



# WORKSHOP COUNCIL REPORT

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Meeting Date: **12/17/2013**  
Meeting Type: **Workshop**  
Title: **COUNCIL ITEM OF SPECIAL INTEREST: MONTHLY ARENA REPORTS**  
Staff Contact: **TOM DUENSING, EXECUTIVE DIRECTOR, FINANCIAL SERVICES**

## **Purpose and Policy Guidance**

The purpose of this item is to provide Council with a detailed review of the Monthly Arena Revenues and Expenditures reports. This item was requested at the October 1 and November 5, 2013, City Council Workshops.

## **Background**

On July 2, 2013, an ordinance was approved for a Professional Management Services and Arena Lease Agreement with IceArizona Manager Co., LLC and IceArizona Hockey Co., LLC (Management Agreement) for the use of the City-owned Jobing.com Arena by the Phoenix Coyotes. As part of this agreement, payments from the Arena Manager are due to the City. Additionally, the agreement requires payments due to the Arena Manager from the City for arena management fees and capital improvement contributions.

### **Arena/Westgate**

The Management Agreement was approved subsequent to adoption of the FY 13-14 budget for financial activities within the Arena/Westgate area. Included in the FY 13-14 adopted budget are the Arena Events Operations (Fund 1282) which tracks the operating revenue and expenditures associated with not only arena management and capital replacement expenses, but also arena security, right-of-way maintenance, and transportation expenses. Also included in the FY 13-14 adopted budget is the Arena Special Revenue (Fund 1780) which tracks the revenue generated from Jobing.com and surrounding Westgate City Center.

The Management Agreement relates to the activity at Jobing.com, which lies within the Arena/Westgate area. Therefore, the financial activity related to the Management Agreement as reported in the Monthly Arena Reports is part of the budget for the entire Arena/Westgate area.

## **Analysis**

A monthly arena report has been prepared to report the status of payments due from the Arena Manager (revenues) and payments due to the Arena Manager (expenditures). This Monthly Arena Revenue and Expenditures report (Arena Report) details arena activities as it relates to the Management Agreement only. Activities outside the Management Agreement, such as sales tax revenue for Westgate and Tanger, debt service on the arena, etc., are not included in the report.



# WORKSHOP COUNCIL REPORT

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The monthly arena report is separated by **Agreement Revenues** and **Agreement Expenditures**. **Revenues** are reported as payments are received. It is important to understand that certain payments are not due immediately. For example, parking revenue for both hockey and non-hockey events are due 15 days after the end of each quarter. **Expenditures** are reported when the amounts due under the agreement are actually paid. For example, the annual payment for the Arena Capital Improvements of \$450,685, representing the entire amount for the fiscal year, were due, paid, and reported in August 2013.

The monthly Arena Report includes footnotes summarizing payment due dates for the revenues and expenditures. Specific sections of the Management Contract and Safety and Security and Security Agreement (referenced in the Management Contract) are included in Appendix A for each of the revenue and expenditure line items.

Each month, staff will post a Monthly Arena Report for the prior months' activities to the Financial Services web page (<http://www.glendaleaz.com/finance/>). For example, the December 31, 2013, Monthly Arena Report will be posted by January 31, 2014.

## **Previous Related Council Action**

On July 2, 2013, Council approved the Professional Management Services and Arena Lease Agreement with IceArizona Manager Co., LLC and IceArizona Hockey Co., LLC.

## **Community Benefit/Public Involvement**

Staff will post a Monthly Arena Report for the prior months' activities to the Financial Services (<http://www.glendaleaz.com/finance/>).

## **Budget and Financial Impacts**

There are no budget and financial impacts related to this item.

