

NEW ARENA DEVELOPMENT AGREEMENT

BY AND BETWEEN

**SPORTS & EXHIBITION AUTHORITY
OF PITTSBURGH AND ALLEGHENY COUNTY**

AND

PITTSBURGH ARENA DEVELOPMENT LP

EFFECTIVE AS OF SEPTEMBER 30, 2007

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- 2 List of Environmental Assessment Reports
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- 4-A Master Project Schedule
- 4-B Site Work Delivery Schedule
- 5 Minority and Women Business Enterprise Participation Plan
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NEW ARENA DEVELOPMENT AGREEMENT

This **NEW ARENA DEVELOPMENT AGREEMENT** (this "**Agreement**") is made and executed this ____ day of May, 2008, effective as of September 30, 2007, by and between the **SPORTS & EXHIBITION AUTHORITY OF PITTSBURGH AND ALLEGHENY COUNTY**, a body corporate and politic, organized and existing pursuant to the Sports and Exhibition Authority Act (Act of July 28, 1953, P.L. 723, No. 230, § 2501-A, added October 30, 2000, P.L. 616, No. 85, § 6, 16 Purdon's Statutes 5501-A, et seq.) ("**Owner**") and **PITTSBURGH ARENA DEVELOPMENT LP**, a Pennsylvania limited partnership (the "**Developer**").

(Capitalized terms used in this Agreement and not defined herein shall have the meanings set forth in the Lease.)

BACKGROUND

A. Pittsburgh Penguins LP, a Pennsylvania limited partnership, as assignee of Lemieux Group LP, a Pennsylvania limited partnership ("**Lemieux Group**") holds, owns, operates and controls a professional hockey franchise which is a member of the National Hockey League (the "**NHL**"). Pittsburgh Penguins LP is an affiliate of the Developer and Lemieux Group, and is sometimes referred to herein as "**Team Affiliate**".

B. The Developer is an affiliate of Lemieux Group, and the Lemieux Group has agreed to guarantee and become surety for the obligations of the Developer pursuant to this Agreement.

C. The Owner, acting in its governmental capacity, has determined that the financing, construction and operation of the New Arena (as hereinafter defined) and the performance of this Agreement for the development and operation of the New Arena, are in the best interests of the Owner and will serve a paramount public purpose. Among other things, such construction and operation will support the development of the City of Pittsburgh and Allegheny County, their convention-related tourism, economic development and entertainment industries and the local economy, preserve downtown Pittsburgh as the home of a major professional sports franchise, encourage the growth of cultural, tourism, economic development and entertainment opportunities, and be an integral part of the revitalization and resurgence of downtown Pittsburgh and a prominent symbol of the vibrancy of Allegheny County.

D. Prior to the execution of this Agreement, (i) the Owner and Lemieux Group (and a certain Affiliate of the Lemieux Group) have entered into (i) a Sublease Agreement, which will be effective on the Commencement Date (the "**Lease**"), which provides, *inter alia*, that the Franchise agrees to play its NHL Home Games in the New Arena as set forth in the Lease, and (ii) the other Related Agreements, including without limitation the Special Agreement between the Owner and Lemieux Group, as the Lease and the applicable Related Agreements may have been assigned by Lemieux Group in accordance with their respective terms after the effective date of this Agreement.

E. This Agreement is executed in conjunction with the Lease and the other Related Agreements to provide for the development, planning, design and construction of the New Arena prior to its completion and during the term of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, undertakings and covenants hereinafter set forth, and intending to be legally bound hereby, the Owner and the Developer covenant and agree as follows:

1. DEFINITIONS

As used in this Agreement, the following terms shall have the meaning set forth:

Affiliate of a specified Person or entity shall mean any corporation, partnership, sole proprietorship or other Person or entity which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person or entity specified. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person or entity.

Agreement shall mean this New Arena Development Agreement, as the same may be amended, supplemented, modified, extended, renewed or replaced from time to time.

Alterations shall have the meaning set forth in the Lease.

Architect shall mean HOK Sport, Inc., d/b/a HOK SPORT + VENUE + EVENT ARCHITECTURE.

Architect Agreement shall mean the agreement to be entered into by the Developer, as agent for the Owner, with the Architect, as the same may be amended, modified or supplemented from time to time, in accordance with the terms of this Agreement.

Assumption Notice shall have the meaning set forth in Section 9.2(b) hereof.

Bond Proceeds shall have the meaning set forth in Section 2.5 hereof.

Budget Act Requirements shall mean the requirements set forth in Section 7(B) of the Pennsylvania Gaming Economic Development and Tourism Fund Capital Budget Itemization Act of 2007 (HB 1631).

Budget Excess shall have the meaning set forth in Section 2.4(d)(ii).

Capital Reserve Fund shall have the meaning set forth in the Lease.

Central Medical Site shall mean that tract of land located across Centre Avenue from Mellon Arena described on Exhibit A-2 of the Lease, upon which a vacant hospital structure and parking garage are (or were) located; part of the Central Medical Site will comprise a portion of the Site.

Challenge shall have the meaning set forth in Section 10.5 hereof.

Change Orders shall have the meaning set forth in Section 5.1(c) hereof.

City shall mean the City of Pittsburgh, Pennsylvania.

CM Agreement shall mean the Construction Management Agreement to be entered into by and between the Developer, as agent for the Owner, with Construction Manager, as the same may be amended, modified or supplemented from time to time with the prior written consent of the Owner in accordance with Section 2.2(b)(iii).

Commencement Date shall have the meaning set forth in the Lease.

Commonwealth shall mean the Commonwealth of Pennsylvania.

Commonwealth Coordinators shall mean Alta Management and the Special Assistant to the Secretary of the Department of General Services of the Commonwealth, or such other Persons as the Commonwealth may from time to time designate to act on its behalf.

Commonwealth Cost Overrun Financing shall have the meaning set forth in Section 2.7(c).

Commonwealth Oversight Expenses shall have the meaning set forth in Section 2.4(c)(i)(F).

Completion Date shall mean the date that is the earlier of (a) the Commencement Date, or (b) the date on which the following have occurred: (i) the Architect has issued to the Developer and the Owner a certificate of Substantial Completion certifying that the New Arena has been "substantially completed," subject to the completion of minor punch list items which do not materially affect the use or occupancy of the New Arena, which certificate is accepted by the Developer, and by the Construction Manager which agrees to complete final New Arena Work; and (ii) a temporary Certificate of Occupancy has been issued.

Construction Coordinators shall mean the Project Coordinator and the Project Review Coordinator, as set forth in Section 2.2(c).

Construction Drawings shall mean the construction drawings and specifications prepared by the Architect or other design professionals for construction of the New Arena.

Construction Manager or CM shall mean the Construction Manager selected by the Developer to supervise, manage and coordinate the construction of the New Arena.

Construction Start Date shall mean such date as is specified by the Developer as the date on which the Construction Manager is prepared to start the construction phase, but in any event not earlier than two (2) days following the date of completion of the Site Work and the delivery of the Site, or a portion thereof, to Developer in accordance with the Site Work Delivery Schedule.

Construction Team shall mean the Developer, Program Manager, Construction Manager, Architect, and any other consultants retained by the Developer and designated as members.

Contamination shall mean the presence or release or threat of release of Regulated Substances in, on, under or emanating to or from the Site, which pursuant to Environmental Laws requires notification or reporting to any Governmental Authority, or which pursuant to Environmental Laws requires the identification, investigation, cleanup, removal, remediation, containment, control, abatement, monitoring of or other response action to such Regulated Substances or which otherwise constitutes a violation of Environmental Laws.

Contract shall have the meaning set forth in Section 2.2(g).

Contract Documents shall mean collectively: (a) the CM Agreement and all exhibits hereto; (b) the GMP Documents; (c) the Construction Drawings; (d) the General Conditions to the CM Agreement; (e) any executed Change Orders; (f) all addenda to the CM Agreement; (g) all modifications to the CM Agreement; and (g) the Master Project Schedule.

Contractor shall have the meaning set forth in Section 2.2(g).

Cost Overruns shall have the meaning set forth in Section 2.7(a) hereof.

County shall mean the County of Allegheny.

Damages shall mean any loss, liability, claim, damage (including incidental and consequential damages), cost and expense (including costs of investigation and defense and reasonable attorneys' fees, whether the action is for money damages, or otherwise at Law, or for equitable or declaratory relief).

Design Documents shall mean, as applicable, the Schematic Design Documents and the Design Development Documents.

Design Development Documents shall mean drawings, specifications and narratives based upon and refining the Schematic Design Documents illustrating the scope, relationship, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details and equipment layouts.

Developer shall mean Pittsburgh Arena Development LP, a Pennsylvania limited partnership, or any successor or Affiliate entity which is authorized to so act, or which is approved under Article 6 hereof.

Developer Indemnified Persons shall have the meaning set forth in Section 9.3 hereof.

Developer Site Work Request shall have the meaning set forth in Section 2.3(a)(v) hereof.

Developer's Agents shall have the meaning set forth in Section 5.11 hereof.

Developer's Beneficial Rights shall have the meaning set forth in Section 2.1(d).

Developer's Excess Share shall have the meaning set forth in Section 2.4(d)(ii) hereof.

Developer's Representative shall mean David Morehouse or Ken Sawyer, or such other Person as may from time to time be designated by the Developer to act on its behalf.

Developer's Savings Share shall have the meaning set forth in Section 2.4(d)(iii) hereof.

Environmental Assessment shall have the meaning set forth in Section 2.3(b)(ii) hereof.

Environmental Complaint shall mean any written complaint by any Person or Governmental Authority setting forth a cause of action for personal injury or property damage, natural resource damage, contribution or indemnity for response costs, civil or administrative penalties, criminal fines or penalties, or declaratory or equitable relief arising under any Environmental Law or any order, notice of violation, citation, subpoena, request for information or other written notice or demand of any type issued by any Governmental Authority pursuant to any Environmental Law.

Environmental Consultant shall have the meaning set forth in Section 2.3(b)(ii) hereof.

Environmental Law shall mean all Legal Requirements, including without limitation, any consent decrees, settlement agreements, judgments, or orders, issued by or entered into with a Governmental Authority pertaining or relating to: (i) pollution or pollution control; (ii) protection of human health or the environment; (iii) the presence, use, management, generation, processing, treatment, recycling, transport, storage, collection, disposal or release or threat of release of Regulated Substances; (iv) the presence of Contamination; and (v) the protection of endangered or threatened species.

Event of Default shall have the meaning set forth in Section 8.1 hereof.

Existing Reports shall have the meaning set forth in Section 2.3(b)(i) hereof.

Final Project Budget shall have the meaning set forth in Section 2.4(d)(i), 2.4(d)(ii) or 2.4(d)(iv) hereof, as applicable.

Force Majeure shall mean acts of God, accidents, fire or other casualty, earthquake, flood, war, riot, intervention by civil or military authorities of government, insurrection, or other civil commotion, material shortages, strikes, boycotts or labor disputes, including, but not limited to, labor stoppages, whether attributable to strikes or lockouts, acts or the failure to act of any third party or any other similar or like event or occurrence beyond the reasonable control of either party hereto, that causes such party to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder.

Franchise shall mean the Pittsburgh Penguins NHL franchise.

Garage shall have the meaning set forth in Section 5.12.

Governmental Authority shall mean any national, federal, state, local or other government or political subdivision or any agency, authority, board, bureau, commission, department or instrumentality thereof, or any court, tribunal, grand jury or arbitrator.

GMP shall mean a guaranteed maximum price for New Arena Work (or designated portions thereof) as set forth in the CM Agreement, as further defined in Section 2.4(d).

GMP Documents shall mean those Construction Drawings and other documents developed in accordance with the CM Agreement to establish the GMP.

Guaranty shall have the meaning set forth in Section 2.7(b) hereof.

Hard Costs shall have the meaning set forth in Section 2.4(c)(ii) hereof.

Hockey Rules and Regulations shall mean collectively, the NHL Constitution, NHL By-Laws, and any other rules, guidelines, regulations or requirements of the Office of the Commissioner of the NHL, and/or any other Person appointed by the foregoing that are generally applicable to NHL clubs, as applicable, all as the same now exist or may be amended or adopted in the future.

Lease shall mean that certain Sublease Agreement by and between the Owner and the Developer entered into on September 18, 2007, effective as of the Commencement Date.

Legal Requirements shall mean all present and future applicable laws (including, but not limited to, Environmental Laws) applicable to the Owner and the Developer in connection with the design, development, construction, equipping, use, occupancy, possession, operation, maintenance and management of the New Arena, including without limitation all applicable laws relating to the issuance by the Owner of any bonds in connection with the financing of the Project.

Lemieux Group shall have the meaning set forth in recital A above.

Liquidated Damages shall have the meaning set forth in Section 8.4(b).

Master Project Schedule shall mean a master project schedule to be prepared by the Program Manager for the Project, as the same may be revised from time to time. A copy of a Master Project Schedule is attached as *Exhibit 4-A*.

Material Change shall have the meaning set forth in Section 5.1(b).

MBE/WBE Plan shall have the meaning set forth in Section 5.8.

Mellon Arena shall mean the existing public auditorium located within the City, where the Franchise is presently obligated to play all of its NHL regular season and playoff home games.

National Hockey League or NHL shall mean the National Hockey League (including the Office of the Commissioner of the NHL) and any successor substitute association or any

entity of which Lemieux Group is a member or joint owner and which engages in professional hockey in a manner comparable to the National Hockey League.

New Arena shall have the meaning set forth in Section 2.1(a) hereof.

New Arena Permits shall mean all licenses, permits and approvals required to be obtained by or on behalf of the Developer in connection with the design and planning of the New Arena prior to the Construction Start Date, the construction of the New Arena from and after the Construction Start Date and the use and occupancy of the New Arena on and as of the Commencement Date. A schedule of New Arena Permits shall be prepared by the Construction Team, and an initial list is attached hereto as part of *Exhibit 6*.

New Arena Work shall mean the furnishing of all materials, labor, detailing, layout, equipment, supplies, plants, tools, scaffolding, transportation, temporary construction, superintendence, demolition, inspections, and all other services, facilities and items, reasonably necessary for the full and proper performance and completion of the construction requirements set forth in the Contract Documents, and items reasonably inferable therefore, and consistent therewith for the proper execution and completion of the construction and other services required of Construction Manager by the Contract Documents, whether provided or to be provided by Construction Manager or a Contractor, or any other entity for whom Construction Manager is responsible, and whether or not performed or located on or off of the Site.

Operator shall mean Pittsburgh Arena Operating LP, a Pennsylvania limited partnership (as assignee of Lemieux Group), or such Affiliate thereof as shall be the Operator under the Lease from time to time.

Owner shall mean the Sports & Exhibition Authority of Pittsburgh and Allegheny County, a body corporate and politic.

Owner Default shall have the meaning set forth in Section 8.5.

Owner Site Obligations shall mean all obligations of the Owner set forth in Section 2.3 hereof.

Owner Indemnified Persons shall have the meaning set forth in Section 9.1 hereof.

Owner Representative shall mean the Owner's Executive Director, or such other Person as may from time to time be designated by the Owner to act on its behalf.

Permits shall mean collectively, the Site Permits, the New Arena Permits and the Required Environmental Permits.

Permitted Encumbrances shall mean utility easements, and other similar matters of record which will not interfere materially with the Project or with the construction or the operation of the New Arena and which are listed on *Exhibit 7* hereto.

Person shall mean any natural person, sole proprietorship, corporation, partnership, trust, limited liability company, limited liability association, unincorporated association, joint venture, joint-stock company, Governmental Authority, or any other entity.

Phase II shall have the meaning set forth in Section 2.3(b)(ii) hereof.

Preliminary Program shall have the meaning set forth on Schedule 2.1(a).

Proceeding shall have the meaning set forth in Section 9.2(a).

Program Manager shall mean ICON Venue Group, LLC, or such other Person as may from time to time be designated by the Developer to act on its behalf.

Project shall have the meaning set forth in Section 2.1(a).

Project Creditor shall have the meaning set forth in Section 2.7(b)(i).

