CITY CLERK ORIGINAL

C-4418-4
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FIRST AMENDMENT TO MIXED-USE DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO MIXED-USE DEVELOPMENT AGREEMENT (this "**Amendment**") is made and entered into effective as of January 25, 2011, by and between the CITY OF GLENDALE, an Arizona municipal corporation (the "**City**"), COYOTE CENTER DEVELOPMENT, LLC, a Delaware limited liability company ("**CCD**"), GLENDALE-101 DEVELOPMENT, LLC, a Delaware limited liability company ("**101**"), and ARENA DEVELOPMENT, LLC, a Delaware limited liability company ("**AD**").

RECITALS:

A. The City and CCD are parties to that certain Mixed-Use Development Agreement (the "**MUDA**") dated as of November 29, 2001, and recorded in the Official Records of the County Recorder of Maricopa County, Arizona as Instrument No. 2001-1155422, originally by and among the City, CCD and 101. CCD has, pursuant to an Assignment and Assumption Agreement dated as of September 26, 2006, succeeded to the duties, rights, obligations and interest of 101 under the MUDA.

B. The MUDA provides, among other things, for the development by CCD (in its capacity as an original party to the MUDA and in its capacity as successor to 101 for purposes of the MUDA) of both the "**Entertainment Project**" and the "**Retail/Residential Project**", each as defined in the MUDA. The Entertainment Project and Retail/Residential Project are collectively referred to in this Amendment as the "**Westgate Project**" or "**Westgate**" and are on Lots 1A, 1B, 2A, 2B, 2C, 3A, 3B, 3C, 5A, 5B, 5C, 5D, 5E, 5F, 6A, 6B-1, 6B-2, 11, 12A-1, 12B, 12C, 12D, 12E, 12F-2, 12G, 12H and Parcel B of Westgate, according to the plat thereof (the "**Westgate Final Plat**") recorded on May 2, 2005 in the Official Records of the Maricopa County Arizona Recorder in Book 745, at Page 14 and as amended by minor land divisions (in this Amendment, all references to "**Lot**" or "**Lots**" shall be to the corresponding Lot or Lots shown on the Westgate Final Plat). Westgate is adjacent to the City-owned arena (the "**Arena**" as defined in the MUDA) that is now known as the Jobing.com Arena.

C. The MUDA further provides for the City to own certain Lots in the vicinity of the Arena and the Westgate Project that have been improved for and are being used for parking for the Arena (being the "**Parking Land**" as defined in the MUDA). The Parking Land as it exists on the date of this Amendment includes Lots 8, 13, 14B and 15 of the Westgate Final Plat.

D. CCD was obligated to provide 5,500 parking spaces (whether surface spaces or spaces in parking structures) on the Parking Land. These 5,500 parking spaces and their associated vehicle and pedestrian access improvements (as existing from time to time) are defined in the MUDA as the "**Parking Improvements**". Under the MUDA, all Parking Improvements are owned by the City and have been set aside for use by the Arena with provision for "**Cross Easements**" (as defined in the MUDA) for shared use and cross access for the benefit of the Lots within the Entertainment Project and the Lots within the Retail/Residential Project.

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E. Section 4.6 of the MUDA provides for, among other things, the conveyance by the City to CCD, at the request of CCD and under the circumstances described in such Section 4.6, of certain portions of the Parking Land for development by CCD as part of the Westgate Project. Such Section 4.6 provides that, as a condition to any such conveyance, CCD must have arranged for and provide to the City permanent replacement parking (in the Entertainment Project and satisfying the replacement parking requirements set forth in such Section 4.6).

F. On November 29, 2005, the City and CCD (and others) entered into that certain Real Property Purchase Agreement (the "**Purchase Agreement**") pursuant to which, among other things, CCD agreed to convey (and subsequently did convey) to the City part of Lot 16 of Westgate ("**Part of Lot 16**"), as described therein, for the purpose of enabling the City to combine Part of Lot 16 with Lot 10 of Westgate, which was then owned by the City, for the development by the City and a hotel developer of a hotel, conference center, media facility and parking facility. At the time of the execution of the Purchase Agreement, Lot 10 was a part of the Parking Land, was used for Arena parking purposes, and contained an aggregate of 1,200 parking spaces (the "**Lot 10 Parking Spaces**").

G. At the time of the execution of the Purchase Agreement, Lots 7 and 14A were part of the Parking Land, were used for Arena parking purposes, and contained an aggregate of 1,440 parking spaces (the "**Lots 7 and 14A Parking Spaces**").

