

CITY CLERK ORIGINAL

C-5575-2
07/01/2008

COLLATERAL AND SUBORDINATION AGREEMENT

This **COLLATERAL AND SUBORDINATION AGREEMENT** dated as of July 1, 2008 (this "**Agreement**"), is made by and among **CREDIT SUISSE, CAYMAN ISLANDS BRANCH**, as First Lien Collateral Agent (as defined below), **CREDIT SUISSE, CAYMAN ISLANDS BRANCH**, as Second Lien Collateral Agent (as defined below), **CREDIT SUISSE, CAYMAN ISLANDS BRANCH**, as Third Lien Collateral Agent (as defined below), **GLENDALE GARAGE LLC**, an Arizona limited liability company, as Garage Developer (as defined in the City Parking Agreement referred to below), and the **CITY OF GLENDALE**, an Arizona municipal corporation (the "**City**" and, together with the Garage Developer, collectively, the "**Grantors**" and each of them, individually, a "**Grantor**").

RECITALS:

A. Coyote Center Development, LLC, a Delaware limited liability company ("**CCD**"), Garage Developer and the City are parties to that certain Agreement for the Replacement of Temporary Parking, dated as of July 1, 2008 (the "**City Parking Agreement**"), with Coyotes Hockey, LLC, a Delaware limited liability company, Arena Management Group, LLC, a Delaware limited liability company, pursuant to which, among other things, (i) CCD has deposited \$5,000,000 in the Parking Disbursement Reserve Account (as defined therein) for the purposes described therein, and (ii) the parties have agreed that the Agents (as defined below) shall be entitled to a lien on the Collateral (as defined below) to secure the obligations of the Westgate Borrowers and their affiliates under the Westgate Credit Agreements (as defined below).

B. CCD, Westgate Investments, LLC, a Delaware limited liability company ("**Westgate**"), and SUB Investments, LLC, a Delaware limited liability company ("**SUB**" and, together with CCD and Westgate, collectively, the "**Westgate Borrowers**"), are parties to (i) that certain Amended and Restated First Lien Credit Agreement, dated as of July 1, 2008 (as amended, restated, supplemented or otherwise modified from time to time, the "**First Lien Credit Agreement**"), with the lenders party thereto from time to time (the "**First Lien Lenders**"), Credit Suisse, Cayman Islands Branch, as collateral agent for the First Lien Lenders (in such capacity, together with its successors in such capacity, the "**First Lien Collateral Agent**"), and the other agents party thereto; (ii) that certain Amended and Restated Second Lien Credit Agreement, dated as of July 1, 2008 (as amended, restated, supplemented or otherwise modified from time to time, the "**Second Lien Credit Agreement**"), with the lenders party thereto from time to time (the "**Second Lien Lenders**"), Credit Suisse, Cayman Islands Branch, as collateral agent for the Second Lien Lenders (in such capacity, together with its successors in such capacity, the "**Second Lien Collateral Agent**"), and the other agents party thereto; and (iii) that certain Third Lien Credit Agreement, dated as of July 1, 2008 (as amended, restated, supplemented or otherwise modified from time to time, the "**Third Lien Credit Agreement**" and, together with the First Lien Credit Agreement and the Second Lien Credit Agreement, the "**Westgate Credit Agreements**"), with the lenders party thereto from time to time (the "**Third Lien Lenders**"), Credit Suisse, Cayman Islands Branch, as collateral agent for the Third Lien Lenders (in such capacity, together with its successors in such capacity, the "**Third Lien Collateral Agent**" and, together with the First Lien Collateral Agent and the Second Lien

Collateral Agent, collectively, the "Agents" and each of them, individually, an "Agent"), and the other agents party thereto.

C. Each Grantor desires to grant to each Agent a lien on the Collateral, provided that such Agent agrees to subordinate its lien on the Collateral in the manner hereinafter set forth, and each Agent is willing to subordinate its lien on the Collateral in the manner hereinafter set forth.

NOW, THEREFORE, in consideration of the premises made hereunder, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

A G R E E M E N T S:

1. Each Grantor hereby grants to each Agent a security interest in such Grantor's right, title and interest in and to the Parking Disbursement Reserve Account and all funds (including any interest thereon) from time to time existing in the Parking Disbursement Reserve Account, whether now owned or hereafter acquired by such Grantor, and whether now or hereafter existing or arising (collectively, the "Collateral"):

2. Subordination. Each Agent hereby fully subjects and subordinates its lien on the Collateral to the rights of the City and, in the event of an Election or Consensual Delegation (each as defined in the City Parking Agreement), Garage Developer to utilize the funds from time to time existing in the Parking Disbursement Reserve Account in accordance with the City Parking Agreement. Each Agent agrees to be bound by the last two sentences of Section 3(f) of the City Parking Agreement.

