

**AMENDED AND RESTATED AGREEMENT
TO DESIGN, CONSTRUCT AND LEASE A PERFORMING ARTS CENTER**

This Amended and Restated Agreement to Design, Construct and Lease a Performing Arts Center ("Agreement") is made as of the 16th day of May, 2007 (the "Execution Date"), by and among Las Vegas Performing Arts Center Foundation, a Nevada non-profit corporation ("PAC"), City Parkway V, Inc. ("CP"), a Nevada not-for-profit corporation and the City of Las Vegas, Nevada, a political subdivision of the State of Nevada ("City", and collectively, the "City Parties") (City Parties and PAC are individually and collectively herein referred as the "Party(ies)");

RECITALS

WHEREAS, CP is the owner of certain real property consisting of an approximately 61-acre site located in the Parkway Center commercial subdivision in downtown Las Vegas, Clark County, Nevada and depicted on the Union Park Map attached hereto as Exhibit "A" ("Union Park"); and

WHEREAS, PAC is a 501(c)(3) organization dedicated to developing, building and operating a performing arts center campus in the boundaries of the City which will benefit the residents of City and Southern Nevada and foster the growth of cultural amenities and economic development in City and the region; and

WHEREAS, CP, on behalf of City, desires to develop Union Park for the vital and best interests of City, and the health, safety, morals and welfare of its residents which are in accord with the public purposes and provisions of applicable federal, state and local laws and requirements; and

WHEREAS, the Parties entered into that certain Agreement to Design, Construct, and Lease a Performing Arts Center ("Original Agreement") on December 27, 2005, in order to set forth the specific terms and conditions by which City and PAC would develop, lease and operate such performing arts center on a site within Union Park as identified in the Original Agreement; and

WHEREAS, the Parties now mutually desire to design, develop and build a performing arts campus in several phases on a different site consisting of approximately 4.77 acres ("PAC Campus Site") as defined herein, in order to finance individually each phase with distinct

funding sources as further defined hereinafter, including the Primary Theater (hereinafter defined) and Secondary Theater (hereinafter defined), and the Commercial Projects (hereinafter defined); and

WHEREAS, the Parties mutually desire to enter into this Agreement in order to amend and restate the Original Agreement to reflect the new plan to develop the PAC Campus Site; and

WHEREAS, City shall cause CP to convey to City the site on which the Primary Theater portion of such performing arts center campus project will be developed pursuant to this Agreement at such time as to permit City to perform its obligations under this Agreement; and

WHEREAS, pursuant to Subsection 1 of Section 3 of Chapter 15, Statutes of Nevada of the 20th Special Session (2003) (the "Act"), the Board of County Commissioners (the "Board") of Clark County Nevada, a political subdivision of the State of Nevada ("County"), by ordinance has imposed a fee upon the lease of a passenger car by a short-term lessor in the County in the amount of two percent (2%) of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity (the "Rental Car Fee"); and

WHEREAS, the monies received by the County from the Rental Car Fee other than those required to be used for the culinary and hospitality academy (the "Pledged Rental Car Fees") must be used to pay the costs to acquire, improve, equip, operate and maintain within the County a performing arts center, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof; and

WHEREAS, PAC shall design, develop and build as a first phase a Primary Theater which shall be funded, in part, by the Pledged Rental Car Fees as stated herein; and

WHEREAS, County (pursuant to the County Bond Law, NRS 244A.011 through 244A.065) and City (pursuant to City Bond Law, NRS 268.672 through 268.740) are each authorized to acquire, improve, equip, operate and maintain a "building project" as defined in NRS 268.676 and 244A.019, respectively, and it is contemplated by the Parties that that such performing arts center authorized to be financed in County by the Act will be a "building project" as defined in NRS 268.676 and NRS 244A.019; and

WHEREAS, City and County intend that City issue notes, bonds or other obligations secured wholly or in part by the Pledged Rental Car Fees pursuant to resolutions and ordinances of City authorizing the issuance thereof (collectively, the "Bond Ordinance") in order to fund, in

part, the acquisition, establishment, construction or expansion of the Primary Theater Project (defined below) (which will be located in County) and otherwise to use all proceeds of the Pledged Rental Car Fees distributed to City to pay the costs to acquire, improve, equip, operate and maintain such performing arts center, or to pay the principal of, interest on or other payments due with respect to the Bonds and other bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof; and

WHEREAS, City and County have entered into an Amended and Restated Interlocal Agreement Regarding the Distribution of Taxes for a Performing Arts Center (as amended, the “Interlocal Agreement”) whereby County will provide to City the proceeds of the Pledged Rental Car Fees to enable City to use all proceeds of the Pledged Rental Car Fees to acquire, improve, equip, operate and maintain a performing arts center within the County, or to pay the principal of, interest on or other payments due with respect to bonds (including the Bonds) issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof, all as set forth in the Interlocal Agreement; and

WHEREAS, and as a result thereof the Parties desire to enter into this Agreement setting forth terms and conditions (i) whereby the Primary Theater Project will be designed, financed, constructed and ultimately leased to PAC, and (ii) whereby the Secondary Theater and the Commercial Projects will be designed, constructed, and operated by PAC and financed by PAC through a funding source or sources distinct and separate from a General Obligation bond issue or other indebtedness of the City; and

WHEREAS, Subject to the terms and conditions set forth in this Agreement, CP or the City shall enter into separate disposition and development agreements whereby the Secondary Theater Site (hereinafter defined) and the Commercial Sites (hereinafter defined) are to be sold to PAC for a nominal fee, subject to re-entry by the City Parties in the event of nonperformance by PAC as more particularly described within such disposition and development agreements.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged the City Parties and PAC agree as follows:

ARTICLE 1 DEFINITIONS

Section 1. Effect of Agreement and Definitions. The Parties hereby agree that this Agreement shall supersede in all respects the Original Agreement and the Original Agreement is of no further force and effect. PAC agrees that any rights of PAC in the land subject to the Original Agreement are hereby extinguished. Unless otherwise defined herein, the capitalized terms used herein have the meanings ascribed to those terms in this Section:

“Act” shall have the meaning set forth in eighth Recital.

“Architect” means the architect of record for the design and construction administration of the Primary Theater Project as selected pursuant to Section 4 below.

“Architect Agreement” means the agreement with the Architect for the design and construction administration of the Primary Theater Project.

“Bidding Requirements” means (i) Chapters 332, 338 and 339 of the NRS and (ii) any other Requirements applicable to the bidding and award of the Construction Contract.

“Bonds” means City issued general obligation notes, bonds or other obligations secured wholly or in part by the Pledged Rental Car Fees in order to fund, in part, the acquisition, improvement, construction, equipment or expansion of the Primary Theater Project and other bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof.

“Bond Costs” means the costs, fees and expenses incurred in connection with the issuance of any Bonds, including, but not limited to, (i) rating agency and other financing fees, (ii) the fees and disbursements of bond counsel, (iii) any underwriter’s discount, (iv) the fees and disbursements of any financial advisors, (v) all costs of preparing and printing the Bonds, the preliminary official statement, the final official statement and all other documentation supporting issuance of the Bonds, and (vi) any other issuance costs of a similar nature incurred in connection with issuance of Bonds.

“Bonds Net Proceeds” means the original proceeds of any Bonds less Bond Costs.

“Bond Ordinance” shall have the meaning set forth in the tenth Recital.

“Campus Site Plan” shall have the meaning set forth in Section 3.1 of this Agreement.

“City” shall have the definition set forth in the first paragraph of this Agreement.

“City Construction Fund Contribution” means (i) the Bonds Net Proceeds and (ii) any Pledged Rental Car Fees received by City after the issuance of the Bonds but prior to Final Completion in excess of what is determined by City necessary to pay annual debt service on the

Bonds and establish a reserve in an amount determined by City, provided that the amount of such reserve shall not exceed the combined maximum annual debt service on the Bonds then outstanding (the “Reserve”).

“City Default” shall have the meaning set forth in Section 10.3.

“City Project Representative” means that person designated by City pursuant to Section 2.4 hereof to serve as its representative and primary point of contact in connection with all matters relating to this Agreement.

“City Obligations” means those obligations of City as set forth in the Environmental Exhibit.

“City Work” means all those items to be designed, engineered, constructed or completed by City in connection with the PAC Campus Project as set forth in Article 7 below, including, without limitation, the City Obligations.

“City Work Cost” means all costs of the design, engineering, construction and completion of City Work.

“Completion Approvals” means that the Governmental Authority that has authority for any element of the Primary Theater Project has approved the construction of such element as being complete in accordance with all applicable Requirements.

“Commercial Projects” means projects of a commercial nature, including, without limitation, retail, office and residential.

“Commercial Site” means a portion of the 4.77-acre site to be defined by the Parties subsequent to the execution of this Agreement which is sufficient in size and orientation to construct the Commercial Projects as mutually agreed in writing by the Parties.

“Completion Bond(s)” means completion and performance bonds insuring performance of the completion of the Primary Theater Project as more fully described in Section 5.1 below.

“Construction Contract” means the contract awarded for the construction of the Primary Theater Project as more fully described in Article 5 below.

“Construction Documents” means documents based on the approved Design Development Documents and latest Primary Theater Project Budget which set forth in detail the requirements for construction of the Primary Theater Project. The Construction Documents shall include drawings and specifications to establish the quality levels of materials and systems required for the Primary Theater Project and shall be in such detail and format to allow City to

bid the Primary Theater Project pursuant to the Bidding Requirements.

“Construction Fund” means the sum of (i) the City Construction Fund Contribution and any earnings thereon and (ii) the PAC Construction Fund Contribution and any earnings thereon.

“Contractor” means the general contractor awarded the bid for the construction of the Primary Theater Project pursuant to this Agreement.

“County” shall have the meaning set forth in the seventh Recital.

“CP” shall have the definition set forth in the first Recital.

“Default Rate” shall have the meaning set forth in Section 10.2(a).

“Design Development Documents” means design documents which shall include a Site Plan, grading plan, floor plans, elevations with key details, landscape and streetscape, material, finishes and colors, site signage, refined 3-D massing, solar shading, and a LEED checklist with explanation, all of which are based on the approved Schematic Design Documents illustrating and describing the refinement of the Primary Theater Project.

“Determine”, “Determined”, “Approve”, “Approved”, “Estimate” or “Estimated” shall mean a reasonable determination, approval or estimate by a Party made pursuant to this Agreement. If a Party disagrees with any such determination or estimate by the other Party, the Party disagreeing is entitled to resolve such dispute in accordance with the provisions of Article 10 hereof.

“Environmental Condition” shall have the meaning ascribed to such term in the Environmental Exhibit.

“Environmental Exhibit” means Exhibit “B” attached hereto setting forth the Parties’ obligations with respect to environmental remediation of the Project Site.

“Environmental Laws” shall have the meaning ascribed to such term in the Environmental Exhibit.

“Excess Fees” means any Pledged Rental Car Fees received by City after the issuance of the Bonds in excess of what is determined by City to be needed to pay annual debt service on the Bonds and establish a reserve in an amount determined by City, provided that the amount of such reserve shall not exceed the combined maximum annual debt service on the Bonds then outstanding.

“Final Completion” means (i) the completion of the construction of the Primary Theater Project in accordance with the Construction Documents, as evidenced by the issuance of all

applicable Completion Approvals, together with a certification by the Architect that the Primary Theater Project has been completed in accordance with the Construction Documents and all applicable Requirements, (ii) all undisputed amounts due in connection with the development and construction have been paid in full or in City's Determination the remaining balance, if any, in the Construction Fund will be sufficient to pay all remaining amounts due, (iii) all claims relating to the Construction Contract or otherwise relating to the Primary Theater Project are resolved or in City's Determination will be resolved on a satisfactory basis such that the remaining balance, if any, in the Construction Fund will be sufficient to pay any remaining claims, (iv) delivery to City of evidence Approved by City that the Project has been completed on a lien-free basis and (v) there is no outstanding or threatened litigation between any of City, PAC, the Architect or the Contractor.

"Final Contract Project Cost" means the sum of (i) the total final bid pursuant to the Construction Contract, including all contingencies and fees, plus (ii) the estimated fees payable to the Architect in connection with the construction of the Primary Theater Project through Final Completion, and plus (iii) any other estimated costs to be incurred in connection with the Project through Final Completion other than those costs which, pursuant to the terms hereof, shall not be paid out of the Construction Fund.

"Future Phase" means the development phase during which PAC, either itself or with the assistance of a third party developer, shall design, finance, and construct the Secondary Theater or a Commercial Project.

"Future Phase DDA" means that Disposition and Development Agreement in the form attached hereto as Exhibit "H".

"Future Phase DDA Conditions" shall have the meaning set forth in Section 4.8.

"Future Phase DDA Execution Notice" shall have the meaning set forth in Section 4.9.

"Future Phase Notice" shall have the meaning set forth in Section 4.7 below.

"Future Phase Development Plan" shall have the meaning set forth in Section 4.7 below.

"Future Phase Development Schedule" shall have the meaning set forth in Section 4.7 below.

"Future Phase Site" means the site within the PAC Campus Site on which a Future Phase is to be developed.

"Governmental Authority" or "Governmental Authorities" means (i) the United States of

America, the State of Nevada, City, the County, any other community development district and any agency, department, commission, board, bureau, instrumentality or political subdivision (including any county or district) of any of the foregoing, now existing or hereafter created, having jurisdiction over the Primary Theater Project (or any portion thereof) and (ii) any public utility or private entity which will be accepting and/or approving design and/or construction of any element of the Project.

“Grading Plan” means that Preliminary Grading Plan – Raised Option dated October 20, 2006 prepared by Kimley-Horn of which the CAD file was transmitted to R.J. Reissig of HKS Architects by Thomas Ackeret of Kimley-Horn by a posting to FTP DROPBOX as of November 17, 2006.

“Hazardous Substances” shall have the meaning ascribed to such term in the Environmental Exhibit.

“Interlocal Agreement” shall have the meaning set forth in the thirteenth Recital.

“License Agreement” shall have the meaning set forth in Section 8.1(g).

“LOA” means that Lease and Operating Agreement in the form attached hereto as Exhibit “G”.

“NRS” means the Nevada Revised Statutes, as amended from time to time.

“Operating Budget” means a projected budget of all the costs and expenses for the operation of the Primary Theater Project by PAC for the first five (5) years.

“Operating Endowment” means that endowment pledged by the Reynolds Foundation to PAC pursuant to that certain Endowment Agreement dated March 17, 2005, as amended.

“Owners’ Association” shall mean the Union Park Owners Association formed pursuant to that Community Charter for Union Park for the purpose of owning, managing, and maintaining all common area improvements in Union Park and governing various issues within Union Park, including all governing documents; covenants, conditions and restrictions; the Union Park Design Standards; and rules and regulations created in connection therewith or in any way relating thereto.

“PAC” shall have the meaning set forth in the first paragraph.