Project Coordinator shall mean the person designated from time to time by the Owner to act in such capacity; initially the Project Coordinator shall be Doug Straley.

Project Costs shall mean certain costs and expenses incurred in connection with the design, development and construction of the New Arena, as defined in Section 2.4(c).

Project Funds shall mean those funds available for construction of the New Arena, which will be identified in the Final Project Budget.

Project Labor Agreement shall have the meaning set forth in Section 5.1(f).

Project Review Coordinator shall mean Oxford/Chester LLC, or such other Person as may from time to time be designated by the Owner as such.

Proposed Project Budget shall mean the budget for the development and construction of the Project, as the same may be modified from time to time pending development of the Final Project Budget, as further referenced in Section 2.4.

Recent Arena Facilities shall mean Nationwide Arena in Columbus, Ohio (Columbus Blue Jackets); Glendale Arena in Glendale, Arizona (Phoenix Coyotes); and Excel Energy Center in St. Paul, Minnesota (Minnesota Wild).

Regulated Substances shall mean, without limitation, any substance, material or waste, regardless of its form or nature, defined under Environmental Laws as a "hazardous substance," "hazardous waste," "toxic substance," "extremely hazardous substance," "toxic chemical," "toxic waste," "solid waste," "industrial waste," "residual waste," "municipal waste," "special handling waste," "mixed waste," "infectious waste," "chemotherapeutic waste," "medical waste," "regulated substance," "pollutant" or "contaminant" or any other substance, material or waste, regardless of its form or nature, which otherwise is regulated by Environmental Laws.

Related Agreements shall mean the Lease, the Option Agreement, and the Special Agreement, all as amended, supplemented, renewed or replaced from time to time.

Rent shall have the meaning set forth in the Lease.

Representatives, with respect to each of the Owner and the Developer, shall have the meaning set forth in Section 10.20 hereof.

Required Contracting Procedures shall mean the required "Bidding, Contracting and Self Performance Procedures", which are more particularly set forth on *Exhibit 8* hereto.

Required Environmental Permits shall mean all permits, licenses, bonds, consents, programs, approvals or authorizations required under Environmental Laws to conduct operations at or maintain the Site or to construct, maintain, operate or occupy the Project or any Alterations or improvements thereon, regardless of whether such permits, licenses, bonds, consents, approvals or authorizations have been obtained by or on behalf of the Owner or the Developer.

Required Environmental Reports shall mean all notices, reports, plans, forms or other filings which pursuant to Environmental Laws, Required Environmental Permits or at the request or direction of a Governmental Authority must be submitted to a Governmental Authority or which otherwise must be maintained with respect to the Project, Contamination and the operations and activities of the Owner or the Developer.

Response Action shall mean the investigation, cleanup, removal, remediation, containment, control, abatement, monitoring of or any other response action to the presence of Regulated Substances or Contamination in, on, at, under or emanating from the Site, including but not limited to the correction or abatement of any violation required pursuant to Environmental Laws, Required Environmental Permits or by a Governmental Authority.

Retainage shall have the meaning set forth in Section 2.4(e).

Schematic Design Documents shall mean the drawings illustrating the scale and relationship of the various Project components, which also contain square footage and volume calculations for the building interior spaces, building exterior spaces, as well as major architectural and interior finishes.

Site shall have the meaning set forth in Section 2.1(a) hereof.

Site Permits shall mean all Permits required to be obtained by or on behalf of the Owner in connection with the Site Work. An initial Schedule of required Site Permits is attached as part of *Exhibit 6*.

Site Plan shall refer to *Exhibit 9* attached hereto.

Site Work shall have the meaning set forth in Section 2.3 hereof.

Site Work Delivery Schedule shall mean a schedule with respect to the delivery of the Site to the Developer, as contemplated by Section 2.3 hereof. A copy of the Site Work Delivery Schedule is attached as *Exhibit 4-B*.

Soft Costs shall have the meaning set forth in Section 2.4(c)(i) hereof.

Substantial Completion shall mean that the New Arena Work (or separate units or phases as provided in the CM Agreement) is essentially and satisfactorily complete in accordance with the CM Agreement and the Contract Documents, such that the New Arena is ready for opening to the general public and use by the Franchise (it being understood that, without limitation, all suites, concessions and other income generating areas and all areas servicing the general public shall be ready for full operation without material inconvenience or discomfort). A minor amount of work, as determined by and at the discretion of the Developer and the Program Manager, such as installation of minor accessories or items, a minor amount of painting, minor replacement of defective work, minor adjustment of controls or sound systems, or completion or correction of minor exterior work that cannot be completed due to weather conditions, will not delay determination of Substantial Completion. For purposes of Substantial Completion, specified areas of the New Arena Work may be individually judged as substantially complete. In no event shall Substantial Completion be deemed to have occurred unless such certificates required by Legal Requirements for opening of the New Arena to the general public have been issued to the Developer.

Target Project Cost shall mean the sum of Two Hundred Ninety Million Dollars (\$290,000,000).

Team Affiliate shall have the meaning set forth in recital A above.

Title Defect shall have the meaning set forth in Section 3.5 hereof.

2. OVERVIEW

2.1 THE PROJECT.

(a) **Project Definition.**

The parties hereby agree, subject to the conditions, covenants and other obligations of this Agreement, that the Project shall consist of (i) an enclosed sports and entertainment facility containing approximately 18,500 seats in a configuration for an NHL game, which will be designed and constructed by the Developer as agent for Owner pursuant to the terms and conditions of this Agreement, generally in conformity with the Preliminary Program, a copy of which is attached hereto as *Schedule 2.1(a)* (such facility to be referred to as the "**New Arena**"), (ii) on property located proximate to Washington Place, Centre Avenue and Fifth Avenue in the Third (3rd) Ward of the City of Pittsburgh, and shown on the Site Plan attached hereto as *Exhibit 9* (such property to be referred to as the "**Site**"), and (iii) to be ready for occupancy no later than September 30, 2010, subject to Force Majeure, and the timely completion of the Site Work as provided in Section 2.3(a). (The New Arena, the Site and all related work is referred to in this Agreement as the "**Project**".)

(b) New Arena Specifications.

The New Arena shall be designed and constructed as a first class multi-purpose facility that (i) meets Hockey Rules and Regulations, (ii) complies with applicable Legal Requirements, and (iii) is substantially similar in quality to the design, construction and capabilities of the Recent Arena Facilities. It shall be designed, constructed and equipped with high quality materials throughout, including, but not limited to fixtures, flooring, wall coverings, ceilings, lighting, all necessary mechanical, plumbing, air-handling and conditioning, electrical and other systems and finishes, in each case substantially similar to the quality of materials in the Recent Arena Facilities or as otherwise agreed to by the Owner and the Developer.

(c) Green Building Principles.

Developer shall manage the design, development and construction of the New Arena utilizing the U. S. Green Building Council's Leadership on Energy and Environmental Design (LEED) Green Building Rating System as set forth in this Section 2.1(c). The Developer will commission the Architect, in consultation with the Developer and the Owner, to examine each LEED credit utilizing the appropriate Green Building Rating System Project Checklist as a template for establishing green building goals, identifying potential LEED points, examining strategies for implementation, and determining the LEED points to be targeted, with a goal of achieving a LEED rating, if any, which can be achieved using good faith efforts and taking into account commercially reasonable costs to be incurred under the Final Project Budget. The Architect will prepare, for approval by the Owner and by such Person as has been commissioned to evaluate LEED matters, a LEED Certification Plan, and during construction will perform LEED Certification services, pursuant to such standards as are set forth in AIA Document B214 - 2004, and related documentation. In addition, during the development and construction of the New Arena, the Developer will prepare, submit to the Owner for review and approval, and implement a plan to recycle materials not incorporated into or utilized in the New Arena or otherwise consumed during construction and development.

(d) Ownership of Project.

The Owner shall own the New Arena, together with all fixtures, equipment, furniture and related improvements being constructed on the Site. Such construction is to be performed utilizing funds allocated under the Final Project Budget, as the same may be revised from time to time in accordance with the terms of this Agreement. Notwithstanding the legal ownership of the New Arena and the leasehold interest therein created by the Lease, and subject to the terms of the Lease (including without limitation Section 6.2), it is acknowledged that (a) Developer or its Affiliates may pay for and construct or provide (or cause to be constructed or provided) certain installations, additions, partitions, hardware, light fixtures, non-trade fixtures and improvements to be placed in or upon the New Arena, whether temporary or permanent (which may include funding of Cost Overruns as provided in this Agreement); (b) Developer or its Affiliates shall retain the sole beneficial and depreciable interest for tax purposes (to the extent of their respective investment and any funds arranged by them) in such items; and (c) for all income tax purposes neither Owner nor any other Person shall have the right to take depreciation deductions with respect to such items, or claim any other right to tax benefits arising from such items, such rights being exclusively reserved to Developer and its Affiliates unless assigned by Developer or

any such Affiliate, in whole or in part, to one or more third parties ("**Developer's Beneficial Rights**"). For purposes of identifying the items subject to the Developer's Beneficial Rights, following Substantial Completion, Developer shall cause a nationally recognized accounting, appraisal or valuation firm to prepare a schedule allocating the investment of Developer and its Affiliates among such items forming part of the New Arena as it shall elect.

2.2 AGENCY RELATIONSHIP DURING CONSTRUCTION PERIOD.

(a) Appointment of Developer.

Subject to such terms as are set forth herein, the Owner hereby appoints the Developer as its sole and exclusive agent with respect to the development, planning, design and construction of the New Arena and the Developer hereby accepts such appointment. The Owner hereby delegates to the Developer the day-to-day duties that a prudent and conscientious owner of a facility such as the New Arena would exercise in enforcing the Owner's rights to contract and to interface with the Architect, CM and such other parties as are necessary or appropriate for the completion of the New Arena Work. The Developer hereby agrees to assume those delegated duties and to be responsible to the Owner for the proper performance of the duties so delegated. The Developer shall, when acting as agent for the Owner, disclose its agency capacity hereunder. Such appointment and delegation by the Owner shall not limit or impair the Owner's right to enforce remedies under any agreement to which it is a party or of which it is a beneficiary, nor shall it relieve any person from any obligation to the Owner.

(b) Responsibilities of Developer.

In its capacity as agent of the Owner, and subject to the approval and coordination rights of the Owner and the Commonwealth set forth in this Agreement, the Developer, as agent for the Owner, shall be responsible for all aspects of managing the design, development and construction of the New Arena, and acknowledges its obligation and responsibility to the Owner for the proper performance of those obligations. In such capacity:

(i) The Developer has selected the Architect to prepare Design Documents and the Construction Documents relating to the New Arena, and to perform construction administration and other administrative services in accordance with the Architect Agreement. This selection is hereby approved by the Owner. The Architect Agreement will provide and acknowledge that the Owner and the Developer shall have a nonexclusive license to use all materials created by Architect for the Project including, but not limited to, all drawings, specifications, and other project documents solely in connection with the design, construction and maintenance of the Project. Other than the Owner's obligation to make payments of Project Funds in accordance with the Final Project Budget and except as otherwise set forth herein, the Owner will have no responsibilities, liabilities or obligations with respect to the Architect Agreement.

(ii) The Developer, as agent for the Owner is hereby further authorized to identify, select and contract directly with the Construction Manager who will provide preconstruction and construction management services for the New Arena. Other than the Owner's obligation to make payments of Project Funds in accordance with the Final Project

Budget and except as otherwise set forth herein, the Owner will have no responsibilities, liabilities or obligations with respect to the CM Agreement. The CM Agreement will provide and acknowledge that the Owner and the Developer shall have a nonexclusive license to use all materials created by the CM and its consultants for the Project, including, but not limited to, all drawings, specifications, and other Project documents, solely in connection with the design, construction and maintenance of the Project.

(iii) The Owner shall have the right to approve the terms and conditions of the Architect Agreement and the CM Agreement, which approval shall not be unreasonably withheld, delayed or conditioned. The Developer shall be responsible for the administration of the Architect Agreement and the CM Agreement, as agent for the Owner, subject to the rights of the Owner, as provided herein and in the Related Agreements. Other than the Owner's obligation to make payments of Project Funds in accordance with the Final Project Budget and except as otherwise set forth herein, the Owner will have no responsibilities, liabilities or obligations with respect to the Architect Agreement and the CM Agreement.

(iv) Subject to such cost limitations as will be set forth on the Final Project Budget, and Legal Requirements, the Developer, as agent of Owner, is further authorized to select and retain such other consultants and professionals as necessary or appropriate to perform the New Arena Work, some of which will be designated by Developer as members of the Construction Team, so as to facilitate the timely design and construction of the Project.

(v) The Construction Team shall be responsible for the bidding, negotiation and award of the Contracts for the New Arena Work in accordance with the Budget Act Requirements, other applicable Legal Requirements and the provisions of this subsection (b)(v). The Construction Team will prepare component packages in form and content suitable for bidding and negotiation, which packages will be made available to the Construction Coordinators for review to confirm compliance with the Required Contracting Procedures prior to distribution. The Construction Team will provide the Owner and the Commonwealth with copies of all written cost estimates prepared or obtained by the Construction Team in connection with the bidding, negotiation and award of Contracts for the New Arena Work. The Construction Team will administer the selection processes, with the participation of the Construction Coordinators where required, for the selection of trade contractors and for suppliers. The Construction Team will further negotiate and prepare trade and supply contracts, which contracts will be made available to the Construction Coordinators for review to confirm compliance with the Required Contracting Procedures prior to execution. All such contracts will be awarded by the Owner in compliance with Legal Requirements and assigned to the CM, which assignment will provide for the release of any claim against, or obligation of, the Owner and the Commonwealth, other than the obligation to make payments with respect to the Final Project Budget. The Construction Team will prepare any necessary public advertisements, the cost of which shall be paid as part of the Final Project Budget, and will cause such public advertisements, to the extent required, to be made by the CM. The Construction Team will further develop and administer, a "bid challenge" process, which process will be made available to the Construction Coordinators for review to confirm compliance with the Required Contracting Procedures prior to implementation. Subject to the last sentence of this subsection (b)(v), the costs related to a "bid challenge" process shall be paid as part of the Final Project Budget, except that such costs will not be so paid if any "bid challenge" results in a final

determination by any authority having jurisdiction that the bidding, negotiation or award of any Contract occurred in violation of any Budget Act Requirements or other applicable Legal Requirements. If the Owner refuses to award any contract to a duly qualified Contractor recommended by the Construction Team in accordance with such procedures (unless Legal Requirements require otherwise), the Owner shall reimburse the Developer for any additional costs incurred by the Developer or the Project as a result thereof, which reimbursement shall be made from funds other than Project Funds. Notwithstanding the foregoing, the approval by the Owner and the Commonwealth of the Required Contracting Procedures shall not relieve the Developer of its obligation to comply, in accordance with the terms of this Agreement, with all applicable Legal Requirements in connection with the implementation of such procedures.

(vi) The Construction Team will supervise and coordinate construction of the Project on a day-to-day basis.

(vii) The Developer will oversee and coordinate submission of invoices in form suitable to the Owner for payment from the Architect, CM, Program Manager, trade contractors, and any subcontractors, suppliers and materialmen, pursuant to the procedures set forth on *Exhibit 12* attached hereto.

(viii) If the Developer determines that certain portions of the New Arena Work should be self-performed by the Construction Manager, the Construction Manager shall be permitted to self-perform such work, either directly or through an Affiliate, only after the Developer recommends to the Owner that the applicable trade contracts be awarded to the Construction Manager, as necessary or appropriate, which recommendation shall be done in full compliance with Legal Requirements and Required Contracting Procedures.

(ix) The Owner shall be an intended beneficiary of any agreement entered into by the Developer in its role as agent hereunder and each such agreement shall so provide. Further, no agreement entered into by the Developer as agent for the Owner shall provide for arbitration of claims thereunder without the approval of the Owner. No agreement (including this Agreement) shall allow, or result in, a lien against the Owner or the Project.

(x) The Developer shall not have the right, without the Owner's consent, to incur debt or other obligations for which the Developer will not be solely liable, or to delegate its rights or obligations hereunder, in its capacity as agent for the Owner, to any third party without the prior written consent of Owner.