3. Notices. All notices, demands, consents, approvals, and other communications to be given under this Agreement shall be in writing, and shall be deemed effective upon (i) receipt of hand-delivered or overnight courier service, or (ii) delivery or date of refusal of delivery if sent by U.S. mail, postage prepaid, certified mail, return receipt requested, in either case addressed as follows:

If to Garage Developer:

c/o Arena Management Group, LLC
6751 N. Sunset Boulevard, Suite 200
Glendale, AZ 85305
Attention: Jeff Shumway

with a copy to:

c/o Arena Management Group, LLC
6751 N. Sunset Boulevard, Suite 200
Glendale, AZ 85305
Attention: Steve Weinreich, General Counsel

and

Westgate Borrowers
c/o The Ellman Companies
2850 East Camelback Road, Suite 110
Phoenix, AZ 85016
Attention: Robert P. Kaufman

If to the City:

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

with a copy to:

Westgate Borrowers
c/o The Ellman Companies
2850 East Camelback Road, Suite 110
Phoenix, AZ 85016
Attention: Robert P. Kaufman

If to any of the Agents:

Credit Suisse
Eleven Madison Avenue
New York, New York 10010
Attention: Agency Group

with a copy to

Latham & Watkins LLP
355 S. Grand Avenue
Los Angeles, CA 90071
Attention: Glen B. Collyer

and

Westgate Borrowers
c/o The Ellman Companies
2850 East Camelback Road, Suite 110
Phoenix, AZ 85016
Attention: Robert P. Kaufman

Any party may from time-to-time, by written notice to the other parties given in the manner described in this Section 2, change the address to which communications to such party pursuant to this Agreement are to be sent, or designate one or more persons to whom such communications are to be sent.

3. Westgate Borrowers' Consent. The Westgate Borrowers have executed an acknowledgement to this Agreement to evidence their consent to the terms contained in this Agreement.

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

5. Governing Law. **THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ARIZONA.**

6. Successors and Assigns. This Agreement shall bind each party hereto and its successors and assigns and shall inure to the benefit of each party hereto and its successors and assigns. This Agreement may not be modified without the written consent of each party hereto.

7. Third Party Beneficiary. First American Title Insurance Company and any successor Disbursement Agent under the City Parking Agreement shall be entitled to rely on this Agreement and shall be a third party beneficiary hereof.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Collateral and Subordination Agreement to be duly executed by their duly authorized representatives, as of the day and year first above written.

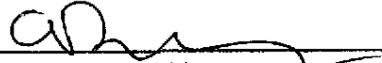
AGENTS:

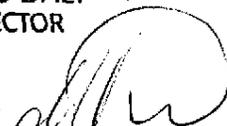
**CREDIT SUISSE, CAYMAN ISLANDS
BRANCH, as First Lien Collateral Agent**

By: 
Name: **BILL O'DALY**
Title: **DIRECTOR**

By: 
Name: **MIKHAIL FAYBUSOVICH**
Title: **VICE PRESIDENT**

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

By: 
Name: **BILL O'DALY**
Title: **DIRECTOR**

By: 
Name: **MIKHAIL FAYBUSOVICH**
Title: **VICE PRESIDENT**

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

By: 
Name: **BILL O'DALY**
Title: **DIRECTOR**

By: 
Name: **MIKHAIL FAYBUSOVICH**
Title: **VICE PRESIDENT**

CITY:
corporation

CITY OF GLENDALE, an Arizona municipal

By: Ed Beasy
Name:
Title:

Approved as to form:

Craig Tindall
Craig Tindall
City Attorney

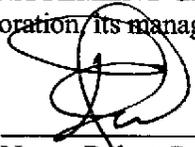
ATTEST:
Darcie McCreary
City Clerk

Acknowledged and Agreed:

WESTGATE BORROWERS:

WESTGATE INVESTMENTS, LLC,
a Delaware limited liability company

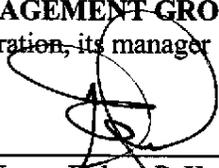
By: **ELLMAN MANAGEMENT GROUP, INC.,**
an Arizona corporation, its manager

By: 

Name: Robert P. Kaufman
Title: Executive Vice President

SUB INVESTMENTS, LLC,
a Delaware limited liability company

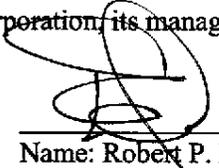
By: **ELLMAN MANAGEMENT GROUP, INC.,**
an Arizona corporation, its manager

By: 

Name: Robert P. Kaufman
Title: Executive Vice President

COYOTE CENTER DEVELOPMENT, LLC,
a Delaware limited liability company

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

By: 

Name: Robert P. Kaufman
Title: Executive Vice President