H. In connection with the closing of the transactions contemplated by the Purchase Agreement, and in order to provide for temporary and permanent replacement Arena parking for the Lots 7 and 14A Parking Spaces, the City and CCD (and others) entered into that certain Lots 7 and 14A Temporary Parking License Agreement (the "**Temporary Parking License**") dated as of November 29, 2005. By virtue of the Temporary Parking License, the City allowed the development of Lots 7 and 14A without CCD providing permanent replacement parking prior to development of these lots as required by the MUDA.

I. Prior to the expiration of the Temporary Parking License on November 29, 2008, CCD requested that the City, the Team, and Arena Manager enter into an agreement as an alternative to providing the permanent replacement parking spaces as required by the Temporary Parking License. The parties determined that the desirable manner by which CCD would satisfy its remaining obligations under the Temporary Parking License was to contribute to the construction of a permanent multi-story parking structure on Lot 8 of Westgate (the "**New Parking Facility**") containing not less than (i) 1,440 City owned permanent parking spaces, plus (ii) the number of Lot 8 surface spaces displaced by the structure.

J. Accordingly, the City and CCD entered into an Agreement for the Replacement of Temporary Parking dated as of July 1, 2008 (the "**Temporary Parking Agreement**").

K. Other parties to the Temporary Parking Agreement were Coyotes Hockey, LLC, a Delaware limited liability company (the "**Team**"), Arena Management Group, LLC, a Delaware limited liability company ("**Arena Manager**"), and Glendale Garage LLC, an Arizona limited liability company ("**Garage Developer**"). The Team and the Arena Manager had the right to use and occupy the Arena pursuant to an Arena Management, Use and Lease Agreement dated as of November 29, 2001 (the "**Arena Lease**"). Pursuant to actions taken in the United States

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Bankruptcy Court, District of Arizona in connection with the voluntary petitions for relief under Chapter 11 of the Bankruptcy Code filed by the Team and Arena Manager on May 5, 2009 (Case Nos. 2:09-bk-09491-RTB and 2:09-bk- 09495-RTB, which cases are being jointly administered with the Chapter 11 bankruptcy proceedings of Dewey Ranch Hockey, LLC (Case No. 2:09-bk-09488-RTBP) and Coyotes Holdings, LLC (Case No. 2:09-bk-09500-RTB) under Case No. 2:09-bk-09488-RTBP) (the "**Bankruptcy Proceedings**"), the Team and Arena Manager rejected the Arena Lease and the Temporary Parking Agreement and no longer have any right, title or interest in, or liability under, either such agreement. Garage Developer was never created as a legal entity, and accordingly the Temporary Parking Agreement never became effective as to Garage Developer. Therefore, the City and CCD, acting alone, have the right and power to modify the Temporary Parking Agreement.

L. Pursuant to the Temporary Parking Agreement: (1) CCD deposited $20,000,000 into the Parking Disbursement Account (as defined below) to be applied towards construction of the New Parking Facility; (2) and CCD deposited an additional $5,000,000 into the Parking Disbursement Reserve Account and (3) such payments were deemed full satisfaction of any and all obligations of CCD under the Temporary Parking License, except that CCD's indemnification obligations under the Temporary Parking License survived.

M. Also pursuant to the Temporary Parking Agreement, the parties thereto entered into a First American Title Insurance Company Construction Disbursement Escrow Agreement dated as of July 1, 2008 (the "**Disbursement Agreement**") (to which First American Title Insurance Company was an additional party) and entered into a Collateral and Subordination Agreement dated July 1, 2008 (the "**Collateral Agreement**") (to which Credit Suisse, Cayman Islands Branch, in the capacity as Collateral Agent, was an additional party ("**Credit Suisse**")).

N. The City and CCD, with the consent of Credit Suisse, have now determined, in light of drastically changed economic conditions, that it is no longer in the best interests of the City and CCD to construct the New Parking Facility as provided in the Temporary Parking Agreement. The City and CCD desire: (1) to enter into an Amended and Restated Agreement for the Replacement of Temporary Parking (the "**Restated Parking Agreement**") as provided in this Amendment, (2) to disburse the funds held in escrow pursuant to the Disbursement Agreement as provided in this Amendment, and (3) to terminate the Collateral Agreement and the Disbursement Agreement.

O. At all pertinent times, CCD has provided such 5,500 parking spaces under Recital D above, either on the Parking Land or pursuant to the Temporary Parking License or pursuant to the Temporary Parking Agreement, both as described below. As of the date of this Amendment, the 5,500 parking spaces are located as follows: Lot 8, 1209 parking spaces; Lot 13, 763 parking spaces; Lot 14B, 176 parking spaces; Lot 15, 712 parking spaces; Minor Land Division Parcel A (credited to CCD as part of JQH/City Conference Center Transaction), 1200 parking spaces; and Lots 1A & 12 A, 1440 parking spaces.