(c) Construction Coordinators.

The Owner has appointed the Project Coordinator and the Project Review Coordinator. They (and their respective successors as may be designated by the Owner) are authorized to act on behalf of the Owner with respect to the development and construction of the Project, and both the Project Coordinator and the Project Review Coordinator are sometimes collectively referred to in this Agreement as the "**Construction Coordinators.**"

(d) Approval Rights re: Contract Documents and Design Documents.

(i) Subject and to the extent as set forth in this Section 2.2, the Owner and Commonwealth shall have the right to approve all Contract Documents. The Developer shall cooperate with the Owner and Commonwealth to provide the Owner and Commonwealth with any information reasonably required by the Owner and Commonwealth in connection with their review of the Contract Documents. In furtherance thereof, the Developer shall provide to the Owner and Commonwealth, together with any Contract Documents submitted for the Owner's and Commonwealth's approval, a list or another manner of identification of the changes made from the previously approved Contract Documents and, if requested by the Owner or Commonwealth, shall cause the Developer's Representative or the Program Manager to meet with the Construction Coordinators and the Commonwealth Coordinators to review such Contract Documents within the time periods provided for such approval. Those Contract Documents consisting of Construction Drawings shall be submitted to the Construction Coordinators and the Commonwealth Coordinators as completed and at the same time that they are delivered to the Developer, and may be submitted in various stages of completion as is agreed between the respective representatives of the parties. Notwithstanding the manner or timing of submission, each portion of all Contract Documents must be approved in writing by the Construction Coordinators and the Commonwealth Coordinators, which approval shall not be unreasonably withheld, conditioned or delayed. No portion of the Contract Documents consisting of Construction Drawings will be submitted for bidding and negotiation prior to being so approved by the Construction Coordinators and the Commonwealth Coordinators. The Construction Coordinators and Commonwealth Coordinators will diligently review the Contract Documents as submitted and, provided that complete and accurate copies of all pertinent documents have been provided to the Owner and Commonwealth, the Owner and Commonwealth will approve or disapprove each respective submission (x) with respect to those Contract Documents consisting of Construction Drawings, within the time provided for in subsection (d)(iii) below and (y) with respect to all other Contract Documents, within the time provided to the Developer in the Contract Documents for review of each such submission, or within such other time period as may be agreed between Owner and Developer. If the Construction Coordinators and Commonwealth Coordinators do not either approve the Contract Documents submitted or disapprove the Contract Documents submitted within such period, the Contract Documents as submitted shall be deemed to have been approved. If the parties are unable to resolve any disagreements under this subsection (d)(i), then either party may file for mediation pursuant to Section 10.21. Except as otherwise set forth herein, the Owner and Commonwealth will have no responsibilities, liabilities or obligations with respect to any Contract Documents.

(ii) Subject and to the extent set forth in this Section 2.2, the Owner and Commonwealth shall also have the right to approve all Design Documents. The Developer shall cooperate with the Owner and Commonwealth to provide the Owner and Commonwealth with any information reasonably required by the Owner and Commonwealth in connection with its review of the Design Documents. In furtherance thereof, the Developer shall cause the Program Manager and the Architect to meet with the Construction Coordinators and the Commonwealth Coordinators to review such Design Documents. Both Schematic Design and Design Development Documents shall be submitted to the Construction Coordinators and the Commonwealth Coordinators at both 50% and 100% completion for approval, which approval may, if applicable, be conditioned on the development of a cost estimate associated with such Design Documents that is reasonably consistent with the then-current Project Budget. If, within

such time as is set forth below, the Construction Coordinators or the Commonwealth Coordinators do not properly object to any element of the Design Documents, then the Construction Coordinators and the Commonwealth Coordinators shall be deemed to have approved the applicable Design Documents. Similarly, if the Construction Coordinators or the Commonwealth Coordinators object only to certain specified elements in the applicable Design Documents, the elements to which they do not object shall be deemed to have been approved. The Construction Coordinators and the Commonwealth Coordinators shall provide to the Developer, within a period of ten (10) days after receipt of the Schematic Design Documents and within a period of twenty (20) days after receipt of Design Development Documents, either approval or detailed comments setting forth the reasons that the Construction Coordinators or the Commonwealth Coordinators have determined that the applicable Design Documents should not be approved. The failure of the Construction Coordinators or the Commonwealth Coordinators to respond within such periods shall result in a deemed approval. If the Developer disagrees with any of the Construction Coordinators' or the Commonwealth Coordinators' comments, then the Developer shall meet with the Construction Coordinators and the Commonwealth Coordinators to resolve any items in dispute to their reasonable satisfaction and each shall use good faith efforts to resolve any disagreements in an expeditious manner so as not to delay production of the Design Documents. The Developer shall cause the Architect to either revise the applicable Design Documents or, with the approval of the Construction Coordinators and the Commonwealth Coordinators, incorporate appropriate revisions into the next draft of the pertinent Design Documents to address the comments raised. Design Documents shall be submitted to the Construction Coordinators and the Commonwealth Coordinators for their review and approval as provided above. If the parties are unable to resolve any disagreements under this subsection (d)(ii), then either party may file for mediation pursuant to Section 10.21.

(iii) Upon approval of the Design Documents, the Developer shall cause the Architect to prepare Construction Drawings based on the approved Design Documents. The Construction Coordinators and the Commonwealth Coordinators shall receive, review and approve the Construction Drawings as the same are prepared, simultaneously with submission thereof to Developer. The Construction Coordinators and the Commonwealth Coordinators shall have ten (10) days from the receipt of the Construction Drawings, and any supplements or revisions, to review and approve the same. The failure of the Construction Coordinators and the Commonwealth Coordinators to respond within such ten (10)-day period shall result in a deemed approval. When the Construction Drawings are sufficiently complete so as to be provided to the CM for preparation of the GMP in accordance with the CM Agreement, those will be submitted to the Construction Coordinator and Commonwealth Coordinators simultaneously with submission to the Developer and the CM. The Construction Coordinators and the Commonwealth Coordinators shall review the Construction Drawings for the purposes of confirming that they comply with the applicable Design Documents. The Developer shall cause the Architect or other design professional to coordinate with the CM to organize the Construction Drawings in such a manner as to prepare documents for bidding and negotiation.

(iv) The Developer shall cooperate with the Owner and the Commonwealth to provide the Owner and the Commonwealth with any information reasonably required by the Owner and Commonwealth in connection with its determination as to whether to grant approvals. In furtherance thereof, in each case where the Owner's or the Commonwealth's approval is required under this Agreement, the Developer shall provide written notice to the

Owner and Commonwealth of the time within which such approval is required and, if requested by the Owner or Commonwealth, the Developer shall cause the Developer's Representative to meet with the Construction Coordinators and the Commonwealth Coordinators to review any such matters requiring the Owner's or Commonwealth's approval within the time period required of the Owner for such approval. In any circumstance where the Owner's or Commonwealth's approval is required or authorized hereunder, provided that all documents and materials reasonably necessary to determine whether such approval should be given have been delivered on a timely basis, the Owner or Commonwealth fails to grant or deny such approval within such period as may be required by any Construction Document, or if no such period is specified, within twenty (20) days, the Owner and Commonwealth shall be deemed to have granted its approval, or in the event of an emergency, not more than ten (10) days. Whenever the Owner's, the Commonwealth's, the Commonwealth Coordinators' or the Construction Coordinators' approval is required hereunder, such approval shall not be unreasonably withheld, conditioned or delayed; provided that any such approval by the Owner, the Commonwealth, the Commonwealth Coordinators or the Construction Coordinators shall, as a general matter, be given if, (A) the applicable Construction Documents or Design Documents are consistent, in all material respects, with the previously approved Construction Documents or Design Documents, as the case may be, and (B) to the extent that such approval is required for any new details set forth in any applicable Construction Documents or Design Documents, that such new details are not inconsistent with any Legal Requirements, or the Required Contracting Procedures, or are substantially similar to the design, construction and capabilities of the Recent Arena Facilities. Without limitation of the foregoing, the Owner hereby acknowledges that any approval hereunder by the Owner, the Construction Coordinators or the Commonwealth Coordinators shall not be unreasonably denied or delayed, if the requested approval is necessary: (1) to cause the New Arena to comply with Hockey Rules and Regulations or Legal Requirements; (2) for any applicable Construction Documents or Design Documents to describe a New Arena substantially consistent with the quality of the design, construction and capabilities of the Recent Arena Facilities in accordance with Section 2.1(b); (3) so as to not result in a material increase in the Project Budget; or (4) so as to not materially impede or otherwise adversely affect the proper construction of the New Arena in accordance with the Master Project Schedule in such a manner that Substantial Completion would be delayed beyond September 30, 2010. If any of the Owner, the Commonwealth, the Commonwealth Coordinators or the Construction Coordinators, as applicable, denies approval of any matter requiring its approval under this Agreement, the Owner and Commonwealth shall state with specificity, in writing, its reason for such denial. If the Owner or Commonwealth shall fail to give a timely approval or disapproval with respect to any matter for which its approval is required hereunder, the Developer shall have the right to proceed without such approval. In such case, the Developer shall provide written notice to the Owner and Commonwealth that it is proceeding without such approval, and the manner and direction in which the Developer is proceeding.

(e) Trade Contracts.

The Owner and the Developer hereby agree that all trade contracts shall be awarded by the Owner, and shall, immediately upon their award, be assigned to the Construction Manager, all in accordance with applicable Legal Requirements, and the Required Contracting Procedures, so as to maximize the availability to the Project of sales tax exemptions. The CM Agreement shall provide that the Construction Manager shall cause to be performed by the applicable trade

contractor, in full all obligations under such trade contracts. The Owner will have no liabilities, responsibilities or obligations of any kind with respect to any trade or supply contracts other than the obligation to make payments with respect to the Final Project Budget, and all trade and supply, bid and contract documents will so provide, except as otherwise agreed by the parties.

(f) Bonding.

The CM Agreement shall provide that the CM furnish payment and performance bonds to the Owner in an amount equal to either (i) an amount not less than the difference between the GMP, as established under Section 2.4(d), and the aggregate sum of all trade contracts awarded under subsection (e) above, which contracts will be bonded by the respective trade contractor, or (ii) an amount agreed to by the Owner and the Developer prior to the establishment of the GMP, together with any other bonds required pursuant to applicable Legal Requirements.

(g) Payment Procedures.

(i) Attached hereto as *Exhibit 12* is a description of the payment procedures that will be implemented in connection with payments to be made by Owner of Project Funds to the Developer, Architect, Program Manager, Project Review Coordinator, Construction Manager and all trade contractors.

(ii) After the execution of this Agreement, the Owner shall not be obligated to make any disbursement of Project Funds for development of the Project until the Developer shall have fulfilled, to the Owner's reasonable satisfaction, such provisions of this Agreement as are reasonably capable of being satisfied at the time of the request for disbursement of the Project Funds, including, without limitation, the following:

(A) The Contract Documents shall have been approved to the extent required under the provisions hereof;

(B) Prior to the Construction Team performing any construction or other work on or about the Site for which a lien could be filed against the Site, the Developer shall enter into a written contract (a "**Contract**") with each contractor who is to perform such work, or materialmen providing materials (excluding the CM, each a "**Contractor**"), requiring that each such Contractor deliver to the Developer and the Owner, as a condition to the Contractor's receipt of any payment under the Contract, and to the extent permitted by applicable Legal Requirements, current unconditional lien waivers from such Contractor and all subcontractors, sub-subcontractors and materialmen (as appropriate) for any prior payment, and current conditional lien waivers from the Contractor and all subcontractors, sub-subcontractors and materialmen for the payments to be paid in connection with such current payment to the Contractor. A summary of procedures applicable to the delivery and filing of lien waivers is attached to this Agreement as *Exhibit 15*. In addition, each such Contractor shall, at the request of either the Developer or the Owner, verify in an affidavit in a form reasonably approved by the Owner that all labor and materials furnished by the Contractor, including all applicable taxes, have been paid by it up to the date of such requested affidavit. Notwithstanding the foregoing, if a mechanics' or other lien is filed against the Site purporting to be for labor or material furnished or to be furnished on behalf of the Developer, or for any other reason relating

to the acts or omissions of the Developer, then the Developer shall at its expense, cause such lien to be discharged of record by payment, bond or otherwise within twenty (20) days after the filing thereof. If the Developer shall fail to cause such lien to be discharged of record within the twenty (20) day period, the Owner may cause such lien to be discharged by payment, bond or otherwise without investigation as to the validity thereof or as to any offsets or defenses thereto, and the Developer shall, upon demand, reimburse the Owner for all amounts paid and costs incurred in connection therewith including, without limitation, attorney's fees and disbursements;

(C) All Permits required to begin construction shall be in full force and effect and no notices of violation or revocation with respect thereto shall have been received;

(D) No Event of Default shall have occurred and be continuing under this Agreement beyond any applicable notice or cure period;

(E) The Developer shall provide the Owner with a title bring down evidencing that no mechanic's liens or other encumbrances shall have been filed of record since the date of the last title bring down.

(iii) The Owner shall not be required to release the final disbursement of Project Funds, including Retainage, unless fulfillment of the following conditions occurs:

(A) All conditions of Section 7.2 shall continue to be met as of the date of the release of the final disbursement of Project Funds;

(B) The Owner shall have received a certificate of the Architect, which certificate shall have been accepted in writing by the Developer and the Construction Manager, to the effect, *inter alia*, that the Project has been fully completed in accordance with the Contract Documents and all Legal Requirements, and all matters in such certificate shall have been in a form and substance reasonably acceptable to the Construction Coordinators;

(C) A permanent certificate of occupancy for the New Arena and all other Permits required for the use and occupancy of all aspects of the Project shall have been duly issued and the Owner shall have received copies thereof;

(D) The Owner shall have received an as-built survey, showing the location of all improvements, easements, rights-of-way and other matters affecting the Site, performed in accordance with ALTA standards;

(E) A release of Liens in form reasonably acceptable to the Owner, signed by the CM and all Contractors, subcontractors, suppliers and other Persons providing New Arena Work; and

(F) Submission of such additional documentation as the Owner may reasonably request.

(h) Owner as Beneficiary.

It is specifically understood and agreed that the Developer shall enter into the CM Agreement and the Architect Agreement as agent for the Owner and that, accordingly, the Owner shall be an intended beneficiary of the Architect Agreement and the CM Agreement. The duties and obligations of the Architect and the CM pursuant to those agreements are to be stated therein, and expressly understood and agreed by the Developer, Architect and CM, to also be due and owing to the Owner. Such duties and obligations, as well as any duties or obligations imposed by law upon Architect and upon CM may only be enforced by the Owner at law or in equity after the Developer fails to enforce such duties or obligations and such failure continues for a period of fourteen (14) days after written notice thereof by the Owner. Upon the occurrence of a default by the Developer under the Architect Agreement or the CM Agreement which remains uncured and which permits the other party to such contract to exercise remedies thereunder following the provision of any applicable notice and the passage of any applicable cure period thereunder, at the election of the Owner, upon seven (7) days prior written notice to the Developer, the Developer shall assign either or both of the Architect Agreement and the CM Agreement to the Owner whereupon the Owner shall be the primary contracting party and the Developer shall be a third party beneficiary with respect to each such agreement so assigned. The Developer shall promptly notify the Owner in writing of the occurrence of any such default. Architect and other design professionals shall be required to carry commercially reasonable and appropriate levels of insurance coverage (including professional liability coverage) subject to the reasonable approval of the Owner in performance of its contract, and such insurance policy shall name the Owner as additional insured and shall not be cancelable without twenty (20) days' prior written notice to the Owner. Insurance required to be carried by the Architect with respect to the Project is set forth in the Architect Agreement, and evidence of such insurance has been furnished separately to the Owner. The Architect's insurance will also be identified on *Exhibit 14*. To the extent that any information required under this subsection (h) is not initially available, it will be subsequently inserted into this Agreement by addendum.

(i) Warranties.