## **Attachments**

Arena Reports for the Months Ending August 31 through November 30, 2013

Appendix A - Revenue & Expenditures Items Included in the Agreement

**City of Glendale**  
**Monthly Arena Revenues & Expenditures**  
**Arena Lease and Safety & Security Agreements**  
**For the Month Ending August 31, 2013**

	<b>Month Ending August 31, 2013</b>	<b>Year-To-Date (From August 5, 2013)</b>
<b>Agreement Revenues</b>		
Sales Tax Collections (For Prior Month Sales Inside Arena)	-	-
<sup>1</sup> Base Rent (\$500,000/year)	76,712	76,712
<sup>2</sup> Ticket Surcharge-Hockey (\$3/qualified ticket)	-	-
<sup>2</sup> Ticket Surcharge-Non-Hockey (\$5/qualified ticket)	-	-
<sup>3</sup> Supplemental Surcharge (\$1.50/qualified ticket)	-	-
<sup>4</sup> Parking Revenue-Hockey (\$10/car)	-	-
<sup>4</sup> Parking Revenue-Non-Hockey (\$15/car)	-	-
<sup>5</sup> Naming Rights (20%)	-	-
<sup>5</sup> Naming Rights-Indoor Stage (100%)	-	-
<sup>6</sup> City Sponsored Events (Excess of revenues over expenditures)	-	-
<sup>7</sup> Safety & Security Fee (\$174,122/year)	156,948	156,948
<sup>8</sup> Hourly Security Costs-Police	-	-
<sup>8</sup> Hourly Security Costs-Fire	-	-
Interest Income-Escrow Account	-	-
<b>Total Agreement Revenues</b>	<b>233,660</b>	<b>233,660</b>
<b>Agreement Expenditures</b>		
<sup>9, 11</sup> Arena Capital Improvements (\$500,000/year)	450,685	450,685
<sup>10, 11</sup> Quarterly Management Fee (\$15 million/year)	-	-
<b>Total Agreement Expenditures</b>	<b>450,685</b>	<b>450,685</b>
<b>Excess (deficiency) of revenues over expenditures</b>	<b>(217,025)</b>	<b>(217,025)</b>
<b>Number of Events</b>		
Hockey	-	-
Non-Hockey	-	-
<b>Total Number of Events</b>	<b>-</b>	<b>-</b>

<sup>1</sup> Payment is due to the City quarterly. Current year amounts are prorated based on an August 5, 2013 effective date. Next payment is due 11/5/13.

<sup>2</sup> Payment is due to the City 2 days after each event

<sup>3</sup> Payment is due to the City 60 days after each fiscal year

<sup>4</sup> Payment is due to the City 15 days after the end of each quarter for events occurring within the quarter. City receives revenue in excess of \$20,000 per regular season hockey event.

<sup>5</sup> Payment is due to the City 15 days after Arena Manager receives payment

<sup>6</sup> Payment is due to the City 60 days after each quarter for events occurring in the quarter

<sup>7</sup> Payment is due to the City annually. Current year amounts are prorated based on an August 5, 2013 effective date.

<sup>8</sup> Payment is due to the City 30 days after receipt of the invoice

<sup>9</sup> Payment is due to the Arena Manager annually at the beginning of each fiscal year

<sup>10</sup> Payment is due to the Arena Manager quarterly on the first day of the subsequent quarter (October 1, January 1, April 1 and July 1 for each fiscal year)

<sup>11</sup> Current year amounts are prorated based on an August 5, 2013 effective date.

**City of Glendale**  
**Monthly Arena Revenues & Expenditures**  
**Arena Lease and Safety & Security Agreements**  
**For the Month Ending September 30, 2013**