P. The City and CCD also desire to provide for: (1) the conveyance of Lot 4 of Westgate to CCD on the terms and conditions set forth in this Amendment, (2) the inclusion of all Lots in Westgate owned or controlled by CCD as of the date of this Amendment in the City of Glendale, Arizona Community Facilities District Two (the "**CFD**") for the mutual benefit of the

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City and Developer, and (3) the modification or waiver of certain other terms and conditions of the MUDA in light of changed circumstances.

AGREEMENT:

NOW, THEREFORE, in consideration of the covenants, agreements and obligations contained in this Amendment, the parties agree as follows:

1. **Recitals and Defined Terms**. The City and CCD confirm the accuracy of the foregoing Recitals, which are incorporated into and comprise part of this Amendment. Capitalized Terms not defined in this Amendment shall have the meanings set forth in the MUDA or in other documents to which the MUDA refers for definitional purposes, as applicable.

2. **Council Approval; and Conditions Precedent**. The City and CCD shall concurrently enter into this Amendment and the Restated Parking Agreement. This Amendment and the Restated Parking Agreement shall be binding upon the parties and irrevocable only upon execution by all parties, final approval by the City Council, and execution of the consent set forth below by Credit Suisse on its own behalf and on behalf of those entities for which it is agent. The parties acknowledge and agree that City Council approval of this Amendment is within the sole and absolute discretion of the City Council. If this Amendment is not approved by the City Council or becomes void as provided above, the Temporary Parking Agreement, the Disbursement Agreement, and the Collateral Agreement shall remain in full force and effect, and nothing in this Amendment shall be deemed to be a waiver or relinquishment of any duty or obligation under, or any claim or position of either the City or CCD with respect to any claim, issue, matter or interpretation under, of or with respect to, any of such agreements. The intent of the parties is that in such event: (a) the negotiation and execution of this Amendment shall not affect the respective rights, duties and obligations of each of the City, CCD or any other party with respect to the Temporary Parking Agreement as they existed immediately prior to the execution of this Amendment and (b) this Amendment shall be null and void and of no force or effect and the negotiation and execution of this Amendment shall not affect the respective rights, duties and obligations of the City, CCD, or any other party with respect to any agreements being amended, modified or released as they existed immediately prior to the execution of this Amendment.

3. **Termination of Escrow and Disbursement of Funds**. Disbursement Agent is hereby instructed to disburse immediately, one-half (½) to the City and one-half (½) to Credit Suisse, the $25,000,000 held by Disbursement Agent in the Parking Disbursement Account and the Parking Disbursement Reserve Account and all interest accrued thereon, less any fees owed to Disbursement Agent. Upon such disbursement, the Disbursement Agreement and the Collateral Agreement shall automatically terminate. By its consent to this Amendment, Credit Suisse and the City agree that the funds disbursed to the City and to Credit Suisse, respectively, shall be free and clear on any lien, claim, or security interest whatsoever in or against such funds, and that Credit Suisse upon request will file any termination statement or other document necessary to evidence such release.

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4. **Lot 4**. Promptly upon request by CCD, without any additional consideration or obligation of any kind by CCD, the City shall convey Lot 4 to CCD in accordance with the closing procedures described in Section 4.6(l), (m), and (n) of the MUDA as though Lot 4 were a Conveyance Parcel (which it is not). Until such time as the City conveys title to Lot 4 to CCD pursuant to the preceding sentence (as applicable), the City shall maintain (at its sole cost and expense) the lake on Lot 4 in reasonable condition in accordance with past practice. From and after the date the title to Lot 4 is conveyed to CCD, CCD shall either maintain (at its sole cost and expense) the lake on Lot 4 in reasonable condition in accordance with past practice or drain and remove the lake.

5. **Lot 8**. If the City desires to sell or otherwise convey Lot 8, then:

