CITY CLERK
ORIGINAL

C-8448
02/15/2013

AGREEMENT REGARDING 2013 WESTGATE PARKING AND LITIGATION STANDSTILL

This AGREEMENT REGARDING 2013 WESTGATE PARKING AND LITIGATION STANDSTILL (this "Agreement") is entered into effective as of February 15, 2013 (the "Effective Date") among the City of Glendale, Arizona (the "City"); Arizona Tourism and Sports Authority, d/b/a Arizona Sports and Tourism Authority ("AZSTA"); and Arizona Cardinals Football Club LLC (together with its affiliates, the "Cardinals").

WHEREAS, AZSTA, the Cardinals, and the City (collectively, the "Parties," and individually, "Party") are parties to the Amended and Restated Parking License and Agreement with Covenants, Conditions and Restrictions dated August 15, 2005, by and among AZSTA, the City, and the Cardinals, as amended (recorded on November 18, 2010 as Instrument No. 20101011271 in the records of the Maricopa County, Arizona Recorder) (the "Parking License");

WHEREAS, pursuant to Section 2.3.7 of the Parking License (the "Parking Covenant"), the City is obligated to provide, for Events, including Mega Events, at the Stadium (as those terms are defined in the Parking License), 6,000 parking spaces at Westgate;

WHEREAS, by letter to the City dated May 2, 2012 (the "Notice of Claim"), AZSTA and the Cardinals gave the City notice pursuant to A.R.S. § 12-821.01 regarding claims collectively asserted by AZSTA and the Cardinals against the City arising out of or relating to the Parking Covenant;

WHEREAS, the Parties have entered into a Tolling Agreement effective as of July 10, 2012 (the "Tolling Agreement"), as amended by a First Amendment to Tolling Agreement effective as of September 4, 2012 (the "First Amendment"); and

WHEREAS, various circumstances have changed since the date on which AZSTA and the Cardinals filed the Notice of Claim, including that, in connection with both the now-concluded 2012 NFL season and the upcoming 2013 NFL season, the City has made certain contractual commitments with third parties that were and are, for those seasons, intended to enhance the City's ability to perform its obligations to AZSTA and the Cardinals under the Parking Covenant;

NOW THEREFORE, in consideration of the agreements, promises, covenants, and provisions contained in this Agreement, the receipt and legal sufficiency of which are hereby acknowledged for all purposes, the Parties, intending to be legally bound, agree as follows:

Section 1. Parking Plan for the 2013 Season. The City hereby agrees that, during the period from the Effective Date through and including January 31, 2014 (the "2013 Season"), it will provide parking spaces at Westgate for all Events, including Mega Events, at the Stadium at the same locations and in the same numbers as such parking was provided by the City during the 2012 NFL season. Provided that and as long as the City is otherwise in full compliance with its obligations under this Agreement and the Parking License, AZSTA and the Cardinals agree, without waiver of any of their rights under the Parking License or any other agreement, that they will not object to the City's use during the 2013 Season of Lot "X" (the "ADOT Lot") to provide some of the parking spaces required by the Parking Covenant for Events, including Mega Events, at the Stadium, subject to the following restrictions: (a) the ADOT Lot shall not be used for more than 576 vehicles (plus "last load" parking); (b) all vehicles parked on the ADOT Lot shall be parked as far south as reasonably possible; (c) the City shall maintain acceptable arrangements for ingress and egress for vehicles and persons; and (d) the City shall not use the ADOT Lot in a manner that interferes with the use or operation of the parking spaces at Westgate in connection with Events, including Mega Events, at the Stadium.

Section 2. Deferral of Legal Proceedings. The Parties agree that they will not, at any time before June 30, 2013, commence or pursue any civil action or other legal proceeding against any other Party arising out of or relating to any matters presented in the Notice of Claim. The Parties agree that neither the foregoing sentence nor any other provision of this Agreement is intended to, does or will constitute a waiver by AZSTA or the Cardinals of any rights, remedies, or positions arising out of or relating to any matters presented in the Notice of Claim or of any rights or remedies arising out or relating to any agreement or other instrument, including without limitation the Parking License. Nothing in this Agreement is intended to, does or will prevent AZSTA or the Cardinals from serving a new notice of claim or pursuing other remedies based on matters that arise, or circumstances that arise or change, after the date of this Agreement.

Section 3. Amendment of Tolling Agreement; No Effect on Other Agreements. Notwithstanding any provision of this Agreement that is or may be to the contrary, and as a precaution to avoid any waiver of or prejudice to any rights, remedies, or positions of AZSTA and the Cardinals, (a) the "February 15, 2013" date set forth in paragraph 1 of the First Amendment is hereby deleted and replaced with "June 30, 2013"; and (b) the Tolling Agreement, as amended by the First Amendment and this Agreement, is hereby ratified, confirmed, and approved and remains in full force and effect. Except as set forth in subpart (a) of the immediately preceding sentence with respect to the First Amendment, this Agreement does not constitute an amendment or modification of, or a waiver of any rights or remedies as to any Party or any other person or entity with respect to, any agreement or instrument to which AZSTA, the Cardinals, or the City is a party, or as to which AZSTA or the Cardinals otherwise have any rights as of the date hereof, including without limitation the Parking License.