	Month Ending September 30, 2013	Year-To-Date (From August 5, 2013)
<b>Agreement Revenues</b>		
Sales Tax Collections (For Prior Month Sales Inside Arena)	83,653	83,653
<sup>1</sup> Base Rent (\$500,000/year)	-	76,712
<sup>2</sup> Ticket Surcharge-Hockey (\$3/qualified ticket)	16,413	16,413
<sup>2</sup> Ticket Surcharge-Non-Hockey (\$5/qualified ticket)	-	-
<sup>3</sup> Supplemental Surcharge (\$1.50/qualified ticket)	-	-
<sup>4</sup> Parking Revenue-Hockey (\$10/car)	-	-
<sup>4</sup> Parking Revenue-Non-Hockey (\$15/car)	-	-
<sup>5</sup> Naming Rights (20%)	-	-
<sup>5</sup> Naming Rights-Indoor Stage (100%)	-	-
<sup>6</sup> City Sponsored Events (Excess of revenues over expenditures)	-	-
<sup>7</sup> Safety & Security Fee (\$174,122/year)	-	156,948
<sup>8</sup> Hourly Security Costs-Police	-	-
<sup>8</sup> Hourly Security Costs-Fire	1,266	1,266
Interest Income-Escrow Account	4,620	4,620
<b>Total Agreement Revenues</b>	<b>105,952</b>	<b>339,612</b>
<b>Agreement Expenditures</b>		
<sup>9, 11</sup> Arena Capital Improvements (\$500,000/year)	-	450,685
<sup>10, 11</sup> Quarterly Management Fee (\$15 million/year)	-	-
<b>Total Agreement Expenditures</b>	<b>-</b>	<b>450,685</b>
<b>Excess (deficiency) of revenues over expenditures</b>	<b>105,952</b>	<b>(111,073)</b>
<b>Number of Events</b>		
Hockey	1	1
Non-Hockey	-	-
<b>Total Number of Events</b>	<b>1</b>	<b>1</b>

<sup>1</sup> Payment is due to the City quarterly. Current year amounts are prorated based on an August 5, 2013 effective date. Next payment is due 11/5/13.

<sup>2</sup> Payment is due to the City 2 days after each event

<sup>3</sup> Payment is due to the City 60 days after each fiscal year

<sup>4</sup> Payment is due to the City 15 days after the end of each quarter for events occurring within the quarter. City receives revenue in excess of \$20,000 per regular season hockey event.

<sup>5</sup> Payment is due to the City 15 days after Arena Manager receives payment

<sup>6</sup> Payment is due to the City 60 days after each quarter for events occurring in the quarter

<sup>7</sup> Payment is due to the City annually. Current year amounts are prorated based on an August 5, 2013 effective date.

<sup>8</sup> Payment is due to the City 30 days after receipt of the invoice

<sup>9</sup> Payment is due to the Arena Manager annually at the beginning of each fiscal year

<sup>10</sup> Payment is due to the Arena Manager quarterly on the first day of the subsequent quarter (October 1, January 1, April 1 and July 1 for each fiscal year)

<sup>11</sup> Current year amounts are prorated based on an August 5, 2013 effective date.

**City of Glendale**  
**Monthly Arena Revenues & Expenditures**  
**Arena Lease and Safety & Security Agreements**  
**For the Month Ending October 31, 2013**

	<b>Month Ending October 31, 2013</b>	<b>Year-To-Date (From August 5, 2013)</b>
<b>Agreement Revenues</b>		
Sales Tax Collections (For Prior Month Sales Inside Arena)	85,136	168,789
<sup>1</sup> Base Rent (\$500,000/year)	-	76,712
<sup>2</sup> Ticket Surcharge-Hockey (\$3/qualified ticket)	203,289	219,702
<sup>2</sup> Ticket Surcharge-Non-Hockey (\$5/qualified ticket)	-	-
<sup>3</sup> Supplemental Surcharge (\$1.50/qualified ticket)	-	-
<sup>4</sup> Parking Revenue-Hockey (\$10/car)	-	-
<sup>4</sup> Parking Revenue-Non-Hockey (\$15/car)	-	-
<sup>5</sup> Naming Rights (20%)	-	-
<sup>5</sup> Naming Rights-Indoor Stage (100%)	-	-
<sup>6</sup> City Sponsored Events (Excess of revenues over expenditures)	-	-
<sup>7</sup> Safety & Security Fee (\$174,122/year)	-	156,948
<sup>8</sup> Hourly Security Costs-Police	4,130	4,130
<sup>8</sup> Hourly Security Costs-Fire	-	1,266
Interest Income-Escrow Account	-	4,620
<b>Total Agreement Revenues</b>	<b>292,555</b>	<b>632,166</b>
<b>Agreement Expenditures</b>		
<sup>9, 11</sup> Arena Capital Improvements (\$500,000/year)	-	450,685
<sup>10, 11</sup> Quarterly Management Fee (\$15 million/year)	2,301,370	2,301,370
<b>Total Agreement Expenditures</b>	<b>2,301,370</b>	<b>2,752,055</b>
<b>Excess (deficiency) of revenues over expenditures</b>	<b>(2,008,815)</b>	<b>(2,119,888)</b>
<b>Number of Events</b>		
Hockey	7	8
Non-Hockey	-	-
<b>Total Number of Events</b>	<b>7</b>	<b>8</b>