(a) in the case of a transaction: (i) that constitutes a sale of excess land; and (ii) that is not made in connection with the development of a facility primarily for public or municipal use; and (iii) that does not involve any substantial consideration to the City for the sale in the form of obligations or undertakings by the purchaser other than payment of the purchase price, the City, prior to marketing Lot 8 for sale or entering into any contract for the sale or conveyance of Lot 8, shall give written notice to CCD of the City's desire to sell Lot 8 (an "**Offer to Negotiate**"). If within ten (10) business days after CCD's receipt of the Offer to Negotiate, CCD gives written notice to the City of CCD's desire to purchase Lot 8. For a period of sixty (60) days from the date that CCD delivers such Notice to the City, the City and CCD shall enter into good faith negotiations in connection with the cash sale of Lot 8 from the City to CCD; provided that if CCD fails to timely deliver such Negotiation Notice to the City, then no such negotiations shall be required. If the City and CCD sign an agreement with respect to such sale of Lot 8 to CCD, then such agreement shall govern the disposition of Lot 8. If no such written agreement is signed within such sixty (60) day period, then the City shall have the right thereafter to sell Lot 8 to a third party in a cash sale free and clear of any rights of CCD; provided, however, if at any time thereafter the City desires to sell Lot 8 to a third party for a purchase price (the "**Third Party Price**") that is less than 100% of the purchase price offered in writing by CCD during the negotiations between CCD and the City, then the City shall offer in writing to CCD to enter into negotiations with CCD for the sale of Lot 8 at the Third Party Price. If CCD accepts such offer in writing to the City within ten (10) business days after CCD's receipt of such notice from the City, then the City and CCD shall enter into such good faith negotiations for a period of thirty (30) days following the date that CCD delivers its acceptance of such offer to the City. If no written agreement for the sale of Lot 8 to CCD is entered into within such thirty (30) day period, then the City may proceed to sell Lot 8 to the third party at or above the Third Party Price free and clear of any rights of CCD. "Primarily for public or municipal use" means that the predominant use will involve any or all of the following: municipal functions, educational purposes, public use, public facilities, public recreation, parking, sporting events (amateur or professional), or other non-commercial purposes, and any commercial component of the project will be ancillary to the predominant uses.

(b) in the case of a transaction involving a sale of Lot 8 that is not covered by Subsection 5(a) above (a "**Development Transaction**"), the City shall provide written notice to CCD (the "**Development Transaction Offer**") of each of the principal terms and conditions of the proposed transaction, including the related (financial and otherwise) obligations or undertakings by the purchaser or the City, which may include obligations with respect to

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construction or development of infrastructure, buildings or other improvements for public or private use (collectively, the "**Principal Terms**"). If within ten (10) business days after receipt of the Development Transaction Offer, CCD gives written notice to the City that CCD desires to enter into the Development Transaction with the City, then the City and CCD shall enter into good faith negotiations for a period of sixty (60) days (from the date that CCD delivers such notice to the City) to reach agreement under which CCD and the City will engage in the Development Transaction on the Principal Terms or on such other or additional terms as CCD and the City may otherwise mutually agree in writing; provided that if CCD fails to give timely such written notice to City that CDD desires to engage in the Development Transaction, then no such negotiations shall be required (subject to Subsection 5(c) below). If the City and CCD sign an agreement with respect to the Development Transaction, then such agreement shall govern the Development Transaction. If no such written agreement is signed within such sixty (60) day period, then the City shall have the right thereafter to enter into a Development Transaction with a third party free and clear of any rights of CCD except as otherwise provided in Subsection 5(c) below; provided, however:

(i) if the Development Transaction was negotiated pursuant to a request-for-proposal process based on the Principal Terms and if the Principal Terms of the Development Transaction sufficiently change in the course of negotiation that the City is required under Applicable Law to restart the request-for-proposal process, then the City shall be obligated to give a new Development Transaction Offer to CCD under Subsection 5(b) above based on the changed Principal Terms; and

(ii) if the Development Transaction was not negotiated pursuant to a request-for-proposal process but the Principal Terms of the Development Transaction sufficiently change in the course of negotiation that the City would have been required under Applicable Law to restart the request-for-proposal process if a request-for-proposal process had been used, then the City shall be obligated to give a new Development Transaction Offer to CCD under Subsection 5(b) above based on the changed Principal Terms.

(c) in lieu of offering to enter into negotiations for a Development Transaction as provided in Subsection 5(b) above, within ten (10) business days after CCD's receipt of the Development Transaction Offer, CCD may make a written offer to the City to purchase Lot 8 for cash (the "**CCD Purchase Price**"). If the City rejects such offer in writing to CCD, CCD shall have the right, in its sole discretion, to submit to resolution by arbitration under Article 11 of the MUDA, the following issue: Taking into account all factors and considerations relevant to the decision, including, without limitation (i) the economic benefits to the City, (ii) the magnitude of direct or indirect public benefit that is expected to result from the Development Transaction, (iii) the costs that the City would incur as a result of the Development Transaction, (iv) the amount of the CCD Purchase Price, and (v) any positive or negative (including direct or indirect competition) impacts that the Development Transaction would have on the private interests within Westgate including, without limitation, consideration of the substantial debt and equity investments of the private owners, lenders, and tenants, and the effect on the operating businesses within Westgate --- is the City's decision to engage in the Development Transaction rather than the cash sale sound, reasonable and fairly balance all of the relevant factors and interests identified above?

