Affiliates, and/or the applicable Sponsors shall be solely responsible for all costs incurred in connection with all Arena Advertising, Naming Rights, and related Signage, including:

(i) Sales commissions and expenses incurred in connection with marketing and sale of Naming Rights;

(ii) Design and production of branding and collateral materials;

(iii) Design, construction, and erection of any Signage or other fixture intended principally to display the name, logo or other marks of any Naming Rights Sponsors; and

(iv) Annual maintenance and utility costs associated with the operation of any such Signage or other fixture.

(b) None of the costs set forth above shall be eligible for payment from the Capital Reserve Fund.


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**SECTION 16. ON-SITE SIGNAGE.**

**16.1 Interior Signage.**

16.1.1 Definitions. For purposes of this Agreement (including Section 17 below as well as this Section 16), the following capitalized terms shall have the meanings given below:

(a) "**Commercial Speech**" means an expression or expressive activity that in any way promotes a commercial transaction.

(b) "**Off-site Commercial Speech**" means Commercial Speech that identifies or promotes any commercial activity, product, good or service that is conducted, manufactured or offered on a site that is not the site on which the Commercial Speech is displayed and that is not otherwise included in the definition of On-Site Commercial Speech.

(c) "**On-site Commercial Speech**" means Commercial Speech to identify and promote (i) the presence of the commercial activities, products, goods or services conducted, manufactured or offered within or about the Arena Facilities, or (ii) the activities, products, goods, or services promoted by Sponsors within or about the Arena Facilities.

(d) "**Freeway Sign**" means a large freestanding sign oriented to and designed to be viewed from a freeway.

(e) "**Programmable Electronic Sign**" means a type of animated sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means. The elements may be internally illuminated or may be illuminated by reflected light. The sign may be part of a permanent sign that is not a programmable electronic sign. "Programmable Electronic Sign" includes sign display screens commonly known as liquid crystal display (LCD), plasma and digital displays, and their functional equivalents, including digital displays using LED lighting. This definition applies whether the display is used to produce a series of still images, or images that appear to move on the display screen.

(f) "**Signage**" (also sometimes referred to herein as "sign" or "signs") means any and all structures, displays, devices, balloons or graphics on or attached to any land, building or structure, property or materials that are used to graphically display or present Arena Advertising on a fixed, temporary or rotating basis, including letters, numbers, words, illustrations, decorations, decals, emblems, trademarks, logos and lights. "Signage" does not include noncommercial murals otherwise allowed under the Sign Code.

(g) "**Sign Code**" means Title 23 of the San Jose Municipal Code.

(h) **"Supergraphic Sign"** means a sign, other than a banner sign, which consists of flexible material attached flush to a building facade.

16.1.2 Manager's Right to Install Interior Signage. Manager shall have the exclusive right to install and maintain (or to permit the installation and maintenance of) Signage in all


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interior areas of the Arena, in such locations, types and sizes as Manager may determine in Manager's discretion, subject to the following:

(a) Examples of allowable interior signs include the following:

(i) The scoreboard, hockey dasher boards, and seating area fascia rings;

(ii) Televisions, LED/LCD screens, interactive digital displays, light projections, and other digitally-enabled graphic presentations;

(iii) Placards, wraps and stickers, sign boards and poles, menu boards, banners, suspension pendants, and wall-mounted panels; and

(iv) Tickets, magazines, programs, posters, schedules, stationery, napkins, uniforms, handout items, and merchandise.

(b) All Signage shall conform to the Governing Standards set forth in Section 12.1.3, including Applicable Construction Codes, the applicable provisions of the Sign Code, and other Applicable Laws.

(c) All Arena Advertising displayed on Signage within or about the Arena Facilities shall comply with the Alcohol Advertising Plan (where applicable) and the content requirements of Section 15.2.1.

16.1.3 Aesthetic Requirements. Without limiting the generality of the foregoing, the types and amounts of Signage in the Concourse and other areas visible to the general public, when viewed both individually and as a whole, shall conform to the Applicable Performance Standard then in effect.

(a) Manager recognizes City's continuing strong public interest in the visual appearance of the Arena, and its desire to maintain a "look and feel" compatible with the design aesthetics of the Arena as of the Execution Date.

(b) City recognizes the expanding role of advertising and signage in the successful operation of comparable major arenas and stadiums in the San Francisco Bay Area, as well as Manager's desire and right to generate additional Operating Revenues by expanding the types and amounts of Arena Advertising and related Signage utilized at the Arena, consistent with such comparable facilities.

(c) If the Arena Authority notifies Manager of any concerns by Arena Authority or City regarding Arena Advertising or Signage, the Parties shall meet and confer in good faith to address such concerns. If the Parties cannot resolve any such concerns between them, the unresolved issues may be submitted to Mediation as a Disputed Matter under Section 39.

16.1.4 City Name and Graphics.

(a) At Manager's cost, Manager shall prominently feature the name "San Jose" in the following interior locations: (i) on the scoreboard; and (ii) during professional hockey games, under the ice.

(b) City currently maintains the following signs on the interior of the Arena: (i) the name "San Jose" and the City seal hanging near the top of the South Entrance


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area; (ii) commemorative plaques in the South Entrance lobby containing the name "San Jose Arena" and the identification of City officials and other parties associated with the original construction of the Arena; and (iii) a large commemorative sign on the concourse at Section 101. In connection with the Renovation Project (and as part of the Renovation Costs), Manager shall have the right to redesign and relocate some or all of such signs, and to modify the content of the commemorative signs to include information about the Renovation Project, all subject to the approval of the City Manager in the City Manager's reasonable discretion.

16.1.5 Miscellaneous Graphics. The regulation of Signage hereunder is not intended to limit Manager's right to install and maintain the following in such quantities and locations as Manager may determine in its reasonable discretion: (i) safety, directional, accessibility and informational graphics; (ii) decorative graphics; and (iii) decorative or commemorative photos or artworks.

**16.2 Exterior Signage**.

16.2.1 Permitted Permanent Signs. Manager shall have the exclusive right to install and maintain (or to permit the installation and maintenance of) permanent or semi-permanent Signage on the exterior of the Arena (including on or about the On-Site Parking Facilities and pedestrian walkways) subject to the following:

(a) The permitted locations, types and sizes of such exterior Signage shall be consistent with the Exterior and Freeway Signage Schedule attached as **Attachment No. 10** to this Agreement (as may be modified by Manager following receipt of comments from staff), subject to any discretionary approvals needed from the City Council (including any necessary amendments to City Policy 6-4 and the Sign Code).

(b) As soon as practicable following written request from Manager, the Parties shall meet and confer to establish a work plan for City's review and consideration of the Exterior and Freeway Signage Schedule, including a timeline for staff review, drafting of any potential amendments to the Sign Code and/or City Policy 6-4, and CEQA clearance. Among other things, the work plan may provide for either concurrent or sequential evaluation of on-site exterior signs and Freeway Signs and engagement of mutually agreeable consultants and other resources to facilitate and expedite preparation and review. This work plan is intended to be completed prior to July 1, 2026.

(i) Upon mutual agreement of a work plan, but no sooner than July 1, 2026, Manager will develop and provide the City with concept drawings in form and content reasonably acceptable to City, depicting the exterior signs desired by Manager ("**Signage Plans**") as set forth in the Exterior and Freeway Signage Schedule.

(ii) City agrees to instruct its staff to devote sufficient time to promptly review and timely comment on the Signage Plans, prepare potential revisions to the Sign Code and/or City Policy 6-4, and oversee the preparation of any documents required for CEQA clearance. Staff's work


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will include evaluation of applicable technical matters, environmental concerns, legal considerations, and planning policy issues..

(iii) Manager shall be required to pay City's standard cost-recovery fees for such staff time and for consultant costs incurred for CEQA clearance and any other technical assistance deemed necessary by the City.

(iv) At appropriate times during the course of the above work, staff and Manager will meet and confer in good faith to discuss any issues of concern (and potential resolutions for such concerns), as well as any recommendations by staff for modifications to the Signage Plans.

(c) Upon completion of the work described above, Manager may request that a public hearing be scheduled for the City Council to consider approval of Manager's Signage Plans, any proposed amendments to the Sign Code and/or City Policy 6-4, and the applicable CEQA clearance documents.

(i) As part of the Council's approvals, if any, procedures will be included pursuant to which Manager may submit requests to the City Manager from time to time for administrative approval of modifications to the Exterior and Freeway Signage Schedule and related Signage Plans, provided that such modified signage shall conform to the applicable Governing Standards (as may be modified pursuant to the Council's approvals) and all other applicable requirements under this Agreement.

(ii) Nothing contained herein shall be construed as creating any obligation on the part of the City, its officers, employees, or agents to recommend, support, or approve any amendment or modification to the Sign Code and/or City Policy 6-4, nor shall any provision of this Agreement be deemed or construed to bind or otherwise commit the City Council to approve any such amendment or modification.

(d) The installation and maintenance of the approved exterior Signage shall be subject to oversight by the City's Public Works Department.

(i) City agrees to use its best efforts, consistent with the exercise of its police powers, to promptly take such actions as may be reasonably necessary to cause the necessary authorizations to be issued to permit such exterior Signage to be installed.

(ii) Manager shall work with the Public Works Department to ensure that the installation and maintenance of the Signage conforms to all Public Works conditions and requirements.

(e) Exterior Signage may display the names, logos, slogans or other marks of any Naming Rights Sponsor; provided, however, that exterior Signage displaying the Venue Name or other Venue Marks shall require the approval of the City Manager as described in Section 15.3.

(f) The signs described in the Exterior and Freeway Signage Schedule may also display Arena Advertising or other information appropriate to the use of the


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Arena Facilities as major public assembly facilities, subject to compliance with the content requirements of Section 15.2.1 and the requirements of this Section 16.

16.2.2 Permitted Temporary Signs. In addition to the foregoing, Manager shall have the exclusive right to display (or to permit the display of) temporary Signage on the exterior of the Arena Building (including on or about the On-Site Parking Facilities), subject to the following:

(a) Such temporary Signage may consist of the following:

(i) Banners or projected light signs promoting or associated with Events at the Arena or other events occurring in the San Jose area;

(ii) Signs displayed in connection with permitted "Special Events" as described in Section 13.14.164 of the San Jose Municipal Code; and

(iii) Supergraphic Signs displayed on the façade of the Arena Building meeting the requirements in Section 23.04.124 of the Sign Code.

(b) Such Signage shall be subject to electrical, fire, life safety and other reasonable requirements and regulations as may be imposed by the City's Public Works Director.

16.2.3 Governing Standards for Exterior Signage. Exterior Signage shall conform to all other Governing Standards set forth in Section 12.1.3, including Applicable City Policies and Guidelines (including Council Policy 6-4, if applicable), Applicable Construction Codes, the applicable provisions of the Sign Code, and other Applicable Laws. For purposes of the foregoing, all exterior Signage shall be deemed to be erected under contract to the City, by virtue of the requirements set forth in this Agreement.

**SECTION 17. OFF-SITE SIGNAGE.**

**17.1 Freeway Signs.** As a material part of the consideration for this Agreement, Manager shall be permitted to do the following (either directly or through licenses or other contract rights granted to third parties), and to retain, allocate and distribute all Operating Revenues therefrom, all on such terms and conditions as may be determined by Manager:

17.1.1 General Requirements.

(a) Manager shall be permitted to install, maintain and operate no more than two (2) Freeway Signs, which may be Programmable Electronic Signs, on City Property along freeways within the City of San Jose in accordance with the Outdoor Advertising Act Arena Exemption (Section 5272(b) of the California Business & Professions Code) ("**Arena Exemption**") and/or any other Applicable Laws and Applicable City Policies and Guidelines, subject to the terms and conditions of this Section 17.1.

(i) For purposes of this Section 17.1, the term "**City Property**" means any property that is owned by City in fee or for a term of years (e.g., through a lease agreement), subject to approval by City Council of any necessary amendments to the Sign Code and Council Policy 6-4 to allow offsite commercial advertising on property leased by the City. If the City does


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not approve any such necessary amendments, then "City Property" shall mean only property that is owned by the City.

(ii) Such Freeway Signs shall be limited to parcels within the urban service area as indicated on the general plan land use/transportation diagram.

(iii) Such Freeway Signs shall be consistent with the applicable provisions of the Exterior and Freeway Signage Schedule attached as **Attachment No. 10** to this Agreement.

(b) The purpose of the Freeway Signs is to:

(i) Promote Arena Events, the San Jose Sharks, other affiliated businesses, and their respective sponsors;

(ii) Disseminate urgent public service messages, including Amber Alerts and information about emergency situations; and/or

(iii) Any other purposes permitted under Council Policy 6-4 and/or the Sign Code, as applicable, including Commercial Speech.

(c) Nothing in this Agreement shall limit the right of Manager or its Affiliates to enter into separate agreements for the installation, operation or use of off-site signage in addition to the two Freeway Signs contemplated herein, subject to such amendments to (or an override of) Council Policy 6-4 where necessary.

(d) Manager or an Affiliate of Manager shall remain the sole owner and operator of all Freeway Signs and/or off-site Signage contemplated herein and will be responsible for all capital costs, lease/rent payments, security, and utility services, as well as general operation, maintenance, and repair costs.

(e) So long as the Freeway Signs are on City Property, they shall be subject to the provisions of Section 15.2.1 regarding the content of Arena Advertising.

17.1.2 Governmental Approvals. Manager shall be responsible, at no material cost to City, for complying with all Applicable Laws and obtaining all required governmental permits, licenses and other approvals related to the Freeway Signs, including the following:

(a) Environmental clearance for the installation and operation of the Freeway Signs in accordance with the requirements of the California Environmental Quality Act (CEQA) and applicable City ordinances.

(b) Discretionary approvals from the City Council, including any potential amendments to the City's Sign Code and/or Council Policy 6-4.

(c) City approvals related to excavation, grading, and construction.

(d) Approvals from Caltrans, the FAA, and other Governmental Authorities.

17.1.3 Location of Freeway Sign Premises. Manager and City shall work together in good faith to select two mutually agreeable properties along freeways upon which the Freeway Signs may be constructed.

(a) Such Freeway Signs may be located in any of the following locations:


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(i) Such locations as may be permitted by Applicable Laws and Applicable City Policies and Guidelines; or

(ii) Such locations as may be permitted by the Arena Exemption, subject to approval by the City Council in its discretion where such locations are not permitted by the Sign Code and Applicable City Policies and Guidelines; or

(iii) Any other locations as may be permitted by the City in its sole discretion and/or under its regulatory authority.

(b) Manager shall apply for all necessary permits and approvals from Caltrans, City and other applicable Governmental Authorities for the installation of Freeway Signs on the agreed-upon properties, in the name of Manager or Manager's designated representative. Manager shall pay City's standard fees for processing the City applications, and City shall process Manager's applications, but shall retain its full governmental discretion with respect to all such applications.

(c) If Manager is unable to obtain the necessary permits or approvals for Freeway Signs on one or both of the selected properties, or if Manager should need to choose an alternate site due to physical constraints, title encumbrances or other reasons, City shall use its reasonable good faith efforts to cooperate with Manager's efforts to locate another property that is mutually acceptable to the Parties for the installation of a Freeway Sign.

(d) If any property selected by mutual agreement of the Parties is not City Property (but is located within the City's jurisdiction), then at Manager's request and subject to City Council approval if needed, City will lease or purchase the property provided that (i) the owner of the selected property voluntarily agrees to such lease or purchase; and (ii) Manager pays all costs and expenses associated with such acquisition. City shall then lease such property to Manager pursuant to a Freeway Sign Lease as described below.

(i) This subpart (d) shall apply with respect to property leased by City only if the City approves any necessary amendments of the Sign Code and Council Policy 6-4 to allow offsite commercial advertising on property leased by the City.

17.1.4 Lease of City Property.

(a) If a Freeway Sign is to be located on City Property, then subject to approval by the City Council, City and Manager shall enter into separate written lease agreement for such location ("**Freeway Sign Lease**") on such commercially reasonable terms and conditions as the Parties may mutually agree.

(b) The Freeway Sign Lease shall set forth the amount of the rent (which shall be based on fair market rental value) and other specific provisions as may be customary for similar types of leases. For purposes of this Agreement, fair market value shall be based on comparable ground rents for unimproved land on a square footage basis, with the understanding that the rent will not be based on, or


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related to, revenues generated by the Commercial Speech on the Freeway Sign or the use of the property for the construction and operation of a Freeway Sign.

17.1.5 Governing Standards for Freeway Signs. The Freeway Signs shall conform to all Governing Standards set forth in Section 12.1.3, including Applicable City Policies and Guidelines (including the applicable provisions of Council Policy 6-4), Applicable Construction Codes, the applicable provisions of the Sign Code, and other Applicable Laws.

17.1.6 Replacement of Freeway Signs. If Manager's ability to maintain a Freeway Sign pursuant to a Freeway Sign Lease is terminated prior to the expiration of the term thereof due to a Taking or a Force Majeure Event, Manager shall have the right to replace such Freeway Sign with another Freeway Sign on other property in accordance with the applicable provisions of this Section 17.1.

**17.2 Governmental Directional Signs.**

17.2.1 City Signs. As of the ~~Commencement~~Effective Date, there are a number of existing public roadway signs referencing the Arena by the Venue Name, which signs are controlled by the City.

(a) City shall be responsible for maintaining, repairing and replacing such signs in the same manner that the City maintains, repairs and replaces other similar signs in the normal course of its business.

(b) Upon an approved change in the Venue Name as provided in Section 15.3.3, Manager shall be responsible for the cost of replacing the applicable signs to refer to the new Venue Name, and thereafter City shall be responsible for maintaining, repairing and replacing them as provided above.

17.2.2 Public Transportation Signs. As of the ~~Commencement~~Effective Date, there are also a number of existing public roadway and/or public transportation signs referencing the Venue Name, which signs are controlled by county, state and/or federal government agencies.

(a) Such signs are maintained, repaired and replaced by the respective agencies.

(b) Upon an approved change in the Venue Name, to the extent the cost to replace the signs is not borne by the controlling agency, such cost will be borne by Manager. However, City shall cooperate, at no material cost to City, with any reasonable efforts by Manager to cause the controlling government agencies to bear such replacement costs.

## PART FIVE
## PARKING AND TRAFFIC

**SECTION 18. ON-SITE PARKING; LOT D AND DELMAS WEST.**

**18.1 Description of On-Site Parking Facilities.** As described in the Recitals to this Agreement, the Arena Facilities include improved parking areas adjacent to or across the street from the Arena


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defined therein as the "**On-Site Parking Facilities**" and consisting of separate parking areas ("**Lots A, B, and C**" and "**Lot D**") as shown on the Site Plan (**Attachment No. 2**).

18.1.1 Number of Spaces. As of the Effective Date, the On-Site Parking Facilities provide a total of 1,650 parking spaces.

(a) Lots A, B and C provide a total of 1,422 spaces.

(b) Lot D provides a total of 228 spaces.

18.1.2 Payment for On-Site Parking Facilities. The Arena Fees payable by Manager to City pursuant to Section 6.1 include consideration for use of the On-Site Parking Facilities, as defined in this Section 18, and no separate payment shall be due to City for such use.

**18.2 Lot D Lease.** As contemplated by the First Amendment to 2018 AMA (defined in Section 19.1), City conveyed Lot D to Google, LLC (along with its successors and assigns, "**Google**"), and Google entered into a lease with Manager for Manager's operation of Lot D as a public parking facility (the "**Lot D Lease**"), effective as of December 19, 2018. Capitalized terms used below have the meanings given in Section 19.1.1 unless otherwise specified in this Section 18.

18.2.1 Terms of Lot D Lease. Consistent with the requirements of the First Amendment to 2018 AMA, the Lot D Lease provides as set forth in subparts (a) through (f) below, as more specifically set forth in (and governed by the terms and conditions of) the Lot D Lease. The Parties acknowledge that City is not a party to the Lot D Lease, and the summary of the terms in this Section 18.2.1 is intended to provide historical context that is relevant to this Agreement.

(a) The term of the Lot D Lease will continue until construction work on Lot D is ready to commence (when Google presents Manager with reasonable evidence that grading on Lot D is planned to commence in the near future).

(b) Google must give Manager at least 120 days' notice before terminating the Lot D Lease, or longer as needed to avoid a termination in the middle of a hockey season.

(c) Prior to the termination of the Lot D Lease, Google must deliver to Manager (pursuant to an approved form of lease or license agreement) one or more lots approved by Manager containing a minimum of 228 Available Parking Spaces (the "**Replacement Parking**"), which must satisfy all of the following conditions:

(i) The parking lot(s) must allow for public parking, with priority for Arena Event-related parking (i.e., exclusive use for Arena customers for Events);

(ii) The parking lot(s) must be improved with paving, striping, lighting and other features in accordance with the Applicable Parking Standard at no cost to Manager, and have access and circulation as reasonably approved by Manager;

(iii) The Available Parking Spaces that count toward the 228 minimum must be new and not existing or planned as of the December 19, 2018 Effective


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Date of the Lot D Lease (e.g., not the parking spaces that City is obligated to construct as part of Lot E or Milligan); and

(iv) Manager must be given the opportunity to operate the parking lot(s) on commercially reasonable terms and conditions comparable to the terms and conditions of other similar arrangements in the Diridon Area or downtown San Jose.

(d) Notwithstanding the foregoing, Google may designate Delmas West as Replacement Parking (even though the parking spaces on Delmas West are not new), subject to the Operating Covenant described in Section 18.2.4.

(e) The Replacement Parking may be relocated again (if necessary for development purposes), so long as the relocated Replacement Parking meets the criteria in (c) above.

(f) Google's obligations under the Lot D Lease are binding on its successors and assigns.

18.2.2 Effect on Minimum Off-Site Parking Requirements.

(a) During the term of the Lot D Lease, the 228 parking Spaces on Lot D shall continue to be deemed part of the On-Site Parking Facilities for all applicable purposes under this Agreement.

(b) Upon the termination of Manager's right to use Lot D, the Minimum Off-Site Parking Requirements shall be increased by 228 spaces within the 1/3 Mile Radius Area as provided in Section 19.1.4 (subject to further adjustment in accordance with this Agreement), which shall fully satisfy the City's obligations as to the replacement of the Lot D On-Site Parking Facilities. Thus, for example, during the Interim Relief Period described in Section 19.1.5, the Minimum Off-Site Parking Requirements shall be increased from 2,850 Available Parking Spaces to 3,078 Available Parking Spaces within the 1/3 Mile Radius Area.

(c) All parking spaces that constitute Available Parking Spaces within the Replacement Parking, or within new developments on Lot D or other parcels (including shared spaces), shall count toward the Off-Site Minimum Parking Requirements.

18.2.3 Termination of Google's Replacement Parking Obligation.

(a) Manager has notified City that Google has informed Manager that Google has designated Delmas West as the initial Replacement Parking.

(b) Google's obligation to provide the Replacement Parking (whether on Delmas West or on relocated Replacement Parking) will terminate upon the occurrence of either of the following, so long as City is then in compliance with the Minimum Off-Site Parking Requirements:

(i) BART service to the Diridon Station Area is operational; or.


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(ii) There are at least 500 new (not existing as of December 19, 2018, or planned as part of Lot E) structured Available Parking Spaces within 1,200 feet of the South Entrance to the Arena; provided that if such 500 new spaces are shared spaces (i.e., not exclusively reserved for Arena customers) they must be designed such that all 500 vehicles can safely exit from the parking lot(s) onto the public streets within a period of 30 minutes.

18.2.4 Covenant re Use of Delmas Parking Lots.

(a) As required by the First Amendment to 2018 AMA, the Lot D Lease includes the following covenant (the "**Delmas Operating Covenant**") from Google (as Landlord) for the benefit of Manager (as Tenant):

"*As a material part of the consideration for Tenant's agreement to enter into this Lease, Landlord hereby covenants, promises and agrees to continue to keep all of the Delmas West Parking (not just the 228 Replacement Parking spaces) open for public parking, commencing on the Effective Date of this Lease and continuing until Landlord obtains a grading permit for its development project on Delmas West; provided, however, that notwithstanding the issuance of any such grading permit, Landlord shall, at a minimum, keep the Delmas West Parking open until the earlier of the following:*

*a. City's completion of its obligation to build-out new parking lots containing at least 408 Available Parking Spaces (180 spaces required under the [Lot E] Settlement Agreement and 228 incremental spaces required under the First Amendment to the AMA) pursuant to the terms and conditions of Section 3 of the First Amendment; OR*

*b. Provided that the City is otherwise in compliance with its off-site parking obligations under Section 19 of the Arena Management Agreement, when:*

*i. BART service to the Diridon Station area is operational; OR*

*ii. Landlord has constructed at least 500 Available Parking Spaces as part of its development project on Delmas East; provided, however, that if the 500 spaces are shared spaces (i.e., not exclusively reserved for Arena customers) they must be designed such that all 500 vehicles can safely exit from the parking structure onto the public streets within a period of 30 minutes*."

(b) City acknowledges that (i) Manager's consent to City's sale of Lot D to Google was based on the promised fulfillment of City's obligations under the First Amendment to 2018 AMA and Google's obligations under the Lot D Lease, and more specifically the obligations related to maintaining an adequate supply of Available Parking Spaces for Arena Events; (ii) the fulfillment of such obligations is essential to ensuring that City will be able to meet the Minimum Off-Site Parking Requirements; and (iii) the satisfaction of such Minimum Off-Site Parking Requirements remains important to City's goal of helping to ensure the continued


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vitality of the Arena, recognizing that the Arena is a major anchor for both downtown San Jose and the Diridon Station Area.

(c) In the context of the foregoing, City reaffirms that the Delmas Operating Covenant was required by the First Amendment to 2018 AMA, and agrees that as of the Effective Date of this Agreement the Delmas Operating Covenant remains in full force and effect and is binding on Google and any other party that may succeed to Google's interest in Delmas West.

(i) To help ensure compliance with the Delmas Operating Covenant, City agrees that any permit it issues for a development project on Delmas West will include appropriate conditions of approval that reinforce the restrictions set forth above.

(ii) However, when interpreting the Delmas Operating Covenant, the number of parking spaces City is required to construct as referenced in subpart a. of the Delmas Operating Covenant shall be deemed to be reduced by the Parking Space Difference described in Section 19.4 below.

**18.3** **Use and Control of On-Site Parking Facilities.** Except as otherwise expressly provided in this Agreement, Manager exclusively shall (i) have the right and obligation to control, operate, and maintain the On-Site Parking Facilities, (ii) be entitled to all Operating Revenues derived from the On-Site Parking Facilities, and (iii) be obligated to pay all Operating Expenses related to the On-Site Parking Facilities.

18.3.1 Permitted Uses. Manager shall be permitted to use the On-Site Parking Facilities for all lawful purposes consistent with the use of the Arena as a major public assembly facility, subject to Manager's obligation to provide parking as set forth below and compliance with all other applicable provisions of this Agreement. Such permitted uses may include temporary staging of event trailers and equipment, fan festivals, special merchandise sales, press events, and other special events consistent with historical practices.

18.3.2 Capital Enhancements. Manager shall be permitted to construct or install, on or about the On-Site Parking Facilities, such utility equipment, signage facilities, lighting, and other improvements as Manager may determine to be necessary or convenient for the operation of the Arena as a major public assembly facility, subject to approval of such improvements by City as required under Section 28 and compliance with all other applicable provisions of this Agreement. Unless the improvements are required as a result of causes beyond Manager's reasonable control (such as improvements required by Applicable Laws), any reduction in the number of parking spaces resulting from such improvements shall not increase the Minimum Off-Site Parking Requirements as defined in Section 19.1.1.

**18.4** **Parking for City Purposes.** Personnel of City and other City Invitees (defined in Section 27.1.1) may park in the On-Site Parking Facilities at no charge (including during Events) if and when their duties require their presence at the Arena. Such parking by City Invitees shall be subject to availability as determined by Manager, and shall be allowed only in locations designated by Manager.

**18.4.1** Convention Center Overflow**.** On non-Event Days, but only to the extent available, City may reasonably use the On-Site Parking Facilities for Convention Center overflow or other


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City parking, provided that such use shall not interfere with the San Jose Sharks or other Arena Events. Such use shall be at no cost to City, but City shall be responsible for any liability resulting from such use and for all costs of security and clean-up.

**18.5 Use for Public Parking, Including Transit Users.** Under the circumstances described below, Manager shall allow public parking in the On-Site Parking Facilities, in locations designated by Manager, and for such charges as may be determined by Manager in its sole discretion.

18.5.1 Non-Event Days. On non-Event Days, public parking shall be allowed to the extent parking spaces are not needed for Arena Employees and other Manager Invitees, for City Invitees, and for set-up or tear-down activities in connection with Events.

18.5.2 Event Days. On Event Days, public parking shall be allowed subject to the same requirements as for non-Event Days, with the additional requirement that Manager may restrict public parking as reasonably necessary to accommodate parking by Arena customers.

(a) Among other things, Manager may limit the number of spaces available for general public parking on Event Days and/or may require that public parkers vacate their parking spaces by a certain time on Event Days.

(b) Vehicles parked in violation of restrictions or limitations imposed by Manager may be towed at the expense of the vehicle owner, assessed an overtime parking surcharge as determined by Manager, or denied any further privilege to park in On-Site Parking Facilities.

18.5.3 Other Restrictions. Manager may temporarily close portions of the On-Site Parking Facilities and/or the driveways and other areas of the Arena Facilities for any other uses or purposes permitted under this Agreement, including as reasonably needed for performing maintenance or repair work.

**SECTION 19. OFF-SITE PARKING.**

**19.1 Parking Spaces for Arena Customers.** In addition to the number of parking spaces in the On-Site Parking Facilities, a substantial number of parking spaces are needed for Arena customers in neighboring areas for the successful operation of the Arena.

19.1.1 Definitions. In this Agreement, the following terms shall have the meanings given below:

(a) "**1/3 Mile Radius Area**" or "**1/3 Mile Ring**" means the area within a radius of 1/3 mile from the South Entrance.

(b) "**1/2 Mile Radius Area**" means the area within a radius of 1/2 mile from the South Entrance, including the 1/3 Mile Radius Area.

(c) "**1/2 Mile Ring**" means the area within a radius of 1/2 mile from the South Entrance, excluding the 1/3 Mile Radius Area.

(d) "**Accessible Parking Space**" means a parking space that is intended for use by individuals with disabilities and meets the applicable design requirements of Applicable Construction Codes.


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(e) "**Applicable Construction Codes**" has the meaning given in Section 12.1.3(c), and includes Applicable Laws governing physical design or condition of construction or requiring access for individuals with disabilities.

(f) "**Applicable Parking Standard**" means a standard of design, operation, and maintenance that is equal to or exceeds the standard generally applicable to public parking lots and garages permitted under Applicable Laws.

(g) "**Arena Employees**" means persons engaged by Manager or Manager's concessionaires, vendors, contractors, and licensees to work at the Arena before, during or after Events, including those who operate the On-Site and Off-Site Parking Facilities. "**Arena Employee Parking Spaces**" means parking spaces located in Off-Site Parking Facilities that are separately designated by Manager for parking by Arena Employees.

(h) "**Available Parking Space**" means a Qualified Parking Space that is unoccupied and available for Arena customers to park in upon their arrival on weekends and after 6:30 p.m. on weekdays; provided, however, that for any parking garage constructed or placed in service following the Effective Date of this Agreement, the number of Available Parking Spaces in that new garage shall be limited to the number of cars that can enter within an approximate 60-minute peak period prior to an Event and exit within an approximate 30-minute peak period following an Event.

(i) "**Delmas East**" means the parcels currently designated as APN 259-38-128 and -142, located on the east side of Delmas Avenue south of W. Santa Clara Street in San Jose, California, and depicted on **Attachment No. 11-1**. As of the Effective Date, Delmas East is owned by Google.

(j) "**Delmas West**" means the parcels currently designated as APN 259-38-036, -039, -040, -041, -042, -109, -110, -145, -146, -147, and -148, located on the west side of Delmas Avenue south of W. Santa Clara Street, and also depicted on **Attachment No. 11-1**. As of the Effective Date, Delmas East is owned Google.

(k) "**Delmas West Parking**" means all parking spaces located on Delmas West, which as of the Effective Date is approximately 343 parking spaces.

(l) "**Event**" means any sports, entertainment, educational, recreational, cultural, civic or other activity, gathering, performance, production, show or event conducted at the Arena for which admission is controlled via a pass, ticket or other means.

(m) "**Event Day**" means a calendar day on which one or more Events occurs.

(n) "**First Amendment to 2018 AMA**" means the amendment to the 2018 AMA dated December 4, 2018.

(o) "**Interim Relief Period**" has the meaning given in Section 19.1.5 below.

(p) "**Lot E**" means the parcels designated as APN 259-29-001, -002, -003, -004, -005, -026, -027, -028, -029, and -091, located on the west side of N. Autumn Street north of Sharks Way (formerly W. Saint John Street) in San Jose, California, and


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depicted on **Attachment No.11-2**. As of the Effective Date, Manager owns parcels -026 through -029, City owns parcels -001 through -003 and -091, and other parties own parcels -004 and -005.

(q) "**Manager Parcels**" means parcels -026 through -029 of Lot E, which are currently used for various Arena operations, including storage and staging.

(r) "**Milligan**" means the parcels designated as APN 259-29-032, -033, -071, -072, and -102, and a portion of APN 259-29-101, located on the east side of N. Autumn Street north of Sharks Way, and also depicted on **Attachment No. 11-2**. As of the Effective Date, Milligan is owned by City.

(s) "**Minimum Off-Site Parking Requirements**" means the provision of at least 3,175 Available Parking Spaces within the 1/3 Mile Radius Area, and 6,350 Available Parking Spaces within the 1/2 Mile Radius Area (inclusive of the Available Parking Spaces within the 1/3 Mile Radius Area), subject to adjustments or modifications as provided in this Section 19 or in Section 20.

(t) "**North Entrance**" means the entrance to the Arena located on the north side of the Arena Building, closest to N. Montgomery Street.

(u) "**Off-Site Parking Facilities**" means on-street parking spaces and off-street parking lots or garages owned by City or third parties within close proximity to the Arena and utilized by Arena customers or Arena Employees (excluding On-Site Parking Facilities).

(v) "**On-Site Parking Facilities**" has the meaning given in Section 18.1.

(w) "**Qualified Parking Space**" means a parking space that meets all of the following requirements, unless the Parties mutually agree otherwise as part of a Temporary Parking Agreement:

(i) The space is a marked space intended for use by passenger vehicles;

(ii) The space is located in an Off-Site Parking Facility in areas that are lawfully entitled to be used for public parking;

(iii) The space is not chained off, blocked, reserved, or restricted; provided that (A) an Accessible Parking Space shall be a Qualified Parking Space unless it is otherwise reserved or restricted; and (B) a space that is normally reserved or restricted shall be a Qualified Parking Space if there is reasonably clear signage notifying customers that such space is available for public parking;

(iv) The space is not designated for parking by Arena Employees; provided that for the purpose of counting the number of Qualified Parking Spaces, the total number of Arena Employee Parking Spaces in all Off-Site Parking Facilities shall not exceed 350 spaces for regular season hockey games and typical concerts or similar Events, or 400 spaces for playoff hockey games and other high attendance Events; and

(v) The space complies with Applicable Construction Codes and the Applicable Parking Standard.


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(x) "**South Entrance**" means the main entrance to the Arena located on Santa Clara Street.

(y) "**Temporary Conditions**" has the meaning given in Section 19.3.1 below.

(z) "**Temporary Parking Agreement**" has the meaning given in Section 19.3.2.

19.1.2 City's Obligations. Subject to the provisions of this Part Five, City shall take whatever actions may be necessary to ensure that Off-Site Parking Facilities are maintained in such locations and in such quantities as shall be sufficient to satisfy the Minimum Off-Site Parking Requirements in accordance with this Agreement.

(a) If the number of Available Parking Spaces falls short of the Minimum Off-Site Parking Requirements, City shall take whatever actions may be necessary to bring the number of Available Parking Spaces into compliance with this Agreement. Such actions may include the acquisition of land and the construction of new parking facilities (in addition to City's obligations under Section 19.4) or the improvement of streets adjacent to parking facilities (to improve operational functionality by providing adequate ingress and egress to and from public streets), but less expensive alternatives may be used where appropriate consistent with the provisions of this Agreement.

(b) City shall use its best efforts to anticipate potential deficiencies in the supply of Available Parking Spaces based on planned Temporary Conditions, expected changes in parking supply or parking demand (including changes reflected in the Parking Forecast Report described below), and other conditions within the reasonable control or knowledge of City. In the event of any such anticipated deficiencies, City shall take action as reasonably appropriate to avoid the loss of Available Parking Spaces below the number needed to satisfy the Minimum Off-Site Parking Requirements.

(c) If any Temporary Conditions would result in a loss of Available Parking Spaces such that the Minimum Off-Site Parking Requirements would not be met, City may employ temporary measures as reasonably necessary to satisfy its parking obligations, subject to the provisions of a Temporary Parking Agreement as described in Section 19.3.2.

(d) City may replace or substitute particular parking spaces within each Radius Area from time to time as necessary, so long as the Available Parking Spaces within the 1/3 Mile Radius Area and the 1/2 Mile Radius Area each separately continue to satisfy the Minimum Off-Site Parking Requirements as specified in this Agreement.

(e) The Minimum Off-Site Parking Requirements may be modified pursuant to Sections 19.1.4, 19.4.3, or 20.2.2. Following any such modification, all references in this Agreement to "Minimum Off-Site Parking Requirements" shall have the meaning specified in a written amendment or other written memorandum between the Parties.


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(f) City may own and operate any Off-Site Parking Facilities, and may charge fees for Arena customers to park in those facilities as members of the general public. Such parking fees are not Taxes as defined in Section 10.2.1.

(g) Manager may enter into separate agreements with the owners or operators of any Off-Site Parking Facilities (which may include City) pursuant to which Manager will operate such parking facilities either full time or on Event Days only. Such separate agreements (including any agreements between City and Manager with respect to any City-owned parking facilities) shall be on such terms and conditions as may be mutually agreed by the parties thereto. Manager's operation or control over any such parking facilities shall not modify the Parties' respective obligations under this Agreement.

19.1.3 Development of Parking Spaces on Lot E and Milligan.

(a) The following is a summary of some key events that have occurred as of the Effective Date of this Agreement, which summary is only intended to provide historical context that is relevant to this Agreement.

(i) Pursuant to a Settlement Agreement and Release made by and between City, Sharks Sports & Entertainment LLC, and two Trammell Crow entities, dated December 1, 2016 (**"Lot E Settlement Agreement**"), City was obligated to use good faith efforts to acquire certain parcels within Lot E and construct at least 180 surface parking spaces on such parcels and on the Manager Parcels.

(ii) Such obligations were modified by the First Amendment to 2018 AMA, pursuant to which City was obligated to acquire all of the parcels within Lot E and Milligan (other than the Manager Parcels), and to construct a minimum of 408 new parking spaces thereon (equal to the 180 spaces required under the Lot E Settlement Agreement and the 228 spaces that will be eliminated once the Lot D Lease is terminated by Google).

(iii) City has acquired all of the parcels comprising Milligan, as well as parcels 259-29-001, -002, -003 and -091 within Lot E. City has not yet acquired parcels -004 and -005 of Lot E.

(iv) City is currently in the process of constructing a surface parking lot on Milligan containing a total of approximately 302 passenger vehicle parking spaces, which parking lot is expected to be open for public parking by the end of October, 2025.

(b) The Parties now agree as follows:

(i) City's obligations with respect to Lot E shall be extended and modified in accordance with Section 19.4 below.

(ii) City's obligations with respect to construction of parking spaces on Milligan will be satisfied upon the final completion of the current construction project described above. Manager will manage and operate the completed Milligan parking lot as described in Section 19.5 below.


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(iii) Prior to construction of the Milligan parking lot, there were 138 vehicle parking spaces located on Milligan. If the Milligan parking lot, as constructed, contains 302 passenger vehicle parking spaces, then after completion of construction there will be a net increase of 164 new (incremental) parking spaces.

(iv) City shall remain obligated to construct a minimum of another 244 new (incremental) parking spaces on Lot E (408 - 164 = 244), subject to any adjustment as provided in Section 19.4 or as otherwise mutually agreed by the Parties. Notwithstanding the preceding sentence, if the Parties mutually agree (with agreement not to be unreasonably withheld by either Party) on a Lot E parking lot design which includes fewer than 244 new parking spaces, City, upon completion of construction of the new Lot E parking lot in accordance with the approved design plans, shall be deemed to have fully satisfied its obligations with respect to construction of new (incremental) parking spaces on Lot E.

(v) For avoidance of doubt, any temporary parking spaces existing on Lot E prior to City's Lot E construction shall not be considered existing spaces for purposes of determining the number of new spaces constructed by City on Lot E.

(c) The provisions of this Agreement shall supersede entirely the provisions of the Lot E Settlement Agreement and the First Amendment to 2018 AMA, which documents shall be terminated as of the Effective Date of this Agreement. It is the Parties' mutual intention that any and all obligations relating to parking (including Lot E and Milligan) accruing from and after July 1, 2025 shall be governed exclusively by the provisions of this Agreement, including the Attachments hereto.

(d) All parking spaces that constitute Available Parking Spaces within the new parking lots constructed by City on Lot E and Milligan shall count toward the Minimum Off-Site Parking Requirements.

19.1.4 Adjustments for Changes to On-Site Parking Facilities. As of the Effective Date, the On-Site Parking Facilities provide a total of 1,650 parking spaces, including 228 spaces in Lot D.

(a) If the number of parking spaces in the On-Site Parking Facilities is increased, the Minimum Off-Site Parking Requirements for both the 1/3 Mile Radius Area and the 1/2 Mile Radius Area shall be reduced on a space for space basis.

(b) Similarly, if the number of parking spaces in the On-Site Parking Facilities is reduced as a result of causes beyond Manager's reasonable control (for example, due to the loss of Lot D, or due to a Partial Taking as described in Section 34.3), the Minimum Off-Site Parking Requirements for both the 1/3 Mile Radius Area and the 1/2 Mile Radius Area shall be increased on a space for space basis.

(c) Except as required by Applicable Laws, eminent domain or other causes beyond the reasonable control of the Parties, and except for the potential development of Lot D as contemplated by Section 18.2, no improvements or other Alterations


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shall be made to the On-Site Parking Facilities unless such Alterations have been approved by both Parties and such Alterations are in compliance with all other applicable provisions of this Agreement.

19.1.5 Interim Reduction in Minimum Off-Site Parking Requirements. Notwithstanding anything to the contrary in this Agreement, for an interim period of time described below (the "**Interim Relief Period**"), Manager shall grant City partial relief from the Minimum Off-Site Parking Requirements in accordance with the following terms and conditions:

(a) The Interim Relief Period shall commence on the Effective Date and shall expire on December 31, 2026.

(b) During the Interim Relief Period, the number of Available Parking Spaces required to be provided by City within both the 1/3 Mile Radius Area and the 1/2 Mile Radius Area shall be reduced by 325. Therefore, subject to applicable adjustments or modifications as provided in this Agreement, the number of Available Parking Spaces required within the 1/3 Mile Radius Area shall be reduced from 3,175 to 2,850, and the number of Available Parking Spaces required within the 1/2 Mile Radius Area shall be reduced from 6,350 to 6,025.

(c) Upon the expiration of the Interim Relief Period, the full Minimum Off-Site Parking Requirements shall resume without application of the relief provided by this Section 19.1.5.

(d) The tables below summarize the Minimum Off-Site Parking Requirements during the Interim Relief Period and following the Interim Relief Period.

| **Requirements During Interim Relief Period July 1, 2025 Through December 31, 2026** | Required Number of Off-Site Available Parking Spaces Prior to Termination of Lot D Lease | Required Number of Off-Site Available Parking Spaces After Termination of Lot D Lease |
|---|---|---|
| Spaces within 1/3 Mile Radius of South Entrance | 2,850 | 3,078 |
| Spaces within 1/2 Mile Radius of South Entrance (inclusive of 1/3 Mile Radius) | 6,025 | 6,253 |


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| **Requirements Following Interim Relief Period January 1, 2027 Through End of Term** | Required Number of Off-Site Available Parking Spaces Prior to Termination of Lot D Lease | Required Number of Off-Site Available Parking Spaces After Termination of Lot D Lease |
|---|---|---|
| Spaces within 1/3 Mile Radius of South Entrance | 3,175 | 3,403 |
| Spaces within 1/2 Mile Radius of South Entrance (inclusive of 1/3 Mile Radius) | 6,350 | 6,578 |

(e) Nothing herein shall modify the provisions of Section 19.3 (Temporary Conditions), Section 20.1 (Parking Supply and Forecast Reports), or Section 20.2 (Parking Utilization Report and Adjustment to Requirements). Both during and after the Interim Relief Period the Parties shall retain the ability to make further adjustments or modifications to the Minimum Off-Site Parking Requirements in accordance with those provisions.

19.1.6 Exceptions to 1/3 Mile Radius Area for Approved Parking Facilities.

(a) From time to time, City may submit a request to Manager to allow certain Available Parking Spaces outside of the 1/3 Mile Radius Area (but within 1/3 mile of the North Entrance to the Arena) be counted as if they were included within the 1/3 Mile Radius Area for purposes of satisfying the Minimum Off-Site Parking Requirements. Manager agrees to consider each such request on a case-by-case basis, and shall not unreasonably withhold its consent thereto.

(b) Factors that Manager may consider in determining whether to approve such a request may include the following, among others:

(i) The pedestrian experience along such route, including the condition and width of the sidewalks, lighting, the perception of safety, and aesthetic concerns;

(ii) The ease of ingress to and egress from such parking spaces and public streets for Arena Events (i.e., the operational functionality of the parking spaces, including the number of cars that can enter within an approximate 60-minute peak period prior to an Arena Event and exit within an approximate 30-minute peak period following an Event without undue queuing or congestion); provided that this factor will serve only to limit the number of Available Parking Spaces within a parking facility, and will not affect the number of Qualified Parking Spaces within that facility;

(iii) How parking for Arena Events would be managed (for example, payment systems that allow for payment upon entry and free flow upon exit);

(iv) Whether Manager would be allowed to operate the parking facility on Event Days (and brand the parking facility as SAP Center parking), and


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what the terms and conditions of such operating agreement would be; and

(v) The condition of the parking facility, which must be properly paved, striped, properly signed and have adequate lighting and drainage; and

Notwithstanding the foregoing, parking spaces north of the Union Pacific Railroad right of way will not be approved under the above provisions and will not count as Available Parking Spaces within the 1/3 Mile Radius.

**19.2 Parking Spaces for Arena Employees.**

19.2.1 Number of Spaces and Location. At no cost to City, Manager shall provide parking on Event Days for Arena Employees, in separately designated Off-Site Parking Facilities, in accordance with the following:

(a) Manager may provide such number of Arena Employee Parking Spaces as Manager determines is reasonably required for Arena Employees. However, the number of Arena Employee Parking Spaces that may be excluded from the count of Qualified Parking Spaces will be limited to 350 spaces for regular season hockey games and typical concerts or similar Events, and 400 spaces for playoff hockey games and other high attendance Events.

(b) The location of the Arena Employee Parking Spaces shall be selected by Manager using Manager's sole reasonable discretion, considering all relevant factors including the following:

(i) Whether such spaces comply with Applicable Construction Codes and the Applicable Parking Standard;

(ii) How long it takes to walk from the Arena Employee Parking Spaces to the Arena along the shortest route, considering that many Arena Employees are uncomfortable walking to and from parking that is more than 1/4 mile away from the Arena;

(iii) The pedestrian experience along such route, especially the condition and width of the sidewalks, lighting, and safety, considering that many Arena Employees walk back to their cars late at night;

(iv) The terms and conditions of the agreement with the owner or operator of the parking facility, including the cost, length of the term, and the number of parking spaces that can be accommodated in one facility; and

(c) In determining the location of Arena Employee Parking Spaces, Manager, to the extent reasonably feasible, shall endeavor to locate such spaces in a manner that does not impair City's ability to satisfy the Minimum Off-Site Parking Requirements.

(d) As of the Effective Date, Manager's designated parking facility for Arena Employees is the Almaden Financial Plaza garage located at 350 W. Santa Clara Street. Manager shall endeavor to give City at least 30 days' prior notice of any planned change in the location of parking for Arena Employees.


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(i) At the request of City, the Parties shall meet and confer to discuss any concerns City may have regarding the proposed change in location of the designated parking facility for Arena Employees.

(ii) Manager agrees to consider City's concerns in good faith, but the decision regarding the location of parking for Arena Employees shall continue to be subject to Manager's sole reasonable discretion.

19.2.2 Transit Opportunities for Arena Employees. Manager agrees to provide information to Arena Employees about various alternative modes of transportation that are available for their travel to and from the Arena, including public transit.

**19.3 Temporary Conditions.**

19.3.1 Defined Terms. In this Agreement, the term "**Temporary Conditions**" means any conditions (or series of conditions) that increase parking demand by non-Arena users and/or cause a loss of Available Parking Spaces that Arena customers or Arena Employees otherwise could use. Temporary Conditions are further described as falling into one of the categories defined below:

(a) "**Intermittent Conditions**" are any conditions (or series of conditions) caused by events that occur periodically, likely for a period of many years, for which the customers or participants use the same Off-Site Parking Facilities used by Arena customers, resulting in a reduction in the number of Available Parking Spaces. Examples include events at Chase Center, Oracle Park, PayPal Stadium, Levi's Stadium, or Arena Green, as well as activities, uses or events that draw large crowds to the downtown area or that otherwise cause parking impacts on a recurring basis.

(b) "**Long Term Temporary Conditions**" are any conditions (or series of conditions) caused by construction projects or other events that result in a reduction in the number of Available Parking Spaces for a cumulative period of time longer than 90 days but shorter than three years over the Term. Examples include High Speed Rail construction, Barack Obama Boulevard reconstruction, BART Phase II construction, and construction of other major development projects in the Diridon Station Area, to the extent such projects in the aggregate do not result in a reduction in Available Parking Spaces for a period longer than three years.

(c) "**Short Term Temporary Conditions**" are any conditions (or series of conditions) that result in a reduction in the number of Available Parking Spaces for a cumulative period of time of 90 days or less, excluding Intermittent Conditions. Examples include short-run performance events like Cirque du Soleil or Cavalia, or short-term street improvement work.

19.3.2 Temporary Parking Agreements. If as a result of specific Temporary Conditions, City is unable to comply with the Minimum Off-Site Parking Requirements, City may employ temporary measures or utilize temporary parking facilities for the period of time reasonably necessary to address such Temporary Conditions, subject to the terms and conditions of a separate written agreement ("**Temporary Parking Agreement**") mutually approved by the Parties. Such Temporary Parking Agreement shall not be deemed to be an amendment of this Agreement.


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(a) Upon request by either Party, the Parties shall meet and negotiate in good faith regarding a Temporary Parking Agreement that addresses any specifically identified Temporary Conditions and describes acceptable temporary measures that may be taken by City to fulfill the City's parking obligations in lieu of satisfaction of the requirements described in this Section 19.

(b) If a Temporary Condition is reasonably foreseeable, City shall notify Manager of the expected Temporary Condition as far in advance of the anticipated commencement of the Temporary Condition as is reasonably possible, and shall propose a Temporary Parking Agreement (and take appropriate implementing actions) as early as may be necessary to ensure that there will be an uninterrupted supply of Available Parking Spaces as necessary to continuously satisfy City's obligations under this Agreement.

(c) The terms and conditions of the Temporary Parking Agreement, including the nature, extent and length of the temporary measures, shall be reasonably determined based on the nature, extent and length of the Temporary Conditions.

(i) For example, the types of temporary measures that would be appropriate for an Intermittent Condition would not generally be appropriate for a Long Term Temporary Condition or even a Short Term Temporary Condition.

(ii) In the case of a Long Term Temporary Condition, the Temporary Parking Agreement shall include a description of specific measures that City plans to take to ensure that the reduction in Available Parking Spaces caused by the Long Term Temporary Condition will be permanently remediated within a reasonable period of time.

(d) Any temporary measures employed by City shall be designed to preserve, to the greatest extent reasonably possible, the overall access and parking ecosystem for the Arena existing as of the Effective Date of this Agreement.

(e) Nothing in this Section 19.3 shall be deemed to relieve or excuse City of its obligations under Section 20.1.2 to prepare a Schedule of Parking Solutions in connection with a Parking Forecast Report as described in Section 20.1.2 below.

(f) If the Parties fail to agree upon a Temporary Parking Agreement within 30 days after written request by one Party to the other, such matter may be submitted to Mediation as a Disputed Matter pursuant to Section 39.

19.4 **Development of Parking Spaces on Lot E.**

19.4.1 Acquisition of Lot E Parcels. As a material part of the consideration for Manager's execution of this Agreement, City agrees that it will take all necessary actions (including paying all sums of money) that may be necessary to acquire ownership or legal control over both parcel 259-29-004 and parcel 259-29-005 ("**Parcels 4 and 5**") of Lot E as soon as reasonably possible, but in no event later than the date that Manager completes the refurbishment of Suite P41 (as described in Section 11.5.1(b) above), or by September 1, 2027, whichever is later (the "**Lot E Acquisition Deadline**"). Manager will give City written


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notice at least three (3) months prior to the estimated date of completion of such refurbishment.

(a) To the extent it has not already done so, City shall promptly obtain appraisals, make purchase or option offers, and diligently pursue completion of purchase or option negotiations with the owners of Parcels 4 and 5. If City is unable to successfully negotiate acquisition agreements for Parcels 4 and 5 through such efforts, City staff will promptly seek to obtain the City Council's approval to use the power of eminent domain to complete such acquisitions, and to diligently prosecute such actions to completion. Whether by negotiated transfers or by eminent domain, the City must complete the acquisition of the applicable parcels by the Lot E Acquisition Deadline.

(i) Nothing herein shall be construed to mean that City will agree or has agreed to exercise its power of eminent domain, which shall remain in the sole discretion of the City Council and may be exercised only after the City has adopted a Resolution of Necessity and complied with all other legal requirements.

(b) City may not claim the right to a delay in the timely completion of its obligations hereunder based on any Force Majeure Event, unless the Force Majeure Event falls strictly within the definition in Section 37.1, in which case the length of the permitted delay shall be determined strictly in conformance with Section 37.2.

19.4.2 Extension of Time to Complete Construction. City's obligation to complete construction of a surface parking facility on Lot E will be deferred until two (2) years from July 1 of any given year, provided that (i) on or before March 31 of that year, Manager shall have given City a written notice to proceed with the work ("**Lot E Notice to Proceed**"); (ii) such Lot E Notice to Proceed may be given only after Manager has determined that such parking is reasonably necessary for City to be able to meet its Minimum Off-Site Parking Requirements; and (iii) the earliest date that the Lot E Notice to Proceed may be delivered is March 31, 2028. The foregoing is further subject to the following:

(a) Once City receives Manager's Lot E Notice to Proceed, it shall promptly submit to PG&E a request to disconnect its utility services, if necessary. If PG&E fails to disconnect its services within one (1) year from the date that City submits a disconnection request, then City's deadline to complete construction of the parking lot shall be extended by the amount of time beyond one (1) year that PG&E takes to complete its disconnection.

(b) The Lot E Notice to Proceed will include notice as to whether Manager elects to exclude one or more of the Manager Parcels or portions thereof (the "**Excluded Manager Parcels**") from the parking lot project pursuant to Section 19.4.3, which notice shall be irrevocable.

(c) Manager's determination regarding the necessity of the parking spaces will be based on the factors described in the Parking Forecast Report under Section 20.1.2, including changes in the number of Available Parking Spaces that are predicted to occur during the ensuing time period based on anticipated new developments (including transit projects), the closure of parking facilities (including Lot D), the opening of new parking facilities within close proximity to


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the Arena, and other known or predicted conditions materially affecting parking demand and supply within the applicable area.

(d) Upon receiving the Lot E Notice to Proceed (with Manager's notice as to any Excluded Manager Parcels), City shall promptly and diligently pursue all actions (including the payment of all sums of money and the actions regarding PG&E described in subpart (a) above) that may be necessary to commence and complete design, permitting, contract procurement and construction of a surface parking facility on Lot E (as may be reduced by any Excluded Manager Parcels), containing the maximum number of parking spaces that can reasonably be constructed thereon.

(e) City shall improve the parking lot with asphalt paving, striping, lighting and other features as mutually approved by City and Manager based on the Applicable Parking Standard, and shall provide access and circulation as reasonably approved by Manager. City shall also include Accessible Parking Spaces, related signage, and any other elements as required by Applicable Construction Codes.

(f) Upon substantial completion of the Lot E parking lot, Manager will operate Lot E as an Off-Site Parking Facility, with priority for Arena Event-related parking, in accordance with an operating agreement as described in Section 19.5.

19.4.3 Excluded Manager Parcels. Manager shall have the right, in its sole discretion, to decide which of the Manager Parcels that it wants to exclude from the construction of the Lot E parking lot, subject to the following:

(a) At such time as Manager delivers the Lot E Notice to Proceed to City, Manager shall specify which, if any, of the Manager Parcels (but not the City-owned parcels) that Manager wishes to exclude; provided that the Excluded Manager Parcels shall start with parcel 259-29-026 and add contiguous Manager Parcel(s) from there. Manager may also designate a portion of a Manager Parcel for exclusion, rather than a whole Manager Parcel, provided that the excluded portion is contiguous to other Excluded Manager Parcel(s).

(b) City shall remain obligated to construct the maximum number of parking spaces that can reasonably be constructed on the reduced size/reconfigured Lot E. However, the difference between (i) the number of parking spaces that could have been constructed on all of the Lot E parcels and (ii) the number of parking spaces that can be constructed without the Excluded Manager Parcels (the "**Parking Space Difference**") shall be deducted from the Minimum Off-Site Parking Requirements, effective as of the commencement of construction of the Lot E parking lot improvements.

For example, if it is determined that 267 spaces could have been constructed on all of the Lot E parcels, but based on the Excluded Manager Parcels only 187 spaces can be constructed, the Parking Space Difference is 80. Thus, the Minimum Off-Site Parking Requirement for the 1/3 Mile Radius following the termination of the Lot D Lease would be reduced from 3,403 to 3,323.

(c) Completion of surface parking on Lot E in conformance with the foregoing requirements shall be deemed to satisfy City's obligation with respect to the total


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number of new parking spaces it is required to provide as described in Section 19.1.3 above.

19.4.4 Ground Lease for Included Manager Parcels. At such time as Manager delivers the Lot E Notice to Proceed, Manager shall also deliver to City a proposed form of ground lease for the Manager Parcels (or portions thereof) that will be included in the Lot E surface parking lot (the "**Included Manager Parcels**"). Unless otherwise mutually agreed by the Parties, the terms of the ground lease will include the following provisions:

(a) Rent for the Included Manager Parcels will be $1.00 per month.

(b) The term of the ground lease will extend for the term of this Agreement (and will terminate if this Agreement terminates); provided, however, that either Party may terminate the ground lease upon thirty (30) days' notice to the other Party if Lot E ceases to be used as a surface lot for public parking.

(c) Prior to City's construction of the surface parking lot, Manager will demolish any structures on the Included Manager Parcels, and clear the Included Manager Parcels at Manager's cost.

(d) Upon the termination of the ground lease, City shall have the right to continue to lease the Included Manager Parcels for the then fair market rental rate (determined by appraisal), but only for so long as Lot E is used as a surface lot for public parking.

(e) If Lot E ceases to be used as a surface lot for public parking (either because of the termination of the ground lease or for any other reason expressly permitted in this Agreement), then each Party shall retain all rights, title and interest in and to their respective parcels without the burden of the ground lease or any other requirements of this Agreement. However, such rights, title and interest will be subject to the provisions of any executed formal agreement between the Parties regarding a future Arena location.

19.4.5 Future Arena Location Agreement. If City and Manager execute a formal agreement with respect to a future Arena location, the terms of such agreement will control with respect to City's obligation to construct surface parking on Lot E and shall supersede any inconsistent provisions of this Agreement.

**19.5 Operation of New Parking Spaces by Manager.**

19.5.1 Operating Agreement with Manager. Pursuant to a separate ~~operating~~parking management agreement, Manager shall operate each of the new parking lots constructed by City on Lot E and Milligan as an Off-Site Parking Facility.

(a) As soon as practicable following the Effective Date of this Agreement, the Parties will work together in good faith to agree on a mutually acceptable form of ~~operating~~parking management agreement (which will be subject to approval by the City Manager on behalf of City).

(b) Operating revenues will first be applied to pay for Manager's operating expenses for the parking lot, including a reasonable fee for management and share of overhead. Manager shall submit operating budget to City annually for review and


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approval, which approval will not be unreasonably withheld. The net revenues from such operation shall be paid to City.

19.5.2 Priority for Arena Parking. Each of the new parking lots will be used exclusively for parking, with priority for Arena Event-related parking.

(a) Notwithstanding the foregoing, at the request of either Party, the Milligan parking or Lot E parking lot may be used for other activations that do not conflict with Arena Events, subject to the reasonable approval of the other Party.

(b) Any Qualified Parking Spaces in either Lot E or Milligan that are applied to other uses on a permanent basis at the request of Manager (with City's approval) shall be considered a Parking Space Difference that will reduce the Minimum Off-Site Parking Requirements on a one for one basis.

**19.6 City Expenditures.** City shall be responsible to make all expenditures necessary to fulfill City's parking obligations set forth in this Agreement. City shall have no obligation to provide, obtain or pay for the costs of additional parking to serve the Arena or incur any other obligation to provide, obtain or pay for the costs of parking to serve the Arena or incur other capital costs related to parking beyond the expenditures necessary to fulfill the City's obligations set forth in this Agreement.

**SECTION 20. PARKING SUPPLY AND UTILIZATION REPORTING; ADJUSTMENTS TO REQUIREMENTS.**

**20.1 Parking Supply and Forecast Reports.**

20.1.1 Parking Supply Report. On or about the Effective Date, City and Manager shall jointly prepare a written report of the number of Qualified Parking Spaces and Available Parking Spaces located within the 1/3 Mile Ring and the 1/2 Mile Ring. Such report ("**Parking Supply Report**") shall be reviewed by the Parties on an annual basis. Upon the request of either Party, but not more often than once each Term Year, the Parties shall work together in good faith to prepare a new Parking Supply Report to reflect then-current counts for the 1/3 Mile Ring (and for the 1/2 Mile Ring, if requested).

(a) Unless the Parties mutually agree otherwise, the methodology for determining the number of parking spaces reported in the Parking Supply Report shall be as follows:

(i) For each separate on-street and off-street parking area within the 1/3 Mile Ring (and the 1/2 Mile Ring, if applicable), the Parties will count and record the total number of Qualified Parking Spaces, without reference to the number of spaces that are unoccupied at 6:30 pm. These numbers will constitute the inventory of Qualified Parking Spaces presented in the Parking Supply Report.

(ii) Also, for each separate on-street and off-street parking area within the 1/3 Mile Ring (and the 1/2 Mile Ring, if applicable), the Parties will count and record the number of Qualified Parking Spaces that are unoccupied at 6:30 p.m. on three to six representative weekday evenings when there are no events or Intermittent Conditions at the Arena. The data for each evening will be totaled and the totals will be averaged. Such average will


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constitute the number of Available Parking Spaces presented in the Parking Supply Report.

(b) Unless the Parties mutually agree otherwise, where a parking area is located partly in the 1/3 Mile Ring and partly in the 1/2 Mile Ring, each such portion of the parking area shall be separately listed and separately counted.

(c) Unless the Parties mutually agree otherwise, Manager shall take primary responsibility for completing the Parking Supply Report, but shall use reasonable good faith efforts to schedule all counting work at times convenient to City, and shall provide City the opportunity to participate in and/or monitor the counting work performed by Manager.

(d) Manager shall deliver a copy of it to City within 30 days following completion of the counting work.

(i) If City requests any modifications to the Report, the Parties shall work together in good faith to make modifications that are acceptable to both Parties.

(ii) If City does not request any changes to the Parking Supply Report within 60 days after receipt from Manager, City shall be deemed to have accepted the Report as presented, and the Parties shall be deemed to have stipulated to the accuracy of the Report, absent manifest error.

20.1.2 Parking Forecast Report. Upon the request of either Party, but not more often than once each Term Year, the Parties shall work together in good faith to jointly prepare a written forecast report ("**Parking Forecast Report**") for the 1/3 Mile Ring (and the 1/2 Mile Ring, if requested). Such Report shall include a description of the changes in the number of Available Parking Spaces that are predicted to occur within the applicable area(s) during the ensuing five-year period based on anticipated new developments, modifications to existing developments, the opening or closure of parking facilities, and other known or predicted conditions affecting parking demand and supply within the 1/3 Mile Ring (and the 1/2 Mile Ring, if applicable).

(a) City shall provide Manager with information known to City regarding any planned or proposed new developments, modifications, or other relevant conditions that may affect the number of Available Parking Spaces during such five year period.

(b) Unless the Parties mutually agree otherwise, City shall take primary responsibility for completing the Parking Forecast Report, but shall confer with Manager in good faith regarding the applicable information to be included in the Report.

(c) City shall deliver a copy of the Parking Forecast Report to Manager within 30 days following receipt of a request from Manager.

(i) If Manager requests any modifications to the Report, the Parties shall work together in good faith to make modifications that are acceptable to both Parties.

(ii) If Manager does not request any changes to the Parking Forecast Report within 60 days after receipt from Manager, Manager shall be deemed to


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have accepted the Report as presented, and the Parties shall be deemed to have stipulated to the accuracy of the Report, absent manifest error.

(d) If the Parking Forecast Report indicates that there may be shortages in the number of Available Parking Spaces during the ensuing five year period, City shall prepare and deliver to Manager, within 90 days following its completion of the Parking Forecast Report, a schedule of several alternative solutions ("**Schedule of Parking Solutions**") that City would be able to pursue (subject to appropriate action by the City Council) in order to ensure that City will continue to meet its parking obligations under this Agreement.

(i) If Manager requests any modifications to the Schedule of Parking Solutions, the Parties shall work together in good faith to make modifications that are acceptable to both Parties.

(ii) If Manager does not request any changes to the Schedule of Parking Solutions within 60 days after receipt from City, Manager shall be deemed to have accepted the Schedule of Parking Solutions as presented, and the Parties shall be deemed to have stipulated to the reasonableness of the Schedule of Parking Solutions.

**20.2 Parking Utilization Report and Adjustments to Requirements.**

20.2.1 Parking Utilization Report. Upon the request of either Party, but not more often than once every three Term Years, the Parties shall work together in good faith to jointly prepare a written report ("**Parking Utilization Report**") to reflect the then-current utilization, during San Jose Sharks hockey games, of Available Parking Spaces in each of the parking areas within the 1/3 Mile Ring (and the 1/2 Mile Ring, if requested). Unless the Parties mutually agree otherwise, the methodology for determining such utilization shall be as follows:

(a) The Parties shall survey utilization of Available Parking Spaces during three San Jose Sharks games when no Short Term Temporary Conditions or Intermittent Conditions would skew the results (such as a special event on the same day), as mutually agreed by the Parties. Each survey shall be performed during the period of time commencing approximately 15 minutes before the start of the game and ending approximately 15 minutes after the start of the game.

(b) For each separate Off-Site Parking Facility (including on-street and off-street parking areas), the Parties shall separately record the following information to be included in the Parking Utilization Report:

(i) Total number of Available Parking Spaces (which shall be based on the current Parking Supply Report as described above); and

(ii) Total number of Available Parking Spaces occupied at the time of the survey (i.e., at approximately the same time as the start of the game) for each of the three nights, which totals shall be averaged.

(c) The average percent of Available Parking Spaces occupied shall be deemed to be the utilization rate (the "**Utilization Rate**"). The Parking Utilization Report shall list the Utilization Rate for each separate parking area within the 1/3 Mile Ring


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(and the 1/2 Mile Ring, if applicable) as well as for all parking areas within the 1/3 Mile Ring (and the 1/2 Mile Ring, if applicable).

(d) Unless the Parties mutually agree otherwise, where a parking area is located partly in the 1/3 Mile Ring and partly in the 1/2 Mile Ring, the Utilization Rate shall be determined separately for each such portion of the parking area.

(e) Unless the Parties mutually agree otherwise, Manager shall take primary responsibility for completing the Parking Utilization Report, but shall use reasonable good faith efforts to schedule all counting work at times convenient to City, and shall provide City the opportunity to participate in and/or monitor the counting work performed by Manager.

(f) Manager shall deliver a copy of the Parking Utilization Report to City within 30 days following completion of the counting work.

(i) If City requests any modifications to the Report, the Parties shall work together in good faith to make modifications that are acceptable to both Parties.

(ii) If City does not request any changes to the Parking Utilization Report within 60 days after receipt from Manager, City shall be deemed to have accepted the Report as presented, and the Parties shall be deemed to have stipulated to the accuracy of the Report, absent manifest error.

20.2.2 Adjustments Based on Change in Utilization Rates. City and Manager agree that over time the parking needs of Arena customers may change, and that a significant, sustained change in the Utilization Rates over at least three Term Years may justify adjustments to the Minimum Off-Site Parking Requirements. Unless the Parties mutually agree otherwise, the following procedures shall be used to determine whether any such adjustments should be made:

(a) If any Parking Utilization Report indicates that the Utilization Rate for the Off-Site Parking Facilities within the 1/3 Mile Ring (or the 1/2 Mile Ring, if applicable) is less than 75% of the Minimum Off-Site Parking Requirements for such area, then upon the request of either Party, City and Manager shall make reasonable good faith efforts to determine whether a decrease in the Minimum Off-Site Parking Requirements is warranted and could be made without negatively impacting Arena operations.

(b) If any Parking Utilization Report indicates that the Utilization Rate for the Off-Site Parking Facilities within the 1/3 Mile Ring (or the 1/2 Mile Ring, if applicable) is more than 95% of the Minimum Off-Site Parking Requirements for such area, then upon the request of either Party, City and Manager shall make reasonable good faith efforts to determine whether an increase in the Minimum Off-Site Parking Requirements is warranted.

(c) In making the foregoing determination, the Parties shall take into account all relevant information regarding changes that have occurred or are anticipated to occur, such as the following:


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(i) Changes in average attendance and peak attendance for the San Jose Sharks games (to ensure sufficient Available Parking Spaces during times when the San Jose Sharks are expected to draw capacity crowds);

(ii) Changes in the physical features and operational efficiencies of Off-Site Parking Facilities, with consideration given to factors such as distance to the Arena; visibility and accessibility; ingress and egress times; quality of the improvements; perceived safety in the parking area as well as the pedestrian pathway between the parking area and the Arena, and other qualitative factors;

(iii) Decreases in parking demand due to increased use by Arena customers of other modes of transportation including public transit, ride sharing services, bicycles, or walking;

(iv) Increases in parking demand due to parking by construction workers, transit riders departing from Diridon Station, nearby development, or other non-Arena sources;

(v) Decreases in the overall parking supply in the vicinity of the Arena, due to construction projects, the conversion of exclusive use surface parking lots to shared use parking structures, and other factors;

(vi) Changes in the location and dispersion of parking facilities serving Arena customers, as well as ingress and egress times to and from such facilities over public streets; and

(vii) Long term conditions such as major construction projects, sustained economic recessions, Force Majeure Events such as earthquakes or pandemics, or other situations that create anomalies in historical parking practices.

(d) If City and Manager both agree to make an adjustment in the Minimum Off-Site Parking Requirements, they shall confirm their agreement in a written amendment to this Agreement signed by both Parties. The new Minimum Off-Site Parking Requirements shall remain in effect until any subsequent adjustments are made following the procedures described above.

(e) Nothing herein shall be construed as obligating the Parties to agree to any adjustment to the Minimum Off-Site Parking Requirements. If the Parties do not mutually agree upon an adjustment to the Minimum Off-Site Parking Requirements, the then-applicable Minimum Off-Site Parking Requirements shall remain in effect, and there shall be no amendment to this Agreement.

**SECTION 21. COORDINATION AND COOPERATION.**

**21.1 Definitions and Context.**

21.1.1 Definitions. In this Agreement, the following terms shall have the meanings given below:

(a) "**BART**" or "**BART Project**" or "**BART Phase II**" means and refers to the Bay Area Rapid Transit public transportation project being implemented by VTA to bring


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BART service to the Diridon Area, pursuant to which a new BART station would be constructed immediately south of the Arena.

(b) "**Diridon Area**" or "**Diridon Station Area**" means the geographic area covered by the DSAP.

(c) "**Diridon Station**" means the central passenger rail depot and transit hub located along the railroad tracks at 65 Cahill Street in San Jose.

(d) "**DSAP**" or "**Diridon Plan**" means the Diridon Station Area Plan adopted by the City Council on June 24, 2014, and amended by resolution of the City Council on May 25, 2021. The DSAP is a component of the City's General Plan.

(e) "**DTW**" or "**Downtown West**" means Google's mixed-use development project located on approximately 80 acres within the Diridon Area and approved by the City Council on May 25, 2021.

(f) "**DTW Settlement Agreement**" means the Settlement and Release Agreement dated May 25, 2021, pursuant to which the Parties and Google resolved disputes that had arisen between them in connection with the DTW project approvals and the DSAP amendment approvals. A copy of the DTW Settlement Agreement is attached hereto as **Attachment No. 16** and incorporated herein by reference. For purposes of this Agreement, all references in the DTW Settlement Agreement to "SSE" shall mean and refer to Manager.

(g) "**High Speed Rail**" means the project being proposed by the California High Speed Rail Authority to construct a high speed train system that would include 21 miles of track through San Jose and use the Diridon Station as its passenger depot.

(h) "**Side Letter to 2018 AMA**" means the Side Letter Regarding Future Discussions dated August 15, 2018, and executed concurrently with the 2018 AMA.

(i) "**VTA**" means the Santa Clara Valley Transportation Authority.

21.1.2 Mutual Commitment.

(a) The Side Letter to 2018 AMA contains a general statement regarding the Parties' mutual commitment concerning to the evolution of the parking and transportation "ecosystem" in the Diridon Station Area, as follows:

***"OUR MUTUAL COMMITMENT***

*Following the execution of the AMA, City and Manager will continue to meet in good faith to discuss long-term, integrated, and shared parking solutions for the benefit of the community and the key stakeholders in the Diridon Station Area, including transportation agencies and residential and corporate developers. These meetings will include discussions addressing (i) the City's desire to encourage construction and development projects in the Diridon Station Area; (ii) construction management plans, including mitigation of construction impacts; (iii) changes that may result from the new development; (iv) Manager's access and parking requirements in coordination with the transportation and development projects surrounding the SAP Center; and (v) alternative ways to*


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*achieve solutions for Manager's parking operations as part of the development of these projects.*

*Such discussions will recognize one of the primary objectives of the Diridon Station Area Plan, which is to "ensure the continued vitality of the San Jose Arena, recognizing that the Arena is a major anchor for both Downtown San Jose and the Diridon Station Area, and that sufficient parking and efficient access for Arena customers, consistent with the provisions of the Arena Management Agreement, are critical for the Arena's on-going success."*

*Without limiting the foregoing, Manager is open to the future possibility of relocating, reconfiguring, restructuring or otherwise reorganizing the parking facilities that serve the SAP Center, provided that any such reorganization is accomplished through a comprehensive plan that, on a holistic basis, preserves the access for SAP Center patrons and the overall quality of the parking ecosystem, including the operational and revenue-generating aspects of the parking as described in the AMA."*

(b) City and Manager reaffirm such mutual commitment, and agree that the following provisions of this Section 21 include implementation measures and strategies designed to fulfill such commitment and to satisfy other obligations of the Parties under this Agreement.

(c) City and Manager also recognize that (i) one or more of the transit projects or development projects that have been planned to date may not proceed as anticipated, or may be substantially modified from what has been anticipated, and (ii) it is extremely difficult to predict what impact these projects may have on the operations of the Arena and the ingress to and from the Arena and the timing of that impact. Therefore, the Parties must be prepared to adapt the following implementation measures and strategies based on changing circumstances, keeping in mind that the overarching goal, as stated above, is to "*ensure the continued vitality of the San Jose Arena."*

**21.2** **Parking Matters.** City shall continuously monitor and evaluate development within the 1/2 Mile Radius, to help ensure that its parking obligations under this Agreement will continue to be met throughout the entire Term. Among other things, City shall have the following obligations:

21.2.1 Significant Land Use Decisions. City shall coordinate with Manager regarding significant land use and development decisions within the 1/2 Mile Radius, to ensure that the required number of Available Parking Spaces is maintained. Such coordination obligations shall include, but not be limited to, the following measures:

(a) City shall refer to Manager all development proposals on parcels within approximately 1/3 of a mile of the Arena that have off-street public parking facilities, and are in excess of 25,000 square feet. Referrals shall include the cover letter, plan set, and other relevant materials the applicant provides as part of the project submittal. Referrals shall also include notification of preliminary review applications, initial studies, and environmental impact reports (including draft and final EIR's, amendments and addenda). Staff shall provide comments received in a timely manner from Manager to the applicant and consider them in formulating initial comments the City may


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provide on the proposed project.

(b) For development proposals on parcels within approximately 1/3 of a mile of the Arena that have off-street public parking facilities, and are in excess of 100,000 square feet of commercial space or in excess of 50,000 square feet of stand-alone retail/restaurant projects, City shall require the applicant to conduct a parking analysis for the project. These projects would be required to analyze and identify the projected parking demand, demand management strategies, and the parking supply to be provided by the project. The analysis would identify the impacts of the project on the existing parking supply within the Diridon Station Area, and suggest ways to mitigate the impact if it is deemed significant. The analysis would also include an assessment of spaces impacted or needed during construction.

(c) For the BART, High Speed Rail and/or Diridon Station redevelopment transit projects, the City shall request that the lead agency conduct a project parking analysis. The analysis should include a projection of parking demand, demand management strategies, recommended parking supply solutions, and potential impacts on the existing parking supply within the Diridon Station Area, including suggested ways to mitigate the impact if it is deemed significant. The results of any parking analysis shall be provided to Manager for review and comment. City shall consider Manager's timely feedback in formulating comments that City forwards to the lead agency as part of the project development and approval process.

21.2.2 Shared Parking for Non-Residential Development. For non-residential development that would result in the substantial loss of Available Parking Spaces, and in compliance with Municipal Code Section 20.90.800 (Parking Minimums), City will strive to include shared parking as a condition of development if necessary to mitigate the loss of parking. The shared parking condition would require that the development's parking facilities be available for the general public, with or without fees, at times when the parking facilities within the development are not being fully used by the development.

21.2.3 DTW Vertical Improvements Conformance Review for Replacement Parking Facilities.

(a) Paragraph 2.d of the DTW Settlement Agreement recites that the DTW "Conformance Review Implementation Guide" has been revised to include the following provision:

*"At least seven (7) business days before submitting a Conformance Review Application for Vertical Improvements (schematic level of design) that includes replacement parking facilities proposed by the project sponsor to be made available to [Manager], the project sponsor shall provide written notice to up to three [Manager] representatives, as identified by [Manager], of the anticipated Conformance Review Application. If within seven (7) business days of receiving such notice, [Manager] requests a meet and confer meeting ("Meet and Confer") with the project sponsor and the City regarding the Conformance Review Application, then the project sponsor shall provide [Manager] with a copy of the project sponsor's Conformance Review Application concurrent with its application submittal to the City.*


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*The project sponsor and City shall use commercially reasonable efforts to schedule and conduct the Meet and Confer with [Manager] within seven (7) business days following Conformance Review Application submittal. At the Meet and Confer, [Manager] may provide the project sponsor with comments on the applicable Conformance Review Application, which comments shall be (1) limited to the design and function of those parking facilities proposed to be publicly accessible, including for [Manager] and its patrons; and (2) focused on industry best practices relating to the design and function of such parking facilities. The City may in its discretion consider comments provided by [Manager] during the Meet and Confer as part of the City's review of the Conformance Review Application pursuant to the [applicable] timelines …"*

(b) City shall adhere to the foregoing procedures, and shall use reasonable efforts to ensure that Google (or a successor project sponsor) has timely provided Manager with the notices described above. In addition, City acknowledges that the reference to "industry best practices" above is to be interpreted in the context of the discussions with Manager regarding the operational functionality of the parking facilities for Arena Events, taking into consideration the Parking Design Criteria in Section 21.2.5 below.

21.2.4 Enforcement of DTW Parking Requirements. Attachment 1 to the DTW Settlement Agreement consists of a redlined version of Exhibit K to the Downtown West Development Agreement (the "**Downtown West Parking Requirements**"), which reflects amendments required by the DTW Settlement Agreement.

(a) City agrees to perform its obligations under the Downtown West Parking Requirements, and to enforce Google's obligations thereunder, in accordance with the terms and conditions thereof.

(b) Notwithstanding the foregoing, City agrees as follows with respect to the interpretation of City's parking obligations under this Agreement:

(i) City acknowledges and agrees that nothing in the Downtown West Parking Requirements modifies the obligations of the Parties under this Agreement.

(ii) Without limiting the foregoing, as between City and Manager, the definitions set forth in this Agreement shall control over any inconsistent definitions in the Downtown West Parking Requirements.

(iii) Further, any provision of the Downtown West Parking Requirements that gives City (through the Director of PBCE) the "sole discretion" to reduce the "Required Parking Ratio" for the Downtown West project shall not affect the Minimum Off-Site Parking Requirements under this Agreement.

21.2.5 Parking Design Criteria. In furtherance of City's obligation to provide Manager with an opportunity to review and comment on the design of new parking garages or other structured parking facilities that could include Qualified Parking Spaces, Manager has developed a set of design criteria ("**Parking Design Criteria**") intended to maximize the operational functionality, safety and desirability of parking garages for Arena Events. City


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agrees it will consider these Parking Design Criteria in evaluating any proposed project that could provide Qualified Parking Spaces. The Parking Design Criteria are as follows:

(a) Use an approximately 8.5' x 17' standard stall size, with an approximately 26' wide drive aisle, to achieve a minimum 60' bay width for double loaded parking and 90-degree circulation. If one-way circulation is provided, use industry standard bay width for selected angle of parking. Align parking bays in the predominate direction of pedestrian travel.

(b) Provide safe and efficient traffic operation both within the garage and at the entrances and exits during both the arrival and departure peak hours for SAP Center Events. For the arrival peak period, ensure that there is adequate queueing space and that entering traffic is not disrupted or delayed by vehicles exiting during this period. For the departure peak period, ensure that motorists can exit within an approximate 30 minute window after the end of an Event. All the above operational provisions should be demonstrated through calculations using industry standard methodologies. Design facilities for pay upon entry and free flow for exit.

(c) If the garage has a capacity of more than 500 spaces the ability to connect to more than one street or have two different entrance/exit locations should be considered if at all possible, in order to provide redundancy.

(d) The number of lanes at a driveway entry/exit should take into consideration the movements on the street it connects to. Lanes into and out of a facility should provide access to more than one path to parking stalls upon entry to facilitate redundancy of flow. Preferably drive entry and exits shall be part of an intersection with the street to enhance visibility and the ability to control traffic.

(e) Exits should be designed with appropriate sight distance triangles that allow drivers approaching the exit to see pedestrians on the sidewalk and vehicles on the street. Entries and exits should be designed to minimize curvatures, merges and weaving, all of which reduce the capacity of traffic flow. The width of entry and exit lanes should not be constrained to where flow will be reduced. Visibility to other vehicles and to the path of travel shall be prioritized.

(f) Strive to provide ramping systems that efficiently accommodate peak traffic flows, including no parking on ramps and minimizing the number of turns and parked vehicles that a car must pass by to get to other floors. Ramps connecting a maximum of 3 levels in one path should be utilized where feasible to best accommodate high peak flows. Redundant ramps to facilitate flow should be considered in any facility that exceeds 500 spaces. Ramps that exit to the street should be designed per the City of San Jose Department of Public Works typical driveway profiles for below grade parking at a minimum. Internal ramps should be designed with an 18% maximum slope with 9-10% blends at the top and bottom.

(g) Provide high level of safety and security, including use of security cameras. For a stand alone structure, utilize glass back elevators and open stairs for safety.


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(h) Utilize materials that meet a standard for high quality façade, high durability and ease of maintenance.

(i) Provide high quality interior ambience, e.g. enhanced lighting, painted interiors, and satisfactory floor to floor height.

(j) Provide restrooms, which are open and monitored during Events.

(k) Provide number and size of elevators and stairs to effectively accommodate peak pedestrian flows. Vehicles coming to an Event typically have an average of 3 persons per vehicle.

(l) Locate pedestrian entries, lobbies, elevators and stairs to conveniently accommodate pedestrian movements between parking facility and SAP Center, and avoid conflicts between major pedestrian movements and major vehicle movements at intersections and driveways.