“PAC Campus Project” shall mean the Primary Theater Project, and one or more of the Future Phases, which are the Secondary Theater Project and the Commercial Projects.

“PAC Campus Site” means the 4.77-acre site more particularly described and depicted on **Exhibit “C”** attached hereto and includes, without limitation, all surface and subsurface soils and surface water, all water percolating in the surface and subsurface soils, and all underground water.

“PAC Construction Fund Contribution” means the sum of the Final Contract Project Cost minus the City Construction Fund Contribution.

“PAC Default” shall have the meaning set forth in Section 10.1.

“PAC Obligations” shall have the meaning set forth in the Environmental Exhibit.

“PAC Project Representative” means that person designated by PAC pursuant to Section 2.4 hereof to serve as its representative and primary point of contact in connection with all matters relating to this Agreement.

“Party(ies)” shall have the definitions set forth in the first paragraph of this Agreement.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government, or any city or political subdivision thereof.

“Pledged Rental Car Fees” shall have the meaning set forth in the eighth Recital.

“Pre-Construction Costs” shall have the meaning set forth in Section 6.1(a).

“Primary Theater Project” means the building or buildings containing the Primary Theater of no less than 2,000 seats, and any corresponding space (including but not limited to back-of-house space) needed to operate the Primary Theater, whereby such building or buildings shall be designed, constructed and ultimately leased to and operated by PAC pursuant to the LOA.

“Primary Theater Site” means a portion of the 4.77-acre site, to be defined by the Parties subsequent to the execution of this Agreement, which shall be sufficient in size and orientation to construct the Primary Theater Project, the metes and bounds for which shall be approved in writing by the City Parties.

“Private Use Limitation” means that no more than nine percent (9%) of the value of the space in the Primary Theater Project which has been financed with the Bonds can be used by entities other than (i) not-for-profit entities qualifying pursuant to Section 501(c)(3) of the Tax Code in activities that are not unrelated trades or businesses for those entities determined by applying Section 513 of the Tax Code, and (ii) state and local governments.

“Project Budget” means a budget as revised from time to time setting forth the estimated Projects Costs for the Primary Theater Project.

“Project Contracts” means the Architect’s Agreement, the Construction Contract, and all other contracts related to the design and construction of the Primary Theater Project other than contracts between PAC and the Project Manager, PAC Project Representative, cost consultants, theatre consultants and acoustical engineers.

“Project Costs” shall mean all costs and expenses of designing, constructing and equipping the Primary Theater Project but excluding, except as specifically provided in the Environmental Exhibit, all City Work Costs and all other costs which, pursuant to the terms hereof, shall not be paid out of the Construction Fund.

“Project Information” means those studies, reports and other information referenced in Exhibit “D” attached hereto.

“Project Manager” means a project management firm engaged by PAC to represent PAC and City in connection with the design and construction of the Primary Theater Project and to provide project administration, value engineering and estimating services.

“Project Manager Contract” means the contract between PAC and the Project Manager.

“Requirement” means (i) any and all laws, rules, regulations, constitutions, orders, ordinances, charters, statutes, codes, executive orders and requirements (now existing or hereafter applicable) of all Governmental Authorities having jurisdiction over City, PAC or the Primary Theater Project or any street, road, avenue or sidewalk comprising a part of, or lying in front of, the Primary Theater Project, or any vault in or under the Primary Theater Site (including, without limitation, Environmental Laws, the American with Disabilities Act and any of the foregoing relating to handicapped access or parking, the building code of City and any of the foregoing of any applicable fire rating bureau or other body exercising similar functions); (ii) any temporary or final certificates of completion and/or occupancy issued for the Primary Theater Project or City Work, as then in force; (iii) any and all provisions and requirements of any property, casualty or other insurance policy required to be carried in connection with the design and construction of the Primary Theater Project; (iv) the Union Park Design Standards and (v) any and all terms, conditions or covenants of any and all easements, covenants, conditions or restrictions of record, declarations, or other indentures, documents or instruments of record.

“Rental Car Fee” shall have the meaning set forth in eighth Recital.

“Reserve” has the meaning set forth in the definition of City Construction Fund Contribution.

“Responding Party” shall have the meaning set forth in Section 2.3(a).

“Response Period” shall have the meaning set forth in Section 2.3(b)

“Requesting Party” shall have the meaning set forth in Section 2.3(a).

“Schematic Design Documents” means design documents based on the agreed Primary Theater Project building program which establishes the Site Plan for the entire PAC Campus Site, parking and access, pedestrian access and open space, conceptual elevations, 3-D massing, building program, and a preliminary LEED checklist, in order to illustrate the scale and relationship of the PAC Campus Site building components, including the Primary Theater Site, the Secondary Theater Site and the Commercial Projects site plan, preliminary building plans, sections and elevations.

“Secondary Theater” shall have that meaning set forth in the tenth recital above.

“Secondary Theater Site” means a portion of the 4.77-acre site, to be defined by the Parties subsequent to the execution of this Agreement, which shall be sufficient in size and orientation to construct the Secondary Theater Project.

“Site(s)” means all or any of the Primary Theater Site, the Secondary Theater Site and the Commercial Sites.

“Subdivision Map” shall have the meaning set forth in Section 3.1(b).

“Union Park” has the meaning set forth in the first Recital.

“Union Park Design Review Committee” shall mean the committee, formed by the City Parties in consultation with Newland Communities, LLC, which shall be responsible for reviewing the Schematic Design Documents, the Design Development Documents, and the Construction Documents for the Primary Theater project, and which shall be responsible for reviewing all required design document submittals for the remainder of the PAC Campus Project.

“Union Park Design Standards” shall mean all design standards incorporated in the Site Development Plan Review denoted by Case Number SDR-16267 and approved by the Las Vegas City Council on November 16, 2006, and any future amendments thereto.

“Unresolved Issue” shall have the meaning set forth in Section 10.5(a).

ARTICLE 2

GENERAL INTENT

Section 2.1 General. The Parties agree that the overall purpose of this Agreement is to govern the design, financing, construction and leasing to PAC of the Primary Theater Project, and to govern the disposition of land for, construction of, and development of the Secondary Theater Project and the Commercial Projects. The Parties acknowledge that the overall effort of the development of the Primary Theater Project and the remainder of the PAC Campus Site will take their mutual good faith cooperation and effort.

The Parties hereto agree to cooperate to achieve the objectives hereof by furnishing such information to the other as is Determined necessary by a Party over the term hereof to effectuate the intent and purposes hereof, including, without limitation, any continuing disclosure agreements which may be needed under any Requirements including the Requirements of the United States Securities Exchange Commission.

The Parties agree that the Primary Theater is a public work project as defined in Chapters 338 and 339 of NRS and is subject to all other Requirements governing the construction of public work projects in the State of Nevada. The Parties agree that the Primary Theater Project at all times will remain the property of and owned by City, including, without limitation, all material whether on-site or off-site used in constructing the Primary Theater Project.

Section 2.2 Phased Development of the PAC Campus Site. The Parties have agreed to develop the PAC Campus Site in multiple phases. The Parties shall enter into such amendments and modifications to this Agreement, the Future Phase DDA, and the LOA as may be required to reflect the phasing of the disposition, design, financing and construction of the PAC Campus Site.

(a) Primary Theater Project. The Parties agree that the Primary Theater Project shall contain the following major elements: (i) a theatre containing no less than 2,000 seats, and (ii) necessary space for the back-of-house and associated public spaces containing approximately 80,000 square feet. The Primary Theater Project shall be constructed on the Primary Theater Site and shall be leased to PAC pursuant to the LOA.

(b) Secondary Theater Project. The Parties agree that the Secondary Theater Project shall be constructed on the Secondary Theater Site and in a building phase separate and distinct from the construction of the Primary Theater Project.

(c) Commercial Projects. The Parties agree that the Commercial Projects shall be constructed in building phases separate and distinct from the construction of the Primary Theater Project. PAC shall be required to build or secure sufficient parking either on the PAC Campus Site, or on other sites owned by third parties, which is sufficient to serve the Commercial Projects .

Section 2.3 Approval of a Party. In the event a Party seeks a Determination, Approval or Estimate from the other Party, then the following procedures shall apply:

(a) the Party seeking the Determination, Approval or Estimate (“Requesting Party”) shall notify the other Party (“Responding Party”) of such request in writing along with all supporting information and documentation for the Responding Party to respond in an informed manner.

(b) The Responding Party shall respond in writing within thirty (30) days (the “Response Period”) either granting or denying the request with a written description why the request was denied in the event of a denial by the Responding Party. If the Responding Party fails to respond to the Requesting Party within the Response Period, then the Responding party shall be deemed to have granted the request of the Requesting Party.

(c) After a denial, the Requesting Party shall have the option to resubmit to the Responding Party revisions of the specific submissions addressing the Responding Party’s objections.

(d) In the event (i) the Requesting Party elects not to resubmit the request or (ii) after the resubmission of the item objected by the Responding Party the Parties cannot agree on the final submission, the matter will be referred to resolution pursuant to the provisions of Section 10.5.

The Parties agree that they may be able to rely conclusively on the Approval, Estimate or Determination of the other Party’s Project Representative in connection with this Section 2.3. Notwithstanding anything to the contrary contained in this Agreement, the Response Period shall be extended for City if City determines that the City Council must review any matter submitted to City under this Section 2.3 by such time period as reasonably necessary to submit such matter to the City Council for consideration, provided, however, that City shall provide PAC with a written notice during the Response Period of such determination and its Estimate of the required

time for a response from the City Council.

Section 2.4 LOA. The Parties agree that within five (5) business days after the occurrence of Final Completion, the Parties mutually agree to execute and enter into the LOA and deliver it to the other Party, provided however, that a condition precedent thereto is that the Operating Endowment remains in effect. The Parties agree that upon execution and delivery of the LOA, the LOA shall govern and control the relationship of the Parties as it relates to the Primary Theater Project, Primary Theater Site, and subject matter thereof.

Section 2.5 Exclusivity. City agrees that so long as this Agreement is in effect City shall deal exclusively with PAC and not negotiate with third parties in connection with the development and operation of a performing arts center within City of Las Vegas, Nevada. Notwithstanding the foregoing, the City may consider pursuant to Title 19 of the Las Vegas Municipal Code a site development plan application or similar entitlements for the operation of a private theater or similar land use within the City of Las Vegas corporate limits.

Section 2.6 Union Park. PAC acknowledges and agrees that Union Park is intended to be developed as a mixed-use urban development, including, without limitation, office, residential, a performing arts center, medical facilities and other uses.

Section 2.7 Interlocal Agreement. Pursuant to NRS Section 244A.860 and the Interlocal Agreement, City assumed all responsibility for the acquisition, design, construction, improvement, equipment, operation and maintenance of the Primary Theater Project and agreed to use the Pledged Rental Car Fees to pay the costs incurred for the acquisition, development, construction, operation and maintenance the Primary Theater Project, or to pay the principal of, interest on or other payments due with respect to the Bonds and other bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof . Pursuant to NRS Section 244A.860 and subject to and in accordance with the terms of this Agreement, City hereby delegates to PAC, and PAC hereby assumes from City all responsibility for the design, equipment, operation and maintenance of the Primary Theater Project and PAC agrees to use the Pledged Rental Car Fees that it receives from City to pay the costs associated with such obligations.

Section 2.8 Amended and Restated Interlocal Agreement. On June 1, 2006, the City and the County of Clark entered into an Amended and Restated Interlocal Agreement Regarding the Distribution of Taxes for a Performing Arts Center ("Amended Interlocal Agreement") which

specifies the terms and conditions under which the County shall provide to the City the Pledged Rental Car Fees.

ARTICLE 3

PAC CAMPUS SITE

Section 3.1 PAC Campus Site Plan; Subdivision.

(a) The Parties agree that the various components of the PAC Campus Site will be constructed pursuant to a master site plan prepared by PAC in connection with the design of the Primary Project (the "Campus Site Plan"). The Campus Site Plan will be modified from time to time as the Sites are finally legally defined and the projects thereon are designed. The Campus Site Plan shall show building footprints, parking requirements and configuration, on-street parking to be reserved as public rights-of-way, ingress and egress and traffic flow solutions and shall show any remainder parcels within the PAC Campus Site. The Campus Site Plan will be subject to CP's review and Approval. PAC agrees that all remainder parcels from time to time created by the Campus Site Plan will have to be able to be commercially viable development sites consistent with the master plan for Union Park (including privately constructed parking) in the Determination of CP in the event that PAC does not proceed with any of the Future Phases. The Campus Site Plan will be in conformance with all applicable Requirements. In connection therewith, PAC and CP agree that (i) the Primary Theater and the Secondary Theater will not be required to park on the PAC Campus Site but the parking for each facility will be in accordance to the LOA and the Future Phase DDA and (ii) PAC shall be solely responsible for providing the parking for the Commercial Projects, regardless of the location of such parking.

(b) PAC agrees to prepare a subdivision map ("Subdivision Map") for the Project Campus Site whereby each Site is legally subdivided in a separate legal parcel. CP agrees to cooperate in the subdivision process by signing all submittals required in connection therewith. Prior to the execution of the LOA, PAC agrees to prepare a metes and bounds legal description for the Primary Theater Project Site, and to prepare metes and bounds legal descriptions for the nonexclusive access easements necessary to provide ingress, egress, and truck loading for the Primary Theater Project Site as indicated in the conceptual design of the Primary Theater Project.

(d) To accommodate the Primary Theater Project, CP shall approve of certain,

non-exclusive access easements required for accessing the Primary Theater Project Site and which are mutually agreeable to the Parties. Such easements shall be limited expressly to that area or areas deemed necessary by the Parties and where there is neither a commercially reasonable design alternative, nor ingress and egress from adjacent, future public rights of way (either City Parkway, Discovery Drive, or the Promenade). CP agrees to grant such access easements to PAC prior to, or concurrent with execution of the LOA.

(e) To accommodate the construction of the Primary Theater Project and as part of the City Work described in Section 7.1, CP has approved of raising the grade of the proposed streets adjacent to the PAC Campus Site in accordance with the Grading Plan. Notwithstanding the foregoing, CP may change such Grading Plan as may be necessitated by the preparation of, and adherence to a Technical Drainage Study for Union Park.

Section 3.2 PAC Campus Site Condition and Obligations.

(a) PAC acknowledges that it has undertaken its own independent reviews, investigations and testing of (i) the physical condition of the PAC Campus Site including the existence of Hazardous Substances in soil and groundwater located within or upgradient from the PAC Campus Site, (ii) the feasibility of developing the PAC Campus Project or any portion thereof and (iii) all other matters deemed necessary in PAC's sole judgment to determine the overall risk and feasibility of PAC's investment of monetary and other resources into the PAC Campus Project or any portion thereof. PAC hereby specifically acknowledges that such reviews, investigation and testing has enabled PAC to adequately assess the feasibility of developing the PAC Campus Project. PAC acknowledges that (i) PAC is not relying on any representations or warranties made by a City or City's agents except as specifically set forth herein and (ii) except as otherwise provided in this Agreement, City shall not be liable to PAC, in any event whatsoever, to correct any latent or patent defects in the PAC Campus Site or surrounding areas. City represents and warrants that it has provided PAC with the Project Information. All Project Information provided by City to PAC, including, without limitation, those studies, reports, and other documents relating to Hazardous Substances in soil and groundwater within and without the PAC Campus Site, have been delivered without representation or warranty.