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(d) Following the completion of any arbitration proceeding pursuant to Subsection 5(c) above:

(i) If the arbitrator sustains the City's decision, then the City shall be free to enter into the Development Transaction with a third party, free and clear of any further rights on the part of CCD, subject to Subsections 5(b)(i) and 5(b)(ii) above.

(ii) If the arbitrator does not sustain the City's decision, then the City may, in the City's sole discretion:

(1) elect to proceed with neither the Development Transaction nor a sale of Lot 8 to CCD; or

(2) enter into good faith negotiations with CCD for the sale of Lot 8 to CCD for the CCD Purchase Price. If no written agreement for the sale of Lot 8 to CCD for the CCD Purchase Price is entered into within sixty (60) days following the date of the arbitrator's decision, then notwithstanding the arbitrator's decision, the City may proceed to enter into the Development Transaction with a third party, subject only to Subsections 5(b)(i) and 5(b)(ii) above.

6. Lot 15.

(a) Except as otherwise provided in Subsection 6(b) below and subject to CCD's rights under Subsection 6(c) below, Lot 15 shall no longer be Parking Land and CCD shall have no right to acquire Lot 15 pursuant to Section 4.6 of the MUDA. Until such time, if any, as the City causes or permits Lot 15 to be developed for another purpose, the City shall continue to maintain 712 public parking spaces on Lot 15, and the Parking Improvements thereon shall be maintained by the City. Any development by the City of Lot 15 shall be consistent with the uses permitted under the applicable planned area development plan adopted for Westgate and shall be consistent with the design standards prevailing at Westgate, as reasonably determined by the City.

(b) If no development of Lot 15 has commenced by the fifth (5th) anniversary of the date of this Amendment, then: **(i)** Lot 15 shall once again constitute Parking Land subject to the terms and conditions of Section 4.6 of the MUDA and **(ii)** CCD shall be required to provide 712 parking spaces under the MUDA. For purposes of this Subsection, development of Lot 15 shall be deemed to have commenced if an application for a building permit for vertical improvements on Lot 15 has been filed and is being processed in due course by the City or if the City has entered into a construction contract or construction management agreement with respect to any such vertical improvements.

(c) If prior to the fifth anniversary of this Amendment, the City desires to sell or otherwise convey Lot 15, excluding any such sale or conveyance in connection with the development of a facility primarily for public or municipal use, then the City, prior to marketing the Lot for sale or entering into any contract for the sale or conveyance of Lot 15, shall give written notice to CCD of the City's desire to sell or otherwise convey, and the City and CCD

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shall enter into good faith negotiations for a period of sixty (60) days for the sale of Lot 15 to CCD; provided, however, if CCD gives written notice to City that it does not desire to purchase Lot 15, then no such negotiations shall be required. If the City and CCD sign an agreement with respect to such sale, then such agreement shall govern the disposition of Lot 15. If no written agreement is signed within the sixty (60) day period, then the City shall have the right thereafter to sell Lot 15 to a third party free and clear of any rights of CCD; provided, however, if the City desires to sell Lot 15 for a price that is less than 100% of the price offered in writing by CCD during the negotiations between CCD and the City (the "**Third Party Price**"), then the City shall offer in writing to enter into negotiations with CCD for the sale of Lot 15 at the Third Party Price, and if CCD accepts such offer in writing within ten (10) business days after receipt of such notice, then the City and CCD shall enter into such good faith negotiations for a period of sixty (60) days following the date of the offer. If no written agreement for the sale of Lot 15 to CCD is entered into within such sixty (60) day period, then the City may proceed to sell Lot 15 to the third party at the Third Party Price free and clear of any rights of CCD.

(d) The provisions of this Section 6 that refer to the number of parking spaces required to be provided by CCD are subject to those provisions of the Restated Parking Agreement that adjust the number of parking spaces required to be provided by CCD following the construction of a New Parking Facility.

7. CFD.

(a) CCD agrees to take all actions reasonably necessary, subject to its receipt of the prior consent of the requisite secured lenders, to cause Lots owned by CCD or its wholly-owned subsidiaries to be included in the City of Glendale, Arizona Community Facilities District Number Two (the "**CFD**") pursuant to the terms and conditions of a separate development agreement or amendments to the CFD organizational documents, each of which shall be mutually agreed upon in writing by the CFD and CCD, that: (i) restrict the CFD to imposing and collecting assessments for the purpose of maintaining the Arena, for the purpose of creating a fund for the construction of the New Parking Facility, for the purpose of paying related financing, administrative, and transactional expenses (not including any amounts owing in connection with bonds issued by the City prior to the date of this Agreement), and for other purposes approved by owners of land in the district as provided below; and (ii) require that the amount of assessments levied by the CFD not exceed the Assessment Limits described below.