(m) Use long span design if parking is in a stand-alone parking garage. If under a building and using a short span design add 1'-0" to stall width adjacent to columns to make it easier for cars to pull in and out, speeding up the flow.

(n) Use moment frames if parking is in a stand-alone parking garage. Avoid moment frame columns at locations where cars need to turn. If under a building and shear walls are used, avoid walls within 30 ft. of the end of drive aisle or where it would block a driver's view at a turn. Avoid columns that impact turning maneuvers.

**21.3** **Transportation Matters.** City shall coordinate with Manager regarding transportation projects, transportation plans, and other transportation matters in the vicinity of the Diridon Station Area or that may otherwise affect ingress to and egress from the Arena, including as follows:

21.3.1 Transportation Projects. For transportation projects such as BART and High Speed Rail, City will request that the lead agency conduct a transportation analysis that evaluates potential adverse impacts on traffic and parking in the vicinity of the Diridon Station Area, with the objective of ensuring that appropriate mitigation measures are included to protect the Arena's operations from such adverse impacts. City shall also consider Manager's timely feedback in formulating comments that City forwards to the lead agency as part of the project development and approval process.

21.3.2 TPMP's. City and Manager shall coordinate regarding the Transportation and Parking Management Plan for the Arena as well as TPMP's for the Arena Green, BART, High Speed Rail, and other major development projects, all as set forth in Section 23 below.

21.3.3 Streets and Intersections. City and Manager shall also coordinate regarding any material changes to the design, configuration or operation of the major streets and intersections in the vicinity of the Arena to the extent that they may have a direct impact on the safe and efficient flow of vehicular, bicycle, and pedestrian traffic to and from the Arena, including Barack Obama Boulevard and the intersection at Barack Obama Boulevard and Park Avenue.

(a) City shall give Manager advance notice of any such material changes, including copies of relevant plans and specifications, and shall meet with Manager in advance of any work in order to discuss Manager's input and suggestions.


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(b) The Parties shall work together in good faith with the goal of achieving the best overall function of the streets and intersections for the benefit of both the Arena and all other development in the Diridon Area, taking into account the Transportation Objectives described in Section 21.3.6.

21.3.4 Alteration of Sidewalks.

(a) City shall not allow any Alteration of any sidewalks along Arena frontages at W. Santa Clara Street or Barack Obama Boulevard without Manager's consent that such Alteration does not materially negatively affect operations of the Arena (such as safety, security, crowd control, etc.). Manager's consent shall not be unreasonably withheld, conditioned or delayed.

(b) Nothing herein shall affect City's obligations under other applicable provisions of this Agreement concerning implementation of Alterations work, such as providing plans to Manager for Manager's comments, coordinating with Manager regarding the work schedule, and complying with Governing Standards.

21.3.5 DTW Settlement Agreement Provisions re Configuration of Streets. Without limiting the foregoing, based on the terms of the DTW Settlement Agreement and the provisions of this Agreement, City confirms the following matters with respect to the proposed configuration of the streets near the SAP Center as affected by Downtown West:

(a) West Santa Clara Street near the SAP Center: No reductions in general traffic through lanes are being proposed or approved along West Santa Clara Street as part of the Downtown West project. Per the Diridon Station Area Plan, City and VTA were exploring potential public service lane configurations for transit and emergency vehicle service; however, this is a separate effort from Downtown West, and City will continue to coordinate discussions on this matter with area stakeholders, including Manager.

(b) Barack Obama Boulevard (between Santa Clara and San Fernando Streets): As shown on the DTW Vesting Tentative Map, the roadway (curb-to-curb space) includes two options:

(i) A dynamic lane on one side of the roadway and two through lanes; and

(ii) A through lane on one side of the roadway, one center turn lane, and a second through lane on the other side of the roadway.

City will determine the final configuration of the public right-of-way, including this portion of the roadway, during the Conformance Review process (as defined in the DTW project approvals), including with ongoing input from Manager.

(c) Manager acknowledges that City retains final decision-making regarding all public rights-of-way, whether in connection with the DTW project or otherwise. However, City agrees that when considering any reconfigurations or other material modifications, City will take into account the Transportation Objectives described below.

(d) Nothing in the DTW Settlement Agreement shall affect City's obligations under other applicable provisions of this Agreement concerning coordination with


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Manager regarding transportation projects, transportation plans, and other transportation matters in the vicinity of the Diridon Station Area or that may otherwise affect ingress to and egress from the Arena. In the event of any conflict or inconsistency between the terms of the DTW Settlement Agreement and the terms of this Agreement, the terms of this Agreement shall control.

21.3.6 Transportation Objectives. In furtherance of City's obligation to coordinate with Manager regarding transportation matters that may affect ingress to and egress from the Arena, City has developed a set of objectives ("**Transportation Objectives**") that City agrees it will utilize in evaluating (i) any proposed construction management plans, traffic management plans, related encroachment permits or other similar approvals for any large development projects in the vicinity of the Arena, and (ii) any proposed City-initiated modifications to the transportation ecosystem serving the Arena, including changes in road capacity for vehicles, ingress and egress to parking spaces, or wayfinding. Such Transportation objectives include (but are not limited to) the following

Objectives specific to potential lane closures:

(a) To the maximum extent possible, avoid any lane closures on Santa Clara Street near Diridon Station and the SAP Center.

(b) If lane closures on Santa Clara Street are unavoidable from time to time during a construction project, seek to maintain four (4) through lanes for vehicles and buses (two westbound and two eastbound) for the duration of construction. The City will work with Manager and the project team to determine if and how to reconfigure the roadway to achieve this.

(c) To the maximum extent possible, avoid physical impact north of the outside curb on the north side of Santa Clara Street from Highway 87 to the west side of the entrance to Lot A. If it is not possible to avoid such impact, City will work with Manager and the project team to determine how to best mitigate the negative effects of such impact.

(d) To the maximum extent possible, avoid closure of Montgomery Street unless and until Barack Obama Boulevard is converted to two-way conditions between Santa Clara Street and Park Avenue.

(i) Closing Montgomery Street will impact the southbound traffic headed from the SAP Center to 280; ensuring Barack Obama Boulevard as a two-way roadway is the only logical alternative.

(ii) If a construction project requires lane closures from time to time, then to the extent feasible, seek to maintain two lanes northbound and two lanes southbound on Barack Obama Boulevard during the construction period. (City will do some initial work regarding feasibility / desirability, given desired turning movements, signalization implications, and roadway space.)

(iii) This will require certain approvals with long lead times, and City will require project proponents to act accordingly when preparing designs and submitting applications.


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Manager acknowledges that there may be circumstances under which City may not have the legal authority or power to enforce the above Transportation Objectives or to determine the outcome of the above items. However, any lack of control over such outcomes shall not affect City's obligation to pay for any Incremental TPMP Costs resulting from lane closures or other street network modifications, pursuant to Section 23.1.5 below.

More general objectives to mitigate construction-related impacts:

(e) To help develop and refine construction and traffic management plans, convene a broad range of local stakeholders to provide input into the plans, including the Arena Authority and Manager, among others.

(f) Work cooperatively with transit partners to maximize transit usage, with the shared objective of increasing transit share from the roughly 7% of Event attendees at present to more than 20%, in order to minimize traffic near construction, increase sustainability and awareness of transit options, and prepare Event attendees for BART opening. In accordance with this objective, City and Manager, cooperatively, will seek to increase usage of transit and minimize vehicular traffic during construction by:

(i) During BART construction in the vicinity of the Arena, seeking to provide free or discounted VTA and Caltrain transit to people with a ticket to the SAP Center.

(ii) Jointly using best efforts to ensure transit and rail services (including Caltrain) are available for Arena customers after the conclusion of Events.

(iii) Promoting/marketing free transit to games/events as a way to avoid construction-related issues and measuring the use of transit to games/events.

(g) To offset impacts to Santa Clara Street and other common routes people use to walk to and from the SAP Center, financially support pedestrian-oriented improvements to Sharks Way and other alternate pedestrian routes.

(h) Pay similar attention to the quality of the trip to / from Diridon Station to ensure continued transit/rail usage and a safe, intuitive trip for people using the station.

(i) Request that project sponsors focus on quality of conditions, even during construction (e.g., cleaned up work sites, quality conditions of interim/construction striping, wayfinding/signage, art and placemaking, etc.).

(j) Request that project sponsors commit to high levels of customer service, coordination, and communication during construction. This includes close coordination with Events to ensure smooth load-in/load-out; a call line and office staffed at all hours to deal with emergency/unexpected situations; proactive quality graphics and information to communicate construction conditions and alternative routing/ transportation suggestions for patrons.

(k) Request that project sponsors pay close attention to detail around the quality of construction materials and commit to a locally based program of art, wayfinding,


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and local business promotion that enables fun, community-based public spaces during construction (e.g., k-rail with Sharks-themed art); wayfinding and promotional signage; partnership with local arts and business groups.

(l) Require project sponsors to create a clear contingency plan for emergencies caused by a specific transportation construction project and make necessary preparations (e.g., battery backup systems, etc.).

(m) Require project sponsors to carefully evaluate hours of construction operation and the duration of construction, with trade-offs transparently laid out as part of the collaborative decision-making process. For Arena Events, preferred outcomes include:

(i) No construction in the public right of way from four hours prior to Event start until two hours after Event end; for a weekday, that typically would be between 3:30/3:45pm and midnight.

(ii) Avoid major construction in public right of way during the Hockey Season and large shows (which typically occur in August).

(iii) As described above, maintain a quality customer experience through clean, safe, and attractive worksites with local promotions and/or artwork.

(iv) Appoint a site-based construction staff member as the operational coordinator with SAP Center Parking to allow small issues to be resolved quickly and on site.

**21.4** **Coordination Meetings.** City and Manager agree that time is of the essence with respect to the obligations under this Agreement, and agree to use reasonable good faith efforts to meet and confer as often as necessary to prioritize and resolve parking, traffic and transportation issues in the vicinity of the Arena.

21.4.1 Meeting Participants. The City Manager's office, with the assistance of the Arena Authority, will engage the appropriate City departments and other agencies and stakeholders to participate in meetings with Manager as necessary, including the Department of Transportation, the Police Department, the Planning Department, the Public Works Department, the VTA, and Google.

21.4.2 Issues to be Addressed. Issues to be addressed between the Parties shall include the following:

(i) The operation and management of Off-Site Parking Facilities;

(ii) The location and manner of providing parking for Arena Employees;

(iii) Any Temporary Conditions that impact the Available Parking Spaces and any requested Temporary Parking Agreements;

(iv) Preparation of the Parking Supply Report, the Parking Forecast Report, and the Schedule of Parking Solutions, and any issues related thereto;


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(v) Preparation of the Parking Utilization Report, and any adjustments to the Minimum Off-Site Parking Requirements based on the results of such Report;

(vi) The design, construction and operation of BART, High Speed Rail and other transportation projects, including associated parking facilities and traffic impacts;

(vii) Development projects with the 1/3 Mile Ring and the 1/2 Mile Ring;

(viii) The identification and evaluation of sites for development of additional Off-Site Parking Facilities as needed, including both surface lots and structured parking facilities;

(ix) Shared parking in the vicinity of the Arena;

(x) The extension and realignment of N. Autumn Street and/or Barack Obama Boulevard;

(xi) Revisions to the TPMP's for the Arena, transportation projects, and other major projects; and

(xii) Other on-site and off-site transportation and parking issues.

21.4.3 Quarterly Event Coordination with Google. Under the DTW Settlement Agreement, City, Manager and Google have agreed as follows, with capitalized terms having the meanings given in the DTW project approvals unless otherwise defined herein:

(a) Following the completion and commencement of the use of Privately-Owned Publicly Accessible Open Space and any Event/Conference Center space within the DTW project site, Google and Manager shall meet on a quarterly basis, or with such other frequency mutually agreed to between the parties, for the following purpose: (i) to identify special events anticipated to occur for the upcoming year or more on Privately-Owned Publicly Accessible Open Space, Event/Conference Center space, City-Dedicated Open Space, and at the SAP Center; and (ii) to coordinate on the special events to address any potential transportation and access issues that may impact Manager's operation of the SAP Center or Google's operation of the DTW project site.

(b) City shall facilitate the quarterly meetings described above.

21.4.4 Procedures for Review of DTW Project Applications. In accordance with the DTW Settlement Agreement, City shall implement the following procedural improvements in coordination with Manager:

(a) Establish an internal system within its development and project review system to notify City staff when a proposed project or permit request requires a review of this Agreement and/or coordination with Manager;

(b) Implement a process improvement to ensure that Construction Impact Mitigation Plans (CIMPs) for vertical and open space development within the vicinity of the SAP Arena are shared with Manager for feedback prior to building permit submission, allowing sufficient time for meaningful review and input; and


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(c) City acknowledges that under the Downtown West Parking Requirements, Google is required to meet and confer with Manager regarding the design of proposed DTW parking facilities prior to submitting an application to City's Department of Transportation for approval of such design. City (though DOT) shall implement a procedure to ensure that DOT receives Manager's comments regarding the parking facility design as part of the approval process.

The foregoing procedural requirements are in addition to all other requirements set forth in the DTW Settlement Agreement and other provisions of this Agreement.

**SECTION 22. NOTICE AND CURE OF PARKING DEFICIENCY.**

**22.1 Notice of Parking Deficiency.**

22.1.1 Definition of Parking Deficiency. In this Agreement, the term "**Parking Deficiency**" shall mean the situation that exists when the number of Available Parking Spaces in Off-Site Parking Facilities is not sufficient to meet the Minimum Off-Site Parking Requirements, taking into account any adjustments made pursuant to the express terms of this Agreement.

22.1.2 Delivery of Notice of Parking Deficiency. If Manager reasonably believes that there is a Parking Deficiency, Manager may deliver a written notice to City ("**Notice of Parking Deficiency**") describing with particularity the nature and scope of the Parking Deficiency.

(a) Manager may, but shall not be required to, include in the Notice of Parking Deficiency (i) Manager's assessment of the apparent causes of the Parking Deficiency, and (ii) the actions and work that Manager believes City should take in order to cure the Parking Deficiency.

(b) Manager may not give City a Notice of Potential Event of Default (as described in Section 38.1.3) alleging a breach of City's obligations with respect to Minimum Off-Site Parking Requirements until 30 days after Manager gives City a Notice of Parking Deficiency.

**22.2 Notice of Anticipated Parking Deficiency.**

22.2.1 Definition of Anticipated Parking Deficiency. In this Agreement, the term "**Anticipated Parking Deficiency**" shall mean the situation that exists when a Parking Deficiency is anticipated to occur within the ensuing 6 month period, based on the anticipated supply of Available Parking Spaces in Off-Site Parking Facilities, and the anticipated demand for the use of such spaces before, during and after Arena Events.

22.2.2 Delivery of Notice of Anticipated Parking Deficiency. If Manager reasonably believes that there is an Anticipated Parking Deficiency, Manager may elect to deliver a written notice to City ("**Notice of Anticipated Parking Deficiency**") describing with particularity the nature and scope of the Anticipated Parking Deficiency.

(a) Manager may, but shall not be required to, include in the Notice of Anticipated Parking Deficiency (i) Manager's assessment of the apparent causes of the Anticipated Parking Deficiency, and (ii) the actions and work that Manager believes City should take in order to cure the Anticipated Parking Deficiency.


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(b) Manager's delivery (or non-delivery) of a Notice of Anticipated Parking Deficiency shall not affect Manager's obligation to give a 30 day Notice of Parking Deficiency prior to delivering any Notice of Potential Event of Default regarding City's parking obligations, as described in Section 22.1.2(b) above.

**22.3** **Notice of Self-Help Work.** Concurrently with delivery of a Notice of Parking Deficiency or a Notice of Anticipated Parking Deficiency, or at any time thereafter, Manager may give City a Notice of Self-Help Work as described in Section 38.3.7 below. If Manager proceeds with any Self-Help Work, the provisions of Section 38.3.7 shall apply.

**22.4** **City's Written Response.** Promptly after receipt of a Notice of Parking Deficiency, Notice of Anticipated Parking Deficiency or Notice of Self-Help Work, City shall give Manager its written response to the same.

(a) If City objects to any claims, conclusions or other statements in any such notice, City shall describe with particularity the reasons for such objection.

(b) If City elects to cure a Parking Deficiency or Anticipated Parking Deficiency identified by Manager, City shall describe with particularity the manner in which City intends to perform the necessary work and fund the costs of such work.

**22.5.** **Purpose of Notice Provisions.** The purpose of the notice provisions described above is to provide City with an additional notice and opportunity to cure any Potential Events of Default with respect to City's parking obligations under this Agreement. Notwithstanding any notice given or response thereto, the determination as to whether there is in fact a Potential Event of Default, or whether any such Potential Event of Default has in fact been cured, shall be determined solely in accordance with the applicable provisions of Section 38 (regarding Default and Remedies). Nothing in this Section 22 shall amend, abridge or waive any rights or remedies of either Party under Section 38. Any disputes between the Parties related to the matters above shall be subject to Mediation as provided in Section 39.

**SECTION 23. TRANSPORTATION AND PARKING MANAGEMENT PLANS.**

**23.1** **Arena TPMP**. Manager and City have agreed to a traffic and parking management plan for the Arena, entitled "SAP Center Transportation & Parking Management Plan, 7th Edition," a copy of which is attached as **Attachment No. 13** to this Agreement (the "**Arena TPMP**"). Among other things, the Arena TPMP identifies goals and strategies for: (i) the operation and management of the On-Site Parking Facilities; (ii) the provision of convenient Off-Site Parking Facilities for Arena employees and customers; (iii) the safe and efficient ingress to and egress from the SAP Center by pedestrians, vehicles, and other modes of transportation; and (iv) minimizing traffic congestion on surrounding roadways.

23.1.1 Background.

(a) The Parties agree that because of the lack of adequate On-Site Parking Facilities, the success of the Arena is dependent on an effective TPMP to move people to and from the Arena.

(b) Manager and City agree to use reasonable good faith efforts to correct by appropriate means and methods any material deficiencies in the provision of and effective use of the On-Site Parking Facilities and Off-Site Parking Facilities. This includes an obligation by the City to use its reasonable good faith efforts to


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devote sufficient operating funds and resources to make the movement of cars and people effective and efficient.

23.1.2 Contents of Arena TPMP. The Arena TPMP is intended by the Parties to address traffic, parking and pedestrian issues of concern to City, Manager, Arena customers and the surrounding neighborhoods arising from the usage of the Arena. The Arena TPMP includes strategies deemed necessary by the Parties to establish the means by which they shall implement their respective rights and obligations pertaining to traffic and parking, including strategies to address the following issues:

(i) ingress and egress to the Arena Facilities and Off-Site Parking Facilities;

(ii) coordinated traffic control procedures for signalization, pedestrian flow movement, vehicular flow movement, and coordination of conflicts between the same;

(iii) the provision, replacement and substitution of Off-Site Parking Facilities by City;

(iv) the use and availability of On-site and Off-site parking spaces for Arena Events;

(v) Off-site traffic control (including personnel and Arena Employee parking, bus parking, parking payments and charges);

(vi) guide signs on regional and local roadways and San Jose freeways for motorists coming to the Arena, guide signs for parking and pedestrians, public information promotion and signage; and

(vii) coordination with mass transit authorities.

23.1.3 Modification of Arena TPMP. The Arena TPMP shall be subject to modification as the Parties may agree from time to time.

(a) The Arena TPMP attached to this Agreement was updated effective as of July 1, 2025, to address significant changes in the Diridon Station Area since the date of the last update to the TPMP in 2005.

(b) The Arena TPMP is intended to be a working document and contains both the ability and the requirement to adjust to changing conditions, and to improve as the Parties may agree, provided that no such changes shall operate to limit or reduce the scope and purpose of the Arena TPMP.

(c) The Parties do not expect that the Arena TPMP will need to be updated very often, but agree to work together in good faith to update and revise the Arena TPMP upon the request of either Party if there is a significant change in conditions that warrants a revision.

23.1.4 Legal Effect of Arena TPMP. Neither the Arena TPMP nor any modification thereto shall be construed to amend this Agreement, but the Arena TPMP may be used to help interpret the Parties' intentions and respective obligations under this Agreement. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Arena TPMP, the terms of this Agreement shall control.


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23.1.5 Operations and Management under the Arena TPMP. In 1993, the City established the Arena Events and Operations Committee ("**AEOC**"), which is managed by City's Department of Transportation ("**DOT**") and which is comprised of representatives from Manager, the Arena Authority, DOT, other City departments, and other private and public organizations.

(a) The AEOC is responsible for developing and regularly updating a manual ("**Operations Manual**") that reflects the four traffic and parking management strategies currently described in the Arena TPMP, which strategies shall be subject to modification as described therein. The Operations Manual includes specific details about the traffic and parking plans ("**Operations Plans**") to be implemented for different Arena Event scenarios based on the estimated attendance level, day and time of the Event, and other features. Each of the Operations Plans includes ingress and egress plans, traffic officer positioning and functions, signage plans, parking strategies, and so forth.

(b) The AEOC is also responsible for regularly monitoring the ongoing performance of the Operations Plans, and recommending adjustments as needed. Manager and City shall consult with each other and act reasonably to agree on modifications to the Operations Manual and Operations Plans, taking into account the recommendations of the AEOC; provided, however, that any such modifications will be consistent with the common objective of implementing measures that provide for the most effective use of the On-Site Parking Facilities and Off-Site Parking Facilities and the most effective security measures during Arena Events.

(c) The Parties agree to work together to review and update the Operations Manual by no later than July 1 of each year, and to make additional interim modifications whenever reasonably needed based on any material change in circumstances. Each updated Operations Manual will include a page for Manager and City's Director of Transportation to sign and date, acknowledging receipt and acceptance of such modified Operations Manual.

(d) The Operations Manual is not intended to be an attachment to the Arena TPMP, as it is a fluid document that is expected to be updated at least annually. However, the Operations Manual should be consistent with the Arena TPMP in every material respect, and serve to implement the strategies set forth in the Arena TPMP.

23.1.6 Legal Effect of Operations Manual. Neither the Operations Manual nor any modification thereto shall be construed to amend this Agreement. However, the Operations Manual (and the Operations Plans included therein), as modified from time to time, shall be used as the basis for determining the appropriate level of staffing for Off-Site Traffic Control Services as set forth in Section 24.2 below. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Operations Manual, the terms of this Agreement shall control.

23.1.7 Incremental costs of Implementing Arena TPMP.

(a) Definitions. As used in this Section 23.1.7, the following terms shall have the meanings given below


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(i) "**CPI**" means the Consumer Price Index - All Urban Consumers for All Items (with a base period of 1982 - 1984 = 100) for the San Francisco-Oakland-Hayward Area published by the United States Department of Labor, Bureau of Labor Statistics. In the event the CPI Index is no longer published, another index published by either the State of California or a federal department or agency that is charged with the responsibility of measuring the cost of living in the geographical area that includes the City or comparable to the City.

(ii) "**TPMP Costs**" means all costs reasonably necessary to implement the Arena TPMP, pursuant to the Operations Plans contained in the Operations Manual (as modified from time to time in accordance with this Agreement), including costs for Off-Site Traffic Control Services (currently payable by Manager pursuant to Section 24.2 below) and costs to implement the following items (payable by City pursuant to Section 8.2.3 above):

(1) Signal Central staffing
(2) Parking and code enforcement staffing
(3) Neighborhood litter removal and clean up
(4) Signal timing plan development
(5) Traffic and parking studies
(6) Traffic signal system upgrades
(7) Traffic signage (static and portable)
(8) Minor public capital improvements
(9) Residential permit parking program
(10) Public information material.

(iii) "**Baseline TPMP Costs**" means the average of the annual TPMP Costs incurred by Manager for the three full Term Years prior to the onset of the COVID-19 pandemic (i.e., Term Years 16/17, 17/18 and 18/19); provided, however, that (i) prior to calculating the average, the annual costs for Term Years 16/17 and 17/18 shall be increased by the equivalent percentage increase in the CPI for the applicable time period; and (ii) thereafter, the calculated average shall be further increased as of the end of each Term Year (starting in Term Year 19/20) by the equivalent percentage increase in the CPI for the applicable time period.

The Baseline TPMP Costs are more precisely described and calculated in **Attachment No. 12** to this Agreement, which shows that the calculated Baseline TPMP Costs are $437,817.45 as of the end of Term Year 18/19 and $517,088.05 as of the end of Term Year 23/24.

(iv) "**Incremental TPMP Costs**" means, for purposes of this Section 23.1.7, the actual TPMP Costs incurred by Manager for any Term Year in excess of the Baseline TPMP Costs for that Term Year.

(b) No Burden To Manager or its Customers. As a material part of the consideration for this Agreement, City agrees that neither Manager nor its customers shall be


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responsible for any Incremental TPMP Costs from and after the Effective Date of this Agreement (i.e., starting in Term Year 25/26).

(i) Notwithstanding the foregoing, Manager agrees to waive any claim for reimbursement of Incremental TPMP Costs that Manager incurs during any Term Year, to the extent that any such reimbursable amount is Twenty-Five Thousand Dollars ($25,000) or less.

(ii) City shall pay for its share of Incremental TPMP Costs from a source that will not burden Manager or its customers. For example, the funding source may not include taxes or surcharges on parking fees payable by Manager or its customers, as those would effectively burden them with the Incremental TPMP Costs.

(c) Reimbursement Procedures. If Manager is required to pay for TPMP Costs up front (such as for Off-Site Traffic Control Services) or Manager agrees to pay for TPMP Costs up front (such as for equipment leased or purchased at City's request), then to the extent that such TPMP Costs constitute Incremental TPMP Costs (in excess of the $25,000 deductible amount), City shall reimburse Manager for those costs based on invoices submitted by Manager to City, accompanied by such records, receipts and other documents as City may reasonably request to verify the amount of the TPMP Costs and the calculation of Baseline TPMP Costs and Incremental TPMP Costs for the applicable Term Year.

(i) Within thirty (30) days after the end of each Fiscal Year quarter, Manager will provide City with a copy of Manager's Staffing Shortfall Tracker (described in Section 24.5.1) showing, on a year-to-date basis, the number of requested Interior Security Positions and Traffic Control Positions that have not been filled for each applicable Event. This will help the City anticipate the potential Incremental TPMP Costs for internal budgeting purposes.

(ii) Invoices from Manager to City for Incremental TPMP Costs incurred during any Term Year must be submitted to City within 18 months after the end of that Term Year in order to be eligible for payment. For example, invoices for Incremental TPMP Costs incurred during Term Year 31/32 must be submitted to City no later than December 31, 2033; otherwise, such invoices will be deemed stale and will not be paid.

(iii) City shall pay all amounts due under timely submitted invoices within sixty (60) days following receipt of such invoices by City.

(d) AMA Obligations. Nothing in this Section 23.1.7 shall affect City's obligations under other applicable provisions of this Agreement to provide adequate traffic control systems, signage, and programs in accordance with the Arena TPMP or the Operations Manual, as modified from time to time.

**23.2 Transit Project TPMP's**.

23.2.1 Definitions. In this Agreement, the following terms have the meanings given below:


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(a) "**Transit Project**" means the High Speed Rail project or station, or the BART project or station, or the Diridon Integrated Station project.

(b) "**Transit TPMP**" means a transportation and parking management plan for a Transit Project.

23.2.2 TPMP's and Construction Mitigation Plan Required. In addition to City's other obligations under Section 21 above, for any Transit Project in the Diridon Area, City shall use its best efforts to require a Transit TPMP, as follows:

(a) Each Transit TPMP shall adhere to the framework set forth on document entitled "Framework for Project Transportation and Parking Management Plans" attached as **Attachment No. 14** to this Agreement and incorporated herein by reference. The Transit TPMP's shall be coordinated with, be consistent with and not be in conflict with the Arena TPMP.

(b) The Transit TPMP's will be reviewed on a periodic and as needed basis by a TPMP committee which will include representatives from the City, the entity operating the Transit Project, and Manager. Amendments and updates to the TPMP's will be completed as needed in order to conform to changed circumstances, provided that any such amendment shall be consistent with and not in conflict with the Arena TPMP.

(c) The costs of administration and management of the Transit TPMP's shall be addressed and provided for in the TPMP's.

23.2.3 Event Operations Committee. City and Manager will provide leadership and follow-through on the Arena Event Operations Committee to implement an extensive communications program for both Arena and other event producers to encourage parties to use routes and parking facilities that would minimize conflicts with each other.

## PART SIX

## SECURITY, POLICE AND SPECIAL EVENTS

**SECTION 24. SECURITY FOR EVENTS.**

**24.1 On-Site Security Services.** At all times during the Term, Manager and City shall work together to provide ordinary day to day and Event security services in and about the Arena Facilities ("**On-Site Security Services**").

24.1.1 Staffing for Interior Security Positions. Subject to the terms and conditions of this Section 24, staffing for On-Site Security Services shall be provided primarily by the San Jose Police Department ("**SJPD**") through its Secondary Employment Unit, using both regular and reserve sworn officers ("**SJPD Officers**").

(a) The number of positions needed for On-Site Security Services for each Event ("**Interior Security Positions**") and their report times shall be determined at Manager's discretion based on NHL Rules and industry best practices, with input from SJPD.


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(b) City will use its best efforts to fill all Interior Security Positions for each Event with SJPD Officers, in accordance with a Scheduling Process Memorandum to be agreed upon by the Parties as described in Section 24.3.1 below.

(c) If any Interior Security Positions for an Event are not filled by SJPD Officers before the 26th of the month preceding the month in which the Event occurs (a "**Staffing Shortfall**"), then for each such unfilled Interior Security Position, Manager shall use commercially reasonable efforts to retain as many private security personnel as Manager determines would be needed to "make up" for such Staffing Shortfall (which typically would include 1 supervisor and up to 4 regular security guards for each Interior Security Position that is not filled by an SJPD Officer). The private security personnel shall be employees of a private security company that is selected by Manager and retained by Manager as an independent contractor. Such private security company personnel shall report to Manager in coordination with SJPD.

24.1.2 Allocation of Costs for On-Site Security Services.

(a) Manager shall be responsible for paying all SJPD Officers who fill Interior Security Positions, without reimbursement by City, in accordance with the rules of the Secondary Employment Unit as described in Section 24.4.

(b) If there is a Staffing Shortfall, then the following shall apply:

(i) Manager shall be responsible for paying the fees for all private security personnel retained by Manager to provide On-Site Security Services; and

(ii) To compensate Manager for its costs and expenses (including internal management and supervisory time) associated with Manager's efforts to retain private security personnel when there is a Staffing Shortfall, City shall pay Manager a Staffing Shortfall Fee (defined in Section 24.5.2 below) for each Interior Security Position that is not filled by a SJPD Officer, as provided in Section 24.5.

24.1.3 Emergency Situations. Police response services provided by on-duty SJPD Officers in connection with emergencies, calls for assistance, or crowd control for political speech are not included in the definition of On-Site Security Services, and shall be provided at no charge to Manager so long as City does not impose charges on other persons or entities who seek similar types of assistance in similar situations.

**24.2 Off-Site Traffic Control Services.** At all times during the Term, Manager and City, through SJPD as well as City's Department of Transportation ("**DOT**"), shall work together to provide traffic control services as reasonably needed before and after Events to direct pedestrians and vehicles, manually operate street intersections, and perform related services ("**Off-Site Traffic Control Services**"), in compliance with the TPMP as may be modified from time to time in accordance with this Agreement.

24.2.1 Staffing for Traffic Control Positions. Subject to the terms and conditions of this Section 24, staffing for Off-Site Traffic Control Services shall be provided by SJPD Officers (through the Secondary Employment Unit) to the greatest extent possible, with additional staffing to be provided by SJPD Community Service Officers ("**CSOs**") as may be available


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and approved for service in this role, and DOT Parking and Traffic Control Officers ("**PTCOs**") as may be necessary.

(a) The number of positions needed for Off-Site Traffic Control Services for each Event ("**Traffic Control Positions**") shall be determined by the applicable Operations Plan for the Arena in accordance with the Arena TPMP (described in Section 23.1.5) based on the size and type of event, with input from SJPD.

(i) City and Manager agree to coordinate planning for Event traffic, traffic control, crowd control and other security issues as required by the TPMP, and will each designate a liaison for such purposes.

(ii) City and Manager agree it is important to maintain continuity in the performance of the Off-Site Traffic Control Services, and agree to cooperate and coordinate regarding staffing for Events and the planning of services for future Events as contemplated by the TPMP.

(b) City will use its best efforts to fill all Traffic Control Positions for each Event with SJPD Officers, in accordance with the Scheduling Process Memorandum.

(i) SJPD Officers shall be given the first opportunity to fill Traffic Control Positions for each Event, within the time period described in the Scheduling Process Memorandum.

(ii) If any Traffic Control Positions are still available after SJPD Officers are given the first opportunity to fill them, CSOs shall be given the next opportunity to sign up for such positions, within the time period described in the Scheduling Process Memorandum.

(iii) If any Traffic Control Positions are still available after SJPD Officers and CSOs are given the prior opportunity to fill them, PTCOs shall be given the next opportunity to sign up for such positions, within the time period described in the Scheduling Process Memorandum

(c) If any Traffic Control Positions for an Event are not filled by SJPD Officers, CSOs or PTCOs before the 26th of the month preceding the month in which the Event occurs (also a "**Staffing Shortfall**"), then for each such unfilled Traffic Control Position, Manager shall use commercially reasonable efforts to retain as many private contract flaggers as Manager determines would be needed to "make up" for such Staffing Shortfall (which typically would include 1 flagger for each position that is not filled by an SJPD Officer, CSO or PTCO). The contract flaggers shall be employees of a private flagging company that is selected by Manager and retained by Manager as an independent contractor.

(i) The flagging company must be pre-approved for such work by the City pursuant to Municipal Code Section 11.12.050 and California Vehicle Code Section 21100. To be approved, any such company must meet the City's reasonable requirements, including being certified, licensed and bonded for traffic direction in the City's right-of-way (including direction of traffic and road closures), and being insured under policies that are approved by the City's Risk Manager.


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(ii) The contract flaggers shall work under the direction of SJPD, with coordination provided by Manager.

24.2.2 Allocation of Costs for Off-Site Traffic Control Services.

(a) Manager shall be responsible for costs and expenses of providing Off-Site Traffic Control Services, subject to the following:

(i) City shall be obligated to reimburse Manager for Incremental TPMP Costs incurred by Manager as provided in Section 23.1.7.

(ii) Nothing in this Section 24.2 shall relieve City of its obligation to provide adequate traffic control systems, signage, and programs in accordance with the Arena TPMP. Without limiting the foregoing, City shall be responsible for providing the physical supplies required for performance of the Off-Site Traffic Control Services. If Manager purchases such supplies, City shall reimburse Manager for the actual cost of such supplies.

(b) If there is a Staffing Shortfall with respect to Traffic Control Positions, then the following shall apply:

(i) Manager shall be responsible for paying the fees for any contract flaggers retained by Manager to provide Off-Site Traffic Control Services; and

(ii) To compensate Manager for its costs and expenses (including internal management and supervisory time) associated with Manager's efforts to retain private contract flaggers when there is a Staffing Shortfall, City shall pay Manager a Staffing Shortfall Fee (defined in Section 24.5.2 below) for each Traffic Control Position that is not filled by a SJPD Officer, CSO or PTCO, as provided in Section 24.5.

(c) The definition of Off-Site Traffic Control Services does not include the following:

(i) Actions by on-duty SJPD Officers related to enforcement of the Peddler Permit Ordinance, which services shall be provided at no cost to Manager, in accordance with Section 25.3.2.

(ii) Activities by Manager with respect to the operation of On-Site or Off-Site Parking Facilities, the costs of which shall be the responsibility of Manager or third party property owners, as applicable.

(iii) Services provided by the Secondary Employment Unit in connection with police staffing for Special Events, the costs of which shall be the responsibility of Manager as described in Section 25.1.3.

24.2.3 Emergency Situations. Police response services provided by on-duty SJPD Officers in connection with emergencies, calls for assistance, or crowd control for political speech are not included in the definition of Off-Site Traffic Control Services, and shall be provided at no charge to Manager so long as City does not impose charges on other persons or entities who seek similar types of assistance in similar situations.


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**24.3 Rules and Procedures for Traffic Control Positions**.

24.3.1 Scheduling Process Memorandum. The specific process for scheduling SJPD Officers, CSOs and PTCOs (collectively, "**Traffic Control Officers**") for Traffic Control Positions (as well as scheduling SJPD Officers for Interior Security Positions) shall be accomplished in accordance with a standard scheduling process to be agreed to by the Parties and confirmed in a written memorandum ("**Scheduling Process Memorandum**") signed by Manager, the City's Chief of Police and the City's Director of Transportation. The Scheduling Process Memorandum shall be subject to modification from time to time as circumstances change, in which event an updated/revised Scheduling Process Memorandum will be signed by the Parties as indicated above.

24.3.2 Employment Terms and Conditions.

(a) Manager's engagement of Traffic Control Officers to fill Traffic Control Positions for Arena Events will be structured as follows:

(i) Manager will engage SJPD Officers as independent contractors governed by City's secondary employment ordinance as described in Section 24.4, which is administered by a special unit of SJPD ("**Secondary Employment Unit**") under the authority of City's Chief of Police. As such, Manager will pay each SJPD Officer directly.

(ii) Because CSOs are not eligible to participate in the Secondary Employment Unit, Manager will engage them as SJPD City employees on special assignment for Manager. Under this arrangement, CSOs who work as Traffic Control Officers for Arena Events will be paid directly by City based on the terms of their standard compensation agreements. City will then invoice Manager for reimbursement of such employment expenses.

(iii) Manager will engage PTCOs as DOT City employees on special assignment for Manager. As with CSOs, PTCOs who work as Traffic Control Officers for Arena Events will be paid directly by City based on the terms of their standard compensation agreements. City will then invoice Manager for reimbursement of such employment expenses.

(b) Whenever Manager retains the services of Traffic Control Officers, Manager shall pay for such services at the standard rates established by City on a non-discriminatory basis, including rates for regular and overtime pay (at 1.5 times the regular pay rate).

(c) Pay at double-time rates will not be offered to any Traffic Control Officers unless both Parties mutually agree to do so in their sole discretion.

(i) Under the current rules, if any staff are offered double-time rates to work for an Event, all staff who work for that Event must be offered double-time pay.

(ii) Currently, PTCOs are not allowed to be paid at double-time rates, and therefore any Event at which double-time pay is offered for SJPD Officers and CSOs will not be available for staffing by PTCOs.


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(d) Although Manager is ultimately responsible for selecting, engaging, paying and discharging all Traffic Control Officers, all such Traffic Control Officers shall serve under the supervision and direction of SJPD.

(i) All Traffic Control Officers engaged by Manager shall report to SJPD's on-duty Sergeant or Lieutenant responsible for the Event or, failing that, to the Watch Commander on duty at that time. All Traffic Control Officers shall serve in their assigned SJPD, CSO or PTCO uniforms.

(ii) City shall be responsible, at its cost, for hiring such persons as it desires to supervise and manage the Traffic Control Officers.

(iii) As part of their role in supervising and directing Traffic Control Officers, SJPD shall be responsible for initiating and maintaining all safety precautions and programs for the Traffic Control Officers.

(e) In retaining Traffic Control Officers, Manager shall comply with all provisions of **Attachment No. 8** (Non-Discrimination Policy).

24.3.3 Efforts to Address Staffing Shortages. The Parties acknowledge that prior to the Effective Date of this Agreement, Manager has often been unable to fill the number of Interior Security Positions needed to ensure public safety for Arena Events and/or the number of Traffic Control Positions called for by the TPMP's applicable Operations Plan. Under this Agreement, CSOs and PTCOs will now be included in the pool of Traffic Control Officers, which will help alleviate the shortage of off-duty SJPD Officers available to fill all needed Traffic Control Positions. However, CSOs and PTCOs are not qualified to fill Interior Security Positions. Moreover, SJPD Officers are preferred as they are more effective than other City personnel or private companies in ensuring peace, order and public safety for Arena Events, both inside and outside the Arena. City agrees to implement the following strategies to increase the availability of off-duty SJPD Officers and alleviate the existing Staffing Shortfall:

(a) SJPD shall allow reserve officers to work for the Secondary Employment Unit for up to seventy (70) hours per week (See Memo #2025-009, Duty Manual Revision A 2939 – Maximum Number of Hours for Reserve Officers, as may be amended from time to time).

(b) As specified in Section 23.1.7(c), within thirty (30) days after the end of each Fiscal Year quarter, Manager will provide City with a copy of Manager's SJPD Staffing Shortfall Tracker showing the number of requested Interior Security Positions and Traffic Control Positions that have not been filled for each applicable Event. Upon request by Manager, City will meet and confer with Manager to review the information and discuss potential reasons and solutions for the Staffing Shortfall, such as (i) making appropriate revisions to the Scheduling Process Memorandum, (ii) minimizing Conflicting Events (defined in Section 25.1.2), and (iii) general recruitment efforts.

(c) If, notwithstanding diligent efforts to find ways to fill all needed Interior Security Positions and Traffic Control Positions with SJPD Officers, CSOs or PTCOs, as applicable, Staffing Shortfalls continue to occur over a period of one year or more, City agrees to meet and confer to explore other potential solutions, including


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whether to implement a program that would allow sworn police officers from other jurisdictions to fill Interior Security Positions and Traffic Control Positions in situations where SJPD is otherwise unable to provide the number of off-duty SJPD Officers needed for Arena Events, provided that (i) such program can be implemented under all Applicable Laws for a reasonable cost; and (ii) the City can obtain appropriate insurance covering the acts of such non-City sworn officers for a reasonable cost. Such program shall ensure that any SJPD Officers who are available and willing to work for secondary employers are given the first opportunity to do so.

**24.4 Secondary Employment of Off-Duty Police Officers.**

24.4.1 Secondary Employment Approval. In connection with retaining any SJPD Officers (including reserve officers) to provide either Interior Security Services or Off-Site Traffic Control Services, Manager shall comply with the provisions of Municipal Code Chapter 8.16 (Secondary Employment Approval) as in effect upon the Effective Date, or as hereafter amended.

(a) As currently defined in said Chapter 8.16, a "secondary employer" includes any entity that retains off-duty officers to provide private security services (including traffic control) regardless of whether the relationship between such entity and the officers is that of employer/employee, customer/independent contractor, or other relationship. Manager (as a secondary employer) has previously retained off-duty officers as independent contractors, and shall continue that relationship throughout the Term to the fullest extent permitted by Applicable Laws.

(b) Nothing in said Chapter 8.16 or in this Agreement shall be construed as a commitment or guarantee by City to supply Manager with off-duty police officers. Manager understands and agrees that Manager must contract with each officer individually, and it is up to the individual officer to decide whether he or she wishes to provide services to Manager. Notwithstanding the foregoing, if for any reason there are any Staffing Shortfalls as defined in Section 24.1.1 or Section 24.2.1, City shall be required to pay Manager the Staffing Shortfall Fee as described in Section 24.5.2.

(c) Except as provided above, City acknowledges and agrees that as of the Effective Date, no permits or licenses are required to perform the Off-Site Traffic Control Services, including for street closures, special directional signage, and the like.

24.4.3 Indemnification Obligations. The Parties acknowledge that Section 70 of the California Penal Code requires all secondary employers to enter into an indemnity agreement with city police departments as a condition of approving casual or part-time employment of off-duty law enforcement personnel.

(a) In accordance with the foregoing, Section 8.16.070 of the San Jose Municipal Code requires that Manager, as a secondary employer, agree to "indemnify and hold harmless the city, its officers and employees, from any and all damages, costs, attorneys' fees, expenses, losses or liabilities, arising out of the private security services performed by off-duty San José police officers or San José reserve police officers for the secondary employer." Such Section further provides that the term "private security services" includes "private security


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guard, … traffic control, … or other security or law enforcement related services." Manager acknowledges that the terms and conditions of secondary employer approval to be signed by Manager in connection with its annual SJPD Secondary Employment Unit application obligate Manager to indemnify and hold harmless the City, its officers and employees from any and all damages, costs, attorneys' fees, expenses, losses or liabilities, arising out of the private security services performed by SJPD Officers for Manager.

(b) Manager further agrees that any and all Claims made or brought against any City Indemnitees by third parties arising out of PTCOs or CSOs performance of Off-Site Traffic Control Services shall be subject to Manager's indemnification obligations set forth in Section 33.2.

24.4.4 Law Enforcement Liability Insurance. As a result of the California-mandated indemnification obligations described above, City maintains (and will continue to maintain throughout the Term of this Agreement) a policy of law enforcement liability insurance ("**LEL Policy**") providing protection against claims for damages or injuries caused or alleged to have been caused by the negligence or intentional misconduct of off duty SJPD Officers engaged in performing services for secondary employers

(a) Such LEL Policy shall have limits of not less than $2 million per occurrence, and shall provide defense costs.

(b) The insured parties under the LEL Policy shall include City and all individual SJPD Officers who participate in City's secondary employment program**.**

(c) City shall cause such LEL Policy to be endorsed to cover Manager and any Affiliates whose names are provided to City prior to July 1 of any given year as an additional insured.

(d) Any deductibles payable under the LEL Policy shall be the responsibility of City and/or the police officer involved in the applicable incident, and not Manager or other approved Secondary Employer.

(e) City shall provide Manager with at least 30 days' written notice if the LEL Policy is cancelled or if City fails to renew and replace such LEL Policy.

**24.5 Staffing Shortfall Tracker and Fee.**

24.5.1 Staffing Shortfall Tracker.

(a) Manager shall maintain and update, on a quarterly basis, a schedule showing, on a year-to-date basis, the number of requested Interior Security Positions and Traffic Control Positions that have not been filled for each applicable Event (the "**Staffing Shortfall Tracker**").

(i) City shall use diligent, good faith efforts to ensure that each SJPD Officer, CSO and PTCO who signs up for an Interior Security Position or Traffic Control Position, as applicable, is capable of fulfilling the entirety of their work shift by, among other things, confirming that maximum allowable daily or weekly work hour limits will not be exceeded mid-shift.


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(b) Within thirty (30) days after the end of each Fiscal Year quarter, Manager will provide City with a copy of the Staffing Shortfall Tracker. City will promptly review the same, and notify Manager if City has any questions or proposed corrections.

(i) If City requests any modifications to the Staffing Shortfall Tracker, the Parties shall work together in good faith to make any necessary corrections that are acceptable to both Parties.

(ii) If City does not request any corrections to the Staffing Shortfall Tracker within thirty (30) days after receipt from Manager, City shall be deemed to have accepted the information as presented, and the Parties shall be deemed to have stipulated to the accuracy of thereof, absent manifest error.

24.5.2 Payment of Staffing Shortfall Fee.

(a) Approximately thirty (30) days after delivering the Staffing Shortfall Tracker to City, Manager shall deliver to City an invoice for the total Staffing Shortfall Fees due for such quarter. For Term Year 25-26 the "**Staffing Shortfall Fee**" shall be $850.00 for each unfilled Interior Security Position, and $425.00 for each unfilled Traffic Control Position. The foregoing per position Staffing Shortfall Fee amounts shall increase annually on August 1, 2026, and each August 1st thereafter by the increase in CPI (defined in Section 23.1.5) over the preceding Term Year. Manager's Staffing Shortfall Fee invoice shall reflect any corrections made pursuant to the procedure described in Section 24.5.1(b) above.

(b) City shall pay Manager the total Staffing Shortfall Fee amount within sixty (60) days after receiving Manager's invoice. City may take the funds for payment of the Staffing Shortfall Fee amount from the Arena Public Safety Fund. City's obligation to pay Staffing Shortfall Fees in any given Fiscal Year shall not exceed the funds available in the Arena Public Safety Fund for such Fiscal Year. To the extent the Staffing Shortfall Fees payable by City in any given Fiscal Year exceed the amount of funds then available in the Arena Public Safety Fund, the Parties shall meet and confer to explore options, including a potential increase in the amount of City's annual Arena Public Safety Fund payment and strategies for increasing the number of sworn police officers (from both SJPD and other jurisdictions), PTCOs, and CSOs available for Traffic Control Positions and Interior Security Positions, as applicable, so that Staffing Shortfall Fee overages can be avoided in future Fiscal Years.

**24.6 Arena Public Safety Fund**. Promptly following the Effective Date, City shall deposit into a separate restricted account (the "**Arena Public Safety Fund**") an amount of One Hundred Thousand Dollars ($100,000.00), and on or before March 1, 2026, City shall make an additional deposit into the Arena Public Safety Fund in the amount of Fifty Thousand Dollars ($50,000.00). On or before August 1 of each Term Year thereafter (commencing August 1, 2026 for the 26-27 Term Year), City shall deposit into the Arena Public Safety Fund an amount equal to $100,000 as increased on August 1, 2027 and each August 1st thereafter by the increase in CPI (defined in Section 23.1.5) over the preceding Term Year.

24.6.1 Allowed Uses and Accounting for Arena Public Safety Fund.


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(a) The Arena Public Safety Fund monies shall be used only for the following:

(i) Reimbursement to City for the Staffing Shortfall Fee payable to Manager as described above;

(ii) Reimbursement to City or Manager for Peddler Permit Enforcement Costs that they have incurred, as provided in Section 25.3.2. Should Manager's Peddler Permit Enforcement Costs exceed the available Arena Public Safety Fund monies in any given Fiscal Year, Manager shall have the right to be reimbursed for such costs from City's Arena Public Safety Fund deposits for future Term Years as provided in Section 24.6;

(iii) Reimbursement to Manager for Video Surveillance Equipment Costs (defined in Section 26) for both SAP Center and Sharks Ice/Tech CU Arena. City shall be responsible for reimbursing Manager for all Video Surveillance Equipment Costs which exceed available Arena Public Safety Fund monies and any such overage costs paid by City for this item shall in no way limit the City's obligation to reimburse Manager's Peddler Permit Enforcement Costs pursuant to Section 24.6.1(a)(ii) or to fully fund the Arena Public Safety Fund each Term Year;

(iv) Training costs for Traffic Control Officers; and

(v) Any other costs related to public safety or security, as mutually agreed by the Parties.

(b) Subject to Section 24.6.2, any amounts in the Arena Public Safety Fund that are not disbursed by the end of a Term Year shall roll over to the subsequent Term Year. Such roll-over amounts, if any, shall not be credited towards City's annual Arena Public Safety Fund funding obligation for such subsequent Term Year.

(c) Upon request by Manager (but not more often than once each calendar quarter) City shall provide Manager with a year-to-date accounting of how the amounts in the Arena Public Safety Fund have been used during the applicable Term Year.

(d) City shall also provide to Manager, on an annual basis, a statement of sources and uses for the Arena Public Safety Fund.

24.6.2 Reimbursements to Manager.

(a) Subject to the availability of Arena Public Safety Fund monies and the other provisions of this Subsection 24.6.2 below, Manager shall have the right to be reimbursed directly from the Arena Public Safety Fund for any of the following:

(i) Expenditures by Manager pursuant to Section 25.3 to cover Peddler Permit Enforcement Costs;

(ii) Expenditures by Manager pursuant to Section 26 to pay for Video Surveillance Equipment Costs; and

(iii) Any other expenditures by Manager which, pursuant to the mutual agreement of the Parties, may be reimbursed from the Arena Public Safety Fund.


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(b) Manager shall submit reimbursement requests in writing, together with reasonable documentation evidencing the advances or expenses that are eligible for reimbursement. City shall reimburse Manager out of available Arena Public Safety Fund monies within 60 days of Manager's written demand therefor. For avoidance of doubt, City shall have no obligation to expend any City funds other than Arena Public Safety Fund monies to make such reimbursement payments.

(c) To the extent Manager advances funds or incurs expenses for allowable expenditures that, but for exhaustion of Arena Public Safety Fund monies, would have been payable or reimbursable from the Arena Public Safety Fund, such unreimbursed expenditures shall be carried over to future Term Year(s), subject to the limitations set forth below.

(i) The maximum amount of unreimbursed expenditures that may be carried over to any particular future Term Year shall not exceed Twenty Percent (20%) of the City's Arena Public Safety Fund deposit for such future Term Year.

(ii) To the extent that any unreimbursed expenditures exceed 20% of the Arena Public Safety Fund deposit for any Term Year, the balance (along with any additional unreimbursed expenditures for subsequent Term Years) shall continue to be rolled over to future Term Years in the same manner as described above, until paid in full.

(iii) Notwithstanding the foregoing, at the expiration or earlier termination of the Term, any remaining unreimbursed Manager expenditures shall be borne by Manager at its sole expense without any right to reimbursement

(d) Subject to the limitations of subsection 24.6.2(c), City shall reimburse Manager the allowable carry over amounts within 60 days following the date City deposits its Arena Public Safety Fund monies for the future Term Year(s).

**SECTION 25. SPECIAL EVENTS AND OTHER SECURITY MATTERS.**

**25.1 Community Special Events**. Manager may from time to time conduct street festivals, parades, and other similar events ("**Special Events**") on public streets or in public parks outside of the Arena Facilities; provided, however, that Manager shall first obtain all permits required under San Jose Municipal Code Chapter 13.14 (Community Special Events) and other Applicable Laws, including paying all standard fees and providing all standard insurance coverages as may be required by City for other similar events.

25.1.1 City Events Concierge. To reduce costs and administrative burdens, and to facilitate Manager's ability to quickly obtain permits for Special Events that may need to be scheduled on short notice, City agrees to the following:

(a) City shall appoint someone from the Office of Economic Development and Cultural Affairs ("**OCA**") to act as Manager's single point of contact ("**Events Concierge**"), who will coordinate with all applicable City departments and coordinate appropriate hand-offs to partner agencies (including State Alcoholic Beverage Control and the County Environmental Health Dept.) to process the


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required applications and obtain the necessary permits on behalf of Manager for Special Events in the vicinity of the Arena ("**Hockey Special Events**").

(i) Such service will apply to no more than four Hockey Special Events per Term Year; provided, however, at the election of Manager, one of the four Hockey Special Events may encompass all Special Events held by Manager during the NHL Post-Season, without limitation as to the number of such events.

(ii) For avoidance of doubt, any parades that encompass additional lands or rights-of-way will not be included in the Hockey Special Event permit that encompasses all Special Events held by Manager during the NHL Post-Season.

(b) For each of the Hockey Special Events, City (through the Events Concierge) will provide the services and benefits described below:

(i) To the extent feasible based on a similar footprint and format for the Hockey Special Events, the Events Concierge will obtain pre-approval for a template permit application package that includes a standard set of submittals and "playbook" instructions for coordination among City departments.

(ii) OCA (through the Events Concierge) will, to the extent feasible, defer scheduling any third-party Special Events that may impact Arena operations (including impacts to the street network or parking lots serving the Arena) until Manager schedules the Hockey Special Events for the applicable period of time. Manager agrees to schedule the Hockey Special Events as soon as practicable following the NHL's release of the Regular Season schedule.

(iii) Without limiting the foregoing, during the entire period in which the NHL Post-Season may occur, OCA (through the Events Concierge) will not schedule any third-party Special Events that may impact Arena operations until Manager notifies the Events Concierge as to which dates are available for such third-party Special Events; provided, however, that this reservation will not apply to Special Events associated with Cinco de Mayo (such as the "Salsa Fest and Parade") or the San Jose Half Marathon (which starts and finishes at Santana Row), so long as (A) such events are required, to the extent feasible, to use race or parade routes that do not materially affect the streets that provide primary ingress and egress to and from the Arena, and (B) do not use the Arena Green Park as a staging or gathering area. Manager agrees to notify the Events Concierge as soon as practicable once the available Post-Season dates are known to Manager, and to notify the Events Concierge at the earliest reasonable opportunity of the date and time for any individual Special Events held during the NHL Post-Season.

(iv) After Manager confirms a Hockey Special Event date and time with the Events Concierge, the Concierge will coordinate with all City departments to complete whatever steps are necessary to issue the necessary permits


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as soon as is reasonably possible, including initiating permit requests of State Alcoholic Beverage Control and County Environmental Health.

(v) Promptly after Manager advises the Events Concierge of its desired dates for the Hockey Special Events, the Events Concierge will place such Special Events on OCA's Events Calendar and will take whatever steps may be necessary to avoid any Conflicting Event (defined in Section 25.1.2).

(c) For Special Events held by Manager that are not included within the four Hockey Special Events described above, the OCA, and to the extent reasonably practicable the Events Concierge, will process applications on behalf of Manager on the same basis as for other applicants.

(d) For all Special Events held by Manager or held in the vicinity of the Arena, the Events Concierge will designate a point of contact to provide "on call" coordination services to handle unforeseen problems that may occur during weekends and evenings, including for situations involving any Conflicting Event as described in Section 25.1.2.

(e) Term Year 25-26 (starting July 1, 2025) shall be deemed a "pilot year" for the Hockey Special Events program. Prior to the end of the pilot year, the Parties shall meet to review how the Hockey Special Events program worked, and to discuss ways that the program may be modified to more efficiently and effectively provide the intended services and benefits of the program (consistent with City staffing resources). Provided both Parties conclude the pilot has been a success, and dependent upon City staffing resources, the Parties will cooperate with each other in good faith to make reasonable adjustments to the Hockey Special Events program as may be requested by either Party.

25.1.2 Schedule Coordination for Conflicting Events. City will implement a process whereby the OCA will coordinate with Manager, and give deference to the Arena's schedule, before approving one or more Special Events held by third parties that may conflict with regular Arena Events, including hockey games, concerts, family shows and other events, or outdoor Special Events, including Hockey Special Events, or create additional traffic congestion, parking burdens or other transportation problems that negatively impact the operations of, or access to and from, the Arena ("**Conflicting Events**").

(a) City (through OCA) and Manager commit to working together in good faith to help promote an activated and thriving Arena district that avoids Conflicting Events.

(i) The Parties shall endeavor to achieve at least a three-hour difference between the ending and starting times of Arena Events, including Hockey Special Events, held by Manager and third-party Special Events. The three-hour time difference is intended to allow sufficient time for parking lots to substantially empty for the earlier event before the arrival of guests seeking to park in those same lots for the later event.

(ii) The Parties shall also work together in good faith to implement special procedures to address potential Conflicting Events involving Cinco de Mayo and the San Jose Half Marathon (which is held in June of each year).


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(b) Without limiting the foregoing, OCA shall implement the provisions of Section 21.4.3, pursuant to which City is obligated to facilitate quarterly meetings between Manager and Google in order to (i) coordinate regarding any Special Events planned to occur within the DTW project area, and (ii) address any potential transportation and access issues that may may arise as a result thereof.

(c) At Manager's request, but subject to OCA's notification process, OCA shall include Arena Events on its Events Calendar published on the OCA website.

25.1.3 Off-Duty Police Officer Services. Any off-duty SJPD Officers retained by Manager to provide security services for Special Events shall be done through City's Secondary Employment Unit as described in Section 24.4.

**25.2** **Protected Speech Events On or About Arena Facilities**. In order to address potential situations involving political speech or other protected "free speech" activities on or about the Arena Facilities, City and Manager shall, upon reasonable request by either of them, consult with each other to promulgate reasonable "time, place and manner" rules and regulations that preserve reasonable public access to limited areas for free speech purposes without unreasonably interfering with Manager's business activities or impairing the safety and security of Arena customers and employees. A copy of such rules and regulations shall be provided to SJPD.

25.2.1 Use of Police for Free Speech Security. As described in Section 24, City shall be responsible for paying for any police services required (as determined by City) in connection with political speech or free speech activities in the publicly accessible areas of the Arena Facilities. Manager may call for assistance from on-duty SJPD Officers in such circumstances, rather than contracting for off-duty SJPD Officers.

25.2.2 No Public Forum. Nothing herein shall be construed as an admission by City or Manager that any part of the Arena Facilities (including Lots A, B and C) constitutes a public forum. As described above in Section 15.2.2(c), it is the Parties' express intention that the Arena Facilities shall not become a public forum.

**25.3** **Restrictions on Peddling Near Arena**. As of the Effective Date, San Jose Municipal Code Section 6.54.215 prohibits peddling within certain specified areas, including within a specified distance from the Arena on Event Days.

25.3.1 Importance of Prohibition. San Jose Municipal Code Chapter 6.54 - Peddler Permit Ordinance ("**Peddler Permit Ordinance**") is of material importance to Manager because of its value to the safety and security of Arena customers and other Manager Invitees. Among other things, the Peddler Permit Ordinance helps to (i) ensure safe exiting from the Arena in case of an emergency as required by the California Fire Code; (ii) facilitate the free movement of pedestrians and vehicles around the Arena, keeping safety corridors clear and reducing unnecessary congestion; (iii) reduce risks of injury or damage related to violations of health and safety regulations; (iv) curb unlawful behavior associated with unlicensed sales of alcoholic beverages; and (v) eliminate potential hindrances to security operations.

(a) City agrees to notify Manager in writing at least ten days prior to any City Council meeting at which any amendment to the Peddler Permit Ordinance will be considered.


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25.3.2 Police Enforcement. Consistent with the intent and purpose of the Peddler Permit Ordinance, City agrees that mobile peddlers and their carts or other equipment must not be allowed to block Arena exits (which is a violation of the California Fire Code) or to enter the On-Site Parking Facilities (which creates unsafe pedestrian-vehicle conflicts). Therefore, in order to ensure the protection of the Arena operations and its customers, employees and other members of the public, the following shall apply:

(a) City agrees to use diligent efforts to ensure that SJPD will enforce the Peddler Permit Ordinance, as amended. If City reasonably determines it necessary in order to fulfill its obligations hereunder, such efforts may include utilizing the mobile unit impoundment enforcement mechanism ("**Impoundment**") as set forth in Chapter 6.54.405 of the San Jose Municipal Code.

(b) City also agrees to use diligent efforts to ensure that SJPD will enforce Chapter 10.20 (Offenses Against Property) of the San Jose Municipal Code and other Applicable Laws that prohibit trespassing on the Arena Land, including the On-Site Parking Facilities (the "**No Trespassing Law**").

(c) If Manager requests special assistance from on-duty SJPD Officers to address violations of the Peddler Permit Ordinance or the No Trespassing Law, the costs of such requested special police services ("**Peddler Permit Enforcement Costs**") shall be borne by City, to be paid from the Arena Public Safety Fund until such monies have been exhausted for any particular Term Year. Manager shall be responsible for reimbursing City for any Peddler Permit Enforcement Costs in excess of the amounts in the Arena Public Safety Fund for the then-current Term Year; provided, however, Manager shall have the right to be reimbursed from City's Arena Public Safety Fund deposits for future Term Years as provided in Section 24.6**.**

25.3.3 Manager's Limited Role in Peddler Permit Ordinance Enforcement. From time to time, at the specific request and direction of SJPD, Manager (and its employees and contractors) may assist in City's Impoundment efforts, including by moving unauthorized property to a nearby storage container managed by City, disposing of unauthorized food or alcohol, and taking other actions, all as specified in written operating procedures agreed to by the Parties and confirmed in a written memorandum ("**Impoundment Procedures Memorandum**") signed by Manager and the City's Chief of Police.

(a) When acting at the request of SJPD in accordance with the Impoundment Procedures Memorandum, Manager (and its employees and contractors) shall (i) be deemed to have acted under the direction and supervision of SJPD, and (ii) shall be indemnified by City against any and all Claims resulting from such actions, to the extent provided for City's indemnification of Manager Indemnitees under Section 33.3.

(b) Costs incurred by Manager in connection with its actions to assist SJPD as described in this Section 25.3.3 shall be considered part of the Peddler Permit Enforcement Costs, and shall be paid or reimbursed to Manager from the Arena Public Safety Fund in the same manner as described in 24.6.2(c).

**25.4** **Security Improvements**. Subject to Applicable Construction Codes and the requirements of the Public Works Department where applicable, Manager shall have the right to install bollards or


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other vehicle barriers, metal detectors and other screening equipment, and other temporary or permanent improvements and equipment as may be required by the NHL Rules or Homeland Security regulations, or as may be consistent with the Applicable Performance Standard. Unless the Parties mutually agree otherwise, the cost of such improvements and equipment shall be paid or reimbursed to Manager out of the Capital Reserve Fund pursuant to Section 28, to the extent applicable.

**SECTION 26. SURVEILLANCE VIDEO.**

**26.1** **Surveillance Video Footage Owned by Manager**. As of the Effective Date of this Agreement, Manager has installed and maintains closed-circuit television/video cameras that record activities occurring in selected public spaces both inside and outside of the Arena Building. Such video surveillance is for public safety and security purposes. Any and all video surveillance footage recorded by Manager is private, is owned by Manager, and is not for public viewing or distribution.

**26.2** **Access for Police Purposes**. City has requested that Manager allow SJPD to have access to Manager's video surveillance system in connection with emergency situations, and to have access to video recordings in connection with police investigations and other law enforcement purposes. Manager has agreed to allow limited access to its video system and recordings, subject to the terms and conditions of a separate Video Surveillance Access Agreement between Manager and SJPD dated December 23, 2018, as may be amended or replaced from time to time. The Video Surveillance Access Agreement is a Related Agreement as defined in Section 1.4 and described in **Attachment No. 5**.

(a) Nothing in this Agreement or the Video Surveillance Access Agreement shall require Manager to continue to maintain any particular video surveillance equipment or systems, or to retain any video surveillance footage for any specific period of time.

(b) Nothing in this Agreement or the Video Surveillance Access Agreement shall impose or create any liability on the part of Manager resulting from any failure of its video surveillance system to operate properly, or for failing to provide access to the system as contemplated by the Video Surveillance Access Agreement, or for City's use and handling of the video surveillance system or recorded footage from the system.

**26.3** **Video Surveillance Equipment Costs**. If Manager elects to modify its video camera system to allow direct access by SJPD, and in connection therewith Manager incurs expenditures for equipment or third-party services ("**Video Surveillance Equipment Costs**"), then Manager shall be entitled to seek reimbursement for such expenditures (for both SAP Center and Sharks Ice/Tech CU Arena) from the Arena Public Safety Fund as provided in Section 24.6.1.

## PART SEVEN
## ENVIRONMENTAL COMPLIANCE

**SECTION 27. ENVIRONMENTAL COMPLIANCE.**

**27.1** **Intent and Scope.**

27.1.1 General Provisions.

(a) The purpose and intent of the provisions of this Section 27 is to provide each Party with a total indemnification from the other Party for any Environmental Claims


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arising out of the existence of Hazardous Substances for which the indemnifying Party is responsible under the provisions of this Section 27.

(b) Except for the purpose of defining the scope of such indemnification by each Party or as expressly provided in this Section 27, nothing in this Section 27 shall be construed or applied to increase the obligations of a Party for Hazardous Substances beyond the obligations such Party would otherwise have under Environmental Laws.

(c) Except for indemnified persons specifically mentioned, no person shall be a third party beneficiary of the provisions of this Section 27 nor shall the provisions of this Section 27 be deemed to create a standard of care or conduct with respect to any such person not specifically mentioned as an indemnified person.

(d) The terms of this Section 27 shall survive the expiration or earlier termination of this Agreement.

27.1.2 Definitions. In this Agreement, the following terms shall have the meanings given below:

(a) "**City Indemnitees**" means City and other City Authorities, their successors and assigns, and all of their respective directors, officers, employees, members, managers, representatives and agents.

(b) "**City Invitees**" means City Indemnitees and all other persons who enter the Arena Facilities under City's control or supervision or with City's authority or permission (including City's contractors); provided, however, that persons who enter the Arena Facilities in connection with a City Event or Community Event (for which the sponsor or organizer must execute a license agreement with Manager as described in Section 11.1.4) shall be deemed to be Manager Invitees and not City Invitees.

(c) "**Deed Restriction**" means the document recorded against the Arena Land as described in Section 27.2.1(c), which describes prohibited uses and activities on the Arena Land.

(d) "**Environmental Claims**" as used in this Section 27 means any and all Claims as defined in Section 33.1, and shall also include administrative and judicial proceedings and orders and any required Investigation or Remediation.

(e) "**Environmental Law**" means any California or Federal law, or any court order or judgment, that regulates or directs activities regarding the generation, possession, storage, use, transportation or disposal of a Hazardous Substance, or the Investigation or Remediation of a Hazardous Substance Release, including the laws described in subsection (g) below. The term "Environmental Law" as used in this Agreement shall also mean the enforceable provisions of any Deed Restriction recorded against the Arena Land.

(f) "**Governmental Authority**" has the meaning given in Section 10.2.1. As used in this Section 27, the term "Governmental Authority" shall specifically include the following agencies and their respective predecessors and successors: California Department of Toxic Substances Control ("**DTSC**"); the Regional Water Quality


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Control Board, Santa Clara County Department of Environmental Health and the Santa Clara Valley Water District.

(g) "**Hazardous Substances**" means any substance, material, condition, mixture or waste that is:

(i) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California or Federal law;

(ii) radioactive;

(iii) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317);

(iv) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act; 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903);

(v) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601);

(vi) determined to be a "hazardous chemical, substance or mixture" pursuant to the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.(15 U.S.C. Section 2605); or

(vii) identified for remediation, storage, containment, removal, disposal or treatment in any Remediation plan for the Arena Land as mandated or approved by any Governmental Authority.

(h) "**Investigate**" and "**Investigation**" means to observe, inquire, examine, monitor, analyze, explore, research, inspect, canvass, question, poll, and/or survey the soil, soil gas, ground water, above and below ground structures and appurtenances of the Arena Facilities or Arena Land or adjacent or neighboring properties or any of them, to reasonably determine the presence or suspected presence, nature or extent of Hazardous Substances in, on, under or about the area of the Arena Facilities or Arena Land or adjacent or neighboring properties.

(i) "**Manager Indemnitees**" means Manager and its Affiliates (including SJS LLC), their successors and assigns, and all of their respective lenders, directors, officers, employees, members, managers, representatives and agents.

(j) "**Manager Invitees**" means Manager Indemnitees and all other persons who enter the Arena Facilities under Manager's control or supervision or with Manager's authority or permission (including licensees, concessionaires, customers, and contractors), but excluding City Invitees. Persons who enter the Arena Facilities in connection with a City Event or Community Event (for which the sponsor or organizer must execute a license agreement with Manager as described in Section 11.1.4) are included in the definition of "Manager Invitees" for purposes of this Agreement.


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(k) **"Possession Date"** means August 20, 1993, the date upon which Manager took possession of the Arena Facilities.

(l) "**Pre-Existing Hazardous Substances**" means Hazardous Substances known by City Authorities to have existed on the Arena Land prior to development of the Arena Facilities, including lead, polycyclic aromatic hydrocarbons (PAH's) and various petroleum products.

(m) "**Release**" means any spilling, leaking, migration (including migration below the surface from other properties to the Arena Land or from the Arena Land to other properties), pumping, pouring, emitting, emptying, discharging, injecting, escaping (including into the air inside or outside of the Arena), leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other receptacles containing any Hazardous Substance).

(n) "**Remediate**" and "**Remediation**" means any of those actions defined as removal and/or remedial actions under Section 101(23) and (24) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) and similar actions as defined under comparable state and local laws, and/or cleanup, removal, containment, monitoring, treatment, storage, disposal, or other mitigation or remediation of Hazardous Substances undertaken on, in, under or about the Arena Facilities or Arena Land or adjacent or neighboring properties.

**27.2 Pre-Existing Hazardous Substances and Prior Remediation.**

27.2.1 Arena Building and Lots A, B and C. Prior to development of the Arena Building, Lots A, B and C and the surrounding property, it was discovered that prior uses on those sites resulted in soil and groundwater contamination.

(a) To mitigate the contamination, City Authorities completed Remediation work on the affected sites, including: (i) removal of underground storage tanks and oil/water clarifiers; (ii) installation of a slurry wall around the footprint of the Building with a dewatering system to prevent migration of contaminated groundwater beneath the Arena Building; (iii) treatment of petroleum-contaminated soils with vapor extraction; (iv) removal of a portion of the contaminated soil, and (v) encapsulation of remaining contaminated soils beneath various portions of Lots A, B and C, by covering them with layers of clay, clean backfill, base rock and/or asphalt paving, as the case may be (collectively, the "**Cap**").

(b) In addition, City installed several groundwater monitoring wells around the site. A site plan showing the approximate locations of the Cap and the groundwater monitoring wells is attached as **Attachment No. 15** to this Agreement.

(c) A Deed Restriction entitled "Covenant to Restrict Use of Property - Environmental Restriction" was recorded in the Santa Clara County Official Records on May 23, 2003, as Document 17062264. The provisions of such Deed Restriction, which are hereby incorporated by reference into this Agreement, include a description of prohibited uses and activities at Sections 4.01 and 4.03 thereof.


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(d) In addition, Section 4.02 of the Deed Restriction contains soil management covenants that provide as follows:

(i) No soil-disturbing activities (e.g., excavation, grading, removal, trenching, filling, earth movement or mining) shall be allowed anywhere on the Arena Land without a Soil Management Plan and a Health and Safety Plan approved by DTSC prior to the beginning of the activities;

(ii) Any contaminated soils brought to the surface by soil-disturbing activities shall be managed in accordance with all Applicable Laws; and

(iii) DTSC must be given written notice at least fourteen (14) days prior to any soil-disturbing activities anywhere on the Arena Land.

(e) Section 4.04 of the Deed Restriction contains covenants for non-interference with the Cap, as follows:

(i) Activities that may disturb the Cap (including the soil-disturbing activities described above) shall not be permitted without prior review and written approval by DTSC. All uses and development of the Arena Land shall preserve the integrity of the Cap. The Cap shall not be altered without prior written approval by DTSC.

(ii) DTSC must be notified within 10 working days of both the discovery of any damage to the Cap and the type and date of repair of such damage.

(f) City and Manager agree to comply with the provisions of the Deed Restriction and the requirements of DTSC in connection with their respective activities on the Arena Land.

**27.3 City's Responsibilities for Hazardous Substances.**

27.3.1 City's Investigation and Remediation Obligations. Except as provided in Section 27.4, City shall be responsible for Investigation and Remediation of any Hazardous Substances on or under the Arena Land (including Pre-Existing Hazardous Substances) and any Hazardous Substances that are Released onto, in, under, over, from or about the Arena Land, including all costs associated with any such Investigation and/or Remediation.

(a) City's obligations under this Section 27.3.1 shall apply to any properties later added to the definition of Arena Land under this Agreement.

(b) Manager has no duty or right to Investigate, Remediate or assist in Remediating Hazardous Substances except as provided in Section 27.4.

(c) Manager shall allow City access to the Arena Land as reasonably necessary to monitor and maintain equipment used for continuing City's Investigation and/or Remediation responsibilities.

27.3.2 Pre-Existing Hazardous Substances. City shall have continued responsibility for the Remediation of Pre-Existing Hazardous Substances under the supervision of applicable Governmental Authorities.


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(a) City shall submit periodic reports to DTSC regarding the environmental condition of the site, as required by DTSC or as elected by City. As of the ~~Commencement~~Effective Date, such reports include the following:

(i) A five year review report (next report due in March 2028), to verify that the Remediation performed by City continues to be protective of public health, safety and the environment;

(ii) An annual groundwater monitoring well sampling report; and

(iii) An annual site inspection report, to verify continuing compliance with the applicable Deed Restriction and integrity of the Cap.

(b) City shall notify Manager of the ongoing status of such Remediation by providing Manager with copies all reports filed with DTSC or other Governmental Authorities. Copies of reports filed with DTSC are also available at the following website address:

https://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=43730007

(c) The possession, management and control of the Remediation of Pre-Existing Hazardous Substances on the Arena Land and the subsurface of the Arena Land (excluding lower levels of the Building) shall remain exclusively the province of City, and Manager shall not take any action that disturbs or unreasonably interferes with said Remediation or subsurface.

27.3.3 City Obligations upon Release or Notice of Governmental Action. City shall promptly notify Manager in writing of any Release of Hazardous Substances which are known by City to be its responsibility hereunder and of any governmental action taken (or threatened) relating thereto.

(a) City, at its sole cost and expense, may contest any such governmental action, but shall use reasonable good faith efforts to respond to any such governmental action so as to cause the least possible interference reasonably practical with Manager's use and operation of the Arena Facilities.

(b) City, using reasonable good faith efforts, shall promptly undertake and diligently prosecute to completion any Investigation or Remediation for which City is responsible hereunder (whether through repair, replacement or otherwise) in such manner as to cause the least possible interference reasonably practical with the use and operation of the Arena Facilities.

27.3.4 Conformance with Applicable Environmental Laws. City shall use reasonable good faith efforts to implement and complete the current and any future Investigation and Remediation for which City is responsible hereunder in conformance with Environmental Laws or as required by any Governmental Authority, or as necessary to abate an immediate risk to human health or safety.

(a) City shall comply with permits and licenses currently or hereafter issued to City in connection with any Investigation or Remediation of Hazardous Substances for which City is responsible under Section 27.3.1.


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27.3.5 Indemnification by City. City shall defend, hold harmless and indemnify Manager Indemnitees from any and all Environmental Claims arising from or relating to the following:

(i) The presence of, the Release of, costs of Investigation of, and/or the Remediation of Hazardous Substances that are City's responsibility under Section 27.3.1; and

(ii) The costs of repairs, replacements and any capital modifications or improvements to the Arena Facilities caused by or required as a result of any such Investigation and/or Remediation activities.

27.3.6 Alterations to On-Site Parking Facilities. Because of the on-going environmental Remediation and the presence of certain known Hazardous Substances on the Arena Land, Manager shall have no right or obligation to Investigate, comment upon, participate in the design of, or approve any plans or specifications for the On-Site Parking Facilities or relating in any way to the Investigation and Remediation work to be implemented and performed by City on the Arena Land.

(a) Notwithstanding the foregoing, access, striping, traffic flow and other design criteria of the On-Site Parking Facilities shall be subject to Manager's approval so long as Manager's participation in determining such design will not affect the quality or process of Remediation.

(b) Although Manager is responsible for Ordinary Maintenance and Repairs to the On-Site Parking Facilities under Section 13.1.2, City is responsible for performing any work that involves penetrations in or removal, replacement or breaking of the asphalt surface (including all repaving necessary to repair any penetration), consistent with the provisions of this Section 27.3. Accordingly, if Manager wishes to do any work to the On-Site Parking Facilities that may disturb the Cap, Manager will do the following prior to commencing any such work:

(i) Notify City (through the Environmental Services Department and Department of Public Works) of such proposed work, which notification should be given at least 21 days prior to the start date of the work.

(ii) Coordinate with City's Environmental Services Department to notify the DTSC of the proposed work, and to submit a Soil Management Plan and Health and Safety Plan for DTSC's approval as required by the Deed Restriction.

(iii) Obtain City's approval of the contractor(s) that will be doing the work, the scope of their work, and the allocation of costs for those aspects of the work involving disturbance of the Cap, which allocation will be based on the provisions of Section 28.1.2.

**27.4 Manager's Responsibilities for Hazardous Substances.**

27.4.1 Manager's Investigation and Remediation Obligations. Manager shall be responsible for Investigation and Remediation of any Hazardous Substances Released onto, in, under, over, from or about the Arena Land by Manager or other Manager Invitees, from and after


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the Date of Possession and continuing throughout the Term, including all costs associated with any such Investigation and/or Remediation.

27.4.2 Manager Obligations upon Release or Notice of Governmental Action. Manager shall promptly notify City in writing of any Release of Hazardous Substances which are known by Manager to be its responsibility hereunder and of any governmental action taken (or threatened) relating thereto.

(a) Manager, at its sole cost and expense, may contest any such governmental action, but shall use reasonable good faith efforts to respond to any such governmental action.

(b) Manager, using reasonable good faith efforts, shall promptly undertake and diligently prosecute to completion any Investigation or Remediation required of Manager hereunder (whether through repair, replacement or otherwise).

27.4.3 Conformance with Applicable Environmental Laws. Manager shall use reasonable good faith efforts to implement and complete any Investigation and Remediation for which Manager is responsible hereunder in conformance with Environmental Laws or as required by any Governmental Authority, or as necessary to abate an immediate risk to human health or safety.

(a) Manager shall comply with permits and licenses currently or hereafter issued to Manager in connection with any Investigation or Remediation of Hazardous Substances for which Manager is responsible under Section 27.4.1.

27.4.4 Indemnification by Manager. Manager shall defend, hold harmless and indemnify City Indemnitees from any and all Environmental Claims arising from or relating to the following:

(i) The presence of, the Release of, costs of Investigation of, and/or the Remediation of Hazardous Substances that are Manager's responsibility under Section 27.4.1; and

(ii) The costs of repairs, replacements and any capital modifications or improvements to the Arena Facilities caused by or required as a result of any such Investigation and/or Remediation activities.

## PART EIGHT
## CAPITAL ASSETS

**SECTION 28. CAPITAL REPAIRS, REPLACEMENTS AND ENHANCEMENTS.**

**28.1 General Provisions.** Capital Repairs and Replacements, Capital Enhancements and other Alterations to the Arena Facilities shall be governed by the following general provisions:

28.1.1 Definitions. In this Agreement, the following terms shall have the meanings given below:

(a) "**Alterations**" means improvements, betterments, additions, installations, repairs or other alterations or fixtures that are permanently affixed to or have become an integral part of the Arena Land or other Arena Facilities (including Arena FF&E), including Capital Repairs and Replacements and Capital Enhancements, but excluding Renovation Improvements.


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(b) "**Arena Building**" or "**Arena**" means the multi-purpose entertainment and sports facility described in Recital A(2), and includes the enclosed structure and all improvements on or in such structure.

(c) "**Arena Facilities**" means all of the following, including all Alterations made thereto: the Arena Land, the Arena Building (or Arena), the Arena Site Improvements, the On-Site Parking Facilities, and the Arena FF&E.

(d) "**Arena FF&E**" means furnishings, trade fixtures, equipment, vehicles and other tangible property located on or about the other Arena Facilities and/or used in connection with the operation of the other Arena Facilities, excluding Manager's Personal Property, Sharks' Personal Property, and other personal property owned by concessionaires, vendors, or other users of the Arena.

(i) Examples of Arena FF&E include the scoreboard, Zambonis, hockey dasher boards and netting, basketball floor, metal detectors, office furniture, suite furniture, restaurant equipment, laundry equipment, lighting and sound equipment, video monitors, signage systems, organ, service vehicles, and storage systems.

(ii) Arena FF&E does not include expendable items needed for Ordinary Maintenance and Repairs (defined in Section 13.1.1) that are classified as Operating Expenses consistent with the Parties' historical practices.

(e) "**Arena Land**" means the legal parcels of land described in **Attachment No. 1**.

(f) "**Arena Site Improvements**" means the ramps, stairs, supports, loading and receiving areas, driveways, walkways, parking areas and other improvements located outside of the Arena Building, but within the boundaries of the Arena Land.

(g) "**Capital Budget**" means a schedule of Capital Projects that Manager proposes to complete during the applicable Term Year, and the Capital Costs thereof, which when approved by City in accordance with Section 28.2 below shall constitute authorization for Manager to complete such Capital Projects (subject to the terms of this Section 28) and to obtain reimbursement of such Capital Costs from the Capital Reserve Fund.

(h) "**Capital Costs**" means costs that are charged as part of Capital Projects (rather than as Operating Expenses) consistent with the Parties' historical practices, including the following:

(i) Sums paid or payable to contractors or suppliers for construction or purchase and installation of items of the Arena Facilities (including replacement or acquisition of Arena FF&E), including costs of so-called "turnkey" contracts, purchases of goods and services, purchases of labor and materials, fees (including inspection, testing and plan check and permit fees), taxes, bonds and insurance included in prices charged by such contractors and suppliers;

(ii) Sums paid or payable to third-party professionals (design, architectural, engineering, and other advisors and consultants) for design, code


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analysis, or descriptive work for the Arena Facilities; preparation of plans, bid specifications and change orders; and construction-related supervision, inspection and testing; and

(iii) Reasonable costs incurred by City or Manager for services or other work performed by their own personnel for the review, inspection, implementation and/or delivery of specific Capital Projects, to the extent that such services or work would be considered Capital Costs under (i) or (ii) above if performed by third parties.

Except to the extent engaged to provide necessary services related to the review, inspection, implementation and/or delivery of a specific Capital Project, Capital Costs exclude costs incurred by City or Manager for their own attorneys, managers, employees, and agents, or for their own administrative and overhead costs.

(i) "**Capital Enhancements**" means items of work that are not required to repair or replace faulty or worn out elements of the Arena Facilities, but are new improvements that are made to improve the quality, functioning, efficiency or competitiveness of the Arena Facilities (including Arena FF&E). For example, Capital Enhancements would include adding state-of-the-art broadcast equipment; adding modern amenities to the suites; constructing new revenue-generating areas such as an atrium bar or expanded retail store; installing cost-saving equipment such as fuel cells; and adding features to attract new acts, such as better dressing rooms.