(b) The Parties acknowledge that they are aware of the presence of certain Hazardous Substances on the PAC Campus Site and the need to conduct remediation of such

Hazardous Substances, in whole or in part, in connection with any development of the PAC Campus Site and to comply with all Environmental Laws relating to the remediation of such Hazardous Substances.

(c) City agrees at its sole cost and expense to perform City Obligations on the terms and conditions set forth in the Environmental Exhibit. PAC agrees that, except for the City Obligations, PAC and not the City shall have the obligation to remediate, dispose of, or otherwise handle Hazardous Substances on, in, about, or emanating from the PAC Campus Site in accordance with Environmental Laws.

Section 3.3 PAC's Access to PAC Campus Site.

(a) PAC, and its agents, representatives and employees (including, without limitation, architects and engineers) will have the right to enter upon and inspect the PAC Campus Site as PAC may determine necessary in connection with its rights and obligations under this Agreement and conduct such boundary and topographic surveys, soil and engineering tests and environmental assessments with engineers or consultants licensed in the State of Nevada as PAC may reasonably require, provided that such inspections and tests will not materially damage the PAC Campus Site in any respect.

(b) PAC agrees that prior to undertaking any type of tests, investigations or other activities which involve borings, soil removal or any other penetration of the surface of the PAC Campus Site, PAC will provide City with a copy of the engagement letter for such activities with the consultant retained by PAC and a detailed description of the intended scope of activities on the PAC Campus Site. PAC agrees that such engagement letter shall be subject to the Approval of City, which Approval shall, in this instance only, be granted or denied within five (5) business days of PAC's submission of such engagement letter to City, subject to City obtaining any required approvals of the same from the State of Nevada Department of Environmental Protection and/or Union Pacific Railroad of Omaha, Nebraska. PAC agrees that City shall have the right to have its representatives present during such activities. In addition, PAC acknowledges that Union Pacific Railroad may have to be notified of such investigations and may have representatives present during such investigations.

(c) All such tests and inspections shall be conducted in accordance with standards customarily employed in the industry and in compliance with all Requirements. PAC will promptly restore or cause to be restored the PAC Campus Site to its original condition as

existed prior to any such inspections and/or tests. If PAC, its agents, representatives or employees undertake any boring or other disturbance of the soil, the soil so disturbed will be recompacted to the original condition of the PAC Campus Site and PAC will obtain at its own expense a certificate from a soils engineer which certifies that such soil so disturbed has been recompacted to the original condition of the PAC Campus Site. To the extent that any costs for damages and/or injuries are not covered by any insurance policy protections or are in excess of the insurance policy limits, PAC agrees to indemnify, hold harmless and defend (with counsel reasonably acceptable to City) City and its respective affiliates or assignees and their respective officers, agents, servants and employees against and from any and all liability, loss, cost, damage or expense (including attorneys' fees) resulting from or relating to PAC's tests and inspections pursuant to this Section 3.3. The indemnity obligations of PAC under this Section will survive any termination of this Agreement. PAC covenants and agrees upon request of City to promptly deliver to City without charge therefore, the results and copies of any and all third party feasibility studies, including, but not limited to, environmental studies, soils studies, market studies and financial analyses and related correspondence.

Section 3.4 Reserved.

Section 3.5 Owners' Association. CP is in the process of creating the Owners' Association. PAC agrees that pursuant to the LOA and any Future Phase DDA entered into by PAC, PAC will be required to comply with the Owners' Association in all respects, including the payment of all regular and special assessments levied against the PAC Campus Site, whereby such assessments shall be subject to a reduced fee structure for nonprofit organizations with 501(c)(3) comparable status under the Internal Revenue Code.

ARTICLE 4

DESIGN OF PRIMARY THEATER PROJECT; PRIMARY THEATER PROJECT BUDGET; PRIMARY THEATER PROJECT APPROVALS; FUTURE PHASES

Section 4.1 Design of Primary Theater Project. Each Party agrees to appoint a representative ("Project Representative") to represent it in connection with the development of the Primary Theater Project and be the Party's primary representative in connection with the development of the Primary Theater Project. PAC and City agree that they shall work together

in the design and budgeting of the Primary Theater Project, but that PAC shall take the lead in the design of the Primary Theater Project. PAC agrees that the design of the Primary Theater Project shall conform to the Union Park Design Standards in place at time approval is sought, notwithstanding the ability of PAC to request a commercially reasonable waiver pursuant to the process described in Section 5.0, "Design Review Process" of the Union Park Design Standards. PAC agrees that City shall have the right to have the City Project Representative and other City staff members as determined by City attend all regular and other major meetings related to the design of the Primary Theater Project. In connection therewith, PAC agrees to provide City with a schedule of regular and special meetings related to the design of the Primary Theater Project so that the City Project Representative and other City staff members as determined by City may attend all such meetings. PAC agrees to coordinate such meetings so that the City's Project Representative will be able to attend and that such meetings will be no less than monthly during the design process. PAC and City agree that the design of the Primary Theater will be funded as set forth in Section 6.1 hereof.

Section 4.2 Architect and Major Design Consultants. PAC and City agree that PAC will engage an Architect to provide all of the design, engineering and construction administration services required for the design and construction of the Primary Theater Project. It is the mutual intent of the Parties that the Architect shall engage all other professionals and consultants necessary for all design and construction period services for the Primary Theater Project except for the Project Manager, PAC Project Representative, cost consultants, theatre consultants, acoustic engineers and any other professionals Approved in writing by City. In connection with the Architect and the other design professionals other than those excluded in this Section 4.2 above, the following guidelines shall apply:

(a) PAC agrees that City will have at least two representatives on any selection committees formed to choose the Architect and other design professionals other than those excluded pursuant to this Section 4.2 above.

(b) The Architect Agreement will be subject to the Approval of City and PAC and will be entered into only by PAC and will provide, in part, that (i) City is the owner of the Project and will be entitled to enforce all rights of PAC under the Architect Agreement, (ii) City is a third party beneficiary to PAC's rights under the Architect Agreement and has the right to assume PAC's interest in the Architect Agreement upon the occurrence and continuation of a

PAC Default hereunder, (iii) the Architect shall only look to PAC for payment in connection with its services through the award of a Construction Contract and that City shall have no liability for any amounts due to the Architect in connection with its services through the award of the Construction Contract except for payments required to be made by City pursuant to Section 6.1 below, (iv) any proposed waiver or release of the Architect's obligations under the Architect Agreement will require City's Approval in writing, (v) in connection with the Architect's services after the award of the Construction Contract, Architect will only be paid out of the Construction Fund and except for making payments out of the Construction Fund, City shall have no other liability to the Architect for amounts due under the Architect Agreement; (vi) the Architect maintain professional liability coverage in the amount of no less than \$3,000,000, comprehensive general and auto liability insurance in a combined single limit of no less than \$1,000,000 and workmen's compensation insurance as required by all applicable Requirements with such insurers as Approved by City and PAC; and (vii) City shall be named as the Owner under all policies of insurance required by the Architect Agreement, and both City and PAC shall be named Additional Insured on the comprehensive general and auto liability insurance policy.

Section 4.3 Design Schedule. PAC, in consultation with the Architect and the Project Manager, shall provide City for Approval with a schedule for the design of the Primary Theater Project by the Architect. PAC and City agree that such schedule for the design of the Project shall include, but not be limited to, the following critical path items for Approval by City and by the Union Park Design Review Committee pursuant to Section 2.3 hereof:

(a) Conceptual drawings of the Primary Theater Project prepared by the Architect along with a Project Site plan and the building program for the Primary Theater Project, including a written program which shall set forth PAC's objectives, schedule, constraints and criteria, including space requirements and relationships and site requirements.

(b) Schematic Design Documents along with a preliminary Project Budget.

(c) Design Development Documents along with an updated Project Budget.

(d) Construction Documents along with an updated Project Budget.

City agrees that the purpose of its review and Approval of items (b) – (d) of this Section 4.3 is for the purpose of determining that the Schematic Design Documents, Design Development Documents and Construction Documents are consistent with the items Approved by the City in paragraph (a) above, and with the Union Park Design Standards. PAC acknowledges that as part

of complying with the Requirements, the submittals by PAC for items (b) through (d) of this Section 4.3 shall be reviewed by both the City and by the Union Park Design Review Committee. PAC agrees and acknowledges that the City does not have the sole authority to review and Approve items (b) through (d) and that Approval of such items shall require the review and approval of the Union Park Design Review Committee.

Section 4.4 Project Manager. PAC agrees at all times to engage and at all times use the services of a qualified Project Manager to represent and assist City and PAC in the management of the design and construction of the Primary Theater Project. All costs of the Project Manager shall be borne directly by PAC and shall at no time be paid out of the Construction Fund. Prior to termination by PAC of the Project Manager Contract or any engagement of a replacement Project Manager, PAC shall provide City with reasonable advance written notice of the same and provide City with an opportunity to consult with PAC on such action.

Section 4.5 Project Budget and PAC Fundraising.

(a) The Parties agree that during the design process that PAC shall formulate and the Parties shall from time to time refine the Project Budget with the goal that upon completion of the design of the Primary Theater Project and as a condition precedent to the bidding of the Construction Contract the Parties shall have a mutually Approved Project Budget. PAC shall formulate the Project Budget and the Parties shall refine the Project Budget all in cooperation with the Project Manager. The Project Budget will contain from time to time the Estimated amount of City Construction Fund Contribution and the PAC Construction Fund Contribution. The Parties agree that the final Project Budget shall require the mutual Approval of the Parties.

(b) In addition to the Project Budget, the Parties agree that during the design process that PAC shall formulate and refine the Operating Budget for review and Approval of City. The Operating Budget will include the estimated funds available from the Operating Endowment and projected Excess Fees, if any.

(c) PAC agrees to continue its fundraising campaign to raise the from time to time projected amount of the PAC Construction Fund Contribution and any and all funds needed for the Operating Budget in excess of what is readily available from the Operating Endowment and projected Excess Fees, if any. PAC agrees to diligently pursue such fundraising campaign

and to keep the City's Project Representative fully informed in writing on a quarterly basis as to the actual and projected progress of such fundraising campaign.

Section 4.6 Project Approvals. Except for permits and approvals related to the City Work, PAC shall be responsible for obtaining all permits and approvals required for the construction of the Primary Theater Project. The costs of such permits and approvals shall be funded pursuant to Section 6.1 hereof. PAC agrees and acknowledges that nothing in this Agreement constitutes an approval of or permits for the construction of the Primary Theater Project and that all approvals and permits for the construction of the Project must be obtained by PAC pursuant to all applicable Requirements. City agrees to cooperate in the permitting and approval process and City will sign all permit applications required for the Primary Theater Project.

Section 4.7 Design and Construction of Future Phases. PAC shall be solely responsible at its sole cost and expense for the design and construction of each Future Phase of the PAC Campus Site. PAC agrees that no proceeds from the Bonds and no other monies or funds of the City Parties will be available or obligated in anyway to pay for the cost of design, construction and operation of Future Phases. Notwithstanding the foregoing, PAC may use such funds for design and construction costs of mechanical equipment or electrical equipment which serve the Primary Theater Site and Future Phases, to the extent permissible by City Bond Law. PAC shall design each Future Phase so as to enable the development of the Secondary Theater Project and the Commercial Projects to occur within the PAC Campus Site pursuant to an approved Campus Site Plan. At such time as PAC desires to initiate a Future Phase, PAC shall provide written notice to CP ("Future Phase Notice"). Each Future Phase Notice will be accompanied with the following (the "Future Phase Development Plan"):

(a) A revised Campus Site Plan, including a metes and bounds legal description for the Future Phase Site and any remaining undeveloped portions of the PAC Campus Site;

(b) The following plans and specifications approved by all applicable Governmental Authorities:

1. Architectural Plans;
2. Plot Grading Utility Plans;
3. Structural Plans;
4. Mechanical and Electrical Plans

5. Landscaping Plans.

(c) A schedule for the design and construction of the Future Phase (“Future Phase Development Schedule”).

(d) Binding commitments for the financing of the full cost of development and construction of the Future Phase and for the operation of such Future Phase.

(e) An update to the Risk Assessment performed by Kleinfelder and dated March 8, 2007, with an update to the cost estimate for the particular Future Phase set forth in Exhibit “I”, attached hereto and by this reference made a part hereof.

The Future Phase Development Plan will be in compliance with all applicable Requirements and will be subject to the Approval of CP. PAC agrees to resubmit any elements of a Future Phase Development Plan which have been disapproved by CP incorporating such revisions requested by CP. PAC shall be responsible for obtaining all permits and approvals required for the construction of any Future Phase. PAC agrees and acknowledges that nothing in this Agreement or done pursuant to this Agreement constitutes an approval of or permits for the construction of a Future Phase and that all approvals and permits for the construction of a Future Phase must be obtained by PAC pursuant to all applicable Requirements.

Section 4.8 Condition Precedent for PAC’s Exercise of Development Right to each Future Phase. At such time as PAC and CP have agreed on the Future Phase Development Plan, the Parties shall proceed to enter into a Future Phase DDA for such Future Phase. PAC agrees and acknowledges that PAC must satisfy each of the following conditions precedent prior to CP being obligated to enter into a Future Phase DDA (“Future Phase DDA Conditions”):

(a) PAC has satisfied each condition precedent in Section 5.1 to enable the City to enter into the Construction Contract for the Primary Theater Project Site and vertical construction of the Primary Theater has commenced;

(b) PAC is not in default of this Agreement, the LOA or any Future Phase DDA then in effect between the Parties; and

(c) PAC has subdivided the Site pursuant to the Campus Site Plan approved pursuant to the Future Phase Development Plan; and

(d) The financing for the development and operation of the Future Phase is in place and prepared to fund.

(e) An update to the Risk Assessment performed by Kleinfelder and dated March 8, 2007, with an update to the cost estimate for the particular Future Phase set forth in Exhibit "I", attached hereto and by this reference made a part hereof.