- <sup>1</sup> Payment is due to the City quarterly. Current year amounts are prorated based on an August 5, 2013 effective date. Next payment is due 11/5/13.
- <sup>2</sup> Payment is due to the City 2 days after each event
- <sup>3</sup> Payment is due to the City 60 days after each fiscal year
- <sup>4</sup> Payment is due to the City 15 days after the end of each quarter for events occurring within the quarter. City receives revenue in excess of \$20,000 per regular season hockey event.
- <sup>5</sup> Payment is due to the City 15 days after Arena Manager receives payment
- <sup>6</sup> Payment is due to the City 60 days after each quarter for events occurring in the quarter
- <sup>7</sup> Payment is due to the City annually. Current year amounts are prorated based on an August 5, 2013 effective date.
- <sup>8</sup> Payment is due to the City 30 days after receipt of the invoice
- <sup>9</sup> Payment is due to the Arena Manager annually at the beginning of each fiscal year
- <sup>10</sup> Payment is due to the Arena Manager quarterly on the first day of the subsequent quarter (October 1, January 1, April 1 and July 1 for each fiscal year)
- <sup>11</sup> Current year amounts are prorated based on an August 5, 2013 effective date.

**City of Glendale**  
**Monthly Arena Revenues & Expenditures**  
**Arena Lease and Safety & Security Agreements**  
**For the Month Ending November 30, 2013**

	<b>Month Ending November 30, 2013</b>	<b>Year-To-Date (From August 5, 2013)</b>
<b>Agreement Revenues</b>		
Sales Tax Collections (For Prior Month Sales Inside Arena)	140,817	309,606
<sup>1</sup> Base Rent (\$500,000/year)	125,000	201,712
<sup>2</sup> Ticket Surcharge-Hockey (\$3/qualified ticket)	193,517	413,219
<sup>2</sup> Ticket Surcharge-Non-Hockey (\$5/qualified ticket)	69,004	69,004
<sup>3</sup> Supplemental Surcharge (\$1.50/qualified ticket)	-	-
<sup>4</sup> Parking Revenue-Hockey (\$10/car)	-	-
<sup>4</sup> Parking Revenue-Non-Hockey (\$15/car)	-	-
<sup>5</sup> Naming Rights (20%)	-	-
<sup>5</sup> Naming Rights-Indoor Stage (100%)	-	-
<sup>6</sup> City Sponsored Events (Excess of revenues over expenditures)	-	-
<sup>7</sup> Safety & Security Fee (\$174,122/year)	-	156,948
<sup>8</sup> Hourly Security Costs-Police	8,376	12,506
<sup>8</sup> Hourly Security Costs-Fire	-	1,266
Interest Income-Escrow Account	-	4,620
<b>Total Agreement Revenues</b>	<b>536,714</b>	<b>1,168,880</b>
<b>Agreement Expenditures</b>		
<sup>9, 11</sup> Arena Capital Improvements (\$500,000/year)	-	450,685
<sup>10, 11</sup> Quarterly Management Fee (\$15 million/year)	-	2,301,370
<b>Total Agreement Expenditures</b>	<b>-</b>	<b>2,752,055</b>
<b>Excess (deficiency) of revenues over expenditures</b>	<b>536,714</b>	<b>(1,583,174)</b>
<b>Number of Events</b>		
Hockey	5	13
Non-Hockey	2	2
<b>Total Number of Events</b>	<b>7</b>	<b>15</b>

<sup>1</sup> Payment is due to the City quarterly. Current year amounts are prorated based on an August 5, 2013 effective date. Next payment is due 11/5/13.

<sup>2</sup> Payment is due to the City 2 days after each event

<sup>3</sup> Payment is due to the City 60 days after each fiscal year

<sup>4</sup> Payment is due to the City 15 days after the end of each quarter for events occurring within the quarter. City receives revenue in excess of \$20,000 per regular season hockey event.