Section 4. Binding Effect. This Agreement is binding on and will inure to the benefit of each of the Parties (including the affiliates of Arizona Cardinals Football Club LLC (including without limitation New Cardinals Stadium, LLC and Stadium Development LLC), each of which is an intended third-party beneficiary of this Agreement) and their respective predecessors, successors, and assigns.

Section 5. No Construction For or Against Any Party; No Prejudice, Admission or Waiver. The language of this Agreement has been approved by all Parties, and this Agreement will not be construed or interpreted for or against any Party based on the grounds sole or primary authorship or draftsmanship or any similar rule of construction or interpretation. Nothing in this Agreement is intended to or will be used to prejudice the Cardinals or AZSTA, and nothing in this Agreement is intended as or constitutes an admission or a waiver by the Cardinals or AZSTA, with respect to any of their rights and remedies under any agreements as to which the Cardinals or AZSTA are a party or otherwise have any rights (including without limitation the Parking License), all of which also are expressly preserved.

Section 6. No Oral Modification; Cooperation. This Agreement may not be altered, superseded, waived, or modified except in a writing signed by or on behalf of the Party or Parties to be bound. Each Party will execute such additional documents or instruments and perform such further acts as may be necessary or appropriate to effectuate this Agreement or its purposes.

Section 7. Counterparts. This Agreement may be executed in any number of duplicate originals, photocopies, facsimile copies, or pdf or other electronic copies, all of which (once each Party has executed at least one original or copy) will constitute one and the same instrument.

Section 8. Governing Law. This Agreement is made under, and is to be construed in accordance with, the laws of the State of Arizona, without regard to any principles of choice of law or conflicts of law of the State of Arizona or any other jurisdiction.

Section 9. Integration of Recitals. The recitals set forth above are hereby incorporated by reference as if fully articulated herein.

Section 10. Paragraph Headings. The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

IN WITNESS WHEREOF, the Parties have signed this Agreement to be effective as of the Effective Date.

CITY:

CITY OF GLENDALE, a municipal corporation

By: _____
Name: Richard A Bowers
Title: Acting City Manager

Approved as to form:

By: _____
Name: Nicholas C. DiPiazza
Title: Acting City Attorney

Attestation:

_____
Pam Hanna, City Clerk

AZSTA:

ARIZONA TOURISM AND SPORTS AUTHORITY, d/b/a ARIZONA SPORTS AND TOURISM AUTHORITY

By: _____
Tom Sadler, President and CEO

THE CARDINALS:

ARIZONA CARDINALS FOOTBALL CLUB LLC

By: _____
Michael J. Bidwill, President

Section 9. Integration of Recitals. The recitals set forth above are hereby incorporated by reference as if fully articulated herein.

Section 10. Paragraph Headings. The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

IN WITNESS WHEREOF, the Parties have signed this Agreement to be effective as of the Effective Date.

CITY:

CITY OF GLENDALE, a municipal corporation

By: _____
Name: Richard A. Bowers
Title: Acting City Manager

Approved as to form:

By: _____
Name: Nicholas C. DiPiazza
Title: Acting City Attorney

Attestation:

_____
Pam Hanna, City Clerk

AZSTA:

ARIZONA TOURISM AND SPORTS AUTHORITY, d/b/a ARIZONA SPORTS AND TOURISM AUTHORITY

By: _____
Tom Sadler, President and CEO

THE CARDINALS:

ARIZONA CARDINALS FOOTBALL CLUB LLC

By: _____
Michael J. Bidwill, President

Section 9. Integration of Recitals. The recitals set forth above are hereby incorporated by reference as if fully articulated herein.

Section 10. Paragraph Headings. The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

IN WITNESS WHEREOF, the Parties have signed this Agreement to be effective as of the Effective Date.

CITY:

CITY OF GLENDALE, a municipal corporation

By: _____
Name: Richard A Bowers
Title: Acting City Manager

Approved as to form:

By: _____
Name: Nicholas C. DiPiazza
Title: Acting City Attorney

Attestation:

_____
Pam Hanna, City Clerk

AZSTA:

ARIZONA TOURISM AND SPORTS AUTHORITY, d/b/a ARIZONA SPORTS AND TOURISM AUTHORITY

By: _____
Tom Sadler, President and CEO

THE CARDINALS:

ARIZONA CARDINALS FOOTBALL CLUB LLC

By: _____
Michael J. Bidwill, President