Promptly after the Completion Date, to the fullest extent assignable, the Owner shall assign and transfer to the Developer all contractor, subcontractor, supplier and manufacturer warranties and guaranties with respect to the Project that are required to be provided in accordance with the Contract Documents, subject to the reservation by the Owner of the right to enforce such warranties or guaranties during the term of this Agreement and during the Lease Term. The Developer shall not knowingly take any action negating the Architects', Construction Manager's, or any subcontractors', suppliers' or manufacturers' warranties or guaranties, except for emergencies and matters of public safety.

(j) Erection of Signage.

The Developer will erect, or cause to be erected, customary signs in the area of construction of the New Arena acknowledging the financial assistance of the Commonwealth with respect to construction, which signs will specifically include the following:

"Financial assistance provided by the Commonwealth of Pennsylvania, Honorable Edward G. Rendell (or any successor), Governor."

2.3 SITE.

(a) Acquisition and Delivery of Site. Subject to the provisions of Section 2.3(a)(v) below, the Owner shall perform and deliver the following in order to establish the nature and condition of the Site and to provide evidence that the Site is clean and sound, all of which shall be delivered to the Developer upon or prior to delivery of the Site (or as soon thereafter as is reasonably practicable) for the commencement of construction. Without limitation of the other obligations of the Owner under this Agreement, the Owner will, at its cost (which will not be part of the Final Project Budget) perform the following:

(i) The Owner shall (A) (1) acquire all of the separate properties comprising the Site as set forth on the Site Plan attached hereto as *Exhibit 9* (including, without limitation, the Central Medical Site), (2) demolish all structures and buildings and remove all of the resulting debris and any existing asphalt, utility poles, utility lines (in accordance with Section 2.3(f) below), concrete, foundations (in accordance with Section 2.3(d) below) and other man-made structures or other obstructions on and under the Site, in accordance with all Legal Requirements, (3) deliver the Site free from all Regulated Substances, or have undertaken all required Response Action to permit the proposed use of the Site, as more particularly described in Section 2.3(b) below, and (4) grade and rough compact the Site at existing elevations (other than the Central Medical Site, which shall be graded and rough compacted to such elevations as shall be set forth in the demolition documents, as have been provided to the Program Manager and listed on *Exhibit 10* attached hereto, and (5) provide for the removal of deep foundations and caissons in accordance with Section 2.3(d) below (collectively, the "**Site Work**") and (B) obtain all applicable Site Permits that are identified on *Exhibit 6*. Developer will use good faith to utilize the existing retaining wall between Centre Avenue and Colwell Street adjacent to the Central Medical Site. If Developer is unable to use that retaining wall as it now exists, Owner will repair or demolish the wall, as necessary. The Owner will have no obligation to remove any natural obstructions from the Site, including but not limited to rocks, tree trunks and root systems. The Site (including, without limitation, specific portions of the Site), will be delivered to the Developer, subject to the Permitted Encumbrances, in accordance with the Site Work Delivery Schedule (the Developer hereby acknowledging that certain portions of the Site Work may be performed by the Owner after the Construction Start Date in order to achieve budget and time economies, or as may be necessary to correct Site Work Deficiencies, so long as such Site Work in any instance does not materially interfere with any portion of the New Arena Work).

(ii) Prior to the completion of the Site Work, the Developer shall have the right to inspect the Site and the progress of the Site Work at all times. In addition to any specific Owner Site Obligations, the Owner shall consult regularly with the Developer in order to keep the Developer reasonably informed throughout the duration of the Site Work. The Developer shall have the right, through its Representative or the Program Manager, to monitor and investigate compliance by the Owner with the Owner Site Obligations, and compliance with Legal Requirements.

(iii) The Owner shall provide the Developer with written confirmation that the Site Work, or any portion thereof in accordance with the Site Work Delivery Schedule, has been completed within ten (10) days after Owner determines that such completion has occurred. In the event that the Developer determines that the Site, or any portion thereof in

accordance with the Site Work Delivery Schedule, shall not have been delivered by the Owner in the condition required by this Section 2.3(a), the Developer shall notify the Owner of any Site Work Deficiencies as provided in Section (c) below.

(iv) The Owner will also prepare or cause to be prepared:

(A) A boundary survey and other such legal description of the Site identifying new and existing confines of the Site, including all easements. Such survey shall incorporate proposed road relocation and any proposed property and street vacation;

(B) A final report concerning the site-use assessment of historical and archaeological artifacts including any necessary surveys and investigations, together with clearance by the appropriate public agencies approving findings and recommendations identified in the final report;

(C) Abatement and preliminary demolition work at the Site, including without limitation the Central Medical Site (subject to negotiation of terms which will authorize the Owner to access that property prior to purchase by Owner); and

(D) Furnish evidence to the Developer that the Site Permits referred to on *Exhibit 6* that are to be obtained by Owner have been issued.

(v) Notwithstanding anything to the contrary set forth in this Section 2.3(a), the parties hereby acknowledge that certain portions of the Site Work or any Response Action required pursuant to Section 2.3(b)(ii) below may be facilitated by the Developer performing such Site Work or Response Action in conjunction with the performance of the New Arena Work in order to achieve appropriate budget and time economies. Accordingly, the Developer shall have the right from time to time, prior to the performance by the Owner of any portion of the Site Work as provided above or any Response Action as provided below, to notify the Construction Coordinators in writing that the Developer desires to perform such Site Work or Response Action, together with a written explanation of the reasons for the Developer's intention to perform such portion of the Site Work or Response Action (a "**Developer Site Work Request**"). Within twenty (20) days after the provision of the applicable Developer Site Work Request, the Construction Coordinators shall provide the Developer with either approval or detailed comments setting forth the reasons that the Construction Coordinators have determined that the applicable Developer Site Work Request should not be approved. The failure of the Construction Coordinators to respond with such period shall result in a deemed approval. If the Developer disagrees with any of the Construction Coordinators' comments, then the Developer shall meet with the Construction Coordinators to resolve any items in dispute to their reasonable satisfaction and each shall use good faith efforts to resolve any disagreements in an expeditious manner so as not to delay performance of the applicable Site Work or the New Arena Work. The Owner's approval of a Developer Site Work Request hereunder shall not be unreasonably withheld, conditioned or delayed, and the Owner hereby acknowledges that any approval hereunder shall, as a general matter, be granted if the requested approval is necessary under the standards set forth in Section 2.2(d)(iv) above. If the parties are unable to resolve any disagreements under this subsection (a)(v), then either party may file for mediation pursuant to Section 10.21. If the Developer performs any portion of the Site Work or any Response Action

as provided in this Section 2.3(a)(v), the cost of such Site Work or Response Action will not be part of the Final Project Budget and the Developer shall be reimbursed by the Owner for the costs of performing any such Site Work or Response Action in accordance with the payment procedures set forth in *Exhibit 12* attached hereto.

(b) Environmental Matters.

(i) As of the date hereof, the Owner has conducted or is otherwise in possession of a number of environmental assessments of the Site, which are identified on *Exhibit 2* (the "**Existing Reports**"). Copies of the Existing Reports have been furnished to the Program Manager to enable the Developer to rely on the Existing Reports. If, pursuant to applicable Environmental Laws, any Contamination described in the Existing Reports requires the performance of a Response Action, the Owner shall, at its sole cost and expense, cause such Response Action to be performed as expeditiously as is reasonably possible.

(ii) The Owner shall, with respect to any of the properties comprising the Site to which the Owner does not hold fee simple title as of the date of this Agreement, after or contemporaneously with the acquisition of such fee simple title, promptly engage an environmental consulting firm (the "**Environmental Consultant**") to perform an environmental assessment of such properties (the "**Environmental Assessment**") to determine whether any Contamination is present at the Site in addition to the Contamination described in the Existing Reports. The results of any Environmental Assessment shall be addressed by the Environmental Consultant to the Developer and the Owner to enable each to rely on such Environmental Assessment. In the event that any Environmental Assessment includes any recommendations for further environmental evaluation to determine the extent and nature of any Contamination (a "**Phase II**") as to any specific property, the Owner, in consultation with the Developer, shall cause such Phase II to be performed if such Phase II is either required pursuant to applicable Environmental Laws or is otherwise determined to be reasonably necessary by the Owner and the Developer. The cost of any Environmental Assessment and the Phase II (including the cost to prepare any report of the results thereof, if any) shall be paid by the Owner and shall not be treated as part of the Final Project Budget. In the event the results of the Environmental Assessment or the Phase II indicate the presence of Contamination or if any Contamination is discovered during the course of construction which, pursuant to applicable Environmental Laws, requires the performance of a Response Action, then, subject to the provisions of Section 2.3(a)(v) above, the Owner shall, at its sole cost and expense, which shall not be paid with Project Funds, cause such Response Action to be performed as expeditiously as is reasonably possible.

(c) Site Work Deficiencies.

(i) The Developer shall have the right, from time to time during the term of this Agreement, to notify the Owner of any material adverse failure or deficiency by the Owner in the performance of the Owner Site Obligations which could not have reasonably been discovered prior to acceptance of the Site by Developer (a "**Site Work Deficiency**"); provided, however, that such notice shall be provided not later than ten (10) days after either (a) the date that the Developer first observes the conditions or (b) the date that such conditions are reported to the Developer by the Construction Manager or the Architect. Following such notice, the

Owner shall promptly remedy the applicable Site Work Deficiency at the Owner's sole expense, which expense shall not be paid from Project Funds, to the reasonable satisfaction of the Developer. If the Owner is obligated to remedy a Site Work Deficiency following the commencement of construction of the New Arena by the Developer, and the Owner elects to perform such work, the Owner shall use reasonable efforts not to interfere with the performance of the Developer's work and the Program Manager and the Construction Coordinators shall coordinate any performance of remedial work by the Owner so as to avoid any such interference. If the Developer decides that it, instead of the Owner, should remediate a Site Work Deficiency, the Developer shall (A) notify the Owner in writing before such conditions are disturbed, but in no event later than ten (10) days after either (1) the date the Developer first observes the conditions or (2) the date that such conditions are reported to the Developer by the Construction Manager, and (B) continue not to disturb the conditions and make the applicable portion of the Site available to the Owner for investigation for not fewer than three (3) working days after such notice. The Owner shall cause the Construction Coordinators promptly, but in any event within such three (3) working day period, to investigate such conditions, and if the Construction Coordinators determine that such conditions constitute a Site Work Deficiency, the Owner shall authorize additional payment(s) to be made to the Developer to cover any increased costs incurred, which payment(s) shall be in addition to the amounts committed in the Final Project Budget. If the Construction Coordinators and the CM reasonably determine that the conditions do not constitute a Site Work Deficiency, the Developer shall be responsible for the cost of mitigating such conditions.

(ii) Disputes as to the existence of a Site Work Deficiency, and responsibility to correct such deficiency, if not otherwise resolved by the parties, will be resolved subject to the dispute resolution procedures set forth in Section 10.21.

(d) Geotechnical Matters.

(i) In connection with its Site Work, the Owner will remove footings, grade beams, pile caps and other shallow foundations of the structures that are to be demolished. After the Owner has performed the foregoing removal and demolition, the Owner shall provide the Developer with a survey of the Central Medical Site indicating the location of deep foundations and other features of the Central Medical Site that are customarily indicated on a complete and accurate survey of deep site foundations and structures. All deep foundation structures such as caissons or piles will remain, and will not be removed unless clearly necessary, and the Developer will use good faith efforts to design around any such caissons or other deep foundation structures. Notwithstanding the foregoing, if such removal is clearly necessary as provided above, then the Developer shall notify the Owner that such man-made physical conditions are to be removed as set forth in clause (iii) below.

(ii) All matters relating to evaluation of the soil conditions to identify the presence of natural obstructions at the Site, together with issues of floodplain compliance required and other geotechnical attributes of the Site, and whether such attributes are adequate to support the construction of the New Arena, are the responsibility of the Developer and will be paid from the Project Funds.

(iii) If conditions are encountered at the Site that are man-made (as opposed to naturally existing) subsurface structures, specifically including deep foundations or caissons which must be removed pursuant to clause (i) above, or otherwise man-made physical conditions or materials that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Construction Drawings, then, as a condition to the Owner authorizing any additional payments to be made to the Developer to cover any increased costs incurred, which payment(s) shall be in addition to the amounts committed in the Final Project Budget, the Developer shall (A) notify the Owner immediately, and before such conditions are disturbed, but in no event later than ten (10) days after either (1) the date the Developer first observes the conditions or (2) the date that such conditions are reported to the Developer by the Construction Manager, and (B) continue not to disturb the conditions and make the applicable portion of the Site available to the Owner for investigation for not fewer than three (3) working days after such notice. The Owner shall cause the Construction Coordinators promptly, but in any event within such three (3) working day period, to investigate such conditions, and if the Construction Coordinators determine that such conditions satisfy the criteria described in the immediately preceding sentence and cause an increase in the cost of, or time required for, performance of any part of the Project, the Owner shall authorize additional payment(s) to be made to the Developer to cover any increased costs incurred, which payment(s) shall be in addition to the amounts committed in the Final Project Budget. If the Construction Coordinators and the CM reasonably determine that the conditions do not satisfy the criteria described in the first sentence of this clause (iii), then the Developer shall be responsible for the cost of mitigating such conditions. Disputes will be resolved pursuant to the mediation procedures set forth in Section 10.21.

(e) Street Vacation and Relocation.

The Owner, at its own expense and not from Project Funds, shall use good faith efforts to work with the City to vacate or relocate any public streets at the Site, so as to permit construction of the New Arena in accordance with agreed upon plans and specifications. Developer will cooperate with Owner in connection with this work.

(f) Utilities.

The Developer will use good faith efforts to utilize existing utility connections located on Fifth Avenue, Centre Avenue and Washington Place to furnish electric conduit and conductors, gas lines and telephone and cable conduit to the New Arena. If the Developer is successful in utilizing such existing connections, the Owner shall have no obligation with respect to the provision of electric, gas, cable and telephone utilities to the New Arena, and the Developer shall arrange for the connection of all applicable utility lines to the New Arena, with funds available in the Final Project Budget. The Developer and the Owner will work together in good faith and meet with representatives of the Pittsburgh Water and Sewer Authority and (if necessary) the Allegheny County Sanitary Authority, or any applicable successor, in order to resolve any issues relating to the provision of water (fire and domestic), sanitary sewer utilities and storm water drainage facilities to the New Arena, and the Developer will use good faith efforts to obtain the provision of such utilities to the New Arena without additional expense to the Owner. Subject to the foregoing, the Owner shall be responsible, at its own expense, for (i) the removal and relocation of the public and private utilities which are presently located on the Site, and (ii) any

off-site improvements to utility lines or facilities that may be necessary to increase service capacity to the New Arena beyond currently available levels (unless such improvements are required for the primary purpose of making such utility services available to the New Arena at lower rates, in which case the cost of such improvements shall be part of the Final Project Budget).

(g) Transportation Management.

The Developer shall use its good faith efforts to work with the City and any other applicable Governmental Authority to develop a transportation management plan, including truck routing during construction, street signage during and after construction, public transportation routing changes, signage on buses, parking meters and such other matters as shall be reasonably necessary or desirable. Owner will cooperate with the Developer to implement this plan.

(h) Expedited Permitting.

The Owner shall cooperate with and assist the Developer, at no additional material cost to Developer, in expediting the review and issuance of the Permits, including but not limited to final Site Plan approval, which shall be the responsibility of the Developer. The Owner has designated the Project Coordinator to assist the Developer with such expedited permit issuance. Subject to the foregoing, the Owner shall be responsible, at its sole cost, for taking out and fulfilling the requirements of the Site Permits.

(i) Sales Tax Exemption.

The Owner shall cooperate with and assist the Developer in obtaining such sales tax exemptions as may be available in connection with the Project.

(j) Construction Impact on Surrounding Neighborhoods.