(j) "**Capital Projects**" means either (i) Capital Repairs and Replacements (including Emergency Capital Repairs and Replacements or Parking Capital Repairs and Replacements where applicable), or (ii) Capital Enhancements. The term "Capital Projects" does not include Renovation Improvements, Code Upgrade Work, Extraordinary Repair Work, or work needed to repair or replace Arena Facilities following a Casualty as described in Section 31.1.

(k) "**Capital Repairs and Replacements**" means renovation, repair, construction, acquisition or replacement of capital items included in the Arena Facilities (including Arena FF&E) which are subject to wearing out after a useful life, and therefore can be forecasted and budgeted for (except for Emergency Capital Repairs and Replacements). For example, Capital Repairs and Replacements would include replacement of roof coverings, carpeting, or mechanical equipment; replacement of worn out Zambonis; or replacement of seats by section due to normal wear and tear. The term "Capital Repairs and Replacements" does not include Renovation Improvements, Code Upgrade Work, Extraordinary Repair Work, or work needed to repair or replace Arena Facilities following a Casualty.

(l) "**Capital Reserve Fund**" means the fund described in Section 7.1, into which the Parties will make deposits to provide a source of funding for reimbursement of the Capital Costs of Capital Projects.

(m) "**City's Original Improvements**" means the items of the Arena Facilities originally constructed by or on behalf of City as described in Section 28.4.2.


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(n) "**Code Upgrade Work**" means Alterations work performed for the sole purpose of conforming either the City's Original Improvements or the Manager's Original Improvements to Applicable Construction Codes, including any changes thereto enacted after approval of design drawings therefor. For purposes of this Agreement, the term "Code Upgrade Work" shall not include (i) Renovation Improvements, or (ii) Capital Repairs and Replacements that had been scheduled to be paid out of the Capital Budget within five years of the Term Year in which the work is performed, even if the work is accelerated in order to cure or correct any non-compliance with Applicable Construction Codes.

(o) "**Emergency Capital Repairs and Replacements**" means Capital Repairs and Replacements that must be accomplished immediately to remove a hazard to health and safety, ensure the structural integrity of the Arena Facilities, or eliminate a condition that causes the Arena Facilities to be nonoperational. The term "Emergency Capital Repairs and Replacements" does not include Code Upgrade Work, Extraordinary Repair Work, or work needed to repair or replace Arena Facilities following a Casualty as described in Section 31.1.

(p) "**Extraordinary Repair Work**" means work needed to correct or cure any defect, corrosion, deterioration, subsidence, slippage, misalignment, cracking, non-operation or breakage in items that are not expected to wear out during the life of the Arena Building (and therefore are not scheduled for repair or replacement) and that are reasonably necessary for the structural integrity and operational functioning of the Arena Facilities, including the following:

(i) Structural elements such as the foundations, concrete platforms, building envelope, load bearing walls, girders, seismic joints, roof support systems, and underground slurry walls (installed to prevent migration of Hazardous Substances);

(ii) Mechanical, electrical and plumbing permanently installed infrastructure components that are not subject to normal preventative maintenance, such as the ventilation ductwork system or pipelines or conduits; and

(iii) The surface and sub-surface components of the On-Site Parking Facilities, including the asphalt (but only to the extent that damage is caused by subsidence or material construction-related defects) and the Hazardous Materials Cap (as described in Section 27.2.1).

(q) "**Governing Standards**" means all of the following, as defined in Section 12.1.3:

(i) Applicable City Policies and Guidelines;

(ii) Applicable Laws;

(iii) Applicable Construction Codes;

(iv) Applicable Permit Requirements;

(v) Applicable Performance Standard; and

(vi) Applicable Community Standard.


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(r) "**Manager's Exclusive Use Areas**" means the private executive office and conference areas occupied by Manager and Manager's Affiliates and located within the Arena Building.

(s) "**Manager's Original Improvements**" means the items of the Arena Facilities originally constructed by or on behalf of Manager as described in Section 28.4.1(a).

(t) "**Manager's Personal Property**" means tangible personal property located within Manager's Exclusive Use Areas and not needed for the operation of the Arena Facilities, including office computers and related office equipment such as copy machines (whether owned outright or leased from a third party), office artwork, business software, office supplies, and other personal effects. However, office furniture located within the Arena Building is part of Arena FF&E and is not Manager's Personal Property.

(u) "**On-Site Parking Facilities**" means (i) the improved parking areas known as "Lots A, B and C" and located on the same site as the Arena Building; and (ii) the improved parking area known as "Lot D" and located across the street from the Arena Building; all as more specifically described in Section 18.

(v) "**Parking Capital Repairs and Replacements**" means Capital Repairs and Replacements made to the On-Site Parking Facilities, excluding Extraordinary Repair Work.

(w) "**Renovation Improvements**" means the improvements, fixtures or other property constructed, modified or installed by Manager pursuant to the Renovation Agreement.

(x) "**Sharks' Exclusive Use Areas**" means (i) the private locker/training facility (including coaches offices, laundry room, equipment room, and storage areas) located on the lower level of the Arena Building, and (ii) the retail merchandise stores and concession areas located within the Arena Building.

(y) "**Sharks' Personal Property**" means tangible personal property located within Sharks' Exclusive Use Areas and not needed for the operation of the Arena Facilities, including team uniforms, team training equipment, retail store merchandise and inventory, and other personal property used solely for the NHL hockey team operations.

28.1.2 Allocation of Obligations between the Parties. Subject to the other terms of this Section 28, the Parties shall have the following obligations:

(a) For Term Year 25-26, Term Year 33-34 and each Term Year thereafter, Manager and City shall agree upon a Capital Budget in accordance with Section 28.2.

(b) Capital Projects (i.e., Capital Repairs and Replacements and Capital Enhancements) that are approved through the Capital Budget process shall be completed (and initially paid for) by Manager, and the Capital Costs therefor shall be reimbursed to Manager from the Capital Reserve Fund, except as provided in (c) below.


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(c) Unless otherwise mutually agreed by the Parties, Parking Capital Repairs and Replacements that are approved through the Capital Budget process shall be completed (and initially paid for) by City, including all work that involves penetrations in or removal, replacement or breaking of the asphalt surface, and the Capital Costs therefor shall be reimbursed to City from the Capital Reserve Fund, except for those items that are included in the definition of Extraordinary Repair Work as described above.

(d) Unless otherwise mutually agreed by the Parties, City shall be solely responsible for completing and paying for any Extraordinary Repair Work, the costs of which shall not be reimbursed from the Capital Reserve Fund.

(e) Each Party shall be solely responsible for its own Code Upgrade Work, the costs of which shall not be reimbursed from the Capital Reserve Fund, unless otherwise mutually agreed by the Parties.

(f) Emergency Capital Repairs and Replacements shall initially be performed and paid for by Manager or by City in accordance with Section 28.3, and the Capital Costs therefor shall be reimbursed to the Party performing the work if and to the extent provided in Section 28.3.

(g) Notwithstanding the foregoing, if either Party is entitled to the benefit of any construction or manufacturing warranties that cover any necessary repair or replacement work, such Party shall use all reasonable efforts to recover costs from such warranties. Any such recoveries shall be credited against amounts that would otherwise be recoverable from the Capital Reserve Fund.

**28.2 Capital Budget.**

28.2.1 Prioritization of Funds. Through the annual Capital Budget process, the Parties will agree on priorities for Capital Projects and utilization of funds in the Capital Reserve Fund, giving first priority to Capital Repairs and Replacements as needed to keep the Arena Facilities in good working condition, and secondary priority to Capital Enhancements. Priorities will be established pursuant to the annual Capital Budget process described below, with expenditures for Capital Projects to be based on the Capital Budget proposed by Manager and approved by City, which approval shall not be unreasonably withheld or delayed.

28.2.2 Capital Budget Approval Process.

(a) Prior to January 1 of each Term Year preceding a Term Year in which a Capital Budget is to be agreed upon, Manager shall prepare and submit to City for its approval a preliminary Capital Budget for the following Term Year which reasonably itemizes and estimates the Capital Costs for all Capital Projects that Manager anticipates will be completed for such Term Year.

(i) Except for Term Year 25-26, the preliminary Capital Budget shall also include an estimate of the Capital Projects that Manager anticipates will be completed over an additional four succeeding Term Years and the estimated Capital Costs thereof, but such estimates shall not be subject to approval and shall not constitute part of the Capital Budget.


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(ii) The Capital Budget shall identify each item of work as either a Capital Repair and Replacement or a Capital Enhancement.

(b) City shall review and approve the preliminary Capital Budget, which approval shall not be unreasonably withheld or delayed. Both Parties shall use reasonable good faith efforts to agree on a Capital Budget.

(i) The reasonableness of any failure to approve the preliminary Capital Budget, including any dispute regarding Capital Project priorities or utilization of funds in the Capital Reserve Fund, shall be subject to Mediation in accordance with Section 39.

(c) The preliminary Capital Budget, as and when approved by City (including any agreed to revisions by City) shall constitute the final Capital Budget for the applicable Term Year. Manager shall take steps reasonably necessary to submit a final Capital Budget to City by March 1 of each Term Year, for the following Term Year.

(i) Notwithstanding the foregoing, City agrees to consider requests for increases in the Capital Budget during the applicable Term Year as may be reasonably requested by Manager, in accordance with City's mid-year budget adjustment processes.

28.2.3 Capital Budget Limitations. Except as otherwise expressly provided herein, the Capital Budget shall not exceed the balance in the Capital Reserve Fund that will be available to pay for budgeted amounts in the applicable Term Year, but any unspent funds (including interest earnings) will be carried forward to the next Term Year as provided in Section 7.1.

(a) Neither Party shall be required by the other to make additional deposits to the Capital Reserve Fund, or to pay for budgeted items from its separate funds, without its prior written consent which may be withheld in its sole and absolute discretion.

(b) Expenditures from the Capital Reserve Fund that are contemplated in the Capital Budget or otherwise approved in writing by the Parties shall be deducted from the balance in determining whether funds on hand are sufficient for additional Capital Projects.

28.2.4 Reimbursement from Capital Reserve Fund. Upon completion of a Capital Project approved pursuant to the Capital Budget, the Party performing the work shall be entitled to reimbursement of the approved Capital Costs from the Capital Reserve Fund.

(a) Manager shall submit reimbursement requests and supporting documentation to City in accordance with the Parties' historical practices. City shall make payment to Manager from the Capital Reserve Fund within 60 days after receipt of an approved reimbursement request.

(b) Neither Manager nor City shall be entitled to reimbursement from the Capital Reserve Fund for any Capital Projects, other than Emergency Capital Repairs and Replacements or Self-Help Work (as provided in Section 38.3.6), unless such Capital Projects are included in the Capital Budget (as may be increased pursuant to a mid-year budget adjustment) or otherwise approved in writing by the Parties,


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and the total amount of the Capital Budget is sufficient to cover the total amount of Capital Costs for such Capital Projects.

(i) Consistent with the Parties' historical practices, deviations between budgeted costs and actual costs for specific line items shall not affect a Party's right to reimbursement, provided that the total Capital Costs to be reimbursed during the applicable Term Year do not exceed the total expenditures authorized for that Term Year pursuant to the Capital Budget (as may be adjusted).

(ii) If the actual Capital Costs for all line items in the Capital Budget exceed the total expenditures authorized by the Capital Budget, then an increase in the Capital Budget must be authorized by City before such excess costs may be reimbursed from the Capital Reserve Fund.

(c) If due to unexpected circumstances or mutual approval of the Parties, the Capital Costs of Capital Projects during any Term Year are in excess of the amount on hand, then the Party performing the work shall be entitled to recover such excess costs from Capital Reserve Fund deposits for future Term Years.

(i) In no event shall Manager or City be required to fund Capital Projects in excess of the amount on hand in the Capital Reserve Fund unless there is an expectation in such Party's sole and absolute discretion that it will be able to recover such excess costs over the remaining Term from future Capital Reserve Fund deposits.

(d) In no event shall Code Upgrade Work or Extraordinary Repair Work be reimbursed from the Capital Reserve Fund, unless mutually agreed by the Parties in their sole discretion.

28.2.5 Capital Budget on Early Termination. Notwithstanding anything herein to the contrary, if this Agreement is terminated early pursuant to the terms of this Agreement, then in accordance with Section 7.4 the Parties' contributions to the Capital Reserve Fund shall be reduced proportionately.

(a) In such event, the Capital Budget process shall be limited to determining what Capital Repairs and Replacements are necessary to keep the Arena Facilities in good working condition for the remainder of the shortened Term and the levels of funding necessary to complete such work.

**28.3 Emergency Capital Repairs and Replacements.**

28.3.1 Notification to City.

(a) City shall provide Manager with the names and telephone numbers of the City Manager's Office to contact in the event of an emergency involving the Arena Facilities.

(b) Unless any delay would present a material risk to human life or the structural integrity of the Arena Facilities or prevents the holding of a scheduled Event, Manager shall notify the City Manager's Office at the emergency number provided to Manager, and receive the City's prior approval, or wait 24 hours


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without receiving a response, before commencing Emergency Capital Repairs and Replacements.

28.3.2 Performance of Work.

(a) City may make Emergency Capital Repairs and Replacements consistent with established City procedures for handling civil emergencies.

(b) Alternatively, if City approves Manager's proposed action, or if City neither responds to Manager's notice nor performs the emergency work itself, then Manager shall be entitled to make the Emergency Capital Repairs and Replacements and City cannot contest the characterization of the work as Emergency Capital Repairs and Replacements.

28.3.3 Reimbursement.

(a) For the purpose of determining ultimate payment responsibility, Emergency Capital Repairs and Replacements shall be characterized, depending on their nature, as either Capital Repairs and Replacements or Extraordinary Repair Work.

(i) For Capital Repairs and Replacements, reimbursement shall be made promptly from the Capital Reserve Fund; provided that if there are insufficient funds, Section 28.2.4(c) shall apply.

(ii) For Extraordinary Repair Work performed by Manager, reimbursement shall be made promptly to Manager from City's own funds.

(iii) Consistent with Section 28.2.4(a), City shall make payment to Manager for the above items within 60 days after receipt of a reimbursement request with supporting documentation.

(b) If any dispute exists regarding the source of or entitlement to payment, payment shall be made by the performing Party, with ultimate liability determined after the fact. Any such dispute that is not resolved through negotiation may be submitted to Mediation as provided in Section 39.

**28.4 Code Upgrade Work.**

28.4.1 Manager's Obligations. Manager shall pay for (without reimbursement from the Capital Reserve Fund) and perform within the time periods required by Applicable Laws, all Code Upgrade Work that may be required with respect to the items of the Arena Facilities originally constructed by Manager or on behalf of Manager ("**Manager's Original Improvements**").

(a) For purposes of this provision, the Parties agree that Manager's Original Improvements shall be deemed to include the original construction of the interior improvements for the Sharks' Exclusive Use Areas; Manager's Exclusive Use Areas; concourse suites; concourse and arena-level concessions; restaurant and club; kitchen, pantries, commissary and related food-preparation facilities; advertising systems; and all improvements within the entire skybox level.

28.4.2 City's Obligations. City shall pay for (without reimbursement from the Capital Reserve Fund) and perform within the time periods required by Applicable Laws, all Code Upgrade


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Work with respect to the items of the Arena Facilities originally constructed by or on behalf of City ("**City's Original Improvements**").

(a) For purposes of this provision, the Parties agree that City's Original Improvements shall be deemed to include all elements of the original construction of the Arena Facilities except for Manager's Original Improvements, including all "core and shell" and other structural elements; doors, elevators, ramps and stairways; public restrooms, drinking fountains and service areas; the arena bowl seating areas and related bowl facilities; press box; all major mechanical, electrical, plumbing, and other utility systems serving the Arena Building; fire and life safety systems; sound and lighting systems; directional and informational signage; and all parking and site improvements.

28.4.3 Right to Contest. Each party reserves the right to contest Applicable Construction Codes so long as such action does not result in the closure or limitation on the use of the Arena.

**28.5 Additional Capital Projects Outside of Budget Process.**

28.5.1 Election to Use Own Funds. Either Party may, at any time, propose additional Capital Projects (both Capital Repairs and Replacements and Capital Enhancements) that are not approved through the Capital Budget process (and reimbursed by the Capital Reserve Fund), but instead are intended to be paid for out of the proposing Party's own funds or own sources of financing.

(a) Examples of additional Capital Projects that Manager may propose to construct with Manager's own funds include a new atrium bar; additional signage both inside and outside of the Arena Building; and additional concession or retail locations within the Arena.

(b) The proposing Party may request that the other Party contribute to the cost of additional Capital Projects. However, the other Party may deny the proposing Party's request in such other Party's sole and absolute discretion, in which case the proposing Party shall proceed (if at all) at such Party's sole cost.

(c) As provided in Section 9.1, Manager shall be entitled to retain all Operating Revenues directly or indirectly generated by Capital Projects, including any Capital Projects funded by the Capital Reserve Fund or the Parties' own funds. However, the foregoing shall not apply where the Manager expressly agrees in writing to share such Operating Revenues with City, such as where City agrees to contribute towards the cost of the Capital Projects.

28.5.2 Approval Outside of Capital Budget Process. Regardless of whether or not the other Party agrees to contribute toward the cost of any additional Capital Projects outside of the Capital Budget process, the proposing Party shall not undertake any such additional Capital Projects without first obtaining the other Party's written approval, including (in the case of Alterations) obtaining the other Party's written approval of all applicable plans and specifications. The other Party's approval shall not be unreasonably withheld, conditioned or delayed, subject to the following:

(a) If City proposes a Capital Project, Manager shall have the right to disapprove the proposal if, in Manager's reasonable opinion, such Capital Project would have a


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negative impact on the operational convenience and operational cost of the Arena, or if the construction work would unreasonably interfere with use of the Arena by Manager or SJS LLC or other Manager Invitees.

(b) If additional Capital Projects proposed by Manager outside of the annual Capital Budget process (i) do not affect any structural elements of the Arena, are not visible from the exterior of the Arena nor by customers in the public areas of the Arena, and cost less than $500,000; or (ii) are reasonably necessary to keep the Arena up to the Applicable Performance Standard with regard to non-structural elements designed for the comfort and convenience of Arena customers; then in those circumstances the scope of City's approval rights shall be limited to confirming whether or not any applicable plans and specifications violate this Agreement or Applicable Construction Codes.

(c) Except as otherwise provided in this Agreement, City shall have the sole and absolute discretion to withhold approval of any proposed Alteration that would add to, delete from, or in any way change the configuration or appearance of the exterior of the Arena, including any work that would permanently (i) change the color of, (ii) remove the foliage from, or (iii) append advertising material to the exterior of the Arena.

**28.6 Implementation of Alterations Work.**

28.6.1 Pre Construction Planning. Manager shall use its reasonable good faith efforts to plan and prepare for any construction project sufficiently in advance of commencing construction to allow adequate time for the development of complete plans and specifications for each project (to the extent applicable) and the selection of a contractor or construction manager.

28.6.2 Implementation Responsibilities.

(a) Manager shall implement the design and construction of Capital Repairs and Replacements, Capital Enhancements, and Code Upgrade Work related to Manager's Original Improvements.

(i) To the extent this Agreement provides for Manager to be reimbursed the cost of such work from the Capital Reserve Fund, then Manager shall be reimbursed for Capital Costs as defined in Section 28.1.1(i) above, but shall not be entitled to reimbursement of other costs such as Manager's administrative overhead.

(b) City may elect to implement the design and construction of Extraordinary Repair Work, Code Upgrade Work related to City's Original Improvements, and Capital Enhancements proposed by City, or may delegate such responsibility to Manager. Manager shall accept such responsibility as delegated to it by City.

(i) City shall pay for all Capital Costs of such work directly to the professionals, contractors and material suppliers providing services or materials for the same, plus a reasonable fee to Manager for any implementation work provided by Manager pursuant to agreement of the Parties.


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(c) City shall implement, and shall not delegate to Manager, the design and construction of all Parking Capital Repairs and Replacements.

(d) Where applicable, the Party implementing any Alterations under this Agreement shall:

(i) Comply with all Governing Standards related to the Alterations work, including payment of prevailing wages (but prevailing wages are required under this Agreement in the construction of Capital Projects only to the extent they are required by Applicable Laws or by the requirements set forth in the Non-Discrimination Policy attached as **Attachment No. 8**); and

(ii) Exercise its supervisory responsibilities to ensure that all such work and materials utilized therein shall be of the highest quality appropriate to the uses to which such improvements and materials are intended and as are reasonably consistent with the nature of the Alterations, the amount budgeted therefor and the Applicable Performance Standard.

**28.7 Surety Bonds.**

28.7.1 General Requirements. Except as provided in Section 28.7.3 below, any construction project carried out by Manager under this Agreement shall not commence without the provision of surety bonds of the types, in the amounts and for the purposes noted below, to the extent surety bonds are required by City for similar undertakings, unless the prior written approval of City (through the City Manager) has been obtained to proceed without requiring such surety bonds.

(a) Such surety bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California, and secured through an authorized agent with an office in California.

(b) Manager, or Manager's general construction contractor, shall pay all bond premiums, costs and incidentals as a part of the project cost. Each bond shall be signed by either Manager or Manager's general construction contractor and the Surety and shall name the City of San Jose and Manager as obligees.

(c) Should any bond become insufficient, Manager or Manager's general construction contractor shall renew the bond within 10 days after receiving notice from City.

(d) Should any Surety at any time be unsatisfactory to City, notice will be given to Manager to that effect and Manager or Manager's general construction contractor shall obtain a new Surety acceptable to City.

(e) Manager shall require that changes in work within the scope of the original work, or extensions of time, made pursuant to the construction contract(s), shall in no way release the Surety from its obligations. Notice of such changes or extensions shall be waived by the Surety.


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28.7.2 Types of Surety Bonds Required. Manager, or Manager's general construction contractor, shall provide the following surety bonds for each construction project, to the extent surety bonds are required by City for similar undertakings.

(a) A "Payment Bond" (Material and Labor Bond) in the amount of 100% of the contract price, for construction of the particular Alteration, which shall meet the requirements of California Civil Code Sections 9550 and 9554, and shall be maintained in full force and effect until the particular Alteration is completed and a certificate of completion is recorded (to the extent required); and

(b) A "Faithful Performance Bond," which shall be for 100% of the contract price for construction of the particular Alteration to guarantee faithful performance of all work in accordance with the approved plans and specifications, and that all materials and workmanship will be free from original or developed defects.

28.7.3 Exception to Surety Bond Requirement. City (through the City Manager) shall approve Manager's request to proceed without bonds if Manager provides to City a letter of credit or other assurance, reasonably acceptable to City to ensure that funds will be available to complete any work commenced by Manager.

**SECTION 29. OWNERSHIP OF ASSETS.**

**29.1 Ownership and Surrender of Arena Facilities.**

29.1.1 Exclusive Property of City. All of the Arena Facilities (as defined in Section 28.1.1) shall be held by and shall continue to be held by and shall be the exclusive property of City, subject to Manager's Possessory Interest Rights (defined in Section 6.1.3), including the right to use, occupy, possess, control, brand, operate and make a profit from the Arena Facilities during the Term as provided in this Agreement.

(a) All Renovation Improvements, Alterations made to the Arena Facilities (including Capital Enhancements), and all other work whatsoever that increases the value of the Arena Facilities (including Ordinary Maintenance and Repairs), shall be deemed to be a part of the Arena Facilities when made (and therefore owned by City), whether the costs therefor are reimbursed from the Capital Reserve Fund, are paid for by Manager, or are paid for by City.

(b) During the Term, Manager shall not permanently remove any Arena FF&E or other Arena Facilities from the Arena Land, except as part of the Renovation Project or a Capital Project, or as otherwise approved by City in writing.

29.1.2 Surrender upon Termination. Upon the expiration or earlier termination of this Agreement in accordance with the terms hereof, Manager shall surrender (and shall cause SJS LLC and other occupants to surrender) possession of the Arena Facilities to City. Thereafter neither Manager nor SJS LLC (nor any other party claiming under Manager) shall have any rights or interests in the Arena Facilities.

(a) Manager shall own Manager's Personal Property, and may remove such property at any time during the Term up to and including the Termination Date.

(b) SJS LLC shall own Sharks' Personal Property, and may remove such property at any time during the Term up to and including the Termination Date.


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(c) To the extent provided by Section 30 (if an early termination is caused by a Casualty) or by Section 34 (if an early termination is caused by a Taking), Manager and SJS LLC shall each be entitled to recover compensation for their loss of use of the Arena Facilities, loss of investment in the Arena Facilities, and other damages related to their rights and interests under this Agreement, including Manager's Possessory Interest Rights.

**29.2 Pledge or Hypothecation; Lender Rights.**

29.2.1 Agreement is Subordinate to Financing Leases. City may from time to time lease, sublease, pledge or otherwise hypothecate all or a portion of the Arena Facilities to finance the development, repair, replacement, improvement or maintenance of the Arena Facilities, and for any other public purpose of City. Without limiting the foregoing, Manager acknowledges that City intends to cause the City of San Jose Financing Authority (the "**Financing Authority**") to issue one or more series of lease revenue bonds (together with any bonds issued to refund such bonds, "**Lease Revenue Bonds**") to assist the City to finance Project Costs (as described in the Renovation Agreement). To support the payment of debt services on the Lease Revenue Bonds, City and Financing Authority from time to time will enter into (i) one or more site leases pursuant to which City will lease the Arena Facilities to the Financing Authority (collectively, the "**Financing Site Leases**"), and (ii) one or more lease agreements pursuant to which Financing Authority will lease the Arena Facilities back to City (collectively, the "**Financing Lease Agreements**" and together with the Financing Site Leases, the "**Financing Leases**"). Manager and City agree that Manager's leasehold interest in the Arena Facilities pursuant to this Agreement shall be subject and subordinate to the leasehold interests of City and Financing Authority under the Financing Leases. The rights of Manager and its Affiliates hereunder shall not be disturbed, except in accordance with Section 38.3 in case of an Event of Default by Manager that has occurred and is continuing. In the event of termination of, or other enforcement action under, the Financing Leases by City, Financing Authority or any trustee of the Lease Revenue Bonds ("**Bond Trustee**"), the Manager shall attorn to the Bond Trustee or other lessor under the terms and conditions of this Agreement.

29.2.2 Manager's Right to Pledge or Hypothecate Operating Revenues. Manager may from time to time pledge or otherwise hypothecate its interest in the Operating Revenues arising under this Agreement in connection with any loans to Manager or SJS LLC, the proceeds of which are used for Alterations to the Arena Facilities, for the acquisition or improvement of Off-Site Parking Facilities, or for the operations of Manager or SJS LLC, provided that any such pledge or other hypothecation shall be subordinate to this Agreement and any and all such Financing Leases, and shall not permit any lender to succeed to the rights of Manager or its Affiliates under this Agreement, except in accordance with the express terms of this Agreement.

29.2.3 Further Assurances. In furtherance of the foregoing provisions of this Section 29.2, from time to time, each Party will execute and deliver such additional instruments, certificates or documents, and will take all such actions as the other Party may request, for the purposes of implementing or effectuating the provisions of Section 29.2.1 or 29.2.2, including, without limitation, executing and delivering one or more amendments to any memoranda recorded with the Recorder's Office of the County of Santa Clara, estoppel certificates, and subordination, non-disturbance and attornment agreements, as


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applicable and/or customary under the relevant circumstances.

## PART NINE
## ALLOCATION OF RISK

**SECTION 30. CASUALTY INSURANCE.**

**30.1 Property Insurance.** During the Term of this Agreement, City shall maintain a property insurance policy or policies insuring the Arena Facilities (including improvements and betterments constructed by City, Manager, or SJS LLC), in such forms and with such carriers as shall be within industry standards. The cost of such property insurance shall be borne solely by City, except to the extent expressly provided in this Section 30.

30.1.1 Policy Coverages. The property insurance policy shall at minimum include the following coverages:

(i) "All risk" coverage, such as that provided by ISO "Causes of Loss – Special Form" or the equivalent.

(ii) 100% Replacement Cost, except for coverage for natural hazard perils, for repair and reconstruction of the Arena Facilities, with a reasonable deductible to be determined by City in its sole discretion.

(iii) Wind, Flood, Boiler, and Sprinkler Leakage coverages, in such amounts as may be determined by City in accordance with established City practice.

(iv) 100% Replacement Cost, except for coverage for natural hazard perils, for repair and reconstruction of improvements and betterments constructed by City, Manager, or SJS LLC once installed in the Arena Facilities (whether prior to or following the ~~Commencement~~Effective Date); provided, however, that if the Arena Facilities are not repaired and reconstructed following a covered loss, the policies will provide for Actual Cash Value for damaged improvements and betterments.

30.1.2 Course of Construction. Notwithstanding the foregoing, for the Renovation Project and any other major construction project as reasonably determined by City, the following shall apply:

(a) Manager shall purchase (or cause its contractor(s) to purchase) builder's risk or similar property insurance protecting against damage or loss to the work in progress, on such terms and conditions as shall be reasonably approved by City.

(b) Manager shall meet with City's designated property insurance loss prevention consultant as may be reasonably requested by City's Risk Manager, to review design and construction details (generally at the 30% completion stage). Manager agrees to meet and confer with City to discuss any recommendations made by such loss prevention consultant.

30.1.3 Personal Property not Covered by City. City shall not be required to insure for any losses to Manager's Personal Property or Sharks' Personal Property (each as defined above in Section 28.1.1), or any other personal property owned by Manager Invitees. Manager shall, at no cost to City, maintain (or cause Manager Invitees to maintain) property


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insurance policies covering such losses, in such forms and with such carriers as Manager may determine in its sole discretion.

30.1.4 Loss Payable. If a loss occurs that is insured under City's property insurance policies, then subject to the provisions of Section 31 below, the Parties may either repair and reconstruct the Arena Facilities or terminate this Agreement.

(a) If this Agreement is not terminated, all property insurance proceeds shall be used to pay for repair and reconstruction of the Arena Facilities and related work.

(i) City shall be obligated to pay for any deductible amount on property in which City has an insurable interest.

(b) If the Arena Facilities (including improvements and betterments constructed by City, Manager or SJS LLC) are not repaired and reconstructed following a covered loss, all property insurance proceeds payable with respect to such loss shall be paid to the party or parties entitled thereto as their interests may appear.

**30.2 Business Interruption Insurance.**

30.2.1 Manager's Election. At Manager's election, Manager may maintain its own policy of business interruption insurance or coverage in an amount specified by Manager, which shall insure the business losses of Manager in the event of damage to the Arena Facilities.

30.2.2 Loss Payable. In the event of a covered loss, all business interruption insurance proceeds, if any, shall be payable to and be the sole property of Manager, and may be used by Manager to pay for Annual Fees, Operating Expenses, or any other losses associated with the covered loss.

**30.3 Cooperation**.

30.3.1 City's Obligation to Pursue Claims. With respect to amounts that are payable under the City's property insurance policies, in the event that a covered loss occurs to the Arena Facilities, but City's insurance carrier denies coverage for such loss and/or business interruption, then City shall take all commercially reasonable actions against the insurance carrier as may be needed to pursue such claims against City's insurance carrier, as determined by the City in its discretion taking into account all relevant facts and circumstances including: (i) whether pursuing such claim is likely to have continuing and/or additional material adverse impacts on the City beyond the specific claim in question, and (ii) whether such claim involves any larger policy issues of material importance to the City.

30.3.2 Information Requests. In the event of a Casualty, the Parties will (i) meet and confer with each other to discuss the best course of action, (ii) cooperate to provide information reasonably requested by the insurance carrier or the other Party; and (iii) coordinate communications with representatives of the insurers, so as to help facilitate an appropriate and timely response to any claims.

**30.4 Waiver of Subrogation**. Notwithstanding anything to the contrary contained in this Agreement, Manager and City hereby release the other Party and waive their entire right to recover damages


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against the other Party for loss or damage to the releasing Party's property arising out of or incident to the perils defined in the respective property insurance policies that the Parties are required to maintain pursuant to this Section 30. The released Party shall not be liable to the releasing Party for any loss of or damage to the property, equipment, buildings or premises in which there is an insurable interest held by the releasing Party and arising out of or incident to any perils required to be covered by such Party's own property insurance policy, notwithstanding the fact that such loss or damage may have resulted from the negligence of the City Invitees or the Manager Invitees (defined in Section 27.1.2), as the case may be. Each Party agrees to obtain from its insurance carriers an appropriate "waiver of subrogation" provision in all policies of property insurance as may be necessary in accordance with the intent of this Section 30.4.

**30.5 Earthquake Insurance.**

30.5.1 Option to Maintain Earthquake Insurance. Either Party shall have the option to procure at its cost and maintain (or cause others to procure and maintain on its behalf) earthquake insurance for the Arena Facilities in such amounts, with such deductibles, and upon such other terms as the procuring Party may desire.

(a) The procuring Party shall not be obligated to name the other Party as loss payee on any earthquake insurance obtained at the expense of the procuring Party.

(b) Upon reasonable request by either Party, the other Party shall provide a summary of any earthquake insurance policies procured by such Party.

30.5.2 Loss Payable. If a loss occurs that is insured under any earthquake policy procured by a Party, then all proceeds from such policy shall be paid to such Party in accordance with the terms of the policy, and the non-procuring Party shall have no claim or right to such proceeds.

**30.6 Terrorism Insurance.**

30.6.1 City's Option to Maintain Terrorism Insurance. City may elect in its sole discretion to purchase insurance protecting against terrorism; provided, however, that if during the Term City obtains such insurance for other properties owned by City, City shall also obtain such insurance for the Arena Facilities.

30.6.2 Manager's Option to Maintain Terrorism Insurance. If City fails to obtain terrorism coverage, or if such coverage is insufficient in Manager's opinion, Manager shall have the right to obtain (or cause SJS LLC to obtain) such policies of terrorism insurance at no cost to City, in such amounts and upon such terms as Manager may elect.

**30.7 General Property Insurance Requirements.**

30.7.1 Annual Notification by Manager. Within 30 days following written request by City (to be delivered in April each year), but not later than June 1 of each year, Manager shall provide City with the following information, to the best of Manager's knowledge:

(a) The cost of construction any improvements or betterments (i.e., Alterations) that have been made or are under contract to be made to the Arena Facilities (including the Arena FF&E) for the 12-month period commencing on the previous November 1 and ending on the following October 31; and


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(b) The estimated cost of any Alterations that Manager reasonably anticipates to be completed during 12-month period of November 1 through October 31 immediately succeeding the period described in subpart (a) above.

30.7.2 Annual Notification by City. Promptly following the commencement of City's annual property insurance policy period, City shall provide Manager with certificates of insurance with applicable endorsements, evidencing the insurance required to be carried by City under this Section 30.

30.7.3 Further Actions. Each Party shall take such further administrative actions and execute such further documents as may be reasonably requested by the other Party in order to preserve the Parties' rights and claims under their respective insurance policies and to effectuate the terms and intentions of this Section 30.

30.7.4 Optional Coverages. Either Party may procure and maintain, at its own cost, such optional policies of insurance or special coverages as may be required under loans or other contractual obligations or as otherwise desired by such Party. Except as expressly provided in this Section 30, the non-procuring Party shall have no right, claim or interest in any such optional insurance policy.

30.7.5 Survival. The terms of this Section 30 regarding the allocation and payment of insurance proceeds in the event of a Casualty and the obligation to pursue claims shall survive any termination of this Agreement.

**SECTION 31. DAMAGE AND DESTRUCTION.**

**31.1 Casualty Defined.** In this Agreement, the term "**Casualty**" means a fire, storm, flood, earthquake, civil commotion, act of terrorism, or other active physical peril that causes damage to, destruction of, or loss of use of the Arena Facilities or any material part thereof.

**31.2 City's Obligation to Repair.** If all or any portion of the Arena Facilities (including the Arena FF&E) shall be damaged or destroyed by Casualty, City shall promptly repair and reconstruct the same (without reimbursement by Manager), unless one of the following circumstances exists:

(a) It is impossible, from a physical, engineering standpoint, to repair and reconstruct the damaged or destroyed Arena Facilities, or

(b) The Casualty occurs during the last three (3) years of the Term, and the estimated cost incidental to, arising out of, or required to repair the damage exceeds an amount equal to the product obtained by multiplying One Million Dollars ($1,000,000) by the number of months remaining in the Term, or

(c) The estimated cost incidental to, arising out of, or required to repair the damage exceeds the sum of the following (which difference is referred to herein as the "**Shortfall**"):

(i) Insurance proceeds payable to City for 100% replacement cost and related work; plus

(ii) The amount of additional insurance proceeds that City would have received above the amount indicated in subsection (i) above if City had purchased the property insurance required to be purchased by City under Section 30.1; plus


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(iii) The applicable deductible amount payable by City under City's property insurance policy; plus

(iv) Any amount then held in the Capital Reserve Fund, to the extent that such amount previously had not been allocated for work already performed.

**31.3** **Time Period for Repair by City**. If City is required pursuant to the above provisions to repair and reconstruct the Arena Facilities, City shall commence such work as soon as reasonably practicable following the date of the Casualty (but in all cases within 18 months after the Casualty, unless tolled by a Force Majeure Event) and shall diligently prosecute such work to completion.

**31.4** **Notice by City of Election to Repair or Terminate.**

31.4.1 Election by City. If City is not required by the foregoing provisions to repair and reconstruct the Arena Facilities, then City shall elect, by written notice to Manager delivered by the Determination Date (defined below), to either: (i) repair and reconstruct the Arena Facilities, with any Shortfall to be paid by City from its separate funds, or (ii) terminate this Agreement. A failure by City to deliver such a notice by the Determination Date shall constitute an election not to repair and reconstruct the Facility.

31.4.2 Determination Date. As used herein, the "**Determination Date**" shall mean 60 days following City's receipt of a reasonably detailed estimate of the costs of design and construction work necessary to repair and reconstruct the Arena Facilities; provided, however, that City shall use diligent, good faith efforts to obtain such information as soon as possible, but not later than sixteen (16) months after the date of the Casualty. In no event shall the Determination Date be later than sixteen (16) months following the date of the Casualty.

**31.5** **Manager's Election to Repair or Terminate.** If City is not required to repair and reconstruct the Arena Facilities under Section 31.2, and does not elect to repair and reconstruct the Arena Facilities under Section 31.4, then Manager shall have 150 days after receipt of City's written notice (or 150 days after the Determination Date, if City fails to deliver a notice) to elect to either: (i) terminate this Agreement (effective within 30 days after the date of Manager's notice), or (ii) pay any Shortfall incurred by City to repair and reconstruct the Arena Facilities, or (iii) continue to occupy the undamaged portions of the Arena Facilities.

31.5.1 Election to Repair. If Manager elects to pay the Shortfall to have City repair and reconstruct the Arena Facilities, this Agreement shall not terminate, and City shall be required to repair and reconstruct the Arena Facilities as soon as is reasonably possible following City's receipt insurance proceeds. City shall use all available insurance proceeds for the cost of rebuilding and related work (such as clean up, project management, demolition, environmental mitigation, etc.).

(a) From its separate funds, Manager shall pay City an amount equal to the Shortfall as defined above.

31.5.2 Election to Terminate. If Manager does not give notice of its election within said 150-day period, then Manager shall be deemed to have elected to terminate this Agreement effective as of 30 days following the end of said 150-day period.


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**31.6 Effect of Termination.**

31.6.1 Parties' Obligations. Upon termination of this Agreement pursuant to this Section 31, each Party shall be released from all further obligations and duties to the other Party as of the date of the Casualty, except for obligations that expressly survive the termination of this Agreement.

31.6.2 Manager's Right to Negotiate to Resume Management. If City elects to not repair and reconstruct the Arena Facilities and terminates this Agreement, and subsequently commences such repair and reconstruction within three (3) years after terminating this Agreement, then City and Manager agree to negotiate in good faith the right of Manager to resume managing the Arena (and the right of the San Jose Sharks to use the Arena) under the terms and conditions of this Agreement.

**31.7 Waiver of Statutory Provisions.** To the extent applicable to this Agreement, the Parties waive the provisions of California Civil Code Sections 1932 and 1933(4).

**31.8 Fee Credit for Casualty.** If as a result of a Casualty the Arena Facilities are rendered unusable as a public entertainment facility for hockey games and/or other forms of entertainment as contemplated by this Agreement, with full seating, vending, concessions, advertising and onsite parking capacity, then Manager shall be entitled to a Fee Credit against the Annual Fees payable during the Term, in accordance with Section 6.2.3.

**SECTION 32. LIABILITY INSURANCE.**

**32.1 Policy Requirements.**

32.1.1 Required Coverages. During the Term of this Agreement, to the extent available on reasonably prudent business terms, Manager shall procure and maintain in full force and effect policies of liability insurance containing not less than the coverages set forth in **Attachment No. 17** attached hereto and incorporated herein by reference ("**Liability Insurance Requirements Rider**"). Manager shall be obligated to pay any deductible upon the occurrence of an insured event as may be required under such policy.

32.1.2 Exception for Liquor Liability Coverage. If Manager does not serve liquor in the Arena, and all liquor vendors have obtained the liquor liability coverage required under the Liability Insurance Requirements Rider, Manager may purchase excess liquor liability coverage in lieu of liquor liability coverage.

32.1.3 Increases in Coverages. The liability insurance coverages provided in the Liability Insurance Requirements Rider are subject to such upward adjustments from time to time as may be approved by Manager, provided the cost of such adjustments are within amounts budgeted therefor, and to such downward adjustments from time to time as may be mutually agreed upon in writing by City and Manager.

**32.2 Policies to be Maintained by Subtenants, Contractors and Other Third Parties.** Manager shall cause its subtenants, concessionaires, service contractors and others performing work or services in or about the Arena Facilities to procure and maintain policies of insurance in accordance with the provisions of Section III of the Liability Insurance Requirements Rider.


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**32.3 Claims Administration.**

32.3.1 Notice Procedure. City agrees that promptly following its receipt of any claim against City and/or Arena Authority with respect to injuries or damages occurring on or about the Arena Facilities, City shall provide a full copy of such claim to Manager for handling as Manager deems appropriate.

(a) Within ten business days following receipt of any such claim, Manager shall notify City in writing as to whether Manager intends to resolve the claim itself or tender the claim to its insurance carriers. Upon City's request, Manager shall provide City with copies of all relevant correspondence and other documents regarding the disposition of such claim.

(b) City agrees not to contact Manager's insurance carriers directly, unless Manager fails to provide City with the written notification and related information required under subsection (a) above. City shall provide Manager with copies of all correspondence between City and Manager's insurance carriers.

(c) Nothing herein shall affect Manager's indemnification obligations set forth in Section 33 below.

32.3.2 Duty to Cooperate. In the event of a claim, the Parties shall cooperate with each other and with the insurance carriers as reasonably necessary to comply with the requirements of the insurance policies.

**SECTION 33. INDEMNIFICATION.**

**33.1 General Provisions.**

33.1.1 Definitions. In this Agreement, the following terms shall have the meanings given below:

(a) "**Claims**" means any and all claims for damages or injuries of any kind, demands, liens, liabilities, fines, penalties, charges, causes of action or enforcement actions of any kind, judgments, losses, and all costs and expenses incurred in connection therewith, including actual attorneys' fees, costs of defense, and consultants' fees.

(b) "**City Indemnitees**" means City and other City Authorities (including the Arena Authority), their successors and assigns, and all of their respective directors, officers, employees, members, managers, representatives and agents.

(c) "**Manager Indemnitees**" means Manager and its Affiliates (including SJS LLC), their successors and assigns, and all of their respective lenders, directors, officers, employees, members, managers, representatives and agents.

**33.2 Indemnification by Manager.** Except as otherwise provided herein, Manager shall indemnify, defend and save harmless City Indemnitees from and against any and all Claims that are made or brought against any of the City Indemnitees by third parties arising out of or incurred in connection with any of the following:

(i) Any contracts, agreements, licenses, use permits or other obligations entered into by Manager;


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(ii) The lack of exercise of reasonable care by Manager in the employment of any of its employees or the lack of reasonable care in the direction and supervision of Manager's employees in the management, operation and maintenance of the Arena;

(iii) The willful or negligent act or omission of Manager, its agents, officers, employees, directors or others in privity with Manager (other than City Indemnitees); or

(iv) The failure or omission of Manager to observe and perform any of its material obligations, covenants and conditions to be observed and performed by it under this Agreement.

Manager's obligations pursuant to the indemnity set forth above shall not be limited to the amount of any insurance required of, or otherwise carried by, Manager. However, Manager shall not be required to indemnify City Indemnitees to the extent that any damages or injuries are ultimately determined to have been caused by the negligent, intentional or wrongful acts or omissions of City Indemnitees.

**33.3** **Indemnification by City.** Except as otherwise provided herein, City shall indemnify, defend and save harmless Manager Indemnitees from and against any and all Claims that are made or brought against any of the Manager Indemnitees by third parties arising out of or incurred in connection with any of the following:

(i) Any contracts, agreements, licenses, use permits or other obligations entered into by City or Arena Authority, including those relating to use of the Arena by City or Arena Authority;

(ii) The lack of exercise of reasonable care by City or Arena Authority in the employment of its employees or the lack of reasonable care in the direction and/or supervision of such employees with respect to any activities done in, on or in the vicinity of the Arena;

(iii) The willful or the negligent act or omission of City or Arena Authority, or any of their agents, officers, officials, members, employees or others in privity with City or Arena Authority (other than Manager Indemnitees);

(iv) The failure or omission of City or Arena Authority to observe and perform any of its material obligations, covenants and conditions to be observed or performed by it under the terms and provisions of this Agreement;

(v) Any action or inaction by Manager in reliance on written instructions received by Manager from City or Arena Authority; or

(vi) Any action taken by Manager at the direction of City police, including in connection with the Impoundment of goods or equipment to enforce the No Peddling Law (as described in Section 25.3) or the release of video surveillance footage (as described in Section 26).

The obligations of City and Arena Authority pursuant to the indemnity set forth above shall not be limited to the amount of any insurance required of, or otherwise carried by, City. However, City shall not be required to indemnify Manager Indemnitees to the extent that any damages or


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injuries are ultimately determined to have been caused by the negligent, intentional or wrongful acts or omissions of Manager Indemnitees.

**33.4 Exception for Law Enforcement Activities.** Notwithstanding any of the foregoing provisions to the contrary, to the extent required by Applicable Laws, Manager shall indemnify City Indemnitees from any and all Claims arising out of On-Site Security Services or Off-Site Traffic Control Services provided by City's Secondary Employment Unit, to the extent that such Claims are not covered by the LEL Policy as described in Section 24.

**33.5 Survival.** The terms of this Section 33 shall survive the expiration or earlier termination of the Agreement.

**SECTION 34. Eminent Domain.**

**34.1 General Provisions.**

34.1.1 Defined Terms. In this Agreement, the following terms shall have the meanings given below:

(a) "**Arena Facilities**" has the meaning given in Section 28.1.1, and includes the Arena Land, the Arena Building, the Arena Site Improvements, the On-Site Parking Facilities, and the Arena FF&E, all as altered from time to time.

(b) "**Award**" means all compensation, damages, income, rent, awards, or any interest therein whatsoever which may be paid or made in connection with a Taking, excluding any separate payments made for litigation costs, attorneys' fees, and related expenses pursuant to a court order or settlement agreement.

(c) "**Date of Taking**" means the earlier of (i) the date when a final order is entered conveying title to the subject property (or property interest) to the acquiring Governmental Authority, or (ii) the date that the acquiring Governmental Authority is authorized to take possession of the subject property (or property interest) per an order of possession.

(d) "**Partial Taking**" means a Taking of the Arena Facilities that is not a Total Taking.

(e) "**Taking**" means the exercise by any Governmental Authority (other than City) of the power of eminent domain or condemnation, and any purchase or other acquisition in lieu of condemnation, including a voluntary sale or conveyance in lieu of condemnation and acts constituting inverse condemnation, pursuant to which any interest in the Arena Facilities (including a fee, leasehold, or easement interest) is conveyed to the Governmental Authority.

(f) "**Temporary Taking**" means a Taking, on a temporary basis, for a period not exceeding one (1) year.

(g) "**Total Taking**" means any of the following:

(i) Any Taking of the entire fee interest in the Arena Facilities;

(ii) A Taking of such a substantial part of the Arena Facilities that the Arena Facilities remaining after such Taking (even if restoration were made) are rendered economically unsuitable as a public entertainment facility for


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hockey games and/or other forms of entertainment as contemplated by this Agreement, with full seating, vending, concessions, advertising and access to the Arena Building and On-Site Parking Facilities;

(iii) Any Taking that prevents the playing of hockey consistent with the NHL requirements and schedule (allowing for mitigation by Manager and SJS LLC and repair or restoration by City).

34.1.2 Nature of Manager's Interest. For all purposes related to eminent domain, the interest of Manager under this Agreement shall be deemed the interest of a tenant under a lease.

34.1.3 Waiver of Statutory Provisions. To the fullest extent permitted by Applicable Laws, the Parties hereby waive Code of Civil Procedure Section 1265.130 and any other provision of California's Eminent Domain Law (Title 7 of Part 3 of the Code of Civil Procedure, commencing with Section 1230.010 *et seq*.) that is contrary to the provisions of this Section 34, and agree that the provisions of this Section 34 shall control over any inconsistent provision of said Eminent Domain Law.

34.1.4 Notice. Any Party who becomes aware of any contemplated Taking or negotiations that might result in a Taking of any portion of the Arena Facilities or interests under this Agreement shall promptly give notice thereof to the other Party.

34.1.5 Proceedings. To the fullest extent permitted by Applicable Laws, each Party shall have the right, at its own expense, to appear in any action related to a Taking that arises prior to the expiration or earlier termination of this Agreement, and to participate in all hearings, trials and appeals relating thereto even if this Agreement has been terminated.

(a) Neither Party shall settle or compromise any right of the other Party to receive an Award.

(b) Each Party has the right to assert a claim for any Award with respect to (i) the value of its interest in the Arena Facilities, (ii) the loss of its rights under this Agreement (prior to any modification or termination as a result of the Taking), and (iii) any other compensation or damages to which such Party may be entitled, giving consideration to any other rights and obligations of the Parties under this Agreement in the event of a Taking (collectively, "**Condemnation Losses**").

34.1.6 Separate Award to Manager or SJS LLC. Nothing in this Agreement shall preclude Manager and/or SJS LLC from obtaining a separate Award for the loss of business goodwill, leasehold bonus value, relocation expenses, and/or for the Taking of their Personal Property, and City shall have no right to any portion of such Award.

34.1.7 Survival. The provisions of this Section 34 shall survive the expiration or earlier termination of this Agreement with respect to any claim arising prior to such termination.

**34.2 Total Taking.** If there is a Total Taking, other than a Temporary Taking, the following shall apply:

34.2.1 Automatic Termination. If there is a permanent Taking of the entire fee interest in the Arena Facilities, this Agreement shall automatically terminate as of the Date of Taking.

34.2.2 Optional Termination. If there is any other permanent Total Taking, Manager shall have the right to terminate this Agreement by written notice given to City within 120 days after the Date of Taking. However, if Manager does not exercise such right to terminate this


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Agreement, then the Taking shall be treated as a Partial Taking rather than a Total Taking, and the provisions of Section 34.3 shall apply.

34.2.3 Allocation of Award. Subject to Section 34.1.6 above, Any Award for a Total Taking shall be allocated and paid in accordance with the applicable court order, judgment, or settlement agreement.

**34.3 Partial Taking.** If there is a permanent Partial Taking, the following shall apply:

34.3.1 Agreement in Full Force. This Agreement shall remain in full force and effect as to the portion of the Arena Facilities remaining immediately after such Partial Taking.

34.3.2 Restoration by City. To the extent necessary, City shall promptly commence and complete restoration of the Arena Facilities as nearly as possible to their condition and character immediately prior to such Partial Taking, except for any reduction in area caused thereby.

(a) City's duty of restoration does not include replacing any onsite parking spaces lost as a result of the Taking of portions of the On-Site Parking Facilities. Rather, in accordance with the provisions of Section 19.1.4, a loss of spaces in the On-Site Parking Facilities shall result in a corresponding increase in the Minimum Off-Site Parking Requirements.

(b) City's restoration work shall be performed in a good and workmanlike manner and undertaken in accordance with plans and specifications submitted to and approved by Manager in accordance with this Agreement.

34.3.3 Allocation of Award. Subject to Section 34.1.6 above, Awards received on account of a permanent Partial Taking shall be allocated and paid in the following order of priority:

(a) First, the Award shall be allocated to pay any costs necessary for restoration of the Arena Facilities; provided, however, that if restoration costs exceed the amount of the Award, City shall be obligated to pay the difference (without reimbursement from the Capital Reserve Fund). City shall furnish Manager with evidence reasonably satisfactory to Manager of the total cost of the restoration of the Arena Facilities.

(b) Second, the Award shall be paid to Manager in the full amount of Manager's Condemnation Losses.

(c) Any remaining balance of the Award shall be deposited into the Capital Reserve Fund.

**34.4 Temporary Taking.** If there is a Temporary Taking, the following shall apply:

34.4.1 Manager shall be entitled to receive the entire amount of the Award, except as provided in Section 34.4.2 below.

34.4.2 At the conclusion of the Temporary Taking, if the area temporarily occupied by the acquiring Governmental Authority is not restored by the acquiring Governmental Authority as nearly as possible to their condition and character immediately prior to such Temporary Taking, then:


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(a) City shall be responsible for such restoration work to the same extent and in the same manner as set forth in Section 34.3.2 above, and

(b) The Award shall be first allocated to City to pay for restoration costs as set forth in Section 34.3.3(a) above, with any remaining amounts to be paid to Manager.

**34.5** **Taking by City Authority**. Notwithstanding anything to the contrary in this Agreement, in the event of any Taking or attempted Taking by City or other City Authority, the following shall apply:

(a) Subject to Section 34.1.6 above, all Awards shall be allocated entirely to Manager or SJS LLC, in accordance with their respective Condemnation Losses, and no portion of such Award shall be allocated to City.

(b) If any Taking or attempted Taking by City causes or results in any breach of this Agreement by City (including a breach of any of City's negative covenants or representations and warranties), such breach shall be deemed a Potential Event of Default as described in Section 38.1, and Manager shall have all rights and remedies related thereto.

## PART TEN
## CONTRACT ENFORCEMENT AND REMEDIES

### SECTION 35. NEGATIVE COVENANTS.

**35.1** **Negative Covenants of Manager.** Manager shall not do, or permit or authorize others to do, any of the following:

(a) Operate the Arena Facilities in any manner or for any purpose other than as permitted in accordance with this Agreement;

(b) Knowingly or intentionally engage in any act which would, to an ordinarily prudent person in the position of Manager, be reasonably foreseeable to cause substantial or irreparable damage to the Arena Facilities;

(c) Abandon the Arena Facilities during the Term, subject to Manager's right to terminate the Term in accordance with the provisions of this Agreement;

(d) Knowingly use or occupy, or knowingly permit the Arena Facilities to be used or occupied, for any unlawful, disreputable or ultrahazardous use (including the use, storage or disposal of Hazardous Substances other than as permitted in accordance with this Agreement);

(e) Operate or conduct the business of the Arena in any manner known to constitute or give rise to a nuisance of any kind; provided that the holding of Events in the Arena that meet the Applicable Community Standard (defined in Section 12.1.3) shall not, in and of itself, constitute a nuisance;

(f) Make, authorize or permit any material Alterations to the Arena Facilities except as permitted in accordance with this Agreement;

(g) Authorize or permit fixed signs or advertising at any locations on the exterior of the Arena Facilities except as permitted in accordance with this Agreement, or authorize or permit


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advertising content in or on the Arena Facilities except as permitted in accordance with this Agreement;

(h) Operate or permit the use of the On-Site Parking Facilities in any manner or during any time not in conformity with the Arena TPMP described in Section 23.1; or

(i) Knowingly allow or authorize, directly or through an Affiliate, any actions, inactions or amendments with respect to the Hockey Use Agreement in violation of Section 3.1.2.

**35.2 Negative Covenants of City.** City shall not do any of the following:

(a) Fail to make reasonable good faith efforts to make reasonably available for use in connection with Events or activities at the Arena those areas adjacent to the Arena (including public streets and parks) that are available for such use to the extent such areas remain within the control of City, subject to the applicable provisions of this Agreement;

(b) Unreasonably interfere with Manager's rights or benefits under this Agreement;

(c) Take any action materially affecting or diminishing City's title to the Arena Facilities;

(d) Knowingly take any action that materially impairs or impedes implementation of the Arena TPMP; or

(e) Enter into any contract, agreement, memorandum of understanding, or other arrangement with any third party that would cause a violation of any of City's representations and warranties or contractual obligations under this Agreement.

**SECTION 36. REPRESENTATIONS AND WARRANTIES.**

**36.1 Manager's Representations and Warranties.**

36.1.1 Economic Warranties. Manager, for itself, its Owners and Affiliates, makes the following representations and warranties (collectively, the "**Economic Warranties**") to City:

(a) The San Jose Sharks NHL franchise is in good standing and will remain in good standing during the Term of this Agreement.

(b) There is no court action, arbitration, administrative proceeding, or NHL proceeding pending, or to the best of Manager's current knowledge, threatened, on the Execution Date of this Agreement, or any basis for the foregoing, which would materially affect (i) the status of the San Jose Sharks franchise, (ii) the financial condition of Manager, its Owners, or Affiliates, (iii) the ability of Manager to perform its obligations under this Agreement or any Related Agreements, (iv) the ability of SJS LLC to perform the obligations contemplated to be performed by SJS LLC under the Hockey Use Agreement or the SJS Guaranty; or (v) the ability of SSE to perform the obligations contemplated to be performed by SSE under the SSE Guaranty.

(c) Manager, its Owners and Affiliates, including SJS LLC, or any of them, do not have an economic relationship with any person or entity that to Manager's knowledge constitutes a prospective business advantage to that person or entity which advantage will be interfered with by this Agreement or the Related Agreements


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or by any action leading to the formation of this Agreement or the Related Agreements.

(d) Manager has the capacity to fund or cause to be funded all obligations to be performed by Manager under this Agreement.

36.1.2 Ownership Warranties. Manager, for itself, its Owners and Affiliates, makes the following representations and warranties (collectively, the "**Ownership Warranties**") to City:

(a) On the Execution Date of this Agreement, and thereafter subject to Section 2.3 regarding assignment, SSE owns and will continue to own 50% or more of the Controlling Interests in SJAM, which is the Manager of the Arena.

(b) On the Execution Date of this Agreement, and thereafter subject to Section 2.3 regarding assignment, SSE owns and will continue to own 50% or more of the Controlling Interests in SJS LLC, which is the owner of the NHL team.

(c) On the Execution Date of this Agreement, and thereafter subject to Section 2.3 regarding assignment, Plattner owns and will continue to own 50% or more of the Controlling Interests in SSE.

**36.2 City's Representations and Warranties.** City represents and warrants to Manager as follows:

(a) From and after the Possession Date, City will have good, marketable and insurable title to the Arena Facilities and Arena Land free and clear of any liens, encumbrances, security interests, liabilities, assessments, pending assessments, agreements, leases, judgments, claims, rights, easements, restrictions or other matters that would affect Manager's rights under this Agreement. If any claim of lien is filed against the Arena Land with respect to work performed by City, City shall use its reasonable good faith efforts to cause release of the same.

(b) There are no agreements or understandings to which City is a party relating to the Arena, the On-Site Parking Facilities or the Arena Land that will bind or affect the rights or interests of Manager, SJS LLC or their lenders, except for the exceptions listed in the Schedule of Permitted Title Exceptions attached to this Agreement as **Attachment No. 18**.

(c) City has no notice or knowledge that any Governmental Authority considers the construction, operation or use of the Arena Facilities to have failed to comply with any Applicable Law or that any investigation has been commenced or is contemplated respecting any such possible failure of compliance.

(d) As of the Execution Date of this Agreement, City has no information of any change contemplated in any Applicable Laws or any action by adjacent landowners, or natural or artificial conditions upon the Arena Land and Arena Facilities, or any other fact, circumstance or condition, financial or otherwise, which would prevent, limit, or impede Manager's contemplated use of the Arena Facilities.


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**36.3** **Mutual Representations and Warranties.** Each Party represents and warrants to the other Party as follows:

(a) It has full power and authority to enter into this Agreement and the Related Agreements to which it is a party, and to assume and perform all of its obligations under this Agreement and the Related Agreements.

(b) It has obtained any and all approvals that may be required before it can execute and perform this Agreement and the Related Agreements to which it is a party, including approvals required by any loan documents, bond authorization, corporate articles and bylaws, city charter or state statute, regulation or court order.

(c) The persons executing this Agreement and the Related Agreements on its behalf have been duly authorized and are empowered to bind it to this Agreement and to the Related Agreements.

(d) The execution of this Agreement and the Related Agreements, and the performance by it of the actions anticipated by this Agreement and the Related Agreements neither breaches any contract with any third party, nor constitutes any event, which, with the passage of time, or the giving of notice, or both, will breach any contract with any third party.

(e) This Agreement and the Related Agreements executed by it are or when fully delivered will be duly authorized, executed and delivered by it and will be valid, binding and enforceable obligations of it.

**36.4** **Effect of Representations and Warranties.**

36.4.1 Material Inducement and Reliance. The representations and warranties set forth above are a material inducement to the Parties to enter into this Agreement and the Related Agreements, and but for said representations and warranties, said Parties would not enter into this Agreement or the Related Agreements. The Parties are materially relying on the representations and warranties set forth above.

(a) In reliance on representations and warranties by Manager set forth above, City has not fully investigated the legal status of Manager, its Owners, Affiliates (including SJS LLC) or the San Jose Sharks NHL franchise, the financial condition of Manager, its Owners, Affiliates (including SJS LLC), or any other matter relating to said representations and warranties. Manager agrees that City has no duty to conduct any additional investigation and may rely on the representations made herein.

(b) In reliance on the representations and warranties by City set forth above, Manager and other beneficiaries of such representations and warranties have not fully investigated title to the Arena Site, or the authority of City to perform its obligations under this Agreement and the Related Agreements.

36.4.2 Survival. The representations and warranties set forth in this Agreement and in the Related Agreements shall survive the execution and delivery of this Agreement and the Related Agreements, and shall continue in full force and effect until the termination of this Agreement and all the Related Agreements.


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**SECTION 37. FORCE MAJEURE.**

**37.1 Definition.** As used in this Agreement, the term "**Force Majeure Event**" shall mean any matter or condition beyond the reasonable control of a Party that prevents or delays a Party's ability to perform this Agreement in accordance with provisions hereof, in whole or in part, including:

(a) War, civil disturbances or riots, acts of terrorism or threats of acts of terrorism, criminal activities, public emergency or calamity, epidemics, pandemics, quarantine restrictions, fire, earthquake, flood, and unusually severe and abnormal weather conditions that are not foreseeable.

(b) Strikes, lockouts or related work stoppages, labor disturbances, actions directly or indirectly affecting work or disrupting timely delivery of materials or supplies, inability to obtain labor or materials or reasonable substitutes therefor, and the failure of necessary utilities serving the Arena Facilities.

(c) Governmental action or restriction or enactment or enforcement of any Applicable Law, except that enactment or promulgation of an ordinance, resolution, policy or guideline by City or other City Authority, or a default by City in its obligations under this Agreement, shall not constitute a "Force Majeure Event" as applied to performance by City.

**37.2 Delay in Performance.** Performance of this Agreement by a Party affected by a Force Majeure Event shall be suspended or excused to the extent commensurate with such interfering occurrence, subject to the following:

(a) This Section 37.2 shall not apply with respect to any obligation to pay money, except in accordance with Section 37.3 below. In all other cases, monetary obligations shall not be excused by any Force Majeure Event.

(b) The Party availing itself of this Section 37.2 shall notify the other Party within ten days of the occurrence of the Force Majeure Event.

(b) The time of suspension or excuse shall not extend beyond that reasonably necessitated by the occurrence of the Force Majeure Event.

**37.3 Fee Credit.** If use of the Arena Facilities or any material portion thereof is blocked, reduced or restricted by a Force Majeure Event for more than five consecutive days, then Manager shall be entitled to a Fee Credit against the Arena Fees in accordance with Section 6.2.3.

**SECTION 38. DEFAULT AND REMEDIES.**

**38.1. General Procedures.**

38.1.1 Definitions. In this Agreement, the following terms shall have the meanings given below:

(a) "**Applicable Cure Period**" means the time period allowed for a Defending Party to cure a Potential Event of Default before it becomes an Event of Default, as described in Section 38.2.

(b) "**Complaining Party**" means the Party alleging that the other Party has committed a Potential Event of Default or an Insolvency Default.

(c) "**Defending Party**" means the Party that has committed or is alleged to have committed a Potential Event of Default or an Insolvency Default.


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(d) "**Event of Default**" means (i) the happening of a Potential Event of Default that is not cured within the Applicable Cure Period, or (ii) a failure by Manager to pay the Early Termination Fee as and when required under Section 5.2.1, following Manager's delivery to City of a 2-Year Irrevocable Notice.

(e) "**Insolvency Default**" means the happening of any of the following events:

(i) Manager or City is adjudged a bankrupt or insolvent in a final judgment that is not appealable or is not appealed.

(ii) A receiver or trustee is appointed to take possession of all or any part of the business or municipal functions or property of Manager or City, where possession is not restored to such Party within 60 days after such appointment.

(iii) Manager or City makes any general assignment of its property for the benefit of creditors.

(iv) Manager or City files a voluntary petition in bankruptcy or insolvency, or applies for reorganization or arrangement with its creditors, under the state, federal or other bankruptcy or insolvency laws now in force or hereafter enacted.

(v) An involuntary petition of bankruptcy or insolvency under the state, federal or other bankruptcy or insolvency laws is filed against Manager or City and is not dismissed within sixty (60) days after the filing.

(vi) Manager or City seeks a composition with its creditors by trust, mortgage or otherwise.

(f) "**Notice of Anticipated Parking Deficiency**" means a written notice from Manager to City as described in Section 22.2.

(g) "**Notice of Parking Deficiency**" means a written notice from Manager to City as described in Section 22.1.

(h) "**Notice of Potential Event of Default**" means a written notice from or on behalf of a Complaining Party to the Defending Party as described in Section 38.1.3.

(i) "**Notice of Self-Help Work**" means a written notice from or on behalf of a Party to the other Party as described in Section 38.3.7.

(j) "**Potential Event of Default**" means a failure by Manager or City to perform or observe any of the covenants, terms, and provisions contained in this Agreement (including the sections of the Renovation Agreement referenced below) on its part to be performed or observed (other than the matters constituting an Insolvency Default), and includes the happening of any of the following:

(i) Manager fails to pay any part of the Arena Fees as and when required under this Agreement;

(ii) City has given Manager notice that it believes SJAM is planning to vacate the Arena and/or that SJS LLC is planning to relocate the San Jose Sharks


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to another city without giving the required advance notice or paying the Early Termination Fee, and within sixty (60) days after receipt of such notice Manager has not provided City with written adequate assurances (including reasonable evidence) that such vacation and/or relocation is not being planned;

(iii) There is a material breach of Manager's representations and warranties set forth in Section 36.1;

(iv) There is a material breach of the Hockey Use Agreement in violation of Section 3.1.2(b) of this Agreement;

(v) City fails to make a required payment of Renovation Costs as and when required under Article V of the Renovation Agreement;

(vi) City fails to reimburse Manager for Incremental TPMP Costs as and when required under Section 23.1.7;

(vii) City fails to acquire ownership or legal control of Parcels 4 and 5 of Lot E by the Lot E Acquisition Deadline as described in Section 19.4.1;

(viii) City fails to meet the Minimum Off-Site Parking Requirements, the remedy for which is set forth in Section 38.3.4 below; or

(ix) There is a material breach of City's representations and warranties set forth in Section 36.2.

For avoidance of doubt, Manager's exercise of its Early Termination Right and timely payment of the Early Termination Fee to City in accordance with the requirements of Section 5.2.1, shall not be considered a Potential Event of Default or an Event of Default under this Agreement.

38.1.2 Procedure for an Insolvency Default. If an Insolvency Default occurs with respect to a Party, then to the extent permitted by Applicable Law, the other Party may immediately avail itself of any of the remedies provided in Section 38.3 and need not give a Notice of Potential Event of Default.

38.1.3 Notice of Potential Event of Default. If either Manager or City believes that the other has committed a Potential Event of Default, then the Complaining Party may deliver a Notice of Potential Event of Default to the Defending Party in accordance with the following:

(a) The Notice of Potential Event of Default shall describe with particularity the following:

(i) The omissions, actions or practices of the Defending Party that the Complaining Party alleges to be a Potential Event of Default of this Agreement;

(ii) The provisions of this Agreement that allegedly have been or are being breached;

(iii) The Applicable Cure Period with respect to each specific alleged breach; and


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(iv) The remedies that the Complaining Party desires with respect to each specific alleged breach.

(b) The Notice of Potential Event of Default shall also include, in bold face, capital letters at the top of the first page, the following statement:

**THIS IS A NOTICE OF POTENTIAL EVENT OF DEFAULT UNDER SECTION 38 OF THE THIRD AMENDED AND RESTATED ARENA MANAGEMENT AGREEMENT. A FORFEITURE OF YOUR RIGHTS (AND, IF APPLICABLE, A TERMINATION OF THE AGREEMENT) MAY OCCUR IF YOU FAIL TO CURE THE POTENTIAL EVENT OF DEFAULT WITHIN THE APPLICABLE CURE PERIOD.**

(c) A Notice of Potential Event of Default may allege multiple, independent Potential Events of Default.

(d) A Party may serve additional Notices of Potential Event of Default while previously noticed default procedures are pending.

(e) Each alleged Potential Event of Default shall be treated as an independent breach for the purposes of administering the procedures and awarding the remedies provided in this Agreement.

(f) Manager may not deliver to City a Notice of Potential Event of Default alleging a breach of the Minimum Off-Site Parking Requirements until 30 days following delivery to City of a Notice of Parking Deficiency as described in Section 22.1

**38.2** **Time Periods Allowed to Cure a Potential Event of Default.** Upon the delivery of a Notice of Potential Event of Default, the following Applicable Cure Periods shall apply:

38.2.1 Payment of Money. If the Potential Event of Default can be cured with the payment of money only, then the Defending Party shall make such payment within sixty (60) days following receipt of the Notice of Potential Event of Default.

(a) If City is the Defending Party and fails to make a required payment as provided above, then in addition to all other rights and remedies to which Manager may be entitled, Manager shall have the right to a City Default Credit against Arena Fees as provided in Section 6.2.4.

(b) Without limiting the foregoing, where the monetary Event of Default involves City's failure to make a required payment of Renovation Costs, then in addition to its right to recover Renovation Liquidated Damages as provided in Section 38.3.3 and all other rights and remedies to which Manager may be entitled, Manager shall have the further right to suspend payments for (i) Capital Reserve Fund contributions as described in Section 6.1.2; (ii) Community and City Events Fund as described in Section 6.1.3; and (ii) San Jose Sharks Community Fund as described in Section 6.1.4, until such time as the overdue payments are no longer in default.

38.2.2 Minimum Off-Site Parking Requirements. If the Potential Event of Default arises from City's failure to provide a sufficient number of Available Parking Spaces to meet the Minimum Off-Site Parking Requirements (an "**Available Parking Space Breach**"), then City shall take such actions as necessary to fully cure the Available Parking Space Breach within


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sixty (60) days after receipt of the Notice of Potential Event of Default. If City fails to fully cure such Potential Event of Default within said 60-day period, then pursuant to Section 38.3.4 Manager shall thereafter be entitled to receive Parking Liquidated Damages each month based on the deficiency in the number of Available Parking Spaces until such time as City has fully cured the Available Parking Space Breach.

38.2.3 Acquisition of Lot E Parcels. If the Potential Event of Default arises from City's failure to acquire Parcels 4 and 5 of Lot E by the Lot E Acquisition Deadline ("**Lot E Parcel Breach**"), the following shall apply:

(a) City shall be deemed to have timely commenced such cure if, within 60 days after receipt of a Notice of Potential Event of Default, (i) City staff presents a written report to the City Council describing the specific actions and work that the City should take in order to cure the Potential Event of Default, and (ii) the City Council approves funding for the costs of such actions and work.

(a) After approval by the City Council, City shall be deemed to have diligently pursued such cure to completion only if City actually completes said approved actions and work as quickly as reasonably possible.

38.2.4 Other Act or Omission. If the cure of a Potential Event of Default (other than an Available Parking Space Breach or a Lot E Parcel Breach) requires the cessation of action or requires the taking of action other than the payment of money only (or in addition to the payment of money), then the Defending Party shall take such action or cause the cessation of such action within sixty (60) days after receipt of the Notice of Potential Event of Default. However, if more than 60 days is reasonably required to cure the Potential Event of Default (including the enforcement or termination of contracts, licenses or subleases with third parties who are causing the Potential Event of Default and effecting a cure to the maximum extent possible or their removal from the Arena Facilities), then the Defending Party shall commence such cure within the 60-day period and diligently pursue such cure to completion.

(a) If the Defending Party fails to cure (or commence the cure) within said 60-day period, then the Complaining Party shall have the right to effect such cure by performing work and taking other actions as may be reasonably necessary for such purpose, subject to compliance with all Applicable Laws and the applicable provisions of this Agreement. The costs incurred by the Complaining Party to effect such cure shall be payable by the Defending Party within 60 days following delivery of a statement from the Complaining Party describing the costs incurred and providing reasonable supporting information for such costs.

38.2.5 Court Proceeding Pending Completion of Cure. The fact that a Defending Party has timely commenced a cure of the Potential Event of Default and/or is working to complete such cure shall not limit the Complaining Party's right to bring a court action to obtain provisional or interim remedies.

**38.3** **Remedies**. The Complaining Party shall have the following rights and remedies available at law or in equity with respect to an Event of Default (provided that such remedies were specified in the Notice of Potential Event of Default or any amended Notice of Potential Event of Default) or with respect to an Insolvency Default or other Event of Default for which no Notice of Potential Event of Default is required. All remedies may be specified as cumulative and alternative. The


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award of all remedies and the determination of whether the Complaining Party is entitled to any specific remedy shall be made by a court of competent jurisdiction.

38.3.1 Injunctive Relief. Both Parties acknowledge that the award of damages alone usually will be an unsatisfactory remedy for a nonmonetary Event of Default and will not fully protect a Complaining Party from harm caused by such non-monetary Event of Default**.** For purposes of this Section 38.3, the Parties agree that any attempt by Manager or SJS LLC, directly or indirectly (through any of their Affiliates) to relocate the San Jose Sharks to a venue outside of the City of San Jose without first paying the Early Termination Fee if and when due under Section 5.2 (a "**Disallowed Relocation**") shall be deemed a non-monetary Event of Default.

(a) City has numerous concerns both economic and noneconomic in nature which relate to the image of City, the health and welfare of its citizens, potential loss to the general fund, loss to the community and the use of the Arena Facilities by the community. A Disallowed Relocation (or attempted Disallowed Relocation) by Manager would result in irreparable harm to City due to loss of (i) intangible civic, social, and quality of life benefits, (ii) national and international exposure, and (iii) revenues and other direct and indirect economic and fiscal benefits, such that the damages to City resulting therefrom would be difficult or impossible to measure,

(b) Manager has numerous concerns both economic and non-economic in nature which relate to the image of the San Jose Sharks, SJS LLC's relationship with NHL management and other NHL team owners, and the success of professional hockey in the Bay Area. The failure of City to perform its non-monetary obligations under this Agreement would result in irreparable harm to Manager due to a reduction in attendance at Arena Events as a result of numerous decisions by the Event attending public, and damage to the image of the San Jose Sharks and SJS LLC's relationship with NHL management and other NHL team owners, such that the damages to Manager resulting therefrom would be difficult or impossible to measure.

(c) For the reasons set forth above, the preferred remedy for any attempted Disallowed Relocation, and for all other non-monetary Events of Default (in addition to reimbursement under Section 28.3.3 regarding Emergency Capital Repairs and Replacements and under Section 38.3.7 regarding Self-Help) is an order of a court of competent jurisdiction, ordering and enjoining the Parties to refrain from specified activities that would result in a breach of their obligations under this Agreement.

(i) Without limiting the generality of the foregoing, City will be entitled to obtain an order, or pursue other litigation as allowed in this Agreement at its discretion, that prohibits Manager from vacating the Arena, and terminating this Agreement (or Hockey Use Agreement) prior to expiration of the Term, or relocating the San Jose Sharks to another city, without first paying the Early Termination Fee if and when due under Section 5.2.

38.3.2 Stipulation for Entry of Judgment with Escrow Instructions. To ensure that City will have an adequate remedy in the event of an attempted Disallowed Relocation, and to provide


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assurances to City that neither Manager nor SJS LLC (nor any of their Affiliates) will attempt to refute City's right to an Early Termination Fee if and when it is due under Section 5.2, in any litigation initiated by City allowed under this Agreement, and further that the Parties will execute in counterpart and deposit with Bay Area Escrow Services ("**Escrow Agent**") within 10 days following the Execution Date of this Agreement a Stipulation for Entry of Final Judgment and Injunction in the form attached hereto as **Attachment 19** ("**Stipulated Judgment**"). The Stipulated Judgment orders that Manager and SJS LLC shall be prohibited from doing any of the following, either directly or indirectly (through any of their Affiliates): (i) vacating the Arena, (ii) terminating this Agreement or the Hockey Use Agreement, and/or (iii) relocating the San Jose Sharks to a venue outside of the City of San Jose; unless and until the Early Termination Fee is paid to the City. The Stipulated Judgment shall be held by Escrow Agent in accordance with an escrow agreement ("**Escrow Agreement**") by and among City, Manager and Escrow Agent, in form and substance consistent with this Section 38.3.2 and mutually agreeable to the Parties.

(a) The occurrence of any one or more of the following triggering events ("**Triggering Events**") will entitle City to instruct the Escrow Agent to transmit the Stipulated Judgment to the City Attorney, who in turn will be entitled to deliver it to the Santa Clara County Superior Court for entry of the Stipulated Judgment, provided that the City Council has passed a resolution approving such action:

(i) Manager has delivered a 2-Year Irrevocable Notice and has thereafter failed to pay the Early Termination Fee within the time provided in Section 5.2.1(a); or

(ii) City has given Manager a Notice of Potential Event of Default with respect to the matter described in Section 38.1.1(j)(ii) (regarding Manager's failure to give City adequate assurances that there are no plans to relocate the San Jose Sharks to another city), Manager has failed to cure such Potential Event of Default within the Applicable Cure Period, and pursuant to the Notice of Potential Event of Default City has elected to terminate this Agreement; or

(iii) City has given Manager a Notice of Potential Event of Default with respect to the matter described in Section 38.1.1(j)(iii) (regarding a material breach of the Ownership Warranties), Manager has failed to cure such Potential Event of Default within the Applicable Cure Period, and pursuant to the Notice of Potential Event of Default City has elected to terminate this Agreement; or

(iv) City has given Manager a Notice of Potential Event of Default with respect to the matter described in Section 38.1.1(j)(iv) (regarding a material breach of the Hockey Use Agreement), Manager has failed to cure such Potential Event of Default within the Applicable Cure Period, and pursuant to the Notice of Potential Event of Default City has elected to terminate this Agreement.

(b) Upon the occurrence of a Triggering Event and prior to seeking transmittal by Escrow Agent of the Stipulated Judgment to the City Attorney or initiating


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litigation proceedings otherwise allowed in this Agreement, City shall give Manager written notice that (i) City intends to cause entry of the Stipulated Judgment or to initiate other litigation, and (ii) City will provide SSE with the opportunity, during a 60-day period prior to the entry of such Stipulated Judgment or initiation of litigation, to negotiate with City in good faith for payment arrangements in lieu of entry of the Stipulated Judgment. Such notice shall be accompanied by a copy of the City Council's resolution authorizing the entry of the Stipulated Judgment, or other litigation, and delegating to the City Manager the authority to negotiate alternative payment arrangements with Manager.

38.3.3 Liquidated Damages for City's Failure to Timely Fund City's Renovation Costs Obligations. City's failure to pay to Manager, when due, any installment of City's payments towards Renovation Costs would result in irreparable harm to Manager due to (i) the resulting delays in needed upgrades to the Arena, and the difficulty in rescheduling any delayed work due to the unique nature of the Renovation Project; (ii) loss of revenues because of lost booking opportunities and reductions in attendance at Arena Events; and (iii) resulting reputational injuries, such that the damages to Manager resulting therefrom would be difficult or impossible to measure. Therefore, the Parties agree as follows:

(a) In the event City fails to pay to Manager, when due, any installment of its payments towards Renovation Costs, and such payment is not received within sixty (60) days after written notice from Manager, then City shall immediately pay Manager, as liquidated damages and not as a penalty, a sum of money ("**Renovation Liquidated Damages**") in the amount shown on the Schedule of Financial Terms attached as **Attachment No.6**. For example, if City fails to make the $70,000,000 payment that is due March 1, 2029, and such payment is not received within 60 days after written notice from Manager, then the Renovation Liquidated Damages amount would be $180,000,000.

(b) City and Manager acknowledge and agree that in determining the amount of Renovation Liquidated Damages (i) they have exercised care to make a reasonable forecast of direct losses that may arise from City's failure to pay to Manager, when due, any installment of its payments towards Renovation Costs and, (ii) such reasonable forecast of direct losses is not exact given that it would be infeasible to estimate such losses with precision, including due to the intangible nature of some of such losses and the fact that reduction in attendance at Arena Events is a result of numerous decisions by the Event-attending public, and (iii) they have considered (A) the unique nature of the Arena and the Renovation Project, (B) Manager's financial contributions to the Renovation Project, (C) the loss of revenue to Manager that would result from delays in needed upgrades to the Arena; and (D) the damage to the image of the San Jose Sharks and SJS LLC's relationship with NHL management and other NHL team owners that would result from City's failure to timely pay any installment of its payments towards Renovation Costs.

(c) Consistent with the foregoing, City and Manager agree that the Renovation Liquidated Damages amount is a reasonable estimate of the damages to Manager resulting from City's failure to pay to Manager, when due, any installment of


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City's payments towards Renovation Costs and that payment of such Renovation Liquidated Damages is not intended as a forfeiture or penalty within the meaning of California Civil Code Sections 3275 or 3369, but is intended to constitute liquidated damages to Manager pursuant to California Civil Code Section 1671.

38.3.4 Liquidated Damages for City's Failure to Meet Minimum Off-Site Parking Requirements. City's failure to meet the Minimum Off-Site Parking Requirements at any time during the Term would result in irreparable harm to Manager due to (i) loss of revenues because of reductions in attendance at Arena Events resulting from customer dissatisfaction, thus interfering with Manager's ability to achieve a return on its financial contributions to the Renovation Project; and (ii) resulting reputational injuries, such that the damages to Manager resulting therefrom would be difficult or impossible to measure. Therefore, the Parties agree as follows:

(a) If, following Manager's delivery of a Notice of Parking Deficiency and Notice of Potential Event of Default and expiration of the Applicable Cure Period set forth in Section 38.2.2, the number of Available Parking Spaces for any month (measured between the 10th and the 20th day of such month) is less than the number of Available Parking Spaces required to meet the Minimum Off-Site Parking Requirements (i.e., there is a Parking Deficiency as defined in Section 22.1.1), then, within sixty (60) days following receipt of Manager's written demand therefor, City shall pay Manager, as liquidated damages and not as a penalty, a sum of money ("**Parking Liquidated Damages**") in an amount equal to the product of the Per Space Amount (defined below) multiplied by the deficiency in the number of Available Parking Spaces for such month.

(i) The "**Per Space Amount**" shall be $450.00 in Term Year 25/26 and shall increase annually on the first day of Term Year 26/27 and the first day of each Term Year thereafter (each, an "**Adjustment Date**") by the percentage increase in the CPI between the Adjustment Date and the date that is one year prior to the Adjustment Date.

(ii) To the extent the Parking Deficiency continues for one or more subsequent months, City shall pay Manager the Parking Liquidated Damages for each such month calculated as provided above.

(iii) Notwithstanding the foregoing, to the extent that City provides Manager with reasonable evidence that the Parking Deficiency was in effect for less than the entirety of any month, the Parking Liquidated Damages amount for such month shall be prorated on the basis of a 30-day month.

(b) City and Manager acknowledge and agree that in determining the amount of Parking Liquidated Damages (i) they have exercised care to make a reasonable forecast of direct losses that may arise from City's failure to meet the Minimum Off-Site Parking Requirements from time to time during the Term and, (ii) such reasonable forecast of direct losses is not exact given that it would be infeasible to estimate such losses with precision, including due to the intangible nature of some of such losses and the fact that reduction in attendance at Arena Events is a result of numerous decisions by the Event-attending public, and (iii) they have considered (A) the loss of revenue to Manager that would result from any


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deficiency in Available Parking Spaces below the Minimum Off-Site Parking Requirements; and (B) the damage to the goodwill of Manager and the San Jose Sharks that would result from City's failure to meet the Minimum Off-Site Parking Requirements.