<sup>5</sup> Payment is due to the City 15 days after Arena Manager receives payment

<sup>6</sup> Payment is due to the City 60 days after each quarter for events occurring in the quarter

<sup>7</sup> Payment is due to the City annually. Current year amounts are prorated based on an August 5, 2013 effective date.

<sup>8</sup> Payment is due to the City 30 days after receipt of the invoice

<sup>9</sup> Payment is due to the Arena Manager annually at the beginning of each fiscal year

<sup>10</sup> Payment is due to the Arena Manager quarterly on the first day of the subsequent quarter (October 1, January 1, April 1 and July 1 for each fiscal year)

<sup>11</sup> Current year amounts are prorated based on an August 5, 2013 effective date.

## **Appendix A Revenue & Expenditures Items Included in the Agreement**

Below are selected sections from the a) Professional Management Services and Arena Lease Agreement with IceArizona Manager Co., LLC and IceArizona Hockey Co., LLC and b) the Safety and Security Agreement between the City of Glendale and IceArizona Manager Co., LLC. relative to the revenue and expenditures line items.

<b>Agreement Revenues</b>
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### **Sales Tax Collections**

**10.2** Taxation of Transactions and Activities at Arena. The Parties acknowledge and agree that transactions and activities at the Arena Facility (including without limitation Arena Manager revenues described in Sections 8.2.1(d) and 8.5.2) (i) are, and shall continue during the Term to be, subject to taxes imposed by the City under Applicable Law, (ii) will be subject to such City-wide taxes as apply to retail and entertainment activities conducted in the City, and (iii) will be subject to future changes in the tax rates that apply under Applicable Law.

### **Base Rent**

**6.6** Base Rent. As part of the consideration for the leasehold interests granted to the Arena Manager under this Agreement, during the Term the Arena Manager shall pay to the City rent in the following amounts, which shall be paid in equal quarterly installments, the first installment due and payable on the commencing on the Closing Date and thereafter each installment due and payable on or before each quarterly (on a three calendar month basis) anniversary of the Closing Date during the Term:

6.6.1 For the five years following the Closing Date, \$500,000 per year; provided however, the Base Rent for the first Fiscal Year shall be \$500,000 prorated (based on a 365-day year) if the period from the Closing Date to the end of the Fiscal Year on which the Closing occurs is less than 365 days.

6.6.2 Beginning of the sixth anniversary of the Closing Date and continuing until the day before the thirteenth anniversary of the Closing Date, \$650,000 per year (prorated for partial years as set forth in Section 6.6.1); and

6.6.3 Beginning of the thirteenth anniversary of the Closing Date and continuing until the day before the fifteenth anniversary of the Closing Date, \$800,000 per year.

### **Ticket Surcharge**

9.1.2 Amount of the City Surcharge. The City Surcharges shall be in the following amounts:

(a) For all **Hockey Events** that are Fee Activities during the 2013- 2014 Season, \$3.00 per Qualified Ticket with respect to each Fee Activity (for

which the City has not waived the City Surcharge), subject to increase for subsequent seasons during the Term as follows:

- (i) If per game attendance averages less than 15,000 in any one season, the City Surcharge during the immediately succeeding season will be \$3.00 per Qualified Ticket;
- (ii) If per game attendance averages between 15,000 and 15,999 in any one season, the City Surcharge will be \$3.25 per Qualified Ticket for the immediately succeeding season;
- (iii) If per game attendance averages 16,000 and 17,000 in any one season, the City Surcharge will be \$3.50 per Qualified Ticket for the immediately succeeding season; and
- (iv) If per game attendance averages more than 17,000 in any one season, the City Surcharge will be \$3.75 per Qualified Ticket for the immediately succeeding season.

(b) For ***non-Hockey Events*** during the Term, \$5.00 per Qualified Ticket with respect to each Fee Activity (for which the City has not waived the City Surcharge).