The parties agree that the CM Agreement shall require the CM to develop and implement a plan to construct the New Arena in a way which mitigates the impact of construction on surrounding neighborhoods to the Site. Upon the reasonable request of the Owner, the Developer will meet with the Owner to review the need for special efforts to minimize to the greatest extent practicable any adverse impact that construction related activities at the New Arena are having on properties in the immediate vicinity of the New Arena, and if the Owner so requests the Developer will also meet, not more frequently than quarterly, with the owners (or representatives) of nearby properties. The Owner shall cooperate with the Developer and shall use its good faith efforts to cause the City and other appropriate municipal authorities to cooperate with the Developer so as to mitigate the impact of construction on the surrounding community.

(k) Construction Staging and Storage.

The Developer shall use its good faith efforts to cause the City and other appropriate municipal authorities to work with the Developer and the CM to develop and implement

mutually acceptable plans for construction staging, procedures and practices. The Owner will cooperate with the Developer to implement these plans and practices.

(l) Performance by Developer; Enforcement by the Owner.

The Owner hereby agrees that the Developer shall have the right (but shall have no obligation) to assist the Owner in the performance of the items set forth in this Section 2.3 that are to be performed by the Owner, or to perform the items set forth in this Article 2 as the agent of the Owner to the extent necessary in the Developer's reasonable judgment to expedite the performance and completion thereof, to cause the timely delivery of the Site and the timely completion of construction of the New Arena to the Developer, or to coordinate the performance of the Site Work and the New Arena Work; provided, however, that any and all costs and expenses incurred by the Developer under this subparagraph shall be subject to prior written approval of the Owner (which shall not be unreasonably withheld, conditioned or delayed), and, after such approval has been given, shall be reimbursed to the Developer within thirty (30) days after receipt by the Owner of an invoice or invoices with respect to such costs or expenses. The Developer hereby agrees that the Owner shall have the right, but not the obligation, to enforce the contracts entered into by the Developer hereunder in its capacity as agent for the Owner if the Developer refuses or fails to take any action reasonably requested by the Owner in connection with the enforcement of any such contract for a period of thirty (30) days after written notice thereof to the Developer.

2.4 BUDGET MATTERS.

(a) Proposed Project Budget.

Attached hereto as *Exhibit 1* is an initial draft of the Proposed Project Budget which includes reasonable contingencies, including a five percent (5%) Developer contingency. The Proposed Project Budget, will be revised from time to time by the Developer, subject to the approval of the Commonwealth and the Owner as the design, development and construction process for the New Arena progresses. All savings realized in any one line item of the Proposed Project Budget may be applied to excess costs in other line items. The Developer, the Commonwealth and the Owner shall work together in good faith so that the development of the Proposed Project Budget within the Target Project Cost occurs, with the ultimate goal of achieving a Final Project Budget which can be approved in accordance with Section 2.4(d) hereof. If at any time following the establishment of the GMP and approval of a Final Project Budget, the Developer reasonably believes that the Final Project Budget might be exceeded, then, following reasonable consultation with the Owner and the Commonwealth, Developer shall be entitled to undertake such value engineering as may be necessary to cause the Final Project Budget not to be exceeded, provided that any such value engineering shall be performed so that the revised design is substantially similar to the design, construction and capabilities of the Recent Arena Facilities, or as otherwise approved by the Owner and the Commonwealth.

(b) Cost Savings.

Except as otherwise set forth in Section 2.4(d)(ii), and subject to a "shared savings plan" to be negotiated between Developer and the CM and approved by the Owner and the

Commonwealth, any savings realized against the Final Project Budget upon final disbursement of Project Funds by the Owner in accordance with Section 2.2(g)(iii) whether from value engineering, unused contingency funds or otherwise, unless otherwise agreed between Owner and Developer, shall be deposited in the Capital Reserve Fund. During construction of the New Arena, the parties, through their respective Representatives, the Program Manager, Construction Manager, Architect and Construction Coordinators, shall cooperate to add and deduct alternates in the documents submitted for bidding and negotiation so as to take advantage of interim, net cost savings and to reduce the risk of Cost Overruns.

(c) Costs Defined.

The Developer shall use its good faith efforts to ensure that the Final Project Budget takes into account the costs associated with the design, development and construction of a New Arena meeting the criteria described in, and established pursuant to, this Agreement (other than any costs and expenses which are the Owner's responsibility in performing the Owner Site Obligations), and includes, without limitation, the following (all of which are called "**Project Costs**"):

(i) Soft Costs. All of the following soft costs (the "**Soft Costs**") incurred (whether prior or subsequent to the execution of this Agreement) in connection with the design and construction of the New Arena:

(A) Eligible pre-development expenses previously incurred by the Developer, (1) in the sum of Six Million Dollars (\$6,000,000), with respect to the period prior to July 1, 2007, as such sum is set forth in the Proposed Project Budget, and (2) for the period from and after July 1, 2007, as such sums may be set forth in the Final Project Budget. These sums will not be paid to Developer until after, (w) the GMP is established, (x) the Commonwealth and the Owner review and approve itemized costs set forth in the GMP, (y) the Final Project Budget is approved, and (z) the right of the Developer to terminate this Agreement and the Related Agreements as set forth in Section 2.4(d)(iv) of this Agreement and Section 17.24(a) of the Lease is no longer in effect. After the foregoing occurrences, the Developer will be reimbursed by the Owner from Project Funds, together with the interest earned by Owner (as determined by Owner in its reasonable judgment), during the period from January 1, 2008 to the date of payment, on the sum of \$6,000,000 payable under subpart (A)(1) above.

(B) All costs and expenses for architectural and design services associated with the design and construction of the New Arena, including, without limitation, all costs associated with the preparation of the Design Documents and Construction Drawings by the Architect or other design professional, and all services provided by specialty consultants;

(C) All costs and expenses for obtaining any Permits, excluding the Site Permits and any other Permits which pursuant to the terms of this Agreement are the responsibility of the Owner;

(D) Oversight expenses incurred by the Owner, estimated to be Two Million Five Hundred Thousand Dollars (\$2,500,000), as further set forth in the Proposed Project Budget;

(E) Costs and expenses relating to New Facilities, as defined, and as approved by the parties pursuant to that certain Seventh Amendment to Civic Arena Lease dated September 18, 2007, effective as of July 1, 2007;

(F) Subject to the provisions of Section 2.4(d) hereof, oversight expenses incurred by the Commonwealth, estimated to be One Million Dollars (\$1,000,000), as further set forth in the Proposed Project Budget (the "**Commonwealth Oversight Expenses**"); and

(G) All other costs and expenses which would be categorized as soft costs in accordance with industry standards in connection with the design and construction of a major construction project such as the New Arena.

(ii) Hard Costs. All of the following hard costs (the "**Hard Costs**") incurred in connection with the design and construction of the New Arena:

(A) All costs and expenses incurred in completing the New Arena Work with respect to the New Arena, including, without limitation, all costs and expenses incurred in connection with the construction of any permanent improvements on the Site (exclusive of Site Work), the extension of any applicable utility lines or related equipment or improvements delivered to the Site and the New Arena and the interconnection of same to the New Arena, including, without limitation, any required utility vaults, switchgear, transformers, feeders, distribution equipment, telecommunication equipment, water and sewer connections and other related utility hookups such as chilled water connections, improvements or interconnection equipment, all costs and expenses paid to the Construction Manager, with respect to the New Arena and all costs and expenses incurred in connection with constructing the New Arena, including without limitation all costs and expenses included in the GMP; and

(B) All costs and expenses, consistent with industry standards, incurred by the Developer in connection with the purchase and installation of all machinery, furnishings, fixtures and equipment required for the operation of the New Arena in conformity with the criteria contained in this Agreement, including without limitation, Section 2.1.

From time to time, but not more than once per month, the Developer will submit to the Owner and Commonwealth an itemization of all Project Costs incurred by the Developer, together with evidence reasonably satisfactory to the Owner and Commonwealth supporting each item of Project Costs incurred by the Developer, including without limitation allocation of contingency funds, and together with a request for reimbursement for any Project Costs incurred by the Developer, which request shall be in the form designated under *Exhibit 12*. Any costs that are within the scope of the Contract Documents or the agreements with the members of the Construction Team, and all other costs included within the categories set forth in the Final Project Budget, are deemed to be approved Project Costs, unless such costs would increase the Final Project Budget.

(d) Guaranteed Maximum Price.

(i) At the earliest appropriate time, taking into account the relationship between design certainty and achieving a cost-efficient GMP, the Developer shall

cause the Construction Manager to provide to the Developer, and the CM Agreement will so provide, a guaranteed maximum price ("**GMP**") for construction of the New Arena and completion of the New Arena Work will be established. The GMP will be determined based upon the GMP Documents and will be further subject to a peer review estimating and reconciliation process which will be agreed by the parties. Within fourteen (14) days after Developer receives the proposed GMP, Construction Manager, Developer, the Construction Coordinators, Owner Representative, the Commonwealth Coordinators and Architect shall meet to reconcile any questions, discrepancies or disagreements relating to the proposed GMP. Following the Developer's approval of the GMP, as well as the approval of the Owner Representative and the Commonwealth Coordinators, the parties will enter into an addendum to the CM Agreement. As soon as reasonably practicable after the GMP has been agreed upon, the Developer shall deliver to the Commonwealth and the Owner a revised Proposed Project Budget, which includes the GMP, which shall be based on the Target Project Cost, except as provided in Section 2.4(d)(ii) below. The revised Proposed Project Budget shall be inclusive of all Project Costs as described in Section 2.4(c) above, and if the revised Proposed Project Budget does not exceed the Target Project Cost, then once reviewed and approved by the Owner it shall be the "**Final Project Budget**"; otherwise, the revised Proposed Project Budget shall be subject to the approval of the Owner and the Commonwealth in accordance with the procedures set forth in Section 2.4(d)(ii) or Section 2.4(d)(iii) below. If the actual costs of construction of the New Arena are less than the Final Project Budget, then the savings between the Final Project Budget and such actual costs will be deposited into the Capital Reserve Fund in accordance with Section 2.4(b) above.

(ii) If the revised Proposed Project Budget exceeds the Target Project Cost but is less than \$310,000,000 (such excess being referred to herein as the "**Budget Excess**"), then (A) the Commonwealth Oversight Expenses shall not be included among the Project Costs but rather shall be the responsibility of the Owner, (B) the Developer shall be responsible for fifty percent (50%) of the Budget Excess (the "**Developer's Excess Share**") and (C) the Commonwealth shall be responsible for fifty percent (50%) of the Budget Excess. The Operator, on behalf of the Developer, will have the right to pay the Developer's Excess Share in a lump sum or, at the Developer's option, in the form of increased Rent payments under the Lease, which payment obligations will be addressed in an addendum to the Lease, and which will be sufficient in amount to support a financing that will generate net up front proceeds in the amount of the Developer's Excess Share. If the Developer elects to pay the Developer's Excess Share in the form of increased Rent payments under the Lease, the Commonwealth shall be responsible for the payment of the entire Budget Excess. The Developer shall make such election within thirty (30) days after the determination of the revised Proposed Project Budget. Once the revised Proposed Project Budget is approved as set forth in this Section 2.4(d)(ii), then such approved budget shall become the "**Final Project Budget**".

(iii) If the Final Project Budget is approved as provided in Section 2.4(d)(ii) above but the actual costs of construction are less than the Final Project Budget (but greater than the Target Project Cost), then the savings between the Final Project Budget and such actual costs will be returned to the Commonwealth and the Developer (or, at the Developer's election, to the Operator on behalf of the Developer) in the same proportion as the Commonwealth and the Developer were responsible for funding the Budget Excess as provided in Section 2.4(d)(ii) above (the Developer's share of such savings being referred to herein as the

"Developer's Savings Share"). Notwithstanding anything to the contrary set forth in Section 2.4(b), the Developer's Savings Share, at the Developer's option, shall be returned in any combination of (A) a lump sum payment, (B) if permitted by the terms of issuance of applicable financing, in the form of decreased Rent payments under the Lease, which decrease will be proportionate to the increase in Rent payments payable by the Operator pursuant to Section 2.4(d)(ii) above after taking into account the Developer's proportionate share of the cost of prepaying and defeasing the applicable outstanding indebtedness under applicable financing, and the Owner's reasonable costs related to the same (the terms of such decrease being set forth in an addendum to the Lease) or (C) deposited into the Capital Reserve Fund, in which case the savings so deposited shall be credited against the Operator's next annual payment of Additional Rent from proceeds of the parking Surcharges pursuant to Section 4.2.2 of the Lease. If all or a portion of the Developer's Savings Share is deposited into the Capital Reserve Fund so that the Operator receives a credit against Additional Rent pursuant to clause (C) above prior to the date that such Additional Rent payments are due and payable under the Lease, the amount of such credit will take into account any interest earned by the Developer or the Operator as a result of such deposit having been made in advance of the due date of the applicable Additional Rent payments.

(iv) If the revised Proposed Project Budget exceeds the sum of \$310,000,000, (A) the Commonwealth Oversight Expenses shall not be included among the Project Costs but rather shall be the responsibility of the Owner, (B) the Developer, Commonwealth and Owner shall first work together in good faith for a period not to exceed sixty (60) days after the determination of the GMP to redesign and value engineer the New Arena to lower the GMP so that the revised Proposed Project Budget does not exceed \$310,000,000, then (C) for a period of one hundred and twenty (120) additional days, the Owner and the Commonwealth will have the right to obtain financial commitments from other sources to pay sums required to meet the Final Project Budget in excess of the sum of \$310,000,000. Once the revised Proposed Project Budget is approved as set forth in this Section 2.4(d)(iv), then such approved budget shall become the **"Final Project Budget"**. If notwithstanding the foregoing efforts, during the foregoing one hundred twenty (120) day period, the parties are unable to finance the cost of construction of the New Arena, then following not less than thirty (30) days additional notice, the Developer shall have the right to terminate this Agreement and the Related Agreements without further financial obligation.

(v) After the Final Project Budget is established pursuant to Section 2.4(d)(i), (ii) or (iv), as applicable, then the Developer shall be responsible for any Cost Overruns as provided in Section 2.7 below, provided that the Developer shall have the right to modify the design of the New Arena to mitigate such Cost Overruns, subject to the reasonable oversight and approval of the Commonwealth and the Owner, as set forth in Section 2.4(a).

(e) Retainage.

The CM Agreement will provide for retainage ("**Retainage**") in such amounts as will be set forth therein. Owner shall be obligated to release Retainage subject to such conditions as are set forth in this Agreement and the CM Agreement. The provisions of the CM Agreement relating to Retainage will not be amended without the consent of the Owner.

2.5 FINANCING OF PROJECT.

The Owner shall pay for the construction and development of the Project as provided in this Agreement. The Owner has issued lease revenue bonds in an amount sufficient to fund the Target Project Cost (the "**Bond Proceeds**"). In addition to the foregoing, the Owner and the Commonwealth may issue or otherwise make available any subsequent financing or other financial mechanism necessary to pay the Budget Excess in connection with the development of the Final Project Budget as provided in Section 2.4(d)(ii) and (iii). In any event, an amount not less than the Target Project Cost will be made available to the Developer from Bond Proceeds for construction of the New Arena.

2.6 PROJECT FUNDS.

The Project Funds will be maintained in such accounts as may be established by the Owner, subject to such documents as govern the issuance, investment and expenditure of the Bond Proceeds (the parties hereby acknowledging that such documents require the Project Funds and any interest thereon to be utilized solely in connection with the Project).

2.7 DEVELOPER GUARANTY OF COST OVERRUNS.

(a) Definition.

Any Project Costs incurred by, paid by, or billed to the Owner or the Developer in excess of the Final Project Budget, excluding (i) costs specifically attributed to the Owner pursuant to this Agreement and deemed not to be included in the Final Project Budget; (ii) costs resulting from changes to the Project requested or required by the Owner in writing, which changes are beyond the scope of the Project as expressed in the Contract Documents and the Design Documents; or (iii) costs otherwise arising out of actions or omissions of the Owner, shall be considered to be cost overruns for purposes of this Agreement (the "**Cost Overruns**"). So long as the Developer is diligently proceeding to complete the Project in accordance with the Contract Documents (including the Master Project Schedule) as approved by the Owner, the Owner shall not have the right to incur costs for which the Owner is not otherwise liable under this Agreement, or to obligate the Developer to incur costs in excess of the Final Project Budget without the prior written approval of the Developer, which approval shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, the Developer acknowledges that in the event of a Cost Overrun (including one resulting from a time delay, other than delays arising out of the Owner Site Obligations or otherwise attributable to the Owner), the Developer is bound to its Cost Overrun obligations hereunder.