(c) Consistent with the foregoing, City and Manager agree that the Parking Liquidated Damages amount is a reasonable estimate of the damages to Manager resulting from City's failure to meet the Minimum Off-Site Parking Requirements and that payment of such Parking Liquidated Damages is not intended as a forfeiture or penalty within the meaning of California Civil Code Sections 3275 or 3369, but is intended to constitute liquidated damages to Manager pursuant to California Civil Code Section 1671.

(d) If City fails to meet the Minimum Off-Site Parking Requirements at any time during the Term such that City is required to pay Parking Liquidated Damages to Manager, the Parties shall meet and confer on a monthly basis (or other frequency as mutually agreed by the Parties) in an effort to determine the length of time the Parking Deficiency is likely to continue and potential solutions to minimize, if not eliminate, the Parking Deficiency. To the extent the Parking Deficiency is eliminated mid-month, the Parking Liquidated Damages for such month shall be prorated as provided in Section 38.3.4(a)(iii).

38.3.5 Monetary Damages.

(a) Awarded by Court. Subject to the terms of Sections 38.3.2, 38.3.3, and 38.3.4 and the express limitations below, monetary damages (including costs and interest at the legal rate) may be awarded by a court of competent jurisdiction as the sole remedy, or in conjunction with other remedies, or as interim damages.

(b) Limitation on Monetary Damages. In the case of a Lot E Parcel Breach, Manager shall not be entitled to an award of monetary damages. Rather, Manager's remedies in such case shall be limited to (i) termination of this Agreement under Section 38.3.6(c), or (ii) self-help under Section 38.3.7.

(c) Consequential Damages. Except as otherwise provided in this Section 38, in making an award of damages, the Parties agree that damages for lost profits or other consequential damages shall be recoverable only upon a failure of the Defending Party to cure a Potential Event of Default within the Applicable Cure Period.

38.3.6 Termination.

(a) Termination for Insolvency Default. Subject to all requirements under Applicable Laws, either Party may terminate this Agreement after an Insolvency Default by the other Party.

(b) Termination by City for Event of Default by Manager. Subject to all requirements under Applicable Laws, City may terminate this Agreement after an Event of Default by Manager, provided that all of the following events in (i) through (iii) below shall have occurred:


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(i) Manager has failed to cure (or commence to cure, where applicable) such Event of Default within the Applicable Cure Period provided in Section 38.2;

(ii) City sought termination as a remedy in its Notice of Potential Event of Default; and

(iii) At least one of the Events of Default that is not cured is one of the following:

(A) Manager has agreed to a change or waiver of the obligations of SJS LLC under the Hockey Use Agreement without prior approval by City, if City's prior approval is required under Section 3.1.2, and the obligation constitutes any of the following:

(1) Any shortening of the term of the Hockey Use Agreement, or

(2) Any waiver or release of the duty of SJS LLC to perform its operating covenant;

(B) Manager has failed to maintain liability insurance as required by Section 32;

(C) Manager has refused, on a recurrent basis, to schedule or permit the use of the Arena Facilities for City Events or Community Events in accordance with Section 11.1;

(D) Manager has assigned Manager's interest under this Agreement, and if City's consent is required for such assignment in accordance with Section 2.3, Manager has either failed to ask for City's consent or City has reasonably withheld its consent as provided in this Agreement;

(E) Manager has failed to comply with its material duties and obligations under this Agreement on a recurrent basis, which clearly demonstrate a pattern and practice of uncooperativeness with City and inadequate performance; or

(F) Manager has willfully or intentionally failed to comply with the results of a court order or injunction relating to the cure of an Event of Default.

(c) Termination by Manager for Event of Default by City. Subject to all requirements under Applicable Laws, Manager may terminate this Agreement after an Event of Default by City, provided that all of the following events in (i) through (iii) below shall have occurred:

(i) City has failed to cure (or commence to cure, where applicable) such Event of Default within the Applicable Cure Period provided in Section 38.2;


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(ii) Manager sought termination as a remedy in its Notice of Potential Event of Default; and

(iii) At least one of the Events of Default that is not cured is one of the following:

(A) City has developed or assisted in the development of a Competing Facility as described and prohibited in Section 4.2, and has refused to permit Manager to manage such facility as required in Section 4.2;

(B) City, on a recurrent basis and in bad faith, has interfered with Manager's use and operation of the Arena Facilities as permitted in accordance with this Agreement;

(C) City has specifically singled out the Arena in prohibiting Manager from conducting any activity that is permitted in accordance with this Agreement (including prohibition by means of an action that constitutes a valid exercise of City's police power), which substantially adversely affects a material source of revenue for the Arena and which has a material effect on the operation of the Arena;

(D) City has failed to comply with its material duties and obligations under this Agreement on a recurrent basis, which failure materially adversely affects Manager's use and operation of the Arena, and which clearly demonstrate a pattern and practice of uncooperativeness with Manager and inadequate performance;

(E) City has willfully or intentionally failed to comply with the results of a court order or injunction relating to the cure of an Event of Default; or

(F) City has failed to take all reasonable actions (including paying all sums of money) that may be necessary to acquire ownership or legal control over both Parcels 4 and 5 of Lot E on or before the Lot E Acquisition Deadline.

(d) Notice of Termination. A Complaining Party entitled to termination as specified in subsection (a), (b), or (c) of this subsection 38.3.6 may effect a termination of this Agreement by delivering to the Defending Party a written notice of termination specifying the date on which the Complaining Party intends to terminate this Agreement, which may be any date that is at least sixty (60) days following the date of the written notice of termination. For avoidance of doubt, the provisions of Section 5.2 above, including the provisions regarding 3-Year Revocable Notice, 2-Year Irrevocable Notice, and payment of the Early Termination Fee, shall not apply to an early termination of the Agreement under this Section 38.3.6.

(i) Following delivery of such notice, the "Termination Date" under this Agreement shall be deemed to be the date specified in such notice.


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(ii) Upon early termination due to a Party's Event of Default, all applicable terms and conditions of this Agreement shall continue to apply until such new Termination Date.

(iii) In the event of an early termination under this Section 38.3.6, City shall use good faith, diligent efforts to cooperate with Manager, SJS LLC, and SSE to facilitate transition of the San Jose Sharks to a new arena in a new location selected by SSE. City's obligation to cooperate with such transition efforts shall survive the expiration or termination of this Agreement.

(e) Termination Awards. In addition to other damages that may be owing and determined hereunder, if this Agreement is terminated by Manager for an Event of Default by City, Manager shall be entitled to payment equal to the following:

(i) The unamortized cost of the improvements and fixtures constructed or installed by Manager at Manager's own cost, assuming a useful life of the lesser of 15 years or that specified under generally accepted accounting principles; and

(ii) A prorated portion of the Arena Fees that have been prepaid by Manager, based on a ratio equal to the number of days of the Term Year prior to termination over 365.

38.3.7 Self-Help.

(a) Right to Perform Self-Help Work. If a Party believes that the other Party has committed or is likely to commit a Potential Event of Default and that its substantial interests in the operation of the Arena Facilities would be materially impaired by waiting for the notice and cure procedures provided above, or if a Party reasonably believes that it can mitigate its damages by acting quickly, then such Party shall have the right to take whatever actions or perform whatever work it determines to be reasonably necessary to cure an alleged Potential Event of Default and/or mitigate such Party's damages ("**Self-Help Work**"). Such Self-Help Work shall comply with all other applicable provisions of this Agreement and all requirements under Applicable Laws, and may be performed either prior to the issuance of the Notice of Potential Event of Default, or while the notice and Applicable Cure Periods provided in this Agreement are pending.

(b) Notice of Self-Help Work. A Party who elects to perform Self-Help Work shall give the other Party a Notice of Self-Help Work which shall include the following:

(i) A description of the particular Self-Help Work proposed to be performed; and

(ii) A statement to the effect that such Party believes that such Self-Help Work would serve to cure a Potential Event of Default (or an anticipated Potential Event of Default), or mitigate its damages, and that its substantial interest in the operation of the Arena Facilities would be materially impaired by waiting until the expiration of the Applicable Cure Period.


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(c) Time for Delivery of Notice.

(i) In the event of an emergency or other urgent, unforeseen circumstance, no advance notice shall be required prior to commencement of the Self-Help Work. However, a Notice of Self-Help Work shall be given to the other Party as soon as is reasonably practicable.

(ii) With respect to Self-Help Work relating to the City's parking obligations under this Agreement, Manager may not give a Notice of Self-Help Work unless Manager first gives either a Notice of Parking Deficiency or a Notice of Anticipated Parking Deficiency.

(iii) In all other circumstances, a Party shall give the other Party a Notice of Self-Help Work at least 10 days prior to commencing the Self-Help Work.

(d) Amendment of Notice of Potential Event of Default. If a Party proceeds with Self-Help Work as described above, then such Party may issue or amend its Notice of Potential Event of Default for the costs and expenses incurred in connection with the Self-Help Work.

**38.4 Claims Procedures.** The provisions of this Section 38 shall govern the presentation, by or on behalf of Manager, of any or all claims arising out of or related to this Agreement and the consideration and payment of such claims, as contemplated by California Government Code Section 930.2. Therefore, in order to make a claim against City arising out of or related to this Agreement, Manager shall not be required to present any written notice to City other than the notices described in this Agreement.

**SECTION 39. MEDIATION.**

**39.1 Disputed Matters to be Submitted to Mediation.** Notwithstanding any provision of this Agreement to the contrary, any Disputed Matter (defined below) that is not resolved between the Parties through negotiations may be submitted by either Party to non-binding mediation ("**Mediation**") with a neutral third party as described below.

39.1.1 Definitions. In this Agreement, the following terms shall have the meanings given below:

(a) "**Demand for Mediation**" means a written notice of a Party's intent to mediate, describing the Disputed Matter(s) to be mediated and the relief sought.

(b) "**Disputed Matter**" means, subject to the carveouts set forth below, any dispute, claim or controversy arising out of or related to this Agreement or the breach, enforcement or interpretation of any provision hereof, including:

(i) A disagreement as to whether a Party is in breach or noncompliance with the terms of this Agreement;

(ii) A disagreement regarding the respective rights, remedies and obligations of the Parties under this Agreement;

(iii) A disagreement regarding the actions that must be taken by City to ensure that the Minimum Off-Site Parking Requirements are satisfied as described in Section 19.1.2; and


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(iv) Any other matter upon which the Parties have been unable to mutually agree as required or contemplated under this Agreement.

Notwithstanding anything in this Section 39.1.1. to the contrary, Disputed Matters shall not include any dispute, claim or controversy arising out of or related to:

(A) Manager's failure to pay the Early Termination Fee as and when required under Section 5.2.1, following Manager's delivery to City of a 2-Year Irrevocable Notice; or

(B) City's failure to pay to Manager, when due, any installment of its payments towards Renovation Costs.

(c) "**JAMS**" means the alternative dispute resolution organization by that name, or its successor.

(d) "**Mediation Period**" means the time period commencing with the delivery of a Demand for Mediation and ending 45 days thereafter.

39.1.2 Agreement not to Initiate Litigation During Mediation Period. The Parties hereby agree that during the Mediation Period, neither of them shall initiate litigation or other legal proceedings related to this Agreement, except to pursue a provisional remedy. However, this limitation is inapplicable to a Party if the other Party refuses to participate in good faith in the Mediation process during the Mediation Period.

(a) If a Party initiates legal proceedings prior to the delivery of a Demand for Mediation, this Section 39 shall not apply.

(b) If a Party initiates legal proceedings after the expiration of the Mediation Period, the Mediation may continue if both Parties so desire.

39.1.3 Tolling Agreement. All applicable statutes of limitation and defenses based upon the passage of time shall be tolled during the Mediation Period and for 15 days thereafter. The Parties shall confirm such tolling agreement in a separate writing if requested by either Party, but the failure to execute a formal tolling agreement shall not affect the enforceability of this Section 39.1.3.

**39.2 Mediation Procedures.** Either Party may commence Mediation by delivering to the other Party a Demand for Mediation. A copy of the Demand for Mediation shall be delivered to JAMS, and the Mediation shall be administered through JAMS, unless otherwise mutually agreed by the Parties.

39.2.1 Selection of Mediator.

(a) The Parties shall use reasonable good faith efforts to cooperate with each other to select a mutually acceptable mediator as soon as reasonably practicable after the Demand for Mediation has been served. If the Parties cannot agree on a mediator within 15 days after the date of the Demand for Mediation, the mediator shall be selected in accordance with the JAMS Rules.

(b) The selected mediator must be a former judge of the Superior Court of California unless both Parties mutually agree otherwise.


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39.2.2 Schedule; Costs. The Mediation shall be scheduled as soon as reasonably practicable following the date the mediator is appointed. The Parties agree that they will participate in the Mediation in good faith and that they will share equally in its costs.

39.2.3 Confidentiality. All offers, promises, conduct and statements, whether oral or written, made in the course of the Mediation by any of the Parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any legal proceeding involving the Parties; provided, however, that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the Mediation.

**SECTION 40. [Intentionally omitted.]**

## PART ELEVEN
## MISCELLANEOUS PROVISIONS

**SECTION 41. GOVERNING LAW; VENUE.**

**41.1 Governing Law.** This Agreement shall be governed by and construed in accordance with the Applicable Laws of the State of California, the County of Santa Clara, and the City of San José.

**41.2 Venue.** In the event that suit shall be brought by either Party hereunder, the Parties agree that trial of such action shall be exclusively vested in a State court in the County of Santa Clara, or where appropriate, in the United States District Court for the Northern District of California, San José, California.

**SECTION 42. PARTIES BOUND.**

**42.1 Authority.** The persons who have executed this Agreement represent and warrant that they are duly authorized to execute this Agreement in their individual or representative capacity.

**42.2 Binding on Successors.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns.

**42.3 Parties in Interest.** Nothing in this Agreement, express or implied, is intended to confer (nor shall be construed as conferring) under or by virtue of this Agreement, any rights or remedies on any person or entity, other than (i) the Parties hereto; (ii) SJS LLC; (iii) any lender taking actions permitted under Section 29.2; and (iv) all of their respective successors and assigns.

**SECTION 43. INDEPENDENT CONTRACTOR RELATIONSHIP.**

**43.1 No Joint Venture.** It is understood that Manager is an independent contractor with respect to City. City and Manager hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained in this Agreement or in any document executed in connection herewith shall be construed as making City or the Arena Authority, on the one hand, and Manager, its Owners or Affiliates, on the other hand, as joint venturers or partners.

**43.2 No Agency.** No approval or review by City or Arena Authority (or any right of approval or review by City or Arena Authority) hereunder as to any matter or under any circumstances shall be deemed to constitute Manager as an agent for or acting on behalf of City or Arena Authority.


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**43.3** **Rights Coupled with an Interest.** Manager's rights under this Agreement are coupled with an interest arising from Manager's significant capital investment in the Arena Facilities. The Parties acknowledge that City has negotiated and executed this Agreement in consideration for Manager's capital investment and its Affiliate's hockey franchise as well as for Manager's management skills.

**SECTION 44. APPROVALS AND WAIVERS.**

**44.1** **Approvals.** Except as otherwise expressly provided herein, whenever a provision of this Agreement requires a review, determination or approval of a Party, such review, determination or approval (or notice of disapproval) shall be in writing and shall not be unreasonably withheld or delayed (except where such review, determination or approval is expressly made subject to the sole discretion or determination of a Party), and shall in any event be made within any time limit specified therefor or within 30 days if no time limit is specified.

**44.2** **Waivers.** No consent or waiver, express or implied, by either Party to or of any breach of any covenant, condition or duty of the other, shall be construed as a consent to, or waiver of, any other breach of the same, or any other covenant, condition or duty.

**SECTION 45. INTEGRATION CLAUSE; AMENDMENTS.**

**45.1** **Entire Agreement.** Except as otherwise expressly stated or referenced herein, this Agreement including all Attachments hereto, and the Related Agreements, constitute the entire integrated agreement of the Parties. No other agreement, oral or written, prior or contemporaneous, shall be deemed to exist between the Parties.

**45.2** **Amendments to be in Writing.** No subsequent agreement or any amendment of this Agreement shall be binding upon the Parties unless it is contained in a written document executed by properly authorized representatives of each Party.

**45.3** **Further Assurances.** In addition to the requirements set forth in Section 29.2.3, each Party shall, without further consideration, execute and deliver such additional documents and take such other actions as may be reasonably requested by the other Party in order to fully effectuate all of the terms and provisions of this Agreement.

**SECTION 46. ESTOPPELS; LENDER MODIFICATIONS.**

**46.1** **Estoppel Certificates.** Each Party shall promptly execute and deliver estoppel certificates and attornment agreements reasonably requested by lenders, sponsors, concessionaires, or other third parties in connection with the activities of each of the Parties hereto and the performance by the respective Parties of their obligations pursuant to this Agreement, provided such certificates and agreements are satisfactory to such Party in its reasonable discretion.

**46.2** **Modifications for Public Financing.** City may request reasonable modifications to this Agreement in connection with any public financing by City as described in Section 29.2.1.

**SECTION 47. INTERPRETATION AND CONSTRUCTION.**

**47.1** **Joint Drafting.** This Agreement is the result of the joint efforts and negotiations of the Parties hereto, and no single Party is the author or drafter hereof. All of the Parties assume joint responsibility for the form and position of each and all of the contents of this Agreement and they agree that this Agreement shall be interpreted as though each of the Parties participated in the composition of this Agreement and each and every part thereof.


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**47.2** **Meaning of Certain Words and Phrases.** As used in this Agreement, the following words and phrases shall be interpreted as described below, unless the context clearly indicates that another meaning is intended:

(a) The word "including" shall mean "including without limitation."

(b) The word "herein" shall mean "in this Agreement" and the word "hereunder" shall mean "under this Agreement."

**47.3** **Captions.** The part captions and section headings in this Agreement are for convenience only and are not a part of this Agreement. Such part captions and section headings shall not be referred to in construing or interpreting this Agreement.

**47.4** **Gender; Number Reference.** Whenever the context of this Agreement requires, the masculine, feminine and neutral gender includes the other genders, and the singular or plural number includes the other.

**47.5** **Invalidity of Particular Provisions.** If any term or provision of this Agreement or the application thereof to any person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**47.6** **Time is of the Essence.** Time is of the essence of this Agreement, and is deemed to be a part of each applicable provision hereof.

**SECTION 48. NOTICES.**

**48.1** **Manner of Delivery.** Unless otherwise provided herein, any notice to be given hereunder by either Party to the other Party shall be in writing and shall be delivered by one of the following methods: (i) personal delivery, including messenger service or overnight courier; (ii) registered or certified mail, postage prepaid, return receipt requested; or (iii) any other delivery method allowed by law. Such notice shall be deemed delivered upon receipt or refusal to accept delivery at the addresses specified below, provided with respect to any notice delivered by email, receipt may not be evidenced by an email reply that is automatically generated. Each Party may change its address by written notice given in accordance with this Section 48.1.

**48.2** **Addresses for Notice.** Notices shall be addressed as follows, with a copy to be given to such other parties of as directed by each respective Party by written notice as provided herein.

**City:** Office of Economic Development and Cultural Affairs
Real Estate Services Division
200 E. Santa Clara St., 17th Floor
San José, CA 95113
Attn: Director of Real Estate
Tel: (408) 535-8197
Email: Kevin.Ice@sanjoseca.gov


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With a copy to: Office of City Attorney
200 E. Santa Clara St., 16th Floor
San José, CA 95113
Attn: Real Estate Attorney
Tel: (408) 535-1900
Email: cao.main@sanjoseca.gov

**Manager:** San Jose Arena Management, LLC
525 West Santa Clara St.
San José, CA 95113
Attn: Jon Gustafson, Sr. Vice President
Tel: (408) 999-6751
Email: jgustafson@sharksice.com

With a copy to: San Jose Arena Management, LLC
525 West Santa Clara St.
San José, CA 95113
Attn: General Counsel
Tel: (408) 287-7070
Email: legal@sjsharks.com

**SECTION 49. EXECUTION OF AGREEMENT.**

**49.1 Counterparts.** This Agreement may be executed in any number of counterparts, and by different Parties hereto on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original, but all of which counterparts, taken together, shall constitute one and the same instrument.

**49.2 Electronic Signatures.** This Agreement and any amendments hereto may be executed and delivered by electronic means or in electronic formats, and such electronic signatures shall be deemed originals for all purposes under this Agreement.

**SECTION 50. ATTACHMENTS.**

**50.1 Incorporation by Reference.** All attachments and exhibits referred to in this Agreement, and any attachments or exhibits that may from time to time be referred to in any duly executed amendment to this Agreement, are by such reference incorporated herein and shall be deemed a part of this Agreement as if fully set forth herein; provided, however, that in the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any such attachments and exhibits, the provisions of this Agreement shall control.


**DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.**

**50.2** **List of Attachments.** The Attachments referred to in this Agreement are as follows:

| Attachment Number | Description | Section Reference |
|---|---|---|
| 1 | Legal Description of Arena Land | Recital B(1) |
| 2 | Site Plan of Arena Facilities | Recital B(2) |
| 3 | SAP Center Boundary Exhibit | Recital B(3) |
| 4 | Schedule of Prior Agreements | 1.3 |
| 5 | Schedule of Related Agreements | 1.4 |
| 6 | Schedule of Financial Terms | 5.2.1 |
| 7-1 | Form of SSE Guaranty | 2.2 |
| 7-2 | Form of SJS Guaranty | 2.2 |
| 8 | Non-Discrimination Policy | 14.1.2 |
| 9 | Alcohol Advertising Plan | 14.1.5 |
| 10 | Exterior and Freeway Signage Schedule | 16.2.1 |
| 11-1 | Map of Delmas East and Delmas West | 19.1.1 |
| 11-2 | Map of Lot E and Milligan | 19.1.1 |
| 12 | Baseline TPMP Costs | 23.1.7 |
| 13 | Arena Transportation and Parking Management Plan (TPMP) | 23.1 |
| 14 | Framework for Project Transportation and Parking Management Plans | 23.2.2 |
| 15 | Encapsulation Areas and Monitoring Wells on Arena Land | 27.2.1 |
| 16 | DTW Settlement Agreement | 21.1.1 |
| 17 | Liability Insurance Requirements Rider | 32.1.1 |
| 18 | Schedule of Permitted Title Exceptions | 36.2 |
| 19 | Stipulated Judgment | 38.3.2 |
| 20 | Schedule of Defined Terms | 1.5 |
| 21 | Renovation Agreement | Recital I |

[Signatures appear on next page.]


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**SIGNATURES TO**
**ARENA MANAGEMENT AGREEMENT**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the respective dates inserted below, but this Agreement shall be effective retroactively to the Effective Date shown on the first page of this Agreement.

"**City**"

APPROVED AS TO FORM:

CITY OF SAN JOSÉ,
a California municipal corporation

_____
Cameron Day
Sr. Deputy City Attorney

By _____
Toni J. Taber, CMC
City Clerk

Date Signed: _____

Date Signed: _____

"**Manager**"

APPROVED AS TO FORM:

SAN JOSE ARENA MANAGEMENT, LLC
a Delaware limited liability company

_____
Lucy A. Lofrumento
Strategy Law, LLP
Attorneys for Manager

By _____
Jonathan D. Becher
President

Date Signed: _____

Date Signed: _____


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**Attachment No. 1**

**LEGAL DESCRIPTION OF ARENA LAND**

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

BEGINNING AT THE SOUTHEASTERLY CORNER OF PARCEL C AS SHOWN ON THE RECORD OF SURVEY RECORDED IN BOOK 124 OF MAPS, PAGE 42, SANTA CLARA COUNTY RECORDS, SAID CORNER BEING THE INTERSECTION OF THE WESTERLY LINE OF AUTUMN STREET AND THE NORTHERLY LINE OF WEST SANTA CLARA STREET; THENCE ALONG SAID NORTHERLY LINE SOUTH 87° 05' 00" WEST, A DISTANCE OF 779.35 FEET, TO A POINT FROM WHICH THE SOUTHWESTERLY CORNER OF PARCEL 1 AS DESCRIBED IN THE DEED RECORDED DECEMBER 30, 1985, IN BOOK J561 OF OFFICIAL RECORDS, PAGE 1695, SANTA CLARA COUNTY RECORDS, BEARS NORTH 87° 05' 00" EAST, A DISTANCE OF 160.00 FEET; THENCE LEAVING SAID NORTHERLY LINE NORTH 14° 27' 03" WEST, A DISTANCE OF 162.78 FEET; THENCE NORTH 06° 34' 10" WEST, A DISTANCE OF 142.79 FEET; THENCE NORTH 15° 20' 36" WEST, A DISTANCE OF 144.81 FEET; THENCE NORTH 25° 12' 59" WEST, A DISTANCE OF 14.49 FEET; THENCE NORTH 49° 14' 45" EAST, A DISTANCE OF 37.34 FEET; THENCE NORTH 40° 41' 56" WEST, A DISTANCE OF 195.34 FEET; THENCE NORTH 34° 41' 56" WEST, A DISTANCE OF 99.45 FEET; THENCE NORTH 34° 47' 55" WEST, A DISTANCE OF 91.09 FEET TO THE NORTHEASTERLY LINE OF LANDS OF THE SOUTHERN PACIFIC RAILROAD COMPANY, BEING ALSO THE NORTHEASTERLY LINE OF FORMER SENTER STREET; THENCE ALONG SAID NORTHEASTERLY LINE NORTH 40° 45' 15" WEST, A DISTANCE OF 167.03 TO THE SOUTHWESTERLY PROLONGATION OF THE NORTHWESTERLY LINE OF THE 2.779 ACRE PARCEL OF LAND AS SHOWN ON THE RECORD OF SURVEY RECORDED IN BOOK 131 OF MAPS, PAGE 10, SANTA CLARA COUNTY RECORDS; THENCE ALONG SAID SOUTHWESTERLY PROLONGATION AND SAID NORTHWESTERLY LINE NORTH 49° 05' 15" EAST, A DISTANCE OF 253.00 FEET TO THE SOUTHWESTERLY LINE OF THE PARCEL OF LAND AS DESCRIBED IN THE DEED RECORDED IN BOOK 0939 OF OFFICIAL RECORDS, PAGE 700, SANTA CLARA COUNTY RECORDS; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 40° 44' 15" WEST, A DISTANCE OF 13.00 FEET TO THE SOUTHEASTERLY LINE OF WEST JULIAN STREET; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 49° 05' 15" EAST, A DISTANCE OF 170.00 FEET TO THE SOUTHWESTERLY LINE OF NORTH MONTGOMERY STREET; THENCE ALONG SAID SOUTHWESTERLY LINE SOUTH 40° 44' 15" EAST, A DISTANCE OF 872.58 FEET TO THE SOUTHEASTERLY LINE OF WEST ST. JOHN STREET; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 59° 48' 34" EAST, A DISTANCE OF 315.18 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 5.50 FEET THROUGH A CENTRAL ANGLE OF 117° 05' 03" FOR AN ARC LENGTH OF 11.24 FEET TO THE WESTERLY LINE OF AUTUMN STREET; THENCE ALONG SAID WESTERLY LINE SOUTH 03° 06' 23" EAST, A DISTANCE OF 648.89 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THOSE PORTIONS THEREOF LYING WITHIN INSTRUMENTS RECORDED MAY 14, 1935 IN BOOK 730 OFFICIAL RECORDS, PAGE 225, APRIL 10, 1974 IN BOOK 0842 OFFICIAL RECORDS, PAGES 77 AND 79, JUNE 12, 1974, IN BOOK 0939, OFFICIAL RECORDS, PAGE 700, AND DECEMBER 27, 1991 IN BOOK L984 OFFICIAL RECORDS, PAGE 854 (PARCEL 44).

PARCEL TWO:

BEGINNING AT A 3/4" IRON PIPE IN THE WESTERLY LINE OF MONTGOMERY STREET (60.0 FEET IN WIDTH), DISTANT THEREON SOUTH 40°09'30" EAST 119.0 FEET FROM THE POINT OF INTERSECTION WITH THE SOUTHERLY LINE OF JULIAN STREET (60.0 FEET IN WIDTH), BASIS OF BEARING BEING THE MONUMENT LINE OF SAINT JAMES STREET, SOUTH 60°06'57" WEST, AS SHOWN ON THE RECORD OF SURVEY GUADALUPE FREEWAY UNIT NO. 3 RECORDED IN BOOK 204 OF MAPS, PAGE 15; THENCE



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NORTH 40°09'30" WEST 1.11 FEET; THENCE FROM A TANGENT BEARING NORTH 40°09'30" WET, ALONG A CURVE TO THE LEFT, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 30,00 FEET, THROUGH A CENTRAL ANGLE OF 58°26'56" AN ARC DISTANCE OF 30.60 FEET; THENCE SOUTH 46°24'00" WEST 115.30 FEET; THENCE SOUTH 40°09'30" EAST (DEED SOUTH 40°45' EAST) 20.13 FEET; THENCE NORTH 49°40'32" EAST (DEED NORTH 49°15' EAST) 129.40 FEET TO THE POINT OF BEGINNING.

APN(s): 259-28-041, 259-28-043, 259-28-044 and 259-37-060



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**Attachment No. 2**

**SITE PLAN OF ARENA FACILITIES**



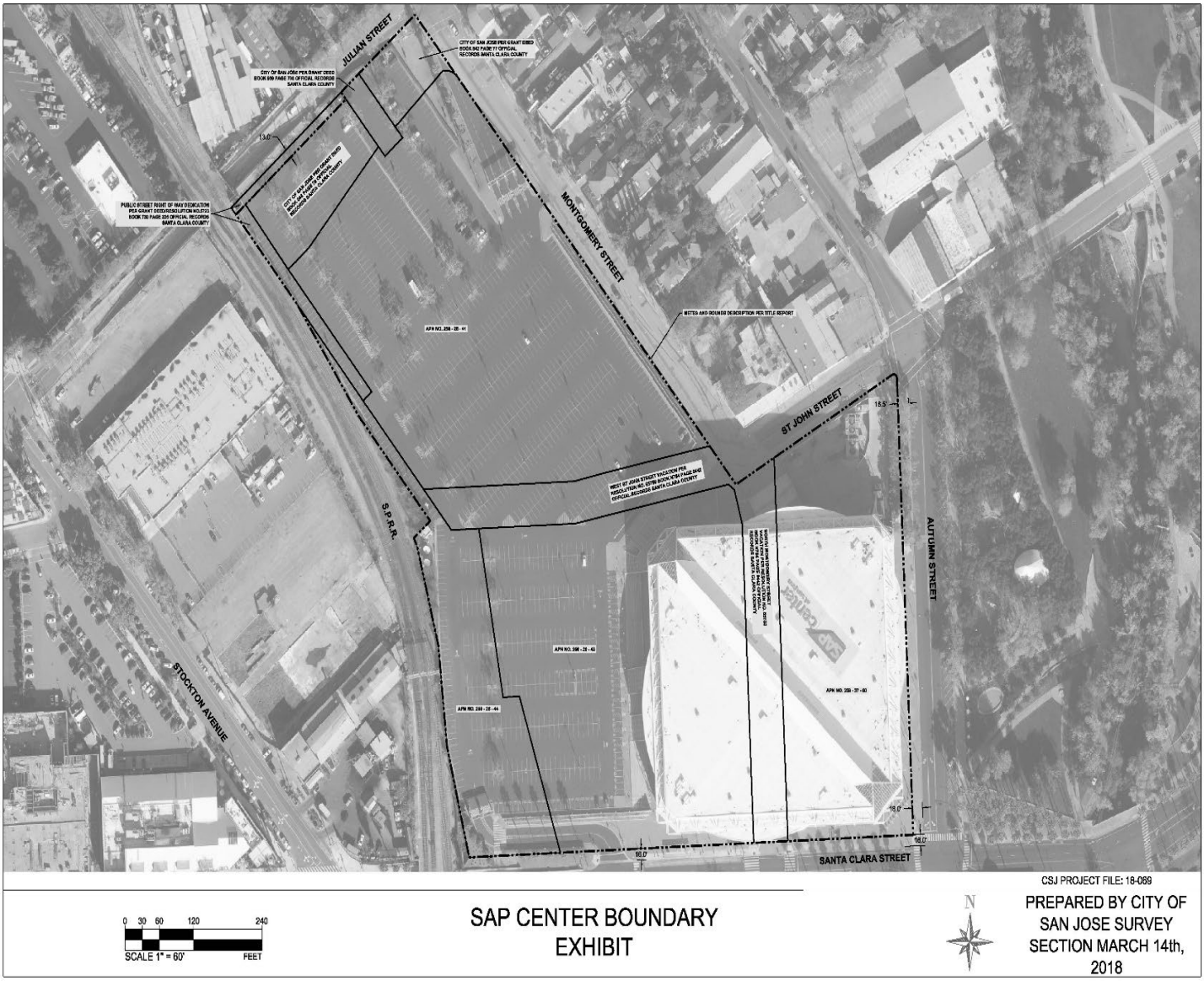

SITE PLAN



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**Attachment No. 3**

**SAP CENTER BOUNDARY EXHIBIT**






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**~~Attachment No. 4~~**

**~~SCHEDULE OF PRIOR AGREEMENTS~~**

**~~[This exhibit is being updated pursuant to the City Manager's delegated authority and will be included upon completion and mutual agreement by the parties.]~~**



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**Attachment No. 4**

**SCHEDULE OF PRIOR AGREEMENTS**

| Date | Title/Description | Parties |
|---|---|---|
| 12/1/2016 | Settlement Agreement and Release (Lot E Settlement) | Sharks Sports & Entertainment LLC<br>City of San Jose and San Jose City Council<br>Trammell Crow Company, LLC<br>Diridon Station Joint Venture LLC |
| 8/15/2018 | Second Amended and Restated Arena Management Agreement | San Jose Arena Management, LLC<br>City of San Jose |
| 12/4/2018 | First Amendment to the Second Amended and Restated Arena Management Agreement | San Jose Arena Management, LLC<br>City of San Jose |
| 6/8/2021 | Second Amendment to the Second Amended and Restated Arena Management Agreement | San Jose Arena Management, LLC<br>City of San Jose |
| 04/30/2002 | Guaranty | San Jose Sharks, LLC<br>City of San Jose |
| 7/1/2015 | Reaffirmation of Guaranty [Attachment No. 7 to 2018 AMA] | San Jose Sharks, LLC<br>City of San Jose |
| 4/4/2025 | Memorandum of Understanding Regarding Relocation of City Suite at SAP Center | San Jose Arena Management, LLC<br>City of San Jose |
| 10/1/2020 | Guaranty of Lease [Attachment No. 7 to Ice Centre Lease] | Sharks Sports & Entertainment, LLC<br>City of San Jose |
| 7/14/2004, as amended 10/13/2020 | Letter of Credit No. 593730-40, in amount of $17,630,000 | Comerica Bank<br>Sharks Ice, LLC<br>City of San Jose (Department of Finance) |



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**~~Attachment No. 5~~**

**~~SCHEDULE OF RELATED AGREEMENTS~~**

**~~[This exhibit is being updated pursuant to the City Manager's delegated authority and will be included upon completion and mutual agreement by the parties.]~~**



**DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.**

**Attachment No. 5**

**SCHEDULE OF RELATED AGREEMENTS**

| Date | Title/Description | Parties |
|---|---|---|
| 12/1/1991 | Memorandum of Management Agreement (Recorded in Official Records on 4/7/1992 as Document 11305489) | San Jose Arena Management Corp.<br>City of San Jose<br>San Jose Redevelopment Agency |
| 8/15/2018 | Amendment to Memorandum of Management Agreement (Recorded in Official Records on on 8/16/2018 as Document 24004426) | San Jose Arena Management, LLC<br>City of San Jose |
| 7/1/2025 | Amendment to Memorandum of Management Agreement<br>[Per 2025 AMA Section 1.7] | San Jose Arena Management, LLC<br>City of San Jose |
| 7/1/2025 | Payment and Performance Guaranty<br>[Attachment No. 7-1 to 2025 AMA] | Sharks Sports & Entertainment, LLC<br>City of San Jose |
| 7/1/2025 | Payment and Performance Guaranty<br>[Attachment No. 7-2 to 2025 AMA] | San Jose Sharks, LLC<br>City of San Jose |
| 7/1/2025 | Agreement for the Renovation of SAP Center at San Jose<br>[Attachment No 13 to AMA] | San Jose Arena Management, LLC<br>City of San Jose |
| TBD | Stipulated Judgment<br>[Attachment No. 19 to 2025 MA] | San Jose Arena Management, LLC<br>Sharks Ice, LLC<br>City of San Jose |
| TBD | Escrow Instructions<br>[Per AMA Section 38.3.2] | San Jose Arena Management, LLC<br>City of San Jose |
| 10/24/1991 | Hockey Use Agreement | San Jose Arena Management Corp.<br>San Jose Sharks, L.P. |
| 12/21/2000 | Amendment to Hockey Use Agreement | San Jose Arena Management Corp.<br>San Jose Sharks, L.P. |
| 7/1/2015 | Amendment to Hockey Use Agreement | San Jose Arena Management, LLC<br>San Jose Sharks, LLC |
| 7/1/2025 | Amendment to Hockey Use Agreement | San Jose Arena Management, LLC<br>San Jose Sharks, LLC |
| 5/25/2021 | Settlement and Release Agreement | Google LLC<br>City of San Jose<br>Sharks Sports & Entertainment LLC |
| TBD | Parking Management Agreement for Milligan Parking Lot<br>[Per AMA Section 19.5.1] | San Jose Arena Management, LLC<br>City of San Jose |
| TBD | Arena Events Operations Manual<br>[Per 2025 AMA Section 23.1.5] | San Jose Arena Management, LLC<br>City of San Jose (Dept. of Transportation) |



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| | | |
|---|---|---|
| 7/1/2023 | Venue Naming Rights Agreement | San Jose Arena Management, LLC<br>SAP Global Marketing, Inc. |
| TBD | Freeway Sign Leases on City Properties [Per 2025 AMA Section 17.1.4] | San Jose Arena Management, LLC<br>City of San Jose |
| 3/22/2003 | Covenant to Restrict Use of Property / Environmental Use Restriction (Recorded in Official Records on 5/23/2003 as Document 17062264) | City of San Jose<br>San Jose Redevelopment Agency<br>Department of Toxic Substances Control |
| Annually | Acknowledgement of Terms and Conditions of Secondary Employer Approval by Chief of Police (including indemnification provisions) | San Jose Arena Management, LLC<br>Sharks Ice, LLC<br>City of San Jose (Police Department) |
| TBD | Scheduling Process Memorandum [Per 2025 AMA Section 24.3.1] | San Jose Arena Management, LLC<br>City of San Jose Police Department<br>City of San Jose Dept. of Transportation |
| TBD | Impoundment Procedures Memorandum [Per 2025 AMA Section 25.3.3] | San Jose Arena Management, LLC<br>City of San Jose Police Department |
| 12/23/2018 | Video Surveillance Access Agreement | San Jose Arena Management, LLC<br>City of San Jose Police Department |
| | | |
| 10/1/2020 | Second Amended and Restated Lease and Management Agreement (Regarding the Ice Centre of San Jose) | Sharks Ice, LLC<br>City of San Jose |
| 10/1/2020 | Memorandum of Lease (Recorded in Official Records on 10/22/202 as Document 24665563) | Sharks Ice, LLC<br>City of San Jose |
| 7/1/2025 | First Amendment to Second Amended and Restated Lease and Management Agreement | Sharks Ice, LLC<br>City of San Jose |
| 7/1/2025 | Amendment to Memorandum of Lease | Sharks Ice, LLC<br>City of San Jose |
| 7/1/2025 | Payment and Performance Guaranty [Attachment No. 13 to First Amendment] | Sharks Sports & Entertainment, LLC<br>City of San Jose |
| 7/1/2025 | Payment and Performance Guaranty [Attachment No. 14 to First Amendment] | San Jose Sharks, LLC<br>City of San Jose |



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## ATTACHMENT NO. 6

## SCHEDULE OF FINANCIAL TERMS

| | Fiscal Year (7/1 to 6/30) | City Funding for Renovation Costs (Due 3/1) | Manager Funding for Renovation Costs (Sample spread over 10 yrs) | Manager Payments for City's Debt Service (Due 4/1) | Manager Payments for Capital Reserve Fund (Due 8/1) | City Payments for Capital Reserve Fund (Due 8/1) | Manager Payments for City Events Fund (Due 8/1) | Manager Payments for Sharks Community Fund (Due 8/1) | City Liquidated Damages (Due 60 days after Notice of Funding Breach) | Manager Early Termination Fee (Due 6/30 one year before end of applicable Fiscal Year) |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | FY 25-26 | | 7,500,000 | | 1,420,000 | 2,300,000 | 100,000 | 375,000 | | 100,000,000 |
| 2 | FY 26-27 | 70,000,000 | 7,500,000 | | | | 100,000 | 375,000 | 200,000,000 | 100,000,000 |
| 3 | FY 27-28 | 70,000,000 | 7,500,000 | 8,333,333 | | | 100,000 | 375,000 | 190,000,000 | 250,702,678 |
| 4 | FY 28-29 | 70,000,000 | 7,500,000 | 8,333,333 | | | 100,000 | 375,000 | 180,000,000 | 250,702,678 |
| 5 | FY 29-30 | 70,000,000 | 7,500,000 | 8,333,333 | | | 100,000 | 375,000 | 140,000,000 | 239,307,102 |
| 6 | FY 30-31 | 70,000,000 | 7,500,000 | | | | 100,000 | 375,000 | 70,000,000 | 548,881,874 |
| 7 | FY 31-32 | | 7,500,000 | | | | 100,000 | 375,000 | | 521,437,781 |
| 8 | FY 32-33 | | 7,500,000 | | | | 100,000 | 375,000 | | 493,993,687 |
| 9 | FY 33-34 | | 7,500,000 | | 500,000 | | 100,000 | 375,000 | | 366,549,593 |
| 10 | FY 34-35 | | 7,500,000 | | 1,000,000 | | 100,000 | 375,000 | | 339,105,500 |
| 11 | FY 35-36 | | | | 1,500,000 | | 100,000 | 375,000 | | 311,661,406 |
| 12 | FY 36-37 | | | | 2,000,000 | | 100,000 | 375,000 | | 284,217,312 |
| 13 | FY 37-38 | | | | 2,000,000 | | 100,000 | 375,000 | | 256,773,218 |
| 14 | FY 38-39 | | | | 2,000,000 | 500,000 | 100,000 | 375,000 | | 229,329,125 |
| 15 | FY 39-40 | | | | 2,000,000 | 1,000,000 | 100,000 | 375,000 | | 201,885,031 |
| 16 | FY 40-41 | | | | 2,000,000 | 1,750,000 | 100,000 | 375,000 | | 174,440,937 |
| 17 | FY 41-42 | | | | 2,000,000 | 2,250,000 | 100,000 | 375,000 | | 146,996,843 |
| 18 | FY 42-43 | | | | 2,000,000 | 2,500,000 | 100,000 | 375,000 | | 119,552,750 |
| 19 | FY 43-44 | | | | 2,000,000 | 2,750,000 | 100,000 | 375,000 | | 92,108,656 |
| 20 | FY 44-45 | | | | 2,000,000 | 3,000,000 | 100,000 | 375,000 | | 64,664,562 |
| 21 | FY 45-46 | | | | 2,000,000 | 3,090,000 | 100,000 | 375,000 | | 37,220,469 |
| 22 | FY 46-47 | | | | 2,000,000 | 3,182,700 | 100,000 | 375,000 | | 9,776,375 |
| 23 | FY 47-48 | | | | 2,000,000 | 3,278,181 | 100,000 | 375,000 | | |
| 24 | FY 48-49 | | | | 2,000,000 | 3,376,526 | 100,000 | 375,000 | | |
| 25 | FY 49-50 | | | | 2,000,000 | 3,477,822 | 100,000 | 375,000 | | |
| 26 | FY50-51 | | | | | | 100,000 | 375,000 | | |
| | **Totals** | **350,000,000** | **75,000,000** | **25,000,000** | **32,420,000** | **32,455,230** | **2,600,000** | **9,750,000** | | |



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Notes to Schedule of Financial Terms:

1. SSE's annual payments toward Renovation Costs may vary based on the amounts SSE determines to be needed for each phase of work, so long as SSE contributes at least $75,000,000 prior to June 30, 2035. Renovation Costs incurred by SSE prior to July 1, 2025, in an amount not to exceed $7 Million, will be counted towards SSE's total contribution obligation.
2. Currently, major construction work is anticipated to be completed by June 30, 2033.

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**ATTACHMENT NO. 7-1**

**FORM OF SSE GUARANTY**

**PAYMENT AND PERFORMANCE GUARANTY**

This PAYMENT AND PERFORMANCE GUARANTY ("**Guaranty**"), made effective as of July 1, 2025, is made by SHARKS SPORTS & ENTERTAINMENT LLC, a Delaware limited liability company ("**Guarantor**"), in favor of the CITY OF SAN JOSÉ, a California municipal corporation ("**City**"), with reference to the following facts:

A. Guarantor directly or indirectly owns 100% of the membership and economic interests in the following entities: (i) San Jose Arena Management, LLC ("**Manager**"), which operates the San Jose Arena located at 525 W. Santa Clara Street, San José, California, currently known as SAP Center; and (ii) San Jose Sharks, LLC ("**SJS LLC**"), which owns the San Jose Sharks NHL hockey team ("**San Jose Sharks**").

B. City and Manager are parties to a Third Amended and Restated Arena Management Agreement made effective as of July 1, 2025 ("**2025 AMA**"), regarding the use and operation of the Arena. Under and subject to the terms and conditions of the 2025 AMA, Manager has certain performance obligations, including (i) performing Management Duties, Ordinary Maintenance and Repairs, and Capital Repairs and Replacements, and (ii) arranging for On-Site Security Services and Off-Site Traffic Control Services. Capitalized terms used in this Guaranty but not defined herein shall have the meanings given in the 2025 AMA.

C. Manager and SJS LLC are parties to a Hockey Use Agreement dated October 24, 1991, and amended by instruments dated December 21, 2000, July 1, 2015, and July 1, 2025 ("**Hockey Use Agreement**"), governing the terms and conditions upon which the San Jose Sharks NHL hockey team plays its Home Games at the Arena. Under and subject to the terms and conditions of the 2025 AMA, Manager and SJS LLC have certain performance obligations, including the obligation to ensure that during the Term of the 2025 AMA the San Jose Sharks will play most of their Home Games at the Arena.

D. Under the 2025 AMA, City and Manager have agreed to undertake a major renovation of the interior of the Arena ("**Renovation Project**"), subject to the terms and conditions of an agreement ("**Renovation Agreement**") between City and Manager dated concurrently with this Guaranty, which Renovation Agreement is attached to and incorporated in the 2025 AMA. Under and subject to the terms and conditions of the Renovation Agreement, Manager has certain performance obligations, including taking the lead role in managing and implementing the Renovation Project.

E. Under and subject to the terms and conditions of the 2025 AMA (including the Renovation Agreement), Manager is obligated to provide certain payments to City and to third parties, including (i) payments of Annual Fees (including contributions to the Capital Reserve Fund, Community Events Fund and San Jose Sharks Community Fund), Taxes, and Operating Expenses (including, if necessary, sums to cover any Operating Losses); (ii) contributions towards the Renovation Costs; and (iii) if applicable, payment of the Early Termination Fee described in Section 5.2 of the 2025 AMA.



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F. As a condition precedent to entering into the 2025 AMA, and as a material inducement for City's commitment to pay to Manager City's share of the Renovation Costs, City has required that Guarantor provide a current, unconditional and continuing guaranty of Manager's payment obligations described in Paragraph E above, Manager's performance obligations described in Paragraphs B, C and D above, and SJS LLC's performance obligations described in Paragraph C above (collectively, the "**Payment and Performance Obligations**").

NOW, THEREFORE, in consideration of City entering into the 2025 AMA and committing to pay a portion of the Renovation Costs for the Renovation Project, which consideration is of material benefit to Guarantor, Guarantor hereby absolutely and unconditionally guarantees Manager's Payment and Performance Obligations, and City accepts such guaranty, on the following terms and conditions:

1. Continuing Guaranty of Payment and Performance Obligations.

A. Payment or Performance by Guarantor. Subject to the conditions set forth in Section 1.B. below, Guarantor hereby agrees that, upon the occurrence of an Event of Default occurs (as defined in Section 38.1.1 of the 2025 AMA) with respect to any Payment and Performance Obligation, Guarantor, at its expense, shall immediately and automatically upon the occurrence thereof, and without demand by City make all payments and take all actions as may be necessary to satisfy the Payment and Performance Obligation in full, and to reimburse City for any and all damages, losses, costs and expenses incurred by City in connection with or arising from such Event of Default.

B. Guaranty Unconditional. The obligations of Guarantor under this Guaranty shall be unconditional and absolute to the extent of its obligations under this Guaranty.

C. Legal Action not Required. City shall not be required to demand performance by Guarantor hereunder. In the event Guarantor fails to timely perform any obligation set forth in this Guaranty, then City may pursue any right or remedy available at law, or at equity, including, but not limited to, enforcement of this Guaranty by injunctive relief, specific performance, or a claim for damages. However, if City elects to pursue any such right or remedy, Guarantor agrees to reimburse City for all such costs and fees upon demand by City, subject to the terms of Paragraph 16 below.

D. Term of Guaranty. Unless earlier terminated as provided in Paragraph 2 below, the term of this Guaranty shall commence on the Commencement Date of the 2025 AMA and shall continue until all of Manager's Payment and Performance Obligations have been fully satisfied (including any Payment and Performance Obligations that survive the termination of the 2025 AMA and Hockey Use Agreement). Guarantor shall not be released of any obligation or liability under this Guaranty so long as there is any claim against Manager for any Payment and Performance Obligation arising out of the 2025 AMA or Hockey Use Agreement that has not been settled or discharged in full. For the avoidance of doubt, unless earlier terminated as provided in Paragraph 2 below, this Guaranty shall not terminate prior to the Termination Date.

2. Substitution of Guarantor. At any time prior to the Termination Date, Guarantor and/or Manager may request that City release Guarantor from Guarantor's obligations under this Guaranty, subject to the following:

A. Conditions of City's Approval. Guarantor and Manager shall submit to City a written request for such release, in which request Manager and Guarantor shall (i) identify a proposed



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substitute guarantor ("**Substitute Guarantor**"), and (ii) provide to City such information with respect to the Substitute Guarantor as City may require. City shall not unreasonably delay, condition or withhold City's consent to the substitution of the Substitute Guarantor. Without limiting the foregoing, provided the Substitute Guarantor executes and delivers the Replacement Guaranty (defined below) and has the qualifications and financial responsibility necessary and adequate to fulfill the Payment and Performance Obligations of Manager, as determined by City in its sole reasonable discretion, the Substitute Guarantor shall be approved by City.

B. Permitted Transfers. Notwithstanding the foregoing, if the Substitute Guarantor is a Permitted Transferee as defined in Section 2.3.4 of the 2025 AMA, then City's approval of the Substitute Guarantor shall not be required. However, in order for Guarantor to be released, the Permitted Transferee/Substitute Guarantor must execute a Replacement Guaranty as described below.

C. Release of Guarantor. If City approves a Substitute Guarantor pursuant to Subparagraph A above, or if a Substitute Guarantor is a Permitted Transferee under the 2025 AMA, then upon such Substitute Guarantor's execution and delivery to City of a payment and performance guaranty in a form approved by City, which approval shall be granted provided the Substitute Guarantor's guaranty ("**Replacement Guaranty**") is in substantially the same form as this Guaranty, Guarantor shall be released from Guarantor's obligations under this Guaranty, and this Guaranty shall terminate and be of no further force or effect. Promptly following receipt of the Replacement Guaranty, City agrees to execute a document acknowledging the release of Guarantor and the termination of this Guaranty; however, City's failure to execute such a document shall not affect the validity thereof.

3. Independent and Separate Obligations. The obligations of Guarantor under this Guaranty are independent of, and may exceed, the obligations of Manager under the 2025 AMA and Hockey Use Agreement. If City elects to bring a legal action to enforce its rights, City may choose to bring a separate action against Guarantor, whether or not any action is first or subsequently brought against Manager, or whether or not Manager is joined in any action against Guarantor. Further, Guarantor may be joined in any action by City against Manager arising out of, in connection with or based upon the 2025 AMA and Hockey Use Agreement.

4. Changes Do Not Affect Liability. Guarantor authorizes City, without notice or demand and without affecting Guarantor's liability hereunder, from time to time to do any of the following: (a) consent to any extensions, accelerations or other changes in the time for any Payment and Performance Obligation, or consent to any other alteration of any covenant, term or condition of the 2025 AMA or Hockey Use Agreement in any respect, and to consent to any assignment, subletting or reassignment of the 2025 AMA; (b) release Manager as to all or any portion of the Payment and Performance Obligations; (c) substitute or add any one or more guarantors; (d) take and hold security for any Payment and Performance Obligations, or exchange, waive or release any such security; and (e) apply such security and direct the order or manner of sale thereof in accordance with the terms of the 2025 AMA and Applicable Laws. No action or inaction by City with respect to its rights, no dealing by City with Manager or any guarantor, and no change, impairment or suspension of any right or remedy of City shall be deemed to be a waiver of Guarantor's obligations, or otherwise affect any of the obligations of Guarantor hereunder or give Guarantor any recourse against City.

5. No Discharge. Satisfaction by Guarantor of any liability arising hereunder relating to a particular Payment and Performance Obligation shall not discharge Guarantor except for the Payment



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and Performance Obligation satisfied.

6. Waivers of Certain Rights and Defenses. Guarantor hereby waives and agrees not to assert or take advantage of (i) any and all defenses available to Guarantor in connection with the performance and/or existence of the obligations guaranteed hereunder, including such defenses that may arise by reason of the incapacity, lack of authority, death or disability of any person or persons; or (ii) demand, protest and notice of any kind including, without limiting the generality of the foregoing, notice of the existence, creation or incurring of any new or additional Payment and Performance Obligation or of any action or nonaction on the part of Manager, City, or Guarantor or on the part of any other person whomsoever under this or any other instrument in connection with the Payment and Performance Obligations. Guarantor further waives any right to (a) require City to proceed against Manager or any other person or entity or pursue any other remedy in City's power whatsoever; (b) complain of delay in the enforcement of City's rights under the 2025 AMA; or (c) require City to proceed against or exhaust any other security, if any, held from Manager or Guarantor. Guarantor further waives any right of subrogation, and Guarantor waives any right to enforce any remedy which City now has or may hereafter have against Manager or any benefit of, or any right to participate in, any security now or hereafter held by City, unless and until all of the Payment and Performance Obligations shall have been satisfied in full. Guarantor hereby expressly waives any right (pursuant to any law, rule or arrangement or relationship) to compel City to sue under or enforce this Guaranty or any document executed in connection therewith, to proceed against or exhaust any other guarantees or to pursue any other remedy in the power of the City, and the failure of City to do so shall not exonerate, release or discharge Guarantor from its absolute, unconditional and independent performance of the obligations guaranteed hereunder whether or not they are validly enforceable against Manager, or shall have been incurred in compliance with any of the conditions applicable thereto. Guarantor further waives all of the rights and defenses described in Section 2856 of the California Civil Code.

7. Guarantor's Due Diligence. Guarantor assumes full responsibility for keeping fully informed of the financial condition of Manager and of all circumstances bearing on the risk of nonpayment or nonperformance of the Payment and Performance Obligations and all other circumstances affecting Manager's ability to perform its obligations under the 2025 AMA and Hockey Use Agreement. Guarantor agrees that City shall have no duty to disclose to Guarantor any facts the City may now or hereafter know about Manager regardless of whether the City has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor or has a reasonable opportunity to communicate such facts to Guarantor.

8. Representations and Warranties of Guarantor. Guarantor makes the following representations and warranties which shall be continuing representations and warranties until this Guaranty expires or terminates in accordance with the provisions contained herein:

A. Status and Power of Guarantor. Guarantor is a limited liability company validly existing under the laws of the State of Delaware and has the corporate power and authority to own and operate its property and conduct business as it is currently being conducted. Guarantor has the power and authority to enter into, execute, deliver and perform its obligations under this Guaranty.

B. Guaranty Authorized and Binding. The execution, delivery and performance of this Guaranty are duly authorized by all requisite company action. No consent or approval of any



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governmental body or regulatory authority is required for the execution or delivery of the Guaranty by Guarantor or for the full effectiveness or enforceability of the Guaranty. This Guaranty constitutes a valid and legally binding obligation of Guarantor enforceable against Guarantor in accordance with its terms.

C. No Conflict. The execution and delivery of this Guaranty and the performance and observance by Guarantor of its obligations under this Guaranty will not constitute a material violation, breach, or default under any provisions of: (a) Guarantor's limited liability company agreement; (b) any rules, bylaws or constitution of the National Hockey League or American Hockey League; (c) any terms of the franchise agreements with the National Hockey League or the American Hockey League; (d) any governmental order, judgment, decree or court order expressly binding Guarantor; or (e) any other contract, agreement, indenture or undertaking or other instrument to which Guarantor is a party or by which it or any of its property is or may be bound or affected.

9. Cumulative Rights. The amount of Guarantor's liability and all rights, powers and remedies of the City hereunder are cumulative and shall be in addition to all remedies given to the City by law or any other agreement. This Guaranty is in addition to and exclusive of the guaranty of any other guarantor of any payment or performance obligations of Manager to the City.

10. Successive Actions. The City's rights hereunder shall not be exhausted by its exercise of any of its rights or remedies or by any action or by any number of successive actions until and unless all sums owing to the City and all obligations to be performed for the benefit of City in connection with the Payment and Performance Obligations have been paid in full.

11. Status of Manager. Except as provided in this Guaranty, no change of ownership in or legal title to Manager shall affect or change or discharge the obligations of Guarantor hereunder.

12. Successors and Assigns. Subject to the terms of Section 2 above, including the conditions applicable to City's approval of a proposed Substitute Guarantor, this Guaranty shall inure to the benefit of City its successors and assigns and shall be binding on Guarantor and its successors and assigns.

13. Amendments; Waiver. No supplement, modification or amendment of this Guaranty shall be binding unless executed in writing by the City and Guarantor. No waiver of any of the provisions of this Guaranty shall be deemed or shall constitute a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver. No provisions of this Guaranty or right of a party hereunder may be waived except by a writing duly executed by such party.

14. Time. Time is of the essence of this Guaranty.

15. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of California, excluding the laws and rules related to the conflict of laws. In the event that suit shall be brought by either party hereunder, the parties agree that the trial of such action shall be exclusively vested in a State court in the County of Santa Clara or, where appropriate, in the United States District Court for the Northern District of California, San José , California.



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16. Attorneys' Fees and Collection Costs~~. If any lawsuit or legal proceeding is commenced which arises out of or which relates to this Guaranty, the prevailing party in such lawsuit or legal proceeding shall be entitled to recover from the other party such sums as the court may adjudge to be reasonable attorneys' fees and costs incurred in the action or proceeding~~. Guarantor further agrees to pay all costs and expenses, including reasonably attorneys' fees, which may be incurred by City in any effort to collect or enforce any of the obligations of the Guarantor hereunder, whether or not any lawsuit is filed, including, without limitation, all costs and attorneys' fees incurred by City in any bankruptcy proceeding (including, without limitation, any action for relief from the automatic stay of any bankruptcy proceeding) and in any judicial or nonjudicial foreclosure action. Such amounts shall bear interest from the date of expenditure until paid, at the highest rate permitted by law.

17. Notices. Unless otherwise provided herein, any notice to be given hereunder by either party to the other party shall be in writing and shall be delivered by one of the following methods: (i) personal delivery, including messenger service or overnight courier; (ii) registered or certified mail, postage prepaid, return receipt requested; or (iii) any other delivery method allowed by law. Such notice shall be deemed delivered upon receipt or refusal to accept delivery at the addresses specified below, provided with respect to any notice delivered by email, receipt may not be evidenced by an email reply that is automatically generated. Each party may change its address by written notice given in accordance with this Paragraph 17:

To Guarantor:

Sharks Sports & Entertainment LLC
525 West Santa Clara Street
San José , CA 95113
Attention: General Counsel

To City:

Office of City Manager
200 E. Santa Clara St., 17th Floor
San José , CA 95113
Attn: Director of Real Estate

With a copy to:

Director of Finance
200 E. Santa Clara St., 13th Floor
San José , CA 95113
Attn: Debt Management

And a copy to:

Office of City Attorney
200 E. Santa Clara St., 16th Floor
San José , CA 95113
Attn: Real Estate Attorney

And a copy to:

San Jose Arena Authority
525 West Santa Clara St.
San José , CA 95113
Attn: Executive Director



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18. Estoppel Certificate; Further Assurances. Guarantor, promptly from time to time upon request by City, shall execute and deliver to the City (a) an estoppel certificate containing such true and accurate information as the City may reasonably request, and (b) such further instruments or documentation as the City may reasonably consider necessary or desirable to ratify and confirm the continuing liability of Guarantor hereunder.

19. Miscellaneous. This Guaranty constitutes the entire agreement of the Guarantor with respect to the matter set forth herein. The invalidity or unenforceability of any one or more provisions of this Guaranty shall not affect the validity or enforceability of its remaining provisions. Captions are for the ease of reference only and shall not affect the meaning of the relevant provisions. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural and the masculine shall include the feminine and neuter and vice versa. The word "person" as used herein shall include any individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever. The word "including" shall mean "including without limitation."

20. Counterparts; Multiple Originals. This Guaranty may be executed and delivered in multiple original counterparts, by fax or "PDF" sent by e-mail or similar means of electronic communication, each of which shall constitute a counterpart original and all of which together shall constitute one complete, binding document. Any signatures (including electronic signatures) delivered by electronic communication shall have the same legal effect as physically delivered original signatures.

[*Signatures appear on next page*]



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**SIGNATURES TO GUARANTY**

Executed at San José , California, as of the date first written above.

SHARKS SPORTS & ENTERTAINMENT LLC
a Delaware limited liability company

By: _____
Jonathan D. Becher
President

AGREED AND ACCEPTED:

CITY OF SAN JOSÉ
a California municipal corporation

By: _____

Print Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____
Cameron Day
Senior Deputy City Attorney



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**ATTACHMENT NO. 7-2**

**FORM OF SJS GUARANTY**

**PAYMENT AND PERFORMANCE GUARANTY**

This PAYMENT AND PERFORMANCE GUARANTY ("**Guaranty**"), made effective as of July 1, 2025, is made by SAN JOSE SHARKS, LLC, a Delaware limited liability company ("**Guarantor**"), in favor of the CITY OF SAN JOSÉ, a California municipal corporation ("**City**"), with reference to the following facts:

A. Guarantor owns the San Jose Sharks NHL hockey team ("**San Jose Sharks**").

B. San Jose Arena Management, LLC ("**Manager**"), operates the San Jose Arena located at 525 W. Santa Clara Street, San José, California, currently known as SAP Center ("**Arena**") pursuant to a Third Amended and Restated Arena Management Agreement between City and Manager made effective as of July 1, 2025 ("**2025 AMA**"). Under and subject to the terms and conditions of the 2025 AMA, Manager has certain performance obligations, including (i) performing Management Duties, Ordinary Maintenance and Repairs, and Capital Repairs and Replacements, and (ii) arranging for On-Site Security Services and Off-Site Traffic Control Services. Capitalized terms used in this Guaranty but not defined herein shall have the meanings given in the 2025 AMA.

C. Manager and SJS LLC are parties to a Hockey Use Agreement dated October 24, 1991, and amended by instruments dated December 21, 2000, July 1, 2015, and July 1, 2025 ("**Hockey Use Agreement**"), governing the terms and conditions upon which the San Jose Sharks NHL hockey team plays its Home Games at the Arena. Under and subject to the terms and conditions of the 2025 AMA, Manager and SJS LLC have certain performance obligations, including the obligation to ensure that during the Term of the 2025 AMA the San Jose Sharks will play most of their Home Games at the Arena.

D. Under the 2025 AMA, City and Manager have agreed to undertake a major renovation of the interior of the Arena ("**Renovation Project**"), subject to the terms and conditions of an agreement ("**Renovation Agreement**") between City and Manager dated concurrently with this Guaranty, which Renovation Agreement is attached to and incorporated in the 2025 AMA. Under and subject to the terms and conditions of the Renovation Agreement, Manager has certain performance obligations, including taking the lead role in managing and implementing the Renovation Project.

E. Under and subject to the terms and conditions of the 2025 AMA (including the Renovation Agreement), Manager is obligated to provide certain payments to City and to third parties, including (i) payments of Annual Fees (including contributions to the Capital Reserve Fund, Community Events Fund and San Jose Sharks Community Fund), Taxes, and Operating Expenses (including, if necessary, sums to cover any Operating Losses); (ii) contributions towards the Renovation Costs; and (iii) if applicable, payment of the Early Termination Fee described in Section 5.2 of the 2025 AMA.

F. As a condition precedent to entering into the 2025 AMA, and as a material inducement for City's commitment to pay to Manager City's share of the Renovation Costs, City has required that Guarantor provide a current, unconditional and continuing guaranty of Manager's payment



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obligations described in Paragraph E above, Manager's performance obligations described in Paragraphs B, C and D above, and SJS LLC's performance obligations described in Paragraph C above (collectively, the "**Payment and Performance Obligations**").

NOW, THEREFORE, in consideration of City entering into the 2025 AMA and committing to pay a portion of the Renovation Costs for the Renovation Project, which consideration is of material benefit to Guarantor, Guarantor hereby absolutely and unconditionally guarantees Manager's Payment and Performance Obligations, and City accepts such guaranty, on the following terms and conditions:

1. Continuing Guaranty of Payment and Performance Obligations.

A. Payment or Performance by Guarantor. Subject to the conditions set forth in Section 1.B. below, Guarantor hereby agrees that, upon the occurrence of an Event of Default occurs (as defined in Section 38.1.1 of the 2025 AMA) with respect to any Payment and Performance Obligation, then Guarantor, at its expense, shall immediately and automatically upon the occurrence thereof, and without demand by City make all payments and take all actions as may be necessary to satisfy the Payment and Performance Obligation in full, and to reimburse City for any and all damages, losses, costs and expenses incurred by City in connection with or arising from such Event of Default.

B. Guaranty Unconditional. The obligations of Guarantor under this Guaranty shall be unconditional and absolute to the extent of its obligations under this Guaranty.

C. Legal Action not Required. City shall not be required to demand payment or performance by Guarantor hereunder. In the event Guarantor fails to timely perform any obligation set forth in this Guaranty, then City may pursue any right or remedy available at law, or at equity, including, but not limited to, enforcement of this Guaranty by injunctive relief, specific performance, or a claim for damages. However, if City elects to pursue any such right or remedy, Guarantor agrees to reimburse City for all such costs and fees upon demand by City, subject to the terms of Paragraph 16 below.

D. Term of Guaranty. Unless earlier terminated as provided in Paragraph 2 below, the term of this Guaranty shall commence on the Commencement Date of the 2025 AMA and shall continue until all of Manager's Payment and Performance Obligations have been fully satisfied (including any Payment and Performance Obligations that survive the termination of the 2025 AMA and Hockey Use Agreement). Guarantor shall not be released of any obligation or liability under this Guaranty so long as there is any claim against Manager for any Payment and Performance Obligation arising out of the 2025 AMA or Hockey Use Agreement that has not been settled or discharged in full. For the avoidance of doubt, unless earlier terminated as provided in Paragraph 2 below, this Guaranty shall not terminate prior to the Termination Date.

2. Substitution of Guarantor. At any time prior to the Termination Date, Guarantor and/or Manager may request that City release Guarantor from Guarantor's obligations under this Guaranty, subject to the following:

A. Conditions of City's Approval. Guarantor and Manager shall submit to City a written request for such release, in which request Manager and Guarantor shall (i) identify a proposed substitute guarantor ("**Substitute Guarantor**"), and (ii) provide to City such information with respect to the Substitute Guarantor as City may require. City shall not unreasonably delay, condition or withhold



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City's consent to the substitution of the Substitute Guarantor. Without limiting the foregoing, provided Substitute Guarantor executes and delivers the Replacement Guaranty (defined below) and has the qualifications and financial responsibility necessary and adequate to fulfill the Payment and Performance Obligations of Manager, as determined by City in its sole reasonable discretion, the Substitute Guarantor shall be approved by City.

B. Permitted Transfers. Notwithstanding the foregoing, if the Substitute Guarantor is a Permitted Transferee as defined in Section 2.3.4 of the 2025 AMA, then City's approval of the Substitute Guarantor shall not be required. However, in order for Guarantor to be released, the Permitted Transferee/Substitute Guarantor must execute a Replacement Guaranty as described below.

C. Release of Guarantor. If City approves a Substitute Guarantor pursuant to Subparagraph A above, or if a Substitute Guarantor is a Permitted Transferee, then upon such Substitute Guarantor's execution and delivery to City of a payment and performance guaranty in a form approved by City, which approval shall be granted provided the Substitute Guarantor's guaranty ("**Replacement Guaranty**") is in substantially the same form as this Guaranty, Guarantor shall be released from Guarantor's obligations under this Guaranty, and this Guaranty shall terminate and be of no further force or effect. Promptly following receipt of the Replacement Guaranty, City agrees to execute a document acknowledging the release of Guarantor and the termination of this Guaranty; however, City's failure to execute such a document shall not affect the validity thereof.

3. Independent and Separate Obligations. The obligations of Guarantor under this Guaranty are independent of, and may exceed, the obligations of Manager under the 2025 AMA and Hockey Use Agreement. If City elects to bring a legal action to enforce its rights, City may choose to bring a separate action against Guarantor, whether or not any action is first or subsequently brought against Manager, or whether or not Manager is joined in any action against Guarantor. Further, Guarantor may be joined in any action by City against Manager arising out of, in connection with or based upon the 2025 AMA and Hockey Use Agreement.

4. Changes Do Not Affect Liability. Guarantor authorizes City, without notice or demand and without affecting Guarantor's liability hereunder, from time to time to do any of the following: (a) consent to any extensions, accelerations or other changes in the time for any Payment and Performance Obligation, or consent to any other alteration of any covenant, term or condition of the 2025 AMA or Hockey Use Agreement in any respect, and to consent to any assignment, subletting or reassignment of the 2025 AMA; (b) release Manager as to all or any portion of the Payment and Performance Obligations; (c) substitute or add any one or more guarantors; (d) take and hold security for any Payment and Performance Obligations, or exchange, waive or release any such security; and (e) apply such security and direct the order or manner of sale thereof in accordance with the terms of the 2025 AMA and Applicable Laws. No action or inaction by City with respect to its rights, no dealing by City with Manager or any guarantor, and no change, impairment or suspension of any right or remedy of City shall be deemed to be a waiver of Guarantor's obligations, or otherwise affect any of the obligations of Guarantor hereunder or give Guarantor any recourse against City.

5. No Discharge. Satisfaction by Guarantor of any liability arising hereunder relating to a particular Payment and Performance Obligation shall not discharge Guarantor except for the Payment and Performance Obligation satisfied.



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6. Waivers of Certain Rights and Defenses. Guarantor hereby waives and agrees not to assert or take advantage of (i) any and all defenses available to Guarantor in connection with the performance and/or existence of the obligations guaranteed hereunder, including such defenses that may arise by reason of the incapacity, lack of authority, death or disability of any person or persons; or (ii) demand, protest and notice of any kind including, without limiting the generality of the foregoing, notice of the existence, creation or incurring of any new or additional Payment and Performance Obligation or of any action or nonaction on the part of Manager, City, or Guarantor or on the part of any other person whomsoever under this or any other instrument in connection with the Payment and Performance Obligations. Guarantor further waives any right to (a) require City to proceed against Manager or any other person or entity or pursue any other remedy in City's power whatsoever; (b) complain of delay in the enforcement of City's rights under the 2025 AMA; or (c) require City to proceed against or exhaust any other security, if any, held from Manager or Guarantor. Guarantor further waives any right of subrogation, and Guarantor waives any right to enforce any remedy which City now has or may hereafter have against Manager or any benefit of, or any right to participate in, any security now or hereafter held by City, unless and until all of the Payment and Performance Obligations shall have been satisfied in full. Guarantor hereby expressly waives any right (pursuant to any law, rule or arrangement or relationship) to compel City to sue under or enforce this Guaranty or any document executed in connection therewith, to proceed against or exhaust any other guarantees or to pursue any other remedy in the power of the City, and the failure of City to do so shall not exonerate, release or discharge Guarantor from its absolute, unconditional and independent performance of the obligations guaranteed hereunder whether or not they are validly enforceable against Manager, or shall have been incurred in compliance with any of the conditions applicable thereto. Guarantor further waives all of the rights and defenses described in Section 2856 of the California Civil Code.

7. Guarantor's Due Diligence. Guarantor assumes full responsibility for keeping fully informed of the financial condition of Manager and of all circumstances bearing on the risk of nonpayment or nonperformance of the Payment and Performance Obligations and all other circumstances affecting Manager's ability to perform its obligations under the 2025 AMA and Hockey Use Agreement. Guarantor agrees that City shall have no duty to disclose to Guarantor any facts the City may now or hereafter know about Manager regardless of whether the City has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor or has a reasonable opportunity to communicate such facts to Guarantor.

8. Representations and Warranties of Guarantor. Guarantor makes the following representations and warranties which shall be continuing representations and warranties until this Guaranty expires or terminates in accordance with the provisions contained herein:

A. Status and Power of Guarantor. Guarantor is a limited liability company validly existing under the laws of the State of Delaware and has the corporate power and authority to own and operate its property and conduct business as it is currently being conducted. Guarantor has the power and authority to enter into, execute, deliver and perform its obligations under this Guaranty.

B. Guaranty Authorized and Binding. The execution, delivery and performance of this Guaranty are duly authorized by all requisite company action. No consent or approval of any governmental body or regulatory authority is required for the execution or delivery of the Guaranty by Guarantor or for the full effectiveness or enforceability of the Guaranty. This Guaranty constitutes a



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valid and legally binding obligation of Guarantor enforceable against Guarantor in accordance with its terms.

C. No Conflict. The execution and delivery of this Guaranty and the performance and observance by Guarantor of its obligations under this Guaranty will not constitute a material violation, breach, or default under any provisions of: (a) Guarantor's limited liability company agreement; (b) any rules, bylaws or constitution of the National Hockey League or American Hockey League; (c) any terms of the franchise agreements with the National Hockey League or the American Hockey League; (d) any governmental order, judgment, decree or court order expressly binding Guarantor; or (e) any other contract, agreement, indenture or undertaking or other instrument to which Guarantor is a party or by which it or any of its property is or may be bound or affected.

9. Cumulative Rights. The amount of Guarantor's liability and all rights, powers and remedies of the City hereunder are cumulative and shall be in addition to all remedies given to the City by law or any other agreement. This Guaranty is in addition to and exclusive of the guaranty of any other guarantor of any payment or performance obligations of Manager to the City.

10. Successive Actions. The City's rights hereunder shall not be exhausted by its exercise of any of its rights or remedies or by any action or by any number of successive actions until and unless all sums owing to the City and all obligations to be performed for the benefit of City in connection with the Payment and Performance Obligations have been paid in full.

11. Status of Manager. Except as provided in this Guaranty, no change of ownership in or legal title to Manager shall affect or change or discharge the obligations of Guarantor hereunder.

12. Successors and Assigns. Subject to the terms of Section 2 above, including the conditions applicable to City's approval of a proposed Substitute Guarantor, this Guaranty shall inure to the benefit of City its successors and assigns and shall be binding on Guarantor and its successors and assigns.

13. Amendments; Waiver. No supplement, modification or amendment of this Guaranty shall be binding unless executed in writing by the City and Guarantor. No waiver of any of the provisions of this Guaranty shall be deemed or shall constitute a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver. No provisions of this Guaranty or right of a party hereunder may be waived except by a writing duly executed by such party.

14. Time. Time is of the essence of this Guaranty.

15. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of California, excluding the laws and rules related to the conflict of laws. In the event that suit shall be brought by either party hereunder, the parties agree that the trial of such action shall be exclusively vested in a State court in the County of Santa Clara or, where appropriate, in the United States District Court for the Northern District of California, San José, California.

16. Attorneys' Fees and Collection Costs~~. If any lawsuit or legal proceeding is commenced which arises out of or which relates to this Guaranty, the prevailing party in such lawsuit or legal proceeding shall be entitled to recover from the other party such sums as the court may adjudge to be~~



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~~reasonable attorneys' fees and costs incurred in the action or proceeding~~. Guarantor further agrees to pay all costs and expenses, including reasonably attorneys' fees, which may be incurred by City in any effort to collect or enforce any of the obligations of the Guarantor hereunder, whether or not any lawsuit is filed, including, without limitation, all costs and attorneys' fees incurred by City in any bankruptcy proceeding (including, without limitation, any action for relief from the automatic stay of any bankruptcy proceeding) and in any judicial or nonjudicial foreclosure action. Such amounts shall bear interest from the date of expenditure until paid, at the highest rate permitted by law.

17. Notices. Unless otherwise provided herein, any notice to be given hereunder by either party to the other party shall be in writing and shall be delivered by one of the following methods: (i) personal delivery, including messenger service or overnight courier; (ii) registered or certified mail, postage prepaid, return receipt requested; or (iii) any other delivery method allowed by law. Such notice shall be deemed delivered upon receipt or refusal to accept delivery at the addresses specified below, provided with respect to any notice delivered by email, receipt may not be evidenced by an email reply that is automatically generated. Each party may change its address by written notice given in accordance with this Paragraph 17:

To Guarantor:

San Jose Sharks, LLC
525 West Santa Clara Street
San José , CA 95113
Attention: General Counsel

To City:

Office of City Manager
200 E. Santa Clara St., 17th Floor
San José , CA 95113
Attn: Director of Real Estate

With a copy to:

Director of Finance
200 E. Santa Clara St., 13th Floor
San José , CA 95113
Attn: Debt Management

And a copy to:

Office of City Attorney
200 E. Santa Clara St., 16th Floor
San José , CA 95113
Attn: Real Estate Attorney

And a copy to:

San Jose Arena Authority
525 West Santa Clara St.
San José , CA 95113
Attn: Executive Director



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18. Estoppel Certificate; Further Assurances. Guarantor, promptly from time to time upon request by City, shall execute and deliver to the City (a) an estoppel certificate containing such true and accurate information as the City may reasonably request, and (b) such further instruments or documentation as the City may reasonably consider necessary or desirable to ratify and confirm the continuing liability of Guarantor hereunder.

19. Miscellaneous. This Guaranty constitutes the entire agreement of the Guarantor with respect to the matter set forth herein. The invalidity or unenforceability of any one or more provisions of this Guaranty shall not affect the validity or enforceability of its remaining provisions. Captions are for the ease of reference only and shall not affect the meaning of the relevant provisions. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural and the masculine shall include the feminine and neuter and vice versa. The word "person" as used herein shall include any individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever. The word "including" shall mean "including without limitation."

20. Counterparts; Multiple Originals. This Guaranty may be executed and delivered in multiple original counterparts, by fax or "PDF" sent by e-mail or similar means of electronic communication, each of which shall constitute a counterpart original and all of which together shall constitute one complete, binding document. Any signatures (including electronic signatures) delivered by electronic communication shall have the same legal effect as physically delivered original signatures.

[*Signatures appear on next page*]



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**SIGNATURES TO GUARANTY**

Executed at San José , California, as of the date first written above.

SAN JOSE SHARKS, LLC
a Delaware limited liability company

By: _____
Jonathan D. Becher
President

AGREED AND ACCEPTED:

CITY OF SAN JOSÉ
a California municipal corporation

By: _____

Print Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____
Cameron Day
Senior Deputy City Attorney



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**Attachment No. 8**

**NON-DISCRIMINATION POLICY**

Consistent with applicable City, State and Federal law, Manager has adopted the following equal employment opportunity and non-discrimination policies:

1. Manager is an equal opportunity employer. Manager will not discriminate and will take appropriate measures to ensure against discrimination against any employee or job applicant on the basis of race, color, religion, national origin, ancestry, age, sex, disability, marital status, medical condition, gender, gender identity, gender expression, military/veteran status, genetic information or sexual orientation in connection with employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

For this purpose, "appropriate measures" shall mean (a) establishing a clear policy of nondiscrimination in employment, (b) posting Manger's policy of nondiscrimination as provided in paragraph 2 below, (c) providing EEO training for all employees who are involved in Manager's recruitment and hiring efforts, (d) stating in all advertisements for employment that Manager is an equal opportunity employer, and (e) advising all recruitment agencies that Manager uses that Manager is an equal opportunity employer.

2. Manager agrees to post in conspicuous places available to employees and applicants for employment a notice stating substantially the following:

> "Manager does not and shall not discriminate against any person because of race, color, religion, national origin, ancestry, age, sex, disability, marital status, medical condition, gender, gender identity, gender expression, military/veteran status, genetic information or sexual orientation, in connection with Manager's employment activities, including but not limited to hiring, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship."

However, if Manager is required by any federal or state law, order, rule or regulation to post a similar notice, such posting shall satisfy the requirements hereof.

3. Manager will, in advertisements for employees placed by or on behalf of Manager, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, disability, marital status, medical condition, gender, gender identity, gender expression, military/veteran status, genetic information or sexual orientation, or in lieu thereof that Manager is an equal opportunity employer.

4. Manager will send a notice to each labor union or representative of workers with which it has a collective bargaining agreement, advising the labor union or workers' representative of Manager's nondiscrimination commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. However, if Manager is required by any federal or state law, order, rule or regulation to transmit a similar notice to such labor organization, such transmittal shall satisfy the requirements hereof.

5. Manager shall include provisions similar to those specified in the above paragraphs 1 through 4, inclusive, in each construction subcontract which exceeds Twenty Thousand Dollars ($20,000.00) so that each such subcontractor will be required in the performance of his/her subcontract to take the same actions as is required of Manager.



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**Attachment No. 9**

**ALCOHOL ADVERTISING PLAN**

Effective Date: July 1, 2025

1. **INTRODUCTION**. This Plan for Advertising of Alcoholic Beverages ("**Plan**") is a part of the Second Amended and Restated Arena Management Agreement ("**AMA**") between the City of San Jose ("**City**") and San Jose Arena Management ("**Manager**"), and addresses the advertising of alcoholic beverages at the Arena. As used in this Plan, the following terms have the meanings given below:

    - "**Beer and Wine**" means fermented alcoholic beverages, including malt beverages such as alcoholic ciders, alcoholic lemonades and wine coolers; and
    - "**Distilled Spirits**" means distilled alcoholic beverages, which includes (i) beverages that are fermented and then distilled, and have at least 20% alcohol by volume, such as whiskey, brandy, gin, vodka, rum, tequila, and liqueurs, and (ii) beverages containing distilled beverages (e.g., fortified wine).
    - "**Legal Age**" means the age at which a person may legally purchase or consume alcoholic beverages in the State of California, which as of the Effective Date of this Plan is 21 years.

2. **APPLICABLE COMMUNITY STANDARD**. Under the AMA, the advertising of alcoholic beverages must comply with the "**Applicable Community Standard**" which is defined as a standard equal to comparable major arenas or stadiums in the San Francisco Bay Area.

    - Based on a survey of such comparable facilities and policies adopted by the National Hockey League as of the Effective Date of this Plan, it has been determined that the Applicable Community Standard does not warrant different advertising requirements for Distilled Spirits than for Beer and Wine, except as provided below.
    - The provisions set forth is paragraphs 3 through 6 below are deemed to reflect and implement the Applicable Community Standard as of the Effective date with respect to the advertising of Beer and Wine as well as Distilled Spirits.

3. **GENERAL PROHIBITIONS**. In general, no advertising or "sponsor activation" of alcoholic beverages (whether in the Beer and Wine category or in the Distilled Spirits category) may do any of the following:

    - Target or intend to appeal to those under the Legal Age;
    - Encourage the consumption of alcohol (although promotion of brand preference is permissible);
    - Depict the consumption of alcohol;
    - Portray activities attractive primarily to persons under the Legal Age;
    - Promote the irresponsible or illegal use of alcohol;
    - Associate alcohol with social or personal achievement;
    - Associate alcohol with motor vehicles or other activities requiring significant skill or care; and/or
    - Otherwise violate Applicable Laws.