Section 4.9 Future Phase DDA Execution. At such time as all the Future Phase DDA Conditions for a respective Future Phase are satisfied, PAC shall provide written notice thereof to CP ("Future Phase DDA Execution Notice"). At such time as PAC has delivered to CP a valid Future Phase DDA Execution Notice for a Future Phase, CP and PAC shall enter into a Future Phase DDA for such Future Phase within thirty (30) business days of delivery of the Future Phase DDA Execution Notice. The Future Phase DDA shall incorporate the approved Future Phase Development Plan for such Future Phase. The Parties agree that upon execution and delivery of a Future Phase DDA for a Future Phase, such Future Phase DDA shall govern and control the relationship of the Parties as it relates to such Future Phase. PAC agrees that notwithstanding anything to the contrary contained in this Agreement, PAC's rights to develop any Future Phase shall automatically lapse and be null and void in the event PAC fails to rightfully deliver a Future Phase DDA Execution Notice_in connection with a Future Phase by December 31, 2016.

ARTICLE 5

BIDDING AND CONSTRUCTION FOR PRIMARY THEATER PROJECT

Section 5.1 Prequalification of Bidders and Bidding Contingencies. The Parties agree that the Primary Theater Project is a public work project and as a result will be constructed by City in compliance with the Bidding Requirements. The Parties agree that City will conduct prequalification of bidders pursuant to NRS Chapter 338 (or other applicable laws) and will coordinate such prequalification with PAC. Upon completion of the design of the Primary Theater Project, the Parties agree that City will proceed to conduct the bidding process and award the Construction Contract. The Parties agree that City shall not be required to proceed with the bidding and award of the Construction Contract unless the following conditions precedent are fulfilled or waived by the City at its sole discretion:

(a) the Project Manager has provided a written, constructability review to City that (i) the design of the Primary Theater Project is complete in all respects pursuant to the Architect Agreement and the bidding of the contract for the construction of the Primary Theater

Project is in a position to proceed and (ii) the latest Project Budget is a fair and accurate estimate of the Project Cost;

(b) City is prepared and has determined that it will be able to issue the Bonds in a principal amount not less than the amount projected in the then current Project Budget, has further determined that it can issue Bonds on reasonable underwriting parameters and past underwriting criteria of City and has obtained all third party approvals required by the Requirements for the issuance of the Bonds, including any approvals required under the Interlocal Agreement (City agrees that, provided it may lawfully do so, it will act reasonably in making or not making the determinations in this Section 5.1(b));

(c) PAC has deposited with City, or a construction control company Approved in writing by City, the PAC Construction Fund Contribution prior to the commencement of construction of the Project in the form of cash, letters of credit or other forms of assets approved by City;

(d) All permits and approvals for the construction of the Primary Theater Project have been obtained or City has Determined that they will be obtained during construction when required by applicable Requirements;

(e) the Parties have mutually Approved the then current Project Budget in writing;

(f) (i) the Operating Endowment remains committed and in full force in all respects as confirmed in writing by the Reynolds Foundation and (ii) the estimated Final Completion Date would not cause a termination of the Reynolds Foundation's obligation to fund the Operating Endowment pursuant to the terms of the Endowment Agreement referenced in the definition of Operating Endowment; and (iii) PAC has entered into an amendment to the Endowment Agreement in order to obtain the Reynolds Foundation's approval of the estimated Final Completion Date and any other approvals required by the Reynolds Foundation for the release of funds from the Operating Endowment.

(g) there is no occurrence and continuance of a material PAC Default;

(h) the County has performed and continues to perform pursuant to the Interlocal Agreement and has paid and continues to pay City all of the Pledged Rental Car Fees required to be paid to City pursuant to the Interlocal Agreement; and

(i) the Parties have mutually agreed, in writing, on the Campus Site Plan and

the Primary Theater Project Site has been legally subdivided.

The Parties agree that the Bidding Requirements will require that the Contractor provide a performance, payment and completion bond covering the entire construction of the Primary Theater Project pursuant to the Construction Contract (the “Completion Bond”).

Section 5.2 Bidding and Award of Construction Contract. Upon the fulfillment of the Bidding Requirements, City will promptly conduct the bidding for the award of the Construction Contract pursuant to the Bidding Requirements. Upon the completion of the bidding process, City shall promptly award the Construction Contract in compliance with the Bidding Requirements. Notwithstanding anything to the contrary contained herein, City shall not be required to award the Construction Contract if the best bid submitted exceeds the last approved Project Budget. City agrees to use commercially reasonable efforts in consulting with PAC prior to the bidding and award of the Construction Contract, to the extent permissible under the Bidding Requirements, including NRS Chapter 338.

Section 5.3 Construction of the Primary Theater Project. The Parties agree that City will be entering into the Construction Contract with the Contractor and that the Project Manager will principally administer and enforce the Construction Contract on behalf of City and PAC. PAC shall be a third party beneficiary to City’s rights under the Construction Agreement and shall also be an additional insured under all insurance policies required thereunder. In connection with the Construction Agreement the Parties agree as follows:

(a) The Project Manager will continue to manage the construction of the Primary Theater Project pursuant to the Project Manager Contract.

(b) The City Project Representative will be invited with 48 hours advance notice and permitted to attend all regular Primary Theater Project meetings and any other meetings Determined material by the City Project Representative.

(c) The City Project Representative will be fully informed of all developments relating to the Primary Theater Project and will be copied on all correspondence received or originated by PAC, the Project Manager or the Architect during construction of the Primary Theater Project.

(d) Any of the following must first be Approved in writing by PAC prior to implementation by City: (i) a proposed modification to the Construction Contract or the Architect Agreement, (ii) a proposed waiver of any of City’s rights under the Construction

Contract, (iii) a proposed waiver or release of the Contractor's obligations under the Construction Contract and (iv) a proposed waiver of any conditions to payment due under the Construction Contract.

(e) Except for non-monetary field change orders, all change orders must first be Approved in writing by both Parties.

(f) PAC and the Project Manager shall consider in good faith all directions from City to PAC which are Determined necessary by City in connection with the administration of the Primary Theater Project.

(g) City shall make all payments due under the Construction Contract in strict compliance with the terms of the Construction Contract.

(h) At such time that (i) City Determines that the Project Manager is not administering the Construction Contract in a manner Determined by City in the best interest of the Primary Theater Project or (ii) a material PAC Default has occurred and is continuing, City may take over direct administration and management of the Construction Contract and the construction of the Primary Theater Project subject to the terms of this subsection (h). City agrees that in the event City Determines that the Project Manager is not administering the Construction Contract in a manner Determined by City in the best interest of the Primary Theater Project, City shall give prior written notice of such Determination to PAC and, prior to City exercising any rights under this subsection (h), PAC shall have thirty (30) days to rectify the problems to City's Approval, including the engagement of a new Project Manager. In the event PAC disagrees with such Determination or PAC does not rectify the problems to City's Approval, PAC shall have the right to seek resolution of such dispute in accordance with Section 10.5 prior to City exercising any such rights.

(i) City and PAC agree that, pursuant to the LOA, City shall assign to PAC any and all rights and warranties of City related to the Project Contracts and the construction of the Primary Theater Project and that PAC will be entitled to enforce all such rights and warranties. PAC acknowledges that it shall have no cause of action whatsoever against City in connection with the design and construction of the Primary Theater Project and shall look only to the Architect, the Contractor and other design professionals in connection with any defects, latent or patent, or other deficiencies or problems in the design and construction of the Primary Theater Project.

Section 5.4 Notice to Proceed. The Parties agree that City shall not issue the notice to proceed to the Contractor until the following conditions precedent are satisfied:

(a) City has issued the Bonds in the amounts and on the terms set forth in the then current Project Budget;

(b) All conditions to the bidding as set forth in Section 5.1 remain fulfilled; and

(c) the financial or any other condition of the Contractor has not changed such that City has Determined that the Contractor is not able to perform under the Construction Contract.

Section 5.5 Construction Insurance. The Parties agree that all of the insurance required under the Bidding Requirements and the Construction Contract shall be maintained during the course of construction of the Primary Theater Project and the cost thereof shall be a Project Cost.

Section 5.6 Casualty. PAC agrees that all insurance proceeds payable in connection with damage or destruction of the Primary Theater Project shall be payable to City to be deposited in the Construction Fund pursuant to the terms and conditions of this Agreement. City shall have the sole right to settle, compromise or adjust any insurance or other claim in such manner as City may determine, and for this purpose, City may take such action as City deems appropriate. City shall apply all insurance proceeds to the repair and or restoration of the Primary Theater Project upon the satisfaction of the following conditions (i) all insurance proceeds are deposited with City; (ii) PAC shall have deposited with City the amount necessary, if any, to pay the difference between the cost of restoration or repair of the Primary Theater Project and the amount of such insurance proceeds; (iii) PAC shall have delivered to City a budget of all costs of reconstruction, repair and or restoration for the Primary Theater Project, reasonably acceptable to City; and (iv) City and all applicable governmental agencies shall have approved the final plans and specifications for the reconstruction, repair or restoration of the Primary Theater Project. Subject to conditions set forth in the foregoing sentence, City shall disburse such insurance proceeds from the Construction Fund as necessary to pay for the reconstruction, repair or restoration of the Primary Theater Project pursuant to the terms of the Construction Contract. Notwithstanding anything herein to the contrary, any and all insurance proceeds payable in connection with damage or destruction to furniture, fixtures and/or equipment of the Primary

Theater Project which were paid for by PAC (and not paid from the Construction Fund) shall be payable to PAC.

Section 5.7 Termination of Agreement. The Parties agree that in the event that all the conditions precedent for the bidding of the Construction Contract set forth in Section 5.1 hereof are not fulfilled by April 30, 2009 for any reason whatsoever, then either Party shall have the right to terminate this Agreement upon written notice to the other Party. Upon such termination of this Agreement, all respective rights and obligations of the Parties under this Agreement (including, without limitation Section 2.5 hereof) shall terminate and be null and void except for the Parties obligations pursuant to Section 6.1 and Section 10.6 hereof.

ARTICLE 6

FINANCING OF THE DEVELOPMENT OF THE PRIMARY THEATER PROJECT

Section 6.1 Design.

(a) PAC agrees that it shall be responsible for funding all the services of the Architect and the Project Manager and other preconstruction services (including obtaining Primary Theater Project permits and approvals in accordance with Section 4.6 above) through the award of the Construction Contract by City ("Pre-Construction Costs") subject to the contribution by City to PAC of Pledged Rental Car Fees pursuant to paragraph (b) below. At such time as the Construction Contract is awarded and the construction of the Primary Theater Project commences, all costs of the Architect for services rendered thereafter shall be part of the Project Cost and funded out of the Construction Fund.

(b) City agrees to pay PAC Pledged Rental Car Fees received by City prior to issuance of the Bonds at such time as (i) the conceptual drawings referenced in Section 4.3(a) above have been Approved by City; and (ii) an initial Project Budget has been Approved by City. Such Pledged Rental Car Fees shall be applied along with PAC funds to pay all such Pre-Construction Costs.

(c) Until the issuance of the Bonds, PAC agrees that no later than February 1 of each year PAC shall submit to City PAC's projected preconstruction budget for the twelve (12) month period commencing on the next July 1 in detail reasonably acceptable to City. Such budget shall set forth and include PAC's request to use any Pledged Rental Car Fees projected to be received during such twelve (12) month period.

(d) After the issuance of the Bonds and until Final Completion, PAC agrees that no later than February 1 of each year PAC shall submit to City PAC's projected construction budget for the twelve (12) month period commencing on the next July 1 in detail reasonably acceptable to City. Such budget shall set forth and include PAC's request that any Excess Fees projected to be received during such twelve (12) month period be deposited into the Construction Fund. Subject to subsection (e) below, City shall deposit such Excess Fees into the Construction Fund.

(e) All of the City's obligations under this Agreement are subject to the City Council lawfully making an appropriation to pay the amount needed to fulfill such obligations and are binding upon City only to the extent such an appropriation is made. Nothing contained in this Agreement obligates City to make any such appropriation. City agrees that any Pledged Rental Car Fees received by City shall be used as permitted only by NRS 244A.840(3) and the Interlocal Agreement. Subject to the first sentence of this subsection (e), City agrees that the City Manager shall, in the budget presented to the governing body of City for each of the City's fiscal years, show (i) prior to the issuance of the Bonds, any Pledged Rental Car Fees as being used for the purposes permitted by NRS 244A.840(3) and the Interlocal Agreement that are shown in such projected annual preconstruction budget pursuant to Section 6.1(c); (ii) after the issuance of the Bonds and until Final Completion, any Excess Fees as being used for the purposes permitted by NRS 244A.840(3) and the Interlocal Agreement that are shown in such projected annual construction budget pursuant to Section 6.1(d); and (iii) appropriations for any other obligations of City under this Agreement for such fiscal year. Payments of Pledged Rental Car Fees prior to the issuance of the Bonds, if any, shall be made to PAC quarterly. Payments of Excess Fees, if any, shall be deposited into the Construction Fund quarterly.

Section 6.2 Construction of the Project and Cost Overruns.

(a) The Parties agree that construction of the Primary Theater Project shall be funded solely out of the Construction Fund. PAC agrees that City shall have no other obligation whatsoever to provide any other elements of work, material or funds for the construction of the Primary Theater Project whatsoever other than (i) the amounts to be paid by City pursuant to Section 6.1, (ii) the City Construction Fund Contribution and (iii) the City Work Cost.

(b) In the event City Determines or Estimates at anytime that for any reason whatsoever the remaining Final Contract Project Cost exceeds the remaining balance of the

Construction Fund, City shall have the unilateral and unconditional right to suspend construction of the Primary Theater Project until such time as PAC deposits into the Construction Fund additional funds to cover the difference between the remaining Final Construction Project Cost the remaining balance of the Construction Fund, including any amount for liquidated damages due to delay of the Primary Theater Project pursuant to the Construction Contract unless such delay was caused by a City Default in which event City shall be required to fund the amount attributable thereto.

Section 6.3 Deposit of Construction Fund; Accounting for Bond Proceeds; Investments; Application of Bond Proceeds. The City Construction Fund Contribution and the PAC Construction Fund Contribution will be held by City in separate accounts or sub-accounts but will not be held in separate bank accounts. Interest income allocated according to City's generally applied principles will be credited to the Construction Fund, except that any interest income earned at yield above the yield on the Bonds, determined by City in accordance with the applicable Internal Revenue Service regulations, will be retained (or may be withdrawn) by City to make rebate payments to the United States. Amounts shall be withdrawn from the Construction Fund solely to pay Project Costs in accordance with the terms of this Agreement.

Section 6.4 Payment and Application of the Construction Funds. During the construction of the Project, City shall pay from the Construction Fund the payments due (i) under the Construction Contract pursuant to the terms and conditions of the Construction Contract, (ii) under the Architect Contract pursuant to the terms and conditions thereof and (iii) for all other items in the Final Contract Project Cost. City shall provide PAC with all documents related to disbursements of the Construction Fund, including, without limitation, all invoices, lien release and other documents required under or requested pursuant to the Construction Contract or Architect Agreement. City shall provide PAC with monthly statements showing accrued interest, disbursements and remaining balance of the Construction Fund

Section 6.5 Surplus Construction Funds. Upon (i) Final Completion, (ii) joint execution by the Parties of the LOA and (iii) City's payment of all remaining Project Costs, the then remaining balance in the Construction Fund shall be distributed to first fund the Reserve and the balance if any shall be distributed to PAC pursuant to the terms of the LOA and only for purposes permitted under NRS 244A.840(3) and the Interlocal Agreement.