(b) The separate development agreement or amendments to the CFD organizational documents (as applicable) shall provide, further, that:

(i) prior to authorizing any expenditure or series of related expenditures for which assessments will be made (except assessments for reasonable administrative costs of the CFD itself), the Board of the CFD shall propose in writing to CCD the assessments, or range of assessments, to be imposed by the CFD. Upon receipt of any such proposal, CCD will be provided the opportunity to review and express any potential concerns to these proposals. If CCD's concerns are not reasonably satisfied, the Board of the CFD and CCD agree to work, in good faith negotiations, to arrive at reasonably acceptable terms for the

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resolution of such concerns, but the obligation to negotiate in good faith shall not mean that CCD's approval to the proposed action must be obtained;

(ii) assessments on Lots shall not exceed the limits described on Schedule 1 to this Amendment;

(iii) specified changes will be made to the CFD's assessment authority in the event the Phoenix Coyotes cease operations at the Arena and are not replaced by: (A) another NHL hockey team or (B) another user that generates equal or better annual attendance numbers.

(iv) assessments shall not be made for expenditures other than for the purposes described in Subsection 7(a) above without the consent of the majority (by acreage) of owners of land in the district.

8. Waivers and Releases.

(a) The City shall transfer to CCD, and CCD shall acquire from the City: (1) any and all of the City's claims against Arena Manager and the Team, now and in the future, involving CCD's or it affiliates' obligations arising in the Bankruptcy Proceedings under the Arena Lease or under the Team Guaranty (as defined in the MUDA), including, without limitation, Claim Nos. 184-3, 185-3, 186-1, and 186-2 filed by the City in the Bankruptcy Proceedings, to the extent CCD is obligated to indemnify the Arena Manager or the Team pursuant to the Team Guarantee Undertaking and Indemnification Agreement and the AMULA Undertaking and Indemnification Agreement (the "**Arena Manager and Team Claims**"), and (2) any claims by the City against CCD or its affiliates, now or in the future, that arise directly from the Arena Management Agreement or the Team Guaranty (even though neither CCD nor any of its affiliates is a party to the Team Guaranty) (collectively the "**City's Claims**") for $2,000,000 (the "**Claim Purchase Price**"). CCD shall pay the Claim Purchase Price in two installments, $1,000,000 on December 31, 2016 and $1,000,000 on December 31, 2017 (the "**Installment Payments**"); provided, however, that if on or before December 31, 2016, at least 100,000 additional square feet of Qualified Use Space have been constructed by CCD or by any other property owners who purchased parcels from CCD, then CCD's obligation to make the Installment Payments shall be conclusively deemed waived in its entirety by the City. CCD and the City shall execute and shall cause their respective counsel to execute and file such further documents and pleadings as may be appropriate or necessary, and as either party may reasonably request, including those pleadings required under the Bankruptcy Code and the Bankruptcy Rules for the transfer of claims, in order to evidence and confirm the transfer of the City's Claims to CCD.

(b) "City's Claims" to be transferred to CCD shall not include any of the City's claims against Arena Manager or the Team against which CCD is not obligated to indemnify the Arena Manager or the Team. Upon request by either CCD or the City from time to time, the City or CCD, as applicable, shall provide such information as may be necessary to identify and determine which of the City's claims against Arena Manager or the Team are included within the scope of "City's Claims".

(c) CCD, 101, and AD hereby release and terminate all present and future rights and claims, if any, that any of them have or may have pursuant to or that arise directly from the Arena Lease, including without limitation any present or future rights or claims that any of them may have against the City pursuant to or that arise directly from the Arena Lease.

9. Parking Revenue.

(a) The City shall be entitled to impose parking charges for the use of all parking spaces for Arena Events (as defined in the Restated Parking Agreement), including not only parking spaces located on Parking Land or on Lots owned by CCD or its wholly-owned subsidiaries (including, without limitation, the 1,440 Parking Spaces), and to retain all such revenue. The City may contract with a parking operator to collect such revenue on the City's behalf. Such parking operator may or may not be an affiliate of CCD.

(b) Notwithstanding the foregoing, if CCD holds an event that is located solely on Lots owned by CCD or any of its wholly-owned subsidiaries, that occurs outside of Arena Event Times (as defined in the Restated Parking Agreement), and that is otherwise in compliance with the MUDA and this Agreement, then CCD may collect and retain any parking revenue associated with such event (whether collected directly or under a contract with a parking operator collecting such revenue on behalf of CCD or any of its wholly-owned subsidiaries).