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4. **SPECIFIC PROHIBITIONS**. Consistent with the foregoing general standards, the following specific prohibitions shall apply to alcoholic beverage advertising placement:

- There shall be no advertising or promotion of any alcoholic beverages on or in connection with website pages or other activities or programming intended for fans under the Legal Age (e.g., kids' clubs, mascot activities, hockey skills, and youth and amateur hockey coverage and programming).
- No alcoholic beverage branded apparel shall be sold in any child sizes.

5. **ADDITIONAL REQUIREMENTS FOR DISTILLED SPIRITS**. Additionally, the following specific requirements shall apply to advertising content for Distilled Spirits (but not Beer and Wine):

- A minimum of 15% of each distilled alcoholic beverage sponsor's activation (across all media utilized by the sponsor in connection with Arena Events) per Term Year must promote a responsible consumption message (e.g., designated driving).
- Distilled alcoholic beverage sponsors may not promote a call to action message that encourages consumption in its activation (e.g., use of a slogan like "take a shot").

6 **PERMISSIBLE SPONSORSHIP ACTIVATION**. Subject to the foregoing rules and requirements, Manager may allow sponsors to engage in the following representative areas of sponsorship activation in either the Beer and Wine category or the Distilled Spirits category (although this is not a comprehensive list):

- Co-branded line-of-sight advertising (e.g., dasher boards and scoreboard);
- In-Arena advertising on fixed signage in all public areas where alcoholic beverages are lawfully permitted to be sold or consumed;
- In-Arena advertising on digital displays where at least 75% of the viewers are expected to be above the Legal Age;
- In-Arena sponsorship activation and promotions to the extent intended for participants above the Legal Age (e.g., age verification requirement for participation in a promotion);
- Co-branded premium items that would not appeal primarily to consumers under the Legal Age (e.g., glassware, but not toys, stickers or trading cards);
- Team branding on distilled alcoholic beverage bottle label, inscription, embossing, engraving, etching or other similar product application as part of a limited edition or limited release program;
- Co-branded point-of-sale items targeted to consumers above the Legal Ag and located where alcoholic beverages are permitted to be sold (e.g., neon signs, mirrors, posters, signage, glassware, coasters, refrigerator magnets, beverage dispensers/taps, buttons/pins, menus, wait-staff apparel);
- Advertising on team websites and other media without time restriction; and
- Advertising on mobile sites and mobile applications.

7. **CITY APPROVAL REQUIRED FOR CHANGES**. Manager shall not allow advertising of alcoholic beverages on or about the Arena in violation of this Plan, or make any changes to this Plan, without the prior written consent of the City Manager, which consent shall not be unreasonably withheld if the City Manager is satisfied that such advertising would otherwise conform to the Applicable Community Standard then in effect.



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**Attachment No. 10**

**Exterior and Freeway Signage Schedule**

## Proposed, subject to Staff Review and Approval by City Council

Street Frontage – Corner of W Santa Clara Street & Barack Obama Boulevard (South Entrance)

| Category | Location | Description | Sign Type | Quantity | Installation | Illumination | Refresh Rate | Approximate Sizing |
|---|---|---|---|---|---|---|---|---|
| Sign | Building Entrance | Venue Name | Channel Letters/ Logo | 1 Set | Attached to Building | Yes | N/A | Max 12' H x 72' W |
| Sign | Building Entrance | Sponsor Signage | Banners | 3 | Hanging Over Entries | No | N/A | 60sf each |
| Sign | Building Entrance | City Name | Channel Letters | 1 | Freestanding | Yes | N/A | 35sf |
| Sign | Building Entrance | Commercial Advertising | Digital | 1 | Attached to Building | Yes | Full Motion | Up to 11,000sf |
| Lighting | Building Entrance and Building Facade | Illumination Bars/Color Kinetic Lighting | Dynamic Color Changing LED | N/A | Attached to Building | Yes | N/A | N/A |

Street Frontage – W Santa Clara Street

| Category | Location | Description | Sign Type | Quantity | Installation | Illumination | Refresh Rate | Approximate Sizing |
|---|---|---|---|---|---|---|---|---|
| Sign | Building Entrance | Venue Name | Channel Letters/ Logo | 1 Set | Attached to Building | Yes | N/A | Max 12' H x 48' W |
| Sign | Columns | Column Wraps | Static | 7 | Attached to Columns | Yes | N/A | 145sf each |
| Sign | Stairs | Stair Stringer Banners | Banner | 1 | On Stairs | Yes | N/A | 280sf |
| Sign | Sharks Store Entrance | Store Name | Channel Letters | 1 | Attached to Building | Yes | N/A | 90sf |
| Sign | Lounge Entrance | Sharks Logo & Entry Name | Decal and Channel Letters | 2 | Attached to Building | Yes | N/A | 20sf |
| Sign | Club Entrance | Sharks Logo & Entry Name | Decal and Channel Letters | 1 | Attached to Building | Yes | N/A | 20sf |
| Sign | Parking Lot Entrance | Parking | Static (Double-sided) | 2 | Freestanding | Yes | N/A | 126sf per side 252sf total |
| Sign | Future Club Entrance | Sponsor Logo & Entry Name | Decal and Channel Letters | 1 | Attached to Building | Yes | N/A | 20sf |
| Sign | Southwest Corner | Commercial Advertising | Digital | 1 | Attached to Building | Yes | Full Motion | Up to 8,500sf |



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| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Sign | Bumpout | Commercial Advertising | Digital | 1 | Attached to Building | Yes | Full Motion | Up to 2,000sf |
| Lighting | Bumpout and Building Facade | Illumination Bars/Color Kinetic Lighting | Dynamic Color Changing LED | N/A | Attached to Building | Yes | N/A | N/A |

Street Frontages – W Julian Street/Parking Lot (North Entrance), N Montgomery Street and W St John Street

| Category | Location | Description | Sign Type | Quantity | Installation | Illumination | Refresh Rate | Approximate Sizing |
|---|---|---|---|---|---|---|---|---|
| Sign | Building Entrance | Venue Name | Static Panel | 1 | Attached to Building | Yes | N/A | 1,006sf |
| Sign | Building Entrance | Sponsor Signage | Banners | 3 | Hanging Over Entries | No | N/A | 60 sf each |
| Sign | Building Entrance | Sponsor Signage | Banners | 2 | Attached to Building | Yes | N/A | 1,748sf each<br>3,496 total |
| Sign | Future Club Entrance | Sponsor Logo & Entry Name | Decal and Channel Letters | 1 | Attached to Building | Yes | N/A | 20sf |
| Sign | Columns | Column Wraps | Static | 2 | Attached to Columns | Yes | N/A | 145sf each |
| Sign | Doors | Door Coverings | Static | 2 | Attached to Doors | Yes | N/A | 450sf total |
| Sign | Stairs | Stair Stringer Banners | Banners | 2 | On Stairs | Yes | N/A | 165sf each<br>330sf total |
| Sign | Bumpouts | Commercial Advertising | Digital | 2 | Attached to Building | Yes | Full Motion | Up to 2,000sf |
| Sign | Building Entrance, Building Facade and/or Parking Lot | Event Projection | Projection | 1 | Temporary (during events and/or activations) | Yes | Full Motion | N/A |
| Sign | Parking Lot | Parking Lot Entrance | Static (Double-sided) | 4 | Freestanding | Yes | N/A | 210sf per side<br>420sf total per sign |
| Lighting | Building Entrance, Bumpouts and Building Facade | Illumination Bars/Color Kinetic Lighting | Dynamic Color Changing LED | N/A | Attached to Building | Yes | N/A | N/A |

Street Frontage – W Barack Obama Blvd

| Category | Location | Description | Sign Type | Quantity | Installation | Illumination | Refresh Rate | Approximate Sizing |
|---|---|---|---|---|---|---|---|---|
| Sign | Ticketing Area | Ticketing | Banner | 1 | Hanging Over Ticketing Entry | No | N/A | 60sf |



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| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Sign | Future Club Entrance | Sponsor Logo & Entry Name | Decal and Channel Letters | 1 | Attached to Building | Yes | N/A | 20sf |
| Sign | Columns | Column Wraps | Static | 6 | Attached to Columns | Yes | N/A | 145sf each |
| Sign | Stairs | Stair Stringer Banners | Banner | 1 | On Stairs | Yes | N/A | 280sf |
| Sign | Bumpout | Commercial Advertising | Digital | 1 | Attached to Building | Yes | Full Motion | Up to 2,000sf |
| Lighting | Bumpout and Building Facade | Illumination Bars/Color Kinetic Lighting | Dynamic Color Changing LED | N/A | Attached to Building | Yes | N/A | N/A |

Parking Lots

| Category | Location | Description | Sign Type | Quantity | Installation | Illumination | Refresh Rate | Approximate Sizing |
|---|---|---|---|---|---|---|---|---|
| Sign | Parking Lots | Parking Lot Banners | Banners | Up to 40 (in sets of 3) | Mounted on Light Standards | No | N/A | 21sf each<br>Up to 3,360sf total |
| Sign | Parking Lots | EV Charging Station Signs | Digital | 10 (Double-sided) | Freestanding charging stations w/ digital screens. | Yes | Full Motion | 55" (measured diagonally) each screen |

Roof

| Category | Location | Description | Sign Type | Quantity | Installation | Illumination | Refresh Rate | Approximate Sizing |
|---|---|---|---|---|---|---|---|---|
| Sign | Roof | Venue Name/Team Name/Logo | Roof Sign | 2 | Attached to Roof | Yes | N/A | Up to 25,000sf total |

Freeway Signs

| Category | Location | Description | Sign Type | Quantity | Installation | Illumination | Refresh Rate | Approximate Sizing |
|---|---|---|---|---|---|---|---|---|
| Sign | Non-contiguous parcels along freeway* | Freeway Signs | Digital | 2 (Multi-sided) | Freestanding | Yes | Minimum of 6 seconds | Up to 3,000sf per side per sign<br><br>150' maximum height from base of sign support structure to top of sign |

*Exact locations are to be determined by Manager, subject to compliance with Caltrans requirements and all other provisions of Section 17 of the Agreement. At Manager's election, one or both Freeway Signs may be located on the City-owned sites listed in Council Policy 6-4 that are reserved for Manager's use, identified therein as APN 101-03-009 at 2500 Seaboard Avenue; and APN 230-37-020 at Hwy 87 and West Hedding Street.



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Miscellaneous Signs

1) Signage not to exceed 20 sf each may be installed at entrances along “Sharks Alley” between Parking Lots and Building, and other areas where signs are not visible from public streets.
2) Directional/Wayfinding signs may be installed at various locations.
3) Code-required signs including accessible parking spaces may be installed at various locations per code.

Notes

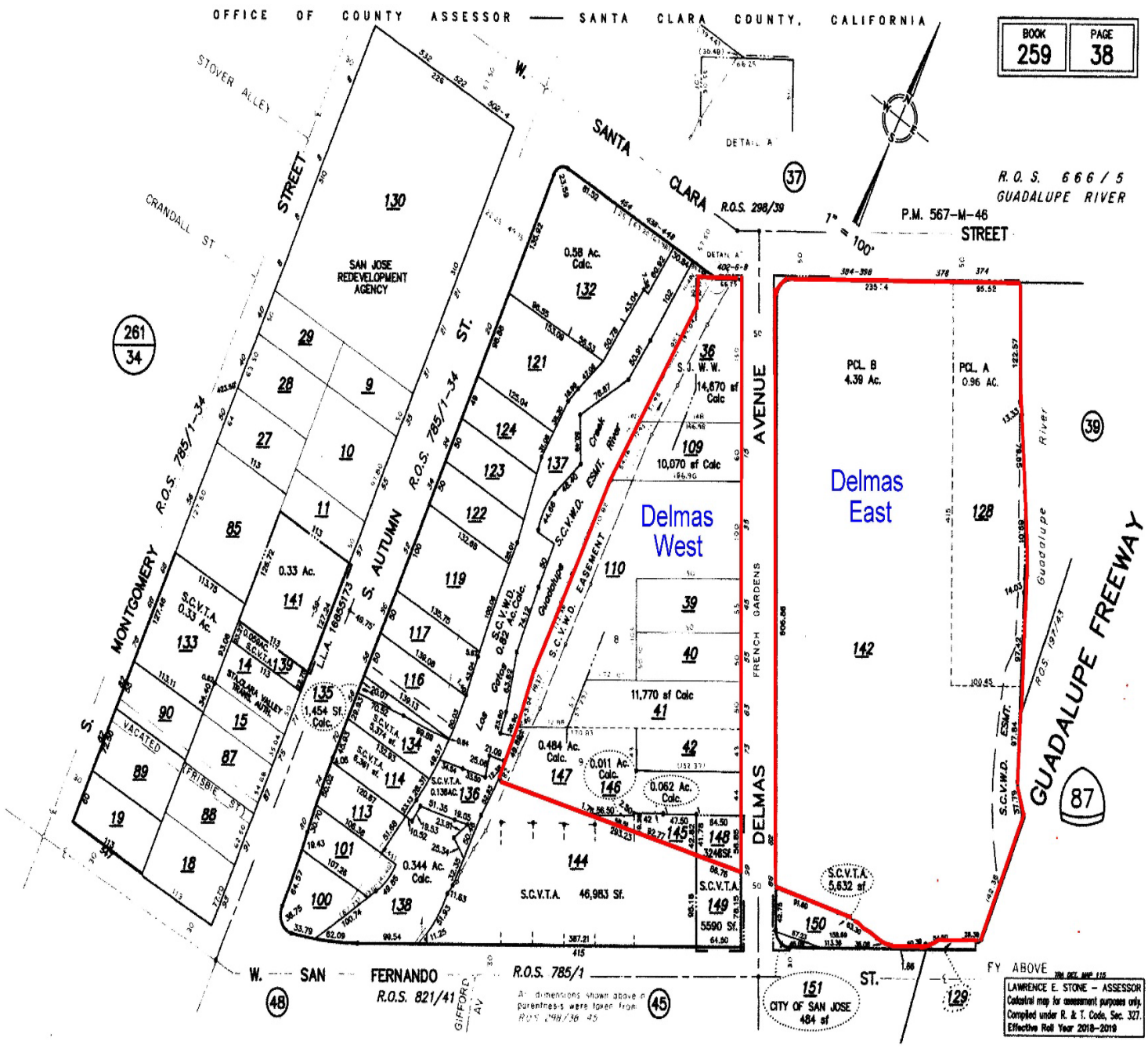
1) All signs are static unless otherwise indicated.
2) All illuminated signs may operate 24 hours per day and must comply with SJMC lighting standards. Any digital signage must be dimmed between the hours of sunset and sunrise.
3) Signs inside the Arena Building that are visible from the exterior are not considered exterior signs for purposes of this Plan.
4) All signs listed in this Exterior and Freeway Signage Plan shall be submitted to the Director of Planning for final approval subject to a Project Permit Compliance review to confirm conformance to this Plan. Any minor modifications to the details listed herein may be approved by the Director of Planning through the Project Permit Compliance review.
5) This Exterior and Freeway Signage Plan may be amended with the approval of the City Manager.
6) This Exterior and Freeway Signage Plan includes all signs that may potentially be placed on the Arena Land, and subsumes the two signs that may be placed on the Arena Land under Council Policy 6-4, identified therein as APN 259-28-043 at 525 W. Santa Clara St.



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**Attachment No. 11-1**

**MAP OF DELMAS EAST AND DELMAS WEST**



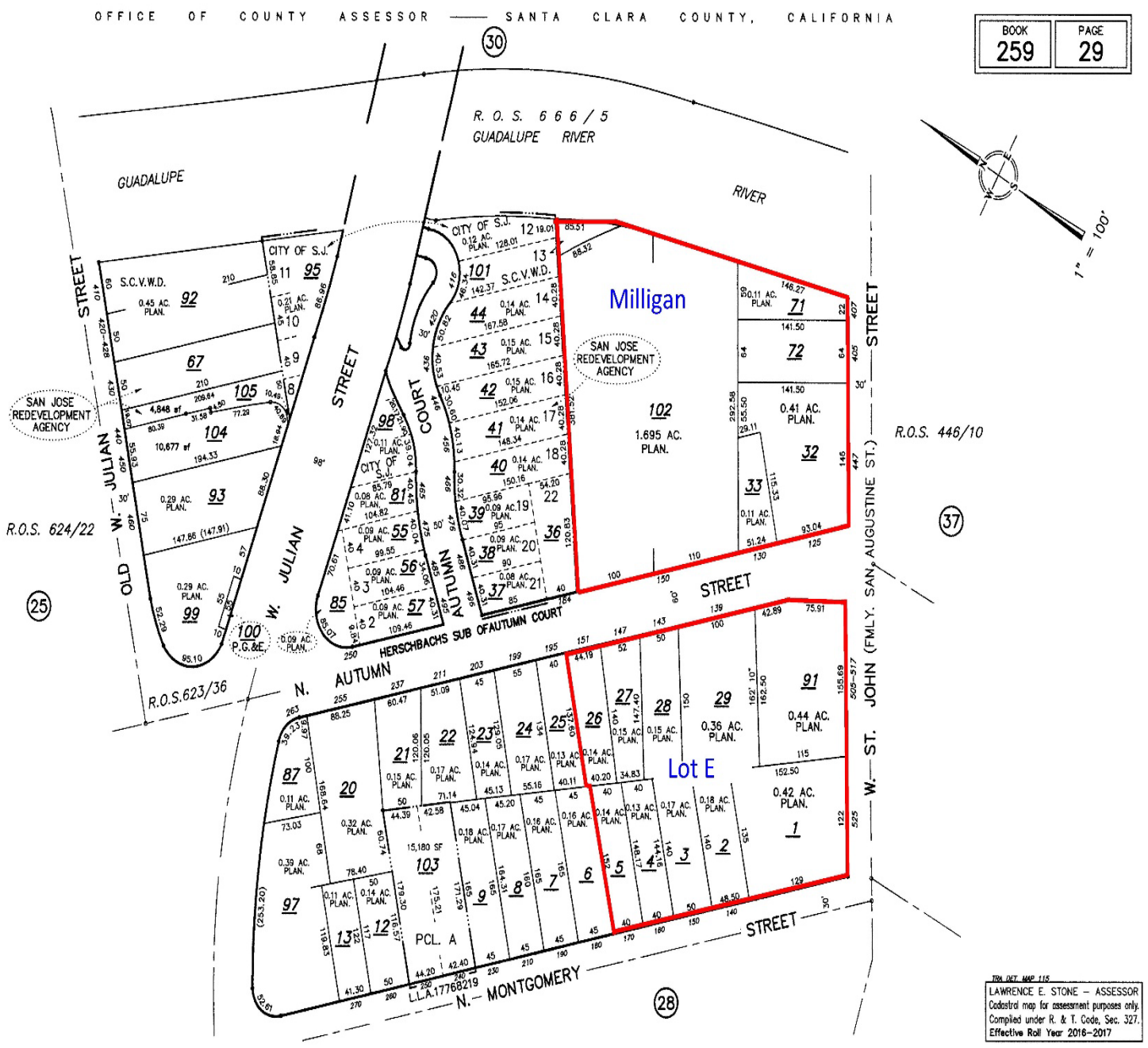




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**Attachment No. 11-2**

**MAP OF LOT E AND MILLIGAN**







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## Attachment No. 12

## BASELINE TPMP COSTS

**TPMP Baseline**

| | FY17 | FY18 | FY19 | 3 yr avg Baseline |
|---|---|---|---|---|
| **All Events** | $ 394,461 | $ 428,311 | $ 447,689 | $ 423,487 |
| **Inflation Adjusted** | $ 423,272 | $ 442,492 | $ 447,689 | $ 437,817 |

**Annual Average:**

| | | | | | |
|---|---|---|---|---|---|
| CPI FY2017 | 274.924 | CPI FY2020 | 300.084 | CPI FY2023 | 339.050 |
| CPI FY2018 | 285.550 | CPI FY2021 | 309.721 | CPI FY2024 | 348.417 |
| CPI FY2019 | 295.004 | CPI FY2022 | 327.060 | CPI FY2025 | na |

CPI Source:
Bureau of Labor Statistics Data https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURS49BSA0,CUUSS49BSA0

| | |
|---|---|
| Inflation Factor '17 to '18 | 1.039 |
| Inflation Factor '18 to '19 | 1.033 |

"**Baseline TPMP Costs**" means the average of the annual TPMP Costs incurred by Manager for the three full fiscal years prior to the onset of the COVID-19 pandemic (i.e., Fiscal Years 2017, 2018 and 2019); provided, however, that (i) prior to calculating the average, the annual costs for Fiscal Years 2017 and 2018 shall be increased by the equivalent percentage increase in the CPI for the applicable time period; and (ii) thereafter, the calculated average shall be further increased as of the end of each Fiscal Year (starting in Fiscal Year 2020) by the equivalent percentage increase in the CPI for the applicable time period.

**City Reimbursement Form**

| Fiscal Year | CPI Index (Annual Average) | Inflation Factor | Baseline TPMP Cost | Actual TPM Cost | Excess Over Basline | Deductible | City Reimbursement |
|---|---|---|---|---|---|---|---|
| FY2019 | 295.00 | | $ 437,817.45 | | | | |
| FY2020 | 300.08 | 1.017 | $ 445,356.71 | | | | |
| FY2021 | 309.72 | 1.032 | $ 459,659.05 | | | | |
| FY2022 | 327.06 | 1.056 | $ 485,391.98 | | | | |
| FY2023 | 339.05 | 1.037 | $ 503,186.42 | | | | |
| FY2024 | 348.42 | 1.028 | $ 517,088.05 | $ 477,658.00 | $ (39,430.05) | $25,000.00 | $ - |
| FY2025 | | 0.000 | $ - | | $ - | $25,000.00 | $ - |
| FY2026 | | na | na | | na | $25,000.00 | na |
| FY2027 | | na | na | | na | $25,000.00 | na |
| FY2028 | | na | na | | na | $25,000.00 | na |
| FY2029 | | na | na | | na | $25,000.00 | na |
| FY2030 | | na | na | | na | $25,000.00 | na |
| FY2031 | | na | na | | na | $25,000.00 | na |
| FY2032 | | na | na | | na | $25,000.00 | na |
| FY2033 | | na | na | | na | $25,000.00 | na |
| FY2034 | | na | na | | na | $25,000.00 | na |
| FY2035 | | na | na | | na | $25,000.00 | na |
| FY2036 | | na | na | | na | $25,000.00 | na |
| FY2037 | | na | na | | na | $25,000.00 | na |
| FY2038 | | na | na | | na | $25,000.00 | na |
| FY2039 | | na | na | | na | $25,000.00 | na |
| FY2040 | | na | na | | na | $25,000.00 | na |
| FY2041 | | na | na | | na | $25,000.00 | na |
| FY2042 | | na | na | | na | $25,000.00 | na |
| FY2043 | | na | na | | na | $25,000.00 | na |
| FY2044 | | na | na | | na | $25,000.00 | na |
| FY2045 | | na | na | | na | $25,000.00 | na |
| FY2046 | | na | na | | na | $25,000.00 | na |
| FY2047 | | na | na | | na | $25,000.00 | na |
| FY2048 | | na | na | | na | $25,000.00 | na |
| FY2049 | | na | na | | na | $25,000.00 | na |
| FY2050 | | na | na | | na | $25,000.00 | na |



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~~Attachment No. 13~~

~~ARENA TRANSPORTATION AND PARKING MANAGEMENT PLAN (TPMP)~~

~~[This exhibit is being updated pursuant to the City Manager's delegated authority and will be included upon completion and mutual agreement by the parties.]~~

*Attachment 13 added in its entirety beginning on the following page.*



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# SAP Center
# Transportation & Parking Management Plan
# 7th Edition




CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

## DEPARTMENT OF TRANSPORTATION

## JULY 1, 2025



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# EXECUTIVE SUMMARY

## Section I - Introduction

### A. Background

This Transportation and Parking Management Plan ("**TPMP**") represents the continuing commitment of the City of San Jose ("**City**") to develop and implement an effective transportation and parking management plan for the City-owned arena located at 525 W. Santa Clara Street in San Jose, currently known as SAP Center at San Jose ("**SAP Center")**. The TPMP is referenced as Attachment No. 13 of the Third Amended and Restated Arena Management Agreement ("**AMA**") dated as of July 1, 2025, between the City and San Jose Arena Management, LLC ("**SAP Center Management**" or "**Manager**").

### B. Purpose

The purpose of this TPMP is to establish event traffic and parking management strategies for SAP Center that:

(1) Promote safe, efficient and effective vehicular and pedestrian traffic circulation

(2) Provide convenient and easy access to and from area parking facilities

(3) Minimize traffic congestion on surrounding roadway facilities

(4) Minimize traffic and parking intrusion into surrounding business and neighborhood communities

### C. Goals and Objectives

The City, the Arena Authority, and SAP Center Management have mutually agreed to the following goals and objectives with regards to development of this TPMP:

(1) Ensure that all public and private improvements to transportation related facilities progress as quickly as possible.

(2) Ensure that customers traveling to and from the SAP Center have a positive transportation experience.

(3) Develop and implement traffic and parking operations plans that are effective and able to adjust as needs and opportunities arise.

(4) Provide a process for achieving regular updates to the TPMP to respond to future challenges and opportunities.

## Section II - Facility Description

SAP Center is located immediately to the west of Downtown San Jose, at the northwest corner of W. Santa Clara Street and Barack Obama Boulevard. The facility is an indoor, multipurpose event center that hosts approximately 150 - 200 events annually. SAP Center is home to the San Jose Sharks professional hockey team, which plays over 40 home games annually. A variety of other events are showcased at SAP Center throughout the year, including concerts, sporting events, family shows, corporate events and professional seminars. Attendance at these events can range from a few hundred to 20,000, with the most highly attended events being concerts and hockey games.



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**Section III - Operating Budget**

The operating budget enables City staff to procure the necessary resources for accomplishing the TPMP. Examples of services procured through the City's operating budget include roadway signage, roadway maintenance services, and traffic control equipment as needed.

**Section IV – Key Organizations and Function**

A. **San Jose Arena Authority ("Arena Authority")**

Over the years community involvement has been key to developing a TPMP that balances the needs of SAP Center patrons as well as those of the surrounding neighborhoods and business communities. When the TPMP document was first developed, input from members of the adjacent residential and business communities and the Transportation and Development Committee of the City Council was actively solicited. The end product came about after numerous discussions among staff members from the City, Redevelopment Agency, Arena Authority, SAP Center Management, and Arena Oversight Committee.

To date, the Arena Authority continues to provide a forum for community engagement. The Arena Authority Board of Directors meets regularly and provides opportunities for community input and discussion in relation to arena operations.

B. **Arena Events Operations Committee ("AEOC")**

The AEOC is comprised of representatives from both private and public organizations and is led by the City's Department of Transportation ("**DOT**"). The purpose of the AEOC is to continue to implement and enhance the elements of the TPMP as well as to monitor performance of the traffic and parking operations plans established for SAP Center.

Members of AEOC include representatives from the Arena Authority, SAP Center Management, San Jose Departments of Transportation and Public Works, San Jose Police Department, San Jose Office of Cultural Affairs, and Santa Clara Valley Transportation Authority ("**VTA**").

C. **Business and Neighborhood Associations**

Several residential and business communities are located in close proximity to SAP Center and are affected to some extent by the activities at SAP Center. In all, three separate neighborhood associations represent the five residential neighborhoods located in SAP Center vicinity: 1) Autumn/Montgomery Neighborhood, 2) Parkside neighborhood, 3) Shasta Hanchett Park neighborhood, 4) Garden Alameda neighborhood, and 5) St. Leo's neighborhood.

Two business associations represent business communities located in SAP Center vicinity: 1) Alameda Business Association, and 2) San Jose Downtown Association.

**Section V – Traffic Operations and Management**

The traffic operations and circulation strategies of the TPMP are intended to promote a positive transportation experience for SAP Center patrons, to protect the integrity of adjacent neighborhoods, and to minimize congestion on surface streets. The following elements pertaining to traffic operations and circulation are addressed:

- Traffic Mitigation
- Neighborhood Parking Mitigation
- Pedestrian Corridors
- Bicycle Facilities



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- Public Transit Service
- Passenger Loading & Unloading Zones (including for TNC rideshare services)
- Limousine and Charter Bus Loading & Unloading Zones
- Vehicular Circulation Plans
- Street Closures
- Police Traffic Control
- Directional Signage
- Traffic Signal Management Program (TSMP)
- Motorist Information System (MIS)
- Public Information Program

**Section VI – Parking Operations and Management**

The parking operations and circulation strategies of the TPMP are intended to facilitate convenient and easy access to and from various parking facilities located around SAP Center vicinity. The parking components of the TPMP were developed with a specific aim to protect the integrity of adjacent neighborhoods and minimize overflow onto surface streets. The following elements pertaining to parking operations and circulation are addressed:

- Parking Demand
- On-site Parking
- Off-site Parking
- On-street Parking
- Employee Parking
- Limousine Parking
- Charter Bus Parking
- Oversized Truck Parking

**Section VII – Monitoring and Future Updates**

A. **Monitoring the TPMP for Performance**

The TPMP outlines a program for the monitoring of parking conditions, pedestrian flow, vehicular circulation, and intersection level of service around the SAP Center vicinity.

The parking component analyzes the usage and adequacy of off-site parking facilities for event patrons and the effectiveness of the permit-parking program in the adjacent neighborhoods. It serves as the basis for the augmentation of the parking supply for event patrons, as well as the possible expansion of the permit-parking program. The pedestrian flow component periodically assesses the adequacy of capacity, lighting levels, and signing on major pedestrian corridors for event patrons. Operational mitigations have been recommended and implemented based on this monitoring program.

The objectives of the vehicular circulation component are to ensure that signs and motorist information systems are comprehensible, patrons are directed to available parking spaces, pedestrian conflicts are minimized, and vehicle circulation into adjacent residential neighborhoods is kept to a minimum.

B. **Updating the TPMP**

As provided in the AMA, the TPMP is subject to modification from time to time, as the parties may agree. Provided that such changes may not operate to limit or reduce the scope and purpose of the TPMP.



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C. **Updating the Operations Manual**

The City, Arena Authority and SAP Center Management will monitor the performance of the Operations Manual on an ongoing basis. Any request to review or update an item in the Operations Manual will be presented to the AEOC. After initial discussions, DOT evaluates each request and, if necessary, performs the initial studies. The recommendation is presented to AEOC and a decision is made to include or exclude the item for update.

## Section VIII – Conclusion

The TPMP has been in effect since 1993 and remains the foundation for addressing traffic and parking operations in SAP Center vicinity. This seventh edition of the TPMP is intended to reflect years of operating experience and bring the information contained herein to current conditions.



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# SECTION I – INTRODUCTION

## A. Background

Initial development of this TPMP began several years prior to the 1993 grand opening of SAP Center and involved key stakeholders, including the City of San Jose, Redevelopment Agency, SAP Center Management, Arena Authority, Arena Oversight Committee, and concerned members of the community. All parties worked closely with the Arena Oversight Committee during the initial TPMP development phase and contributed to several iterations of the TPMP.

The San Jose City Council first approved the TPMP in June 1993. Shortly after the City Council approved the June 1993 edition of the TPMP, a process was developed to amend the TPMP. This amendment process was in effect during the first six months following SAP Center's September 1993 grand opening and was intended to allow for fine-tuning of the TPMP based on actual operating experience. The final product came about as the June 1994 TPMP, which reflected six months of operating experience.

Subsequently, the TPMP was revised a few more times, with the 6th Edition being approved in 2005. For the next 20 years, there were no formal revisions to the TPMP, although the City (through the DOT) and SAP Center Management worked cooperatively together on implementing numerous changes to the Operations Manual and related operating plans.

This 7th Edition of the TPMP, dated effective as of July 1, 2025, supersedes all prior editions. It is Attachment No. 13 to the Third Amended and Restated Arena Management Agreement (AMA), which is also dated effective as of July 1, 2025.

## B. Purpose

The purpose of the TPMP is to establish event traffic and parking management strategies for SAP Center vicinity that:

- Promote safe, efficient and effective vehicular and pedestrian traffic circulation
- Provide convenient and easy access to and from surrounding parking facilities
- Minimize traffic congestion on surrounding roadway facilities
- Minimize traffic and parking intrusion into surrounding business and neighborhood communities

Within the context of the TPMP, the general responsibilities assigned to the San Jose Arena Authority, the City of San Jose, and SAP Center Management are as follows:

(1) The Arena Authority is responsible for performing an oversight role with respect to the operation of SAP Center facilities on behalf of the City and acting as liaison to the broader community concerning neighborhood impacts resulting from SAP Center operations. This includes taking the lead role in providing public outreach and participating in community engagement programs and organizations on an ongoing basis to address local resident and business concerns relating to arena vicinity event traffic and parking impacts.

(2) The City of San Jose's Department of Transportation is responsible for developing and implementing event traffic circulation and parking access plans. The Department of Transportation is also responsible for administering all updates to the TPMP and for ensuring that event traffic and parking operations plans are responsive to the needs of SAP Center patrons and the surrounding neighborhood communities. Additionally, the Department of Transportation chairs the AEOC, which meets monthly to address arena vicinity traffic and operational issues.

(3) SAP Center Management is responsible for providing timely and accurate event information to the Department of Transportation and Arena Authority so that appropriate traffic control personnel assignments can be developed, and neighborhood communities can be informed of upcoming


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impacts. SAP Center Management is also responsible for providing adequate parking staff to ensure timely and orderly ingress to and egress from the on-site parking facilities. Finally, SAP Center Management is responsible to coordinate with the San Jose Police Department in planning for event traffic, traffic control, crowd control and other security issues, as more specifically described in the AMA.

**C. Goals & Objectives**

The City, Arena Authority, and SAP Center Management share a strong commitment to provide a positive transportation experience for SAP Center patrons, while maintaining the quality of life for local neighborhood and business communities. The parties have therefore mutually agreed to the following goals and objectives:

- Ensure that all public and private improvements to transportation-related facilities progress as quickly as possible.
- Ensure that customers traveling to and from SAP Center have a positive transportation experience, i.e., involving roadway capacity, sufficient parking and pedestrian facilities, transit services, and overall convenience.
- Develop and implement traffic and parking operations plans that are effective and able to adjust as needs and opportunities arise.
- Provide a process for achieving regular updates to the traffic and parking management plan to respond to future challenges and opportunities. The TPMP recognizes the importance of an effective monitoring program and an established process for local residents and business interests to voice their concerns.

**D. Legal Effect**

This TPMP, as well as the Operations Manual (and the Operations Plans included in the Manual) are subject to the terms and conditions of the AMA, and if there is any conflict or inconsistency between the terms of the AMA and the terms of this TPMP, the Operations Manual or the Operations Plans, the terms of the AMA shall control.

However, this TPMP may be used to help interpret the parties' intentions and obligations under the AMA. In addition, the Operations Manual (and the Operations Plans included therein), as modified from time to time, shall be used as the basis for determining the appropriate level of staffing for Off-Site Traffic Control Services.

## SECTION II - FACILITY DESCRIPTION

SAP Center is located immediately to the west of Downtown San Jose and is accessible by several major highways including State Route 87, Interstates 280, 880, and 101. On a local level, the facility is served by a number of major arterials including Santa Clara Street and Julian Street from the east, Barack Obama Boulevard from the south, Coleman Avenue from the north, and The Alameda from the west. A public transit network offers an alternative for those patrons who live near transit stops and who choose not to drive to the venue. For those who choose to access the SAP Center by personal vehicle, approximately 1,650 on-site parking spaces are available and over 6,000 thousand off-site parking spaces are located within a short walking distance.

The SAP Center facility is a state-of-the-art, indoor, multipurpose event center that is home to the San Jose Sharks professional hockey team. Over the years, the SAP Center has hosted many types of events in addition to professional ice hockey, including professional basketball, soccer, wrestling, figure skating, tennis, indoor football, motor cross racing, concerts, family shows, conventions, corporate presentations,


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and seminars. The Sharks hockey team, which headlines the SAP Center event calendar, has commanded a loyal following over the years, with average attendance for regular games averaging around 15,000, increasing to over 17,000 for the Stanley Cup Playoffs. Average attendance for music concerts is between 12,000 and 14,000, increasing to a high of 18,000 when the most popular performers are featured. Other sporting events such as professional wrestling and figure skating may also draw impressive crowds of 12,000 to 15,000.

The presence of SAP Center in the immediate periphery of the Downtown San Jose area has enhanced Downtown San Jose through year-round sports and entertainment. Of course, attracting new businesses and providing a quality entertainment venue to draw people into downtown San Jose was the primary reason for constructing the arena. The selection of the SAP Center site was made with recognition by the City that traffic and parking management would be a challenge due to certain fundamental constraints of an urban downtown center.

In developing the TPMP, the City had to achieve a careful balance between maximizing convenience for SAP Center patrons with regard to traffic and parking and respecting the quality of life for adjacent residential and business communities. Experience has shown that the various event types bring diverse audiences, originating from all parts of the Bay Area, and thus, giving rise to different traffic patterns and parking needs. With that in mind, various traffic and parking management strategies have been developed to ensure successful operations of the SAP Center. These traffic and parking management strategies are discussed in detail in Section V and VI of this TPMP.

## SECTION III - OPERATING BUDGET

In accordance with the AMA, Manager and the City work together to provide traffic control services as reasonably needed before and after events to direct pedestrians and vehicles, manually operate street intersections, and perform related services ("**Off-Site Traffic Control Services**"), in compliance with this TPMP.

Under Section 24.2.2 of the AMA, Manager is responsible for costs and expenses of providing Off-Site Traffic Control Services, subject to the reimbursement by the City for certain specified costs and payment by the City for certain specified fees.

The City will provide the physical supplies required for the performance of Off-Site Traffic Control Services. If SAP Center Management purchases such supplies, the City shall reimburse SAP Center Management the actual cost of such supplies.

Also under the AMA, the City is obligated to provide, at its expense, adequate traffic control systems, signage, and programs as may be required to implement the TPMP, including without limitation the following:

- Signal Central staffing
- Parking and code enforcement staffing
- Neighborhood litter removal and clean up
- Signal timing plan development
- Traffic and parking studies
- Traffic signal system upgrades
- Signage (static and portable)
- Minor capital improvements
- Residential permit parking program
- Public information material


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# SECTION IV – KEY ORGANIZATIONS AND FUNCTION

## A. San Jose Arena Authority

The San Jose Arena Authority, a nonprofit public benefit corporation, was created in 1990 by resolution of the San Jose City Council and operates under an agreement with the City of San Jose. Under this agreement, the Arena Authority is directed to oversee the operations of the arena and perform a community liaison role on behalf of the City with respect to the overall management of SAP Center. The Arena Authority's primary responsibilities fall into four general categories:

(1) Event Management and Administration - duties include overseeing the day-to- day operations to ensure efficient and effective management of SAP Center, consistent with the terms and provisions of the AMA.

(2) Facilities Oversight – duties include overseeing efforts relating to the ongoing maintenance and capital improvements of SAP Center facilities.

(3) Community Liaison – duties include serving as the City's liaison to the neighborhood and business communities in the vicinity of the arena through various outreach opportunities.

(4) Board and Staff Administration – duties include Board and staff administration of arena operations in the oversight of event operations, capital program implementation and the administration of Arena Authority Board goals and objectives.

## B. Arena Events and Operations Committee

The Arena Events and Operations Committee (AEOC) was established in February 1993 by the City Manager's Office to develop an arena event operations manual as well as to monitor performance of the traffic and parking operations plans established for SAP Center.

The AEOC is comprised of representatives from both private and public organizations and is led by the City's Department of Transportation. Members of AEOC include representatives from the Arena Authority, SAP Center Management, San Jose Departments of Transportation and Public Works, San Jose Police Department, San Jose Office of Cultural Affairs, and VTA.

Meetings are typically held once a month with additional meetings held on as-needed basis. Duties of the AEOC include:

(1) Operations Manual – developing and regularly updating a manual ("**Operations Manual**") that reflects the traffic and parking management strategies established by the TPMP. The TPMP basically outlines a plan on how traffic and parking will be managed in and around SAP Center and sets the framework for accomplishing this plan. The Operations Manual includes specific details about the traffic and parking operations plans that are implemented on a day-to-day basis (i.e., specific signal timing plans, changeable message sign plans, and police traffic control plans), and customized traffic and parking plans ("**Operations Plans**") to be implemented for different Arena Event scenarios based on the estimated attendance level, day and time of the Event, and other features.

(2) Performance Monitoring – monitoring the ongoing performance of traffic and parking Operations Plans and recommending adjustments as needed. The Department of Transportation is ultimately responsible for maintaining and incorporating any changes to the traffic and parking Operations Plans into the Operations Manual.

Additionally, members of the AEOC use the monthly meetings as an opportunity to cross-coordinate with organizers of other major Downtown events, receive updates on community concerns, and to


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gather information about upcoming developments and/ or construction projects affecting the SAP Center vicinity.

## SECTION V – TRAFFIC OPERATIONS AND MANAGEMENT

A key goal of the TPMP is to ensure that patrons traveling to and from SAP Center have a positive transportation experience. The important factors contributing to a positive transportation experience for SAP Center patrons are: (1) the ability to access the site without experiencing major traffic congestion, (2) the ability to locate convenient and accessible parking facilities nearby, and (3) the ability to exit from the site without incurring extensive delay. Developing a traffic and parking management plan that supports such an environment has proven to be challenging due to the fact that SAP Center is located in close proximity to other Downtown business and entertainment centers, as well as to various residential neighborhoods. A critical objective of the plan is to achieve a balance between the needs of SAP Center patrons and those of the neighboring residents and businesses.

To respond to the challenge, several key traffic management strategies have been identified for implementation as part of the TPMP, which have included:

A. Implementation of certain traffic mitigation measures based on community input

B. Construction and operation of a Traffic Management Center (TMC)

C. Implementation of the Traffic Signal Management Program (TSMP) to interconnect the City's traffic signals and installation of a Motorist Information System (MIS) to provide motorists with real-time parking and traffic information

D. Identification of traffic characteristics for different event types

E. Identification of traffic circulation patterns and major ingress and egress routes

F. Development of vehicular circulation plans and coordinated signal timing plans for various event conditions

G. Development of police traffic control plans for various event conditions

H. Implementation of temporary street closures to prevent intrusion to surrounding neighborhoods and to facilitate traffic flow during ingress and egress

I. Deployment of static guide signs to direct motorists and pedestrians to and from SAP Center facilities

J. Designation of passenger drop-off and pick-up areas (including for TNC rideshare services)

K. Designation of limousine and charter bus drop-off and pick-up areas

L. Identification of major pedestrian corridors

M. Identification of bicycle facilities

N. Coordination with public transit agencies to provide special services during events

O. Coordination of simultaneous events at the Arena Green

P. Managing the function of Barack Obama Boulevard during arena events

Q. Creation of a public information program

R. Monitoring and refinement of a Public Security Program

S. The conduct of monthly AEOC meetings with key operational stakeholders

**Each traffic management strategy is discussed below:**


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## A. Traffic Mitigation

As part of the condition to construct SAP Center, certain traffic mitigation efforts were implemented to ensure that intersection and roadway capacity could adequately handle the traffic volume generated during events at SAP Center. The following traffic mitigation measures were implemented:

- Installation of a physical barrier at the intersection of The Alameda, W. Julian Street, and Hanchett Avenue. The purpose of the barrier is to (1) restrict the through movement across The Alameda from W. Julian Street to Hanchett Avenue and vice versa, and (2) restrict the westbound left turn from The Alameda to Hanchett Avenue. This improvement was implemented to achieve an adequate intersection level-of-service.

- Modification of signal timing operations at the intersection of The Alameda, Naglee Avenue, and W. Taylor Street. The purpose of the traffic signal operation modifications was to minimize delays to motorists during pre-event and post- event traffic surges. The signal timing modifications improved the intersection level of service.

- Modification of signal timing operations for a series of three traffic signals located along Santa Clara Street (Santa Clara/Notre Dame, Santa Clara/Almaden, Santa Clara/Route 87). The purpose of the signal timing modifications was to coordinate signal operations along the Santa Clara corridor to optimize traffic flow and minimize delays to motorists.

- Modification to the traffic signal located at the intersection of Santa Clara Street and Cahill Street. The purpose of the traffic signal modification was to accommodate the Santa Clara Street driveway access into the on-site parking lot.

It should be noted that the TPMP is not intended to address other capital improvement projects indirectly related to the SAP Center. These projects have included the Guadalupe River Park and Gardens project, the Vasona Light Rail Transit Project, various pedestrian/bicycle path projects, and any other capital improvements stemming from the Midtown Specific Plan, Strategy 2000 Plan or similar studies. Amendments to the TPMP will be made in subsequent revisions to incorporate required changes as a result of such capital projects.

## B. Traffic Management Center (Signal Central)

Prior to the September 1993 opening of SAP Center, the City of San Jose constructed a state-of-the-art traffic management center dubbed "**Signal Central**," specifically for the purpose of monitoring and managing general traffic as well as event traffic. The Department of Transportation began operation of Signal Central in 1991 which incorporated the innovative use of advance traffic control and monitoring technologies, including a centralized traffic control system, a network of interconnected traffic signals, a closed-circuit television camera ("**CCTV**") system, a changeable message sign ("**CMS**") system, and an advanced loop detection system that allows for traffic responsive signal timing plans.

Today, a next generation Signal Central offers to serve as the primary communications center for integrating and carrying out all event traffic operations and circulation plans. It is the responsibility of Signal Central staff to gather, interpret, and disseminate traffic and parking information to motorists in a timely and accurate manner and to effectively manage traffic congestion on the roadway system. The major traffic management functions accomplished through Signal Central include:

- Implementation of CMS plans to direct motorists to available parking during ingress, with the goal of minimizing spill over from parking facilities onto local surface streets
- Implementation of coordinated signal timing plans, with the goal of optimizing traffic flow, reducing motorist delay, and minimizing congestion


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- Making real-time adjustments to CMS sign and signal timing plans that respond to fluctuations in traffic conditions
- Monitoring overall traffic conditions via the closed-circuit television camera system and relaying up-to-date traffic information to police traffic control officers, parking control officers, and parking management staff.
- Managing communications between police traffic control staff and parking management staff
- Reporting traffic signal system malfunctions and coordinating necessary repairs

The Department of Transportation manages Signal Central during the majority of events held at SAP Center with the exception of a few small-scale family type events and corporate events (less than 7,500 attendance), and Sharks' games less than 8,500 attendance. Based on operational experience, these small-scale events tend to have minor impacts to traffic and parking circulation and, therefore, a Signal Central operator is not needed to implement real-time changes to signal timing or CMS message plans. Instead, the use of timer-based, pre-programmed signal timing and CMS plans along with police traffic control officers has proven to be a cost-effective and appropriate approach for managing the modest amount of traffic generated from smaller events. These attendance thresholds will be reevaluated whenever there is a significant change to SAP Center's parking supply inventory within 1/3 of a mile from the South Entrance or the immediate supporting street network.

**C. Traffic Signal Management Program ("TSMP") and Motorist Information System ("MIS")**

In 1988, the City Council approved a multi-year project to upgrade the City's existing traffic signal system to a state-of-the-art system for the purpose of managing the growing traffic congestion problem affecting motorists on a City-wide level. As a result, the Department of Transportation created two innovative programs that would drastically improve and revolutionize the City's traffic management capabilities. The two programs are the Traffic Signal Management Plan (TSMP) and the Motorist Information System (MIS).

(1) Traffic Signal Management Program (TSMP) – The Traffic Signal Management Program was developed to interconnect the City's traffic signal network to a central operating computer. Presently, there are 969 traffic signals within the City of San Jose; most of the 969 traffic signals are currently connected to the central operating computer via City-owned copper cable, leased telephone lines, microwave and spread spectrum technology. Interconnection of the traffic signals allows operators in Signal Central to remotely upload and download signal timing plans to individual signals or signal systems to increase or decrease "green time" as traffic volumes fluctuates. In the immediate SAP Center vicinity, there are 48 signalized intersections that are critical for event traffic operations, all of which have been interconnected through the TSMP program. The Operations Manual identifies the various traffic signals and signal systems serving SAP Center area that have been interconnected via the City's TSMP program.

The TSMP central operating computer is located in Signal Central and has advanced traffic management features that enable City staff to remotely control, monitor, and collect data from all interconnected traffic signals. From Signal Central, City staff can configure and make real time adjustments to signal timing plans in response to changing traffic conditions. This manual plan selection capability is particularly important during event traffic operations since the location and intensity of peak traffic flow can vary from one event to the next. The central operating computer also communicates with the interconnected traffic signals on a second-by-second basis to verify that vehicle detection and control systems are in optimum working order. If the diagnostic check yields any system failures, the central operating computer automatically generates a computerized report, which is then used to request maintenance repairs.

Specific traffic signal timing plans have been developed based on actual event ingress and egress traffic volumes. Signal Central staff has developed a library of signal timing plans, based on


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operational experience, that are specific to certain types of events which can be retrieved and activated instantaneously by an operator.

The detailed operation of Signal Central and the coordination of signal timing activities before, during, and after events are included in the Operations Manual. In general, different signal timing plans are used for different types of events depending on each event's traffic circulation characteristic and attendance level.

(2) Motorist Information System (MIS) – The Motorist Information System consists of a system of closed-circuit television (CCTV) cameras and changeable message signs (CMS) that were installed to allow Signal Central staff to efficiently monitor traffic and parking conditions, and to effectively disseminate traffic and parking information to motorists. The CCTV and CMS systems, in particular, play key roles in minimizing gridlock on City streets during event ingress and egress. The system became operational in 1995.

The MIS system is currently comprised of a total of 8 CMS signs and 24 CCTV cameras, each of which has been strategically located along key streets surrounding SAP Center. These streets include Julian, Santa Clara, San Fernando, Market, and Montgomery Streets, Barack Obama Boulevard and Delmas Avenue, as well as the Santa Clara and Julian interchanges along State Route 87. The locations of CCTV cameras and CMS signs are described in the Operations Manual.

**CCTV Cameras Usage:**

During the peak ingress and egress period, Signal Central staff utilizes the CCTV cameras to monitor traffic conditions along the major street corridors as well as along the freeway. Based on the area impacted by traffic congestion, staff makes real-time adjustments to signal timing plans and implements the appropriate CMS messages to direct motorists away from congested areas. The CCTV cameras are mounted 45' high on poles located at intersections to provide a vantage point for unobstructed view of major arterial streets, and a clear a display of traffic conditions close to the camera's location.

**Changeable Message Sign Usage:**

The CMS signs are used during ingress to direct motorists to various parking facilities located in the immediate vicinity of SAP Center. When these facilities fill to capacity, the CMS messages are changed to direct motorists away from SAP Center and towards alternative parking facilities in Downtown San Jose. During events wherein pre-paid parking tickets are sold (i.e., Sharks games), CMS signs are used to separate motorists with pre-paid parking passes from those without. Those motorists with pre-paid parking passes are directed to park on SAP Center managed lots, while all others are directed to periphery parking lots. The CMS signs are also used to relay other relevant traffic or parking information.

Depending on the type of event and the level of attendance, different message plans are implemented to suit the particular traffic and parking circulation conditions. The emphasis is to guide motorists to available parking as efficiently as possible, without causing additional congestion to the surface streets.

The detailed operation of the CMS system is included in the Operations Manual, which describes the typical message set implemented during a hockey game and demonstrates how these signs are used to guide motorists to the various parking facilities.


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## D. Traffic Characteristics

Due to the wide range of events offered at SAP Center, unique travel patterns and crowd characteristics have emerged over time. There are several broad categories of events, each of which has special traffic characteristics and require specific traffic management plans.

Sharks Hockey Event

Between the months of September through May each year, 44 to 50 Sharks hockey games are hosted at SAP Center. Hockey games attract average crowds of 15,000- 17,000, wherein a large majority of patrons are season ticket holders and are repeat customers year after year. These patrons have become very familiar with the Downtown street network and SAP Center parking operations and facilities. Since the majority of on-site parking spaces are reserved for season ticket holders and only a limited amount of parking is offered to the general public, patrons have become adept at finding alternative parking at off-site parking facilities. Many patrons choose to park off-site, east of Route 87 in the Downtown area, resulting in heavier vehicular traffic circulation in the Downtown area and increased pedestrian activity coming from the Downtown area. Public transit utilization is also slightly more popular with the hockey crowd, creating a marginally lower demand for parking. The predictability of the crowd, attendance level, arrival and departure patterns are well-defined, which makes traffic and parking management somewhat easier.

Concert Event

Throughout the year, about 20 to 30 major concerts are held at SAP Center. Depending on the featured artist, major concert events can draw crowds of between 12,000 and 14,000, and sometimes reach a high of 18,000. Concert events are particularly challenging to manage from a traffic and parking operations standpoint for the following reasons:

- Most patrons are "first-timers" and relatively unfamiliar with SAP Center vicinity and parking facilities. Late arrivals are common with ingress traffic peaking within a very short time frame close to the event start time.
- Patron demographics can differ quite significantly from one concert event to the next, which can result in very different traffic and parking circulation patterns. For example, concert events featuring popular teen band groups often attract a young crowd, many of which are not of driving age. This results in a high percentage of patrons being dropped off and picked up by a third-party driver and much of the traffic and pedestrian activity is concentrated along Santa Clara Street, near the passenger loading zone areas. On the other hand, certain other concerts can draw an older, more affluent crowd wherein the majority of patrons drive to the venue or use a Transportation Network Company ("**TNC**") such as Uber or Lyft, and in some cases, result in increased limousine usage. And other concerts require a special operations plan to curb cruising along City streets.
- On-site parking facilities sell out quickly since the tendency is for first timers to migrate towards the SAP Center building. Since many of these first timers may not be familiar with the Downtown street network and off-site parking facilities, it takes more effort and time to divert traffic away from on-site parking facilities to alternative off-site parking facilities.
- There is competition for parking west of State Route 87 due to lower vehicle ridership and lower utilization of public transit services.

Special Group Function Event

Special group functions such as corporate presentations, business development seminars, marketing conventions and the like are held at SAP Center from time to time. Although these events only occur a few times per year, they pose specific challenges for traffic and parking management. Attendance levels for these events typically average between 10,000 to 17,000. Even more pronounced than the


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concert goer profile, most of these patrons are first timers to SAP Center and are not familiar with the traffic circulation patterns and parking facility locations. Often, predicting their ingress arrival times can be somewhat challenging since many patrons are traveling in from outside the area. There is a tendency to travel in large groups, sometimes resulting in a high turnout of charter buses and recreational vehicles. This sometimes requires a different traffic management approach, wherein these large vehicles must be separated from the regular traffic stream and directed to designated parking facilities. Additionally, these events sometimes are held over the course of several days, and create a tremendous challenge when the event falls on a workday due to competing use of the street network and parking facilities by Downtown employees.

Other Sporting Events

SAP Center features other sporting events such as wrestling, figure skating, and indoor arena football. Attendance levels vary depending on the type of event, ranging from 5,000 to 15,000, with figure skating and wrestling drawing the largest crowds. For the most part, attendance at these events is less than 9,000 and there are minimal traffic impacts to the surrounding street network. The crowd characteristics, however, vary from one event to another, which sometimes requires additional security staffing effort to manage the crowds.

Family-Type Events

Approximately 30 to 40 family-type events such as Disney on Ice shows are presented each year at SAP Center. Attendance levels at these events typically range between 2,000 and 8,000, with the crowd comprised of families with young children. These events recur from year to year and the families attending are local and familiar with the area. These events create little traffic congestion and much less demand for off-site parking facilities. Much of the traffic circulates in the area to the west of State Route 87 with relatively little impact to Downtown streets.

## E. Traffic Circulation

Ingress

State Route 87, located to the east of SAP Center is the primary ingress access route to the venue, with off ramps located at Santa Clara and Julian Streets. During the ingress period, most event patrons utilize the Santa Clara and Julian exits to access SAP Center. For the majority of events, traffic along these two east-west corridors is generally heavy in the westbound direction, as patrons attempt to access the parking facilities closest to SAP Center, which are located to the west of Route 87. For Sharks events, however, many patrons tend to head eastbound on Santa Clara, away from the SAP Center in search of parking in the Downtown area. This trend can be attributed to a couple of factors: (1) Sharks patrons are locals and tend to know the Downtown area and parking facilities intimately, and (2) Sharks patrons are aware of lower parking rates or free parking facilities in the Downtown area.

In the north-south direction, the majority of ingress traffic is accommodated along Route 87, Coleman Avenue and Bird Avenue. Coleman Avenue is a major exit off of Highway 880, and Bird Avenue is a major exit off of Highway 280.

Egress

The majority of patrons leaving SAP Center parking facilities to the west of State Route 87 utilize Julian Street, Santa Clara Street, Delmas Avenue, Bird Avenue, Barack Obama Boulevard, or Stockton Avenue. Each of these streets lead to major freeway on-ramps and is signed with trailblazer signs.

Several other key streets play an integral role in helping to balance traffic circulation around SAP Center area during both ingress and egress. These include Montgomery Street, Cahill Street, and San Fernando Street. Although these are not major ingress/egress routes, they offer access points to various parking facilities and allow motorists to circulate while alleviating traffic congestion along Santa Clara and Julian streets.


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The City encourages SAP Center patrons to utilize these major access routes by implementing special event signal timing to facilitate traffic flow, installation of static directional and portable signage, and deployment of police traffic control officers at key locations. Additionally, particular efforts are made to not identify residential streets as preferred ingress/egress routes.

## F. Operations Plans

Depending on the type of event and the traffic characteristics/conditions associated with it (i.e., day of event, time of event, attendance level, and crowd characteristic), certain traffic operations plans have been developed to maximize traffic circulation and parking access to and from the SAP Center vicinity without compromising the integrity of the surrounding neighborhood area.

Based on event type, specific signal timing plans, changeable message sign plans, police traffic control plans, and temporary street closure plans have been developed to minimize congestion and facilitate traffic flow along the major ingress and egress corridors. Each customized operations plan includes a detailed script outlining the responsibilities and actions to be taken by key traffic and parking management staff.

The major objectives of each operations plan are to:

- Expedite vehicular movements to SAP Center and surrounding parking facilities during the pre-event period (ingress).
- Minimize the time needed for vehicles to exit SAP Center vicinity during the post-event period (egress).
- Minimize vehicular congestion for the convenience of SAP Center patrons. Minimize vehicular delays for background traffic.
  Protect adjacent neighborhoods from cut-through traffic attempting to circumvent congested corridors.

Each customized operations plan includes the following scripted information:

- Identification of the locations and hours that barricades and other temporary traffic restriction devices are to be placed.
- Identification of specific CMS and signal timing plans to be used.
- Identification of the location placement for portable traffic control signs. Identification of parking control service hours.
- Identification of typical traffic circulation and parking patterns to expect.
- Identification of locations and hours that police traffic control officers, parking management staff, and Signal Central staff will be in place, and each party's responsibilities during event operations.

## G. Police Traffic Control

The use of uniformed police traffic control personnel to direct pedestrian and vehicular traffic in the street right-of-way was identified as a critical traffic management strategy during development of the original TPMP. The Operations Manual includes a graphical representation of the area of police traffic control as well as standard police traffic control plans that have been developed by the AEOC. The actual traffic control plan selected for implementation depends largely on the projected event attendance level, although slight modifications to the standard police traffic control plans are sometimes made if extraordinary conditions arise such as the occurrence of simultaneous events, unusually high passenger drop-off (including by TNC's), limousine or charter bus activity, etc. Such changes to the standard police traffic control plans are initiated by the Department of Transportation in coordination with the Police Department and discussed by the AEOC on a case-by-case basis.

Manual police traffic control is provided at the key intersections for all major events at SAP Center.


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Depending on the type and size of the event, anywhere from 3-11 officers may be assigned for intersection traffic control. However, there are small-scale events wherein police traffic control staff is not assigned. Such events do not generate significant pedestrian or vehicular traffic activity in the street right-of-way. These events tend to have low attendance levels, are not open to the public, or have little to no impact on vehicular or pedestrian traffic flow as assessed by the Department of Transportation and Police Department. The City, Arena Authority, SAP Center Management, and Police Department have agreed to participate in a continuous study to develop an updated police traffic control staffing plan for events with lower attendance levels. The study will also evaluate police traffic control staffing for events with high attendance levels.

The primary functions of police traffic control officers are generally described below:

Before the start of event ingress

- Secure police and staging area along Barack Obama Boulevard
- Set up temporary traffic control devices including portable signs, barricades, delineators, etc. at key locations
- Brief traffic control staff on event details and traffic operations plan
- Distribute communications and safety equipment to traffic control staff
- Monitor crowd activity until building doors open

During event ingress

- Manage vehicular traffic to facilitate traffic flow and minimize congestion
- Manage pedestrian traffic to minimize conflicts with vehicular traffic
- Administer parking restrictions when on-site parking lots fill to capacity
- Communicate with Signal Central to request signal timing adjustments as needed

While event is in progress

- Respond to event-related traffic and parking disturbances in the surrounding neighborhood
- Monitor limousine and charter bus intrusion into surrounding neighborhoods
- Monitor suspicious or intrusive activities in surrounding neighborhoods
- Monitor cruising on surface streets and request reinforcement as needed
- Provide parking control support to parking control officers as needed

During event egress

- Manage pedestrians to minimize conflicts with vehicular traffic
- Manage vehicular egress from parking facilities and direct motorists to nearby freeway on-ramps
- Manage limousine and charter bus egress from Barack Obama Boulevard staging area
- Manage passenger loading zones during high drop-off events

It should be noted that officers assigned for off-site traffic control functions are not directly responsible for enforcing the City's ordinances prohibiting unlicensed peddler activities near SAP Center or trespassing on SAP Center property. Under the AMA, the City is responsible for enforcing the foregoing laws, using on-duty SJPD officers.

In addition, police response services provided by on-duty SJPD Officers in connection with emergencies, calls for assistance, or crowd control for political speech are not included as part of the Off-Site Traffic Control Services, and City shall provide those services at no charge to Manager so long as City does not impose charges on other persons or entities who seek similar types of assistance in


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similar situations.

Additionally, parking control, as necessary for the operation of the on-site lots and off-site lots is not considered off-site traffic control and remains the responsibility of SAP Center Management or other property owners, as applicable.

**H. Temporary Street Closures and Access Restrictions**

As part of the effort to facilitate traffic flow and to protect the nearby residential communities from traffic and parking intrusion, certain street closures and access restrictions are implemented on event days. These delineation and access restrictions work to smooth vehicular progression by temporarily restricting minor traffic movements and maximizing roadway capacity. At the same time, access to certain residential streets that are particularly prone to cut-through traffic or parking intrusion due to their close proximity to the SAP Center building, is restricted to residents only by means of temporary barricades and signage.

Additionally, as described in the Operations Manual, the segment of Barack Obama Boulevard between Sharks Way and Santa Clara Street is temporarily closed to traffic and serves as a police traffic control staging area and charter bus parking area during most events. There are a handful of small private events with typically less than 1,000 attendance that occur during the year for which the Barack Obama Boulevard closure is not necessary.

To the maximum extent possible, lane closures will be avoided on Santa Clara Street near Diridon Station and the SAP Center. To the maximum extent possible, closure of Montgomery Street will be avoided unless and until Barack Obama Boulevard is converted to two-way conditions between Santa Clara Street and Park Avenue.

The TPMP is not intended to address other temporary street closures or access restrictions stemming from construction/capital improvement projects in the area. The Department of Transportation will monitor such projects and devise alternate traffic circulation plans as need arises, and the Department of Transportation will provide the Arena Authority and SAP Center Management with advance notice of any material changes planned to be made to the design, configuration or operation of the major streets and intersections in the vicinity of the Arena. The Department of Transportation must consider Arena Authority and SAP Center Management's input in making determinations regarding any such changes, with the goal of achieving the best overall function of the street network for the benefit of both the SAP Center and other developments in the Diridon area, taking into account the City's obligations and objectives as stated in the AMA.

**I. Static Guide Signs**

To help facilitate the movement of vehicular and pedestrian traffic, static guide signs have been installed at strategic locations, as described in the Operations Manual. After the original installation, revisions have been implemented for many of the signs to account for name changes of the building and for signing improvements. The guide signs are divided into five categories:

- Freeway Directional Signs
- Surface Street Directional Signs
- Parking Directional Signs
- Pedestrian Directional Signs
- Portable Traffic Control Signs

<u>Freeway Directional Signs</u>

In July of 1993, Caltrans installed directional signs, as well as off-ramp signs, on regional corridors. These signs are used to direct SAP Center patrons on Interstate 880 to the Coleman Avenue exit, Interstate


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280 to the Bird Avenue and State Route 87 exits, and State Route 87 to the Santa Clara Street and Julian Street exits. Caltrans also eventually installed additional directional signs on Highway 101 to direct motorists to State Route 87.

Surface Street Directional Signs

Surface street directional signs have been installed along outlying major City streets to guide motorists to the SAP Center vicinity. These signs are strategically located along ingress surface streets and supplement the freeway directional signs.

Parking Directional Signs

Parking directional signs have been installed along major City streets to guide motorists to parking facilities in the SAP Center vicinity. The major parking facilities identified as part of the parking inventory also have directional parking signs located at their main entrances. To further assist motorists, changeable message signs have been installed along key ingress locations to provide patrons with real-time parking information.

Parking Guidance System Signs

Currently, there are 13 parking guidance system signs strategically located throughout the downtown area to provide "real time" parking availability information to motorists. The parking guidance system signs include City-managed facilities such as the Market Street Garage, which is commonly used for SAP event parking, as well as the 3rd Street Garage, 4th/San Fernando Garage, 2nd/San Carlos Garage and Convention Center Garage. The parking guidance signs also have the capability of providing direction to other downtown parking facilities if needed.

Pedestrian Directional Signs

Pedestrian directional signs have been installed along major pedestrian corridors and around major parking facilities to lead patrons to SAP Center. These signs have particularly benefited patrons that are unfamiliar with the Downtown area.

Portable Traffic Control Signs

Portable traffic control signs are placed at various locations around the SAP Center area to identify passenger drop-off and pick-up zones, to inform motorists of street access restrictions, and to provide parking lot status (i.e., full, general parking restricted, etc.) Signs that were deemed superfluous by Caltrans and Department of Transportation staff were removed.

## J. Passenger Loading Zones

Currently, the portion of Montgomery Street and Barack Obama Boulevard, south of Santa Clara Street is designated as passenger loading zones for the general public. Approximately 160 and 180 feet of Montgomery Street (east and west side respectively) is marked as passenger loading zones. Likewise, the west side of Barack Obama Boulevard has an additional 160 feet of curb space designated for passenger loading and unloading. There are other passenger drop-off and pick-up zones located near SAP Center, including along Montgomery/Sharks Way, Stockton Ave, Cahill Street, and Almaden Boulevard These areas are shown in the Operations Manual.

TNC rideshare services, taxis, limousines, charter buses, and the general public utilize these areas to drop-off and pick-up passengers. For the majority of events, these areas sufficiently meet passenger drop-off and pick-up demand. However, there are some events (typically less than 5 per year) that exhibit unusually high passenger drop-off and pick-up activities and require additional traffic management efforts. A category of event that exhibits this characteristic is teen concerts. Teen


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concerts tend to attract a very young crowd, many of whom are not yet licensed to drive. The result is that a high percentage of patrons attending the event are dropped off and picked up by a third party.

The regular passenger loading/unloading zones located along Barack Obama Blvd and Montgomery Streets are heavily utilized, and double-parking is a common problem that often develops during the pick-up period. To facilitate traffic flow and encourage quick movement in and out of the passenger loading zones, an extra traffic control officer is assigned to Manage the passenger loading zones during ingress and egress.

Guests with disabilities may also be dropped off and picked up at the North Entrance curb which is in Lot B. Drivers who inform the parking attendant that they are dropping off only will be given access to the parking lot, but will be required to exit immediately after drop-off. Drivers are encouraged to return to the North Entrance curb 30 minutes prior to the conclusion of an event, to avoid street closures that could hinder access to the pick-up location.

SAP Center Management may also implement valet parking along Barack Obama Boulevard, with vehicles to be staged along the park side of Barack Obama Boulevard for the duration of the event. If SAP Center Management decides to implement such a valet operation, the details regarding location, procedures, attendants, etc. will be included in the Operations Manual.

**K. Limousines and Charter Buses**

Limousines and charter buses constitute a special group of vehicles-for-hire that sometimes creates unique traffic management challenges for select events. For the majority of large concert events only a handful of limousines show up, all of which can easily be accommodated in the SAP Center on-site parking lot.

Similarly, a significant quantity of charter buses only show up for select events. Based on past experience, the types of events that attract a large charter bus turn out include corporate seminars and college basketball championship tournaments. The restricted portion of Barack Obama Boulevard between Santa Clara Street and Sharks Way is utilized as a charter bus staging area.

The decision to implement charter bus parking on Barack Obama Boulevard and/or SAP Center on-site lot is determined by the AEOC on a case-by-case basis. There have been typically less than 10 such occurrences per year.

**L. Pedestrian Corridors**

The following streets have been identified as pedestrian corridors frequently used by SAP Center patrons who either park at off-site locations or arrive by transit.

<u>East-West Pedestrian Corridors</u>

- Julian Street
- Sharks Way
- Santa Clara Street
- San Fernando Street
- Park Ave

<u>North-South Pedestrian Corridors</u>

- Barack Obama Boulevard
- Montgomery Street
- Delmas Avenue


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During initial construction of the SAP Center site, some of the above corridors were physically improved to accommodate pedestrian traffic. The Santa Clara Street sidewalk, for example, was constructed at 15' wide to allow for adequate dispersal of pedestrian traffic. Today, Santa Clara Street continues to serve as the primary pedestrian corridor and adequately meets pedestrian demand during all events.

Pedestrian guide signs were also installed at various locations to direct patrons to the SAP Center vicinity. These signs are typically located in or near parking facilities, on the main pedestrian corridors, and at transit stations. In addition to signage, pedestrian signal timing phases were implemented at key intersections to accommodate pedestrian surges during ingress and egress periods.

**M. Bicycle Facilities**

The City of San Jose continues to develop a Comprehensive Bicycle Master Plan that includes the implementation of a transportation bicycle network. The network is intended to link residential areas to employment, educational, commercial, recreational, and entertainment destinations within the City. The network will connect to abutting jurisdictions' bicycle facilities, providing regional trip opportunities. For longer commutes, the network will interface with other commute facilities such as light rail stations and major bus transfer points.

Additional new bicycle routes are also being planned for future implementation. SAP Center patrons arriving by bicycle may utilize the bicycle racks located around the building premises to secure their bicycles.

**N. Public Transit**

A variety of public transit options are available to SAP Center patrons, including commuter rail service, buses, light rail trains. These services are provided in whole or in part by the Peninsula Corridor Joint Powers Board (PCJPB) and/or the Santa Clara Valley Transportation Authority (VTA).

Commuter Rail Service:
Commuter rail schedule provides service to the Peninsula from San Francisco to Gilroy. SAP Center patrons may conveniently utilize existing service to attend events such as hockey games.

In addition to the normal service, PCJPB (which operates Caltrain) and VTA have implemented a limited post event service to provide convenient interfaces between commuter rail service and the VTA's Light Rail Transit (LRT) service at Tamien station. The intent is to encourage patrons to use the Tamien station at Alma Avenue as a "park-and-ride" stop or to take the LRT to Tamien station, then transfer to a northbound commuter train to the San Jose Diridon station (or southbound after SAP Center events).

SAP Center Manager uses diligent efforts to arrange for Caltrain service for SAP Center guests, with both northbound and southbound trains departing Diridon Station at convenient times following events.

VTA Buses:
There is considerable VTA bus service in the vicinity of SAP Center, with most buses stopping on Santa Clara Street, The Alameda, and at the San Jose Diridon multi- modal station. These bus lines connect to other buses County-wide, the LRT, and some express bus lines. One line directly connects to the Berryessa BART station. Most of the VTA bus lines and Light Rail operate until midnight.

LRT Service:
The VTA LRT extension to Capitol Expressway and McKee in San Jose opened on June 23, 2004, giving the transit system 56 light rail stations serving the County. The Vasona Corridor opened in 2005, expanding the transit system to 64 light rail stations. LRT service operates 20 hours a day, seven days a week. Daily frequencies are every 15 minutes until 8:00 p.m. and every 30 minutes thereafter.


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12 LRT stations are located south of Interstate 280. All but two of these locations have "park-and-ride" lots with a total of over 5,000 parking spaces. 8 LRT stations are located in East San Jose, east of Interstate 880. 4 of these have "park-and-ride" lots with a total of over 400 parking spaces. The Vasona line has 5 LRT stations in San Jose, with 1 being a "park-and-ride" lot, and 3 additional stations in Campbell, with 2 being "park-and-ride" lots. The Santa Clara Street LRT stations at First Street and Second Street are identified as SAP Center stops for northbound and southbound SAP Center patrons, respectively. A ten-to-fifteen-minute walk is required to reach SAP Center front entrance, which is comparable to the walk from the BART Coliseum station to the Oakland Coliseum.

Ridership counts have shown that approximately 500 SAP Center patrons utilize the LRT for a typical hockey event. The City believes there is generally a very positive customer experience with the LRT and, in this respect, expects LRT use for SAP Center events will continue to increase. As such, the City has installed guide signs at the Santa Clara Street and Children's Discovery Museum LRT stations to direct patrons toward SAP Center. Two light rail stations provide convenient service to SAP Center at Diridon Station and on San Fernando Street near Delmas Avenue.

As with other elements of public transit, the City is working with VTA to identify enhancements that could attract additional LRT ridership to SAP Center. The City has requested that VTA augment LRT service to accommodate up to 3,000 SAP Center patrons.

**O. Coordination of Simultaneous Events at the Arena Green**

The Arena Green Park is bounded by Barack Obama Boulevard at the west, Sharks Way at the north, the Guadalupe River at the east, and Santa Clara Street at the south. The Arena Green is located directly across and immediately to the east of SAP Center, and accommodates various public entertainment events throughout the year. In general, events at the Arena Green are limited to a maximum attendance of 16,000 (standing room), or 7,500 (seated), and restricted to occur between April 1st and October 31st of each year only.

Most Arena Green events are typically conducted on weekends during the day and do not coincide with SAP Center events. The City's Office of Cultural Affairs or the Special Park Use office are responsible for programming events at Arena Green and are committed to making every effort to avoid booking events in Arena Green Park that would conflict with SAP Center events. However, a separate Traffic and Parking Plan (TPP) has been developed to address the occurrence of simultaneous events at Arena Green and SAP Center.

The TPP, which was jointly prepared by the Department of Convention, Arts and Entertainment and Department of Transportation, was approved by the City Council in 1997. The TPP is implemented in conjunction with the TPMP whenever simultaneous events occur at Arena Green and SAP Center. A simultaneous event is defined as one in which Arena Green Park ingress and/or egress overlaps or coincides with SAP Center ingress and/or egress, within a two-hour window.

**P. Public Information Programs**

The Arena Authority remains active with community engagement regarding operations at SAP Center. In doing so, the Arena Authority participates in the following activities:

(1) Engagement in Community-Based Programs and Organizations - In recent years, the Arena Authority has been active with the BART Silicon Valley Downtown/Diridon Community Working Group. Chaired by the VTA, the working group addresses the many issues relating to the BART transit line and station adjacent to the arena

(2) Informational Notices on Specific SAP Center Events – When appropriate the Arena Authority will issue notices to various groups and organizations about upcoming arena events that may have a wide impact to the adjacent residential and business neighborhoods. This is typically managed


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through outreach to the Office of the Mayor and City Council offices and the San Jose Downtown and the Alameda Business Associations.

(3) City and Community Events Program at SAP Center – The Arena Authority's website provides details to the arena and City and Community Events program. This program offers locally-based nonprofit and educational organizations opportunities to hold events at the arena through special rate packages.

**Q. Public Security Program**

The Police Department and SAP Center Management are working jointly to develop a security plan that will document the security measures and guidelines that would be implemented during select SAP Center events that tend to attract high energy crowds. The goal of the plan is to ensure that sufficient security measures are in place to protect the general public, property, as well as to minimize disturbance to nearby residential neighborhoods. The document will also address expanded security measures to deal with emergencies such as the terrorist attacks and bomb threats. The Arena Authority will facilitate the development of the security plan and its distribution to all affected parties upon completion.

## SECTION VI – PARKING OPERATIONS AND MANAGEMENT

Developing and implementing an effective parking operations and management plan is fundamental to the overall management of events at SAP Center. Several key parking measures have been implemented to ensure that convenient and varied parking options are available to SAP Center patrons as well as to protect nearby residential communities from parking intrusion by event patrons. Specific parking operations plans, and management strategies have been developed to ensure efficient flow to and from the various parking facilities and to address unique parking needs generated by certain events. The key parking management strategies implemented per the TPMP include:

A. Implementation of a Residential Permit Parking Program to prevent parking intrusion by event patron in nearby residential neighborhoods

B. Adequate deployment of parking management staff at various parking facilities to ensure efficient and orderly parking operations

C. Identification of parking operation characteristics and special parking needs

D. Deployment of dynamic message signs and static guide signs to direct motorists to major parking facilities

E. Designation of charter bus parking areas

F. Designation of limousine parking areas

G. Designation of employee parking areas

H. Securing adequate on-site and off-site parking for SAP Center patrons

I. Public outreach efforts to provide patrons with parking information and options

**Each parking management strategy is discussed below:**

**A. Residential Permit Parking Program**

A chief concern for neighborhoods located close to SAP Center had to do with the potential impact to the on-street parking supply for residents due to parking intrusion by event patrons. The Final Environmental Impact Report for construction of SAP Center facility, which was certified in 1987,


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identified the need to control parking in residential areas adjacent to SAP Center. As a result, the City implemented a residential permit parking program for the following neighborhoods as a parking mitigation measure:

- Autumn/Montgomery
- Cahill Park
- Delmas Park
- Garden/Alameda
- Parkside
- St. Leo's

In general, the City's residential permit parking program is intended to minimize the impact of parking intrusion (usually in residential neighborhoods) resulting from events or major establishments that draw significant traffic volumes. Such programs have been implemented in select neighborhoods where parking intrusion is a significant and recurring problem. However, because of the many difficulties inherent with permit parking programs, they are only implemented when deemed by the City to be absolutely necessary and when supported by a majority of the impacted residents and business owners.

The residential permit parking program established for SAP Center area neighborhoods is unique in that the characteristics of these neighborhoods are not typical of other existing permit parking neighborhoods in the City. Other permit parking neighborhoods are almost exclusively residential whereas several of SAP Center area neighborhoods support a variety of land uses, including commercial and light industrial facilities intermixed with residential pockets, giving rise to different parking needs and challenges. Implementation of SAP Center area residential permit parking program is not intended to remedy the pre-existing parking problems of these mix use neighborhoods. The primary objective of SAP Center permit parking program is to prevent event patrons from parking on the surrounding residential streets.

In implementing SAP Center area residential permit parking program, City staff worked closely with residents of each neighborhood and the Arena Oversight Committee to establish boundaries for the permit parking zones. SAP Center area permit parking program took effect on September 1, 1993, prior to the opening of the arena facility.

The City's Department of Transportation is responsible for issuing permanent parking permits to residents and businesses located within the permit parking zone, (free of charge) given adequate proof of residency or employment is provided. The number of parking permits issued is a function of land use, with residents receiving no more than one permit per registered vehicle within the permit zone, and businesses receiving no more than one permit per documented employee. In addition, each residential unit is entitled to two permanent guest parking permits. Temporary single use (i.e., one-day use) guest parking permits are also issued upon request for special events such as parties. A replacement fee is assessed for lost permits.

Streets within the permit parking zones are posted with signs restricting on-street parking, except for those vehicles displaying valid residential parking permits. SAP Center area permit parking program is in place 24 hours/day, 365 days/year. Vehicles that park within the permit zones without displaying the proper parking permits are cited but not towed. The City proactively enforces the permit parking zones during all major events and at other times deemed necessary by the City. During event periods, enforcement is provided by parking control officers as well as police officers assigned to traffic control duties prior to and following the events. During non-event periods, parking control officers provide regular enforcement.

After implementation of the residential permit parking program for the neighborhoods adjacent to The


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Alameda, business interests along The Alameda (between Race Street and the Southern Pacific railroad tracks) expressed concerns about the impact to on-street parking supply for customers and employees. Customers and employees of local businesses along The Alameda could no longer use many of residential side streets due to permit parking restrictions. In response, the City considered implementing a business permit parking program for this stretch of The Alameda and a portion of adjacent side streets, despite long-standing policies that restricted permit parking programs to primarily residential areas. A survey was conducted to the affected businesses and residents to assess the level of support for such a program, but a majority support was not founded. Therefore, the business permit parking program was not incorporated at that time (June 1994). However, the City may elect to implement such a program in the future should sufficient support develop.

The permit parking program is structured in such a way that it can respond to changing conditions and concerns. The ordinance establishing SAP Center area permit parking program provides means for amending the permit zone boundaries if needed. Street segments can be added or deleted from time to time provided the need is demonstrated, the proper petition process is carried out, and the affected residents, property owners and businesses of that particular street segment demonstrate a majority support. The Director of the Department of Transportation is authorized to review and approve or disapprove a petition. An appeals process is also available in the event that the Director of the Department of Transportation rejects a petition.

**B. Parking Staff Allocation**

SAP Center Management is responsible for managing parking operations for the on-site parking facilities (Lots A, B and C and Lot D) as well as for several off-site parking facilities (Cahill Lots, Delmas Lots, Milligan Lot and Stephen's Meat Lot, all as described in the Operations Manual. In general, most of these parking facilities are open approximately two and one-half hours prior to the start of an event. Depending on the type of event and estimated attendance level, anywhere from 13 to 34 parking attendants are assigned to manage the on-site and off-site parking lot operations, as well as to manage the employee parking areas, VIP parking areas, and event loading areas.

For a typical Sharks game, a total of 34 parking attendants are assigned to facilitate all field parking operations. For all other events, the average number of parking attendants allocated for field parking operations depends on attendance levels: 13 attendants are assigned for events with less than 5,000 attendance, 16 parking attendants are assigned for events between 5,000 to 9,000 attendance, 23 parking attendants are assigned for events between 9,000 to 12,000 attendance and 34 parking attendants are assigned for events over 12,000 attendance. These standard parking staffing plans are occasionally adjusted on an as-needed basis when special parking needs arise. For example, parking staff allocation may be increased to manage atypical parking operations associated with events that draw in a high turnout of charter buses or recreational vehicles.

In addition to facilitating vehicle entrance into the various parking facilities, SAP Center's parking supervisors are also responsible for maintaining radio communications with the police traffic control supervisor and the Signal Central operator at all times to ensure that parking and traffic operations are well coordinated. Timely notification of parking restrictions on the on-site parking lots and of lots filling to capacity is very important for the effective management of traffic circulation and the dynamic message signs.

**C. Parking Operation Characteristics and Special Parking Needs**

Over the years, certain parking characteristics have emerged for various event types, which has required the development of event-specific parking plans. It is important to identify recurring parking patterns and/or challenges for the purpose of allocating parking staff resources and for developing adequate operations plans.


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Sharks Event

Hockey games offer the most predictable ingress, egress, and parking circulation patterns. Many guests are repeat customers of SAP Center and have intimate knowledge of the street network and location of parking facilities. The majority of the on-site parking spaces are reserved for season ticket holders and suite holders with pre-paid parking passes. Limited public parking is provided on-site on a first come, first served basis. This prepaid system of parking for hockey games requires traffic control officers to separate prepaid patrons from general patrons by screening all traffic traveling westbound on Julian Street at Autumn Street. This screening process requires an additional traffic control officer at the Julian Street and Autumn Street intersection. It also creates additional delays, and occasional congestion to State Route 87. To alleviate this congestion, traffic from the Julian off ramp is sometimes diverted to Downtown via changeable message signs. As it turns out, many hockey patrons voluntarily choose to park at parking facilities in Downtown San Jose to take advantage of free parking offered at select City parking facilities.

Concert Event

Concerts bring a different parking management challenge than hockey games. Most guests are first timers or infrequent visitors to SAP Center and are not familiar with the street network and location of parking facilities. Approximately 225 spaces on the on-site parking facilities are reserved for suite holders, with the remaining spaces available for general public parking that is made available for sale on Ticketmaster to purchase in advance. Restrictions implemented on the main lot are based on the number of prepaid parking passes sold for the event.

Traffic congestion along Santa Clara Street is not uncommon due to motorists circling the area in search of suitable parking. Parking operations generally proceed slower since some motorists are not familiar with parking fees and tend to ask more questions. Fewer concert patrons choose to access Downtown parking facilities when compared to hockey games, probably due to lack of familiarity with the area.