### **Supplemental Surcharge**

9.1.3 ***Supplemental Surcharge***. In addition, throughout the Term, a Supplemental Surcharge of \$1.50 per Qualified Ticket ("**Supplemental Surcharge**") shall be imposed by the Arena Manager for all Hockey and non-Hockey Events. The Supplemental Surcharge shall be deposited by Arena Manager into one or more ~~an~~ escrow accounts in the name of Arena Manager and the City, and shall be the property of each Party to the extent each is entitled to such monies under this Agreement as determined by Arena Manager and the City jointly (the "**Supplemental Surcharge Escrow Account**"): provided that such deposits shall be held in accordance with and subject to audit pursuant to the procedures described on Exhibit "N" attached hereto (the "**Supplemental Surcharge Procedures**"). City shall have the right to draw upon the Supplemental Escrow Account within 60 days following the last day of each Fiscal Year, to the extent City received less than \$9,000,000 in total revenue from operations at the Arena pursuant to this Agreement during the immediately preceding Fiscal Year (the "**Deficit Amount**"), as further described in the Supplemental Surcharge Procedures and in an amount not to exceed the total funds available in the Supplemental Surcharge Escrow Account at the end of such Fiscal Year. The funds remaining in the Supplemental Surcharge Escrow Account following payment of the Deficit Amount, if any, to City shall belong to Arena Manager free and clear of all claims of City and shall be disbursed to Arena Manager such that said escrow account is reset to a zero balance following the reconciliation pursuant to the Supplemental Surcharge Procedures at the beginning of each Fiscal Year. The Supplemental Surcharge amounts imposed by the Arena Manager which are the property of Arena Manager pursuant to this Section 9.1.3 are pledged to the City, as more fully described in the Supplemental Surcharge Procedures, to the extent of the City's interest, with the City claiming no interest in



the balance of such account. The Supplemental Surcharge Escrow Account shall be held in one or more (FDIC insured) accounts of the Arena Manager and the City jointly, at one or more Third Party financial institutions agreed to by the City and the Arena Manager. To the extent of any inconsistency between this Section 9.1.3 and the terms of the Supplemental Surcharge Procedures, the terms of this Section 9.1.3 shall control

## **Parking Revenue**

### **8.2.1 Parking Rights.**

(e) Arena Manager shall charge for the use of all spaces within the Arena Parking Area for all Hockey Events and Non-Hockey Events (but not City Events where the charges, if any, shall be property of the City and determined by the City except for Supplemental Surcharges, which shall not be charged with respect to City Sponsored Events, unless the City advises Arena Manager of its desire to impose such charges on one or more such events at least ten (10) days in advance of any such City Sponsored Event.) Commencing with the 2013/2014 NHL hockey season, minimum parking rates shall be \$10.00 per vehicle for *Hockey Events* and \$15.00 per vehicle for *Non-Hockey Events*, with the rates for all Events to be established by Arena Manager in its reasonable discretion. Within fifteen (15) days following each quarter during the Term, Arena Manager shall remit to City and Team Owner their respective shares of the “**Arena Parking Area Revenue**” as provided in this Section 8.2.1(e). Team Owner shall be paid the first \$20,000.00 of Parking Profits generated from each NHL Regular Season Home Hockey Game and City shall be paid the balance of Parking Profits generated from each such game. City shall be paid seventy five percent (75%) of the Parking Profits generated from any Pre-season Game, Play-off Game, All-Star Game and Non-Hockey Events. City shall be paid 100% of the Parking revenues associated with any City Sponsored Event. Other than as provided in this Section 8.2.1(e), the Arena Manager shall not be obligated to remit any revenue from the Arena Parking Areas to the City (subject to remittance of all applicable taxes, and further provided that this Section 8.2.1(e) shall not limit the Arena Manager’s obligations to remit amounts to the City pursuant to Sections 7.6.4(b) or 8.9.2(d) or any other provision of this Agreement including those provisions relating to the City Surcharge and Supplemental Surcharges).