Section 6.6 Issuance of the Bonds. City agrees to commence the process of issuing

the Bonds in such time as to meet the projected and scheduled commencement of the construction of the Primary Theater Project. The Parties acknowledge that the amount and terms of the Bonds will be dependent on numerous factors including the estimated amount of the Pledged Rental Car Fees and the terms and conditions of the underwriting of the Bonds. PAC agrees that City is not in anyway guaranteeing or warranting the amount of the Bonds Net Proceeds, the amount of the Pledged Rental Car Fees, underwriting terms and conditions or any other factors related to the issuance of the Bonds. City's only obligation with respect to this Section 6.6 is to use its good faith best commercially reasonable efforts to issue the Bonds based on the Pledged Rental Car Fees. PAC agrees that City shall have no liability whatsoever to PAC or any other Person in the event the principal amount of the Bonds, the interest rate payable thereunder, the Bonds Net Proceeds or any other terms and conditions of the Bonds are not as projected or otherwise anticipated by the Parties.

Section 6.7 Tax Covenant. It is anticipated that the Bonds will be issued as tax-exempt Bonds under the provisions of the Internal Revenue Code of 1986, as amended (the "Tax Code"). Each of the Parties hereto agrees that it will not take any action or omit to take any action with respect to the Bonds, the proceeds thereof, any of that Party's funds or the facilities financed with the proceeds of the Bonds if the act or omission (i) would cause interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, or (ii) would cause interest on the Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, except to the extent such interest is required to be included in the adjusted earnings adjustment applicable to corporations under Section 56 of the Tax Code in calculating corporate alternative minimum taxable income. This covenant is to remain in force and effect until the date in which all obligations of Parties in fulfilling the tax covenant contained in the ordinance of City authorizing issuance of the Bonds have been satisfied and fully discharged. Among other things, this covenant requires that PAC maintain its status as an organization described in Section 501(c)(3) of the Tax Code while it uses any portion of the Primary Theater Project and that PAC will neither make nor allow any use of the Primary Theater Project to carry out any activity that is an unrelated trade or business for PAC determined by applying Section 513 of the Tax Code. In connection therewith, PAC agrees that its use of the Primary Theater Project shall not exceed the Private Use Limitation.

ARTICLE 7
CITY WORK

Section 7.1 City Work. City agrees that it shall complete the City Work at City's sole cost and expense. All elements of City Work Cost shall be paid directly by City and shall not be paid out of the Construction Fund. City agrees that City Work shall be complete in connection with all applicable Requirements. City further agrees that none of the Construction Fund shall be used to pay City Work Cost. City Work shall consist of the following:

(a) City shall install or cause to be installed all streets, sidewalks, utilities and any other improvements offsite to the each portion of the PAC Campus Site as is necessary to construct and operate each respective Phase of the PAC Campus Project, including, without limitation, electric, gas, sewer, telephone, data, cable and water. Such work shall include the work necessary to raise the grade of adjacent streets as described above in Section 3.1(e). The utilities shall be stubbed to the back of the curb in such location as Determined by City in consultation with PAC. The streets to be initially installed by City are identified on Exhibit "E" attached hereto. In addition, City will be installing all curb, gutter and on-street public metered parking around the perimeter and within a portion of the PAC Campus Site as part of the City Work. City shall require that such improvements remain within public rights-of-way owned by the City. Such perimeter improvements will be constructed to the standard specifications and design for Union Park in accordance with the Union Park Design Standards. PAC agrees that as Future Phases are developed by PAC any alteration or modification to such perimeter improvements will be at the sole cost and expense of PAC without any contribution or reimbursement by City.

(b) City shall perform or cause to be performed the City Obligations.

(c) City shall construct and maintain the Initial Parking Facilities as defined in the LOA.

(d) City shall take all steps to subdivide or demise the PAC Campus Site into a separate legal parcel in compliance with all applicable Requirements.

Section 7.2 Performance of City Work. In the event any necessary elements of City Work are not complete at the time of commencement of the construction of each Phase, City agrees that it shall complete such elements of the City Work in coordination with the construction of each Phase of the PAC Campus Project in such a manner so as not to delay the

construction of the PAC Campus Project. Performance of the City Obligations shall be included with respect to Known Hazardous Substances (as such term is defined in the Environmental Exhibit) in the schedule of the performance of the construction of the PAC Campus Project.

Section 7.3 City Obligation for Project Operations. PAC agrees that in no event shall City have any obligation, liability or responsibility whatsoever pursuant to this Agreement or otherwise to provide any funds for the start-up and/or ongoing operation and maintenance of the PAC Campus Project except with respect to Pledged Rental Car Fees for the Primary Theater Project and as provided in the LOA.

Section 7.4 License Agreement. City agrees to either terminate the License Agreement or terminate the rights of the licensees thereunder to occupy and use the PAC Campus Site in sufficient time to avoid any delay in commencement of the construction of the Project.

ARTICLE 8

REPRESENTATIONS AND WARRANTIES

Section 8.1 City's Representations and Warranties. In addition to any other representations and warranties made by City herein, City hereby represents and warrants to PAC, which representations and warranties are continuing in nature and shall survive throughout the term of this Agreement, as follows:

(a) There are no pending or, to the best of City's knowledge, threatened actions, suits, condemnation or other proceedings before or by any judicial body or any governmental authority against or affecting the PAC Campus Project or the PAC Campus Site;

(b) City has the full authority and power to execute this Agreement. This Agreement has been duly executed and delivered by City and constitutes the valid and legally binding obligation of City, enforceable in accordance with its terms, except as the enforceability hereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and general principles of equity.

(c) City possesses good and marketable fee simple title to the PAC Campus Site and the real property underlying the Initial Parking Facilities;

(d) The execution or delivery of this Agreement will not: (i) violate any Applicable Law, injunction, judgment, order, decree, ruling, charge or other restriction of any Governmental Authority to which City or the PAC Campus Site is subject; (ii) violate any

provision of City's charter documents, as amended; or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, give any person the right to accelerate, terminate, modify or cancel, or require any notice under, any agreement, license, permit, authorization, instrument or other arrangement to which City is a party or by which it is bound or which any of its assets are subject (or result in the imposition or any lien upon any of its assets).

(e) City has not received any written notice nor does it have any knowledge of or intent to impose any utility connection moratorium or rezone the PAC Campus Site.

(f) No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any Governmental Authority or third person on the part of City is required in connection with City's execution and delivery of this Agreement.

(g) Except for that certain License Agreement, dated April 30, 2005, between CP and WMCV Phase I, LLC, as amended (the "License Agreement") and the Owners' Association, there are no unrecorded contracts, leases, easements or other agreements, or claim of any third party, affecting the use, title, occupancy or development of the PAC Campus Site or the PAC Campus Project, and no person, firm or entity has any right of first refusal, option or other right to acquire all or any part of the PAC Campus Project or the PAC Campus Site.

Section 8.2 PAC's Representations and Warranties. In addition to any other representations and warranties made by PAC herein, PAC hereby represents and warrants to City, which representations and warranties are continuing in nature and shall survive throughout the term of the Agreement, as follows:

(a) PAC is a nonprofit corporation validly existing under the laws of the State of Nevada and is an organization described in Section 501(c)(3) of the Tax Code.

(b) PAC has the full authority and power to execute this Agreement. This Agreement has been duly executed and delivered by PAC and constitutes the valid and legally binding obligation of PAC, enforceable in accordance with its terms, except as the enforceability hereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and general principles of equity.

(c) The execution or delivery of this Agreement will not: (i) violate any Applicable Law, injunction, judgment, order, decree, ruling, charge or other restriction of any Governmental Authority to which PAC is subject; (ii) violate any provision of PAC's articles of

incorporation or bylaws, as amended; or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, give any person the right to accelerate, terminate, modify or cancel, or require any notice under, any agreement, license, permit, authorization, instrument or other arrangement to which PAC is a party or by which it is bound or which any of its assets are subject (or result in the imposition or any lien upon any of its assets).

ARTICLE 9

CITY EXCULPATION AND RIGHT TO SUSPEND PRIMARY THEATER PROJECT

Section 9.1 Exculpation. PAC agrees that City shall have no liability whatsoever to PAC in connection with the design and construction of the Primary Theater Project or any Future Phases except as a result of a City Default. PAC hereby waives and releases any claim or cause of action PAC may have against City in connection with the design and construction of the Primary Theater Project or Future Phases including any actions or non-actions taken by or not taken by City pursuant to any Project Contracts other than related to a City Default. PAC agrees that, upon executing the LOA, PAC will have undertaken its own independent reviews, investigations and testing as to the completion of the Primary Theater Project in compliance with the Construction Documents and the development of any Future Phase.

ARTICLE 10

DEFAULT, REMEDIES AND DISPUTE RESOLUTION

Section 10.1 Defaults by PAC. PAC shall be in default of this Agreement upon any of the following (each a “PAC Default”):

(a) PAC shall fail to make full payment of any material undisputed sum of money required to be paid by PAC hereunder when such payment is due and payable and such failure continues for thirty (30) days after written notice thereof from City;

(b) PAC shall fail to perform any other term, covenant or condition of PAC contained in this Agreement, and such failure continues for thirty (30) days after written notice thereof from City; provided, however, that if such failure is impossible to correct within thirty (30) days, PAC shall not be deemed in default if PAC commences correction within said thirty (30) day period and diligently pursues such correction to completion; and

(c) PAC makes a representation or warranty in this Agreement, or in any certificate, demand, or request made under this Agreement, that proves to be incorrect, at any

time during the term of this Agreement, in any material respect.

Section 10.2 Remedies for PAC Default. Should a PAC Default occur, City shall have the following rights and remedies:

(a) City may, but shall not be obligated to, advance the amount required to cure any failure by PAC to make any payment when required hereunder and shall be entitled to recover from PAC the sum so advanced, plus interest from the date the payment was due at the prime rate prevailing during the period of the PAC Default, as it may change from time to time, based on such rate as published in the Wall Street Journal or if more than one rate is published on any day, the average of such rates, plus 2% per annum (the "Default Rate").

(b) City shall have the right to suspend/and or terminate all or any part of the design and construction of the Primary Theater Project as City Determines appropriate. In connection therewith, (i) City may utilize any Pledged Rental Car Fees it has received which have not already been applied to payment of Pre-Construction Costs or Project Costs and the Construction Fund to pay the costs associated with such suspension or termination and (ii) in the event there are not sufficient Pledged Rental Car Fees or funds in the Construction Fund to pay the costs associated with such suspension or termination, then City may advance the amount required in connection with such suspension or termination and shall be entitled to recover from PAC the sum so advanced, plus interest at the Default Rate. In the event of a complete termination of the Primary Theater Project, this Agreement shall automatically terminate and all respective further obligations of the Parties under this Agreement (including, without limitation, Section 2.5 hereof) shall terminate and be null and void except for the obligations of the Parties pursuant to Sections 6.1 and 10.6 hereof.

(c) In addition to any other remedies it may have, in the event of a PAC Default due to a violation of Section 6.7 by PAC, City (i) may demand payment by PAC of any damages City incurs as a result of a breach of such covenant which amounts shall be paid by PAC within thirty (30) days of City's written demand therefore and (ii) may specifically enjoin such violation.

(d) City may exercise any other remedy available to it at law or in equity, including specific performance of the provisions of this Agreement. The provisions of this Section are not intended as a limitation on the remedies that may be available to City in case of a PAC Default.

Section 10.3 Default by City. City shall be in default of this Agreement upon any of the following (each a “City Default”):

(a) City shall fail to make full payment of any material undisputed sum of money required to be paid by City hereunder when such payment is due and payable and such failure continues for thirty (30) days after written notice thereof from PAC;

(b) City shall fail to perform any other term, covenant or condition of City contained in this Agreement, and such failure continues for thirty (30) days after written notice thereof from PAC; provided, however, that if such failure is impossible to correct within thirty (30) days, City shall not be deemed in default if City commences correction within said thirty (30) day period and diligently pursues such correction to completion; and

(c) City makes a representation or warranty in this Agreement, or in any certificate, demand, or request made under this Agreement, that proves to be incorrect, at any time during the term of this Agreement, in any material respect;

Section 10.4 Remedies for City Default. Upon a City Default, PAC may exercise any remedy available to it at law or in equity, including specific performance of the provisions of this Agreement. The provisions of this Section are not intended as a limitation on the remedies that may be available to PAC in case of a City Default.

Section 10.5 Dispute Resolution. The Parties agree that any dispute related to Section 6.7 or any action for equitable relief shall be pursuant to a court of law in compliance with Section 11.2 below. If any other dispute arises out of or relates to this Agreement, or the breach thereof, the Parties agree to proceed as follows:

(a) PAC and City hereby agree and commit to each other to resolve any open issues relating to the PAC Campus Project in a commercially reasonable manner as promptly as possible and to cause such Party’s Project Representative to be readily available to address such issues as they arise. In the event PAC and City are divided with respect to any such open issue relating to or in connection with the PAC Campus Project (“Unresolved Issue”), and the Project Representatives are unable to reach agreement, after good faith negotiations, with respect to a proposed course of action concerning such Unresolved Issue, then such Unresolved Issue shall be resolved exclusively by the manager of City, on behalf of City, and Myron Martin, on behalf of PAC, unless and until PAC or City selects another individual with similar status to resolve such Unresolved Issue on its behalf. Thereafter, if the Unresolved Issue has not been resolved,

the Parties agree to proceed with the Mediation and Arbitration provisions set forth next below.

(b) If said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Construction Industry Mediation Rules, before resorting to arbitration, litigation, or some other dispute resolution procedure.

(c) Any controversy or claim arising out of or related to this Agreement or the breach thereof not settled pursuant to paragraphs (a) and (b) immediately above, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof. Claims among City and PAC shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise. Notice of demand for arbitration shall be filed in writing with the other party and with the American Arbitration Association.

(d) PAC and City agree that pending final resolution of a claim including arbitration, unless otherwise agreed in writing, PAC and City, as the case may be, shall proceed diligently with performance of the Agreement.

(e) Demand for arbitration of any claim may be made within a reasonable time after the claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitations. A party who files a notice of demand for arbitration must assert in the demand all claims then known to that party on which arbitration is permitted to be demanded. When a party fails to include a claim through oversight, inadvertence or excusable neglect, or when a claim has matured or been acquired subsequently, the arbitrator or arbitrators may permit amendment.

(f) The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with Section 11.12 hereof.

(g) All dispute resolution proceedings pursuant to this Section 10.5 shall take place in Clark County, Nevada.