Special Group Function Event

Experience has shown that these types of gatherings tend to attract various groups from all over the U.S. and even internationally. These group/seminar events generally occur over multiple consecutive days and create unusual demand due to charter bus and recreational vehicle parking. For these types of events, parking attendants generally open parking facilities earlier to accommodate early arrivals. Special bus parking plans have been developed to accommodate a high charter bus turnout. The first is designed to accommodate less than 20 buses, and the second is designed to accommodate more than 20 buses. Implementation of the charter bus parking plan has typically required additional parking attendants and one additional traffic control officer on Barack Obama Boulevard or the Main Lot C to manage ingress and egress bus operations and potential conflicts with pedestrians and other vehicles.

Weekday Daytime Event

On rare occasions, large events (>12,000 attendance) sometimes occur during the day on a workday. This type of event presents a particular parking challenge in that there is limited parking for event patrons due to competing use by Downtown employees. Many of the major parking facilities that normally provide parking for event patrons in the evening are operated as monthly parking facilities during the day and offer limited general public parking. A parking management strategy that has worked well for this type of event is to encourage the event organizer to promote public transit and carpooling options to their guests early on during the promotional period through radio announcements, social media and website announcements, etc. When possible, informational parking flyers are also distributed to guests along with their ticket sales. At the same time, the Department of Transportation distributes advanced notice to major Downtown employers through the Downtown Association and at the major City-operated parking facilities to encourage mass transit and carpooling options on the event day. This parking management strategy has proven to be extremely effective so far.


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**D. Dynamic Message Signs and Static Guide Signs**

A specific parking management strategy of the TPMP includes the deployment of dynamic message signs and static guide signs to direct motorists to major parking facilities. Dynamic message signs are installed at key locations to provide motorists with real time parking information (refer to the Operations Manual for sign locations). The dynamic message signs are changed to direct motorists to Downtown parking when all parking to the west of State Route 87 approaches ninety percent capacity. This strategy has worked well to reduce unnecessary circulation and alleviate congestion along the major east west corridors in the immediate vicinity of the building when adjacent parking facilities are full. In addition, various static parking signs and portable parking directional signs are deployed throughout the area to guide motorists to parking facilities.

**E. Charter Bus Parking**

As previously discussed in Section V, Item K and Section VI, Item C, certain events produce unusual demand for charter bus parking. In general, the block of Barack Obama Boulevard between Santa Clara Street and Sharks Way is designated as a charter bus parking area for select events and can accommodate up to 19 buses when parked in tandem. Charter buses are directed to enter southbound on Autumn Street via Julian Street and depart via Santa Clara Street at the conclusion of an event. This bus parking plan sufficiently covers the majority of events that generate charter bus parking demand. However, there have been rare occasions wherein more than 20 buses were expected. Under this scenario, the on-site Lot C is designated as the bus parking area as this area has been structurally upgraded to accommodate charter bus parking. More than 50 buses can be accommodated on Lot C, however, additional personnel is required to manage the bus parking operations at the on-site lot.

It is important to note that during any given event, only a limited amount of charter buses, up to 19, can be accommodated along Barack Obama Boulevard between Santa Clara Street and Sharks Way. This portion of Barack Obama Boulevard is also utilized for other functions including police staging area, and emergency vehicle access area. This segment of Barack Obama Boulevard is temporarily closed to through traffic prior to and during all major events, with the exception of a few small events.

**F. Limousine Parking**

As previously discussed in Section V, Item K and Section VI, Item C, certain concert events generate increased demand for limousine parking. In general, limousines are allowed to park in the on-site lots, in which case the cost to parking is determined by the number of spaces the limousine will occupy, times the event's parking rate. Because of this, many limousine drivers are reluctant to pay additional fees to park on-site. Some simply choose to utilize the passenger drop off and pick up zone along Montgomery Street.

**G. Employee Parking**

Under the AMA, SAP Center Management is responsible, at its cost, for providing parking for Arena Employees, in separately designated Off-Site Parking Facilities, subject to the terms and conditions of the AMA.

**H. Parking Inventory**

The City is to provide on-site and off-site parking in accordance with the terms and conditions of the AMA.

<u>On-Site Parking Inventory</u>

The majority of on-site parking is located on Lots A, B, and C, located north of Santa Clara Street and generally west of the building. These lots are owned by the City, and are part of the arena facilities that are leased to Manager under the AMA.


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Additional on-site parking is currently located on Lot D, located south of Santa Clara Street between Barack Obama Boulevard and Montgomery Street. Lot D is owned by Google, which leases Lot D to Manager under a separate lease agreement. That lease will terminate once construction for VTA's BART Phase II project is ready to commence on Lot D.

The primary vehicle access to Lots A, B, and C is a four-lane entry off Julian Street at Montgomery Street, with a maximum of four ingress or three egress lanes. A secondary vehicle access point is a two-lane entry off Santa Clara Street at Cahill Street, offering a maximum of two ingress or two egress lanes. During the ingress movement, the Santa Clara Street entry is not accessible to eastbound motorists on The Alameda/Santa Clara Street. This serves to discourage motorists from using The Alameda as a route to the venue.

Likewise, the primary vehicle access to Lot D is off Barack Obama Boulevard, with a secondary access off Montgomery Street. Egress is limited to the Montgomery Street exit since Barack Obama Boulevard traffic is stopped for the pedestrian surge immediately after an event.

Off-Site Parking Inventory

The off-site parking facilities are comprised of some privately owned parking garages and surface lots, some City-owned parking garages and surface lots, and on-street parking. A few private parking facility owners and operators have entered into formal agreements with the City and/or SAP Center Management to provide public parking at their facilities on event days. To regulate off-site parking facilities in the vicinity of the arena, the City Council adopted Council Policy 6-26, which became effective June 8, 1993, and was revised June 21, 1994.

Subject to the provisions of Section 19 of the AMA, the City must ensure that there are a certain number of "Available Parking Spaces" (defined in the AMA) within one-half mile of the West Santa Clara entrance of the arena and within one-third mile of the West Santa Clara entrance to the arena.

The Operations Manual illustrates the location of all off-site parking facilities and on-street parking located within the one-third mile radius of the West Santa Clara entrance of the arena, and includes an inventory of all the "Qualified Parking Spaces" (defined in the AMA) located within that one-third mile radius.

To help ensure continued adequate off-site parking for SAP Center customers, the City and SAP Center Management have agreed to undertake the following measures:

- The City and SAP Center Management will update the one-third mile parking inventory at least once a year, to adjust for any operational changes, striping changes and/or developments that would increase or decrease the total of off-site parking spaces.
- The methodology for determining the number of parking spaces included in the parking inventory will be as set forth in Section 20.1 of the AMA, unless the parties mutually agree otherwise.
- The City and SAP Center Management will continue to address the subject of Available Parking Spaces to ensure that sufficient off-site spaces are available for use by SAP Center customers when they arrive for events, in compliance with the City's obligations under the AMA.

Any permanent changes to the off-site parking inventory resulting from the construction and/or operation of new parking facilities, or the removal of existing parking facilities will be monitored and recorded in future updates of the Operations Manual.

## I. Public Outreach

Arena parking information is available at various public and private websites, and provides patrons with important information on parking options and allows them to make informed parking choices.


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# SECTION VII – MONITORING AND FUTURE UPDATES

**Monitoring**

On an ongoing basis, performance of the traffic and parking management strategies identified in this TPMP will be monitored by key operations staff, namely, the Department of Transportation, Arena Authority, police traffic control personnel, and SAP Center Management personnel. Recommendations to modify existing traffic and/or parking operations plan can be made before the monthly meeting of the AEOC. From time to time, such changes may be necessary to offset impacts of construction or development projects, or as new parking facilities come online. The Department of Transportation will review and approve all proposed changes that have a direct impact on event traffic or parking circulation, subject to compliance with the terms and conditions of the AMA.

**Amendments to TPMP**

This TPMP is intended to be a working document and contains both the ability and the requirement to adjust to changing conditions. As provided in the AMA, the TPMP is subject to modification from time to time as the City and Manager may agree, provided that such changes may not operate to limit or reduce the scope and purpose of the TPMP.

The Department of Transportation does not expect that this TPMP will need to be updated very often, but will work with Manager in good faith to update and revise this TPMP if there is a significant change in conditions that warrants a revision.

**Amendments to Operations Manual**

The AEOC is responsible for regularly monitoring the ongoing performance of the Operations Plans, and recommending adjustments as needed. The City and SAP Center Management will consult with each other regarding proposed modifications to the Operations Manual and Operations Plans, taking into account the recommendations of the AEOC.

The Parties agree to work together to review and update the Operations Manual by no later than July 1 of each year, and to make additional interim modifications whenever reasonably needed based on any material change in circumstances. Each updated Operations Manual will include a page for Manager and City's Director of Transportation to sign and date, acknowledging receipt and acceptance of such modified Operations Manual.

# SECTION VIII – CONCLUSION

The TPMP has served as a useful guide for managing event traffic and parking operations at SAP Center. The traffic and parking management strategies identified and implemented under this plan have proven to be successful. An average of 150 - 200 events are managed at SAP Center on an annual basis, each bringing different traffic patterns and parking needs, yet all successfully accommodated with minimal impact to the surrounding residential neighborhoods. It is important to note that successful implementation of the TPMP relies heavily on continued development of a strong, cooperative working relationship between the Department of Transportation, Arena Authority, police traffic control staff, and SAP Center Management.

As the area around SAP Center continues to change and grow, the traffic and parking management strategies identified in this TPMP will be refined and updated to reflect changing needs. The overall goal of the TPMP, however, will remain unchanged, and that is, to devise a traffic and parking management plan that ensures a positive transportation experience for event patrons, and respects the quality of life for adjacent residential communities.


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**Attachment No. 14**

**FRAMEWORK FOR TRANSIT PROJECT**
**TRANSPORTATION AND PARKING MANAGEMENT PLANS**

## ARTICLE I. INTRODUCTION

### Section 1 – Background

For any "**Transit Project**" (defined as including the High Speed Rail project or station, or the BART project or station, or the Diridon Integrated Station project), a Transportation and Parking Management Plan **("Transit TPMP")** will be developed and implemented prior to the opening of such project to ensure effective and efficient ingress and egress to these projects.

The scope of a Transit TPMP for these projects will recognize that the transportation and parking demands are significantly different for these projects than for a typical event type venue (e.g. the Arena or other large public assembly venue, such as the Earthquakes soccer stadium). The scope of these Transit TPMP's will include provisions to effectively manage demands that may occur as a result of overlapping events at the Arena. Article II of this document provides a more detailed framework of the elements that would be included for the Transit TPMP's.

### Section 2 – Purpose

It will be the responsibility of the project owner or agency to develop the Project's TPMP. To ensure proper coordination, the City will engage appropriate stakeholders (including the Manager of the Arena) in the Diridon Area to provide input on the development of any TPMP.

The purpose of a TPMP is to establish the operational strategies and plans to:

A. Advance the goal that customers traveling to and from the Projects, and to and from the Arena have a positive transportation experience, including travel during overlapping events.

B. Promote effective, efficient and safe use of the entire transportation system, including the highway and local street network, the parking system in the Diridon Area and the core of Downtown, the extensive transit network, and bicycle and pedestrian facilities.

C. Minimize traffic and parking intrusion into surrounding neighborhoods so as to minimize negative impacts on these neighborhoods.

D. Ensure consistency between the goals and policies/programs of the various TPMP's within the Diridon Area including the Arena TPMP and promote effective advance planning and communication among the responsible entities to minimize conflicts among venues in the Diridon Area and maximize the best use of the transportation and parking system through effective advanced communication strategies (e.g. using electronic and print media to post notices, maps, alerts) and directional signage.



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E. Coordinate TPMP's for all Projects with existing TPMP's in the Diridon Area to create a consistent and integrated approach to transportation and parking management and operations.

## ARTICLE II. FRAMEWORK FOR TRANSIT TPMP'S

This Transit TPMP framework recognizes that these Transit Projects will function in a significantly different manner than a typical event-based venue (e.g. Arena or other large public assembly venue). Transit TPMP's will include strategies and plans intended to provide:

(i) efficient access for users of the transit projects that effectively manage and reasonably minimize congestion on local streets to the extent possible;

(ii) utilize the parking network established as part of the final project development and consistent with the certified Environmental Impact Report;

(iii) encourage broad use of the extensive transit, bicycle and pedestrian system serving the Diridon Area; and

(iv) protect adjacent neighborhoods from intrusion.

Any Transit TPMP will be developed with the presumption that the Project description will include the findings and mitigation measures adopted regarding parking and traffic impacts of the Project as set forth in the certified environmental documents for the Transit Project.

**Elements in Transit TPMP**

The following elements will be included in any Transit TPMP:

A. Descriptions of the improvements and refinements to the transportation and parking system designed to support the projects and any overlapping demands with event venue operations (e.g. Arena and any other large public assembly venue).

B. Descriptions of the role and function of the City's Traffic Management Center, including the coordination and operation of the Traffic Signal System, the Dynamic Motorist Information System, and the Downtown Parking Guidance System. This Sub-Section would include detailed maps of the primary traffic circulations routes, including maps of the primary ingress and egress routes that will be encouraged.

C. Descriptions of the expected characteristics in terms of peak demands, including during when events may be occurring at the Arena and/or other large public assembly venue.

D. Description of guide sign plan to direct transit users on major access routes.

E. Description of ground transportation (e.g. taxi, shuttle) and passenger loading zones.



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F. Description of significant pedestrian corridors, including routes from the parking facilities that would be expected to be used by the transit projects.

G. Description of connecting transit services to these new transit systems, including potential shuttle and automated people mover connections to remote parking facilities.

H. Description of the Bicycle Master Plan and bicycle network that accesses the transit projects, including available bicycle parking.

I. Description of the Public Information and Advance Customer Communication Plan for holiday periods for High Speed Rail users to promote carpooling, transit use, bicycling, walking and remote parking.

J. Description of parking characteristics for the transit projects.

K. Description and analyses of parking demands and supply/inventory to be used for the transit projects.

L. Description of Dynamic Message Signs and Static Parking Guide signs that will be used to direct motorists to parking facilities serving the transit projects.

M. Describe Residential Permit Parking Program and parking patrols designed·to protect adjacent-neighborhoods from parking intrusion.

## Article III. PERFORMANCE MONITORING AND REVISIONS TO TPMP'S

All TPMP's developed and implemented to manage transportation and parking for Transit Projects are expected to have operations plans ("**Transit Operations Plans**") that are dynamic documents that evolve based upon the changing operation of the Transit Projects and the Diridon Area. The Transit Operations Plans will be reviewed and updated every three years or more frequently as necessary. Minor operational changes would occur at an administrative level with reasonable coordination with the Arena Events Operations Committee ("**AEOC**") as referenced in Article II, Section 2 of this TPMP Framework. However, significant policy and major programmatic changes (e.g. changing major route approaches, modifications to large parking supplies to meet event and transit project demands) may require modification to the Transit TPMP's as well.

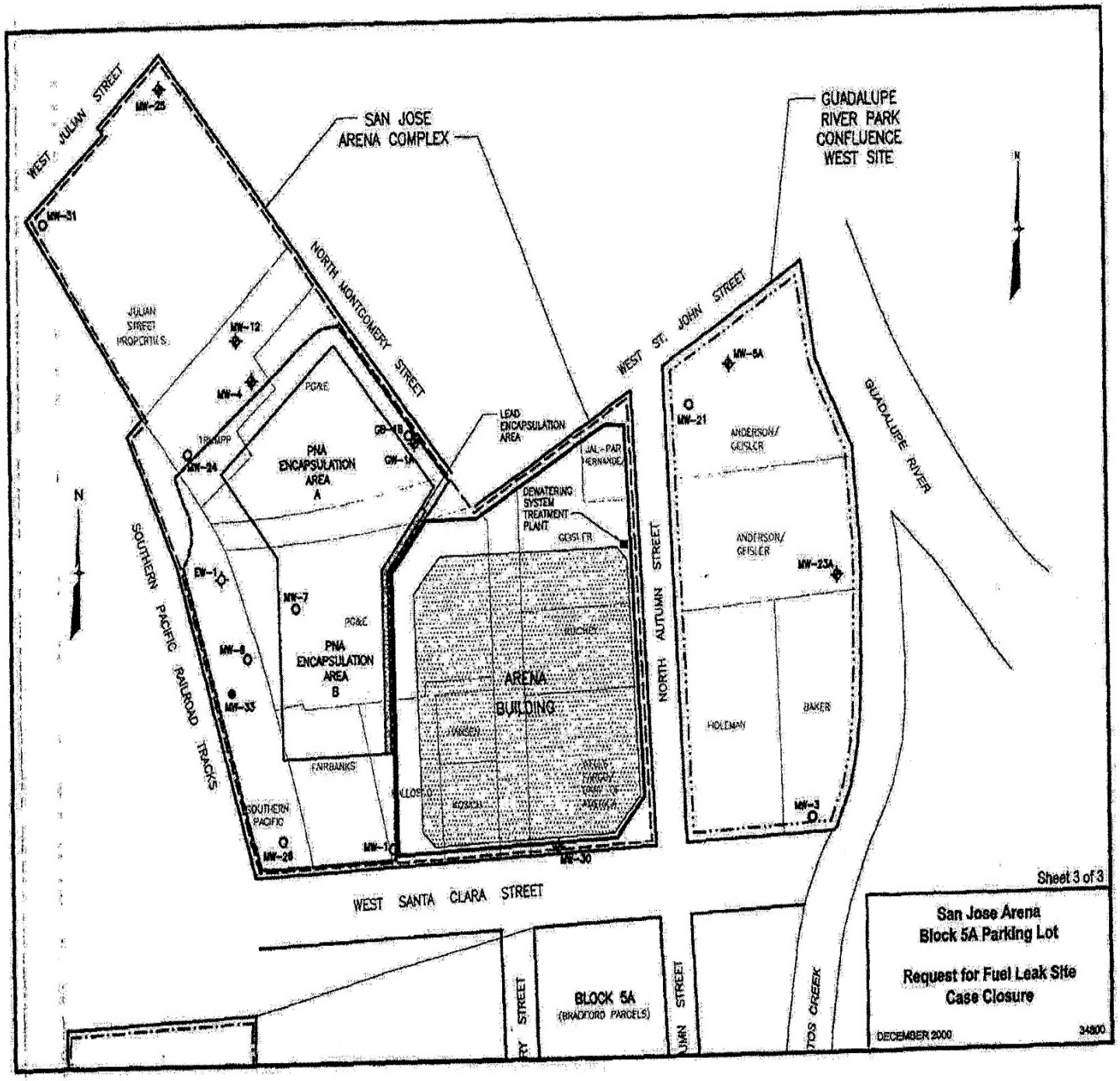
The Project owner, in consultation with the City, and the assistance of the AEOC, will on a periodic and as needed basis, review the performance of the TPMP's and the major operational scenarios contemplated in the TPMP's. The performance review will be based on current data to be collected and analyzed pursuant to this process and will include items such as traffic volumes for major corridors, transit ridership, parking occupancy and availability, and the effectiveness of traffic control operations through observation and evaluation.



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**Attachment No. 15**

**ENCAPSULATION AREAS AND MONITORING WELLS ON ARENA LAND**







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**AMA Attachment No. 16**

**DTW Settlement Agreement**

[*See attached*]



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# SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is entered into by and between the following: (i) GOOGLE LLC, a Delaware limited liability company, ("Google"), (ii) CITY OF SAN JOSE, a California municipal corporation ("City"), and (iii) SHARKS SPORTS & ENTERTAINMENT LLC, a Delaware limited liability company ("SSE"). Google, SSE and City, where appropriate, are hereafter referred to individually as "Party" and collectively as the "Parties."

## RECITALS

A. On or about October 10, 2019, Google submitted project applications for the Downtown West Mixed-Use Plan, a proposed mixed-use project consisting of up to 5,900 residential units; up to 7,300,000 gross square feet (gsf) of office space; up to 500,000 gsf of active uses such as retail, cultural, arts, etc.; up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 gsf; up to two central utility plants totaling approximately 130,000 gsf; logistics/warehouse(s) totaling approximately 100,000 gsf; approximately 15 acres of open space; and infrastructure, transportation, and public realm improvements ("Project").

B. The Project is located in the City on approximately 80 acres in an area generally bounded by Lenzen Avenue and the Union Pacific Railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, South Almaden Street, and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station, the Caltrain rail corridor, and Cahill Street to the west as well as the area bounded by Los Gatos Creek to the west, San Fernando Street to the south, the Guadalupe River to the east, and Santa Clara Street to the north ("Property").

C. On December 8, 2020, and April 28, 2021, SSE submitted comment letters to the City setting forth SSE's concerns and objections relating to the Draft Environmental Impact Report and the First Amendment to the Draft Environmental Impact Report (collectively, the "EIR") prepared by the City for the Project pursuant to the California Environmental Quality Act (Pub. Res. Code, §§ 21000, et seq.) ("CEQA") and the CEQA Guidelines (Title 14, Cal. Code Regs., §§ 15000, et seq.).

D. On April 1, April 21 and April 27, 2021, SSE submitted letters to the City setting forth concerns and objections relating to the City's compliance with the Second Amended and Restated Arena Management Agreement between the City and San Jose Arena Management, LLC, dated August 15, 2018, and as amended by the First Amendment to the Second Amended and Restated Arena Management Agreement, dated December 4, 2018 ("AMA"), the Option/Negotiation Rights Agreement between the City and Google, dated December 4, 2018 ("Option Agreement") and the Development Agreement statute with respect to the Project.

E. On April 28, 2021, the San Jose Planning Commission held a duly noticed public hearing on the Project and recommended that the San Jose City Council take the following actions: certification of the EIR and adoption of findings pursuant to CEQA, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations; an override of the Santa Clara



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County Airport Land Use Commission's Comprehensive Land Use Plan inconsistency determination; amendments to the General Plan; amendments to the Diridon Station Area Plan; Planned Development Rezoning, including a General Development Plan; a Planned Development Permit; amendments to Title 20 of the San José Municipal Code; approval of the Development Agreement for the Downtown West Mixed-Use Plan; approval of a Vesting Tentative Map; approval of amendments to the boundaries of Historic Landmarks (San José Water Company at 374 West Santa Clara Street and Southern Pacific Depot Historic District); an amendment to Historic Preservation Permit (HP16-002); approval of Major Encroachment Permits; approval of a Construction Impact Mitigation Plan; and approval of partial vacation of certain streets within Downtown West (the "Project Approvals"). The actions on the Project Approvals are set for a hearing before the City Council on May 25, 2021 and are identified as Item 10.2 of the Agenda and reference File Nos. GP19-009, PDC19-039, PD19-029, HP20-002, and PT20-027. For purposes of this Agreement, the "Project Approvals" shall also include ministerial actions taken by City that are consistent with the Project Approvals as defined above.

F. On April 28, 2021, the San Jose Planning Commission held a duly noticed public hearing on a City-initiated General Plan Amendment to the Diridon Station Area Plan and recommended that the San Jose City Council take the following actions: adoption of an Addendum to the Downtown Strategy 2040 Environmental Impact Report and Addenda thereto; an override of the Santa Clara County Airport Land Use Commission's Comprehensive Land Use Plan inconsistency determination; amendments to the General Plan; and rezoning of certain real property within the Diridon Station Area Plan ("City-Initiated Approvals"). The actions on the City-Initiated Approvals are set for a hearing before the City Council on May 25, 2021 and are identified as Item 10.3 of the Agenda and reference File Nos. GP20-007 and C20-002.

G. Prior to the Planning Commission hearing on the City-Initiated Approvals, SSE submitted comment letters to the City setting forth SSE's concerns and objections relating to the City-Initiated Approvals and the City responded to SSE's letters.

H. On May 14, 2021, the City responded to SSE's letters, including by proposing certain changes to the Project Approvals.

I. On May 17, May 20, and May 21, 2021, SSE sent additional letters requesting additional changes to the Project Approvals. (Collectively, the December 8, 2020, April 1, 21, 27, and 28 and May 17, 20, and 21 2021 letters from SSE are known as the "SSE Letters.")

J. By this Agreement, it is the intent of the Parties to fully resolve all disputes between the Parties arising out of, and in connection with the Project Approvals and the City-Initiated Approvals in the manner provided herein.

**SETTLEMENT TERMS**

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, without acknowledging the validity of any concerns that were or could have been raised by SSE, and in consideration of the foregoing recitals and the mutual promises and



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covenants hereinafter set forth, and in an effort to avoid the expense of litigation, it is agreed between the Parties as follows:

1. Effective Date. The effective date of this Agreement shall be the date on which this Agreement is fully executed by all of the Parties and the City Council has approved the Project Approvals containing the modifications requested in Section 2 and the City Council has approved the AMA amendment requested in Section 3 ("Effective Date"). The Parties acknowledge that, as of the time of the City's signature of this Agreement on May 25, 2021, the City Council has not yet made a determination on the Project Approvals or the modifications requested in Section 2 and retains its full discretion regarding the approval of those items.

2. Google Obligations. In exchange for the releases provided in Section 5 of this Agreement, Google has no objection to the City obligations in Section 3 below and shall seek the modifications to the Project Approvals described in Sections 2(a) through 2(e) below and agrees to the coordination obligation described in Section 2(f).

a. Ordinance Rezoning the Property to the DC (PD) Planned Development Zoning District ("PD Zoning Ordinance")

i. Section 6, paragraph B of the PD Zoning Ordinance has been revised to include language acknowledging that the City does not intend to prohibit any uses and/or structure the City is obligated to allow under the AMA and that any non-conforming use limitations established under Chapter 20.150 of the San Jose Municipal Code do not apply to Lots ABC to the extent necessary to allow uses or structures the City is obligated to allow under the AMA. Section 6, paragraph B of the PD Zoning Ordinance has been modified as follows:

> Existing Uses and Structures. The City Council does not intend to prohibit any uses and/or structures the City is obligated to allow on Lots ABC pursuant to the Arena Management Agreement by and between the City of San José and San José Arena Management, LLC as amended through December 4, 2018 (the "AMA"). The uses the City is required to allow on such property under the AMA, which include parking and supporting entertainment uses, are consistent with the General Plan as amended through the effective date of this ordinance, including the applicable Downtown and Commercial Downtown land use designations. The requirements of this ordinance, the GDP, the PD Permit, and Municipal Code chapter 20.150 shall not apply to Lots ABC (and Lots ABC shall retain their existing Industrial / Heavy Industrial zoning) until such time as the Project Sponsor acquires fee title or any other legal or equitable interest that includes a right to possession of Lots ABC.

b. Development Agreement.

i. Sections 3.3 and 14.6 of the Development Agreement have been revised to incorporate SSE's requested edits in its letter dated May 17, 2021, to clarify Developer's rights and obligations with respect Development Parcels, as follows:



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Section 3.3 revision: Developer may pursue approval of Final Maps for Development Parcels in phases that include only portions of the associated Tentative Map.

Section 14.6 revision (now 14.7 due to addition of provision noted below): Developer shall exercise full dominion and control over the Development Parcels ~~Project Site~~, subject only to the limitations and obligations of Developer contained in this Agreement.

ii. A new Section 14.2 has been added to the Development Agreement (and the subsequent provisions of Section 14 renumbered accordingly) to include the following clarification:

Relationship to Option Agreement. Nothing in this Agreement is intended, nor shall be interpreted to affect, eliminate, or modify the provisions of or the City's rights under the Option/Negotiation Rights Agreement between the City of San José, a California municipal corporation, and Google LLC, a Delaware limited liability company, dated December 4, 2018, for the property referred to as "Lots A-C," and more particularly described in Exhibit A to that Agreement, located in the City of San José, California.

c. Exhibit K to Development Agreement, Downtown West Parking Requirements. Exhibit K has been revised to clarify that (i) the parking spaces to be provided by the Project will be located within 1/3-mile of the south entrance to the SAP Center, (ii) 2,850 commercial parking spaces within the Project Site boundary and within 1/3-mile of the south entrance to the SAP Center will remain "Available," as defined in the Exhibit, and (iii) to make other clarifying edits all as shown in Attachment 1 .

d. Conformance Review Implementation Guide. Section II (Vertical Conformance Review Application Submittal Requirements) of the Conformance Review Implementation Guide has been revised to incorporate SSE's requested edits in its letter dated May 17, 2021, to establish a meet and confer process with SSE on select parking-related vertical improvements. A new subsection (m) has been added under Section II.B.1 as follows:

(m) Meet and Confer with Sharks Sports & Entertainment (SSE) on Select Parking-Related Vertical Improvements. At least seven (7) business days before submitting a Conformance Review Application for Vertical Improvements (schematic level of design) that includes replacement parking facilities proposed by the project sponsor to be made available to SSE, the project sponsor shall provide written notice to up to three SSE representatives, as identified by SSE, of the anticipated Conformance Review Application. If within seven (7) business days of receiving such notice, SSE requests a meet and confer meeting ("Meet and Confer") with the project sponsor and the City regarding the Conformance Review Application, then the project sponsor shall provide SSE with a copy of the project sponsor's Conformance Review Application concurrent with its application submittal to the City. The project sponsor and city shall use



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commercially reasonable efforts to schedule and conduct the Meet and Confer with SSE within seven (7) business days following Conformance Review Application submittal. At the Meet and Confer, SSE may provide the project sponsor with comments on the applicable Conformance Review Application, which comments shall be (1) limited to the design and function of those parking facilities proposed to be publicly accessible, including for SSE and its patrons; and (2) focused on industry best practices relating to the design and function of such parking facilities. The City may in its discretion consider comments provided by SSE during the Meet and Confer as part of the City's review of the Conformance Review Application pursuant to the timelines set forth in Section IV.B.

e. Conformance Review Implementation Guide. Appendix A (Downtown West Planned Development Zoning District Vertical and Open Space Conformance Review Approval Form) of the Conformance Review Implementation Guide has been revised to clarify that compliance with Exhibit K parking requirements will be reviewed as part of the Conformance Review process. The following clarifications were added to Section B (Consistency Determination), subsection 2(e) of Appendix A:

(e) If a Vertical Conformance Review Application includes office development, the development proposal described in the Application complies with the requirements of Exhibit K to the Development Agreement, as follows:

(1) The number of commercial/public parking spaces satisfies the Required Parking Ratio.

☐ Yes

☐ No

(2) The project sponsor has demonstrated that at least 2,850 "Available" parking spaces will be maintained in the aggregate within the Project boundary and within one-third (1/3)-mile radius of the south entrance to SAP Center (which radius shall be defined to include the entirety of the parking garage proposed to be located on Parcel F, as such Parcel is depicted in the DWDSG). A publicly-accessible parking space is "Available" if it is unoccupied and accessible to SAP Center customers on weekends and after 6:30 PM on weekdays, on SAP Center event days.

☐ Yes

☐ No



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f. Quarterly Event Coordination. Following the Completion and commencement of the use of Privately-Owned Publicly Accessible Open Space and any Event/Conference Center space within the Project site, Google and SSE shall meet on a quarterly basis, or with such other frequency mutually agreed to between the parties, for the following purpose: (1) to identify special events anticipated to occur for the upcoming year or more on Privately-Owned Publicly Accessible Open Space, Event/Conference Center space, City-Dedicated Open Space, and at the SAP Center; and (2) to coordinate on the special events to address any potential transportation and access issues that may impact SSE's operation of the SAP Center or Google's operation of the Project site.

3. City Obligations. In exchange for the releases provided in Section 6 of this Agreement, City shall institute the following process improvements in coordination with SSE:

a. Establish an internal system within its new development and project review system to notify City staff when a proposed project or permit request requires a review of the AMA and/or coordination with SSE;

b. Implement a process improvement to ensure that Construction Impact Mitigation Plans (CIMPs) for vertical and open space development within the vicinity of the SAP Arena are shared with SSE for feedback prior to building permit submission and allow time for meaningful review and input; and

c. Facilitate the Quarterly Event Coordination described in Paragraph 2(f), above.

Moreover, City shall consider an Amendment to the AMA, to be brought to Council by June 8, 2021 or as soon thereafter as is practicable but not after June 22, 2021, which shall include the following revisions:

a. City shall not allow the alteration of any sidewalks along Arena frontages at W. Santa Clara Street or N. Autumn Street without SSE's consent that such alteration does not materially negatively affect operations of the Arena (such as safety, security, crowd control, etc.), whose consent shall not be unreasonably withheld.

b. City clarifies the proposed configuration of West Santa Clara Street and Barack Obama Boulevard near the SAP Center.

i. West Santa Clara Street near the SAP Center. As depicted in the Downtown West Vesting Tentative Map and Downtown West Design Guidelines and Standards, no reductions in general traffic through lanes are being proposed or approved as part of the Downtown West project along West Santa Clara Street. Per the proposed Amended Diridon Station Area Plan, the City and Valley Transportation Authority (VTA) are exploring potential public service lane configurations to maintain reliable transit and emergency vehicle service; this is a separate effort from Downtown West and will continue to be coordinated with area stakeholders, including SSE.

ii. Barack Obama Boulevard (between Santa Clara and San Fernando Streets). The City retains final decision-making regarding the public right-of-way.



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For example, the roadway (curb-to-curb space) includes two options, as shown on page 16 of the Vesting Tentative Map (VTM):

1. A dynamic lane on one side of the roadway and two through lanes

2. A through lane on one side of the roadway, one center turn lane, and a second through lane on the other side of the roadway

The first option for the portion of Barack Obama Boulevard between Santa Clara and San Fernando Streets is illustrated on page 271 of the Downtown West Design Standards and Guidelines (DWDSG, draft as of March 2021). The second option is very similar to the illustration of Barack Obama Boulevard between San Fernando and Park Avenue, as depicted on page 272 of the DWDSG. The City will determine the final configuration of the public right-of-way, including this portion of the roadway, during the Conformance Review process, including with ongoing input from SSE.

c. Neither SSE nor its patrons shall be responsible for the incremental growth of the cost of TPMP (such as increased police/traffic control, electronic traffic control measures, etc.), beyond the baseline (pre-COVID costs as of 2019, adjusted for inflation based on Consumer Price Index (CPI)). The identification and selection of these potential funding sources will include consultation with Diridon Area partners like SSE and area property owners.

The proposed Amendment to the AMA as described above shall be a material term of this Agreement, subject to Council approval in the timeframe set forth above.

4. No Google Liability for City Obligations; No City Liability for Google Obligations. Google shall have no obligation to perform, and no liability for non-performance of, the City's obligations set forth in Section 3. City shall have no obligation to perform, and no liability for non-performance of, Google's obligations set forth in Section 2. No remedy awarded against the City for any default by City on a City obligation under this Agreement shall entitle SSE to such remedy against Google and in no event shall a default by City result in termination of this Agreement. Further, no remedy awarded against Google for any default by Google on a Google obligation under this Agreement shall entitle SSE to such remedy against City and in no event shall a default by Google result in termination of this Agreement.

5. Release and Waiver Relating to Google Obligations. As of the Effective Date of this Agreement, on the condition that the changes to the Project Approvals set forth in Section 2 are incorporated into the Project Approvals and that there are no other material changes to the Project Approvals, SSE on behalf of itself and its affiliates, including San Jose Arena Management, LLC and San Jose Sharks, LLC, and their respective past, present and future assigns, successors, heirs, executors, and administrators (collectively, the "SSE Parties") and their respective officers, directors, members, insurers and agents, hereby releases and forever discharges the City and Google and their past, present and future employees, partners, officers, officials, directors, members, insurers, agents, predecessors, successors, consultants, attorneys, and assigns, all of whom expressly deny any liability, from any and all claims, demands, damages, actions, or suits,



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known and unknown, asserted or not asserted, which the SSE Parties ever had, now have, claim to have had, or may have had, through and including the Effective Date, relating to, arising out of, or in any way connected with the Project, the EIR, or the Project Approvals that may be granted, including, but not limited to, any challenges to the legality of the Project, the EIR, or any Project Approval; or that the City's actions relating to the Project, the EIR or the Project Approvals result in a breach of the AMA or the Option Agreement, or in any way interfere with the City's contractual obligations owed to the SSE Parties. Nothing in this section in particular, is intended to release the Parties or any other person from any claim that is not related, directly or indirectly, to the Project, the EIR, or the Project Approvals through and including the Effective Date. In making this release, SSE acknowledges that Section 1542 of the Civil Code of the State of California provides as follows:

> "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

SSE represents that it has read, understood and reviewed Civil Code Section 1542 with counsel, and that it hereby waives any and all present and future rights and benefits under Section 1542 to the extent it would permit claims based on facts found to be different from the facts believed to be true at the time this Settlement Agreement was executed.

6. Release and Waiver Relating to City Obligations. As of the Effective Date of this Agreement, the SSE Parties and their respective officers, directors, members, insurers and agents, hereby releases and forever discharges the City and Google and their past, present and future employees, partners, officers, officials, directors, members, insurers, agents, predecessors, successors, consultants, attorneys, and assigns, all of whom expressly deny any liability, from any and all claims, demands, damages, actions, or suits, known and unknown, asserted or not asserted, which the SSE Parties ever had, now have, claim to have had, or may have had, through and including the Effective Date, relating to, arising out of, or in any way connected with the City-Initiated Approvals or the associated CEQA document, including, but not limited to, any challenges to the legality of the City-Initiated Approvals and the associated CEQA document; or that the City's actions relating to the City-Initiated Approvals and the associated CEQA document, result in a breach of the AMA or the Option Agreement, or that Google in any way interfered with the City's contractual obligations owed to the SSE Parties, or City in approving the Project Approvals in any way violate or breach the AMA or Option Agreement. Nothing in this section is intended to release the Parties or any other person from any claim that is not related, directly or indirectly, to the City-Initiated Approvals and accompanying CEQA document or claim of violation or breach of the AMA or Option Agreement through and including the Effective Date as described herein. In making this release, SSE acknowledges that Section 1542 of the Civil Code of the State of California provides as follows:

> "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."



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SSE represents that it has read, understood and reviewed Civil Code Section 1542 with counsel, and that it hereby waives any and all present and future rights and benefits under Section 1542 to the extent it would permit claims based on facts found to be different from the facts believed to be true at the time this Settlement Agreement was executed.

7. Covenant Not to Sue. SSE on behalf of itself and the SSE Parties hereby covenants that it shall not sue or assist any other person or entity to sue or in any manner institute, prosecute, or pursue any litigation, arbitration, or administrative proceeding against any person or entity, based, in whole or in part, on the released claims set forth in Sections 5 and 6, respectively, above. For purposes of this Covenant Not to Sue, "assist" includes providing financial assistance or strategic or informational guidance or any other advice to any other party. This Agreement shall constitute, and may be pled as, a full and complete defense to, and may be used as basis for an injunction against, any civil action or suit, which may be instituted, prosecuted or maintained in breach of the terms contained in this Agreement. Nothing herein shall be construed to limit SSE's right to participate as a member of the public in reviewing and commenting on actions before the City with respect to Project implementation.

8. Ongoing Rights and Obligations under the AMA and Option Agreement. Nothing in this Agreement shall alter or limit the respective rights and obligations of City and SSE under the AMA or the Option Agreement, and nothing herein shall limit SSE's remedies in connection with any breach of the AMA by the City, other than as expressly provided herein.

9. Assuming the Risk. Upon entering this Agreement, each Party assumes the risk of mistakes, and if any Party should subsequently discover that its understanding of the facts or law was incorrect, such Party shall not be entitled to set aside this Agreement or any portion of it by reason thereof, or be entitled to recover any damages or obtain any other relief, or be entitled to any offset or recoupment by reason thereof. This Agreement is intended to be final and binding by and among the Parties regardless of any mistakes of fact or law, and any claims based upon any such mistakes shall not be actionable.

10. Material Inducement; Survival of Representation and Warranties. The Parties, individually and collectively, hereby acknowledge and agree that the representations and covenants contained in this Agreement are material inducements for each of them to enter into this Agreement. All representations and warranties contained in this Agreement shall survive its execution and the execution of any other documents required to be executed and delivered in accordance with the Agreement, but not the termination of this Agreement.

11. Legal Advice and Authority. The Parties warrant, represent and agree that in executing this Agreement, they do so with full knowledge of their rights, having had full opportunity to do whatever investigation they desired, and after having received independent legal advice from attorneys of their choosing with respect to all rights which are herein settled.

12. Attorneys' Fees; Litigation Expenses; and Costs. Each Party to this Agreement shall bear its own expenses and costs, including attorneys' fees, incurred with respect to the preparation of and any action brought to enforce the rights of a Party under this Agreement.



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13. Notice. In the event notice is required under this Agreement, notice shall be made by personal service or reputable overnight mail service. All notices shall be sent to the following:

**To Google:**

Google LLC
1600 Amphitheatre Parkway
Mountain View, Ca 94043
Attn: REWS Department / Downtown West SJ Project Executive

**With a Copy to:**

Coblentz Patch Duffy & Bass LLP
One Montgomery Street, Suite 3000
San Francisco, California 94104
Attention: Miles Imwalle

**To SSE:**

Sharks Sports & Entertainment LLC
525 W. Santa Clara Street
San Jose, CA 95113
Attention: Jonathan Becher

**With a Copy to:**

LMA Law, LLP
1 Almaden Blvd., Suite 700
San Jose, CA 95113
Attention: Lucy Lofrumento

**And to:**

Burke, Sorensen & Williams, LLP
1 California Street, Suite 3050
San Francisco, CA 94111
Attention: Anna Shimko

**To City:**

City of San José
Office of the City Attorney
200 E. Santa Clara Street, 16th Floor
San Jose, CA 95113

The Parties shall notify each other of changes in either their respective addresses or their representatives subject to notification in accordance with the provisions of this Section.

14. Authority to Enter Agreement. The Parties warrant that they have the full authority to enter into this Agreement. Where applicable, all corporate, organizational or other action necessary to authorize such execution has been taken and completed. The signatory of each Party to this Agreement has the full right and authority to commit and bind each respective Party, and all members and/or individuals related thereto, to the fullest extent of the law.

15. Governing Law; Venue. The Parties hereby agree that this Agreement is made, executed and entered into, and is intended to be formed within the State of California and that



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this Agreement is to be interpreted and enforced under the internal laws of the State of California without reference to choice of law or conduct of law provisions. Venue shall be in the County of Santa Clara.

16. Counterparts. This Agreement may be executed in counterparts, each of which is hereby declared to be an original. All, however, shall constitute but one and the same Agreement. In any action or proceeding, any photographic or other copy of this Agreement may be introduced into evidence.

17. Binding. This Agreement shall inure to the benefit of and be binding upon the heirs, representatives, predecessors, successors, and assigns of each of the Parties.

18. Complete Agreement. This Agreement contains the entire agreement and understanding concerning the subject matter herein and supersedes and replaces any and all prior negotiations and agreements between the Parties or any of them, whether written or oral. Each of the Parties acknowledges that no other party or agent or attorney of any other Party hereto has made any promise, representation, or warranty, express or implied, not contained herein, concerning the subject matter hereof, to induce any other Party hereto to execute this Agreement, and each Party hereto acknowledges that it, he, or she has not executed this Agreement in reliance on any such promise or representation or warranty not contained in this Agreement.

19. No Waiver. A waiver by one Party of a breach of any provision of this Agreement by any other Party hereto shall not operate or be construed as a waiver of any subsequent breach by such other Party.

20. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid under law, each such provision can be severed without invalidating the entire Agreement.

21. Neutrality. This Agreement is the product of negotiations and was drafted by all Parties; therefore, it shall not be construed in favor of or against any particular Party.

22. Modification. No supplement, modification, amendment or change in any terms of this Agreement shall be binding on the Parties unless in writing and executed by the Parties.

23. No Third Party Beneficiaries. Unless expressly stated herein, this Agreement is entered into for the sole benefit of the Parties, and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

24. No Admission of Liability. This Agreement is entered into by the Parties solely for the purpose of compromising and settling the matters in dispute. This Agreement, and the actions undertaken and statements made in connection with this Agreement, do not constitute, nor shall it be construed to be, an admission of liability or wrongdoing, directly or by implication, of the truth or validity or scope of any claims or assertions made by any Party.

25. Headings. The headings of this Agreement are for reference purposes only and shall not affect in any way the meanings or interpretations of this Agreement.



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26. Time is of the Essence. Time is of the essence in all aspects of the performance of the obligations hereunder.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the date below.

Date: May 25, 2021, 2021

**GOOGLE LLC, a Delaware limited liability company**

By: David Radcliffe (May 25, 2021 18:38 PDT)

Name: David Radcliffe

Title: Vice President of Real Estate and Workplace Services

Date: May 25, 2021, 2021

**SHARKS SPORTS & ENTERTAINMENT LLC, a Delaware limited liability company**

By: Jonathan Becher

Name: Jonathan Becher

Title: President

Date: May 25, 2021, 2021

**CITY OF SAN JOSE, A MUNICIPAL CORPORATION**

By: Nora Frimann
Nora Frimann (May 25, 2021 18:48 PDT)

Print Name: Nora Frimann



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Title: City Attorney

APPROVED AS TO FORM:

By: Johnny Phan (May 25, 2021 18:39 PDT)

Print Name: Johnny Phan

Title: Chief Deputy City Attorney



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**Attachment 1**

**Revised Exhibit K**



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## Exhibit K

### Downtown West Parking Requirements

**Recitals:**

A. This Exhibit is intended to ensure that sufficient parking is publicly-accessible within the Project site~~,~~ for the Project uses, and ~~*also*~~that those publicly-accessible spaces will provide sufficient "Available" parking (as defined below) for the SAP Center~~,~~ to help ensure consistency with the City's obligations under the Arena Management Agreement.

B. Today, approximately 2,850 Available surface parking spaces exist on property that will be redeveloped as part of the Downtown West project. Developer and the City anticipate the replacement of ~~approximately 2,850 existing *available* surface parking spaces on property that will be redeveloped as part of the Downtown West project~~that parking, and the development of at least 1,150 additional spaces (for a total of at least 4,000 publicly-accessible parking spaces) at full buildout of office space within the Downtown West project~~. *This would ensure the long-term sustainability of the SAP Center. These parking*~~, which spaces ~~*do not*~~ will all be located within 1/3 mile of the south entrance to the Arena (which radius shall be defined to include the entirety of the parking garage proposed to be located on Parcel F, as such Parcel is depicted in the DWDSG). These 4,000 parking spaces include the parking spaces existing on the property known as "Lots ABC" adjacent to the SAP Center, which currently contain 1,422 "Available" parking spaces, but exclude the up to 2,360 residential parking spaces to be included in the project. ~~*Terms*~~

C. The project will target 85% of said 4,000 publicly-accessible parking spaces (3,400 at full buildout) to be "Available" as defined below. This would help ensure the long-term sustainability of the SAP Center.

~~A.~~D. Unless otherwise indicated, terms that are used but not defined in this Exhibit shall have the meanings given to such terms in the body of the Development Agreement to which this Exhibit is attached. For purposes of this Exhibit K, a publicly-accessible parking space is "Available" if it is unoccupied and accessible to SAP Center customers on weekends and after 6:30 PM on weekdays, on SAP Center event days.

**Parking Requirements:**

1. Overall Requirements: Over the course of the development of the Project, Developer shall be required to provide publicly-accessible off-street parking spaces serving new office development at a cumulative ratio between 0.5 and 0.645 spaces for each 1,000 square feet of Floor Area (which shall mean eighty-five percent (85%) of the total gross floor area) of such office buildings (the "Required Parking Ratio"). At the point of full build out of office space within the Downtown West project, the Required Parking Ratio shall be 0.645 spaces, and the project shall provide at least 4,000 publicly-accessible spaces~~,~~ within 1/3 mile of the south entrance to the Arena (which radius shall be defined to include the entirety of the parking garage proposed to be located on Parcel F, as such Parcel is depicted in the



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DWDSG).

a. Once 4,000 publicly-accessible parking spaces are operational and in compliance with these terms, the Required Parking Ratio will no longer apply provided that the 4,000 publicly-accessible spaces shall be maintained as described herein.

b. Developer may construct up to 4,800 publicly-accessible parking spaces at its discretion; this parking would be reviewed as part of the Conformance Review process.

c. The Required Parking Ratio represents a reduction from standard City parking requirements, which would require as many as 15,500 spaces at Downtown Commercial parking ratios (2.5 spaces per 1,000 square feet of Floor Area), or 6,600 spaces with application of available standard parking reductions (1.06 spaces per 1,000 square feet of Floor Area). ~~The~~The City Council has determined that a Required Parking Ratio of 0.645 spaces per 1,000 square feet of Floor Area is warranted given the area's rich transit and mixed-use environment, sustainability and air quality imperatives, traffic reduction and City's multimodal goals, the fact that this parking is available to the public, and transportation demand management requirements.

d. The Required Parking Ratio is critical to serve the needs of the Project, as well as to replace parking currently utilized by transit riders and SAP Center patrons. -With this in mind, the commercial parking spaces will be publicly-accessible and priced to allow for maximum efficiency to support the SAP Center, as well as the multimodal goals of the City and Project.

    i. At 4,000 publicly-accessible commercial parking spaces, the ~~project targets~~Developer will target at least 85% of such spaces (3,400) to be Available for SAP Center event use.

e. If, over the course of the Development Agreement, some parking is found to be no longer warranted, the Director of PBCE may, in its sole discretion, reduce the Required Parking Ratio and/or overall amount without requiring an amendment to the Development Agreement or to this Exhibit.

f. ~~The~~Notwithstanding any reduction in the Required Parking Ratio approved by the Director as described above, the parking requirement must be satisfied in part through at least 2,850 publicly-accessible commercial spaces within the Project Site, including existing parking.

g. As an option to satisfy the requirement for the 2,851 to 4,000 publicly-accessible parking spaces set forth above (Section 1), Developer may deliver this parking either within the 1/3-mile radius of the south entrance to the SAP Center (which radius shall be defined to include the entirety of the parking garage proposed to be located on Parcel F, as such Parcel is depicted in the DWDSG) or through an Alternative Parking Arrangement.

    i. Alternative Parking Arrangement: If Developer determines that it will not provide any number of the remaining required parking spaces within the Project Site, then, in order to meet the Required Parking Ratio, the City shall



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have the right to designate additional land owned by the City and within ⅓ of a mile of the south entrance to the SAP Center (the "Additional Parking Property") for Developer to build additional parking spaces; Developer would then be required to build additional spaces on the Additional Parking Property, subject to obtaining appropriate environmental clearance and any discretionary approvals, as well as ensuring compliance with any contractual obligations of the City; provided, however, in no event would Developer be required to build parking spaces on the Additional Parking Property that, when aggregated with the publicly-accessible spaces located within the Project boundary, would exceed the Required Parking Ratio or 4,000 total spaces, as described above.~~¶~~

ii. In the event the Alternative Parking Arrangement results in designation by the City of ~~"Lot E"~~certain parcels located at St. John and N. Montgomery Streets north of the Arena (known as "Lot E") for the development of additional parking by Developer, subject to any necessary environmental clearance, nothing in this Exhibit shall preclude the City from complying with its obligations under the Arena Management Agreement with respect to Lot E~~, including regarding parking priority being provided for SAP Center event-related parking at least until June 30, 2025, which entity would manage the parking,~~ and/or any option agreements to purchase that property.

h. The City's Department of Transportation will review the design of parking facilities as part of a Vertical Conformance Review Application and may require one or more future Focused Local Transportation Analysis (Focused LTAs) to provide building-specific analysis as defined in the Conformance Review Implementation Guide.

i. Developer and SSE shall meet and confer regarding parking facility design during the schematic design and development process.

2. Phasing:~~-~~ The requirements below are to ensure that sufficient parking exists, at any given specific time, for the continued operational needs of the SAP Center, as well as the multimodal goals of the City and Project.

a. Compliance with this requirement shall be evaluated during the Conformance Review process for each office Building, and verified prior to issuance of Building Permits for each office Building.

i. Proposed parking spaces included as part of a previously approved Conformance Determination shall be counted to determine whether the Required Parking Ratio will be satisfied upon construction of the office building that is the subject of a Conformance Review. Surface parking spaces in the Project also shall be counted during the Conformance Review process to determine whether the Required Parking Ratio will be satisfied. For clarity, this means that, to determine whether the Required Parking Ratio will be satisfied, each Conformance Review for an office building shall account for (i) surface parking spaces in the Project, (ii) proposed parking spaces included in a previously approved Conformance Determination that have not yet been constructed, (iii) parking spaces



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already constructed as part of the Project, and (iv) the parking spaces included in the subject Conformance Review application. In the event a proposed office building or buildings would result in the elimination of existing surface parking spaces, the Conformance Review Application for that building shall not be denied for the temporary failure to satisfy the Required Parking Ratio during construction of the building or buildings if the Project would continue to provide a ratio of 0.5 spaces for each 1,000 square feet of Floor Area, and so long as the Required Parking Ratio is satisfied upon issuance of a Certificate of Occupancy for that office building or buildings.

ii. During the Conformance Review process, the Project will be required to confirm that at least 2,850 "Available" parking spaces will be maintained in aggregate within the Project boundary and within one-third (⅓)-mile radius of the south entrance to the SAP Center.

b. If the Project will result in a temporary failure to satisfy the Required Parking Ratio, as described in Section 2.a.i, for a single period that will exceed three (3) years, the City shall verify that its parking obligations to ensure a certain number of available parking spaces pursuant to the Arena Management Agreement continue to be met. If the City's obligations continue to be met, then the temporary failure of the project to satisfy the Required Parking Ratio may continue for another two (2) years, for a maximum of (5) years. After (5) years, Developer shall develop and obtain agreement from the City for one or more interim parking management strategies as part of the Parking Delivery Plan during construction. If, however, it is determined after the initial 3-year period that the City will not meet its parking obligations under the Arena Management Agreement due to temporary failure of the project to satisfy the Required Parking Ratio, Developer shall develop and obtain agreement from the City for one or more interim parking management strategies at that time.

~~c.~~ To the extent the Option Agreement for Lots A/B/C is exercised prior to 2040, the Developer must be in compliance with the Required Parking Ratio, subject to Section 2(a)(i), prior to beginning vertical development on Lots A/B/C. To the extent the existing Second Amended and Restated Arena Management Agreement between the City and San José Arena Management, LLC is terminated earlier than 2040 or at its scheduled expiration in 2040, Section 1d.i. and Section 2a.ii shall no longer apply.



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**Attachment No. 17**

**LIABILITY INSURANCE REQUIREMENTS RIDER**

This Attachment No. 17 ("**Attachment**") is attached to and made a part of that certain Third Amended and Restated Arena Management Agreement effective as of July 1, 2025 ("**Agreement**") between San Jose Arena Management, LLC ("**Manager**") and the City of San Jose ("**City**") with respect to the sports and entertainment arena located at 525 West Santa Clara Street, San Jose, California, 95113 ("**Arena**").

**I.** **ADDITIONAL INSUREDS**. As used in this Attachment, the term "**City Additional Insureds**" means City of San Jose, The San Jose Arena Authority, and their respective officials, employees, agents and contractors. The address for all City Additional Insureds is as follows:

City of San Jose – Finance Department
Risk and Insurance
200 East Santa Clara Street, 14th Floor
San Jose, CA 95113-1905

Email: riskmgmt@sanjoseca.gov

**II.** **POLICY REQUIREMENTS**. To the extent available on reasonably prudent business terms, during the entire Term of the Agreement, Manager, at no cost to City Additional Insureds, shall obtain and maintain insurance coverage satisfying at least all of the following minimum insurance requirements:

A. **General Liability**. The coverage provided by Insurance Services Office Commercial General Liability coverage form ("occurrence" form CG 0001) or its equivalent and, if necessary, an umbrella or excess policy or policies liability with a minimum limit of not less than $25,000,000 per occurrence and in the aggregate combined single limit for bodily injury and property damage, providing at least all of the following minimum coverages (with deductibles as permitted in standard NHL policies):

1. Premises Operations
2. Blanket Contractual
3. Products/Completed Operations
4. Broad Form Property Damage
5. Personal and Advertising Injury and Liability
6. Fire Legal Liability with a minimum limit of $100,000
7. Liquor Legal Liability with a minimum limit of not less than $25,000,000 per occurrence and in the aggregate. If Manager does not serve liquor in the Arena and all liquor vendors have obtained this liquor liability coverage of the same limits and scope, Manager may purchase excess liquor liability coverage in amounts reasonably acceptable to City in lieu of liquor liability coverage.



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If Manager uses an umbrella or excess liability policy to meet the commercial general liability policy limits, the excess liability coverage must follow form or provide coverage at least as broad as the required commercial general liability coverages.

B. **Business Auto**. A commercial auto policy with coverage provided by Insurance Services Office form number CA 0001 or its equivalent covering Automobile Liability with a minimum limit of not less than $1,000,000 combined single limit for bodily injury and property damage, providing at least all of the following coverages (without deductibles):

1. Coverages shall be applicable to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with the Agreement.

2. Any and all mobile equipment, including cranes, not covered under the above Business Auto policy shall have said coverage provided for under the Commercial General Liability policy.

C. **Workers' Comp**. A Worker's Compensation and Employers' Liability policy written in accordance with the laws of the State of California and providing coverage for any and all employees of Manager:

1. This policy shall provide coverage for Workers' Compensation (Coverage A).

2. This policy shall also provide coverage for $1,000,000 Employers' Liability (Coverage B).

D. **Endorsements**. The policies are to contain, or be endorsed to contain, the following provisions:

1. For General Liability (including Excess Liability) and Business Auto

   a. The City Additional Insureds are to be covered as additional insureds as respects: liability arising out of activities performed by, or on behalf of, Manager; products and completed operations of Manager; premises owned, leased or used by Manager; or automobiles owned, leased, hired or borrowed by Manager. A separate ENDORSEMENT evidencing coverage for the City Additional Insureds must be attached to the CERTIFICATE OF INSURANCE pursuant to Section IV below.

   b. Manager's liability policies shall be primary insurance as respects the City Additional Insureds, and any insurance or self-insurance maintained by the City Additional Insureds shall be excess of Manager's insurance and shall not contribute with it, with the following exceptions:

      (i) With respect to automobile policies, this primary insurance requirement shall apply only to owned vehicles.

      (ii) Any liability policy carried by City to cover claims arising out of the activities of off-duty San Jose police officers while performing services for Manager ("**Law Enforcement Liability Policy**") shall name Manager as an additional insured in accordance with the terms thereof. The policy terms shall specifically note that the



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term "Insured" shall be amended to include third-party employers approved in writing by the third-party employment division of the named insured (City of San Jose Secondary Employment Unit), but only for wrongful acts of approved employees of the named insured in the performance of their duties for that approved third-party employer.

c. Coverage shall state that Manager's insurance shall apply separately to each insured against whom claim is made or suit is brought. However, this will not act to increase the limits of the insurer's liability.

d. Coverage shall contain a waiver of subrogation in favor of the City Additional Insureds.

2. For All Coverages

Each insurance policy required by this Section II shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice has been given to the City of San Jose; except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium.

E. **Acceptability of Insurance.** All required policies shall be placed with insurers of an A.M. Best's Rating of A-, VII or greater or as otherwise acceptable to the City's Risk Manager.

**III. CONTRACT REQUIREMENTS**. Manager shall cause its tenants, concessionaires, service contractors and others performing work or services in or about the Arena ("**Contractors**") to procure and maintain policies of insurance in conformance with the following:

A. **Minimum Required Coverages**. The policies to be maintained shall have the same coverages but not necessarily the same amounts (but no less than $1,000,000 per occurrence for commercial general liability insurance), in accordance with the hazards and risks associated with the products and/or services to be provided by the applicable Contractor, consistent with industry standards for similar projects in Northern California.

B. **Additional Insureds**. Said policies shall include the City Additional Insureds as additional Insureds in accordance with the requirements described above.

**IV. EVIDENCE OF INSURANCE.** With the exception of insurance required for Contractors under Section III above (which shall be provided only upon request of City), Manager shall furnish City with evidence of the required coverages by delivering CERTIFICATES OF INSURANCE, including attached ENDORSEMENTS affecting coverage as required by this clause, via email or U.S. Mail to the address for City's Finance Department provided in Section I above.



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**ATTACHMENT NO. 18**

**SCHEDULE OF PERMITTED TITLE EXCEPTIONS**

1. General and special taxes and assessments for the fiscal year 2025-2026, a lien not yet due or payable.

2. General and special taxes and assessments for the fiscal year 2024-2025 are exempt. If the exempt status is terminated an additional tax may be levied. A.P. No.: 259-28-041, 259-28-043, 259-28-044 and 259-37-060.

3. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.

4. An easement for existing sewer line and access to the existing sewer line and the right to connect thereto and incidental purposes, recorded January 10, 1975 in Book B239, Page 736 of Official Records.

| | |
|---|---|
| In Favor of: | Donald W. Anderson and Evelyn Anderson, his wife, and Robert H. Geisler, a single man |
| Affects: | Refer to said document for full particulars |

The location of the easement cannot be determined from record information.

5. The fact that the land lies within the boundaries of the Julian-Stockton Redevelopment Project Area, as disclosed by the document recorded August 19, 1976 as Instrument No. 5385675 in Book C226, Page 510 of Official Records.

Document(s) declaring modifications thereof recorded November 03, 1980 as Instrument No. 6889963 in Book F704, Page 273 of Official Records.

Document(s) declaring modifications thereof recorded November 03, 1980 as Instrument No. 6889964 in Book F704, Page 294 of Official Records.

Document(s) declaring modifications thereof recorded November 03, 1980 as Instrument No. 6889965 in Book F704, Page 297 of Official Records.

Document(s) declaring modifications thereof recorded October 08, 1981 as Instrument No. 7184873 in Book G382, Page 605 of Official Records.

Document(s) declaring modifications thereof recorded December 17, 1987 as Instrument No. 9542441 in Book K394, Page 149 of Official Records.

Document(s) declaring modifications thereof recorded May 05, 1988 as Instrument No. 9680089 in Book K524, Page 526 of Official Records.

Document(s) declaring modifications thereof recorded May 05, 1988 as Instrument No. 9680090 in Book K524, Page 532 of Official Records.



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Document(s) declaring modifications thereof recorded October 09, 2007 as Instrument No. 19609005 of Official Records.

6. This item has been intentionally deleted.

7. The terms and provisions contained in the document entitled "Memorandum of Management Agreement" recorded April 07, 1992 as Instrument No. 11305489 in Book M129, Page 1451 of Official Records.

As amended by that certain Amendment to Memorandum of Management Agreement recorded August 16, 2018 as Instrument No. 24004423, Official Records.

8. A Deed of Trust to secure an original indebtedness of $35,000,000.00 recorded February 22, 1993 as Instrument No. 11784104 in Book M635, Page 1650 of Official Records.

| | |
|---|---|
| Dated: | February 19, 1993 |
| Trustor: | San Jose Arena Management Corp., a California corporation |
| Trustee: | First American Title Insurance Company, a California corporation |
| Beneficiary: | Nationsbank of North Carolina, National Association, as agent for and on behalf of Nationsbank of North Carolina, National Association, Comerica Bank-California and the Fuji Bank, LTD., San Francisco Agency |

9. The interest, if any, of Southern Pacific Transportation Co., by reason of a gap between Parcels 1 and 2 described in Final Order of Condemnation:

| | |
|---|---|
| Recorded: | June 27, 1995 |
| Book: | N898 |
| Page: | 567 |
| Affects: | Portion of APN 259-28-044 |

10. The terms and provisions contained in the document entitled "Covenant to Restrict Use of Property Environmental Restriction" recorded May 23, 2003 as Instrument No. 17062264 of Official Records.

11. The effect of a map purporting to show the land and other property, filed February 11, 2019 in Book 921, Page 6 and 7 of Record of Surveys.

12. This item has been intentionally deleted.

13. This item has been intentionally deleted.

14. Rights of parties in possession.



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**ATTACHMENT NO. 19**

**STIPULATION FOR ENTRY OF FINAL JUDGMENT**

Deirdre Joan Cox
Burke, Williams & Sorensen, LLP
One California Street, Suite 3050
San Francisco, CA 94111
Tel: 415.655.8100
**Attorneys for Defendants**
**San Jose Arena Management, LLC**
**San Jose Sharks, LLC**

[Insert Name]
Office of the City Attorney
City of San Jose
200 E. Santa Clara St., Fl. 16
San Jose, CA 95113-1905
Tel: 408.535.1202
**Attorneys for Plaintiff**
**City of San Jose**

**NO FEE PURSUANT TO GOV. CODE SECTION 6103**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA, CIVIL DIVISION

UNLIMITED JURISDICTION

| | |
|---|---|
| CITY OF SAN JOSE, a California municipal corporation,<br><br>Plaintiff,<br><br>vs.<br><br>SAN JOSE ARENA MANAGEMENT, LLC, a Delaware limited liability company; SAN JOSE SHARKS, LLC, a Delaware limited liability company; and DOES 1 through 5 inclusive,<br><br>Defendants. | Case No.<br><br>**STIPULATION FOR ENTRY OF FINAL JUDGMENT AND INJUNCTION** |

The City of San Jose ("**City**"), San Jose Arena Management, LLC ("**Manager**") and San Jose Sharks, LLC ("**SJS LLC**") (individually, a "**Party**" and collectively, the "**Parties**"), hereby stipulate as follows:

1. Manager and SJS LLC are both subsidiaries of Sharks Sports & Entertainment, LLC ("**SSE**"). For purposes of this Stipulation for Entry of Final Judgment and Injunction ("**Stipulation**"), a reference to the "**Affiliates**" of Manager or SJS LLC means SSE and any other



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person or entity that, directly or indirectly, controls, is controlled by, or is under common control with SSE or any of its subsidiaries.

2. City and Manager are parties to that certain Third Amended and Restated Arena Management Agreement dated as of July 1, 2025 ("**Arena Agreement**"), pursuant to which City has leased to Manager an arena and related facilities (collectively, "**Arena**") for use as a sports and entertainment venue. The term ("**Term**") of the Arena Agreement is 26 years, expiring on June 30, 2051. The Term is subject to termination prior to June 30, 2051, under certain circumstances as specified in the Arena Agreement.

3. SJS LLC is the owner of the San Jose Sharks professional hockey team ("**San Jose Sharks**"). SJS LLC and Manager are parties to a Hockey Use Agreement dated as of October 24, 1991, as amended ("**Hockey Use Agreement**"), pursuant to which they have agreed that the Arena shall be the home game facility for the San Jose Sharks. City is a third party beneficiary of certain provisions of the Hockey Use Agreement.

4. The Arena Agreement and the Hockey Use Agreement both require that the San Jose Sharks play most of their home games at the Arena throughout the Term of the Arena Agreement.

5. The Arena Agreement includes additional provisions to the effect of the following:

A. City and Manager agree to jointly undertake and fund a major renovation of the Arena ("**Renovation Project**"), in consideration of their mutual covenants under the Arena Agreement and the covenants of Manager and SJS LLC under the Hockey Use Agreement to continue using the Arena as the home game facility for the San Jose Sharks throughout the Term of the Arena Agreement.

B. Notwithstanding the foregoing, following the completion of the Renovation Project, Manager may elect to vacate the Arena and terminate the Arena Agreement and the Hockey Use Agreement (and SJS LLC may relocate the San Jose Sharks to a venue outside of the City of San Jose) prior to the expiration of the 26-year Term, subject to the provisions of Section 5.2 of the Arena Agreement (the "**Early Termination Provision**"). A copy of the Early Termination Provision is attached hereto as **Exhibit A**.



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C. Among other things, the Early Termination Provision requires Manager to (i) give City a "**3-Year Revocable Notice**" and a "**2-Year Irrevocable Notice**" (as defined therein) in advance of such early termination, and (ii) pay City a fee ("**Early Termination Fee**") in an amount specified by a schedule attached to the Arena Agreement ("**Schedule of Financial Terms**") within the time period specified in the Early Termination Provision. A copy of the Schedule of Financial Terms is attached hereto as **Exhibit B**.

D. Manager's exercise of its election to vacate the Arena and terminate the Arena Agreement and the Hockey Use Agreement prior to the expiration of the Term shall not be a default under the Arena Agreement. However, any attempt by Manager or SJS LLC, directly or indirectly (through any of their Affiliates) to relocate the San Jose Sharks to a venue outside of the City of San Jose without first paying the Early Termination Fee if and when due under the Early Termination Provision (a "**Disallowed Relocation**") shall be a non-monetary default under the Arena Agreement for which City shall be entitled to injunctive relief under Section 38.3.1 of the Arena Agreement, it being agreed that the award of monetary damages alone is an unsatisfactory remedy for such non-monetary default.

E. In the event of an attempted Disallowed Relocation, City will be entitled to obtain a final judgment ("**Final Judgment**") ordering that Manager and SJS LLC shall not directly or indirectly (through any of their Affiliates) (i) vacate the Arena, (ii) terminate the Arena Agreement or the Hockey Use Agreement, or (iii) relocate the San Jose Sharks to a venue outside of the City of San Jose, unless and until the Early Termination Fee is paid to City.

6. City will be entitled to deliver a fully executed copy of this Stipulation to the Court and cause entry of the Final Judgment, upon the satisfaction of all of the following conditions ("**Conditions Precedent**"):

A. A Triggering Event (defined below) has occurred.

B. The San Jose City Council has adopted a resolution ("**Council Resolution**") that: (a) sets forth findings specifying (i) the Triggering Event that has



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occurred, (ii) the date that the Arena Agreement has been or will be terminated as a result thereof, and (iii) the amount of the Termination Fee due as a result of such Triggering Event; and (b) delegates to the City Manager the authority to negotiate alternative payment arrangements with Manager.

C. City has given Manager written notice ("**Enforcement Notice**") stating that (i) City intends to cause entry of the Final Judgment, which Enforcement Notice shall be accompanied by a copy of the Council Resolution; and (ii) City will provide Manager with the opportunity, during a 60-day period prior to the entry of such Final Judgment, to negotiate with City in good faith for payment arrangements in lieu of entry of the Final Judgment.

D. During a period of 60 days following delivery of the Enforcement Notice, City has provided Manager with the opportunity to negotiate with City in good faith for payment arrangements in lieu of entry of the Final Judgment, but the parties were not able to come to an agreement regarding such alternative arrangements.

E. The City Attorney has delivered to the Escrow Agent a written certification ("**Certification**") confirming that the Conditions Precedent described in clauses A., B., C., and D. above have been satisfied, which certification attaches true and correct copies of the Council Resolution and the Enforcement Notice.

7. As set forth in Section 38.3.2 of the Arena Agreement, a "**Triggering Event**" means any of the events listed in this Paragraph 7 below (with the terms "**Potential Event of Default**" and "**Notice of Potential Event of Default**" having the definitions given in Section 38.1.1(j) of the Arena Agreement, a copy of which section is attached hereto as **Exhibit C**):

A. Manager has delivered a 2-Year Irrevocable Notice and has thereafter failed to pay the Early Termination Fee designated in the Schedule of Financial Terms within the time provided in the Early Termination Provision; or

B. City has given Manager a Notice of Potential Event of Default under Section 38.1.1(j)(ii) of the Arena Agreement (regarding Manager's failure to give City adequate assurances that SSE is not planning to relocate the San Jose Sharks to another


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city), Manager has failed to cure such Potential Event of Default within 60 days, and pursuant to the Notice of Potential Event of Default City has elected to terminate the Arena Agreement; or

C. City has given Manager a Notice of Potential Event of Default under Section 38.1.1(j)(iii) of the Arena Agreement (regarding a material breach of the Ownership Warranties set forth in Section 36.1.2 of the Arena Agreement), Manager has failed to cure such Potential Event of Default within 60 days, and pursuant to the Notice of Potential Event of Default City has elected to terminate the Arena Agreement; or

D. City has given Manager a Notice of Potential Event of Default under Section 38.1.1(j)(iv) of the Arena Agreement (regarding a material breach of the Hockey Use Agreement), Manager has failed to cure such Potential Event of Default within 60 days, and pursuant to the Notice of Potential Event of Default, City has elected to terminate the Arena Agreement.

8. Concurrently with the filing of this Stipulation with the Court, and as a prerequisite for the entry of the Final Judgment, City shall file a Verified Complaint in this matter with the Court pursuant to California Code of Civil Procedure Sections 525, *et seq.* (regarding injunctions), which Verified Complaint shall include, among other things, substantially the following allegations:

A. That one or more Triggering Events has occurred (which allegation shall describe with reasonable specificity the nature of the Triggering Event(s) and the facts of each one);

B. That as a result of the Triggering Event(s), the Arena Agreement has been or will be terminated as of a certain date (which allegation shall specify such termination date);

C. That City has not received a Notice of Potential Event of Default by Manager regarding any Potential Event of Default that has not been cured by City within the Applicable Cure Period (all as defined in the Arena Agreement);

D. That there have been no events (including without limitation any casualty or condemnation) that, pursuant to the express terms of the Arena Agreement, would permit



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Manager to terminate the Arena Agreement prior to the expiration of the Term, without payment of an Early Termination Fee;

E. That in connection with the termination of the Arena Agreement because of a Triggering Event, Manager is now required to pay City an Early Termination Fee, but has failed to do so (which allegation shall specify the amount of the Early Termination Fee that is payable, which amount shall be the same as the amount specified in the Council Resolution);

F. That all of the Conditions Precedent (as defined in Paragraph 6.C above) have been satisfied (which allegation shall include references to the Council Resolution, the Enforcement Notice and the Certification described above, copies of which shall be attached to the Verified Complaint); and

G. That as a result of the foregoing, City is entitled to an order enjoining Manager and SJS LLC from directly or indirectly (through any of their Affiliates) (i) vacating the Arena, (ii) terminating the Arena Agreement or Hockey Use Agreement, or (iii) relocating the San Jose Sharks to a venue outside of the City of San Jose, without first paying the Early Termination Fee in the amount specified in the Council Resolution.

9. Following the filing of City's Verified Complaint and this Stipulation with the Court, the Parties hereby consent to the entry of the Final Judgment by the Court substantially in the form attached hereto as **Exhibit D**, and without trial or finding of any issue of fact or law.

10. This Court has jurisdiction over the subject matter of this lawsuit and over the Parties, and venue is proper in this Court.

11. Manager and SJS LLC, at all relevant times, have transacted business in the County of Santa Clara and elsewhere in the State of California.

12. The terms of this Stipulation and the Final Judgment shall be governed by the laws of the State of California.

13. No changes to or modifications of this Stipulation shall be valid unless set forth in writing and executed by all Parties hereto.

14. City may assert any claim that Manager or SJS LLC has violated the Final



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Judgment in a separate civil action to enforce compliance with the Final Judgment, or may seek any other relief afforded by law for violations of the Final Judgment.

15. The Parties agreed to enter into this Stipulation regarding the Triggering Event(s) as a condition of their mutually negotiated Arena Agreement and in order to avoid significant expense, inconvenience, and uncertainty arising from any Disallowed Relocation, which is a non-monetary default by Manager under the Arena Agreement.

16. This Stipulation and the Final Judgment shall not be construed or used as a waiver or limitation of any legal right, remedy, or defense otherwise available to the Parties in any claim or action, including any claim or action relating to the Arena Agreement or the Hockey Use Agreement, other than with respect to the Triggering Event(s) and Disallowed Relocation.

17. This Stipulation is made and filed with the Court, and the Final Judgment shall be entered by the Court, without trial or adjudication of any issue of fact or law, or finding of liability of any kind.

18. It is the intent of the Parties that neither this Stipulation nor the Final Judgment shall be admissible as evidence supporting liability or any other factual finding in other cases or binding against either Party in any respect other than in connection with the enforcement of the Final Judgment.

19. No part of this Stipulation or the Final Judgment shall create a private cause of action or confer any right to any third party for violation of any federal or state statute.

20. All Notices under this Stipulation or the Final Judgment shall be provided to the Parties at the following addresses:

| Plaintiff: | Defendants: |
|---|---|
| Office of City Manager<br>City of San Jose<br>200 E. Santa Clara St., 17th Floor<br>San Jose, CA 95113<br>Attn: Director of Economic Development | San Jose Arena Management, LLC<br>San Jose Sharks, LLC<br>525 West Santa Clara St.<br>San Jose, CA 95113<br>Attn: President |



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With a copy to:

Office of City Attorney
City of San Jose
200 E. Santa Clara St., 16th Foor
San Jose, CA 95113
Attn: City Attorney

With a copy to:

San Jose Arena Management, LLC
San Jose Sharks, LLC
525 West Santa Clara St.
San Jose, CA 95113
Attn: General Counsel

21. The Final Judgment may be entered by any judge of the Santa Clara County Superior Court. The Parties will accept notice of entry of judgment entered in this action by delivery of such notice to the notice addresses set forth in the Final Judgment, and agree that such service of notice of entry of judgment will be deemed personal service upon them for all purposes.

The Parties consent to entry of the attached Final Judgment by the Court, and the Parties waive their respective rights to a noticed motion, hearing, or trial. The Parties agree that the Final Judgment shall be entered and become final for all purposes upon entry thereof, and each Party to this Stipulation waives any right to appeal therefrom.

**Plaintiff Signatures:**

Date Signed: _____, 2025

**CITY OF SAN JOSE**

By: _____
[Insert Name]
[Insert Title]

Date Signed: _____, 2025

**APPROVED AS TO FORM:**

By: _____
[Insert Name]
[Insert Title
Attorneys for City of San Jose

**[Defendant signatures appear on next page.]**



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**Defendant Signatures:**

Date Signed: _____, 2025

**SAN JOSE ARENA MANAGEMENT, LLC**

By: _____
Jonathan D. Becher
President

Date Signed: _____, 2025

**SAN JOSE SHARKS, LLC**

By: _____
Jonathan D. Becher
President

Date Signed: _____, 2025

**APPROVED AS TO FORM:**

By: _____
Deirdre Joan Cox
Burke, Williams & Sorensen, LLP
Attorneys for Defendants



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**EXHIBIT A**

**EARLY TERMINATION PROVISION**

**[Attached]**



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**Copy of Arena Agreement Section 5.2:**

**5.2 Manager's Termination Rights.** Although SSE currently intends that the San Jose Sharks will remain in San Jose for the entire Term of this Agreement, the Parties acknowledge that an unforeseen change in circumstances may occur in the future such that SSE and/or SJS LLC may decide to relocate the San Jose Sharks to a different city in which case Manager would terminate this Agreement prior to expiration of the Term.

5.2.1 Early Termination Right. Subject to Section 5.2.2., following the Renovation Project End Date (defined in the Renovation Agreement), but not before June 30, 2031, Manager, in its sole and absolute discretion, shall have the right ("**Early Termination Right**") to vacate the Arena and terminate this Agreement (and Manager and SJS LLC may elect to terminate the Hockey Use Agreement) prior to the expiration of the Term, upon Manager giving irrevocable notice of termination ("**2-Year Irrevocable Notice**") at least two (2) full Fiscal Years in advance of the early termination date designated in the notice "**Early Termination Date**") (which Early Termination Date shall be at the end of a Fiscal Year); provided, however, that Manager shall have first given a revocable notice of its intent to terminate ("**3-Year Revocable Notice**") at least three (3) full Fiscal Years in advance of the Early Termination Date. For example, if Manager wishes to terminate this Agreement (and the Hockey Use Agreement) on an Early Termination Date of June 30, 2043, then Manager must give City a 3-Year Revocable Notice by June 30, 2040, and a 2-Year Irrevocable Notice by June 30, 2041.

(a) Within twelve (12) months after giving its 2-Year Irrevocable Notice (i.e., at least 12 months prior to the Early Termination Date), Manager shall pay to City an early termination fee ("**Early Termination Fee**") in accordance with the schedule shown on **Attachment No. 6** ("**Schedule of Financial Terms**"), with the amount payable being the figure shown on the same line as the Term Year ending on the Early Termination Date. For example, if the Early Termination Date is June 30, 2043, then the Early Termination Fee would be payable no later than June 30, 2042, in the amount of $119,552,750.

(b) Notwithstanding the foregoing, an Early Termination Fee will not be payable if Manager is expressly permitted to terminate this Agreement without payment of an Early Termination Fee pursuant to the terms of this Agreement.

(c) City and Manager acknowledge and agree that in determining the amount of the Early Termination Fee (i) they have exercised care to make a reasonable forecast of direct losses that may arise from the early termination of this Agreement and relocation of the San Jose Sharks to a different city and, (ii) such reasonable forecast of direct losses is not exact given that it would be infeasible to estimate such losses with precision, including due to the intangible nature of some of such losses and the number of residents and businesses that rely upon the presence of the San Jose Sharks in the City, and (iii) they have considered (A) the City's financial contributions to the Renovation Project; (B) the City's loss of revenue streams attributable to the San Jose Sharks operations; and (C) the detrimental effects of an early termination of this Agreement and relocation of the San Jose Sharks, including the loss of (1) intangible civic, social, and quality of life benefits, (2) national and international exposure, and (3) revenues and other direct and indirect economic and fiscal benefits.



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(d) City and Manager further agree that Manager's election to exercise its right to vacate the Arena and terminate this Agreement (and the Hockey Use Agreement) prior to the expiration of the Term shall not be an Event of Default under this Agreement. Therefore, Manager's exercise of said Early Termination Right shall not entitle City to any injunctive relief, monetary damages, or any other remedies, other than the right to receive the Early Termination Fee as and when required by this Agreement. However, in order to help ensure the enforceability of the Early Termination Fee, the Parties agree that for the purposes of this Agreement the Early Termination Fee shall be construed as liquidated damages and not as a penalty.

(e) Consistent with the foregoing, City and Manager agree that the Early Termination Fee is a reasonable estimate of the losses to City resulting from an early termination of this Agreement and relocation of the San Jose Sharks and that payment of such amount as liquidated damages is not intended as a forfeiture or penalty within the meaning of California Civil Code Sections 3275 or 3369, but is intended to constitute liquidated damages to City pursuant to California Civil Code Section 1671. If the City collects an Early Termination Fee hereunder in connection with an early termination of this Agreement and relocation of the San Jose Sharks, the City hereby waives the right to collect, and shall not seek to collect, any additional monetary or other damages under this Agreement or the Hockey Use Agreement from SSE, Manager, or SJS LLC.

(f) As set forth in Section 38 below, if Manager fails to pay the Early Termination Fee as and when required by this Agreement, such failure shall be an Event of Default as defined in Section 38.1.1, in which case City shall be entitled to immediately exercise its remedies under Section 38.3, including the right to the entry of a Stipulated Judgment as described in Section 38.3.2.

5.2.2 Extraordinary Termination Right. Notwithstanding anything in this Agreement to the contrary, if (i) Manager or any other party develops a new arena located within the City's jurisdictional limits, and (ii) SJS LLC enters into an agreement to have the San Jose Sharks NHL hockey team play its Home Games at such new arena on the terms and conditions set forth in Section 3.1.2(a) of this Agreement, then Manager may terminate this Agreement on the date that the new arena is substantially completed, without giving a 3-Year Revocable Notice or a 2-Year Irrevocable Notice.

(a) In the event of such termination of this Agreement, Manager shall not be required to pay an Early Termination Fee; provided, however, that if the San Jose Sharks move their Home Games to a location outside of the City's jurisdictional limits prior to June 30, 2047, then Manager shall be required to pay City an Early Termination Fee in accordance with the attached Schedule of Financial Terms. Manager's obligations under this Section 5.2.2(a) shall survive termination of this Agreement.

(b) The Parties anticipate that prior to construction of a new arena, other relevant terms and conditions regarding the disposition of the existing Arena Facilities and the use of the new arena will be determined.