10. Signage. The City will be entitled to create or permit revenue-generating signage on Lots owned by the City, whether improved or unimproved; provided, however, with respect to signage other than signage for identifying the tenant or occupant of the Lot, such signage shall be coordinated, arranged and contracted by the City through the same advertising contractor as provides revenue-generating signage for CCD with respect to its Lots, so long as the economic terms of such agreement are no less favorable to the City than those outlined on Schedule 2 attached hereto and incorporated by this reference. Notwithstanding the foregoing, if such advertising contractor declines to enter into such an agreement with the City, then the City shall be free to retain a different advertising contractor.

11. Assignment. The City acknowledges and agrees that an assignment by CCD of its rights, title and interests in the MUDA to an Affiliate of CCD pursuant to Section 1.1 of the MUDA will be a permitted assignment pursuant to Section 12.20(a) of the MUDA.

12. Rescission. If CCD fails within sixty (60) days after the date of this Amendment to obtain all necessary approvals from its requisite secured lenders to cause Lots owned by CCD or its wholly-owned subsidiaries to be included in the CFD pursuant to Subsection 7(a) of this Amendment, then at any time thereafter, the City shall have the right and option, by written notice to CCD, to rescind this Amendment and the Restated Parking Agreement, in which case, Lot 4 (if previously conveyed) shall be reconveyed to the City and, except as provided below, the rights and obligations of the City and CCD shall be as though the Restated Parking Agreement and this Amendment had never been executed. Notwithstanding the foregoing, any such rescission shall not affect Section 3 of this Amendment: the funds disbursed pursuant to such Section 3 shall not be subject to repayment, the Disbursement Agreement and the Collateral Agreement shall not be revived, and the Parking Disbursement Account and the Parking Disbursement Reserve Account shall not be re-established.

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13. Arbitration. Any dispute arising under or otherwise related to this Amendment shall be submitted to "Arbitration" under Article 11 of the MUDA.

14. Ratification; Incorporation of Boilerplate by Reference. The MUDA, as specifically modified by this Amendment, continues in full force and effect. Without limiting the foregoing, Sections 12.4 through 12.18 of the MUDA are hereby incorporated into this Amendment by this reference.

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

16. Conflict; Effect on Other Agreements. If there is any conflict between any provision of this Amendment and any provision of the MUDA, the provision of this Amendment shall govern and control. If there is any conflict between any provision in the Recitals to this Amendment and any provision in any Section of this Amendment, the provision in the Section shall govern. Except as expressly provided in this Amendment, nothing in this Amendment is intended to affect or modify any other agreement between or among any of the persons or entities mentioned in this Amendment, all of which shall remain in full force and effect.

17. Statutory Conflict Provision. This Amendment is subject to cancellation under the provisions of A.R.S. § 38-511.

18. Interpretation. Each of the parties has been represented by legal counsel in the negotiation of this Amendment. This Amendment shall be interpreted, applied and enforced according to the fair meaning of its provisions and terms, and shall not be construed in favor of, or against, either party, regardless of which party may have proposed or drafted any of its provisions or terms.

[*Signatures appear on the following pages*]

CITY:

CITY OF GLENDALE, a municipal corporation

By: _____
Name: Ed Beasley
Title: City Manager

Approved as to form:

_____
Craig Tindall, City Attorney

Attestation:

_____
Pam Hanna, City Clerk

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

CCD:

COYOTE CENTER DEVELOPMENT, LLC,
a Delaware limited liability company

By: **ELLMAN MANAGEMENT GROUP, INC.**, an Arizona corporation, its manager

By: _____
Name: Steven Whitwell
Title: Chief Financial Officer

101:

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

By: **ELLMAN MANAGEMENT GROUP, INC.**, an Arizona corporation, its manager

By: _____
Name: Steven Whitwell
Title: Chief Financial Officer

AD:

ARENA DEVELOPMENT, LLC,
a Delaware limited liability company

By: **ELLMAN MANAGEMENT GROUP, INC.**, an Arizona corporation, its manager

By: _____
Name: Steven Whitwell
Title: Chief Financial Officer

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

CREDIT SUISSE, CAYMAN ISLANDS BRANCH hereby (a) consents to the termination of the Collateral Agreement and the Disbursement Agreement as provided in the foregoing Amendment, (b) consents to the disbursement of all funds held pursuant to the Disbursement Agreement as provided in the foregoing Amendment, (c) agrees that except for the limited purpose of granting the specific consents described in the foregoing Amendment, Credit Suisse is not a party to the foregoing Amendment, and (d) warrants that it has the authority to grant these consents in its capacity as Collateral Agent as indicated below and has the authority to bind its principals.