Section 10.6 Indemnification. Each Party (the “Indemnifying Party”) agrees to hold harmless, indemnify and defend the other Party from and against all losses, liabilities, or expenses, claims, demands, action or causes of action arising out of the wrongful or negligent

act, errors or omissions of such Party or any of its employees, agents or servants, including a breach of this Agreement, but excluding, except as otherwise provided in Subsection 6B of Exhibit B, any such losses, liabilities, injuries, or expenses of any nature arising out of any Environmental Condition existing prior to the Execution Date. The Parties hereto understand and agree that neither this Section nor any other provision of this Agreement shall constitute a waiver by City of any protection it has against liabilities or damages or any limitations thereon under Chapter 41 of NRS or other protections or limitations that arise by virtue of City's status as a political subdivision of the States of Nevada, and that City's indemnifications hereunder are limited by and subject to Chapter 41 of NRS.

ARTICLE 11

MISCELLANEOUS

Section 11.1 No Waiver. No failure or delay on the part of any Party to this Agreement to enforce the provisions hereof shall operate as a waiver thereof, nor shall a single or partial enforcement of any provision hereof preclude any other or further enforcement or exercise of any other right, power or remedy that any Party of this Agreement may have.

Section 11.2 Time of Essence. Time is of the essence to this Agreement. Each Party agrees that it shall perform all of its obligations under this Agreement promptly when required.

Section 11.3 No Third Party Beneficiaries. This Agreement is intended solely for the benefit of the Parties hereto, and no person is intended to be or shall be construed to be a third party beneficiary of this Agreement.

Section 11.4 Successors or Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and their assigns. No assignment of this Agreement or any right or obligation hereunder by any of the Parties hereto shall be valid unless the other Party hereto consents to that assignment in writing. The Parties hereto hereby consent to City pledging the Pledged Rental Car Fees it receives to the Bonds.

Section 11.5 Books and Records. Each of the Parties to this Agreement agrees, to the extent applicable to a Party, to maintain proper books and records pertaining to the Primary Theater Project, including, but not limited to, the Operating Budget, the Bonds, the funds and accounts established for the payment of the Bonds and evidencing expenditures and receipts of the Bonds Proceeds and to make such books and records available for inspection by the other Party hereto during normal business hours.

Attention: President
Facsimile No. 702-614-0205

With a copy to: Las Vegas Performing Arts Center Foundation
6725 Via Austi Parkway, Suite 360
Las Vegas, NV 89119
Attention: Chief Financial Officer
Facsimile No. 702-614-0205

and with a copy to: Kim Sinatra, Esq.
3131 Las Vegas Boulevard South
Las Vegas, NV 89109
Facsimile No. 702-770-1519

Section 11.10 Disclosure of Principals. Pursuant to Resolution R-105-99 adopted by City Council effective October 1, 1999, PAC warrants that it has disclosed, on Exhibit "F" attached hereto, all members of the Board of Directors of PAC, as well as all persons and entities holding more than 1% interest in PAC or any principal of PAC. Throughout the term hereof, PAC shall notify City Parties in writing of any material change in the above disclosure within 15 days of any such change.

Section 11.11 Governing Law. The laws of the State of Nevada shall govern the validity, construction, performance and effect of this Agreement, without giving effect to its conflict of law provisions.

Section 11.12 Jurisdiction and Venue. Except as set forth in Section 10.5, Each of City and PAC agree to submit to personal jurisdiction in Clark County, Nevada in any action or proceeding arising out of this Agreement and, in furtherance of such agreement, each Party hereby agrees and consents that, without limiting other methods of obtaining jurisdiction, personal jurisdiction over each Party in any such action or proceeding may be obtained within or without the jurisdiction of any court located in Nevada and that any process or notice of motion or other application to any such court in connection with any such action or proceeding may be served upon each Party by registered or certified mail to or by personal service at the last known address of each Party, whether such address be within or without the jurisdiction of any such court. Each Party hereto consents to, and waives any objection to Clark County, Nevada as the proper and exclusive venue for any dispute arising out of or relating to this Agreement or any alleged breach hereof.

Section 11.13 Force Majeure. Neither party shall be in breach of this Agreement if it fails to perform as required hereunder due to labor disputes, civil commotion, war, warlike operation, terrorist acts, sabotage, governmental regulations or control, fire or other casualty, inability to obtain any materials, or other causes beyond such party's reasonable control. The financial inability of a Party to perform its obligations hereunder shall not operate to excuse or otherwise limit a Party's obligations hereunder. The provisions of this Section shall in no event excuse a violation of Section 6.7.

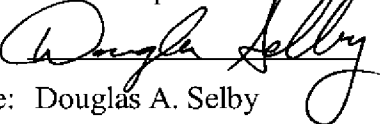
[Signatures appear on following page.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

“CP”

CITY PARKWAY V, INC.,

a Nevada not-for-profit corporation

By: 

Name: Douglas A. Selby

Title: President

“CITY”

CITY OF LAS VEGAS, NEVADA,

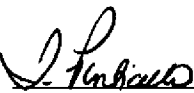
a political subdivision of the State of Nevada

By: 

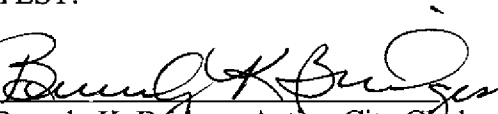
Name: Oscar B. Goodman

Title: Mayor

APPROVED AS TO FORM:

By:  5/8/07
Teresita L. Ponticello, Deputy City Attorney

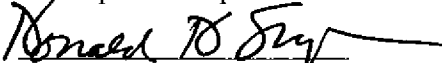
ATTEST:

By: 
Beverly K. Bridges, Acting City Clerk

“PAC”

LAS VEGAS PERFORMING ARTS CENTER
FOUNDATION,

a Nevada nonprofit corporation

By: 

Name: Donald D. SNYDER

Title: Chairman of the Board

Exhibit "A" – Depiction of Union Park

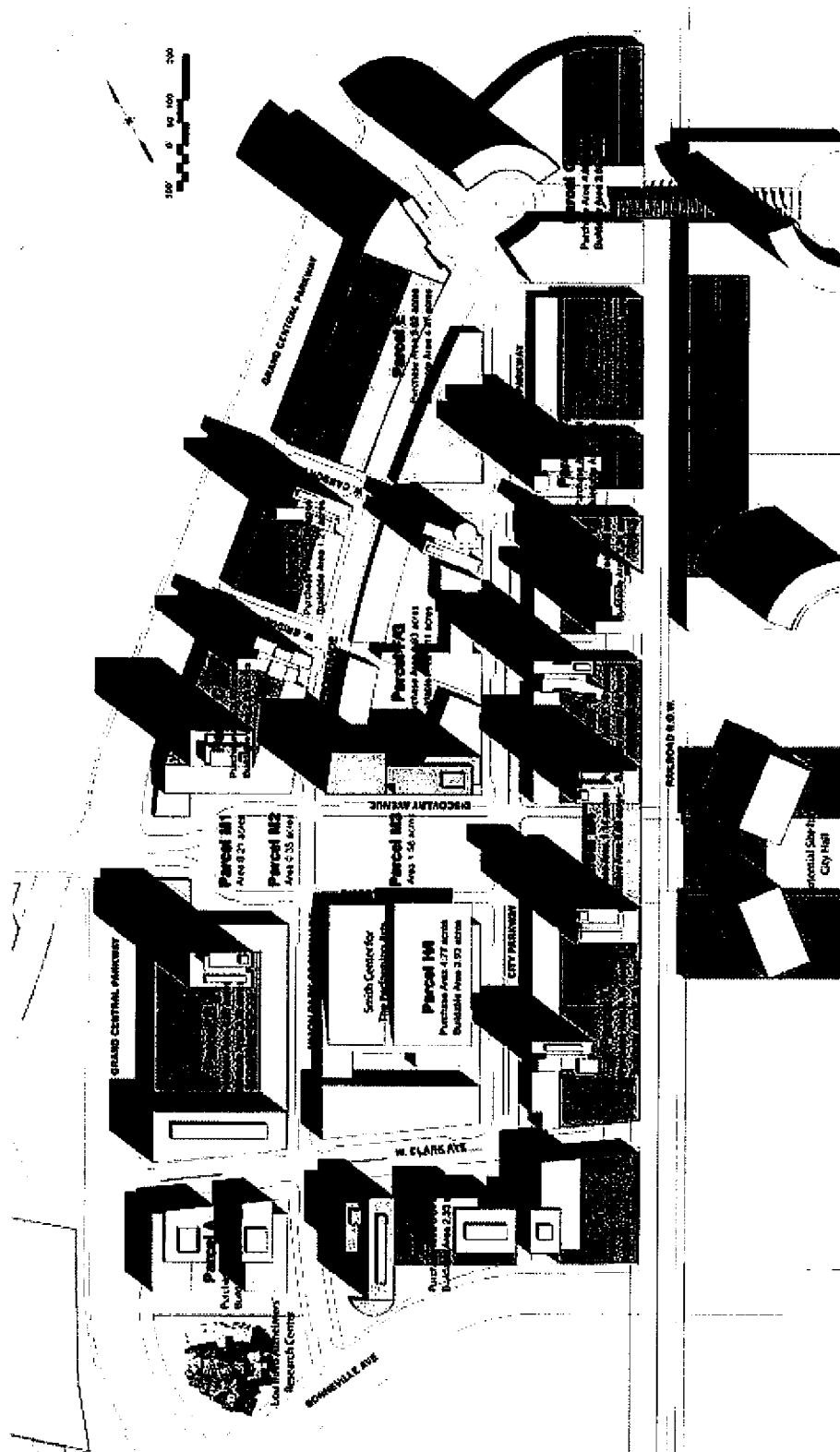


Exhibit “B” – Project Environmental Management

I.

Definitions

Capitalized Terms. Unless otherwise defined below, all capitalized terms used in this Exhibit “B” have the meanings ascribed to such terms in the Agreement.

“Activity and Use Limitations” means legal or physical restrictions or limitations, on the use of, or access to, a site or facility, such as institutional or engineering controls and Hazardous Substances monitoring in soil and groundwater, that are intended to reduce or eliminate potential exposure to Hazardous Substances present in the soil or groundwater on or within the PAC Campus Site, or to prevent activities that could interfere with the effectiveness of a cleanup remedy approved by NDEP or recommended by the Risk Assessment in order to ensure maintenance of a condition for the PAC Campus Site of no significant risk to public health or the environment.

“Applicable Environmental Guidance” means all applicable Requirements, Activity and Use Limitations, Environmental Laws, the Soil and Groundwater Management Plan, and the Risk Assessment. To the extent Applicable Environmental Guidance is in conflict as to any matter affecting human health or the environment, including the extent to which Hazardous Substances in soil or groundwater should be removed or remediated or both to acceptable levels of risk for the PAC Campus Project, the Applicable Environmental Guidance that is most protective of human health and the environment shall be the Applicable Environmental Guidance for purposes of this Agreement.

“Certified Environmental Manager” (“CEM”) means a person having been certified by the NDEP as an “Environmental Manager” pursuant to Nevada Administrative Code Chapter 459.

“City Obligations” has the meaning set forth below.

“City Remediation Cost Cap” shall mean, for the Primary Theater, the City’s responsibility for the following costs incurred through completion of construction of the Primary Theater:

- (a) A cumulative amount to not exceed \$3,274,000, for the following matters: (i) One half the cost of the Risk Assessment pursuant to Subsection 3B(a), below; (ii) soil remediation or disposal pursuant to Subsection 3B(b) or 3B(c) below; (iii) treatment of contaminated groundwater pursuant to Subsections 3B(b) or 3B(d) below; (iv) with the exception of actions resulting in Excess Remediation Costs, the value as Determined by City of any transportation, disposal, remediation, or other actions performed by UPRR in connection with the UPRR Environmental Obligations; and (iv) payment of any Excess Remediation Costs

claims by UPRR pursuant to Subsection 3B(f), below.

(b) An amount not to exceed \$2,329,000 for Activity and Use Limitations recommended in the Risk Assessment pursuant to Subsection 3B(e), below.

The City Remediation Cost Cap, if any, for any Future Phase shall be determined by the Parties prior to execution of any Future Phase DDA. The City does not by this Agreement commit to fund a City Remediation Cost Cap for any Future Phase. Notwithstanding the foregoing, the City may, in its sole and absolute discretion, choose to fund City Remediation Cost Caps for Future Phases depending upon the availability of Pledged Rental Car Fees or other funds for such purposes, and the appropriateness of using Pledged Rental Car Fees or other funds for any particular proposed Future Phase.

“Deed Covenants” means obligations of Union Pacific Railroad set forth in the attached deed from Union Pacific Railroad to Ply Stadium Partners, Inc. and successors in title.

“Environmental Condition” means (a) a Release or threat of a Release of any Hazardous Substances affecting the Premises for which investigation, response, evaluation, treatment, removal, remediation, monitoring, abatement or any type of corrective action is required under any Environmental Laws, (b) any condition or activity at the Premises that is not in compliance with any Environmental Laws, and (c) any condition or activity at the Premises which results in or forms the basis for a claim by any governmental authority or citizen or citizen group for compliance, injunctive relief, damages (including, without limitation, natural resources or toxic tort damages), penalties, or removal, response, remedial or other action pursuant to any Environmental Laws and/or a third party seeking damages and/or injunctive relief related to actual or alleged personal injury, medical monitoring, wrongful death and/or property damage.

“Environmental Laws” means any past, present or future federal, state or local law, statute, rule, regulation, code, ordinance, order, decree, judgment, injunction, notice, policy, or binding agreement, and all amendments thereto, issued, promulgated, or entered into by any Governmental Authority, relating in any way to the environment, the preservation, degradation, loss, damage, restoration or reclamation of natural resources, waste management, health, industrial hygiene, safety matters, Environmental Conditions or Hazardous Substances.

“Environmental Permits” means all necessary federal, state, and local permits or other approvals relating to the handling, treatment, or disposal of Hazardous Substances in connection with the Primary Theater.

“Excess Remediation Costs” are those costs defined as such in Section 2.3(a)(iii) of the October 21, 1996, Purchase and Sale Agreement between Ply Stadium Partners, Inc. and UPRR.

“Hazardous Substances” means any product, byproduct, compound, substance, chemical, material or waste, including, without limitation, asbestos, solvents, degreasers, heavy metals, refrigerants, nitrates, urea formaldehyde, polychlorinated byphenyls, dioxins, petroleum and petroleum products, fuel additives, and any other material, whose presence, characteristics, nature, quantity, intensity, existence, use, manufacture, possession, handling, disposal, transportation, spill, Release, threatened Release, treatment, storage, production, discharge,

emission, remediation, cleanup, abatement, removal, migration, or effect, either by itself or in combination with other materials is or is allegedly: (a) injurious, dangerous, toxic, hazardous to human or animal health, aquatic or biota life, safety or welfare or any other portion of the environment; (b) regulated, defined, listed, prohibited, controlled, studied or monitored in any manner by any Governmental Authority or Environmental Laws; or (c) a basis for liability to any Governmental Authority or third party under any regulatory, statutory or common law theory.