(b) Guaranty.

(i) Subject to the terms of Section 2.7(c) below, the Developer hereby unconditionally and irrevocably agrees that it will guarantee and become surety for the amount of any Cost Overrun, and agrees to pay any Cost Overrun on demand of the Owner at such time as any portion thereof is legally required to be paid with respect to the Project. The Developer hereby agrees to cause such full payment to be made whether or not any one or more of the following events has occurred: (i) any Person which is owed money in connection with its New Arena Work (a "**Project Creditor**") has made any demand on the Owner; (ii) a Project Creditor

has taken any action of any nature against the Owner; (iii) a Project Creditor has pursued any rights which it has against any other Person who may be liable for the Cost Overrun; (iv) a Project Creditor holds or has resorted to any security for the Cost Overrun; or (v) a Project Creditor has invoked any other remedy or right it has available with respect to the Cost Overrun. The Developer further agrees to cause such full payment to be made to the Owner even if circumstances exist which otherwise constitute legal or equitable discharges of the Developer as surety or guarantor. The Developer acknowledges and agrees that: (x) no Project Creditor shall have any recourse against the Owner or any of its property for payment of any Cost Overrun; (y) the right of the Owner to enforce this Guaranty against the Developer shall in no manner be impaired or adversely affected thereby; and (z) that the sole source of repayment of Cost Overruns shall be from the assets and resources of the Developer.

(ii) If any Cost Overrun shall become due and payable, and is not paid in a timely manner by the Developer, the Owner shall, promptly after becoming aware of such failure to pay, provide the Developer with written notice of the same. Subject to the terms of Section 2.7(c) below, if the Developer does not pay such Cost Overrun in full within thirty (30) days after receipt of such notice from the Owner, then (A) the amounts so unpaid shall bear interest at the Default Rate from and after the date that such payment is due and payable, and (B) the Owner shall have the right, at any time thereafter and from time to time to the fullest extent permitted by Law, in addition to all other rights and remedies available to it, without prior notice to the Developer, to set-off against and to appropriate and apply to such due and payable amounts any debt owing to, and any other funds held in any manner for the account of the Developer by the Owner and any amounts which may be owed by the Owner to the Developer under the Lease or any other Related Agreement (including, without limitation, any funds held in the Capital Reserve Fund). Such right shall exist whether or not the Owner shall have given notice or made any demand hereunder (other than the 30-day notice set forth herein), whether or not such debt owing to the Developer is or are matured or unmatured, and regardless of the existence or adequacy of any collateral, guarantee or any other security, right or remedy available to the Owner. The Developer hereby consents to and confirms the foregoing arrangements, and confirms the Owner's rights of set-off against the Developer. Any funds held in the Capital Reserve Fund which are set off and applied to pay any Cost Overruns as provided in this Section 2.7(b)(ii) shall be reimbursed by the Developer or the Operator within six (6) months after the date of such set-off, without any further notice or demand from the Owner, together with, (C) an amount equal to the interest that would have been earned on that money if it had remained in the Capital Reserve Fund (established in connection with the issuance of the Bond Proceeds), plus (D) if reimbursement of such funds is not made within the foregoing six (6) month period, interest at the Default Rate.

(iii) The Developer hereby agrees that, if at any time all or any part of any payment, from whomever received, theretofore applied by the Owner to any of the Cost Overruns is or must be rescinded or returned for any reason whatsoever including, without limitation, the insolvency, bankruptcy or reorganization of the Developer, such liability shall, for the purposes of this Guaranty, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Owner, and this Guaranty shall continue to be effective or be reinstated, as the case may be, as to such liabilities, all as though such application by the Owner had not been made.

(iv) The Developer hereby agrees that no failure or delay on the part of the Owner to exercise any of its rights, powers or privileges under this Guaranty shall be a waiver of such rights, powers or privileges or a waiver of any default, nor shall any single or partial exercise of any of the Owner's rights, powers or privileges preclude other or further exercise thereof or the exercise of any other right, power or privilege or be construed as a waiver of any default. The Developer further agrees that each written waiver shall extend only to the specific instance actually recited in such written waiver and shall not impair the rights of the Owner in any other respect.

(v) The Developer hereby unconditionally agrees to pay all Damages directly incurred by the Owner in enforcing this Guaranty against the Developer (provided, that Developer shall not be responsible for any incidental, special or consequential damages incurred by the Owner in connection with any Cost Overruns).

(c) Commonwealth Cost Overrun Financing.

Notwithstanding anything to the contrary set forth in this Section 2.7, the Owner will endeavor to obtain a financial commitment from the Commonwealth in an amount sufficient to pay all Cost Overruns (the "**Commonwealth Cost Overrun Financing**"). If the Commonwealth is willing to provide the Commonwealth Cost Overrun Financing, then the Developer shall cause the Operator to amend the Lease so that the Rent payable thereunder would be increased in an amount sufficient to reimburse the Commonwealth for (i) any funds advanced by the Commonwealth in connection with the Commonwealth Cost Overrun Financing and (ii) all costs of the Commonwealth Cost Overrun Financing. To the extent that the Commonwealth provides the Commonwealth Cost Overrun Financing and the Operator agrees in writing to reimburse the amount of Commonwealth Cost Overrun Financing through increased Rent payments under the Lease as provided above, then the Developer shall not be liable under its guaranty of Cost Overruns for any amounts payable by the Operator under the Lease.

(d) Additional Security.

As additional security for the Developer's obligations under this Agreement and the Related Agreements, the Developer irrevocably assigns and grants to the Owner a security interest in: (i) all Project Funds now or hereafter held by the Owner; (ii) all funds, whether under the control of the Owner or the Developer, representing Bond Proceeds, whether or not disbursed; (iii) all other funds from any source now or hereafter deposited with the Owner under this Agreement or any of the Related Agreements, or otherwise relating to the Project, including but not limited to funds set aside for costs related to the Garage; (iv) all governmental Permits, approvals and licenses now or hereafter obtained for the lawful construction and operation of the Project; and (v) all reserves, deferred payments, deposits, refunds, cost savings and payments of any kind relating to the construction of the Project. Upon the occurrence of an Event of Default, the Owner, in addition to any other rights and remedies it may have under the Related Agreements or at law or in equity, may apply any funds held by the Owner against any of the obligations of the Developer to the Owner (whether or not the same be then due), in such order as the Owner may determine, and may use any of the other property referred to above for any purpose for which the Developer could have used them under this Agreement or with respect to

the construction and development of the Project. Owner is authorized by Developer to file appropriate financing statements to evidence the grant of a security interest under this Section.

3. REPRESENTATIONS AND WARRANTIES OF THE OWNER

The Owner hereby represents and warrants to the Developer, that, as of the date of execution of this Agreement, and as of the Construction Start Date:

3.1 AUTHORIZATION, VALIDITY AND ENFORCEABILITY.

The Owner has all requisite power and authority to enter into this Agreement and to carry out the actions contemplated hereby. The execution, delivery, and performance by the Owner of this Agreement have been duly authorized and approved by all necessary Owner action (other than the New Arena Permits), all of which have been obtained and remain in effect. The Owner Representative is the individual duly authorized to execute this Agreement on behalf of the Owner and has so executed this Agreement. This Agreement and the Related Agreements constitute, when executed, the valid and legally binding obligations of the Owner, enforceable against it in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

3.2 NO CONFLICTS.

The execution, delivery and performance of this Agreement or the Related Agreements will not result in a violation of, in any material respect, of any provision of any other agreements, instruments, contracts, judgments or decrees to which the Owner is a party, or by which the Owner or its assets may be bound or affected, including without limitation the Owner's organizational documents and any written rule, regulation or policy of the Owner.

3.3 NO VIOLATION OF LAWS.

Except as otherwise previously disclosed in writing to the Developer, the Owner has complied in all material respects with all Legal Requirements, statutes, rules, regulations or orders with respect to the Site or the transactions contemplated in and by this Agreement and the Related Agreements; and the Owner is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency, or other Governmental Authority which is in any respect material to the transactions contemplated in and by this Agreement. Neither the execution, delivery nor, performance of this Agreement by the Owner violates the articles of incorporation, by-laws, or any or resolution of the Owner, or the Sports and Exhibition Authority Act (as referred to above), any other agreement or instrument to which the Owner is subject or by which the Owner is bound.

3.4 LITIGATION.

Except as otherwise disclosed in *Schedule 3.4* hereto, or otherwise disclosed to the Developer in writing, there is no action, suit, proceeding or investigation at law or in equity or by or before any Governmental Authority now pending or, to the actual knowledge of the Owner,

threatened against the Owner seeking to restrain or prohibit, or seeking damages or other relief in connection with, the execution this Agreement and the performance of the transactions contemplated herein or which might materially and adversely affect the use and operation of the New Arena as contemplated in and by this Agreement or the performance of the Owner hereunder or under the Related Agreements.

3.5 SITE POSSESSION AND TITLE.

On the date of execution this Agreement (as set forth above), the Owner holds good and marketable title to the Site, except those properties identified on *Schedule 3.5*, free and clear of all liens and encumbrances other than the Permitted Encumbrances, and insurable at regular rates by a title insurance company authorized to transact business in the Commonwealth of Pennsylvania. Except for the Permitted Encumbrances, and as otherwise disclosed on *Schedule 3.5*, no Person other than the Owner has any right to possession of all or any portion of the Site. To the best of the Owner's knowledge, no structure or improvement located on an adjacent parcel encroaches on the Site, and no portion of the Site is located in a flood plain, flood hazard area or constitutes designated wetlands area. If, other than a Permitted Encumbrance, any lien, encumbrance, easement, license, right-of-way, covenant, condition, restriction, or other title defect first arises subsequent to the execution of this Agreement which is created by, through or under the Owner and is not related to the acts of the Developer or their respective agents, contractors, employees and tenants, and which will materially diminish, impair or disturb the rights of the Developer under this Agreement with respect to the Site (a "**Title Defect**"), the Owner shall take all reasonable actions, at its sole cost and expense, to promptly eliminate such Title Defect. The Developer acknowledges that a Permitted Encumbrance shall not constitute a Title Defect. Except as expressly permitted under this Agreement and the Related Agreements and except for Permitted Encumbrances, the Owner shall not create any lien, encumbrance, easement, license, right-of-way, covenant, condition or restriction which would encumber the Site and materially diminish, impair or disturb the rights of the Developer under this Agreement.

3.6 ENVIRONMENTAL MATTERS.

As of the date of delivery of possession of the Site to the Developer pursuant to this Agreement, to the knowledge of the Owner, except as may be set forth in the environmental assessments identified on *Exhibit 2*, which have been provided to the Program Manager, there will be no Regulated Substances present on, in, under, at or emanating to or from the Site that exist in violation of any Environmental Laws such that a Response Action would be required, and the Owner shall have taken all required Response Action at the Site, including without limitation those specifically recommended pursuant to the Existing Reports. No activity of the Owner at the Site has been or will be conducted in violation of any Environmental Law prior to the date of delivery of the Site to the Developer pursuant to this Agreement.

3.7 NOTICES OF VIOLATIONS.

To the knowledge of the Owner, the Site and the use and operation thereof are in material compliance with all applicable Legal Requirements. The Owner has not received any written notice from any Governmental Authority with respect to the Site or any portion thereof or any buildings or improvements thereon that (i) relates to violations of any applicable Legal

Requirements, (ii) claims any defect or deficiency with respect to any of the Site or any buildings or improvements thereon or (iii) requests the performance of any repairs, alterations or other work to or in any portion of the Site or in the streets bounding the same

3.8 TAXES.

No special assessments of any kind (special, bond or otherwise) are or have been levied against the Site, or any portion thereof, which are outstanding or unpaid and to the Owner's knowledge none will be levied prior to the Commencement Date.

3.9 UTILITIES.

All public utilities (including water, gas, electric, storm and sanitary sewage and telephone utilities) required to operate the New Arena are available in proximity to the Site.

3.10 ZONING.

The Site has a zoning classification of UNC – Urban Neighborhood Commercial (with respect to those portions of the Site fronting on Fifth Avenue) and GT-E – Golden Triangle, Subdistrict E (with respect to all other portions of the Site) and the use of the applicable portions of the Site for the New Arena is in compliance therewith. The Site consists of one or more lawfully separately subdivided parcels of property.

4. REPRESENTATIONS AND WARRANTIES OF THE DEVELOPER

The Developer hereby represents and warrants to the Owner that, as of the date of execution of this Agreement, and as of the Construction Start Date:

4.1 ORGANIZATION, AUTHORITY AND LOCATION.

The Developer is duly organized, validly existing and in good standing under the laws of Pennsylvania. The Developer has all requisite partnership power and authority to enter into this Agreement. The principal place of business and the principal assets of the Developer and of each of its Affiliates are located in Allegheny County, Pennsylvania.

4.2 AUTHORIZATION, VALIDITY AND ENFORCEABILITY.

All appropriate action on behalf of the Developer necessary for the authorization, execution, delivery and performance of all obligations of the Developer under this Agreement has been taken. All consents and approvals of any Person (including partners of the Developer, if necessary) required in connection with the execution of this Agreement have been obtained. This Agreement, when executed, shall constitute the valid and legally binding obligation of the Developer enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

4.3 NO CONFLICTS.

The execution, delivery and performance of this Agreement or the Related Agreements will not result in a violation of, in any material respect, any provision of any other agreements, instruments, contracts, judgments or decrees to which the Developer is a party or by which the Developer or its assets may be bound or affected, including without limitation, the Developer's organizational documents, the NHL Rules and Regulations, nor will the execution, delivery and performance of this Agreement result in the breach of or constitute a default under any loan or credit agreement, or other agreement or instrument to which the Developer is a party or by which the Developer or its assets may be bound or affected.

4.4 NO VIOLATION OF LAWS.

Except as otherwise disclosed in writing by the Developer to the Owner, the Developer has received no written notice as of the date of execution of this Agreement asserting any noncompliance in any material respect by the Developer with Legal Requirements; and the Developer is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency, or other Governmental Authority which is in any respect material to the transactions contemplated in and by this Agreement.

4.5 LITIGATION.

Except as set forth on *Schedule 4.5* hereto or otherwise disclosed to the Owner in writing, there is no action, suit, proceeding or investigation at law or in equity or by or before any Governmental Authority now pending or, to the actual knowledge of the Developer, threatened against or which affects the Developer which has been served upon or of which the Developer has knowledge, which could have a material adverse affect upon the Developer's performance under this Agreement or the financial condition or business of the Developer. There are no outstanding judgments against the Developer.

4.6 NO PAYMENTS.

The Developer has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as the services of architects, engineers and attorneys.

4.7 DESIGN OF NEW ARENA.

The Developer will ensure that the Design Documents and Construction Drawings will result in the construction of a first class multi-purpose facility using high quality materials throughout, and which will be in conformity with (i) Hockey Rules and Regulations, and (ii) all Legal Requirements, including without limitation those relating to individuals with disabilities, including the Americans with Disabilities Act and comparable Pennsylvania statutes and regulations, and shall be equipped with state of the art technological systems for acoustics, utilities and seating configurations, an ice surface, a basketball floor suitable for major college and professional basketball, telecommunications systems, HVAC system, emergency generators, food and beverage facilities, live television production facilities (not including production

equipment), loading/unloading areas, mechanical systems, lighting and video distribution systems, storage facilities, furnishings, vertical transportation systems, environmental graphics and signage, video display boards, score boards, one exterior marquee, advertising displays, sound distribution and other features designed to provide patron, employee and tenant convenience, in any such instance in a manner comparable to the Recent Arena Facilities.

5. CONSTRUCTION MATTERS

5.1 CONSTRUCTION ADMINISTRATION.

(a) Developer's Responsibilities.