CREDIT SUISSE, CAYMAN ISLANDS BRANCH,
as First Lien Collateral Agent

By: _____
Name: Didier Siffer
Title: Authorized Signatory

By: _____
Name: Adam Zausmer
Title: Authorized Signatory

CREDIT SUISSE, CAYMAN ISLANDS BRANCH, as Second Lien Collateral Agent

By: _____
Name: Didier Siffer
Title: Authorized Signatory

By: _____
Name: Adam Zausmer
Title: Authorized Signatory

CREDIT SUISSE, CAYMAN ISLANDS BRANCH, as Third Lien Collateral Agent

By: _____
Name: Didier Siffer
Title: Authorized Signatory

By: _____
Name: Adam Zausmer
Title: Authorized Signatory

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SCHEDULE 1

ASSESSMENT LIMITS

SW

Year	Fiscal Year	Proposed New Surcharge
1	2011	$ 1,079,545
2	2012	1,106,534
3	2013	1,134,197
4	2014	1,162,552
5	2015	1,191,616
6	2016	1,221,407
7	2017	1,251,942
8	2018	1,283,240
9	2019	1,315,321
10	2020	1,348,204
11	2021	1,381,909
12	2022	1,416,457
13	2023	1,451,869
14	2024	1,488,165
15	2025	1,525,369
16	2026	1,563,504
17	2027	1,602,591
18	2028	1,642,656
19	2029	1,683,722
20	2030	1,725,816
21	2031	1,768,961
22	2032	1,813,185
23	2033	1,858,515
24	2034	1,904,977
25	2035	1,952,602
26	2036	2,001,417
27	2037	2,051,452
28	2038	2,102,739
29	2039	2,155,307
30	2040	2,209,190
	Grand Total	$ 47,394,964

SW

SCHEDULE 2

Outline of Minimum Term of Coordinated Revenue-Generating Signage Agreement

Capital costs for signage will include costs of fabrication and installation, as well as any future modifications, of the signage at the requisite locations. Such costs will include, but not be limited to design, installation, construction, permitting, relocation of conflicting equipment, etc.

Net Revenue shall be defined as (i) all revenue (including the cash equivalent of any in kind consideration and the value of any cost savings achieved) actually received pursuant to an agreement of the sale or leasing of signage or from branding, sponsorships, or naming rights, but not including any amounts paid that are specifically a reimbursement of costs, such as sales tax, electricity, production or installation, (ii) less normal customary expenses calculated in accordance with generally accepted accounting principles, such as:

commissions paid to third party advertising agencies;

utilities to the extent not reimbursed by any advertiser;

any sales, excise or privilege transaction tax not reimbursed by any advertiser;

maintenance, repair and improvements to the sign structures;

the cost of programming and operating electronic signage;

casualty, liability and loss of income insurance;

legal fees and costs in relation to advertising, naming rights or branding and sponsorship contracts or otherwise in connection with the Project;

sign permits, fees and taxes, including Sign Taxes and personal property taxes;

all sales commissions and marketing costs;

refunds to customers;

any printing, production or installation costs (including the costs of an underwrap program governing the appearance of unused panels) for advertisements or displays not directly paid for by advertisers;

staffing and reasonable overhead costs related to the marketing of the assets; and

any other direct cost associated with implementing a specific advertisement or display, naming right or branding and sponsorship opportunity not paid directly by advertisers.

Revenue splits: Net Revenue from the Project would be allocated:

Thirty percent (30%) to City;

SW

Forty percent (40%) to Advertising Contractor ("AC") to repay AC's capital costs together with interest at ten (10%) percent per annum thereon; and

Thirty percent (30%) to AC.

Once AC's capital costs have been fully repaid with interest from the proportion of the Net Revenue set forth above the Net Revenue from the Project will be allocated:

Fifty percent (50%) to City; and

Fifty percent (50%) to AC.

Should AC subsequently expend additional capital (for example, for LED refurbishment, the relocation of an existing Asset or additional signage), the allocation of Net Revenue will revert to pre-capital recovery splits set forth above until AC's additional capital and ten percent (10%) preference have been repaid.

SW

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
ELECTRONIC RECORDING
20110086619,01/31/2011 09:58,
C44184-19-1-1--,N

Recorded by:
City Clerk's Office
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

CITY OF GLENDALE, ARIZONA

AGREEMENT C- 4418-4

(First Amendment to Mixed-Use Development Agreement)

(PLEASE DO NOT REMOVE ~ THIS IS PART OF THE OFFICIAL DOCUMENT)