“Known Hazardous Substances” means those Hazardous Substances described in the Project Information, including without limitation, petroleum hydrocarbons, metals, volatile organic compounds, semi-volatile organic compounds, and polychlorinated biphenyls.

“NDEP” means the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection.

“PAC Obligations” has the meaning set forth below.

“Primary Theater” shall mean the Primary Theater Project and Primary Theater Site.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of any Hazardous Substances into the environment, including the abandonment, discarding, burying or disposal of barrels, tanks, containers and other receptacles containing any Hazardous Substances.

“Risk Assessment” means a health risk assessment prepared by a well-qualified PhD environmental professional acceptable to both Parties that for all Known Hazardous Substances (i) identifies exposure pathways and exposure parameters to derive health-based soil and groundwater screening levels based on reasonable maximum exposure parameters, (ii) establishes soil and groundwater screening levels that represent chemical concentrations which would not result in adverse health effects under the assumed future land use of the PAC Campus Site, (iii) identifies potential exposures during construction as a component of the analysis, (iv) develops appropriate Activity and Use Limitations for redevelopment of the PAC Campus Site that will maintain protection of public health and the environment while, to the extent consistent with such mandate, minimizing overall Project Cost and City Work Costs, and (v) supersedes and replaces the Converse Consultants' September 24, 2002 Risk-Based Evaluation performed for City Parkway IV & V but only as to the PAC Campus Site and subject to the review and written concurrence of Converse Consultants.

“Soil and Groundwater Management Plan” means a plan approved by NDEP for handling Hazardous Substances in soil and groundwater encountered during and after construction of the Primary Theater.

“UPRR” means Union Pacific Railroad of Omaha, Nebraska.

“UPRR Environmental Obligations” are obligations of UPRR set forth in the Deed Covenants.

II.

Environmental Conditions

1B. Limited Survival. Except for Subsections 3B(g) (City insurance obligations), 4B (as it relates to certain PAC cost obligations to comply with Applicable Environmental Guidance relating to the construction and operation of the Primary Theater), and 6B (PAC Indemnity) of this Exhibit B, each of which shall survive the termination of this Agreement and the execution of the LOA, the provisions, terms, covenants and conditions of this Exhibit B to the Agreement shall become null, void and unenforceable upon the termination of this Agreement.

2B. Acknowledgements. The Parties acknowledge that:

(a) They are aware of the presence of Known Hazardous Substances affecting the PAC Campus Site and NDEP has determined that UPRR is responsible, at a minimum, for satisfying the UPRR Environmental Obligations;

(b) NDEP may not require UPRR to remove or remediate all Hazardous Substances in soil that exceed NDEP's soil action levels or all Hazardous Substances in groundwater that exceed NDEP's maximum contaminant levels which may result in residual Hazardous Substances being left within the PAC Campus Site after NDEP releases UPRR from responsibility for the UPRR Environmental Obligations;

(c) if after UPRR has completed the UPRR Environmental Obligations to NDEP's satisfaction, concentrations of Hazardous Substances remain in soil or groundwater within the PAC Campus Site above NDEP action levels or maximum contaminant levels, then Hazardous Substances may need to be removed or remediated from soil or groundwater to a level that is protective of health and the environment as determined by the Risk Assessment;

(d) Activity and Use Limitations as identified and recommended by the Risk Assessment may need to be developed, designed, operated, maintained and enforced within the PAC Campus Site to maintain protection of health and the environment to the extent residual Hazardous Substances remain within the PAC Campus Site after UPRR completes the UPRR Environmental Obligations;

(e) higher water table conditions exist on certain portions of Union Park and may require dewatering of the PAC Campus Site, including removal or treatment or both of groundwater encountered during and after completion of construction of the Primary Theater and after UPRR has satisfied the UPRR Environmental Obligations pertaining to groundwater; and

(f) UPRR may assert a claim for Excess Remediation Costs and may record a lis pendens, lien or other encumbrance against the PAC Campus Site in connection with asserting such claim.

3B. City Obligations and PAC Obligations Regarding Hazardous Substances. City Obligations and PAC Obligations regarding Hazardous Substances shall, subject to the City Remediation Cost Cap, consist of the following matters:

(a) Risk Assessment. As soon as practicable after the Effective Date, PAC shall commission and obtain the Risk Assessment. PAC and the City shall each be responsible for paying one-half of the cost of the Risk Assessment. PAC shall include the City Project Representative in all communications with the person or entity selected to perform the Risk Assessment, and the Parties and their Project Representatives shall keep strictly confidential and protected from disclosure to any third parties all such communications.

(b) UPRR Environmental Obligations. To the extent required by Applicable Environmental Guidance, City shall use commercially reasonable efforts to require UPRR to complete the UPRR Environmental Obligations in connection with the construction of the Primary Theater. The value as Determined by City of any transportation, disposal, remediation, or other actions performed by UPRR in connection with the UPRR Environmental Obligations shall be charged against the City Remediation Cost Cap. To the extent UPRR fails to discharge any UPRR Environmental Obligations, City agrees, at City's sole and exclusive cost subject to the City Remediation Cost Cap, to perform the UPRR Environmental Obligations, and may in City's sole discretion seek reimbursement from UPRR. All costs for City's performance of the UPRR Environmental Obligations hereunder shall, subject to Subsection 4B, be charged against the City Remediation Cost Cap.

(c) Soil Remediation and Disposal Obligations. City shall, at City's election, either dispose of or remediate in a manner that complies with Applicable Environmental Guidance all contaminated soils excavated and delivered by PAC to City at an agreed upon location within the Union Park property during construction of the Primary Theater or cause others to do the same. Subject to Subsection 4B, City shall be responsible for all costs incurred to dispose of or remediate such soil, and the City's costs for such disposal or remediation shall be charged against the City Remediation Cost Cap. Subject to subsection 4B, the Parties shall bear as a Project Cost any cost to dispose of clean excess PAC Campus Site soils or excess PAC Campus Site soils remediated pursuant to this Section 3B, and the City's portion of such disposal costs shall not be charged against the City Remediation Cost Cap.

(d) Dewatering and Treatment. If and to the extent Applicable Environmental Guidance dictates that groundwater encountered during construction of the Primary Theater requires treatment, then City shall accept such water for treatment at a location acceptable to both Parties (the "Delivery Point"). City shall properly handle, treat, or otherwise dispose of all such delivered groundwater in compliance with Environmental Laws and shall obtain and maintain all Environmental Permits. During construction of the Primary Theater, City shall be solely responsible for any costs to treat and dispose of contaminated water delivered to the Delivery Point, which costs, subject to Subsection 4B, shall be charged against the City Remediation Cost Cap. Subject to Subsection 4B, any costs incurred to deliver contaminated water to the Delivery Point during construction, including but not limited to the design, construction, and permitting of any necessary wells, pumping, and transmission facilities, together with associated power costs ("Delivery Costs"), shall be borne by the Parties as a Project Cost and the City's portion of such Delivery Costs shall not be charged against the City Remediation Cost Cap.

(e) Activity and Use Limitations. During the construction of the Primary Theater, the City, subject to Subsection 4B, shall be responsible for up to \$2,079,000 of the cost

of Activity and Use Limitations determined and recommended by the Risk Assessment, and all such costs shall be charged against the City Remediation Cost Cap. To the extent the cost of Activity and Use Limitations incurred during construction of the Primary Theater Project exceeds \$2,329,000, PAC shall be solely responsible for all such costs.

(f) UPRR Excess Remediation Costs Claims. City shall in City's absolute and sole discretion either: (i) promptly pay any claim for reimbursement made by UPRR for Excess Remediation Costs; or (ii) notify UPRR and PAC that any such claim or some portion thereof for reimbursement is disputed in good faith. City shall promptly work with UPRR to resolve any disputed claim. To the extent City and UPRR cannot agree upon a disputed claim and UPRR records a lien or lis pendens against the PAC Campus Site, City shall promptly take action to remove such lien or lis pendens by bonding or otherwise and shall work to resolve immediately, finally and completely any litigation, arbitration, mediation, complaint, settlement, demand, claim or other action by UPRR for Excess Remediation Costs. Subject to Subsection 4B, any Excess Remediation Costs paid by City shall be charged against the City Remediation Cost Cap.

(g) Insurance. City agrees that during the term of this Agreement and of the LOA and any extended term of the LOA and this Agreement, City shall (i) in good faith use its reasonable best efforts to maintain at all times a pollution legal liability insurance policy or equivalent form of pollution insurance in which the PAC Campus Site is a covered property ("Policy") and (ii) request the underwriter to add PAC as a co-insured or additional insured at City's sole cost on any Policy. Any costs associated with maintaining the Policy or adding PAC to the Policy as a co-insured or additional insured shall not be charged against the City Remediation Cost Cap. After exhausting its good faith and reasonable best efforts to maintain the Policy, if City cannot agree to the terms and conditions for renewal of the Policy at any time during the term or extended term of the LOA or this Agreement, City shall provide PAC with written notice of same not less than 90 days before termination of the term of the Policy.

(h) CEM Contract. City shall promptly enter into a contract on terms and conditions acceptable to PAC that requires the CEM to promptly perform the work described below. City shall be exclusively responsible for all CEM costs incurred under the CEM contract through completion of construction of the Primary Theater, and such costs shall, subject to Subsection 4B, be charged against the City Remediation Cost Cap. At a minimum, the CEM contract shall require the CEM to promptly perform the following work:

1. Promptly prepare and submit to NDEP for approval the Soil and Groundwater Management Plan, which plan shall cover at least the following matters:

(i) Procedures for CEM Hazardous Substances testing of all excavated soils and any groundwater encountered before, during and after completion of construction of the Primary Theater;

(ii) the location of and any measures necessary for the protection of human health and the environment associated with excavated soil stockpiles that NDEP will approve for use as fill for the Primary Theater;

(iii) the location of and any measures necessary for the protection of human health and the environment associated with excavated soil stockpiles containing concentrations of Hazardous Substances exceeding that allowed by NDEP to be used as fill for the Primary Theater;

(iv) the Environmental Permits and the responsibility therefor, including, but not limited to, Clark County Department of Air Quality Management dust permitting, NDEP/federal storm water discharge permits, NDEP/federal point source discharge permits, and any Nevada Department of Conservation and Natural Resources – Division of Water Resources well construction and water appropriation permits;

(v) the method and timing of progress reports, and the method and timing of reporting the discovery of Hazardous Substances encountered during construction that do not constitute Known Hazardous Substances previously reported to NDEP; and

(vi) technology and the construction of any facilities to be used for on-site treatment and disposal of soil or groundwater, if any, containing or found to contain Hazardous Substances.

2. Obtain on behalf of and in the name of City all necessary Environmental Permits for the Project;

3. Oversee the testing, storage, handling, treatment, and transportation of any Hazardous Substances encountered during construction of the Primary Theater;

4. Deliver to City at the conclusion of the Primary Theater construction all records relating to any treatment facility constructed to treat soil or groundwater contamination, including applicable Environmental Permits;

5. Coordinate UPRR's discharge of the UPRR Environmental Obligations with the Architect, Contractor, and UPRR. The CEM shall regularly provide to the Parties a report of matters relating to the handling, storage, treatment, and disposal of Hazardous Substances encountered during construction of the Primary Theater, including updates regarding UPRR's discharge of UPRR Environmental Obligations;

6. To the extent any dispute arises with UPRR regarding UPRR Environmental Obligations, the CEM shall immediately report such dispute to the Parties; and

7. Ongoing soil and groundwater monitoring, sampling, testing, and reporting as may be required by Applicable Environmental Guidance throughout the term of this Agreement.

4B. Allocation of Applicable Environmental Guidance Compliance Costs in Excess of City Remediation Cost Cap. With respect to any Hazardous Substances within or affecting the Primary Theater Site, PAC shall design and construct the Primary Theater in a manner consistent with Applicable Environmental Guidance. If and to the extent the City Remediation Cost Cap

has been exhausted, the Parties shall bear the costs of compliance with Applicable Environmental Guidance during the course of construction as a Project Cost until the City Construction Fund Contribution component of the Final Contract Project Cost is exhausted. Once the City Remediation Cost Cap and City Construction Fund Contribution component of the Final Contract Project Cost are exhausted, PAC shall be solely responsible for all costs necessary to comply with Applicable Environmental Guidance relating to construction or operation of the Primary Theater, whether incurred by City or PAC under their respective obligations hereunder, and whether incurred before or after completion of the Primary Theater.

5B. Mutual Release. Each Party for itself and each Party's agents, representatives, successors, assigns, members, administrators, officers, directors, employees, and all other persons associated with each Party hereby irrevocably releases waives, remises, acquits and forever discharges all other Parties and each of their agents, representatives, successors, assigns, members, administrators, officers, directors, employees ("Released Party") from any and all claims or potential claims, causes of action and any demands whatsoever, whether presently known or unknown, vested or contingent, in law or in equity, and for claims of any nature whatsoever, whether based on Environmental Laws or any other federal, state or local statute or ordinance, or based on a tort, contract, common law or other theory of recovery, for any liability, obligation, responsibility, loss, cost, claim, damage, order, judgment, decree, expense (including, without limitation, reasonable attorney and expert fees and disbursements, including court costs and costs of appeal), penalty or fine incurred in connection with, arising from or out of, or related to any Release of Hazardous Substances or any violation of Environmental Laws occurring on the PAC Campus Site prior to the Effective Date. Nothing in this Section or this Agreement shall be construed as a release or waiver of any claim, arising from a breach of any term, condition, covenant, representation or warranty contained in this Agreement, or against UPRR or any other party responsible for a Release of Hazardous Substances affecting the PAC Campus Site or any violation of Environmental Laws.

6B. Indemnity. PAC shall have no indemnification obligation under this Agreement or otherwise in connection with any Hazardous Substance generated, stored, manufactured, produced, released, spilled, present, located, discharged or disposed of on, under, beneath, or within the soil, subsurface, surface water, or ground water of the Premises prior to the Execution Date, EXCEPT that PAC shall indemnify, hold harmless, and defend City, City's affiliates, council members, mayor, employees, agents, officers, successors, and assigns of and from all losses or claims for personal injury, property damage, or natural resource damages arising wholly or in part out of any failure by PAC, its contractors, subcontractors, representatives or agents to design, construct, or operate the Primary Theater in conformance with Applicable Environmental Guidance.