The Developer, as agent for the Owner, shall be responsible for managing, directing, supervising and coordinating the planning, design and construction of the Project (other than the Owner Site Obligations) in accordance with the Contract Documents, the Design Documents, the Master Project Schedule and the Final Project Budget, all of which must be approved by the Owner and the Commonwealth, which approval shall not be unreasonably withheld, delayed or conditioned. The Construction Team shall manage, direct, supervise and coordinate the planning, design and construction of the New Arena, and coordinate the work of all parties involved therein (collectively, the "New Arena Work"). The Developer shall be responsible for the continuous, orderly and uninterrupted performance of all aspects of the New Arena Work required in connection with the construction of the New Arena in accordance with the Contract Documents and this Agreement, including, without limitation, those matters set forth above, and:

- (i) Retaining the services of specialty consultants.
- (ii) Preparing, or causing to be prepared, the Final Project Budget.
- (iii) Preparing, or causing to be prepared, the Master Project Schedule, and thereafter updating the Master Project Schedule on a monthly basis and delivering a copy of same to the Owner Representative, the Commonwealth Coordinators and the Construction Coordinators.
- (iv) Obtaining or causing to be obtained all New Arena Permits, and to the extent required by this Agreement, all Required Environmental Permits.
- (v) Retaining and supervising the personnel reasonably required by the Developer in order to properly perform the New Arena Work.
- (vi) Maintaining complete and accurate books and records, consistent with industry standards, regarding the design and construction of the New Arena including, without limitation, records relating to the Contract Documents, Design Documents, Change Orders, as built drawings, applications for payment, Permits, insurance policies, correspondence, bills, vouchers, receipts and lien waivers.
- (vii) Taking all action reasonably required to comply with all Legal Requirements and taking all reasonable action required to cause the Architect and the CM and all

other agents and contractors engaged by, or acting on behalf of, the Developer to design and construct the New Arena in accordance with Legal Requirements.

(viii) As further set forth in subsection (d) of this Section 5.1, furnishing promptly to the Owner Representative, the Commonwealth Coordinators and the Construction Coordinators all documents and information required to be provided pursuant to this Agreement and all other information that the Owner Representative, the Commonwealth Coordinators and the Construction Coordinators may reasonably request. The Developer shall promptly provide to the Owner Representative, the Construction Coordinators and the Commonwealth Coordinators copies of any and all legal notices received by the Developer affecting in any manner the Project.

(ix) Notifying promptly the Owner Representative, the Construction Coordinators and the Commonwealth Coordinators of any claim, suit, proceeding or action that is initiated or threatened in connection with the Project.

(x) Providing the Owner, upon completion of construction, with an original print and one sepia print or disk of as-built Construction Drawings depicting the Project.

(xi) Supervising punch list and warranty work after Substantial Completion of the New Arena Work. A post-completion warranty inspection shall occur under the supervision of the Developer prior to the first anniversary of the date on which Substantial Completion occurred.

(xii) Establishing and updating, as necessary, the schedule of dates for delivery of various design documents for review and approval of the Owner and the Commonwealth.

(xiii) Scheduling Project meetings to which the Owner Representative, representatives of the Commonwealth and the Construction Coordinators are invited not less than monthly, and preparing minutes for all Project meetings and providing a copy of same to the Construction Coordinators, representatives of the Commonwealth and the Owner Representative simultaneously with delivery to the Developer Representative.

(xiv) Providing the Construction Coordinators and Commonwealth Coordinators with copies of all contracts and subcontracts and all amendments thereto, which shall be subject to approval by the Owner and Commonwealth as provided in this Agreement.

(xv) Causing the completion of the Project in accordance with the Master Project Schedule and the Contract Documents, subject to Force Majeure, and the timely performance of the Owner Site Obligations; provided that the Owner and Commonwealth shall have the right to approve any grant by the Developer of an extension of time pursuant to the CM Agreement, which approval right shall be subject to the terms of this Agreement.

(xvi) Providing the Owner and Commonwealth with monthly progress reports containing such financial information as the Owner and Commonwealth may reasonably request relating to Project Costs, including all expenditures by the Developer during the preceding month and a proposed monthly budget for the upcoming month.

(xvii) Supervising and coordinating, or causing the CM to supervise and coordinate, the construction of the New Arena so that the New Arena is constructed, equipped, furnished and completed in a good and workmanlike manner in accordance with the Contract Documents, lien free as provided in this Agreement, by the Completion Date (subject to Force Majeure and the timely performance of the Owner Site Obligations) in accordance with all Legal Requirements and employing such consultants as may be reasonably required to insure that quality control appraisals of the New Arena are conducted throughout the construction period in a manner consistent with industry standards.

(b) Changes of Agreements with Architect and the CM and the Design Documents.

The Owner Representative and the Commonwealth Coordinators shall have the right to approve any Material Change to the Architect Agreement or the CM Agreement and the Design Documents. The Developer shall submit to the Owner Representative and the Commonwealth Coordinators for review and approval any such proposed Material Change. The Owner Representative and the Commonwealth Coordinators shall have ten (10) days to approve or disapprove any such Material Change to the Architect Agreement or the CM Agreement, and twenty (20) days to approve any Material Change to the Design Documents. If the Owner Representative and the Commonwealth Coordinators shall fail to approve or disapprove such Material Change within such periods, the Material Change shall be deemed to have been approved. Approval will not be unreasonably withheld and the Owner Representative and the Commonwealth Coordinators will state with specificity reasons for any disapproval in writing. For purposes of this agreement a material change ("**Material Change**") shall mean a change, modification or amendment which (i) involves a revision in the sum payable by Developer to the Architect in an amount in excess of \$50,000, or to the CM where the cost of work is in excess of \$50,000, or (ii) will result in a required revision of the Design Documents which materially affects the exterior appearance of the New Arena or which will materially modify public access to the New Arena or materially reduces the number of restrooms, or materially changes the number or configuration of seats, or which materially alters the LEED Certification Plan of the New Arena, or adds or eliminates significant elements from the New Arena described in the previously approved Design Documents, and any other change that materially affects the future public use of the New Arena.

(c) Change Orders and New Arena Plan Changes.

(i) The Developer shall promptly submit to the Construction Coordinators and the Commonwealth Coordinators for their review, any change orders or construction change directives submitted to the Construction Manager (collectively, "**Change Orders**") if approval of the Construction Coordinators or the Commonwealth Coordinators is required under subpart (ii) below.

(ii) Change Orders shall require the approval of the Construction Coordinators and the Commonwealth Coordinators (subject to the standards set forth in Section 2.2(d)(v), if the proposed Change Order, (A) represents a Material Change to the New Arena, or (B) will add or eliminate material elements from the New Arena criteria described in previously approved Design Documents, or (C) will cause the life safety facilities, public access or public

facilities of the New Arena to be modified in a material manner, or (D) result in the cost of the Owner Site Obligations being substantially increased, or (E) will result in a Cost Overrun, or (F) will cause the total amount of the Final Project Budget to be increased by more than \$50,000, unless the Developer in any case described in this subpart (ii) elects to fund such costs from moneys outside of the Final Project Budget. Provided that all pertinent documents have been provided, the Construction Coordinators and the Commonwealth Coordinators shall have a period of twenty (20) days after receipt of documentation in support of any such Change Order described in this subpart (ii) , to review and approve or disapprove the requested Change Order. No payment in connection with work that is subject to a Change Order may be released to the CM or to any trade contractor without a properly approved and documented Change Order in place. The failure of the Construction Coordinators and the Commonwealth Coordinators to respond within such period shall constitute a deemed approval. The Construction Coordinators and the Commonwealth Coordinators shall exercise good faith efforts to respond as diligently and expeditiously as possible to any requested Change Order where approval is required under this subpart (ii). In the event that the Construction Coordinators or the Commonwealth Coordinators disapprove a Change Order, the Construction Coordinators or the Commonwealth Coordinators shall state, with specificity, the reason for disapproval. Change Orders relating to a Site Work Deficiency shall also be subject to the terms of Section 2.3(c) above.

(iii) The Developer shall provide to the Construction Coordinators and the Commonwealth Coordinators, for informational purposes only, copies of any other Change Orders and changes to the Design Documents or to the Contract Documents not requiring the Owner's approval, promptly after such Change Orders or plan changes are made.

(d) Right To Inspect And Receive Information; Reporting.

(i) The Construction Coordinators and Commonwealth Coordinators shall receive from the Developer advance notice of all Project meetings and, on a regular basis, information regarding the progress of the Project through each design phase and construction. During the term of this Agreement, the Construction Coordinators and Commonwealth Coordinators shall have the right to attend all Project meetings and inspect the New Arena at all times. The Construction Team shall consult regularly with the Construction Coordinators and Commonwealth Coordinators in order to keep the Owner and Commonwealth reasonably informed throughout the duration of the planning, design and construction of the New Arena. Documentation to be furnished to the Owner and Commonwealth under this Agreement shall include, but shall not necessarily be limited to, (A) requests for qualifications, proposals and bidding documents, (B) all final and unexecuted Contracts, Change Orders and purchase orders, (C) all executed Contracts and purchase orders, (D) all notices and other significant correspondence relating to Contracts and purchase orders, and copies of all warranties and guaranties, and (E) all notices from any Governmental Authority relating in any manner to the Project. The Owner and Commonwealth shall have the right to monitor and investigate compliance by the Developer with this Agreement, and compliance with Legal Requirements. The right of the Owner Representative, Commonwealth Coordinators and the Construction Coordinators to investigate, monitor, inspect, copy, review, verify and check operations and records of the Developer relating to the Project shall include, but not be limited to, all of their employees, consultants, agents or authorized subcontractors, as well as to all administrative and operational facilities used by the Developer in connection with all matters arising under this

Agreement. Records include, but are not limited to, construction, financial, correspondence, instructions, memoranda, bids and contract documents, as well as all other records pertaining to the planning, development and construction of the Project pursuant to this Agreement. In addition, Developer shall, or shall cause the Program Manager to, deliver to Owner and Commonwealth Coordinators written reports not less than monthly for as long as this Agreement remains in effect relating to, but not necessarily limited to, the following: MBE/WBE Plan compliance, expenditures of Project Funds, compliance with the Master Project Schedule, geotechnical matters, LEED and commissioning reports, and invoices received. Any rights that the Owner and Commonwealth have under this Section shall not be the basis for any liability to accrue to the Owner or Commonwealth from the Developer, or third parties for such monitoring or investigation or for the failure to have conducted such monitoring or investigation. The right of the Owner and Commonwealth to inspect records and the progress of construction under this Section shall be solely for the benefit of the Owner and Commonwealth, and no rights or remedies in favor of the Developer, or any other member of the Construction Team, shall accrue as the result of any such inspection.

(ii) The Owner and the Commonwealth shall have the right to require the New Arena Work to be stopped upon the occurrence of a breach of this Article 5, without penalty or charge against the Owner or the Commonwealth for any delay caused by such requirement, if and only if such work stoppage is necessary to prevent imminent material damage to the Project and, in all such cases, such stoppage request shall be in writing and shall be specific as to the conditions giving rise to such stoppage request, the location and precise areas of New Arena Work affected by such stoppage request, the length of the stoppage and the conditions to the resumption of New Arena Work.

(e) Master Project Schedule.

The Developer shall require the Program Manager to prepare the Master Project Schedule setting forth the date that construction will start, and time parameters required so that the Project will be Substantially Completed on or before the Completion Date, subject to extensions as a result of Force Majeure. Modifications of the Master Project Schedule which will require an extension of the Completion Date, or which are otherwise material, must be approved by the Owner Representative and the Commonwealth Coordinators, which approval will not be unreasonably withheld, conditioned or delayed. All New Arena Work shall be performed by the CM in a good and workmanlike manner in conformity with the Contract Documents so that on the Completion Date the New Arena is in good working order and condition, in compliance with all Legal Requirements, suitable for occupancy, and ready for full and immediate use.

(f) Labor and Employment Issues.

The Developer shall cause the CM to administer the Project Labor Agreement Covering Construction of the Pittsburgh Multi-Purpose Arena dated December 29, 2006 (the "**Project Labor Agreement**"), a copy of which has been furnished separately to Developer.

(g) Insurance.

The Developer will procure from Project Funds and maintain the comprehensive "owner controlled" insurance program, a summary of which shall be prepared by the Developer and then attached hereto as *Exhibit 14*, which shall set identify all insurance required to be maintained by or on behalf of Developer, Architect, Construction Manager and any trade contractor with respect to the Project at all times until final completion of the Project, and in appropriate instances, following final completion.

5.2 PERMITS AND LEGAL REQUIREMENTS.

Except to the extent that the Developer is unable to do so due to the Owner's failure to perform its obligations under this Agreement and the Related Agreements, the Developer shall comply with and keep in effect all Permits and other approvals obtained from any Governmental Authorities, regardless of the procurer of such Permits, that relate to the construction of the Project. The Developer shall comply with all existing and future Legal Requirements, orders and requirements of all Governmental Authorities, judicial and legal authorities having jurisdiction over the Project and with all restrictions and agreements affecting the Project.

5.3 LISTS OF CONTRACTORS AND SUBCONTRACTORS.

Upon the request of the Owner, the Developer shall promptly furnish to the Owner correct lists of all contractors and subcontractors employed in connection with the construction of the Project, and true and correct copies of all executed contracts and subcontracts therefor. The Owner may contact any contractor or subcontractor to verify any facts disclosed in the lists and no such contract or subcontract shall prohibit the disclosure of its contents to the Owner.

5.4 PURCHASE OF MATERIALS AND CONDITIONAL SALES CONTRACTS.

No materials, equipment, fixtures or articles of personal property placed in or on the New Arena or Site other than equipment, furnishings, supplies and other items of personal property purchased by the Developer for use in the Developer's private offices, reception areas, or other areas on the Site used for personal purposes by the Developer, or equipment, furnishings, supplies and other items of personal property purchased by other Persons occupying portions of the Site used for personal purposes by such Persons, shall be purchased by or installed under any security agreement, financing lease or other agreement whereby the seller reserves or purports to reserve title, a lien, a security interest, the right of removal or repossession or the right to consider such items personal property after their incorporation into the Project, unless previously authorized by the Owner in writing.

5.5 RELIANCE ON CONSTRUCTION COORDINATORS.

Notwithstanding anything herein to the contrary, at any time that the Owner's consent or approval is required, or at any time that the Owner is permitted to make a judgment or determination under the terms of this Agreement, or any other Contract Document, the Owner may, but shall not be required to, rely conclusively on the opinion of the Construction Coordinators as to matters concerning the Contract Documents, the development and construction of the Project, and the cost thereof, and changes in any of the foregoing.

5.6 PROTECTION AGAINST LIEN CLAIMS.

The Developer shall promptly pay and discharge, with Project Funds, all charges for labor done and materials and services furnished in connection with the construction of the Project and shall promptly notify the Owner in writing of any dispute with any contractor or subcontractor. All Contracts relating to any portion of the construction of the Project, and the CM Agreement and the Architect Agreement, shall contain a provision regarding mechanics' liens, as set forth in Section 2.2(f)(ii)(B) above. Any lien claimed or filed against any part of the Project for labor done or materials or services furnished in connection with the construction of the Project shall be discharged or secured, by bond or otherwise, within twenty (20) days after the date of the filing thereof, and the Owner reserves the right to withhold further disbursement of Project Funds until such lien or claim shall have been so discharged or secured.

5.7 NONDISCRIMINATION, CONTRACTOR INTEGRITY, ETC.

In its construction and development of the Project, the Developer will comply with all terms and conditions set forth on all of the following Exhibits, all of which are incorporated herein by reference: (i) Non-Discrimination Covenants attached as *Exhibit 16*; (ii) Contractor Integrity Covenants attached as *Exhibit 17*; (iii) Steel Products Procurement Act Contract Clause attached as *Exhibit 18*; (iv) Trade Practices Act Contract Clause attached as *Exhibit 19*; (v) Public Works Contracting Bond Law of 1967 Contract Clause, attached as *Exhibit 20*; (vi) Pennsylvania Prevailing Wage Act Contract Clause attached as *Exhibit 21*; and (vii) Provisions Concerning the Americans with Disabilities Act attached as *Exhibit 22*. All of the foregoing Exhibits are incorporated into this Agreement by reference as if set forth in full.