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**EXHIBIT B**

**SCHEDULE OF FINANCIAL TERMS**

**[Attached]**



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ATTACHMENT NO. 6

SCHEDULE OF FINANCIAL TERMS

| | Fiscal Year (7/1 to 6/30) | City Funding for Renovation Costs (Due 3/1) | Manager Funding for Renovation Costs (Sample spread over 10 yrs) | Manager Payments for City's Debt Service (Due 4/1) | Manager Payments for Capital Reserve Fund (Due 8/1) | City Payments for Capital Reserve Fund (Due 8/1) | Manager Payments for City Events Fund (Due 8/1) | Manager Payments for Sharks Community Fund (Due 8/1) | City Liquidated Damages (Due 60 days after Notice of Funding Breach) | Manager Early Termination Fee (Due 6/30 one year before end of applicable Fiscal Year) |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | FY 25-26 | | 7,500,000 | | 1,420,000 | 2,300,000 | 100,000 | 375,000 | | 100,000,000 |
| 2 | FY 26-27 | 70,000,000 | 7,500,000 | | | | 100,000 | 375,000 | 200,000,000 | 100,000,000 |
| 3 | FY 27-28 | 70,000,000 | 7,500,000 | 8,333,333 | | | 100,000 | 375,000 | 190,000,000 | 250,702,678 |
| 4 | FY 28-29 | 70,000,000 | 7,500,000 | 8,333,333 | | | 100,000 | 375,000 | 180,000,000 | 250,702,678 |
| 5 | FY 29-30 | 70,000,000 | 7,500,000 | 8,333,333 | | | 100,000 | 375,000 | 140,000,000 | 239,307,102 |
| 6 | FY 30-31 | 70,000,000 | 7,500,000 | | | | 100,000 | 375,000 | 70,000,000 | 548,881,874 |
| 7 | FY 31-32 | | 7,500,000 | | | | 100,000 | 375,000 | | 521,437,781 |
| 8 | FY 32-33 | | 7,500,000 | | | | 100,000 | 375,000 | | 493,993,687 |
| 9 | FY 33-34 | | 7,500,000 | | 500,000 | | 100,000 | 375,000 | | 366,549,593 |
| 10 | FY 34-35 | | 7,500,000 | | 1,000,000 | | 100,000 | 375,000 | | 339,105,500 |
| 11 | FY 35-36 | | | | 1,500,000 | | 100,000 | 375,000 | | 311,661,406 |
| 12 | FY 36-37 | | | | 2,000,000 | | 100,000 | 375,000 | | 284,217,312 |
| 13 | FY 37-38 | | | | 2,000,000 | | 100,000 | 375,000 | | 256,773,218 |
| 14 | FY 38-39 | | | | 2,000,000 | 500,000 | 100,000 | 375,000 | | 229,329,125 |
| 15 | FY 39-40 | | | | 2,000,000 | 1,000,000 | 100,000 | 375,000 | | 201,885,031 |
| 16 | FY 40-41 | | | | 2,000,000 | 1,750,000 | 100,000 | 375,000 | | 174,440,937 |
| 17 | FY 41-42 | | | | 2,000,000 | 2,250,000 | 100,000 | 375,000 | | 146,996,843 |
| 18 | FY 42-43 | | | | 2,000,000 | 2,500,000 | 100,000 | 375,000 | | 119,552,750 |
| 19 | FY 43-44 | | | | 2,000,000 | 2,750,000 | 100,000 | 375,000 | | 92,108,656 |
| 20 | FY 44-45 | | | | 2,000,000 | 3,000,000 | 100,000 | 375,000 | | 64,664,562 |
| 21 | FY 45-46 | | | | 2,000,000 | 3,090,000 | 100,000 | 375,000 | | 37,220,469 |
| 22 | FY 46-47 | | | | 2,000,000 | 3,182,700 | 100,000 | 375,000 | | 9,776,375 |
| 23 | FY 47-48 | | | | 2,000,000 | 3,278,181 | 100,000 | 375,000 | | |
| 24 | FY 48-49 | | | | 2,000,000 | 3,376,526 | 100,000 | 375,000 | | |
| 25 | FY 49-50 | | | | 2,000,000 | 3,477,822 | 100,000 | 375,000 | | |
| 26 | FY50-51 | | | | | | 100,000 | 375,000 | | |
| | Totals | 350,000,000 | 75,000,000 | 25,000,000 | 32,420,000 | 32,455,230 | 2,600,000 | 9,750,000 | | |



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Notes to Schedule of Financial Terms:

1. SSE's annual payments toward Renovation Costs may vary based on the amounts SSE determines to be needed for each phase of work, so long as SSE contributes at least $75,000,000 prior to June 30, 2035. Renovation Costs incurred by SSE prior to July 1, 2025, in an amount not to exceed $7 Million, will be counted towards SSE's total contribution obligation.
2. Currently, major construction work is anticipated to be completed by June 30, 2033.



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**EXHIBIT C**

**POTENTIAL EVENT OF DEFAULT**

**[Attached]**



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**Copy of Arena Agreement Section 38.1(j):**

(j) "**Potential Event of Default**" means a failure by Manager or City to perform or observe any of the covenants, terms, and provisions contained in this Agreement (including the sections of the Renovation Agreement referenced below) on its part to be performed or observed (other than the matters constituting an Insolvency Default), and includes the happening of any of the following:

(i) Manager fails to pay any part of the Arena Fees as and when required under this Agreement;

(ii) City has given Manager notice that it believes SJAM is planning to vacate the Arena and/or that SJS LLC is planning to relocate the San Jose Sharks to another city without giving the required advance notice or paying the Early Termination Fee, and within sixty (60) days after receipt of such notice Manager has not provided City with written adequate assurances (including reasonable evidence) that such vacation and/or relocation is not being planned;

(iii) There is a material breach of Manager's representations and warranties set forth in Section 36.1;

(iv) There is a material breach of the Hockey Use Agreement in violation of Section 3.1.2(b) of this Agreement;

(v) City fails to make a required payment of Renovation Costs as and when required under Article V of the Renovation Agreement;

(vi) City fails to reimburse Manager for Incremental TPMP Costs as and when required under Section 23.1.7;

(vii) City fails to acquire ownership or legal control of Parcels 4 and 5 of Lot E by the Lot E Acquisition Deadline as described in Section 19.4.1;

(viii) City fails to meet the Minimum Off-Site Parking Requirements, the remedy for which is set forth in Section 38.2.2 below; or

(ix) There is a material breach of City's representations and warranties set forth in Section 36.2.

For avoidance of doubt, Manager's exercise of its Early Termination Right and timely payment of the Early Termination Fee to City in accordance with the requirements of Section 5.2.1, shall not be considered a Potential Event of Default or an Event of Default under this Agreement.



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**EXHIBIT D**

**AGREED FORM OF FINAL JUDGMENT**

**[Attached]**



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Deirdre Joan Cox
Burke, Williams & Sorensen, LLP
1 California Street, Suite 3050
San Francisco, CA 94111
Tel: 415.655.8100
**Attorneys for Defendants**
**San Jose Arena Management, LLC**
**San Jose Sharks, LLC**

[Insert Name]
Office of the City Attorney
200 E. Santa Clara St., Fl. 16
San Jose, CA 95113-1905
Tel: 408.535.1202
**Attorneys for Plaintiff**
**City of San Jose**

**NO FEE PURSUANT TO GOV. CODE SECTION 6103**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA, CIVIL DIVISION

UNLIMITED JURISDICTION

| | |
|---|---|
| CITY OF SAN JOSE, a California municipal corporation,<br><br>Plaintiff,<br><br>vs.<br><br>SAN JOSE ARENA MANAGEMENT, LLC, a Delaware limited liability company; SAN JOSE SHARKS, LLC, a Delaware limited liability company; and DOES 1 through 5 inclusive,<br><br>Defendants. | Case No.<br><br>**FINAL JUDGMENT AND INJUNCTION** |

Plaintiff, the City of San Jose ("**City**") has filed a Verified Complaint for an injunction pursuant to California Code of Civil Procedure Sections 525, *et seq.*, to enforce certain obligations of Defendant San Jose Arena Management, LLC ("**Manager**") and Defendant San Jose Sharks, LLC ("**SJS LLC**") under that certain Third Amended and Restated Arena Management Agreement dated as of July 1, 2025, between City and Manager ("**Arena Agreement**") and that certain Hockey Use Agreement dated as of October 24, 1991, as amended, between Manager and SJS LLC ("**Hockey Use Agreement**").



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Said Verified Complaint, which was made pursuant to that certain Stipulation for Entry of Final Judgment and Injunction ("**Stipulation**") executed by City, Manager, and SJS LLC (individually, a "**Party**" and collectively, the "**Parties**"), seeks the entry of this Final Judgment and Injunction ("**Final Judgment**") by the Court without trial or adjudication of any issue of fact or law, and without finding or admission of wrongdoing or liability of any kind.

The Court having considered the allegations in the Verified Complaint and the provisions of the Stipulation executed by the Parties, and good cause appearing,

IT IS HEREBY ORDERED THAT:

Defendants Manager and SJS LLC shall be prohibited from doing any of the following, either directly or indirectly (through any of their Affiliates): (i) vacating the Arena; (ii) terminating the Arena Agreement or Hockey Use Agreement; and/or (iii) relocating the San Jose Sharks to a venue outside of the City of San Jose; unless and until Manager pays to City the Early Termination Fee in the amount of $_____ [*Amount specified in Council Resolution and Verified Complaint to be inserted here*] or the Parties negotiate alternative payment arrangements that are memorialized in a writing signed by both Parties.

This Court retains jurisdiction of this Final Judgment and the Parties hereto for the purpose of enforcing and modifying this Final Judgment and for the purpose of granting such additional relief as may be necessary and appropriate.

IT IS SO ORDERED as of _____, 20___.

_____
Judge



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~~Attachment No. 20~~

~~SCHEDULE OF DEFINED TERMS~~

~~[This exhibit is being updated pursuant to the City Manager's delegated authority and will be included upon completion and mutual agreement by the parties.]~~



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| 1/3 Mile Radius Area<br>-or-<br>1/3 Mile Ring | Area within a radius of 1/3 mile from the South Entrance | 19.1.1(a) |
| 1/2 Mile Radius Area | Area within a radius of 1/2 mile from the South Entrance, including the 1/3 Mile Radius Area | 19.1.1(b) |
| 1/2 Mile Ring | Area within a radius of 1/2 mile from the South Entrance, excluding the 1/3 Mile Radius Area | 19.1.1(c) |
| 2-Year Irrevocable Notice | Irrevocable notice, stating Manager's intent to terminate this Agreement and vacate the Arena, to be given by Manager to City at least two full fiscal years in advance of the Early Termination Date designated in the notice | 5.2.1 |
| 3-Year Revocable Notice | Revocable notice , stating Manager's intent to terminate this Agreement and vacate the Arena, to be given by Manager to City at least three full fiscal years in advance of the Early Termination Date designated in the notice | 5.2.1 |
| 1991 AMA | An Agreement to Enter and a San Jose Arena Management Agreement, both dated October 24, 1991, as amended | Recital C |
| 2000 AMA | The Amended and Restated San Jose Arena Management Agreement dated December 19, 2000, as amended | Recital C |
| 2018 AMA | The Second Amended and Restated Arena Management Agreement dated June 8, 2021 | Recital A |
| 2018 AMA Term | Words to that effect or this specific phrase mean the period of time from July 1, 2015, through June 30, 2025 | Recital A |
| Accessible Parking Space | A parking space that is intended for use by individuals with disabilities and meets the applicable design requirements of Applicable Construction Codes | 19.1.1(d) |
| Adjustment Date | The first day of Term Year 26/27 and the first day of each Term Year thereafter | 38.3.4(a)(i) |
| AEOC | The Arena Events and Operations Committee, managed by City's Department of Transportation | 23.1.5 |
| Affiliate | Any person or entity that, directly or indirectly, controls, is controlled by, or is under common control with the entity in question, excluding the NHL or any member clubs of the NHL (other than SJS LLC or the San Jose Sharks) | 2.1.1(a) |
| Agreement | This Third Amended and Restated San Jose Arena Management Agreement made effective as of July 1, 2025, as amended. | Preamble |
| AHL | The American Hockey League or any successor thereto. | 2.1.1(b) |
| Alcohol Advertising Plan | A plan containing alcoholic beverage advertising requirements, as set forth in Attachment No. 9 | 14.1.5(d) |
| Alterations | Improvements, betterments, additions, installations, repairs or other alterations or fixtures that are permanently affixed to or have become an integral part of the Arena Land or other Arena Facilities (including Arena | 28.1.1(a) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | FF&E), including Capital Repairs and Replacements and Capital Enhancements | |
| Anticipated Parking Deficiency | The situation that exists when a Parking Deficiency is anticipated to occur within the ensuing 6 month period, based on the anticipated supply of Available Parking Spaces in Off-Site Parking Facilities, and the anticipated demand for the use of such spaces before, during and after Arena Events | 22.2.1 |
| Applicable City Policies and Guidelines | Policies and guidelines, including design guidelines governing additions and alterations to the Arena Facilities, established from time to time by City by an ordinance or resolution of the City Council, provided that Manager has been notified in writing of such policies and guidelines; such term shall be limited to such policies and guidelines that:<br>(i) Are consistent with, and in furtherance of the provisions of this Agreement;<br>(ii) Do not unreasonably interfere with, impede or impair the ability of Manager to effectively and soundly manage and operate (or of the San Jose Sharks to use) the Arena Facilities;<br>(iii) Do not materially increase Manager's costs or other obligations under this Agreement; and<br>(iv) Do not substantially adversely affect a material source of revenue for the Arena or have a material effect on the operation of the Arena | 12.1.3(a) |
| Applicable Community Standard | A standard with respect to the matters described in Section 14 (including pricing, the advertising and serving of alcoholic beverages and tobacco products,, and the payment of wages) that is equal to comparable major arenas or stadiums in the San Francisco Bay Area, except as otherwise expressly provided in this Agreement | 12.1.3(b) |
| Applicable Construction Codes | All Applicable Laws governing physical design or condition of construction or requiring access and seating for individuals with disabilities | 12.1.3(c)<br>19.1.1(e) |
| Applicable Cure Period | The time period allowed for a Defending Party to cure a Potential Event of Default before it becomes an Event of Default, as described in Section 38.2 | 38.1.1(a) |
| Applicable Laws | The applicable provisions of the San Jose Municipal Code and all other applicable statutes, ordinances, laws, rules, regulations, orders and requirements of any Governmental Authority having jurisdiction respecting the use or manner of use of the Arena Facilities or the construction, maintenance and operation thereof, including Applicable Construction Codes | 12.1.3(d) |
| Applicable Parking Standard | A standard of design, operation, and maintenance that is equal to or exceeds the standard generally applicable to public parking lots and garages permitted under Applicable Laws | 19.1.1(f) |
| Applicable Performance Standard | A standard of performance, operation (including bookings) and maintenance that is equal to or exceeding those generally applicable to comparable major arenas in the United States constructed | 12.1.3(e) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | contemporaneously with the Arena Facilities, at which NBA and/or NHL games are played, except for the matters governed by the Applicable Community Standard | |
| Applicable Permit Requirements | The conditions of approval and other requirements imposed in connection with any permits, licenses or other governmental authorizations obtained by Manager or any Manager Invitees, or required to be obtained by Manager or Manager Invitees, with respect to the management, operation, use, maintenance, repair or improvement of the Arena Facilities, including any alcoholic beverage license, building permit, health permit, and the like | 12.1.3(f) |
| Approved Venue Sponsor | A Sponsor that has been approved (or deemed approved) by the City Manager to hold the Naming Rights, pursuant to Section 15.3.3 | 15.3.1(a) |
| Arena | [See Arena Building below] | Recital A |
| Arena Advertising | All advertising, signage, trademarks and trade names, logos, slogans, sponsorships and promotional activities, designations, graphic displays, commercial announcements, and other commercial messages of every kind and nature within or about the Arena Facilities, or regarding Events at the Arena (except City Events and Community Events), whether in audio, visual, physical, digital or other formats, and whether the type or mode of communicating the message now exists or is development in the future | 15.1.1 |
| Arena Authority | The San José Arena Authority, a California nonprofit public benefit corporation, established by City to perform certain responsibilities on behalf of City with respect to overseeing the management and operation of the Arena | 2.1.1(c) |
| Arena Authority Facilities | Office space and common area facilities in the Arena for the Arena Authority's use, which will be relocated to space outside of the Arena as part of the Renovation Project | 11.4 |
| Arena Authority Office End Date | That date on which Manager's responsibilities regarding the Arena Authority Facilities will terminate, as set forth in a written notice given by Manager to City and Arena Authority at least six (6) months in advance, and based on the date that Manager needs in order to reasonably accommodate the Renovation Project | 11.4 – 11.4.1 |
| Arena Building -or- Arena | The multi-purpose entertainment and sports facility described in Recital A(2), including the enclosed structure and all improvements on or in such structure | Recital B(2) 28.1.1(b) |
| Arena Contracts | All leases, licenses, use agreements, bookings, service contracts, sponsorship and advertising agreements, and other agreements pertaining to the use, operation, maintenance and occupancy of the Arena Facilities, including any amendments thereto | 12.2.1 |
| Arena Employees | Persons engaged by Manager or Manager's concessionaires, vendors, contractors, and licensees to work at the Arena before, during or after | 19.1.1(g) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | Events, including those who operate the On-Site and Off-Site Parking Facilities. | |
| Arena Employee Parking Spaces | Parking spaces located in Off-Site Parking Facilities that are separately designated by Manager for parking by Arena Employees | 19.1.1(g) |
| Arena Exemption | The Outdoor Advertising Act Arena Exemption (Section 5272(b) of the California Business & Professions Code which permits Manager to install, maintain and operate Freeway Signs, which may be Programmable Electronic Signs, on City Property along Freeways | 17.1.1(a)(i) |
| Arena Facilities | The regional multi-purpose sports and entertainment arena and related facilities, including the Arena Land, the Arena Building (or Arena), the Arena Site Improvements, the On-Site Parking Facilities, and the Arena FF&E | Recital B<br>28.1.1(c)<br>34.1.1(a) |
| Arena Fees | Certain payments to be made by Manager for the benefit of City, subject to the terms and conditions of this Agreement and specified in the Schedule of Financial Terms (Attachment No.6) | 6.1 |
| Arena FF&E | Furnishings, trade fixtures, equipment, vehicles and other tangible property located on or about the other Arena Facilities and/or used in connection with the operation of the other Arena Facilities, excluding Manager's Personal Property, Sharks' Personal Property, and other personal property owned by concessionaires, vendors, or other users of the Arena | Recital B(5)<br>28.1.1(d) |
| Arena Land | The legal parcels of land that are described in Attachment No. 1 | Recital B(1)<br>28.1.1(e) |
| Arena Public Safety Fund | A separate restricted fund, which shall be used to pay:<br>(i) Reimbursement to City of the Staffing Shortfall Fee payable to Manager;<br>(ii) Reimbursement to City or Manager for Peddler Permit Enforcement Costs that they have incurred;<br>(iii) Reimbursement to Manager for Video Surveillance Equipment Costs for both SAP Center and Sharks Ice/Tech CU Arena;<br>(iv) Training costs for Traffic Control Officers; and<br>(iv) Any other costs related to public safety or security, as mutually agreed by the Parties. | 24.6 |
| Arena Site Improvements | The ramps, stairs, supports, loading and receiving areas, driveways, walkways, parking areas and other improvements located outside of the Arena Building, but within the boundaries of the Arena Land | Recital B(3)<br>28.1.1(f) |
| Arena TPMP | A traffic and parking management plan for the Arena, entitled "SAP Center Transportation & Parking Management Plan, 7th Edition," attached as Attachment No. 13, as updated from time to time | 23.1 |
| Assignee | Any person or firm to whom this Agreement is assigned, in whole or in part, by Manager or its Affiliates or Owner | 2.3.1 |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| Available Parking Space | A Qualified Parking Space that is unoccupied and available for Arena customers to park in upon their arrival on weekends and after 6:30 p.m. on weekdays; provided, however, that for any parking garage constructed or placed in service following the Effective Date, the number of Available Parking Spaces in that new garage shall be limited to the number of cars that can enter within an approximate 60-minute peak period prior to an Event and exit within an approximate 30-minute peak period following an Event. | 19.1.1(h) |
| Available Parking Space Breach | A Event of Default that arises from City's failure to provide a sufficient number of Available Parking Spaces to meet the Minimum Off-Site Parking Requirements | 38.2.2 |
| Award | All compensation, damages, income, rent, awards, or any interest therein whatsoever which may be paid or made in connection with a Taking, excluding any separate payments made for litigation costs, attorneys' fees, and related expenses pursuant to a court order or settlement agreement | 34.1.1(b) |
| BART<br>-or-<br>BART Project<br>-or-<br>BART Phase II | Refers to the Bay Area Rapid Transit public transportation project being implemented by VTA to bring BART service to the Diridon Area, pursuant to which a new BART station would be constructed immediately south of the Arena | 21.1.1(a) |
| Baseline TPMP Costs | The average of the annual TPMP Costs incurred by Manager for the three full fiscal years prior to the onset of the COVID-19 pandemic (i.e., Term Years 16/17, 17/18 and 18/19); provided, however, that (i) prior to calculating the average, the annual costs for Term Years 16/17 and 17/18 shall be increased by the equivalent percentage increase in the CPI for the applicable time period; and (ii) thereafter, the calculated average shall be further increased as of the end of each Term Year (starting in Term Year 19/20) by the equivalent percentage increase in the CPI for the applicable time period. The Baseline TPMP Costs are more precisely described in Attachment No. 12. | 23.1.7(a)(iii) |
| Bond Trustee | Any trustee of the Lease Revenue Bonds | 29.2.1 |
| Cap | Encapsulation of remaining contaminated soils beneath various portions of Lots A, B and C, by covering them with layers of clay, clean backfill, base rock and/or asphalt paving | 27.2.1(a) |
| Capital Budget | A schedule of Capital Projects that Manager proposes to complete during the applicable Term Year, and the Capital Costs thereof | 28.1.1(g) |
| Capital Costs | Costs that are charged as part of Capital Projects (rather than as Operating Expenses) consistent with the Parties' historical practices, including those costs described in Section 28.1.1(h) | 28.1.1(h) |
| Capital Enhancements | Items of work that are not required to repair or replace faulty or worn out elements of the Arena Facilities, but are new improvements that are | 28.1.1(i) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | made to improve the quality, functioning, efficiency or competitiveness of the Arena Facilities (including Arena FF&E) | |
| Capital Projects | Either (i) Capital Repairs and Replacements (including Emergency Capital Repairs and Replacements or Parking Capital Repairs and Replacements where applicable), or (ii) Capital Enhancements; such term does not include Code Upgrade Work, Extraordinary Repair Work, or work needed to repair or replace Arena Facilities following a Casualty | 28.1.1(j) |
| Capital Repairs and Replacements | Renovation, repair, construction, acquisition or replacement of capital items included in the Arena Facilities (including Arena FF&E) which are subject to wearing out after a useful life, and therefore can be forecasted and budgeted for (except for Emergency Capital Repairs and Replacements); such term does not include Code Upgrade Work, Extraordinary Repair Work, or work needed to repair or replace Arena Facilities following a Casualty | 28.1.1(k) |
| Capital Reserve Fund | A restricted fund designated by City as Fund 459 into which the Parties will make deposits to provide a source of funding for reimbursement of the Capital Costs of Capital Projects | 7.1<br>28.1.1(l) |
| Casualty | A fire, storm, flood, earthquake, civil commotion, act of terrorism, or other active physical peril that causes damage to, or destruction of, or loss of use to the Arena Facilities | 31.1 |
| CBD Products | Foods, beverages, dietary supplements, veterinary products, cosmetics, and other similar products infused with and/or containing cannabidiol with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight bases. | 15.2.1(c) |
| City | The City of San José, a municipal corporation and charter city of the State of California, and its City Council and/or City Manager, as the context may require; such term includes the City's predecessors and successors in interest | 2.1.1(d) |
| City Authority | City and/or any other Governmental Authority that is formed by or under the control of City, including the Arena Authority | 10.2.1(b)<br>27.1.2 |
| City-Approved Assessment District | An assessment district in which any City Authority owns one or more parcels of real property, provided that the City Authority (as the owner of such property) has voted affirmatively for the assessments to be imposed by such district | 10.2.1(c) |
| City Default Credit | A Fee Credit available to Manager if City has committed an Event of Default that can be cured with the payment of money only, and City fails to make such payment within the Applicable Cure Period | 6.2.4 |
| City Events | Events pre-qualified by the Arena Authority based on criteria established by City consistent with the Parties' historical practices | 11.1.1 |
| City Indemnitees | City and other City Authorities, their successors and assigns, and all of their respective directors, officers, employees, members, managers, representatives and agents | 27.1.2(a)<br>33.1.1(b) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| City Invitees | City Indemnitees and all other persons who enter the Arena Facilities under City's control or supervision or with City's authority or permission (including City's contractors); provided, however, that persons who enter the Arena Facilities in connection with a City Event or Community Event (for which the sponsor or organizer must execute a license agreement with Manager as described in Section 11.1.4) shall be deemed to be Manager Invitees and not City Invitees | 27.1.2(b) |
| City Property | Any property that is owned by City in fee or for a term of years (e.g., through a lease agreement), subject to approval by City Council of any necessary amendments to the Sign Code and Council Policy 6-4 to allow offsite commercial advertising on property leased by the City | 17.1.1(a)(i) |
| City's Capital Reserve Payments | City's payment of $32,455,320 to the Capital Reserve Fund, in installments that are due on August 1, 2025, and on August 1 of each calendar year from 2038 through 2049, in the amounts set forth on the Schedule of Financial Terms | 7.2.2 |
| City's Original Improvements | The items of the Arena Facilities originally constructed by or on behalf of City | 28.1.1(m)<br>28.4.2 |
| Claims | Any and all claims for damages or injuries of any kind, demands, liens, liabilities, fines, penalties, charges, causes of action or enforcement actions of any kind, judgments, losses, and all costs and expenses incurred in connection therewith, including actual attorneys' fees, costs of defense, and consultants' fees | 33.1.1(a) |
| Code Upgrade Work | Alterations work performed for the sole purpose of conforming either the City's Original Improvements or the Manager's Original Improvements to Applicable Construction Codes, including any changes thereto enacted after approval of design drawings therefor; such term shall not include Renovation Improvements or Capital Repairs and Replacements that had been scheduled to be paid out of the Capital Budget within five years of the Term Year in which the work is performed, even if the work is accelerated in order to cure or correct any non-compliance with Applicable Construction Codes | 28.1.1(n) |
| Commercial Speech | An expression or expressive activity that in any way promotes a commercial transaction | 16.1.1(a) |
| Community and City Events Fund | A separate fund maintained by Manager within its accounts to which Manager shall credit $100,000 on each August 1st during the entire Term, beginning August 1, 2015 | 11.1 |
| Community Events | Events that are not of the commercial nature otherwise generally booked by Manager, but (i) are otherwise appropriate for the Arena, (ii) are promoted by community organizations, and (iii) do not meet the criteria of a City Event | 11.1.2 |
| Competing Facility | An arena or comparable facility (including an amphitheater) having fixed seating capacity in excess of 5,000 located in San José which (i) is to be | 4.2.1(a) |



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**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | used for events typically held in comparable major arenas and (ii) that the City constructs (or participates in the construction of), finances or financially supports | |
| Complaining Party | The Party alleging that the other Party has committed a Potential Event of Default or an Insolvency Default | 38.1.1(b) |
| Condemnation Losses | Collectively, the value of a Party's interest in the Arena Facilities, the loss of its rights under this Agreement, and any other compensation or damages to which such Party may entitled, as asserted in a Party's claim in the event of a Taking | 34.1.5(b) |
| Conflicting Events | Special Events held by third parties that may conflict with regular Arena Events, including hockey games, concerts, family shows and other events, or outdoor Special Events, including Hockey Special Events, or create additional traffic congestion, parking burdens or other transportation problems that negatively impact the operations of, or access to and from, the Arena | 25.1.2 |
| Controlling Interests | Voting rights, capital interests, or other interests or rights that give the holder thereof the ability to control, directly or indirectly, all material decisions that would affect the ability of SSE, SJAM or SJS LLC to comply with their respective obligations under this Agreement and the Hockey Use Agreement. For the avoidance of doubt, a party holding 50% or more of the Controlling Interests must retain the power to control all material decisions affecting the management and operations of SSE, SJAM or SJS LLC, as applicable | 2.1.1(e) |
| Cost Increase Credit | A Fee Credit available to Manager for any of the following that may be applicable from time to time during the Term: (i) Disallowed Tax Increases; (ii) City's share of Possessory Interest Taxes; and (iii) Living Wage Expenses | 6.2.2 |
| CPI | Consumer Price Index - All Urban Consumers for All Items (with a base period of 1982 - 1984 = 100) for the San Francisco-Oakland-Hayward Area published by the United States Department of Labor, Bureau of Labor Statistics. In the event the CPI Index is no longer published, another index published by either the State of California or a federal department or agency that is charged with the responsibility of measuring the cost of living in the geographical area that includes the City or comparable to the City | 23.1.7(a)(i) |
| CSOs | SJPD Community Safety Officers | 24.2.1 |
| Date of Taking | The earlier of (i) the date when a final order is entered conveying title to the subject property (or property interest) to the acquiring Governmental Authority, or (ii) the date that the acquiring Governmental Authority is authorized to take possession of the subject property (or property interest) per an order of possession. | 34.1.1(c) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| Deed Restriction | The document recorded against the Arena Land described in Section 27.2.1(c), which describes prohibited uses and activities on the Arena Land | 27.1.2(c) |
| Defending Party | The Party that has committed or is alleged to have committed a Potential Event of Default or an Insolvency Default | 38.1.1(c) |
| Delmas East | The parcels currently designated as APN 259-38-128 and -142, located on the east side of Delmas Avenue south of W. Santa Clara Street in San José, California, and depicted on Attachment No. 11-1. | 19.1.1(i) |
| Delmas West | The parcels currently designated as APN 259-38-036, -039, -040, -041, -042, -109, -110, -145, -146, -147, and -148, located on the west side of Delmas Avenue south of W. Santa Clara Street, and also depicted on Attachment No. 11-1 | 19.1.1(j) |
| Delmas West Parking | All parking spaces located on Delmas West, which is approximately 343 parking spaces as of the Effective Date | 19.1.1(k) |
| Delmas Operating Covenant | A covenant included in the Lot D Lease, executed between Google and Manager, according to which Google covenants, promises and agrees to continue to keep all of the Delmas West Parking open for public parking, commencing on the Effective Date of the Lot D Lease and continuing until Google obtains a grading permit for its development project on Delmas West | 18.2.4(a) |
| Demand for Mediation | A written notice of a Party's intent to mediate, describing the Disputed Matter(s) to be mediated and the relief sought | 39.1.1(a) |
| Determination Date | 60 days following City's receipt of a reasonably detailed estimate of the costs of design and construction work necessary to repair and reconstruct the Arena Facilities, subject to City's good faith efforts, but shall not be later than sixteen (16) months after the date of Casualty | 31.4.2 |
| Diridon Area<br>-or-<br>Diridon Station Area | The geographic area covered by the Diridon Plan or DSAP | 21.1.1(b) |
| Diridon Plan<br>-or-<br>DSAP | The Diridon Station Area Plan adopted by the City Council on June 24, 2014, and amended by resolution of the City Council on May 25. 2021. The DSAP is a component of the City's General Plan. | 21.1.1(d) |
| Diridon Station | The central passenger rail depot and transit hub located along the Caltrain and/or Union Pacific Railroad tracks at 65 Cahill Street in San José | 21.1.1(c) |
| Disallowed Relocation | Any attempt by Manger or its Affiliates to relocate the San Jose Sharks to a venue outside of the City of San Jose or to another city without first paying the Early Termination Fee if and when due under Section 5.2; shall be deemed a non-monetary Event of Default | 38.3.1 |
| Disallowed Tax Increases | Any or all of the New Taxes listed in Section 10.2.1(j) that are imposed or assessed by any City Authority or City-Approved Assessment District, to the extent that any City Authority or City-Approved Assessment District receives revenues or other funding therefrom | 10.2.1(j) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| Disputed Matter | Any dispute, claim or controversy arising out of or related to this Agreement or the breach, enforcement or interpretation of any provision hereof, including those matters described in Section 39.1.1(b) | 39.1.1(b) |
| DOT | City of San José Department of Transportation | 23.1.5<br>24.2 |
| DTSC | California Department of Toxic Substances Control | 27.1.2(f) |
| DTW<br>-or-<br>Downtown West | Google's mixed-use development project located on approximately 80 acres within the Diridon Area and approved by the City Council on May 25, 2021 | 21.1.1(e) |
| Downtown West Parking Requirements | Attachment 1 to the DTW Settlement Agreement, consisting of a redlined version of Exhibit K to the Downtown West Development Agreement | 21.2.4 |
| DTW Settlement Agreement | The Settlement and Release Agreement dated May 25, 2021, pursuant to which the Parties and Google resolved disputes that had arisen between them in connection with the DTW project approvals and the DSAP amendment approvals. A copy of the DTW Settlement Agreement is attached hereto as Attachment No. 16 and incorporated herein by reference. For purposes of this Agreement, all references in the DTW Settlement Agreement to "SSE" shall mean and refer to Manager | 21.1.1(f) |
| Early Termination Date | The date on which Manager intends to vacate the Arena and terminate this Agreement, which must be at the end of a fiscal year | 5.2.1 |
| Early Termination Fee | A early termination fee to be paid to City by Manager within twelve (12) months after giving its 2 Year Irrevocable Notice or at least 12 months prior to the Early Termination Date, which shall be in accordance with the schedule shown in **Attachment 6** ("Schedule of Financial Terms") | 5.2.1(a) |
| Early Termination Right | Manager's right to terminate this Agreement following the Renovation Project End Date (defined in the Renovation Agreement), but not before June 30, 2031, upon Manager giving irrevocable notice of termination at least two (2) full Fiscal Years in advance of the early termination date designated in the notice | 5.2.1 |
| Economic Warranties | Representations and warranties made to City by Manager for itself, its Owners and Affiliates | 36.1.1 |
| Effective Date | The date (July 1, 2025) on which the Agreement is effective. | Preamble<br>1.2 |
| Emergency Capital Repairs and Replacements | Capital Repairs and Replacements that must be accomplished immediately to remove a hazard to health and safety, ensure the structural integrity of the Arena Facilities, or eliminate a condition that causes the Arena Facilities to be non-operational; such term does not include Code Upgrade Work, Extraordinary Repair Work, or work needed to repair or replace Arena Facilities following a Casualty as described in Section 31.1 | 28.1.1(o) |



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| Defined Term | Definition | Section |
|---|---|---|
| Environmental Claims | Any and all Claims as defined in Section 33.1, as well as administrative and judicial proceedings and orders and any required Investigation or Remediation | 27.1.2(d) |
| Environmental Law | California or Federal law, or any court order or judgment, that regulates or directs activities regarding the generation, possession, storage, use, transportation or disposal of a Hazardous Substance, or the Investigation or Remediation of a Hazardous Substance Release, including the laws described in Section 27.1.2(g); such term includes the enforceable provisions of any Deed Restriction recorded against the Arena Land | 27.1.2(e) |
| Escrow Agent | Bay Area Escrow Services | 38.3.2 |
| Escrow Agreement | Agreement by and among City, Manager and Escrow Agent substantially in a form mutually agreeable to the Parties | 38.3.2 |
| Event | Any sports, entertainment, educational, recreational, cultural, civic, or other activity, gathering, performance, production, show or event conducted at the Arena for which admission is controlled via a pass, ticket or other means | 19.1.1(l) |
| Event Charges | Any facility rental fees (if applicable) and any actual expenses incurred by Manager for set-up, dismantling, cleaning, event staff, and other expenses over and above normal operation and maintenance of the Arena (such as incremental utility expenses) | 11.1.4(a) |
| Events Concierge | A City appointee from the Office of Cultural Affairs, who shall act as Manager's single point of contact, to facilitate Manager's ability to quickly obtain permits for events that may need to be scheduled on short notice | 25.1.1(a) |
| Event Day | A calendar day on which one or more Events occur | 19.1.1(m) |
| Event of Default | The happening of a Potential Event of Default that is not cured within the Applicable Cure Period or a failure by Manager to pay the Early Termination Fee as and when required, following Manager's delivery to City of a 2-Year Irrevocable Notice | 38.1.1(d) |
| Excluded Manager Parcels | One or more parcels that comprise a part of Lot E which Manager may elect to exclude from the Lot E Notice to Proceed | 19.4.2(b) |
| Execution Date | The date on which this Agreement has been executed by both Manager and City. | 1.2 |
| Extraordinary Repair Work | Work needed to correct or cure any defect, corrosion, deterioration, subsidence, slippage, misalignment, cracking, non-operation or breakage in items that are not expected to wear out during the life of the Arena Building (and therefore are not scheduled for repair or replacement) and that are reasonably necessary for the structural integrity and operational functioning of the Arena Facilities, including the following:<br>(i) Structural elements such as the foundations, concrete platforms, building envelope, load bearing walls, girders, seismic joints, roof support systems, and underground slurry walls (installed to prevent migration of Hazardous Substances); | 28.1.1(p) |



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| Defined Term | Definition | Section |
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| | (ii) Mechanical, electrical and plumbing permanently installed infrastructure components, that are not subject to normal preventative maintenance, such as the ventilation ductwork system or pipelines or conduits; and<br>(iii) The surface and sub-surface components of the On-Site Parking Facilities, including the asphalt (but only to the extent that damage is caused by subsidence or material construction-related defects) and the Hazardous Materials Cap | |
| Fee Credit | A reduction in the amount of Annual Fees payable by Manager under this Agreement | 6.2 |
| Financing Authority | The City of San José Financing Authority | 29.2.1 |
| Financing Lease Agreements | One or more lease agreements pursuant to which the Financing Authority will lease the Arena Facilities back to the City | 29.2.1 |
| Financing Leases | The Financing Lease Agreements together with the Financing Site Leases | 29.2.1 |
| Financing Site Leases | One or more site leases pursuant to which the City will lease the Arena Facilities to the Financing Authority, taken collectively | 29.2.1 |
| First Amendment to 2018 AMA | The amendment dated December 4, 2018 as further described in the Recitals | Recital A<br>19.1.1(n) |
| Fiscal Year | Also referred to as a Term Year, shall consist of 12 consecutive calendar months during the Term, beginning on July 1st of a calendar year and ending on June 30th of the following calendar year. | 5.1.2 |
| Force Majeure Credit | A Fee Credit available to Manager if Manager's use of the Arena Facilities or any material portion thereof is blocked, reduced or restricted (either permanently or temporarily) for more than five calendar days due to any of the following events: (i) a Casualty; or (ii) any other Force Majeure Event | 6.2.3 |
| Force Majeure Event | Any matter or condition beyond the reasonable control of a Party that prevents or delays a Party's ability to perform this Agreement in accordance with provisions thereof, in whole or in part, including:<br><br>(i) War, civil disturbances or riots, acts of terrorism or threats of acts of terrorism, criminal activities, public emergency or calamity, epidemics, pandemics, quarantine restrictions, fire, earthquake, flood, and unusually severe and abnormal weather conditions that are not foreseeable.<br><br>(ii) Strikes, lockouts or related work stoppages, labor disturbances, actions directly or indirectly affecting work or disrupting timely delivery of materials or supplies, inability to obtain labor or materials or reasonable substitutes therefor, and the failure of necessary utilities serving the Arena Facilities. | 37.1 |



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**SCHEDULE OF DEFINED TERMS**

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| | (iii) Governmental action or restriction or enactment or enforcement of any Applicable Law, except that enactment or promulgation of an ordinance, resolution, policy or guideline by City, or a default by City in its obligations under this Agreement, shall not constitute a "Force Majeure Event" as applied to performance by City. | |
| Freeway Sign | A large freestanding sign oriented to and designed to be viewed from a freeway | 16.1.1(d) |
| Freeway Sign Lease | A separate written lease agreement entered into by City and Manager for a Freeway Sign located on City Property | 17.1.4(a) |
| General City Ordinance | An ordinance or resolution adopted by the City Council or other City Authority that (i) is generally applicable to all sports and entertainment or businesses operating within the City, OR (ii) is no more restrictive than the Applicable Community Standard | 14.2.1(a) |
| Google | Google LLC, along with its successors and assigns | 18.2 |
| Governing Standards | The terms of this Agreement as well as (i) Applicable City Policies and Guidelines; (ii) Applicable Laws; (iii) Applicable Construction Codes; (iv) Applicable Permit Requirements; (v) Applicable Performance Standard; and (vi) Applicable Community Standard | 28.1.1(q)<br>12.1.3 |
| Governmental Authority | Any federal, state, regional or local governmental entity, political subdivision, agency, district, department, board, bureau, commission, authority or other administrative or regulatory body having jurisdiction over the Arena or Manager; such term includes the following agencies and their respective predecessor and successors: DTSC, RWQCB, DEH, and SCVWD | 10.2.1(a)<br>27.1.2(f) |
| Hazardous Substances | Any substance, material, condition, mixture or waste that is described in Section 27.1.2(g) | 27.1.2(g) |
| High Speed Rail | The project being proposed by the California High Speed Rail Authority to construct a high speed train system that would include 21 miles of track through San José and use the Diridon Station as its passenger depot | 21.1.1(g) |
| Hockey Special Events | Special Events in the vicinity of the Arena | 25.1.1(a) |
| Hockey Use Agreement | The agreement, as amended from time to time as permitted by this Agreement, between Manager and SJS LLC governing the terms and conditions upon which the San Jose Sharks play their Home Games at the Arena | 3.1.1(a) |
| HOF | San José Sports Hall of Fame | 11.3 |
| HOF Display End Date | April 30, 2029, which is the date on which Manager's responsibilities regarding the HOF program will terminate due to the need to reclaim wall space as part of the Renovation Project | 11.3 |
| Home Game | Any hockey game designated by the NHL as a home game of the San Jose Sharks | 3.1.1(b) |
| Ice Centre | Located at 1500 S. Tenth Street in San Jose, and is currently known as Sharks Ice at San Jose and Tech CU Arena | Recital D |



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**SCHEDULE OF DEFINED TERMS**

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|---|---|---|
| Ice Centre Lease | That certain Second Amended and Restated Ice Centre Lease and Management Agreement dated as of October 1, 2020, which City and Sharks Ice, LLC are parties to, for the user and operation of the Ice Centre of San Jose, as amended by a First Amendment thereto made effective as of July 1, 2025 | Recital D |
| Impoundment | Efforts under the mobile unit enforcement mechanism, as set forth in Chapter 6.54.405 of the San José Municipal Code | 25.3.2(a) |
| Impoundment Procedures Memorandum | Written operating procedures agreed to by the Parties and confirmed in a written memorandum, as relate to Manager's assistance in City's Impoundment efforts, as signed by Manager and the City's Chief of Police | 25.3.3 |
| Included Manager Parcels | Those Lot E Manager Parcels, or portions thereof, that will be included in the Lot E surface parking lot | 19.4.4 |
| Incremental TPMP Costs | The actual TPMP Costs incurred by Manager for any Term Year in excess of the Baseline TPMP Costs for that Term Year | 23.1.7(a)(iv) |
| Insolvency Default | The happening of any of the following events:<br>(i) Manager or City is adjudged a bankrupt or insolvent in a final judgment that is not appealable or is not appealed;<br>(ii) A receiver or trustee is appointed to take possession of all or any part of the business or municipal functions or property of Manager or City, where possession is not restored to such Party within 60 days after such appointment;<br>(iii) Manager or City makes any general assignment of its property for the benefit of creditors;<br>(iv) Manager or City files a voluntary petition in bankruptcy or insolvency, or applies for reorganization or arrangement with its creditors, under the state, federal or other bankruptcy or insolvency laws now in force or hereafter enacted;<br>(v) An involuntary petition of bankruptcy or insolvency under the state, federal or other bankruptcy or insolvency laws is filed against Manager or City and is not dismissed within sixty (60) days after the filing; or<br>(vi) Manager or City seeks a composition with its creditors by trust, mortgage or otherwise | 38.1.1(e) |
| Interim Relief Period | An interim period of time during which Manager shall grant City partial relief from the Minimum Off-Site Parking Requirements in accordance with defined terms and conditions in 19.1.5, and commencing on the Effective Date and expiring on December 31, 2026 | 19.1.1(o)<br>19.1.5 |
| Interior Security Positions | The number of positions needed for On-Site Security Services for each Event | 24.1.1(a) |
| Intermittent Conditions | Any conditions (or series of conditions) caused by events that occur periodically, likely for a period of many years, for which the customers or participants use the same Off-Site Parking Facilities used by Arena | 19.3.1(a) |



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|---|---|---|
| | customers, resulting in a reduction in the number of Available Parking Spaces | |
| Investigate<br>-or-<br>Investigation | To observe, inquire, examine, monitor, analyze, explore, research, inspect, canvass, question, poll, and/or survey the soil, ground water, above and below ground structures and appurtenances of the Arena Facilities or Arena Land or adjacent or neighboring properties or any of them, to reasonably determine the presence or suspected presence, nature or extent of Hazardous Substances in, on, under or about the area of the Arena Facilities or Arena Land or adjacent or neighboring properties | 27.1.2(h) |
| JAMS | The alternative dispute resolution organization by that name, or its successor | 39.1.1(c) |
| Lease Revenue Bonds | One or more series of lease revenue bonds issued by the Financing Authority, together with any bonds issued to refund such bonds | 29.2.1 |
| LEL Policy | A policy of law enforcement liability insurance maintained by City | 24.4.4 |
| Liability Insurance Requirements Rider | Policies of liability insurance containing not less than the coverages set forth in Attachment No. 17 | 32.1.1 |
| Living Wage Expenses | An equitable amount based on the increase in Operating Expenses incurred by Manager as a result of City's living wage requirements being hereafter expanded, replaced, or otherwise amended such that Manager would become subject to the Living Wage Policy (or any substantially equivalent City ordinance) in connection with the activities contemplated by this Agreement | 10.4.3 |
| Living Wage Policy | Council Policy 3-3, which requires that employers who are awarded certain service contracts with City or who receive certain levels of direct financial assistance from City must pay their employees a specified wage and provide other specified employment benefits | 10.4.1 |
| Long Term Temporary Conditions | Any conditions (or series of conditions) caused by construction projects or other events that result in a reduction in the number of Available Parking Spaces for a cumulative period of time longer than 90 days but shorter than three years over the Term | 19.3.1(b) |
| Lot D | A separate parking area within the On-Site Parking Facilities as shown on Attachment No. 2, which provides a total of 228 parking spaces as of the Effective Date | 18.1 |
| Lot D Lease | A written lease entered into between Google and Manager for Manager's operation of Lot D as a public parking facility | 18.2 |
| Lot E | The parcels designated as APNs 259-29-001, -002, -003, -004, -005, -026, -027, -028, -029, and -091, located on the west side of N. Autumn Street north of Sharks Way in San José, California, as depicted on Attachment No. 11-2. | 19.1.1(p) |
| Lot E Acquisition Deadline | The date by which City agrees to have taken all necessary actions that may be necessary to acquire ownership or legal control over both parcel 259-29-004 and parcel 259-29-005 of Lot E, which shall be no later than | 19.4.1 |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | the date that Manager completes the refurbishment of Suite P41 or September 1, 2027, whichever is later | |
| Lot E Notice to Proceed | A written notice that shall be given once Manager has determined that expansion of the Lot E Temporary Lot is necessary for City to be able to meet its Minimum Off-Site Parking Requirements | 19.4.2 |
| Lot E Parcel Breach | A Potential Event of Default arising from City's failure to acquire Parcels 4 and 5 of Lot E by the Lot E Acquisition Deadline | 38.2.3 |
| Lot E Settlement Agreement | Settlement Agreement and Release made by and between City, Sharks Sports & Entertainment LLC, and two Trammell Crow entities, dated December 1, 2016 | 19.1.3(a) |
| Lots A, B, and C | Separate parking areas within the On-Site Parking Facilities as shown on Attachment No. 2; Lots A, B and C together provide a total of 1,422 parking spaces as of the Commencement Date | 18.1 |
| Maintenance Budget | A detailed programmatic budget describing the anticipated Ordinary Maintenance and Repairs for the Arena Facilities (including Arena FF&E) for that Term Year, including the anticipated costs thereof | 13.2.1 |
| Management Duties | All management services, labor and materials appropriate to carry out the duties described in Section 12.1.2 | 12.1.2 |
| Manager | San Jose Arena Management, LLC, a Delaware limited liability company, the sole member of which is SSE as of the Execution Date; such term includes Manager's predecessors and successors in interest | Preamble 2.1.1(f) |
| Manager Indemnitees | Manager and its Affiliates (including SJS LLC), their successors and assigns, and all of their respective lenders, directors, officers, employees, members, managers, representatives and agents | 27.1.2(i) 33.1.1(c) |
| Manager Invitees | Manager Indemnitees and all other persons who enter the Arena Facilities under Manager's control or supervision or with Manager's authority or permission (including licensees, concessionaires, customers and contractors), but excluding City Invitees; such term includes persons who enter the Arena Facilities in connection with a City Event or Community Event (for which the sponsor or organizer must execute a license agreement with Manager as described in Section 11.1.4) | 27.1.2(j) |
| Manager Parcels | Parcels designated as APNs 259-29-026 through 259-29-029, which are a part of Lot E and are currently used for various Arena operations, including storage and staging | 19.1.1(q) |
| Manager Sponsored Activities | Any Special Events or other outdoor endeavors or special activities sponsored, promoted or pursued by Manager or any of Manager's Affiliates | 10.2.1(f) |
| Manager's Capital Reserve Payments | Manager's payment of $32,420,000 to City, which City shall deposit into the Capital Reserve Fund to be used only for Capital Projects as described in Section 28, and which total amount shall be paid in installments that are due and payable on August 1, 2025, and on August 1 of each calendar | 7.2.1 |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | year from 2033 through 2049, in the amounts set forth in the Schedule of Financial Terms | |
| Manager's Exclusive Use Areas | The private executive office and conference areas occupied by Manager and Manager's Affiliates, located within the Arena Building | 28.1.1(r) |
| Manager's Original Improvements | The items of the Arena Facilities originally constructed by or on behalf of Manager as described in Section 28.4.1(a) | 28.1.1(s)<br>28.4.1 |
| Manager's Personal Property | Tangible personal property located within Manager's Exclusive Use Areas and not needed for the operation of the Arena Facilities, however, office furniture is part of Arena FF&E and is not part of Manager's Personal Property | 28.1.1(t) |
| Mediation | Non-binding mediation with a neutral third party | 39.1 |
| Mediation Period | The time period commencing with the delivery of a Demand for Mediation and ending 45 days thereafter | 39.1.1(d) |
| Milligan | The parcels designated as APN 259-29-032, -033, -071, -072, and -102, and a portion of APN 259-29-101, located on the east side of N. Autumn Street north of Sharks Way, and also depicted on Attachment No. 11-2 | 19.1.1(r) |
| Minimum Off-Site Parking Requirements | The provision of at least 3,175 Available Parking Spaces within the 1/3 Mile Radius Area, and 6,350 Available Parking Spaces within the 1/2 Mile Radius Area (inclusive of the Available Parking Spaces within the 1/3 Mile Radius Area),subject to adjustments or modifications as provided in Section 19 and 20 | 19.1.1(s) |
| Naming Rights | The right to determine the name of a structure, entrance, room, area or other amenity comprising a part of the Arena Facilities | 15.3.1(b) |
| New Tax | Any Tax that is not imposed as of the Commencement Date of the 2018 AMA, or that portion of any existing Tax that is extended or increased following the Commencement Date of the 2018 AMA | 10.2.1(i) |
| NHL | The National Hockey League or any successor thereto | 2.1.1(g) |
| NHL Rules | The constitution, bylaws, and all other rules, regulations, agreements, resolutions, policies, limitations and interpretations of the NHL, as determined by the NHL from time to time; any Collective Bargaining Agreement between the League and/or its members and other parties; each as in effect as of the Execution Date and/or hereafter enacted, made or enforced | 3.1.1(c) |
| No Trespassing Law | Prohibition against trespassing on the Arena Land, including the On-Site Parking Facilities, under Chapter 10.20 of the San José Municipal Code and other Applicable Laws | 25.3.2(b) |
| North Entrance | The entrance to the Arena located on the north side of the Arena Building, closest to N. Montgomery Street | 19.1.1(t) |
| Notice of Anticipated Parking Deficiency | A written notice from Manager to City describing with particularity the nature and scope of the Anticipated Parking Deficiency | 22.2.2<br>38.1.1(f) |
| Notice of Parking Deficiency | A written notice from Manager to City describing with particularity the nature and scope of the Parking Deficiency | 22.1.2<br>38.1.1(g) |



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## Attachment No. 20

## SCHEDULE OF DEFINED TERMS

| Defined Term | Definition | Section |
|---|---|---|
| Notice of Potential Event of Default | A written notice from or on behalf of a Complaining Party to Defending Party given when either Manager or City believes that the other has committed a Potential Event of Default, which notice shall be in accordance with Section 38.1.3 | 38.1.1(h)<br>38.1.3 |
| Notice of Self-Help Work | A written notice from or on behalf of a Party to the other Party given when a Party elects to perform Self-Help Work, which notice shall be in accordance with Section 38.3.4 | 38.1.1(i)<br>38.3.6(d) |
| OCA | City of San José Office of Economic Development and Cultural Affairs | 25.1.1(a) |
| Off-Site Commercial Speech | Commercial Speech that identifies or promotes any commercial activity, product, good or service that is conducted, manufactured or offered on a site that is not the site on which the Commercial Speech is displayed and that is not otherwise included in the definition of On-site Commercial Speech | 16.1.1 (b) |
| Off-Site Parking Facilities | On-street parking spaces and off-street parking lots or garages owned by City or third parties within close proximity to the Arena and utilized by Arena customers or employees (excluding On-Site Parking Facilities) | 19.1.1(u) |
| Off-Site Traffic Control Services | Traffic control services as reasonably needed before and after Events to direct pedestrians and vehicles, manually operate street intersections, and perform related services | 24.2 |
| On-Site Commercial Speech | Commercial Speech to identify and promote (i) the presence of the commercial activities, products, goods or services conducted, manufactured or offered within or about the Arena Facilities, or (ii) the activities, products, goods, or services promoted by Sponsors within or about the Arena Facilities | 16.1.1(c) |
| On-Site Parking Facilities | The improved parking areas known as "Lots A, B and C" and located on the same parcel as the Arena Building; and the improved parking area known as "Lot D" and located across the street from the Arena Building, as shown on Attachment No. 2 | Recital B(4)<br>18.1<br>19.1.1(v)<br>28.1.1(u) |
| On-Site Security Services | Day to day and Event security services in and about the Arena Facilities | 24.1 |
| Operating Expenses | All costs and expenses reasonably necessary to perform Manager's Management Duties and to pay for Ordinary Maintenance and Repairs | 8.1 |
| Operating Losses | Operating Expenses in excess of Operating Revenues | 8.1.1 |
| Operating Profits | Operating Revenues in excess of Operating Expenses | 9.1.1 |
| Operating Revenues | All income, receipts, fees and other revenues generated by the operation of the Arena Facilities | 9.1 |
| Operations Manual | A manual developed and regularly updated by the AEOC that reflects the traffic and parking management strategies described in the Arena TPMP | 23.1.5(a) |
| Operations Plans | Those portions of the Operations Manual that contain specific details about the traffic and parking plans to be implemented for different Arena Event scenarios based on the estimated attendance day level, day and time of the Event, and other features | 23.1.5(a) |



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## Attachment No. 20

## SCHEDULE OF DEFINED TERMS

| Defined Term | Definition | Section |
|---|---|---|
| Ordinary Maintenance and Repairs | Work that is reasonably necessary to keep elements of the Arena Facilities in good working order (without materially improving or extending their useful life), consistent with the Parties' historical practices | 13.1.1(a) |
| Owner(s) | Individually and collectively, Plattner and the Plattner Affiliates, and successors and assigns of the persons, trusts and entities comprising Plattner as may be approved or authorized pursuant to Section 2.3 | 2.1.1(h) |
| Ownership Warranties | Representations and warranties made to City by Manager for itself, its Owners and Affiliates | 36.1.2 |
| Parcels 4 and 5 | Parcel 259-29-004 and parcel 259-29-005 of Lot E | 19.4.1 |
| Parking Capital Repairs and Replacements | Capital Repairs and Replacements made to the On-Site Parking Facilities, excluding Extraordinary Repair Work | 28.1.1(v) |
| Parking Design Criteria | A set of design criteria developed by Manager, and intended to maximize the operational functionality, safety and desirability of parking garages for Arena Events | 21.2.5 |
| Parking Deficiency | The situation that exists when the number of Available Parking Spaces in Off-Site Parking Facilities is not sufficient to meet the Minimum Off-Site Parking Requirements, taking into account any adjustments made pursuant to the express terms of this Agreement. | 22.1.1 |
| Parking Forecast Report | A written forecast report for the 1/3 Mile Ring (and the 1/2 Mile Ring, if requested), including a description of the changes in the number of Available Parking Spaces that are predicted to occur within the applicable area(s) during the ensuing five-year period based on anticipated new developments, modifications to existing developments, the opening or closure of parking facilities, and other known or predicted conditions affecting parking demand and supply within the 1/3 Mile Ring (and the 1/2 Mile Ring, if applicable) | 20.1.2 |
| Parking Liquidated Damages | A sum of money, but not a penalty, to be paid by the City to Manager if the number of Available Parking Spaces does not meet the Minimum Off-Site Parking Requirements, and there is a Parking Deficiency as defined in Section 22.1.1 | 38.3.4(a) |
| Parking Space Difference | The difference between the number of parking spaces that could have been constructed on all of the Lot E parcels and the number of parking spaces that can be constructed without the Excluded Manager's Parcels | 19.4.3(b) |
| Parking Supply Report | A written report of the number of Qualified Parking Spaces and Available Parking Spaces then located within the 1/3 Mile Ring and the 1/2 Mile Ring jointly prepared by City and Manager on or about the Effective Date | 20.1.1 |
| Parking Utilization Report | A written report to reflect the then-current utilization, during San Jose Sharks hockey games, of Available Parking Spaces in each of the parking areas within the 1/3 Mile Ring (and the 1/2 Mile Ring, if requested) | 20.2.1 |
| Partial Taking | A Taking of the Arena Facilities that is not a Total Taking | 34.1.1(d) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| Party<br>-or-<br>Parties | City and Manager | Preamble |
| Peddler Permit Enforcement Costs | Cost of special police services requested of on-duty SJPD Officers by Manager, to address violations of the Peddler Permit Ordinance or the No Trespassing Law | 25.3.2(c) |
| Peddler Permit Ordinance | San José Municipal Code Section 6.54 – Peddler Permit Ordinance | 25.3.1 |
| Per Space Amount | The amount of liquidated damages to be paid by City to Manager if the number of Available Parking Spaces required to meet the Minimum Off-Site Parking Requirements, so that there is a Parking Deficiency as defined in Section 22.1.1; this amount is $450.00 per space in Term Year 25/26 and increases annually on the first day of Term Year 26/27 and the first day of each Term Year thereafter, based on CPI | 38.3.4(a)(i) |
| Permitted Transfer | Any transfer of the San Jose Sharks to a new owner approved by the NHL; and/or a transfer of the Controlling Interests in SSE, SJS LLC and/or SJAM to a new owner or owners approved by the NHL; and/or any transfer by an Owner or Owners, individually or in the aggregate, such that after the transfer the applicable Ownership Warranties stated in Section 36.1.2 continue to be accurate; and/or any transfer by an Owner or Owners, individually or in the aggregate, such that after the transfer Plattner owns, directly or indirectly, 50% or more of the Controlling Interests in SJAM and SJS LLC; and/or the assignment of this Agreement to any other entity in which Plattner owns, directly or indirectly, 50% or more of the Controlling Interests | 2.3.4 |
| Permitted Transferee | Any new owner, assignee or other transferee resulting from a Permitted Transfer | 2.3.4 |
| Plattner | Hasso Plattner and/or his spouse, siblings and such siblings' spouses, lineal descendants of any of the foregoing, or trusts for the specific benefit of any of the foregoing, and their respective Affiliates, | 2.1.1(j) |
| PIT Credit | A Fee Credit for City's share of Possessory Interest Taxes as described in Section 10.3, which the Manager is entitled to. | 6.2.1 |
| Possession Date | August 20, 1993, the date upon which Manager (through its predecessors in interest) took possession of the Arena Facilities | Recital C<br>27.1.2(k) |
| Possessory Interest Rights | Manager's rights to use, occupy, possess, control, brand, operate and generate revenue from the Arena Facilities (including the Arena FF&E) during the Term in accordance with this Agreement | 6.1.5(a) |
| Possessory Interest Tax | A property tax assessed under California law based on Manager's property rights under this Agreement and the resulting taxable interest held by Manager in the Arena Facilities | 10.2.1(g) |
| Post Season | The time period during each Term Year following the conclusion of the Regular Season, during which NHL teams play the division semi-finals, | 3.1.1(d) |



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| Defined Term | Definition | Section |
|---|---|---|
| | division finals, conference championship and Stanley Cup Championship games conducted by the NHL | |
| Potential Event of Default | A failure by Manager or City to perform or observe any of the covenants, terms, and provisions contained in this Agreement on its part to be performed or observed (other than the matters constituting an Insolvency Default) and includes any of those events described in 38.1.1(j) | 38.1.1(j) |
| Pre-Existing Hazardous Substances | Hazardous Substances known by City Authorities to have existed on the Arena Land prior to development of the Arena Facilities, including lead, polycyclic aromatic hydrocarbons (PAH's) and various petroleum products | 27.1.2(l) |
| Pre-Season | The time period during each Term Year prior to the start of the Regular Season, during which NHL teams play pre-season games, including exhibition games during training camp | 3.1.1(e) |
| Premium Areas | Areas such as club, bunker and loge suites, penthouse lounge areas, theater boxes, and other specially-priced seating and viewing areas | 12.2.3(xvii) |
| Prior Agreements | Prior agreements, amendments, addenda and other instruments between the Parties that are terminated by the Parties upon the execution and delivery of this Agreement, which are described on the Schedule of Prior Agreements (Attachment No. 4) | 1.3 |
| Prior Arena Agreement | The 1991 AMA, 2000 AMA and 2018 AMA, collectively | Recital C |
| Programmable Electronic Sign | A type of animated sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means. The elements may be internally illuminated or may be illuminated by reflected light. The sign may be part of a permanent sign that is not a programmable electronic sign. "Programmable Electronic Sign" includes sign display screens commonly known as liquid crystal display (LCD), plasma and digital displays, and their functional equivalents, including digital displays using LED lighting. This definition applies whether the display is used to produce a series of still images, or images that appear to move on the display screen | 16.1.1(e) |
| Project Costs | All costs paid or incurred by Manager for the acquisition and construction of the Renovation Improvements (which are public improvements benefitting the City), including design, engineering, permitting, construction/installation, testing and inspection the Renovation Improvements, as more fully described and defined in the Renovation Agreement (Attachment No. 21) | 6.1.1<br>29.2.1<br>Attach No. 21 |
| PTCOs | DOT Parking and Traffic Control Officers | 24.2.1 |
| Public Right of Way | All public streets, public sidewalks and related improvements located outside of the boundaries of the Arena Land, as shown on the SAP Center Boundary Exhibit (Attachment No. 3) | Recital B(3) |
| Qualified Parking Space | A parking space that meets all of the following requirements, unless the Parties mutually agree otherwise as part of a Temporary Parking Agreement: | 19.1.1(w) |



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## Attachment No. 20

## SCHEDULE OF DEFINED TERMS

| Defined Term | Definition | Section |
|---|---|---|
| | (i) The space is a marked space intended for use by passenger vehicles;<br>(ii) The space is located in an Off-Site Parking Facility in areas that are lawfully entitled to be used for public parking;<br>(iii) The space is not chained off, blocked, reserved, or restricted; provided that (A) an Accessible Parking Space shall be a Qualified Parking Space unless it is otherwise reserved or restricted; and (B) a space that is normally reserved or restricted shall be a Qualified Parking Space if there is reasonably clear signage notifying customers that such space is available for public parking;<br>(iv) The space is not designated for parking by Arena Employees; provided that for the purpose of counting the number of Qualified Parking Spaces, the total number of Arena Employee Parking Spaces in all Off-Site Parking Facilities shall not exceed 350 spaces for regular season hockey games and typical concerts or similar Events, or 400 spaces for playoff hockey games and other high attendance Events; and<br>(v) The space complies with Applicable Construction Codes and the Applicable Parking Standard | |
| Regular Season | The time period during each Term Year during which NHL teams play their regular schedule of games, as determined by the NHL | 3.1.1(f) |
| Related Agreements | Related agreements, amendments, and other instruments which have been executed or will be executed by the Parties or their Affiliates consistent with the terms and intent of this Agreement as described on the Schedule of Related Agreements (Attachment No. 5) | 1.4 |
| Release | Any spilling, leaking, migration (including migration below the surface from other properties to the Arena Land or from the Arena Land to other properties), pumping, pouring, emitting, emptying, discharging, injecting, escaping (including into the air inside or outside of the Arena), leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other receptacles containing any Hazardous Substance) | 27.1.2(m) |
| Remediate<br>-or-<br>Remediation | Any of those actions defined as removal and/or remedial actions under Section 101(23) and (24) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) and similar actions as defined under comparable state and local laws, and/or cleanup, removal, containment, monitoring, treatment, storage, disposal, or other mitigation or remediation of Hazardous Substances undertaken on, in, under or about the Arena Facilities or Arena Land or adjacent or neighboring properties | 27.1.2(n) |
| Renovation Agreement | Agreement for the Renovation of SAP Center at San Jose made effective as of July 1, 2025, attached as Attachment No. 21 | Recital (I) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| Renovation Improvements | The improvements, fixtures or other property constructed, modified or installed by Manager pursuant to the Renovation Agreement | 28.1.1(w) |
| Renovation Project | The major renovation of the Arena Facilities which City and Manager have agreed to undertake as more specifically described in the Renovation Agreement | Recital (I) |
| Renovation Liquidated Damages | A sum of money, but not a penalty, to be paid by the City to Manager if City fails to pay, when due, any installment of its payments towards Renovation Costs, and such payment is not received within sixty (60) days after written notice from Manager as shown on the Schedule of Financial Terms attached as Attachment No. 6 | 38.3.3(a) Attach No. 6 |
| Renovation Project End Date | The date of Final Completion of the Renovation Project's final Phase, being the Phase after which the aggregate Project Costs for all Phases (with credit for the amount incurred by Manager prior to the Effective Date) shall have totaled at least $425,000,000, but not earlier than June 30, 2031, as more specifically defined in the Renovation Agreement | 5.2.1 Attach No. 21 |
| Replacement Parking | One or more lots approved by the Manager containing a minimum of 228 Available Parking Spaces to be delivered by Google to Manager prior to termination of the Lot D Lease | 18.2.1(c) |
| Replacement Suite | A suite within any level of the Arena provided by Manager for City's use if Manager exercises its Suite Relocation Option | 11.5.3(a) |
| San Jose Barracuda | The professional hockey team operating pursuant to an AHL franchise, the owner of which is Sharks Minor Holdings, LLC (a subsidiary of SJS LLC) as of the Execution Date | 2.1.1(k) |
| San Jose Sharks | The professional hockey team operating pursuant to an NHL franchise, the owner of which is SJS LLC as of the Execution Date | 2.1.1(l) |
| SAP Global | SAP Global Marketing, Inc., a Delaware corporation | 15.3.5 |
| SAP Venue Naming Rights Agreement | The Venue Naming Rights Agreement by and between SAP Global, Manager and City dated effective as of July 1, 2023 | 15.3.5 |
| Schedule of Parking Solutions | A schedule of several alternative solutions that City would be able to pursue (subject to appropriate action by the City Council) in order to ensure that City will continue to meet its parking obligations under this Agreement | 20.1.2(d) |
| Scheduling Process Memorandum | Written memorandum that defines a standard scheduling process as agreed to by the Parties and signed by Manager, the City's Chief of Police and the City's Director of Transportation, and as subject to modification from time to time as circumstances change | 24.3.1 |
| Secondary Employer | Any entity that retains off-duty police officers to provide private security services (including traffic control) regardless of whether the relationship between such entity and the officers is that of employer/employee, customer/independent contractor, or other relationship. | 24.4.1(a) |



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**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| Secondary Employment Unit | A special unit of SJPD under whose administration and governance SJPD Officers may be engaged as independent contractors, as governed by the City's secondary employment ordinance | 24.3.2(a)(i) |
| Self-Help Work | Whatever actions or whatever work a Party determines to be reasonably necessary to cure an alleged Potential Event of Default and/or mitigate such Party's damages | 38.3.7(a) |
| Sharks' Exclusive Use Areas | The private locker/training facility (including coaches offices, laundry room, equipment room, and storage areas) located on the lower level of the Arena Building, and the retail merchandise stores and concession areas located within the Arena Building | 28.1.1(x) |
| Sharks Ice | Sharks Ice, LLC, a Delaware limited liability company, the sole member of which is SSE as of the Execution Date. The term "Sharks Ice" includes its predecessors and successors in interest. | 2.1.1(m) |
| Sharks' Personal Property | Tangible personal property located within Sharks' Exclusive Use Areas and not needed for the operation of the Arena Facilities, including team uniforms, team training equipment, retail store merchandise and inventory, and other personal property used solely for the NHL hockey team operations | 28.1.1(y) |
| Short Term Temporary Conditions | Any conditions (or series of conditions) that result in a reduction in the number of Available Parking Spaces for a cumulative period of time of 90 days or less, excluding Intermittent Conditions | 19.3.1(c) |
| Shortfall | The difference between the estimated cost incidental to, arising out of, or required to repair the damage to all or any portion of Arena Facilities including Arena FF&E, when such estimated cost exceeds the sum of the insurance proceeds payable to City for 100% replacement cost and related work; plus the amount of additional insurance proceeds that City would have received above the amount indicated in subsection 31.2.(c)(i) if City had purchased the property insurance required to be purchased by City under Section 30.1; plus the applicable deductible amount payable by City under City's property insurance policy; plus any amount then held in the Capital Reserve Fund, to the extent that such amount previously had not been allocated for work already performed. | 31.2(c) |
| Side Letter to 2018 AMA | The Side Letter Regarding Future Discussions dated August 15, 2018, and executed concurrently with the 2018 AMA | 21.1.1(h) |
| Sign Code | Title 23 of the San José Municipal Code | 16.1.1(g) |
| Signage | Any and all structures, displays, devices, balloons or graphics on or attached to any land, building or structure, property or materials that are used to graphically display or present Arena Advertising on a fixed, temporary or rotating basis, including letters, numbers, words, illustrations, decorations, decals, emblems, trademarks, logos and lights. | 16.1.1(f) |
| Signage Plans | Concept drawings depicting the exterior signs desired by the Manager, for permanent or semi permanent Signage on the exterior of the Arena | 16.2.1(b)(i) |



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**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | (including on or about the On-Site Parking Facilities and pedestrian walkways) | |
| SJAM | San Jose Arena Management, LLC, a Delaware limited liability company, the sole member of which is SSE as of the Execution Date. The term "SJAM" includes its predecessors and successors in interest. | 2.1.1(n) |
| SJPD | San José Police Department | 24.1.1 |
| SJPD Officers | Regular and reserve sworn police officers of San José Police Department | 24.1.1 |
| SJS Guaranty | The guaranty agreement to be executed by SJS LLC prior to or concurrently with the Agreement in the form of Attachment No. 7-2 | 2.2 |
| SJS LLC | San Jose Sharks, LLC, a Delaware limited liability company, the sole member of which is SSE as of the Execution Date; such term includes SJS LLC's predecessors and successors in interest | 2.1.1(o) |
| South Entrance | The main entrance to the Arena located on Santa Clara Street | 19.1.1(x) |
| Special Events | Street festivals, parades, and other similar events on public streets or in public parks outside of the Arena Facilities | 25.1 |
| Sponsor | A person, company, Governmental Authority, or other enterprise that has entered into an agreement with Manager or SJS LLC or one of their Affiliates pursuant to which such enterprise (i) leases, licenses or uses space, advertising assets or amenities within or about the Arena Facilities; (ii) conducts or participates in promotions, public relations, or marketing activities within or about the Arena Facilities, (iii) provides products, goods, entertainment or services within or about the Arena, or (iv) actively promotes, advertises, displays, or offers its products, goods, entertainment or services within or about the Arena Facilities | 15.3.1(c) |
| SSE | Sharks Sports & Entertainment LLC, a Delaware limited liability company; such term includes SSE's predecessors and successors in interest | 2.1.1(p) |
| SSE Guaranty | The guaranty agreement to be executed by SSE prior to or concurrently with the Agreement in the form of Attachment No. 7-1 | 2.2 |
| Staffing Shortfall | Any Interior Security Positions for an Event that are not filled by SJPD Officers before the 26th of the month preceding the month in which the Event occurs or any Traffic Control Positions for an Event not filled by SJPD Officers, CSOs or PTCOs before the 26th of the month preceding the month in which the Event occurs | 24.1.1(c)<br>24.2.1(c) |
| Staffing Shortfall Fee | A fee assessed by Manager for each unfilled position as reflected in the Staffing Shortfall Tracker | 24.5.2(a) |
| Staffing Shortfall Tracker | A schedule showing, on a year-to-date basis, and as updated on a quarterly basis, the number of requested Interior Security Positions and Traffic Control Positions that have not been filled for each applicable Event | 24.5.1(a) |
| Stipulated Judgment | Stipulation for Entry of Final Judgment and Injunction which orders that Manager (and its Affiliates) shall not (i) vacate the Arena, (ii) terminate this Agreement or Hockey Use Agreement, or (iii) relocate the San Jose | 38.3.2<br>Attach No. 19 |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | Sharks to another city, unless and until the Early Termination Fee is paid to the City in the form of Attachment No. 19 | |
| Suite P41 | Penthouse level luxury suite to which the City shall have the exclusive right of use for all Events at the Arena where the penthouse level is open and available for use by Arena customers | 11.5.1 |
| Suite Relocation Date | The date on which the suite relocation becomes effective, if Manager elects to exercise its right to exercise the Suite Relocation Option | 11.5.3(b) |
| Suite Relocation Notice | Written notice issued by Manager to City not later than sixty (60) days before the date that Manager intends to exercise its right to exercise the Suite Relocation Option | 11.5.3(b) |
| Suite Relocation Option | Manager's option to substitute City's rights to use of Suite P41 with the right to use a replacement suite within any level of the Arena, to facilitate Manager's ability to implement penthouse level improvements | 11.5.3(a) |
| Supergraphic Sign | A sign, other than a banner sign, which consists of flexible material attached flush to a building facade | 16.1.1(h) |
| Taking | The exercise by any Governmental Authority (other than City) of the power of eminent domain or condemnation, and any purchase or other acquisition in lieu of condemnation, including a voluntary sale or conveyance in lieu of condemnation and acts constituting inverse condemnation, pursuant to which any interest in the Arena Facilities (including a fee, leasehold, or easement interest) is conveyed to the Governmental Authority | 34.1.1(e) |
| Targeted City Ordinance | An ordinance or resolution adopted by the City Council or other City Authority that (i) is not general in application, but rather is principally directed at or solely applicable to the Arena; AND (ii) is more restrictive than the Applicable Community Standard | 14.2.1(b) |
| Tax | (i) Any "general tax" or "special tax" as defined by Section 1 of Article 13C of the California Constitution, which is imposed by any Governmental Authority, regardless of the manner of imposition or the beneficiary, for the purpose of raising funds for general or specific governmental purposes; and<br>(ii) Any "assessment" as defined by Section 2 of Article 13D of the California Constitution, which is imposed upon real property by any Governmental Authority for a special benefit conferred upon the property; and<br>(iii) A "fee" or "charge" as defined by Section 2 of Article 13D of the California Constitution, which is imposed upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a "property-related service" as defined by Sections 2 and 6 of said Article 13D. Parking usage fees, charged by the City on any City-owned and/or operated parking facility, shall be established at City's sole discretion and such fees, as adjusted from time to time, | 10.2.1(h) |



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**Attachment No. 20**

**SCHEDULE OF DEFINED TERMS**

| Defined Term | Definition | Section |
|---|---|---|
| | are excluded from the definition of "Tax" as contemplated in this Agreement. | |
| Temporary Conditions | Any conditions (or series of conditions) that increase parking demand by non-Arena users and/or cause a loss of Available Parking Spaces that Arena customers or Arena Employees otherwise could use; such term falls into one of the three categories: Intermittent Conditions, Long Term Temporary Conditions, or Short Term Temporary Conditions | 19.3.1 |
| Temporary Parking Agreement | A separate written agreement mutually approved by the Parties entered into when, as a result of specific Temporary Conditions, City is unable to comply with either the Minimum Off-Site Parking Requirements and/or the Minimum Employee Parking Requirements and City elects to employ temporary measures or utilize temporary parking facilities for the period of time reasonably necessary to address such Temporary Conditions | 19.3.2 |
| Temporary Taking | A Taking, on a temporary basis, for a period not exceeding one (1) year | 34.1.1(f) |
| Term | 26 years from the Effective Date | 5.1 |
| Term Year | Also referred to as a Fiscal Year, shall consist of 12 consecutive calendar months during the Term, beginning on July 1st of a calendar year and ending on June 30th of the following calendar year. Each Term Year is referred to based on the last two digits of its beginning and ending calendar years, such as "Term Year 26/27" or "FY27." | 5.1.2 |
| Termination Date | June 30, 2051 (or earlier, in accordance with Section 5.2.1) | 5.1.1 |
| Total Taking | (i) Any Taking of the entire fee interest in the Arena Facilities;<br>(ii) A Taking of such a substantial part of the Arena Facilities that the Arena Facilities remaining after such Taking (even if restoration were made) are rendered economically unusable as a public entertainment facility for hockey games and/or other forms of entertainment as contemplated by this Agreement, with full seating, vending, concessions, advertising and access to the Arena Building and On-Site Parking Facilities; or<br>(iii) Any Taking that prevents the playing of hockey consistent with the NHL requirements and schedule (allowing for mitigation by Manager and SJS LLC and repair or restoration by City) | 34.1.1(g) |
| TPMP | [See Arena TPMP] | |
| TPMP Costs | All costs reasonably necessary to implement the Arena TPMP pursuant to the Operations Plans contained in the Operations Manual(as modified from time to time in accordance with this Agreement), including costs for Off-Site Traffic Control Services and costs to implement (1) Signal Central staffing, (2) Parking and code enforcement staffing, (3) Neighborhood litter removal and clean up, (4) Signal timing plan development, (5) Traffic and parking studies, (6) Traffic signal system upgrades, (7) Traffic signage (static and portable), (8) Minor public capital improvements, (9) Residential permit parking program, (10) Public information material. | 23.1.7(a)(ii) |



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## Attachment No. 20

## SCHEDULE OF DEFINED TERMS

| Defined Term | Definition | Section |
|---|---|---|
| Traffic Control Officers | SJPD Officers, CSOs and PTCOs, collectively | 24.3.1 |
| Traffic Control Positions | The number of positions needed for Off-Site Traffic Control Services for each Event | 24.2.1(a) |
| Transit Project | The High Speed Rail project or station, or the BART project or station, or the Diridon Integrated Station project | 23.2.1(a) |
| Transit TPMP | A transportation and parking management plan for a Transit Project | 23.2.1(b) |
| Transportation Objectives | A set of objectives developed by City, which City agrees it will utilize in evaluating<br>(i) any proposed construction management plans, traffic management plans, related encroachment permits or other similar approvals for any large development projects in the vicinity of the Arena, and<br>(ii) any proposed City-initiated modifications to the transportation ecosystem serving the Arena, including changes in road capacity for vehicles, ingress and egress to parking spaces, or wayfinding | 21.3.6 |
| Triggering Events | Defined events that will entitle City to instruct the Escrow Agent to transmit the Stipulated Judgment to the City Attorney, who in turn will be entitled to deliver it to the Santa Clara County Superior Court for entry of the Stipulated Judgement, per the terms of 38.3.2(a) | 38.3.2(a) |
| Utilization Rate | The average percent of Available Parking Spaces occupied for each separate parking area within the 1/3 Mile Ring (and the 1/2 Mile Ring, if applicable) as well as for all parking areas within the 1/3 Mile Ring (and the 1/2 Mile Ring, if applicable) | 20.2.1(c) |
| Venue Logo | A graphic design incorporating the Venue Name | 15.3.1(d) |
| Venue Marks | The Venue Name, Venue Logo, and/or any stylized form or combination thereof | 15.3.1(e) |
| Venue Name | The official word, term or phrase by which the Arena is called | 15.3.1(f) |
| Venue Naming Rights | The right to determine the Venue Name and Venue Logos, and rights ancillary thereto | 15.3.1(g) |
| Venue Naming Rights Agreement | A written agreement between Manager and an Approved Venue Sponsor pursuant to which Manager grants exclusive Venue Naming Rights to the Approved Venue Sponsor for a specified term | 15.3.1(h) |
| Video Surveillance Equipment Costs | Expenditures by Manager for equipment or third-party services in connection with Manager's elective modification of its video camera system to allow direct access by SJPD | 26.3 |
| VTA | Santa Clara Valley Transportation Authority | 21.1.1(i) |



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**Attachment No. 21**

**AGREEMENT FOR THE RENOVATION OF SAP CENTER AT SAN JOSÉ**

THIS AGREEMENT FOR THE RENOVATION OF SAP CENTER AT SAN JOSÉ ("**Renovation Agreement**") is made effective as of July 1, 2025 ("**Effective Date**") by and between the City of San José, a municipal corporation ("**City**") and San Jose Arena Management, LLC, a Delaware limited liability company ("**Manager**") (individually a "**Party**" and collectively **"Parties"**).

**RECITALS:**

A. City and Manager are parties to that certain Third Amended and Restated Arena Management Agreement dated concurrently herewith (the "**2025 AMA**"), regarding the lease, management and operation of a regional multi-purpose sports and entertainment venue and related facilities owned by City (collectively, "**Arena Facilities**"), including an arena containing approximately 18,000 spectator seats currently known as SAP Center at San José (the "**Arena**") and on-site parking lots ("**Lots ABC**"). This Renovation Agreement is attached to the 2025 AMA and is incorporated therein by reference.

B. The Arena Facilities are located at 525 W. Santa Clara Street in San José on land owned by City, currently identified as APNs 259-28-041, 259-28-043, 259-28-044 and 259-37-060 ("**Arena Land**"), as more particularly described in the 2025 AMA.

C. Manager operates the Arena as a major public assembly facility for sporting events, concerts, family-friendly shows, conferences, corporate events, community events, and similar activities. It is also the home game venue for the San Jose Sharks National Hockey League (NHL) team.

D. From the opening of the Arena in 1993, City and Manager have spent tens of millions of dollars maintaining and improving the Arena Facilities, including a series of mechanical/electrical/plumbing (MEP) and technology upgrades, refreshes to finishes, selective space remodels, and safety improvements. Since 2013 alone, City has contributed approximately $22 million and Manager has contributed over $100 million to such improvements. However, the Arena is now the last remaining NHL venue that has not undergone a major renovation, and is currently not consistent with a number of NHL standards and other industry norms.

E. In order to keep the Arena competitive with other sports and entertainment venues in Northern California, City and Manager have agreed to undertake a major renovation of the Arena Facilities (the "**Renovation Project**" or "**Project**"). As provided in this Renovation Agreement, City will contribute $350 million and Manager will contribute a minimum of $100 million towards the Renovation Project.

F. The Renovation Project is expected to include the following elements and other elements to be more specifically described in the Renovation Plan described below:

1) Arena Deferred Maintenance: Improvements to selected building systems (including Mechanical, Plumbing, Electrical, and Technology), refresh the finishes, repair Lots ABC, and update other items that have outlived their intended lifespan.

2) NHL Requirements: Renovations and improvements required to comply with NHL facility standards and other industry norms.

3) Code Upgrades: Retrofits and other improvements to meet updated building and fire/life safety codes, fire insurance underwriting standards, and other applicable requirements.



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4) Architectural Enhancements: Renovations to enhance the building to include layout reconfiguration, addition of new finished spaces, and large-scale changes to the building.

5) Enhanced/New Premium Products: New revenue-generating enhancements and addition of new premium seating and other premium products.

6) Food Service/Merchandise Revisions: Renovation of existing spaces and creation of new food service and merchandise spaces.

7) Entertainment Enhancements: Addition of program space and other features to attract top entertainment acts, including green rooms and other amenities expected by contemporary acts.

8) Other Improvements: Upgrades relating to environmental sustainability, technology, lighting, audio/video, sponsorship assets, activation, and so forth.

G. The Renovation Project will be completed in separate Phases (as defined below) over not more than 10 years, with most of the work expected to be completed by the end of Fiscal Year 32-33.

H. The Parties desire to enter into this Renovation Agreement in order to establish the terms and conditions for the permitting, funding and construction of the improvements contemplated by the Renovation Project in accordance with their mutual agreement.

**NOW, THEREFORE**, in consideration of the foregoing Recitals, and in further consideration of the terms, covenants and conditions contained herein, the Parties agree as follows:

## ARTICLE I
## PURPOSE AND DEFINITIONS

**Section 1.01. Purpose and Term of this Renovation Agreement.**

(A) The above Recitals are hereby restated and incorporated herein by reference as if set forth in full in this Section 1.01.

(B) This Renovation Agreement is designed to achieve the construction of the Renovation Improvements to the Arena, as undertaken by Manager, and the funding of the Project Costs by City and Manager, as described below.

(C) The term of this Renovation Agreement shall commence on the Effective Date, and shall continue until the Renovation Project End Date has occurred and all obligations related thereto have been satisfied, including the issuance by City of a Notice of Completion and Acceptance of the final Phase of the Renovation Project, and final disbursement by Manager of the Project Funds as described in Section 5.04. Notwithstanding the above, obligations set forth in Article VIII (regarding indemnification) shall survive the term of this Renovation Agreement.