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April 30, 2007

Exhibit “D” – List of Due Diligence Documents Delivered to PAC

Union Park Environmental Disclosure Documents

Electronic Documents on Two Compact Discs

<u>Identifier</u>	<u>Title/Text Reference</u>
01	01) Preliminary Title Report, Lawyers Title Company.pdf, June 17, 2004 02) CPV Vesting Deed.pdf
02	ALTA Survey – G.C. Wallace, June 28, 2002 01) G. C. Wallace - 61-Acre ALTA Survey pg1 2002.pdf 02) G.C. Wallace - 61-Acre ALTA Survey pg2 2002.pdf 03) G.C. Wallace - ALTA Survey Easement Docs 1.pdf 04) G.C. Wallace - ALTA Survey Easment Docs 2.pdf
03	As-Built Maps - Bonneville, Grand Central Parkway and Ogden, 1992, 1993, 1995, 1999, & 2000 01) Bonneville Ave.pdf 02) Main and Bonneville Intersection.pdf 03) Ogden Avenue.pdf 04) Parkway Center.pdf
04	Remedial Action Plan Site Characterization Investigation and Recommended Remedial Action Plan, July 29, 1989 -Appendices Appendices.tif, Appendix A - Summary of Buried Disposal Area Investigation.tif Appendix B - Investigative Procedures.tif Appendix C - Chain-of-Custody Records.tif Appendix D - Field and Laboratory QA&QC Program.tif Appendix E - Health and Safety Plan.tif Appendix F - Regional Geology and Hydrogeology.tif Appendix G - Exploratory Boring Logs.tif Appendix H - Soil and Hydrogeoloic Conditions By Area.tif Appendix I - Gauging Data and Hydrographs.tif Appendix J - Soil Laboratory Data Reports.tif Appendix K - Ground-Water Laboratory Data Reports.tif Appendix L - Maps of Approx Dist of Soils Containing PH.tif Appendix M - Observed Versus Actual Thickness of Liquid Hydrocarbon.tif Appendix N - Liquid Hydrocarbon Volume Estimates.tif Appendix O - Air Quality Monitoring Report.tif Appendix P - Report of Industrial Hygiene Evaluation.tif Appendix Q - Desert Research Institute Report.tif Appendix R - Health Risk Assessment.tif Appendix S - USPCI Report of Oil Recovery Operations.tif OIL RECOVERY SYSTEM.TIF -Table of Contents and Executive Summary.tif - Sect 1 Introduction.tif - Sect 2 Purpose & Scope.tif - Sect 3 Site Background.tif

- Sect 4 Hydrocarbon Contamination.tif
- Sect 5 Lead Contamination.tif
- Sect 6 Assessment of Potential Mobility and Fate of Contaminants.tif
- Sect 7 Health Risk Assessment.tif
- Sect 8 Site Remediation Criteria.tif
- Sect 9 Recommended Remedial Action.tif
- PLATE 01.TIF, PLATE 02.TIF, PLATE 03.TIF, PLATE 04.TIF, PLATE 05.TIF, PLATE 06.TIF, PLATE 07.TIF, PLATE 08.TIF, PLATE 09.TIF, PLATE 10.TIF, PLATE 11.TIF, PLATE 12.TIF, PLATE 13.TIF, PLATE 14.TIF

- 01) Final Remedial Action Plan 06-5-1992.pdf
- 02) Addendum I to RAP 08-18-1992.pdf
- 03) Request For Final Closure 10-06-1997.pdf
- 04) Depart of the Army Letter 12-09-2003.pdf
- 05) Interim Closure Report of Rem Action 09-27-93.pdf
- 06) NDEP Letter 03-26-1998.pdf
- 07) NDEP Remediation Requirements Sept 10, 1991.pdf
- 08) Phase 1 Env Site Assess Northern Tract 11-10-2000.pdf
- 09) Phase 1 Env Site Assess Southern Tract 11-10-2000.pdf

- 05 Plystadium Agreement
 - 01) Plystadium Agreement.pdf
 - 02) Amended and Restated Mem of Rights.pdf
 - 03) Estoppel Certificate.pdf
 - 04) Termination of Mem of Repurchase Option.pdf
 - 05) Trustee's Deed - Lehman to PAMI.pdf
 - 06) Grant Bargain Sale Deed UPRR Ply Stadium
- 06 Pollution Legal Liability Select
 - Pollution Legal Liability Select Policy.pdf
- 07 Environmental Risk Management – Converse Consultant, August 23, 2000
 - 01) Environmental Risk Management 08-23-2000.pdf
 - 02) Risk-Based Evaluation 09-24-2002.pdf
 - 03) Hydrocarbon Free Product Plumes Map.pdf
 - 04) Soil Impact Map.pdf
- 08 Trenching Exercise – Converse Consultants.pdf, Sept 11, 2002
- 09 Terracon Phase I & Phase II Environmental Site Assessment.pdf – March 26, 2003 & April 2, 2003
 - Phaselexec.pdf
 - Phasellexec.pdf
- 10 Preliminary Geotechnical Studies – Converse Consultants.pdf, June 27, 2002
 - Northern Prelim. Geotech.pdf
 - Southern Prelim. Geotech.pdf
- 11 Groundwater Monitoring Reports
 - Abandoned Wells July 2004
 - Abandoned Wells July 2004.pdf
 - Completion of Well Plugging Abandonment Former Las Vegas Rail Yard.htm
 - 01) 2nd Quarter 1991 Groundwater Report.pdf
 - 02) 2nd Quarter 2001 Groundwater Report.pdf
 - 03) 3rd Quarter 2001 Groundwater Report.pdf
 - 04) 4th Quarter 2001 Groundwater Report.pdf
 - 05) 1st Quarter 2002 Groundwater Report.pdf
 - 06) 2nd Quarter 2002 Groundwater Report.pdf
 - 07) 1st Half 2002 Semi-annual Compliance Report.pdf
 - 08) 3rd Quarter 2002 Groundwater Report.pdf
 - 09) 4th Quarter 2002 Groundwater Report.pdf

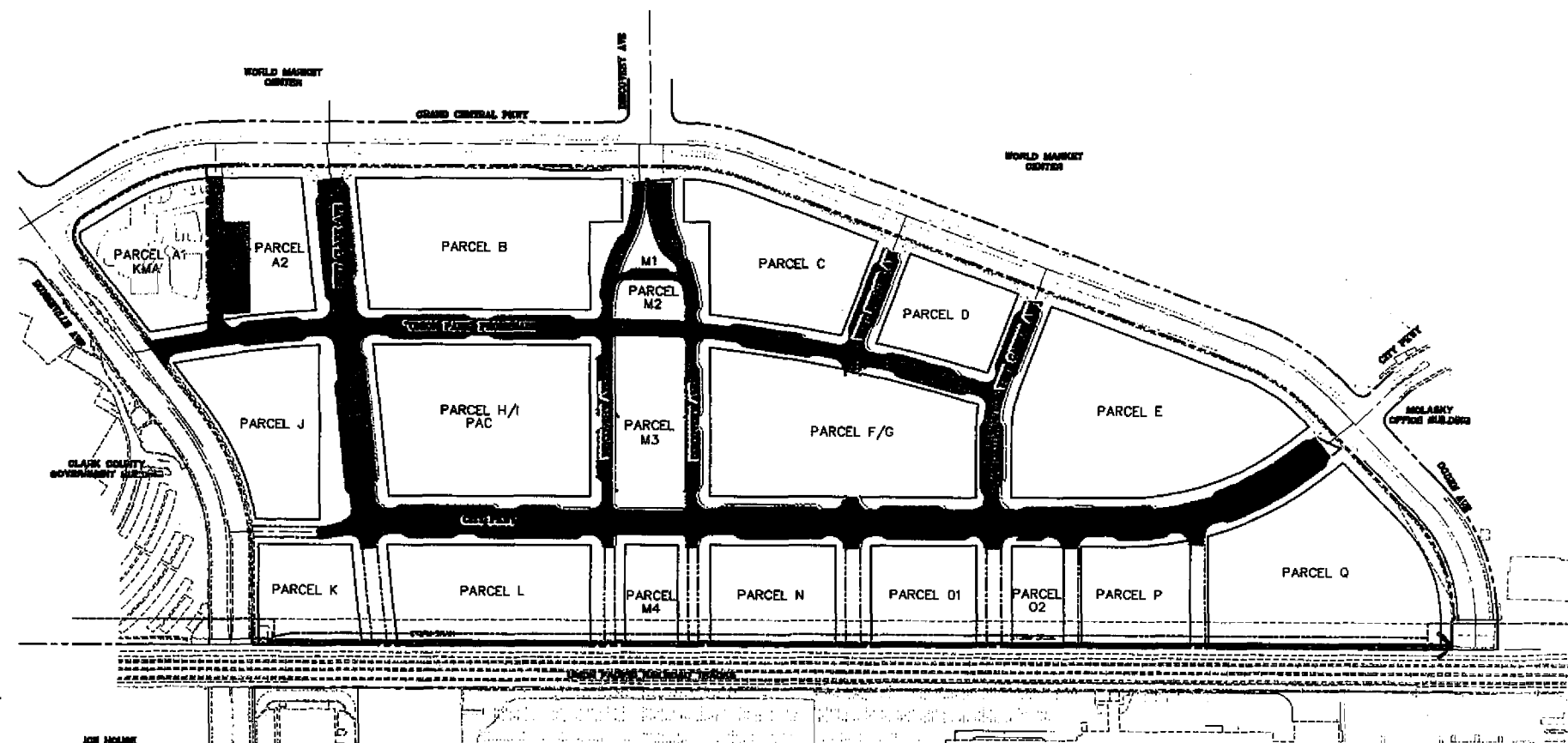
10) 1st Half 2003 Groundwater Report.pdf
11) 1st Half 2003 Semi-annual Compliance Report.pdf
12) 2nd Half 2003 Groundwater Report.pdf
13) 2nd Half 2003 Semi-annual Compliance Report.pdf
14) 1st Half 2004 Groundwater Report.pdf
15) 1st Half 2004 Semi-annula Compliance Report.pdf
16) 2nd Half 2004 Groundwater Report.pdf
17) 2nd Half 2004 Semi-annual Compliance Report.pdf
18) 1st Half 2005 Groundwater Report.pdf
19) 1st Half 2005 Semi-annual Compliance Report.pdf
TABLE 2 Groundwater Analytical Data 06-16-2004.xls
UP letter Jan 7 2004.tif
Well Monitoring Modification Plan 05-06-2004.tif

12

Maps

01) Union Park Concentration.pdf
02) Union Park Contamination.pdf
03) Union Park remediation.pdf
04) Remediation Depth.jpg

EXHIBIT "E" - Streets to be installed by the City



LEGEND:

	PHASE I
	START - DEC. 2007
	FINISH - AUG. 2008
	PHASE II
	START - TO BE DETERMINED
	FINISH - TO BE DETERMINED

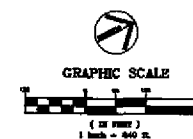


Exhibit 01 -
CURRENT PROJECT CONSTRUCTION PHASING
February 6, 2007

EXHIBIT “F” – DISCLOSURE OF PRINCIPALS FORM

CERTIFICATE DISCLOSURE OF OWNERSHIP/PRINCIPALS

1. Definitions

“City” means the City of Las Vegas.

“City Council” means the governing body of the City of Las Vegas.

“Contracting Entity” means the individual, partnership, or corporation seeking to enter into a contract or agreement with the City of Las Vegas.

“Principal” means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members.

2. Policy

In accordance with Resolution 79-99 and 105-99 adopted by the City Council, Contracting Entities seeking to enter into certain contracts or agreements with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract or agreement.

3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting Entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

4. Incorporation

This Certificate shall be incorporated into the resulting contract or agreement, if any, between the City and the Contracting Entity. Upon execution of such contract or agreement, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract or agreement, and/or a withholding of payments due the Contracting Entity.

**CERTIFICATE – DISCLOSURE OF OWNERSHIP/PRINCIPALS
(CONTINUED)**

Block 1	<u>Contracting Entity</u>
SEE ATTACHED	
Name	
Address	
Telephone	
EIN or DUNS	

Block 2	Description
Subject Matter of Contract/Agreement:	
Amended and Restated Agreement to Design, Construct, and Lease a Performing Arts Center	
RFP #:	N/A

Block 3	Type of Business
☐ Individual ☐ Partnership ☐ Limited Liability Company ☒ Corporation	

Block 4	<u>Disclosure of Ownership and Principals</u>		
In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one-percent (1%) ownership interest in the Contracting Entity.			
	FULL NAME/TITLE	BUSINESS ADDRESS	BUSINESS PHONE
1.	SEE ATTACHED		
2.			
3.			
4.			
5.			
6.			
7.			
8.			

The Contracting Entity shall continue the above list on a sheet of paper entitled "Disclosure of Principals – Continuation" until full and complete disclosure is made. If continuation sheets are attached, please indicate the number of sheets: 1

EXHIBIT F

Disclosure of Principals
LVPACF Board of Directors

The Board of Directors of the Las Vegas Performing Arts Center Foundation as well as all persons and entities holding more than 1% interest in the Las Vegas Performing Arts Center Foundation or any principal of the Las Vegas Performing Arts Center Foundation are the following:

<u>FULL NAME</u>	<u>BUSINESS ADDRESS</u>	<u>BUSINESS PHONE</u>
1. Don Snyder, Chairman, 6725 Via Austi Pkwy. Ste. 360., Las Vegas, NV 89119		614-0109
2. Keith Boman, Vice Chairman, 601 S. Rancho Dr. Ste D-28, Las Vegas, NV 89106		383-0677
3. Kim Sinatra, Secretary, 3131 Las Vegas Blvd. S., Las Vegas, NV 89109		770-2112
4. Gary Jacobs, Asst. Secretary, 3600 Las Vegas Blvd. S., Las Vegas, NV 89109		693-7129
5. Scott MacTaggart, Director, 530 Las Vegas Blvd. S., Las Vegas, NV 89101		385-3373
6. Robert Forbuss, Director, 3980 Howard Hughes Pky. Ste 550, Las Vegas, NV 89109		379-4400
7. Nancy Houssels, Director, 2580 Sorrell St., Las Vegas, NV 89146		252-3270
8. Charles Atwood, Director, One Caesars Palace Dr., Las Vegas, NV 89109		407-6387
9. Richard Bryan, Director, 300 S. 4 th Street, #1700, Las Vegas, NV 89101		383-8916
10. Alan Feldman, Director, 3799 Las Vegas Blvd. S., Las Vegas, NV 89109		891-7147
11. Richard Plaster, Director, 801 S. Rancho Dr. E-4., Las Vegas, NV 89106		671-6000
12. Jacquelyn Shropshire, Director, 2877 Paradise Rd. #1601, Las Vegas, NV 89109		838-4933

I hereby certify under penalty of perjury, that the foregoing list is full and complete.

LAS VEGAS PERFORMING ARTS CENTER FOUNDATION

By: _____

Its: President _____

Subscribed and sworn to before me this

5th day of MARCH, 2007.

Patricia Hester
Notary Public