## **Naming Rights**

### **8.6.4 Arena Facility Naming Rights.**

(b) Naming Rights shall be sold or licensed only for money, and not be bartered or exchanged for any other form of consideration; provided, however, that payments for Naming Rights may be made in periodic equal installments during the term of any agreement under which Naming Rights are sold or licensed as may be agreed by the Arena Manager in its reasonable

commercial discretion. The Arena Manager shall receive all revenue from the sale and licensing of Naming Rights, including any unpaid amount under the current Naming Rights Agreement and shall, within fifteen (15) days after receipt of any revenue received from the sale or licensing of Naming Rights for the Arena Facility, remit to the City an amount equal to (i) twenty percent (20%) of the revenue from the sale and/or license of Arena Naming Rights (excluding any revenue from the sale of Naming Rights for any other components of the Arena except as described in; (ii) 100% of the revenue from the sale and/or license of Naming Rights that is attributable to signage for any new theater/stage/venue that is constructed by Arena Manager within the Arena Facility (“**Arena Theater**”); and (iii) 100% of the revenue from the sale and/or license of Naming Rights that is attributable to signage for any stage for concert events.

### **City Sponsored Events**

8.9.2 City Sponsored Events. Subject to the Scheduling Procedures, all Concessions Agreements, all Suite License Agreements, all Premium Seat Agreements, all Advertising Agreements and all Naming Rights Agreements, the City shall have the non-assignable right to use the Arena Facility, except for the Exclusive Team Spaces, for not more than four City Sponsored Events each Fiscal Year.

(a) Prior to the scheduling of a City Sponsored Event that is a Fee Activity, the City shall give the Arena Manager notice of whether the City elects to waive the City Surcharge with respect to such City Sponsored Event, and if such notice is not provided it shall be deemed an election by the City not to waive such fee with respect to that City Sponsored Event.

(b) The City shall take such actions as are required to cause the payment to the Arena Manager of an amount not less than the aggregate amount of City Surcharge and Supplemental Surcharge for each such City Sponsored Event, except to the extent that the City has waived, pursuant to this Agreement, the City Surcharge. Arena Manager, in turn, shall pay the City Surcharge and Supplemental Surcharge to the City as required by this Agreement.

(c) The Arena Manager shall maintain separate records of all revenues and all expenses directly attributable to each City Sponsored Event, and all amounts received for deposit and deposited into the City Surcharge Account with respect to each City Sponsored Event. For clarity, only payments or other considerations to be made or provided that (A) are calculated solely on the basis of sales made or transactions completed during a City Sponsored Event directly relating to such City Sponsored Event or (ii) are payable solely because a given City Sponsored Event is held shall be “directly attributable” to such City Sponsored Event.

(d) The Arena Manager shall, at the time the quarterly financial report for such Fiscal Quarter is submitted to the Parties pursuant to Section 8.15:

(i) If the aggregate of the expenses directly attributable to all City Sponsored Events held during a given Fiscal Quarter exceeds the

aggregate of the revenue directly attributable to City Sponsored Events, set-off against any distributions or payments to be made to the City for such Fiscal Quarter the amount by which the aggregate of such expenses exceeds the aggregate of such revenues and submit an invoice for the shortfall to the City for reimbursement within 30 days (any such set-off and/or reimbursed amounts constituting Operating Revenues), or

(ii) If the aggregate of the revenues directly attributable to City Sponsored Events held during a given Fiscal Quarter exceeds the aggregate of the expenses directly attributable to City Sponsored Events held during a given Fiscal Quarter, remit to the City the amount by which the aggregate of such revenues exceeds the aggregate of such expenses within 30 days after the end of the Fiscal Quarter.

(e) In no event shall any rent or facility use charge for a City Sponsored Event be charged to the City or included as an expense item directly attributable to such events. Use of the Arena for such events is to be without charge to the City and all associated revenues shall be property of the City subject only to charges for event-specific variable operating expenses.

### **Safety & Security Fee (from the Safety and Security Agreement)**

**5.1 Annual Fee.** In consideration for the services to be provided by the City under this Agreement, the Arena Manager will pay the City, on or before the first day of each Fiscal Year (or, in the case of the first Fiscal Year in which this Agreement is effective, each partial Fiscal Year), an annual fee in an amount intended to reimburse the City for all of the City's administrative and related costs incurred or to be incurred in providing the Services (exclusive of the Hourly Fee, which shall be billed separately in accordance with Section 5.2 of this Agreement), including, but not limited to the City's overhead (the "**Annual Fee**").