(D) As used in this Renovation Agreement and the 2025 AMA, the term "**Renovation Project End Date**" means the Final Completion of the Renovation Project's final Phase, being the Phase after which the aggregate Project Costs for all Phases (with credit for the amount described in Section 5.02(C) incurred by Manager prior to the Effective Date) shall have totaled at least Four Hundred Twenty Five Million Dollars ($425,000,000); provided, however, that the Renovation Project End Date shall not occur earlier than June 30, 2031.

(E) Following the Renovation Project End Date, all Capital Projects (as defined in Section 28.1.1 of the 2025 AMA) shall be permitted, funded and constructed in accordance with the provisions of Section 28 or the 2025 AMA rather than the provisions of this Renovation Agreement.



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**Section 1.02. Definitions.** Capitalized terms used in this Renovation Agreement shall have the meanings ascribed to them in the 2025 AMA, if they are not defined in this Renovation Agreement. In addition to terms defined elsewhere in this Renovation Agreement, the following terms shall have the meanings given below:

"**2025 AMA**" has the meaning given in Recital Paragraph A.

"**2022 Building Code**" means, consistent with Section 24.01.120 of the Municipal Code, the provisions of the 2022 edition of the California Building Code, the California Residential Code, the California Plumbing Code, the California Mechanical Code, the California Existing Building Code, the California Electrical Code, the California Historical Building Code, Building Energy Efficiency Standards, the California Green Building Standards Code, and the California Existing Building Code, as adopted and amended pursuant to Title 24 of the Municipal Code.

"**2025 Building Code**" means the provisions of the 2025 edition of the above-described California Codes, as adopted and amended pursuant to Title 24 of the Municipal Code.

"**Applicable Laws**" means all federal, state and local statutes, ordinances, building codes, rules, regulations, conditions of approval and all legislative, administrative or judicial orders, decrees, requirements, rulings or judgments, which now or in the future may govern or affect the Arena or any actions under this Renovation Agreement.

"**Business Days**" means any days excluding Saturday, Sunday, any other days which are declared federal bank holidays in the State of California as well as holidays recognized by City. Any event specified to occur on a non-Business Day shall be extended automatically to the end of the first Business Day thereafter. A reference to "days" alone means calendar days.

"**City Inspection Fees"** means all fees, cost reimbursements or other charges payable to City for tasks performed by DPW, FIRE or other City departments in connection with the Renovation Project, including building permit applications, plan check and approval, permit issuance, inspections, oversight, attendance at meetings, and so forth.

"**Construction Documents**" means the construction drawings, specifications and related documents setting forth the requirements for construction of the Renovation Improvements, as approved by DPW.

"**Construction Manager**" means Devcon Construction Incorporated.

"**Contract Documents**" means (i) the Project Record Documents, (ii) the written contracts for labor, materials, equipment, or services for the Project, on terms consistent with the requirements of this Renovation Agreement, and (iii) the Construction Documents.

"**Cost Estimate**" has the meaning give in Section 3.03.

"**DPW**" means the City of San José Department of Public Works, acting through the Director of Public Works or the Director's designee.

"**Effective Date**" means the date set forth in the preamble of this Renovation Agreement.

"**Final Completion**" means satisfaction of the conditions precedent to the City's issuance of a Notice of Completion and Acceptance, as specified in Section 4.02(A).

"**FIRE**" means the Bureau of Fire Prevention of the City of San José Fire Department, acting through the Fire Chief or the Fire Chief's designee.



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**"Force Majeure Event"** means any matter or condition beyond the reasonable control of a Party that prevents or delays a Party's ability to perform this Agreement in accordance with provisions hereof, in whole or in part, including:

(i) War, civil disturbances or riots, acts of terrorism or threats of acts of terrorism, criminal activities, public emergency or calamity, epidemics, pandemics, quarantine restrictions, fire, earthquake, flood, and unusually severe and abnormal weather conditions that are not foreseeable.

(ii) Strikes, lockouts or related work stoppages, labor disturbances, actions directly or indirectly affecting work or disrupting timely delivery of materials or supplies, inability to obtain labor or materials or reasonable substitutes therefor, and the failure of necessary utilities serving the Arena Facilities.

(iii) Governmental action or restriction or enactment or enforcement of any Applicable Law, except that enactment or promulgation of an ordinance, resolution, policy or guideline by City, or a default by City in its obligations under this Agreement, shall not constitute a "Force Majeure Event" as applied to performance by City.

"**Manager's Project Team**" means Manager, the Project Architect, the Project Manager, and the Construction Manager.

"**Municipal Code**" means the Municipal Code of the City of San José.

**"OEA"** means the City of San José Office of Equality Assurance, acting through the Director of the Office of Equality Assurance or the Director's designee. The Director of OEA is also referred to as the "**Compliance Officer**."

"**Phase**" means a discrete portion of the total work of the Renovation Work, generally scheduled to be completed during a hockey "off season" period, which typically runs from the end of April (or later if there are playoff games) to the end of September (or the end of October, if the NHL schedules the first several games as away games). For each Phase, Manager will obtain a separate building permit (and carry out construction activities related to such permit), and City will issue a separate Certificate of Substantial Completion and Notice of Completion and Acceptance.

"**Project**" or "**Renovation Project**" has the meaning given in Recital Paragraph E.

"**Project Account**" has the meaning given in Section 5.03.

"**Project Architect**" means Perkins & Will, Inc., which shall be the Architect of Record for the Renovation Project.

"**Project Costs**" means all costs paid or incurred by Manager for the acquisition and construction of the Renovation Improvements (which are public improvements benefitting the City), including design, engineering, permitting, construction/installation, testing and inspection the Renovation Improvements, including costs for the following items:

(i) Design, engineering, LEED consulting, and other consulting services;
(ii) City Inspection Fees;
(iii) Hazardous materials testing and abatement;
(iv) Utility trenching, and utility extensions, upgrades or special facilities contracts;
(v) Construction management and project management services;
(vi) Premiums for insurance and bonds required by the Contract Documents;
(vii) Premiums for Builder's Risk insurance;



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(viii) Demolition supplies, containment and protection;
(ix) Labor, supervision, equipment, materials, supplies, hauling, and temporary facilities (including off-site parking for construction workers if needed);
(x) Purchasing and installing furniture, fixtures, and equipment;
(xi) Technology hardware and software licenses;
(xii) Commissioning;
(xiii) Signage and other graphics, including interior and exterior building signage and graphics, wayfinding signage, and code signage;
(xiv) Third party special testing and inspection services;
(xv) Utility expenses attributable to the Project in excess of typical operating expenses (as evidenced by meter readings or similar data); and
(xvi) Legal fees for the preparation of procurement and contracting documents and related exhibits, including insurance and bonding requirements, labor registration requirements, and other documents required for implementation of the Renovation Project.

"**Project Manager**" means ICON Venue Group, LLC, dba CAA ICON.

"**Project Record Documents**" means the documents related to the Project, as described in **Exhibit D**, that must be created, managed, and retained by Manager and provided to City as a condition of obtaining the Notice of Completion and Acceptance.

"**Renovation Improvements**" means the improvements, fixtures or other property to be constructed, modified or installed by Manager pursuant to this Renovation Agreement, as more particularly described in the Renovation Plan.

**"Renovation Plan"** has the meaning given in Section 2.01(A).

**"Renovation Project End Date"** has the meaning given in Section 1.01.

"**Substantial Completion"** means, consistent with Public Contract Code Section 7107, either of the following:

(i) The occupation, beneficial use, and enjoyment of the applicable Renovation Improvements by Manager (excluding any operation only for testing, startup, or commissioning), accompanied by cessation of labor on such Renovation Improvements or

(ii) The acceptance by the City of the applicable Renovation Improvements.

"**Work Schedule**" means a schedule of work for each Phase of the Renovation Project, including the anticipated commencement date and completion dates.

## ARTICLE II
## RENOVATION PLAN; APPLICABLE BUILDING CODE

**Section 2.01. Preparation and Approval of Renovation Plan.**

(A) As soon as practicable following the execution of this Renovation Agreement, but no later than December 15, 2025, Manager shall submit to DPW (and FIRE), through City's on-line system, a programmatic scope and phasing document for the entire Renovation Project (the "**Renovation Plan**").

1. The Renovation Plan will describe the scale, elements, performance specifications and spatial/aesthetic attributes of each major component of the Project.



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2. The Renovation Plan will include a preliminary schedule of construction, in the form of a phasing plan intended to complete most of the construction work in separate Phases over a not more than 10 years, with most of the Project expected to be completed over 7 years (i.e., by the end of Fiscal Year 32-33).

3. The Renovation Plan will be accompanied by a set of conceptual drawings ("**Concept Design Package**") prepared by the Project Architect to illustrate the Renovation Plan, including (i) Arena layout by level and components, (ii) elevations, and (iii) renderings.

(B) Within 20 Business Days (excluding the City furlough) after the receipt of the Renovation Plan and Concept Design Package, DPW and FIRE will review them and notify Manager's Project Team in writing of any aspects of the Renovation Plan that are disapproved by DPW or FIRE, stating the reasons for the disapproval and the changes that DPW requests to be made.

1. DPW, FIRE and Manager's Project Team will meet and confer with each other as expeditiously as practicable to resolve any differences of opinion regarding the Renovation Plan.

2. DPW shall not withhold approval of any of the major components of the Project presented in the Renovation Plan to the extent that such components are materially consistent with the Project components described in that certain presentation dated January 17, 2025, entitled "SAP Center Modernization Plans" prepared by the Project Architect and reviewed by DPW prior to the Effective Date.

3. Once the Renovation Plan has been agreed to by both Parties, they shall document their agreement by a written memorandum that identifies the approved final version of the Renovation Plan.

4. The Renovation Plan shall be subject to modification from time to time by Manager during the course of the Renovation Project. However, prior to commencing the design work for any Phase of the Renovation Project, Manager shall submit to DPW (and FIRE) all revisions to the Renovation Plan that affect such Phase, and shall obtain approval from DPW and FIRE of such revisions in accordance with the process described above.

(C) Manager agrees that the Renovation Plan shall provide for the repair or replacement of building infrastructure components that are essential to maintaining the Arena in good working condition (such as mechanical, electrical, plumbing and life safety components), to the extent that such components are determined to have outlived their useful life or are otherwise not functioning properly. Under the Renovation Plan, such essential building infrastructure components will be scheduled for construction in such Phases as shall ensure, to the extent practicable, that the Arena's building systems will continuously be maintained in good working condition, except for any planned closures required during the course of construction.

**Section 2.02. Preparation and Approval of Construction Documents for First Phase of Project.**

(A) As soon as practicable following the execution of this Renovation Agreement, Manager will cause the Project Architect to prepare and submit to DPW (and FIRE) an application for a building permit for the first Phase of the Project, which is expected to commence in April 2026, and be completed by September 2026.

1. Such application shall be accompanied by a 60% complete set of Construction Documents for the first Phase of the Project, including all drawings, specifications, and other information typically required by DPW (and FIRE) as a condition of accepting the building permit application.



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2. It shall be the responsibility of Manager's Project Team to verify the building permit application and submittal requirements, and to schedule a submittal appointment, prior to the submittal deadline.

(B) DPW and FIRE shall review and comment on the Construction Documents for the first Phase of the Project within the time frame and in the manner set forth in Section 3.08, which describes DPW's approval procedures.

**Section 2.03. Determination of Applicable Building Code for Renovation Project.**

(A) If the Renovation Plan/Concept Design Package and the building permit application with the 60% complete set of Phase I Construction Documents are submitted to DPW (and FIRE) by no later than December 15, 2025, then the 2022 Building Code shall be the operative Building Code for all Phases of the Renovation Project.

(B) If the required submittals are not received by DPW (and FIRE) by December 15, 2025, then the 2025 Building Code shall be the operative Building Code for all Phases of the Project.

(C) Manager acknowledges that the City's intake submittal folder must be created in advance of the December 15, 2025 deadline in order for Manager to be able to transmit submittals as required by DPW (and FIRE).

## ARTICLE III
## CONSTRUCTION OF THE RENOVATION IMPROVEMENTS

**Section 3.01. Procurement and Contracting Procedures**. In accordance with all other provisions of this Renovation Agreement, Manager, itself and by and through Manager's Project Team, shall comply with the following general requirements in the course of causing the Renovation Improvements to be constructed:

(A) Manager shall adhere to the following general procurement procedures:

1. Utilize a construction manager/multiple prime construction process to deliver the Project, rather than a general contractor.

   (a) Manager will enter into an agreement with the Construction Manager, who will act as Manager's agent for the purpose of ensuring construction of the Renovation Improvements in accordance with this Renovation Agreement.

   (b) The Construction Manager will divide the construction work into portions of work (generally based on trade or specialty) and then, as Manager's agent, will enter into separate contracts (i.e., multiple prime contracts) for each such portion of the construction work.

   (c) Pursuant to Section 27.14.040 of the Municipal Code, the Construction Manager (as Manager's agent) may utilize design-build prime contracts for selected components of the work, such as mechanical, electrical, plumbing and fire protection.

2. Cause the Construction Manager to procure each prime contractor construction contract that is under $730,000 consistent with the requirements in Section 27.06.050 of the Municipal Code, entitled "Request for Quotes."

3. Cause the Construction Manager to procure all other prime contractor construction contracts in a manner that is consistent with the City's public bidding requirements,



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including providing a public bid solicitation to prospective contractors, holding a public bid opening, and awarding the contract to the lowest responsive bidder that is responsible.

4. Manager may prequalify any prime or sub-contractor in accordance with Chapter 27.16 of the Municipal Code and California Public Contract Code Section 20101. Manager will submit any proposed prequalification questionnaires to DPW for approval.

5. Require all contractors (prime and sub) to comply with applicable prevailing wage and labor requirements as provided in Section 3.10(I).

6. Conduct outreach to small and local businesses, as defined in Title 4 of the Municipal Code, for all bid opportunities for the Project.

7. Include all applicable forms, disclosures, procedures and provisions required by the City's Wage Theft Prevention Policy (Council Policy 0-44 Effective July 1, 2023) in the prime contractor procurement documents.

8. Include a protest procedure in the prime contractor procurement documents that requires any protests be transmitted within five days of bid opening, limits the right to protest to bidders who submitted responsive, responsible bids, and establishes the protest procedure as the exclusive remedy for objections to the procurement process, all in accordance with the applicable provisions of Chapter 27.10 of the Municipal Code.

9. Include provisions in the prime contractor procurement documents that:

   (a) Require prime contractors to sign and comply with the Citywide Project Labor Agreement as provided in Section 3.10(K).

   (b) Require prime contractors to provide payment and performance bonds in accordance with Section 3.10(A)

   (c) Require all contractors performing work on the Project to provide insurance as set forth in Section 3.10.(C).

(B) Manager shall also adhere to the following general contracting procedures:

1. Not allow any Phase of the construction work to start until DPW has reviewed and approved the Construction Documents applicable to that Phase of the construction.

2. Cause work to be undertaken and performed in accordance with the approved Construction Documents and permits, modified only as allowed in Section 3.09.

3. Cooperate with inspections of the work to be performed on a regular basis by DPW in its normal course of business and include a representative of DPW in weekly Project meetings (if desired by DPW).

4. At DPW's direction, stop any portion of the work that DPW determines is not in compliance with the Construction Documents, and promptly correct the deficiency.

**Section 3.02. Costs of Construction.**

(A) Manager currently estimates that the Project Costs will total at least Four Hundred Twenty Five Million Dollars ($425,000,000), of which hard costs for the construction of the Renovation



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Improvements will total approximately Three Hundred Five Million Dollars ($305,000,000) and soft costs will total approximately One Hundred Twenty Million Dollars ($120,000,000).

(B) The Parties will fund and manage the Project Costs in accordance with **Article V** below. As provided therein, City is obligated to fund Project Costs in an amount equal to Three Hundred Fifty Million Dollars ($350,000,000). Manager is obligated to fund Project Costs in an amount equal to at least Seventy Five Million Dollars ($75,000,000), and to pay another Twenty Five Million Dollars ($25,000,000) towards City's financing costs.

(C) Manager shall be responsible for all Project Costs in excess of the amounts required to be funded by City (the "**Excess Project Costs**"), including any and all cost overruns, and Manager hereby assumes the risk of any and all Excess Project Costs**.** Except as otherwise specifically provided in this Renovation Agreement, City shall have no obligation whatsoever, to either Manager or any third parties, for any Excess Project Costs.

(D) Except as otherwise expressly provided in this Renovation Agreement, nothing herein shall modify (i) City's obligation under Section 28 of the 2025 AMA to pay for any Extraordinary Repair Work that is not related to the Renovation Project, or (ii) City's obligation under Section 31 of the 2025 AMA to repair any damages caused by a Casualty, or (iii) any other allocation of the respective obligations of the Parties under the 2025 AMA.

**Section 3.03. City Inspection Fees.** The aggregate total City Inspection Fees that may be charged for all Phases of the Renovation Project shall not exceed one and three-tenths percent (1.30%) of the hard costs of the construction work, to be calculated and paid in installments for each Phase of the Renovation Project based on the hard construction costs of the Renovation Improvements in such Phase, subject to the following:

(A) As part of the application for a building permit for each Phase of work, Manager shall provide City with an estimate of the Project Costs for that Phase (the "**Cost Estimate**"). As a condition precedent to the City's issuance of the building permit, Manager shall pay (from the Project Funds) the amount of City Inspection Fees reasonably estimated by DPW based on the Cost Estimate.

1. Manager shall notify DPW promptly of any changes in the Cost Estimate that may occur due to change orders or other factors, in which case DPW may adjust the applicable City Inspection Fees accordingly.

2. All amounts payable by Manager as City Inspection Fees shall be set forth in a written invoice delivered to Manager in accordance with City's standard practices.

(B) If the actual accrued time expended by City's inspectors corresponds to a lower amount of Inspection Fees, the savings shall accrue to the benefit of Manager, in the form of a credit against City Inspection Fees for future Phases of the Project. On the other hand, if submittals are deemed incomplete, resulting in unforeseen work on behalf of City, then Manager shall pay (from the Project Funds) the cost of any atypical or additional reviews as additional City Inspection Fees, which excess amount shall be payable over and above the 1.30% standard limit.

1. Within ten (10) Business Days after the receipt of any submittal, DPW shall advise Manager in writing of any aspects of such submittal that DPW deems to be incomplete, such that it will result in unforeseen work on behalf of City. If City does not provide notice of an incomplete submittal within the above time period, then such submittal shall be deemed to be complete for the purposes of calculating the amount of City Inspection Fees.



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2. No later than the time City issues a Notice of Completion and Acceptance of a Phase of the Project, DPW shall provide Manager with a schedule detailing all time accrued and charged by DPW, FIRE or other City departments for City Inspection Fees, which schedule shall include a calculation of any savings that will be credited against future Phases and/or any excess City Inspection Fees payable as a result of incomplete submittals.

**Section 3.04 Design Coordination and Integration:**

(A) Manager will cause the Project Architect to ensure that the drawings and specifications for each prime contract and within each Phase are coordinated and integrated such that (i) there are no material gaps or inconsistencies in the final Construction Documents, (ii) when completed in accordance with the Construction Documents, each component of the Project will perform in accordance with prevailing industry standards, and (iii) the Arena as a whole, when modified by each Phase of the Project, will operate cohesively and effectively for its intended purposes.

(B) As is standard in the industry, Manager will include in its contracts for each prime contractor a requirement that the contractor notify Manager of any perceived gaps or inconsistencies in the Construction Documents so that Manager can address them via change order.

**Section 3.05. Construction Schedule.**

(A) Manager anticipates that the Project will be completed in Phases over approximately seven years (but not more than ten years), starting in April 2026. A description of the scope of work for each Phase will be set forth in the Renovation Plan. As the Renovation Project progress over time, the Renovation Plan (and scope of work for the remaining Phases) will be subject to modification from time to time as described in Section 2.01(B) above.

(B) Prior to commencing construction work on any Phase, Manager shall provide DPW with a Work Schedule for that Phase. Manager shall provide DPW with regular updates concerning any revisions to the Work Schedule.

(C) Manager shall use its best efforts to cause the Renovation Improvements to be completed in accordance with the Phases set forth in the approved Renovation Plan, and within the times specified in the Work Schedule for each Phase.

(D) City will perform its obligations, including City inspections of the construction work, promptly and in accordance with the Work Schedule. Manager will provide City with at least 48 hours advance notification for an inspection request, not counting weekends and City holidays.

(E) Notwithstanding anything to the contrary in this Renovation Agreement, Manager cannot start construction for any Phase until it has secured all building permits that are required by the City or any other applicable governmental agency affected by such construction.

**Section 3.06. Coordination/Meetings.**

(A) City and Manager shall hold regular progress meetings to coordinate the preparation of, submission to and review of Construction Documents by the City. City and Manager will communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any documents to the City can receive prompt and speedy consideration.

(B) During construction of the Project, Manager's Project Team will conduct the following meetings:

1. Manager will schedule weekly meetings with representatives from Manager's Project Team and from DPW. Such meetings must detail the progress of construction, the status of all necessary governmental approvals required in connection with the construction



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work, the status and degree of the completion of the work, and any anticipated delays foreseeable or known to Manager.

2. During the progress of the work on any Phase, additional meetings will be held at least once each month between Manager's Project Team, DPW, OEA and any other relevant parties to review Project Fund Disbursement Notices as described in Section 5.04(A) and any related issues.

3. Manager shall also meet with City's designated property insurance loss prevention consultant as may be reasonably requested by City's Risk Manager, to review design and construction details (generally at the 30% completion stage). Manager agrees to meet and confer with DPW to discuss any recommendations made by such loss prevention consultant.

4. Manager will coordinate all other meetings with representatives of DPW and any other City representatives as is necessary to support the efficient delivery of the Project.

5. DPW will assign a representative to be City's project manager for the Renovation Project, who will be expected to attend the foregoing meetings on a regular basis.

(C) City shall cooperate with Manager in good faith to help ensure that the Renovation Project will proceed in a collaborative, timely and efficient manner. Without limiting the foregoing, DPW agrees to review and respond to submittals within the time periods set forth in this Renovation Agreement, to attend regular weekly meetings, and to do all other things reasonably within City's control to ensure that the Renovation Project is not unnecessarily delayed or hindered in any way.

**Section 3.07 Design Professionals.** Attached as **Exhibit A** is a list of design professionals (including architects, engineers and other consultants) that Manager intends to use for the Project, either as sub-consultants to the Project Architect or as direct consultants to Manager. Manager will notify City of any additions or other changes to the list of design professionals.

**Section 3.08. City Approval of Construction Documents.**

(A) Manager will not finalize any construction contract with a prime contractor for any Phase of work, or allow construction to begin on any Phase of work, unless DPW has approved the 100% Construction Documents for that Phase of work (subject to delegated design or deferred submittals as approved by DPW).

1. To help qualify for design immunity under Government Code Section 830.6, DPW shall ensure that the staff members responsible for the review and approval of the Construction Documents have been authorized by the City Council to grant discretionary design approval of construction and/or improvement projects.

(B) Manager will submit each Construction Document submittal package to DPW for review and comment at the 30%, 60% and 90% completion levels. FIRE will review the 60% and 90% completion level package. Review of each submittal package is expected to be completed within a minimum of ten (10) business days. Manager will submit the 100% Construction Document submittal package to DPW for final approval. The 100% Construction Document submittal package must be stamped and signed by the design professional responsible and in charge and must include a Notice of Review and Approval by the County Health Department, FIRE, and any other government entity having code compliance jurisdiction over the construction of the Renovation Improvements. Except as otherwise provided, DPW must approve or disapprove the



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100% Construction Document submittal package within 20 Business Days of receiving it from Manager.

(C) If DPW disapproves the 100% Construction Document submittal package for any Phase, it must state in writing the reasons for the disapproval and the changes that DPW requests to be made. Such reasons and such changes must be reasonable, and must be consistent with the following: (i) previous DPW review and comments made at the 30%, 60% and 90% completion levels, (ii) the approved Renovation Plan, and (iii) all previously approved Construction Documents. Upon receipt of a disapproval by DPW, Manager shall revise such items as required, and resubmit them to DPW as soon as possible after receipt of the notice of disapproval. Resubmittals shall be reviewed by the City in the same manner as the initial submittal, pursuant to Section 3.08(B) above.

**Section 3.09. Changes to Approved Construction Documents.**

(A) After DPW's approval of a 100% Construction Document submittal package, Manager and City shall have the right during the course of construction to make changes to the Construction Documents only as provided in this Section.

(B) City may request Manager to make changes to the Construction Documents during the course of construction of a Phase of work, but shall not require Manager to make any change if (i) such change would materially increase the costs to construct the Renovation Improvements in such Phase, (ii) such change would cause a material delay in completion of the Renovation Improvements in that Phase, or (iii) such change is materially inconsistent with the Renovation Plan. Nothing herein shall be construed to relieve Manager from its obligation to construct the Renovation Improvements in compliance with all Applicable Laws.

(C) Manager may request changes to the Construction Documents during the course of construction of a Phase of work, but shall not request any change if (i) such change would cause a material delay in completion of the Renovation Improvements in that Phase, unless Manager demonstrates to City (and City agrees) that such delay will not impair Manager's ability to perform its management obligations under the 2025 AMA; or (iii) such change is materially inconsistent with the approved Renovation Plan, unless Manager first obtains City's approval of a modification to the approved Renovation Plan that would accommodate such change. Any changes requested by Manager shall be submitted to DPW, which shall have ten (10) Business Days (with City furlough periods excluded from Business Days, in this instance) to approve the change or state in writing why the change is unacceptable. Such a request for change shall include, if applicable, a Notice of Review and Approval by FIRE, and any other government entity having jurisdiction over the construction of the Renovation Improvements, and must be stamped and signed by the design professional responsible and in charge.

(D) Notwithstanding the foregoing, Manager may make minor field changes with the written approval of the City through DPW's project manager or other representative as designated by DPW. Minor field changes are those minor changes from the approved Construction Documents that make no material change to, and have no adverse effect on the Renovation Improvements and are made in order to expedite the work of construction in response to field conditions. Changes in exterior design, treatment building materials or colors, or any changes affecting building structural, electrical, plumbing, mechanical code, exiting, fire and life safety shall under no circumstances be deemed minor field changes. City shall approve or disapprove minor field changes within two (2) Business Days (with City furlough periods excluded from Business Days, in this instance) after receipt of Manager's request for approval.



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**Section 3.10. Contractor Requirements.**

(A) Manager will require each prime contractor to provide payment and performance bonds for each Phase of work, utilizing the City's dual obligee forms.

1. The bonds shall each be in a penal sum equal to not less than one hundred percent (100%) of the scheduled cost of construction in the contract and shall name the City as a co-obligee. Payment bonds must comply with State law requirements applicable to such bonds. Performance bonds must comply with all relevant payment bond requirements.

2. Manager will not allow any contractor to start construction until it has submitted copies of the contractor's payment and performance bonds to DPW for review and approval.

3. Manager hereby certifies that all copies of payment and performance bonds submitted to DPW will be true and correct.

(B) Manager shall also require all prime contractors to keep the Renovation Project free of Mechanics Liens and Stop Notices and require that all prime contractors immediately resolve any such claims by either paying any disputed amounts or posting a Stop Notice Release Bond for the benefit of City and Manager.

(C) Unless Manager undertakes an Owner Controlled Insurance Program (**"OCIP"**), Manager will require each prime contractor to provide insurance, with coverages and limits consistent with the industry standard for the scope of work the contractor is performing. The insurance must expressly name the City as an additional insured. Should Manager elect to undertake an OCIP, Manager will ensure that the OCIP program includes all required insurance coverages.

(D) Manager shall include in each prime contract indemnity requirements consistent with the industry standard for such provisions given the scope of work the contractor will be performing. The indemnity requirements will expressly name the City as an additional indemnitee.

(E) Manager shall include in each prime contract, for the express benefit of City, a provision to the effect that the contractor shall warrant that (i) materials and equipment used by the contractor will be new and of good quality; (ii) the work will be free from defects other than those inherent in the work; and (iii) the work will conform to the requirements of the Contract Documents.

(F) Manager shall include in each prime contract, for the express benefit of City, a provision to the effect that if the contractor is notified within one (1) year following the Final Completion of the work that there are observed defects in the contractor's work, the contractor shall promptly make such corrections as may be necessary by reason of such defects, including the repairs of any damage to other parts of the system resulting from such defect.

(G) Manager will require prime contractors to comply with the California Subletting and Subcontracting Fair Practices Act (California Public Contract Code Sections 4100 - 4114) as implemented via Municipal Code Chapter 27.32.

(H) Manager will require that all prime contractors and subcontractors submitting bids and working on the Project hold the appropriate contractor's license for the scope of work to be performed in accordance with Business & Professions Code Section 7057 and are registered with the Department of Industrial Relations (DIR) in accordance with California Labor Code Sections 1725.5 and 1771.1. Before allowing a contractor (prime or sub) to perform construction work, Manager shall provide City with their CSLB license number and DIR registration numbers.



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(I) Manager shall include in each prime contract appropriate provisions requiring that the prime contractor comply with prevailing wage and labor requirements in accordance with California Labor Code Sections 1770, et seq. (as implemented by Chapter 14.09 of the Municipal Code), including regulations regarding the payment of prevailing wages, apprenticeship requirements, and the maintenance and submittal of electronic certified payroll records.

1. Manager must include appropriate provisions in each prime contract requiring the prime contractor to include in all of its subcontracts appropriate requirements regarding compliance with the above-referenced prevailing wage and labor requirements.

2. Manager must include appropriate provisions in each prime contract requiring the prime contractor and its subcontractors to provide the City with certified payroll records in accordance with Section 5.04(B)(3).

(J) Manager shall include in each prime contract appropriate provisions requiring that the prime contractor at all times comply with all Applicable Laws.

(K) Manager agrees to cause its contractors to perform the construction work in accordance with the First Amended and Restated Citywide Project Labor Agreement between the City and the Santa Clara and San Benito Counties Building & Construction Trades Council, dated June 3, 2022, as amended May 9, 2024 (the "**PLA**") or any other amendment to the PLA approved by City Council for the duration of this Agreement.

1. Manager must require each contractor to whom it awards a contract (with the exception of any specialty trades that are exempted by mutual agreement of the Parties) to execute the "Agreement to be Bound" attached as Addendum A to the PLA. Third party inspectors will not be subject to the PLA.

2. At least twenty-one (21) days prior to the commencement of any Phase of work on the Renovation Project, representatives of Manager's Project Team will participate in a pre-construction conference with the City, Building Trades Council and Union Representatives.

(L) Manager shall comply with the Antidiscrimination and Equal Employment Opportunity requirements in Section 3.11.

**Section 3.11. Antidiscrimination and Equal Employment Opportunity.**

(A) Prohibition on Discrimination and Preferential Treatment. Manager's contracts with each of its prime contractors shall require that they comply with the provisions of Chapter 4.08 of the Municipal Code, as may be amended from time to time, and any other Applicable Laws regarding anti-discrimination and/or preferential treatment of any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin.

1. This provision is applicable to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing.

2. Nothing herein shall be interpreted as precluding any reasonable accommodation provided to any person with a disability.

(B) Compliance Reports. If directed by the Compliance Officer of the City (the Director of OEA), Manager shall cause its contractors to file compliance reports with the Compliance Officer.



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Compliance reports shall be in the form and filed at such times as may be designated by the Compliance Officer. Compliance reports shall contain such information and be supported by such data or records as may be requested by the Compliance Officer to determine whether the contractors are complying with the nondiscrimination and nonpreference provisions of this Renovation Agreement and Chapter 4.08 of the Municipal Code.

(C) Failure to Comply With Nondiscrimination Provisions. If the Compliance Officer determines that a contractor has not complied with the provisions of Section 3.11(A), the City after notice to Manager and the offending contractor giving the contractor an opportunity to cure such noncompliance, may direct that payments to the offending contractor be suspended, in whole or in part, until such contractor provides adequate assurances to City that it will adopt and enforce an effective compliance program. Failure to comply with these provisions may also subject the offending contractor to debarment proceedings pursuant to provisions of the Municipal Code. Failure to comply with these provisions is a violation of Chapter 4.08 of the Municipal Code and is a misdemeanor**.**

**Section 3.12. Access During Construction.**

(A) Representatives of City shall have reasonable right of access to the Renovation Improvements, or any part thereof, without charges or fees, during normal construction hours during the period of construction for purposes consistent with this Renovation Agreement, including inspection of the work being performed in constructing the Renovation Improvements, so long as City gives adequate notice to allow Manager to coordinate such access consistent with the Renovation Project safety and security procedures. The entry of such representatives of City onto the Arena shall be subject to, and consistent with, reasonable rules and regulations of Manager.

(B) Manager shall cause the Construction Manager to maintain a binder at the work site containing copies of the Construction Manager's daily reports, which should include the number of workers on site for each contractor (including subcontractors), assigned activities, progress on assigned activities, and completed activities. Representatives of City shall be entitled to review such binder upon request. Such reports shall be shared electronically with the City's Representatives on a weekly basis.

(C) Manager shall cause Construction Manager to maintain a set of Project Record Documents at the work site as required by **Exhibit D**, and shall make such documents available to representatives of City upon request. Such documents shall be shared electronically with the City's Representatives on a weekly basis.

**Section 3.13. Site Logistics.**

(A) For each Phase of the construction work, Manager shall cause the Construction Manager to prepare a logistics plan for all construction activities in and around the Arena Facilities ("**Site Logistics Plan**"), a copy of which will be provided to DPW. The Site Logistics Plan is intended to coordinate construction activities that may disrupt access to or use of the Arena Facilities, and includes the locations (on a Phased basis) of temporary facilities such as construction worker parking areas, circulation, storage areas, and jobsite trailer. Manager will notify DPW of any material changes to the Site Logistics Plan.

(B) Manager shall endeavor to schedule each Phase of construction work to take place during hockey "off season" periods, when there are usually fewer Arena events that occur.



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1. The Parties acknowledge that during the course of the Renovation Project, the Arena will need to be closed to all Events for intermittent periods of time to accommodate the construction schedule and scope of work.

2. In addition, the Arena Authority offices will need to be relocated to space outside of the Arena to accommodate the Renovation Project, as further discussed in Section 11.4 of the 2025 AMA.

(C) Manager will notify City and Arena Authority of any periods of time during which the Arena will need to be closed to all Events.

**Section 3.14. Local, State and Federal Laws/Permits/Regulations.**

(A) Manager shall carry out the construction of the Renovation Improvements in conformity with all Applicable Laws.

(B) Without limiting the foregoing, Manager acknowledges that the Renovation Improvements are subject to the requirements of a deed restriction in place against the Arena Facilities, due to soil and groundwater contamination discovered during the original construction of the Arena. The soil contamination is encapsulated under paved portions of the Arena Facilities. The deed restriction requires a Soil Management Plan (SMP) to be approved by the Department of Toxic Substances Control (DTSC) prior to any excavation, in order to ensure construction workers are not exposed to contaminated soil, ensure any disturbances of the capped are adequately repaired and to manage any contaminated soils brought to the surface for proper disposal. Manager will ensure that applicable prime contractors are advised of this condition and that any subsurface work or disturbances including, but not limited to, grading, excavation or trenching that occurs complies with applicable notice and approval by the DTSC, notification to the City, safety, and management requirements.

**Section 3.15. Builder's Risk Insurance.** Manager shall purchase (or cause its contractors to purchase) builder's risk or similar insurance protecting against damage or loss to the Renovation Improvements during the course of construction, on such terms and conditions as shall be reasonably approved by City's Risk Manager.

## ARTICLE IV
## COMPLETION OF CONSTRUCTION

**Section 4.01. Certificate of Substantial Completion.**

(A) The City shall issue a certificate of occupancy, or the equivalent ("**Certificate of Substantial Completion**") for each Phase of the Project when it is sufficiently complete in accordance with the Contract Documents so that it can be occupied for the use for which it is intended; provided, however, that the City will not issue a Certificate of Substantial Completion until: (i) the Manager has obtained all permit sign-offs required for legal occupancy, (ii) the Manager's Project Architect issues a certification stating that the applicable Renovation Improvements have been built in substantial accordance with the approved Construction Documents, and (iii) the City confirms that the construction work was performed in substantial accordance with the requirements set forth in this Renovation Agreement. Issuance of a temporary certificate of occupancy shall constitute a Certificate of Substantial Completion; provided, however, that City shall also issue a permanent certificate of occupancy once the conditions of the temporary certificate have been satisfied.

(B) The existence of outstanding punch list items shall not preclude the issuance of the Certificate of Substantial Completion if the requirements of Subsection (A) above are complied with. However,



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Manager shall cause the punch list items to be completed in a manner satisfactory to City as promptly as possible after issuance of such Certificate.

(C) Notwithstanding the above, the City, in its sole discretion, may allow Manager to use a Renovation Improvement for its intended purpose before the balance of the Renovation Improvements for that Phase have achieved Substantial Completion if the Improvement meets the following requirements: (i) the Improvement is one that can be used separately and independently from the other parts of the Project, (ii) the Improvement is Substantially Completed and meets all requirements for it to be used safely and properly for its intended use, and (iii) the Manager complies with any reasonable conditions imposed by the City related to use of the Improvement.

**Section 4.02. Notice of Completion and Acceptance.**

(A) City shall issue a "Notice of Completion" and a "Notice of Acceptance" (together, a "**Notice of Completion and Acceptance**") promptly after the Final Completion of each Phase of the Project. In order to achieve Final Completion, and as a condition precedent to City's issuance of the Notice of Completion and Acceptance, Manager must complete the following items, which Manager shall endeavor to complete within sixty (60) calendar days following Substantial Completion of such Phase:

1. Manager must cause its contractors to complete all closeout requirements specified in the Contract Documents;

2. Manager must cause its contractors to complete the procedures described in **Exhibit C** ("**Closeout Procedures**");

3. Manager must cause its contractors to comply with the requirements described in **Exhibit D,** including providing DPW with the documents described therein **(**"**Project Record Documents**"); and

4. Manager must cause its contractors to complete ALL punch list items for that Phase of the Renovation Project.

(B) In accordance with Civil Code Section 9204, City shall record in the Official Records of Santa Clara County a Notice of Completion within fifteen (15) calendar days after the date of Final Completion of each Phase of the Renovation Project. The Notice of Completion shall be signed and verified by the City. The Parties acknowledge that timely recordation and service of the Notice of Completion for each Phase of the Renovation Project shortens the deadline for filing stop notice claims related to that Phase.

**Section 4.03. Release of Retentions.** In accordance with Section 7107 of the Public Contract Code and Section 27.26.060 of the Municipal Code, following Substantial Completion of each Phase of the Renovation Project, but not later than sixty (60) calendar days following Final Completion of that Phase, Manager shall release the five (5) percent retention withheld from each contractor performing work on that Phase of the Project, subject to Manager's right in accordance with Section 27.26.060 of the Municipal Code to make withholdings of up to 150% of the estimated cost to complete unfinished or defective work.

## ARTICLE V
## PAYMENT OF PROJECT COSTS

**Section 5.01. City's Funding Obligations.**

(A) As stated in Section 3.02(A), City shall fund Project Costs in an amount equal to Three Hundred



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Fifty Million Dollars ($350,000,000).

1. City will contribute its share of the Project Costs by making payments to Manager in five annual installments of Seventy Million Dollars ($70,000,000) each, due on March 1 of each year for five consecutive years starting March 1, 2027, with the last payment due on March 1, 3031.

2. All such payments shall be transferred directly to the Project Account described below, by wire transfer or other electronic payment as mutually agreed by the Parties.

(B) It shall be City's sole responsibility and within City's sole discretion to determine what sources of financing or funding it will use to satisfy the foregoing payment obligations, and to take all actions and make all appropriations as may be necessary to obtain such financing or funding (including, if applicable, obtaining approval from the voters) and pay the debt service on any bonds or other loans obtained for such purpose, subject to the following:

1. City shall not attempt to raise funds for the Project Costs by any "New Taxes" that would result in any "Disallowed Tax Increases" (as defined in Section 10.2 of the 2025 AMA), such as ticket taxes or parking taxes that target or would disproportionately affect Arena or Sharks Ice patrons.

2. Manager shall pay a total of Twenty Five Million Dollars ($25,000,000) to City to apply towards City's debt service on financing expected to be obtained by City to fund the Project Costs. Such amount shall be payable by Manager in two installments of $8,333,333 each, due on April 1 of 2028 and 2029, and a final installment of $8,333,334 due on April 1 of 2030. City shall apply such payments from Manager toward repayment of its debt obligations related to the Renovation Project.

(C) The Parties acknowledge that approval by the City Council will be required prior to any appropriation for payments necessary to fulfill City's obligations under the 2025 AMA. However, the City Council's failure to approve expenditures or other actions to fulfill City's obligations will constitute a Potential Event of Default (defined in Section 38.1.1 of the 2025 AMA), which if not cured within the Applicable Cure Period (defined in Section 38.2.1 of the 2025 AMA) will entitle Manager to Liquidated Damages (defined in in Section 38.3.3 of the 2025 AMA) and related remedies.

(D) No unforeseen facts, events or circumstances shall relieve City of its payment obligations hereunder (including any Force Majeure Event or failure by the voters to approve of a tax or bond measure), except for a material breach of contract by Manager, destruction of the Arena, or other circumstances that would expressly waive City's payment obligation pursuant to the terms of the 2025 AMA.

**Section 5.02. Manager's Funding Obligations.**

(A) Manager shall contribute a minimum of Seventy Five Million Dollars ($75,000,000) toward the Renovation Project within the first ten (10) Term Years following the Effective Date. All contributions by Manager shall be deposited into the Project Account prior to disbursement for payment of Project Costs, and shall be held, disbursed and accounted for in the same manner as for City's contributions.

(B) The amount of Manager's contributions from Phase to Phase shall be based on the total Project Costs for the then-current Phase of work, less the Project Funds then remaining in the Project Account from City's contributions. If Project Costs exceed the balance of Project Funds then contributed by City to the Project Account, Manager shall be responsible for covering all such



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additional Project Costs (subject to reimbursement from any funds later contributed by City to the Project Account), with the understanding that Manager will be responsible for any aggregate Project Costs in excess of the aggregate amount City is required to contribute (Excess Project Costs).

(C) Amounts incurred by Manager for Project Costs prior to the Effective Date (including design costs, preconstruction activities, and construction of Renovation Improvements occurring during the summer of calendar year 2025) shall be credited towards Manager's contribution obligation in an amount equal to Seven Million Dollars ($7,000,000), provided that Manager shall provide City with a schedule documenting such Project Costs.

**Section 5.03. Management of Project Account.**

(A) Manager shall establish and maintain a segregated account at Comerica Bank or other federally insured financial institution mutually acceptable to the Parties (the "**Project Account**") exclusively for the Renovation Project. All funds contributed by City or Manager for the Renovation Project (**"Project Funds"**) shall be held, managed and disbursed as provided below.

(B) The Project Account shall:

1. Be held in the name of Manager;

2. Accrue interest that will be added to the balance of the Project Funds;

3. Utilize an Insured Cash Sweep (ICS) program through the IntraFi Network or similar network, to distribute funds in excess of $250,000 among other FDIC-insured banks within the network; and

4. Require that checks or other forms of drafts against the account be signed or authorized by Manager's President, a Senior Vice President, or Chief Financial Officer, or their designees.

(C) Within five (5) Business Days after receiving each monthly account statement for the Project Account, Manager shall provide the City with a PDF copy of such statement, together with a detailed schedule identifying the source of each deposit and a detailed schedule identifying the payee of each expenditure.

**Section 5.04 Disbursement of Project Funds By Manager**

(A) General Requirements Regarding Disbursements for Project Costs. Following the Effective Date, the Project Funds will be disbursed by Manager, subject to reasonable approval by City, in accordance with the terms and conditions of this Section 5.04.

1. Manager shall use the Project Funds to make payments to consultants, contractors, material suppliers, service providers, vendors and other payees (collectively, "**Project Payees**") solely for Project Costs.

2. All expenditures for Project Costs shall be described in a notice delivered to City ("**Disbursement Notice**") in the form attached hereto as **Exhibit B**, and supported by proof of such Project Costs in a form acceptable to City as described below in this Section 5.04. For Project Costs incurred but not yet paid, Manager must submit to City proof of the validity of such costs and proof of completion of the work or services, both in a form acceptable to the City. The Disbursement Notice will be subject to review and approval by City as described below.



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3. City will not directly make payments to any Project Payees for Project Costs. If City makes payments directly to third parties for expenditures related to the Renovation Project, such expenditures shall be deemed for purposes other than payment of Project Costs.

4. Where Project Costs are incurred for work to construct or install the Renovation Improvements, the items described in Section 5.04(B)2 below must be submitted by Manager along with the Disbursement Notice.

(B) Ongoing Disbursements for Construction Work. The Project Funds shall be disbursed by Manager to the Project Payees, on a percentage of completion basis (or other basis approved by the City, in its sole discretion), with each disbursement being subject to inspections and certifications by the City. For any disbursement by the Manager for Project Costs, any discrepancies, if not resolved within the then current payment period, may be deducted from the disbursement on the subsequent payment period(s).

1. Construction Draw Meetings. Manager shall organize, as mutually agreed, an on-site construction draw meeting by the fifth ($5^{th}$) day of each calendar month, to evaluate the progress and status of the Project under construction. At the construction draw meeting, representatives of Manager (including the Construction Manager and the Project Manager) and DPW will review the Disbursement Notice, and make such corrections and adjustments as may be required.

2. Disbursement Notice Procedure. At least five (5) Business Days prior to the on-site construction draw meeting, Manager shall provide DPW with a Disbursement Notice that meets the requirements of this provision. The Disbursement Notice must be signed by Manager and approved in writing by the Construction Manager and the Project Manager. To be considered complete, each Disbursement Notice must include each of the following as attachments:

(a) The name, California contractor's license number and Department of Industrial Relations (DIR) registration number of each contractor (including subcontractors) performing work on the Project during the period for which Manager will be making a disbursement, including a brief summary of work performed by each such contractor.

(b) An updated Work Schedule for the month for which Manager plans to make a disbursement, noting any revisions to the last revised Work Schedule submitted to the City.

(c) A detailed look ahead schedule for work to be done for the next month.

(d) A completed payment application from the Construction Manager ("**Application for Payment**") consisting of (i) a Standard AIA form G702, entitled "Application and Certificate for Payment" or equivalent form, and (ii) a completed Standard AIA form G703, entitled "Continuation Sheet" (also known as a Schedule of Values), or equivalent form.

(e) The originals, if available, or copies of all payment applications or invoices from prime contractors, subcontractors or material suppliers to be paid from the amounts described in the Application for Payment.

(f) Conditional waivers from every contractor (including subcontractors) for the amount of the payment to such contractor included in the Disbursement Notice.



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i. Submission of waiver shall be in a form reasonably acceptable to City.

(g) Unconditional waivers from each contractor (including subcontractors) for amounts paid to them in the previous month's disbursement, after deduction for retentions.

i. Submission of final, unconditional waivers shall be required when the Disbursement Notice shows completion of a given item.

ii. Submission of final, complete waivers shall be required prior to or coincidental with the final Disbursement Notice for any and all work related to the Project for each and every entity lawfully entitled to submit a Stop Notice.

iii. Submission of waiver shall be in a form reasonably acceptable to City.

(h) Any change order and change order requests finalized or pending during the period covered by the Disbursement Notice.

(i) An updated Cost Estimate for the current Phase of work, noting any changes to the prior estimate provided to DPW.

3. Certified Payroll Reports. In addition, for a Disbursement Notice to be considered complete, the City's Office of Equality Assurance ("**OEA**") must have received and approved certified payroll reports (or a statement of non-performance) for all contractors (including subcontractors) performing work during the period for which Manager seeks to make a disbursement.

4. Materials Stored Off-Site. Applications for Payment for materials stored off-site shall be subject to approval by City, which approval shall be based on satisfaction of the following conditions:

(a) The materials shall be fabricated or assembled in such a manner that they can be used only for this Project, and they shall be individually labeled with a suitable identifying mark.

(b) Manager shall provide City with an executed bill of sale or security agreement and UCC-1 financing statement, or comparable documents satisfactory to City, evidencing any ownership or security interest in such materials that City or Manager may have.

(c) Such materials shall be insured by a builder's risk insurance policy carried by Manager or the applicable prime contractor.

(d) Materials stored off-site in a raw state that could be utilized on other projects shall not be included in any Application for Payment.

(C) Final Disbursement Notice for Construction Work. Manager will submit a final Disbursement Notice for each Phase of the work after the requirements described in Section 4.02 have been satisfied. The final Disbursement Notice must meet the following requirements.

1. The final Disbursement Notice must meet all the requirements provided above in Section 5.04(B)2.

2. In addition, Manager will prepare and provide to City:



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(a) A final statement accounting for final changes in Project Costs for such Phase;

(b) Insurance certificates for products and completed operations, where required;

(c) Manager's certification that taxes, fees, and other similar obligations related to the Renovation Improvements were paid; and

(d) Evidence that any and all claims, if any exist, have been settled.

(D) Other Requirements. Each Disbursement Notice shall also include the following items, to the extent not included above:

1. Use of Prior Funds. Certification by Manager that it has disbursed all amounts from the Project Funds in accordance with the prior Disbursement Notices.

2. Project Status. Certification by Manager that the Project has been and is being constructed in accordance with the Construction Documents and approved change orders**.**

3. Original Invoices. The originals, if available, or copies of all invoices from the Project Payees to be paid pursuant to the applicable Disbursement Notice, and a list of all Project Payees with the amount to be paid to each Project Payee from such disbursement.

(E) Submittal and Approval of Disbursement Notices.

1. After the construction draw meeting, Manager shall complete and sign a final Disbursement Notice. The final Disbursement Notice will comply with the requirements of this Section 5.04 and will contain any changes resulting from the construction draw meeting. Manager will submit the final Disbursement Notice for approval and signature by DPW.

2. Once DPW signs the Disbursement Notice, Manager shall promptly pay (or cause the Construction Manager to pay) all contractors (including subcontractors), suppliers and other persons providing work, services or materials to the Project.

3. The Parties (City and Manager) shall cooperate with each other to diligently process Applications for Payment, Disbursement Notices and other invoices so as to ensure compliance with all Applicable Laws, including the requirements of California Public Contract Code section 20104.50 regarding the prompt payment of all sums owing to contractors.

(F) Retention. For amounts disbursed by Manager for construction work, Manager is required to withhold five percent (5%) as retention. Manager cannot release the money withheld as retention until after the City has issued the Notice of Completion and Acceptance, unless the Manager and City agree in writing otherwise.

(G) Stop Notices. In the event any stop notices are served relating to the performance of any work on the Project, Manager shall withhold one hundred twenty-five percent (125%) of the noticed amount from the prime contractor pending resolution of said stop notice. In addition, Manager shall tender the Stop Notice to the prime contractor's Payment Bond surety and demand that the prime contractor and surety immediately resolve any Stop Notice by either paying any disputed amounts or posting a Stop Notice Release Bond for the benefit of City and Manager.

(H) Remaining Funds. In the event there are funds remaining in the Project Account following Manager's disbursement of final payment following Final Completion of the final Phase of the Renovation Project, such funds shall be disbursed to the Capital Reserve Fund to offset the Manager's Capital Reserve Payments as defined in Section 7.2.1 of the 2025 AMA.



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## ARTICLE VI
## DEFAULTS AND REMEDIES

**Section 6.01. Defaults.** Failure by a Party (the Defending Party) to perform or observe any of the covenants, terms and provisions contained in this Renovation Agreement on its part to be performed or observed shall constitute a Potential Event of Default as defined in Section 38.1.1 of the 2025 AMA. In such case, the other Party (the Complaining Party) may deliver a Notice of Potential Event of Default to the Defending Party pursuant to Section 38.1.3 of the 2025 AMA.

**Section 6.02. Remedies.** If, after receiving a Notice of Potential Event of Default, the Defending Party fails to cure the Potential Event of Default within the Applicable Cure Period specified in Section 38.2 of the 2025 AMA, then the Complaining Party shall have the remedies described in Section 38.3 of the 2025 AMA.

**Section 6.03. Guarantees of Manager's Obligations.** As noted in Recital Paragraph A, this Renovation Agreement is attached to and incorporated by reference into the 2025 AMA. Accordingly, the payment and performance obligations of Manager under this Renovation Agreement are guaranteed under the SSE Guaranty and the SJS Guaranty described in Section 2.2 of the 2025 AMA, to the same extent and on the same terms and conditions as all other obligations of Manager under the 2025 AMA are guaranteed.

**Section 6.04. No Waiver.** Except as otherwise expressly provided in this Renovation Agreement, any failure or delay by either Party in asserting any of its rights and remedies as to any Potential Event of Default shall not operate as a waiver of that Potential Event of Default or any other Potential Event of Default, or deprive either Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies in accordance with the provisions of the 2025 AMA.

**Section 6.05. No Termination**. Nothing in this **Article VI** shall be deemed to allow termination of the 2025 AMA as a remedy for an Event of Default. Any such termination shall be permitted only under the circumstances, and subject to the terms and conditions, set forth in Section 38.3.5 of the 2025 AMA.

## ARTICLE VII
## ASSIGNMENT

**Section 7.01. Assignment by Manager.** Manager shall not have the right to directly or indirectly assign this Renovation Agreement or any rights, benefits, duties or obligations hereunder, except in connection with an assignment of the 2025 AMA by Manager that is approved by City or otherwise permitted pursuant to Section 2.3 of the 2025 AMA.

**Section 7.02. Assignment by City**. City shall have the right to assign this Renovation Agreement to any public financing authority, joint powers authority or similar entity in order to accommodate a debt financing.

## ARTICLE VIII
## INDEMNIFICATION

**Section 8.01. Indemnification by Manager.** Except as otherwise provided herein, and in addition to Manager's indemnification obligations under Section 33.2 of the 2025 AMA, Manager shall indemnify and hold City and the other City Indemnitees harmless from and against any and all Claims (as defined in Section 31.1.1 of the 2025 AMA) brought against any of them arising from (a) Manager's negligence in connection with the Renovation Project, or (b) any breach or failure on the part of Manager in the performance of any covenant or agreement on the part of Manager to be performed pursuant to the



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terms of this Renovation Agreement; provided however the foregoing indemnification does not extend to the acts or omissions of City or the other City Indemnitees.

**Section 8.02. Indemnification by City.** Except as otherwise provided herein, and in addition to City's indemnification obligations under Section 33.3 of the 2025 AMA, City shall indemnify and hold Manager and the other Manager Indemnitees harmless from and against any and all Claims brought against any of them arising from any breach or failure on the part of City in the performance of any covenant or agreement on the part of City to be performed pursuant to the terms of this Renovation Agreement; provided however the foregoing indemnification does not extend to the acts or omissions of Manager or the other Manager Indemnitees.

## ARTICLE IX
## MISCELLANEOUS GENERAL PROVISIONS

**Section 9.01. Notices.** All notices and other communications required or permitted to be given under this Agreement shall be in writing and must be delivered to the Parties at the addresses set forth below, or to such other addresses as either Party may designate by providing notice to the other Party in accordance with this Section. A notice will be deemed to have been received on the date of delivery, if delivered by hand, or via nationally recognized overnight delivery service during regular business hours. A notice delivered by email shall not be deemed to be delivered unless and until the recipient expressly acknowledges receipt of the email (it being understood that an automatic reply is not an express acknowledgement).

**City:**
Office of Economic Development and Cultural Affairs
Real Estate Services Division
200 E. Santa Clara St., 17th Floor
San José, CA 95113
Attn: Director of Real Estate
Tel: (408) 535-8197
Email: Kevin.Ice@sanjoseca.gov

With a copy to:
Office of City Attorney
200 E. Santa Clara St., 16th Floor
San José, CA 95113
Attn: Real Estate Attorney
Tel: (408) 535-1900
Email: cao.main@sanjoseca.gov

**Manager:**
San Jose Arena Management, LLC
525 West Santa Clara St.
San José, CA 95113
Attn: Jon Gustafson, Sr. Vice President
Tel: (408) 999-6751
Email: jgustafson@sharksice.com

With a copy to:
San Jose Arena Management, LLC
525 West Santa Clara St.
San José, CA 95113
Attn: General Counsel
Tel: (408) 287-7070
Email: legal@sjsharks.com



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**Section 9.02. Nonliability of City Officials and Employees.** No member, official or employee of the City shall be personally liable to Manager, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to Manager or successor or on any obligations under the terms of this Renovation Agreement.

**Section 9.03. Force Majeure Time Extension.**

(A) In addition to specific provisions of this Renovation Agreement, any delay in performance of any covenant or obligation by either Party hereunder (other than payment obligations) shall not be deemed to be a breach of this Renovation Agreement where delays are due to Force Majeure Events (defined in Section 1.02).

1. An extension of time for a Force Majeure Event shall be for the period of the delay and shall commence to run from the time of the commencement of the cause if written notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause; in all other events, such extension shall run from the date thirty (30) days from the date of receipt of written notice thereof by the other Party from the Party claiming such extension.

2. Notwithstanding the foregoing, the total time period excused under this subsection for any Force Majeure Event shall not exceed two (2) years.

3. Times of performance under this Renovation Agreement may also be extended in writing by the City and Manager.

(B) Nothing in this Section 9.03 shall be deemed to allow termination of the 2025 AMA as a remedy for a Potential Event of Default. Any such termination shall be permitted only under the circumstances, and subject to the terms and conditions, set forth in Section 38.3.5 of the 2025 AMA.

**Section 9.04. Inspection of Books and Records.** In accordance with Section 12.2.4 of the 2025 AMA, Manager shall maintain current, accurate and reasonably detailed records relating to the Renovation Project, in accordance with good accounting and management practices. Such records shall be maintained by Manager in either electronic or paper form, for at least four years following the Final Completion of the Phase of work to which such records apply.

(A) Upon reasonable request by City, City shall have the right to inspect, at Manager's offices, such documents, reports or other information as may be reasonably required for City to confirm, support, explain or describe the performance by Manager of its obligations under this Renovation Agreement, or for City to administer its specific rights of review, approval or enforcement of this Renovation Agreement.

(B) If City does not inspect Manager's records or give Manager written notice of any concerns or disagreements regarding such records within such four-year period, City shall be deemed to have been waived any right to thereafter inspect or object to such records.

(C) Each Party shall pay the cost of its agents, employees and contractors needed to conduct or make data available for such inspection.

**Section 9.05. Governing Law and Venue.** This Renovation Agreement shall be construed and enforced in accordance with the laws of the State of California. In the event suit is brought by either Party to this Renovation Agreement, the Parties agree that venue shall be exclusively vested in the state courts of the



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County of Santa Clara, or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

**Section 9.06 Mediation.** Notwithstanding any provision of this Renovation Agreement to the contrary, either Party hereto (or both Parties jointly) may elect to submit any dispute, determination or disagreement to mediation in accordance with Section 39 of the 2025 AMA.

**Section 9.07. Authorized Representative of City.** All references herein to City shall mean the City Manager, the Director of Public Works, the Director of the Office of Equality Assurance, or their respective designees authorized to act in said position at the time. Where the City Manager, Director of Public Works or Director of the Office of Equality Assurance is specified in this Renovation Agreement, that specific position, or its respective designee, shall have the authority to perform the contemplated action.

**Section 9.08**. **Joint Drafting.** This Renovation Agreement is the result of the joint efforts and negotiations of the Parties, and shall be interpreted as if both Parties jointly drafted each provision with the assistance of their legal counsel.

**Section 9.09 Meaning of Certain Words and Phrases.** As used in this Renovation Agreement, the following words and phrases shall be interpreted as described below, unless the context clearly indicates that another meaning is intended:

(i) The word "including" (and derivations thereof) shall mean "including without limitation" (and derivations thereof).

(ii) The word "herein" shall mean "in this Renovation Agreement" and the word "hereunder" shall mean "under this Renovation Agreement."

(iii) Section references apply to the sections and subsections of this Renovation Agreement, unless otherwise specified.

**Section 9.10 Invalidity of Particular Provisions.** If any term or provision of this Renovation Agreement or the application thereof to any person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Renovation Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Renovation Agreement shall be valid and be enforced to the fullest extent permitted by law.

**Section 9.11 Approvals and Actions by City**.

(A) Whenever Manager is required to obtain the consent or approval of the City, such consent or approval shall not be unreasonably withheld, delayed or conditioned, except when a different intent is expressly stated in this Renovation Agreement. If City fails to respond to a request by Manager for consent or approval of an action, document or other matter within ten (10) Business Days (or longer period of time if so required by the express provisions of this Renovation Agreement or Applicable Law), then such matter shall be deemed to be approved.

(B) Whenever City is required to issue a certificate, make an inspection, approve a document, authorize a payment, or take any other action in connection with the Project, City shall act diligently and in good faith so as not to unreasonably delay the progress of the work or the disbursement of payments from the Project Account.



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**Section 9.12** **City's Regulatory Powers.** Nothing in this Renovation Agreement shall limit or abridge the City's rights and obligations when acting in its regulatory or police power capacity (e.g., planning, zoning, code enforcement and inspection, and so forth).

**Section 9.13** **Counterparts.** This Renovation Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which, together, shall constitute one and the same document.

**Section 9.14** **Electronic Signatures.** This Renovation Agreement and any amendments hereto may be executed and delivered by electronic means or in electronic formats, and such electronic signatures shall be deemed originals for all purposes under this Renovation Agreement.

**Section 9.15** **Exhibits.** The following exhibits are attached to this Renovation Agreement, and incorporated herein by this reference:

| | |
|---|---|
| Exhibit A | Approved Design Professionals |
| Exhibit B | Form of Disbursement Notice |
| Exhibit C | Closeout Procedures |
| Exhibit D | Project Record Documents |

[Signatures appear on next page.]



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**SIGNATURES TO**

**RENOVATION AGREEMENT**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the respective dates inserted below, but this Agreement shall be effective retroactively to the Effective Date shown on the first page of this Agreement.

"**City**"

APPROVED AS TO FORM:

CITY OF SAN JOSÉ,
a California municipal corporation

_____
Cameron Day
Sr. Deputy City Attorney

By _____
Toni J. Taber, CMC
City Clerk

Date Signed: _____

Date Signed: _____

"**Manager**"

APPROVED AS TO FORM:

SAN JOSE ARENA MANAGEMENT, LLC
a Delaware limited liability company

_____
Lucy A. Lofrumento
Strategy Law, LLP
Attorneys for Manager

By _____
Jonathan D. Becher
President

Date Signed: _____

Date Signed: _____



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**EXHIBIT A TO**
**AGREEMENT FOR THE RENOVATION OF THE SAP CENTER AT SAN JOSE**

**APPROVED DESIGN PROFESSIONALS**

## 1.01 SUMMARY

In accordance with Section 3.07 of the Agreement for the Renovation of the SAP Center at San Jose dated as of July 1, 2025, by and between the City of San Jose ("**City**") and San Jose Arena Management, LLC ("**Manager**"), this Exhibit lists the design professionals (including architects, engineers and other consultants) that Manager intends to use for the Renovation Project, either as sub-consultants to the Project Architect or as direct consultants to Manager.

## 2.01 LIST OF APPROVED DESIGN PROFESSIONALS

A. Below is a list of the names and disciplines of the design professionals Manager intends to use for the Project:

| **Discipline** | **Design Professional** |
|---|---|
| Architect | Perkins & Will |
| Structural | Thornton Tomasetti |
| Mechanical, Electrical, Plumbing / Technology/ BMS Control | ME Engineers |
| Fire Protection / Fire Alarm | TBD (with ME Engineers providing performance-based specifications) |
| Signage / Branding | TBD |
| Audio Visual | Apeiro Design |
| Lighting | Lumenworks |
| Civil / Site | TBD |
| Food Service | Duray JF Duncan Industries |
| Code Consulting | FP&C Consulting |
| FF&E | Perkins & Will |
| Americans with Disabilities Act / Energy / Vertical Transportation / Specifications | TBD |
| Green Building | TBD |

B. Manager will notify City promptly of any additions or other changes to the above list of approved design professionals.



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**EXHIBIT B TO**
**AGREEMENT FOR THE RENOVATION OF SAP CENTER AT SAN JOSE**

**FORM OF DISBURSEMENT NOTICE**

DATE: _____

TO: City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

ATTN: Director of Public Works

REFERENCE: **Disbursement Notice No. _____**
From Project Funds held by Manager (Renovation Project)

To Whom It May Concern:

In accordance with Section 5.04 of the Agreement for the Renovation of Agreement for the Renovation of the SAP Center at San Jose, by and between the City of San Jose ("**City**") and San Jose Arena Management, LLC ("**Manager**"), dated as of July 1, 2025 (the "**Renovation Agreement**"), Manager hereby notifies City that it intends to disburse $_____ for Project Costs.

Manager hereby certifies that: (a) such amount has been incurred in connection with Project Costs for the Project Improvements, as such terms are defined in the Renovation Agreement, (b) such amount is a proper charge against the Project Funds as defined in the Renovation Agreement, and (c) promptly following DPW's execution of this Disbursement Notice, Manager shall pay (or cause its Construction Manager to pay) all persons, corporations or other entities to whom payment is due and payable ("**Payees**") under any applicable purchase order, contract or other authorization.

This certification is based on the following facts, which Manager believes to be true and correct:

(1) There has been received no written notice of any lien, right to lien, or attachment upon or claim (except for any preliminary notice of lien as may be filed in accordance with law) affecting the right of Manager to make payment of the amount stated herein, which lien has not been released or will not be released simultaneously with the payment by Manager to the Payees entitled thereto in accordance with the Renovation Agreement;



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(2) If this Disbursement Notice contains items representing payment on account of any percentage to be retained by Manager prior to payment to the Payees, then pursuant to Section 5.04(F) of the Renovation Agreement, such retention will not be released to the applicable Payees until the City has issued a Notice of Completion and Acceptance or has otherwise agreed to such release;

(3) No default or event which after notice or lapse of time or both would constitute default under the Renovation Agreement has occurred and not been waived or cured;

(4) The obligations in the stated amounts have been incurred by Manager and presently are due and payable under a purchase order, contract or other authorization; and:

(a) Such obligations have not been the basis for a prior Disbursement Notice that has been paid; and

(b) With respect to any Disbursement Notice for labor, services, or materials, such labor, services or materials were actually used in or about the construction of the Project Improvements or delivered at the Arena Facilities or at some other place for that purpose, or if not so used or delivered, that an obligation therefor has been incurred in connection with the Renovation Agreement and an advance payment therefor is required by the supplier thereof.

Evidence of the obligations referred to hereinabove is attached hereto, along with such other documentation required by the Renovation Agreement to accompany this Disbursement Notice, as described more specifically on the list attached hereto.

SAN JOSE ARENA MANAGEMENT, LLC,
a Delaware limited liability company

_____
Jon Gustafson
Senior Vice President

**Approved by Construction Manager:**

_____ Date: _____
_____, Project Manager
Devcon Construction Incorporated

**Approved by Project Manager:**

_____ Date: _____
_____, Principal



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ICON Venue Group, LLC, dba CAA ICON

**Approved by Department of Public Works:**

_____ Date: _____

Director of Public Works or
Authorized Designee



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**List of Documentation Required by Renovation Agreement**
**To Accompany Each Disbursement Notice**

(1) The name, California contractor's license number and Department of Industrial Relations registration number of each contractor (including subcontractors) performing work on the Project during the period for which Manager will be making a disbursement, including a brief summary of work performed by each such contractor.

(2) An updated Work Schedule for the month for which Manager is planning to make a disbursement, noting any revisions to the last revised Work Schedule submitted to the City.

(3) A detailed look ahead schedule for work to be done for the next month.

(4) A completed payment application from the Construction Manager ("**Application for Payment**") consisting of: (a) a Standard AIA form G702, entitled "Application and Certificate for Payment" or equivalent form, and (b) a completed Standard AIA form G703, entitled "Continuation Sheet" (also known as a Schedule of Values), or an equivalent form, together certifying the validity of Project costs incurred and providing proof of completion of the work or services for which payment is sought.

(5) The originals, if available, or copies of all payment applications or invoices from Payees to be paid from the amounts described in the Application for Payment, together with a list of all Payees with the amount to be paid to each Project Payee from the Disbursement Notice.

(6) Certification by Manager that the Project has been and is being constructed in accordance with the Construction Documents and approved change orders.

(7) Conditional Waivers, in a form reasonably acceptable to City, from every contractor (including subcontractors) for the amount of the payment to such contractor included in the Disbursement Notice.

(8) Unconditional Waivers, in a form reasonably acceptable to City, from each contractor (including subcontractors) for amounts paid to them in the previous month's disbursement, after deduction for retentions.

(9) Submission of final, Unconditional Waivers for those items the Disbursement Notice reflects as complete.

(10) Any change order and change order requests finalized or pending during the period covered by the Disbursement Notice.

(11) An updated Cost Estimate for the current Phase of work, noting any changes to the prior Cost Estimate provided to DPW.



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(12) Certification by Manager that it has disbursed all amounts from the Project Funds in accordance with prior approved Disbursement Notices.

(13) For payment sought for materials stored off site, Manager shall provide evidence of City approval of the payment for such materials based on satisfaction of the conditions set forth in Section 5.04(B)4 of the Renovation Agreement.

(14) For the Final Disbursement Notice:

(a) Submission of final, complete waivers for any and all Project work from each and every entity lawfully entitled to submit a Stop Notice;

(b) A final statement accounting for final changes in Project Costs for such Phase;

(c) Insurance certificates for products and completed operations, where required;

(d) Manager's certification that taxes, fees, and other similar obligations related to the Project Improvements were paid; and

(e) Evidence that any and all claims, if any exist, have been settled.



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**EXHIBIT C TO**
**AGREEMENT FOR THE RENOVATION OF THE SAP CENTER AT SAN JOSE**

**CLOSEOUT PROCEDURES**

## PART 1 GENERAL

### 1.01 SUMMARY

A. This Exhibit covers closeout activities required at the end of the Renovation Project (the "**Project**").

B. For purposes of this Exhibit, references to the "**Construction Manager**" shall mean Devcon Construction Incorporated, which is the Project Construction Manager, acting as the authorized representative of San Jose Arena Management, LLC ("**Manager**"). All other capitalized terms shall have the meanings given in the Agreement for the Renovation of the SAP Center at San Jose ("**Renovation Agreement**") unless otherwise defined in this Exhibit.

C. The provisions of this Exhibit shall be subject to the provisions of the Third Amended and Restated Arena Management Agreement (the "**2025 AMA**") between the City of San Jose ("**City**") and Manager, to which the Renovation Agreement is attached and incorporated by reference. If there is any inconsistency between this Exhibit and the 2025 AMA (including the Renovation Agreement), the latter shall control.

### 1.02 FINAL COMPLETION AND PAYMENT

A. Notice of Completion and Acceptance: For each Phase of the Renovation Project:

1. DPW will inspect the Project Improvements to determine if the work is complete, and issue a "Punch List" of items to be completed or corrected by the prime contractors under the direction of the Construction Manager.

2. The Construction Manager shall ensure that the prime contractors complete and/or correct all punch list items and shall notify DPW, in writing, that the Project Improvements are ready for final inspection.

3. DPW will make final inspection.

   a. When the Project Improvements are found to be acceptable under the conditions of the Renovation Agreement, and all items



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required are completed, DPW will recommend to City that the Project Improvements are acceptable.

b. If City agrees with the recommendation, and the other requirements of Section 4.02 of the Renovation Agreement have been satisfied, City will issue a Notice of Completion and Acceptance as described in the Renovation Agreement.

B. Final Disbursement Notice for Each Phase:

1. Following the issuance of the Notice of Completion and Acceptance, Manager shall submit a final Disbursement Notice to DPW for review and approval pursuant to the procedures and subject to the requirements contained in Section 5.04(C) of the Renovation Agreement.

2 Manager shall then make final payment in accordance with the Final Disbursement Notice pursuant to the procedures and subject to the requirements contained in Section 5.04 of the Renovation Agreement.

3 Any payment, final or otherwise, will not release prime contractors or their sureties from any obligations under the Renovation Agreement or the payment and performance bonds.

**1.03 WARRANTIES AND INDEMNITIES FROM PRIME CONTRACTORS**

A. Pursuant to Section 3.10 of the Renovation Agreement, Manager is required to ensure that each prime construction contract (trade contract) shall include the following provisions for the express benefit of the City:

1. Payment and performance bonds (Section 3.10(A)).

2. Liability insurance coverage (Section 3.10(C))

3. Indemnification against claims (Section 3.10(D))

3. A warranty against defects in construction (Section 3.10(E)).

4. A one year correction period following final acceptance (Section 3.10(F)).

B. The Construction Manager shall maintain a record of all contract documents with prime contractors (including the items described above), and shall provide copies of such documents to City upon request.

C. If either Party is entitled to the benefit of any construction or manufacturing warranties, insurance policies or other third-party sources that may cover any necessary repair or replacement work, the Parties shall reasonably cooperate with each other to recover costs from such sources.



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**1.04 INDEMNITY FROM MANAGER**

A. Claims Against Manager:

1. Pursuant to Section 8.01 of the Renovation Agreement, Manager has agreed to indemnify City and related parties against claims related to any Claims brought against City indemnitees arising from (a) Manager's negligence in connection with the Renovation Project, or (b) any breach or failure on the part of Manager in the performance of any covenant or agreement on the part of Manager to be performed pursuant to the terms of the Renovation Agreement. Such indemnification obligation shall be construed to include any Claims growing out of the lawful demands of any subcontractors(s), laborers, workers, and supplier(s) of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the Project Improvements.

2. Manager shall, at City's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived by providing the a statement to such effect with the final Disbursement Notice, as provided in Section 5.04(C) of the Renovation Agreement.

3. If any stop notices are filed with respect to work on the Project, Manager shall notify City and shall withhold 125% of the noticed amount from unpaid compensation to the affected prime contractor, pending resolution of the stop notice.

**PART 2 PRODUCTS**

2.01 PROJECT RECORD PRODUCT DATA

For any and all products installed pursuant to the Project Improvements, the Construction Manager shall provide to City all applicable records as described in Exhibit D to the Renovation Agreement.

**PART 3 EXECUTION**

3.01 FINAL CLEANING

A. Upon completion of each Phase of the Project Improvements, the Construction Manager shall, as soon as practicable, remove all waste materials, excess materials,



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tools, and equipment such as scaffolding, temporary structures, and facilities such as fencing and sanitary facilities.

B. Upon completion of Project Improvements on structures designed for human occupancy, Manager shall clean and replace broken or scratched windows, clean and repair all surfaces, and clean and adjust all units of equipment which are part of the various building systems.

C. The completed Project Improvements shall be ready for full use before being given a final inspection. Final disbursement will not be issued by Manager until all cleanup is performed to the satisfaction of City.



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**EXHIBIT D TO**
**AGREEMENT FOR THE RENOVATION OF THE SAP CENTER AT SAN JOSE**

**PROJECT RECORD DOCUMENTS**

## PART 1 - GENERAL

### 1.1 SUMMARY

A. This Exhibit Includes:
   1. Administrative and procedural requirements for the following Project Record Documents:
      a. Project record drawings, shop drawings
      b. Project record specifications
      c. Project record product data
      d. Miscellaneous Project Record submittals

B. For purposes of this Exhibit, (i) references to "**Construction Manager**" shall mean Devcon Construction Incorporated, which is the Project Construction Manager, acting as the authorized representative of San Jose Arena Management, LLC ("**Manager**"), and (ii) references to "**Project Architect**" shall mean Perkins & Will, Inc., the architect of record for the Project. All other capitalized terms shall have the meanings given in the Agreement for the Renovation of the SAP Center at San Jose ("**Renovation Agreement**") unless otherwise defined in this Exhibit.

C. The provisions of this Exhibit shall be subject to the provisions of the Third Amended and Restated Arena Management Agreement ("**2025 AMA**") between the City and Manager, to which the Renovation Agreement is attached and incorporated by reference. If there is any inconsistency between this Exhibit and the 2025 AMA (including the Renovation Agreement), the latter shall control.

D. Specific Project Record Documents requirements that expand requirements of this Exhibit may be included in the Renovation Agreement.

### 1.2 SUBMITTAL

A. At completion of each Phase of the Renovation Project, Construction Manager shall deliver Project Record Documents to City in both PDF and AutoCAD formats. Project Record Documents required include:
   1. Marked-up copies of drawings
   2. Marked-up copies of shop drawings
   3. Marked-up copies of specifications, addenda, change orders, and construction change directives ("CCDs")
   4. Marked-up product data submittals
   5. Final set of Project record drawings, including electronic version in both PDF and AutoCAD formats.



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6. Final set of Project record specifications, including electronic version in PDF format.
7. Final set of Project Record Product Data
8. Schedule of Record Samples
9. Field records for variable and concealed conditions
10. Record information on Work that is recorded only schematically

B. Construction Manager shall accompany submittal with transmittal letter containing:
1. Date
2. Project title and City's file number
3. Construction Manager's name and address
4. Number and title of each Project Record Document
5. Certification that each document as submitted is complete and accurate, and signature of Construction Manager or Construction Manager's authorized representative.

**1.3 GENERAL**

A. For each Phase of the Project, Project Architect will provide one full size set of drawings and one copy of the Project specifications for Construction Manager's use for recording as-built conditions.
B. Construction Manager shall mark-up changes and Modifications to the contract documents as they occur. Do not wait until the end of the Project. City may periodically review Project Record Documents to assure compliance with this requirement.
C. Construction Manager shall refer instances of uncertainty to City for resolution.
D. Maintenance of Documents and Samples:
1. Construction Manager shall store Project Record Documents and Samples in the field office apart from contract documents used for construction.
2. Do not permit Project Record Documents to be used for construction purposes.
3. Construction Manager shall maintain Project Record Documents in good order and in a clean, dry, legible condition. An electronic copy shall be continuously maintained in a shared location and made accessible to the City at all times.
4. Construction Manager shall make Project Record Documents and samples available at all times for inspection by City.

**1.4 PROJECT RECORD DRAWINGS, SHOP DRAWINGS, AND SAMPLES**

A. Quality Draftsmanship: All Work on Project Record drawings and Project Record shop drawings shall be performed by competent drafters and shall be clear and fully legible. City shall be the sole judge of the acceptability of the Project Record drawings and Project Record shop drawings.
B. Mark-up Procedure: During the construction period, Construction Manager shall maintain a set of drawings and shop drawings for Project Record Documents



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purposes ("Field Set"). Construction Manager shall stamp each document (on each sheet or page) "PROJECT RECORD" in 2-inch high letters. Construction Manager shall also maintain a set of Samples for Project Record Documents purposes. Construction Manager shall keep record documents current.
Note: A reference by number to a change order, CCD, RFI, RFQ, RFP, Field Order or other such document is not acceptable as sufficient record information on any record document. Do not permanently conceal any work until required information has been recorded.

1. Mark Drawings and Shop Drawings to indicate the actual installation where the installation varies appreciably from the installation shown originally. Give particular attention to information on concealed elements that would be difficult to identify or measure and record later. Items required to be marked include but are not limited to:
    a. Dimensional changes to the drawings and shop drawings
    b. Revisions to details shown on the drawings and shop drawings
    c. Depths of various elements of foundation in relation to main floor level or survey datum
    d. Horizontal and vertical location of underground utilities and appurtenances referenced to permanent surface improvements
    e. Location of internal utilities and appurtenances concealed in construction referenced to visible and accessible features of structure
    f. Locations of underground Work, points of connection with existing utilities, changes in direction, valves, manholes, catch basins, capped stub outs, invert elevations, and similar items
    g. Actual numbering and set points of each electrical circuit
    h. Field changes of dimension and detail
    i. Revisions to routing of piping and conduits
    j. Revisions to electrical circuitry
    k. Actual equipment locations
    l. Duct, conduit, and cable size and routing
    m. Changes made by change order or CCD
    n. Details not on original drawings or shop drawings
2. Mark completely and accurately drawings or shop drawings, whichever is the most capable of showing actual physical conditions. Where shop drawings are marked, show cross-reference on Drawings location.
3. Mark important additional information that was either shown schematically or omitted from original Drawings
4. Note CCD numbers, alternate numbers, change order numbers, and similar identification
5. Mark contract drawings and shop drawings with red, erasable colored pencil.



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6. Mark Samples to record changes made after review
7. Responsibility for Mark-up: Where feasible, the individual or entity who obtained Project Record drawing or shop drawing data, whether the individual or entity is the installer, Subcontractor, or similar entity, is required to prepare the mark-up on Project Record drawings or shop drawings
    a. Accurately record information in an understandable and legible drawing technique.
    b. Record data as soon as possible after it has been obtained. In the case of concealed installations, record and check the mark-up prior to concealment.

C. Preparation of Project record drawings and Project record shop drawings: Immediately prior to inspection for Certification of Substantial Completion, review completed marked-up Project record drawings and Project record shop drawings with Project Architect to consolidate and ensure accuracy of information, and provide to City for review. When authorized, prepare final Project record drawings and Project record shop drawings.

**1.5 PROJECT RECORD SPECIFICATIONS**

A. During the construction period, Construction Manager shall maintain one copy of the specifications, including addenda and modifications issued, for Project Record Documents purposes.

B. Mark the Project Record specifications to indicate the actual installation where the installation varies substantially from that indicated in specifications and modifications issued. Note related Project Record drawing information, where applicable. Give particular attention to substitutions, selection of product options, change order and CCD Work, and information on concealed installation that would be difficult to identify or measure and record later. Include RFI responses if the scope has been revised.
    1. In each Specification Section where products, materials or units of equipment are specified or scheduled, mark the copy with the proprietary name and model number of the product furnished.
    2. Record the name of the manufacturer, catalog number, supplier and installer, and other information necessary to provide a record of selections made and to document coordination with Project Record Product data submittals and Installation, operation, and maintenance manuals.
    3. Note related Project Record Product data, where applicable, for each principal product specified, indicate whether Project Record Product Data has been submitted in installation, operation, and maintenance manuals instead of submitted as Project Record Product data.



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C. Preparation of Project Record specifications: Immediately prior to inspection for Certification of Substantial Completion, review completed Field Set Project Record specifications with Project Architect to consolidate and ensure accuracy of information, and provide to City for review. When authorized, prepare final Project Record Specifications.
    1. After Substantial Completion and before Final Completion, carefully transfer all data shown on the Field Set to a separate clean set of Specifications provided by City. Include the printed designation "PROJECT RECORD SPECIFICATION" in a prominent location on the Specifications.

**1.6 PROJECT RECORD PRODUCT DATA**

A. During the construction period, maintain one copy of each product data submittal for Project Record Document purposes.
    1. Mark Project Record product data to indicate the actual product installation where the installation varies substantially from that indicated in Project Record product data submitted. Include significant changes in the product delivered to the site, and changes in manufacturer's instructions and recommendations for installation.
    2. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
    3. Note related Change Orders and mark-up of Project Record Drawings, where applicable.
    4. Upon completion of mark-up, submit a complete set of Project Record product data to City for City's records.
    5. Where Project Record product data is required as part of maintenance manuals, submit marked-up Project Record product data as an insert in the manual, instead of submittal as Project Record product data.
    6. The Construction Manager is responsible for mark-up and submittal of Project Record product data for the work.
B. Material, Equipment, and Finish Data:
    1. Provide data for primary materials, equipment, and finishes as required under each Specification Section
    2. Submit two sets prior to final inspection, bound in 8-1/2 inches by 11 inches three-ring binders with durable plastic covers; provide typewritten table of contents for each volume
    3. Arrange by specification section number and give names, addresses, and telephone numbers of subcontractors and suppliers including, as a list:
        a. Trade names
        b. Model or type numbers
        c. Assembly diagrams



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d. Operating instructions
e. Cleaning instructions
f. Maintenance instructions
g. Recommended spare parts
h. Product data

**1.7 MISCELLANEOUS PROJECT RECORD SUBMITTALS**

A. Refer to other specification sections for miscellaneous record keeping requirements and submittals in connection with various construction activities. Immediately prior to Substantial Completion, complete miscellaneous records and place in good order, properly identified and bound or filed, ready for use and reference. Submit to the City for City's records. Categories of requirements resulting in miscellaneous records include, but are not limited to, the following:
   1. Field records on excavations and foundations
   2. Field records on underground construction and similar Work
   3. Survey showing locations and elevations of underground lines
   4. Invert elevations of drainage piping
   5. Surveys establishing lines and levels
   6. Authorized measurements utilizing unit prices or allowances
   7. Ambient and substrate condition tests
   8. Certifications received in lieu of labels on bulk products
   9. Batch mixing and bulk delivery records
   10. Testing and qualification of tradespersons
   11. Documented qualification of installation firms
   12. Load and performance testing
   13. Inspections and certifications by governing authorities
   14. Leakage and water-penetration tests
   15. Final inspection and correction procedures

**PART 2 – PRODUCTS**

**NOT USED**

**PART 3 – EXECUTION**

**NOT USED**



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