(a) For the first Fiscal Year during which this Agreement is effective, Arena Manager and the City agree that the Annual Fee shall be \$174,122.00, which Annual Fee will be prorated for the partial Fiscal Year and subject to reconciliation as described below. For each subsequent Fiscal Year, the Annual Fee will be the total of the amounts set forth in the Reconciliation Statement (as defined below) for the previous year. Prorations shall be on the basis of a 365-day year.

### **Hourly Security Costs (from the Safety and Security Agreement)**

**5.2 Hourly Fee.** As additional consideration for such services, the Arena Manager will pay the City within 30 days of the receipt of an itemized invoice, the base hourly rates (i.e., regular hourly rates, including overtime rates), plus the City's share of (i) any employment, FICA, or similar taxes related thereto, (ii) pension, profit-sharing or similar retirement plan contributions (including contributions to the Arizona State Retirement System) and (iii) similar payroll-related burdens (collectively, the "**Hourly Fee**") of the Public Safety Personnel for work performed for Events. The Hourly Fee shall not include amounts for

health insurance, medical insurance and similar non-payroll related burdens. Upon reasonable request, the City shall timely provide the Arena Manager current information on the amounts included in and constituting the Hourly Fee.

(a) The Hourly Fee shall be a minimum of three hours for each such Public Safety Personnel working at each Event.

(b) At the request of the Arena Manager, the City shall submit an invoice to the Arena Manager at the time of an Event when the Arena Manager requires such invoice to pass the cost of such services on to a third party.

**5.3** The Annual Fee and the Hourly Fee shall be paid by the Arena Manager as Operating Expenses under the Arena Management Agreement.

## **Agreement Expenditures**

### **Arena Capital Improvement**

**11.3** Funding of Capital Improvements. In order to fund the Renewal and Replacement Schedule, the City shall provide the following amounts (collectively, the “**Capital Improvement Contributions**”), which shall be paid into and held in the Renewal and Replacement Account on the first day of the applicable Fiscal Year (and for the first year of the Term, on the Closing Date):

11.3.1 \$500,000 during each Fiscal Year of the Term through June 30, 2019, prorated as provided in Section 6.6.1 for Partial Years; and

11.3.2 \$1,000,000 during each Fiscal Year beginning July 1, 2020 and ending June 30, 2027.

11.3.3 Any portion of the Capital Improvement Contribution made in a given Fiscal Year that is not utilized for Capital Improvement Expenditures in such Fiscal Year shall be retained in the Renewal and Replacement Account and may be utilized by the Arena Manager for Capital Improvement Expenditures in subsequent Fiscal Years. Such unused Capital Improvement Contribution shall not be credited towards the Capital Improvement Contribution for any subsequent Fiscal Year.

### **Arena Quarterly Management Fee**

**10.1** Management Fee. During the Term, in consideration of the Arena Manager’s agreement to perform the management and other services set forth in this Agreement and to pay all operating and maintained costs associated with the Arena (other than capital costs as provided herein), provided there is no breach by the Team Owner of the obligations under the Non-Relocation Agreement or a material breach by the Arena Manager of its obligations under this Agreement, the City shall pay to the Arena Manager, by wire transfer of immediately available funds to an account specified by the Arena Manager, a Management Fee, paid in quarterly (on a three calendar month basis) installments in arrears on or before each October 1st, January 1st, April 1st and July 1st during the Term the following amounts or a pro-rata portion of such amounts based upon the number of days in such quarter:

10.1.1 On October 1, 2013, for the period beginning on the Closing Date and ending on the last day of the calendar quarter in which the Closing Date occurs, an amount equal to \$15,000,000.00 multiplied by a factor equal to the number of days from the Closing Date to the end of such quarter divided by 365, which for the purposes of clarity shall be calculated as follows:

$$\text{\$15,000,000} \times \frac{\text{(Number of Days from Closing Date to September 30, 2013)}}{365}$$

10.1.2 In no event shall the Management Fee exceed \$15,000,000.00 per year. The City may, during the continuation of any Arena Manager Default, and following the expiration of any applicable notice and cure period, by written notice to Arena Manager, require that any revenues owed to the City, and/or any amount in the City Surcharge Account, be applied to the City's obligation to pay the Management Fee.