5.8 MINORITY AND WOMEN BUSINESS ENTERPRISE PLAN.

In connection with the development and construction of the New Arena, the Developer shall develop and implement a Minority and Women Business Enterprise Plan (the "**MBE/WBE Plan**"), with respect to the Target Project Cost and the Final Project Budget, in accordance with the Developer's Minority and Women Business Enterprise Participation plan as set forth on *Exhibit 5*. The MBE/WBE Plan will be applicable to all bid contracts, with modifications applicable for professional service contracts and other expenditures. Upon request of the Developer, the Owner shall use good faith efforts to support the Developer in its efforts with one or more unions representing persons employed in any aspect of development and construction of the New Arena, to obtain such equal employment opportunities necessary to implement the MBE/WBE Plan.

5.9 COOPERATION.

Each party will cooperate at all times with the other in bringing about the timely completion of the Project, and the parties will resolve all disputes arising during the New Arena Work in a manner which will allow the New Arena Work to proceed expeditiously in order to complete the Project on or before the Completion Date.

5.10 ACCOUNTING; CHANGES IN CONDITION.

The Developer shall keep true and correct financial books and records on a cash basis for the construction of the Project and shall maintain reserves for all contingencies in amounts set forth in the Final Project Budget. The Developer shall submit monthly to the Owner, a statement which accurately details the application of all Project Funds and other funds expended to date as well as the Developer's best estimate of the funds needed to complete the Project (including all direct and indirect costs associated therewith) and the source of those funds not more frequently than monthly, except upon the occurrence of an Event of Default under this Agreement. The Developer shall promptly notify the Owner of any materially adverse change in its financial condition.

5.11 ENVIRONMENTAL MATTERS.

After the Construction Start Date and until the expiration of this Agreement, the Developer and its subtenants, licensees, concessionaires, agents, officers, director, independent contractors, servants and employees, and their respective successors and assigns (collectively, the "**Developer's Agents**") shall:

(a) cause all Required Environmental Permits to be maintained in full force and effect and the Developer shall comply with the terms and conditions thereof. The Developer shall submit to a Governmental Authority and/or maintain, as appropriate, all Required Environmental Reports;

(b) not permit, and shall take reasonable precautions against, the presence of Contamination as a result of use and occupancy of the Site by the Developer and the Developer's Agents, except to the extent specifically authorized by any Governmental Authority, any Required Environmental Permit or pursuant to Environmental Laws;

(c) not permit, and shall take reasonable precautions against, the imposition of, any lien or other encumbrance authorized by Environmental Laws to be imposed against or attached to the Site to the extent that such lien is caused by the Developer or the Developer's Agents;

(d) comply with applicable Environmental Laws relating to the construction, completion, use, maintenance, operation or occupancy of the Site;

(e) perform in compliance with and to the extent required by applicable Environmental Laws, Required Environmental Permits or by Governmental Authorities all Response Action required to address the presence of Contamination at, in, on, under, or emanating from the Site caused as a direct result of the Developer's or the Developer's Agents' use and occupancy of the Site;

(f) take all reasonable precautions against and shall not permit the Site to be used to generate, manufacture, refine, treat, handle, label, distribute, store, dispose of, produce, process, recycle, transport or otherwise use or manage Regulated Substances in violation of Environmental Laws or Required Environmental Permits; and

(g) within five (5) days, upon obtaining actual knowledge of any of the following, notify the Owner in writing, including a detailed description, of: (i) the presence of

Contamination; (ii) the receipt by the Developer of an actual or threatened Environmental Complaint; (iii) the imposition or attachment against the Site of a lien or other encumbrance authorized under Environmental Laws; (iv) the inability to obtain or renew any Required Environmental Permit; (v) any violation of Environmental Laws or Required Environmental Permits affecting the Site.

5.12 THE GARAGE.

Terms applicable to the construction of a garage facility containing parking spaces for not less than five hundred (500) cars (the "**Garage**"), which will be adjacent to, and have direct access to, the New Arena, are set forth in the Lease. The parties hereby acknowledge that the Developer has advised the Owner by letter dated February 8, 2008 that the Developer has elected to cause the Garage to be constructed, and accordingly that the Garage will be constructed by the Owner pursuant to such terms as are set forth in the Lease and in the attached letter, or as otherwise agreed by the parties in writing. A copy of this letter is attached to this Agreement as *Exhibit 3*. It is the intention of the parties that the Garage be completed and available for parking when the first event occurs on the New Arena or on October 1, 2010, whichever occurs earlier. Prior to the start of construction of the Garage, the Owner, Developer, Construction Manager and Owner's construction team for Garage construction (if different than the CM) will enter into a written agreement relating to access to the Site and staging and coordination of construction of the Garage at the same time as the construction of the New Arena to achieve appropriate budget and time economies with respect to the construction of the Garage and the New Arena. In addition to those matters set forth on *Exhibit 3*, the following terms and conditions shall be applicable to the construction of the Garage, all of which will be done in consultation with the Developer, and as may be set forth in more detail in the cooperation agreement referred to above:

(a) The Owner shall manage, direct, supervise and coordinate the planning, design and construction of the Garage, and coordinate the work of all parties involved therein, and shall be responsible for the continuous, orderly and uninterrupted performance of all aspects of the work required in connection with the construction of the Garage, including compliance with the covenants of Section 5.11 above.

(b) The Owner may select a construction manager for the construction of the Garage, who may be the CM or another Person, will retain the services of specialty consultants, prepare or cause to be prepared, a construction budget and construction schedule, obtain all required Permits, retain such personnel required to perform the work of construction, maintain complete and accurate books and records, consistent with industry standards, regarding the design and construction of the Garage, and take all action reasonably required to comply with all Legal Requirements, and design and construct the Garage in accordance with Legal Requirements. Owner shall also furnish promptly to the Program Manager all documents and information that the Program Manager may reasonably request. The Owner shall promptly provide to the Program Manager copies of any and all legal notices received by the Owner relating in any manner to the construction of the Garage, and notify promptly the Developer Representative and the Program Manager of any claim, suit, proceeding or action that is initiated or threatened in connection with the Garage.

(c) Following completion of construction of the Garage, the Owner will furnish to the Developer with an original print and one sepia print or disk of as-built Contract Documents depicting the Garage, and an as-built survey indicating the precise location of the Garage and its relationship to the New Arena, public and private rights of way, utility connections and other structures and facilities on the Site. The Owner shall also supervise any required punch list and warranty work.

(d) The progress of construction of the Garage will also be reviewed at the Project meetings scheduled by Developer under Section 5.1 above, to which the Owner Representative, Commonwealth Coordinators and the Construction Coordinators are invited, to be held not less than monthly, and will be summarized in the minutes for all Project meetings. Owner will furnish to the Developer Representative copies of all contracts and subcontracts and all amendments thereto, relating to construction of the Garage.

(e) The Garage will be constructed, equipped and completed in a good and workmanlike manner, lien free, by the Commencement Date set forth in the Lease (subject to Force Majeure) in accordance with all Legal Requirements and in a manner consistent with industry standards.

6. PROHIBITION AGAINST ASSIGNMENT AND OTHER DEVELOPER COVENANTS.

6.1 PROHIBITION AGAINST ASSIGNMENT.

The Developer shall not assign or transfer this Agreement or any of the Developer's rights or obligations hereunder, without the Owner's prior written consent, and subject to such conditions as the Owner may reasonably require. For purposes hereof, the sale of more than fifty percent (50%) of the direct or indirect voting equity interests of the Developer shall be deemed to be an assignment.

6.2 ADDITIONAL COVENANTS OF DEVELOPER.

(a) Maintenance of Existence. At all times during this Agreement, the Developer or Team Affiliate will maintain its existence as an entity organized under the laws of Pennsylvania, and will not dissolve or liquidate, or change its form of existence, without the prior written consent of the Owner, which consent shall be given or withheld pursuant to such standards as may be set forth in this Agreement.

(b) Maintenance of Franchise. At all times during which this Agreement remains in effect, the Developer or Team Affiliate shall (i) maintain its membership and Franchise in the NHL in good standing, (ii) hold, maintain and defend its rights and franchise to play hockey as a member of NHL in the City, (iii) continue to play all of its NHL regular season and playoff home games at Mellon Arena until the Commencement Date, and (iv) use reasonable efforts to oppose the adoption of any NHL rules or procedures that would limit its ability to comply with any of the terms of this Lease. If any such NHL rule or procedure is adopted despite the reasonable efforts of the Developer to oppose its adoption, the Owner acknowledges that the Developer has agreed to comply with such NHL rule or procedure.

(c) No Power to Bind. The Developer shall have no power to bind the Owner, except as specifically approved in writing in advance by the Owner.

6.3 GUARANTY OF LEMIEUX GROUP.

Lemieux Group has joined into, and has executed this Agreement, with the intent to be legally bound, and for itself and its successors and assigns, does hereby guarantee and become surety for (a) the full and timely payment of all sums of money required to be paid by Developer pursuant to this Agreement, and (b) for the full and timely performance by Developer of any and all covenants and obligations set forth in this Agreement prior to the expiration of any applicable notice and cure periods set forth herein. Lemieux Group covenants and agrees that if Developer defaults in its obligations under this Agreement, that Lemieux Group will pay all sums of money to any Person entitled thereto, or to perform such covenants and obligations, as were to be paid or performed by Developer under this Agreement.

The undertaking of Lemieux Group under this Section 6.3 shall be a continuing guaranty of payment and performance, and the liability of Lemieux Group hereunder shall in no way be affected, modified or diminished by reason of any of the following (whether or not notice is given to Lemieux Group): (a) the failure of Owner to assert against Developer or against Developer's successors and assigns any of the rights or remedies reserved to Owner pursuant to this Agreement; (b) a petition for relief under Title 11 of the United States Code is filed by or against Developer; (c) Developer consents to, acquiesces in, or takes any action, or there is filed by or against Developer any petition or action, looking to or seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future statute, law or regulation, either of the United States or any state; (d) there is appointed, with or without the consent of Developer, any trustee, custodian, receiver or liquidator of all or a portion of Developer's property or assets; (e) Developer shall make an assignment for the benefit of creditors or shall be unable to pay its debts as they become due; (f) this Agreement is rejected in any case, action or proceeding referred to in this paragraph; or (g) any lack of validity or enforceability of the obligations of the Lemieux Group under this Section 6.3, this Agreement or any other circumstance which might otherwise constitute a defense available to Lemieux Group or to the Developer.

The obligations of Lemieux Group under this Section 6.3 shall in no way be affected, modified or diminished by reason of any assignment, amendment, renewal, supplement, modification or extension of this Agreement, or by reason of any dealings or transactions or matters or things occurring between Owner and Developer, whether or not notice thereof is given to Lemieux Group.

7. GENERAL CONDITIONS

7.1 OWNER'S CONDITIONS.

The obligations of the Owner to perform this Agreement are subject to the satisfaction of each of the following conditions (any of which may be waived by the Owner, in whole or in part):

- (a) [Intentionally Omitted]

(b) Accuracy of Representations.

All of the representations and warranties of the Developer in this Agreement must have been accurate in all material respects as of their respective dates of execution and delivery, and, unless made as of a specified date, as of the respective dates of the Owner's performance of the obligations under this Agreement.

(c) Performance.

All of the covenants and obligations that the Developer is required to perform or to comply with pursuant to this Agreement prior to the date of the Owner's performance, as applicable, including the delivery of all documents and notices provided for therein must have been performed and complied with in all material respects.

(d) No Injunction.

There must not be in effect any Legal Requirements or any injunction or other order that prohibits the consummation of this Agreement or the Related Agreements.

(e) Delivery of Other Documents.

The Owner and the Developer shall have delivered all documents and notices required by this Agreement and any Related Agreement including, without limitation, opinions of counsel.

7.2 DEVELOPER'S CONDITIONS.

The obligations of the Developer to perform this Agreement are subject to the satisfaction of each of the following conditions (any of which may be waived by the Developer, in whole or in part):

(a) Intentionally Omitted]

(b) Accuracy of Representations.

All of the Owner's representations and warranties in this Agreement must have been accurate in all material respects as of the date hereof and, unless made as of a specified date, as of the respective dates of the Developer's performance of the obligations under this Agreement.

(c) Performance.

All of the covenants and obligations that the Owner is required to perform or to comply with pursuant to this Agreement and the Related Agreements prior to the date of the Developer's performance, as applicable, including the delivery of all documents and notices provided for therein, must have been performed and complied with in all material respects.

(d) No Injunction.

There must not be in effect any Legal Requirements or any injunction or other order that prohibits the consummation of this Agreement or the Related Agreements.

(e) Delivery of Other Documents.

The Owner and the Developer shall have delivered all documents and notices required by this Agreement or any Related Agreement including, without limitation, opinions of counsel.

8. DEFAULT AND REMEDIES

8.1 DEVELOPER EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default ("**Event of Default**") under this Agreement:

(a) The Developer's violation or failure to perform or observe any material term, covenant or condition of this Agreement, which failure or violation shall continue for twenty (20) days after receipt of written notice to the Developer by the Owner identifying with particularity the failure or violation, provided that if such failure or violation is susceptible to cure but is not capable of being cured within such twenty (20) day period, there shall exist no Event of Default provided that the Developer promptly advises the Owner of the Developer's intention duly to institute all steps necessary to cure such default and the Developer promptly commences cure of such failure or violation, and diligently pursues such cure to completion;

(b) The Developer's (or any Affiliate's) violation or failure to perform or observe any of the terms, covenants or conditions in the Related Agreements prohibiting relocation of the Franchise, requiring that the Franchise play all of its NHL Home Games (as so defined) at Mellon Arena prior to the Commencement Date and at the New Arena thereafter (it being understood that any such default or event of default shall be an additional Events of Default hereunder and shall not be construed to be in substitution of any other Events of Default);

(c) (i) The Developer shall institute voluntary proceedings in Bankruptcy, (ii) involuntary proceedings in Bankruptcy shall be instituted against the Developer, which are not discharged within ninety (90) days thereafter, (iii) any proceedings shall be instituted by or against the Developer under any law relating to insolvency or reorganization, and in the case of an involuntary proceeding, which is not discharged within ninety (90) days after filing, (iv) a trustee or receiver shall be appointed for the Developer by any court of competent jurisdiction, (v) the Developer shall make a general assignment for the benefit of its creditors; (vi) a final, non-appealable judgment is entered against the Developer for an amount in excess of \$2,000,000, which final judgment is not bonded or satisfied within thirty (30) days of having become final, or (vii) the Developer shall dissolve or liquidate, or shall otherwise cease to exist as a duly organized, validly existing legal entity;

(d) If at any time during which this Agreement is in effect, (i) Lemieux Group shall institute voluntary proceedings in Bankruptcy, (ii) involuntary proceedings in Bankruptcy shall be instituted against Lemieux Group, which are not discharged within ninety (90) days thereafter, (iii) any proceedings shall be instituted by or against Lemieux Group under any law relating to insolvency or reorganization, and in the case of an involuntary proceeding, which is not discharged within ninety (90) days after filing, (iv) a trustee or receiver shall be appointed for Lemieux Group by any court of competent jurisdiction, (v) Lemieux Group shall make a general

assignment for the benefit of its creditors; (vi) a final, non-appealable judgment is entered against Lemieux Group for an amount in excess of \$2,000,000, which final judgment is not bonded or satisfied within thirty (30) days of having become final, or (vii) Lemieux Group shall dissolve or liquidate, or shall otherwise cease to exist as a Pennsylvania limited partnership;

(e) Any representation or warranty made by the Developer herein, or in any Related Agreement, shall prove to have been incorrect when made, in any material respect.

(f) (i) The Construction Start Date does not occur by December 31, 2008, provided that the Owner shall have delivered substantially all of the Site to Developer in the manner contemplated in Section 2.3(a) prior to such date, or (ii) Substantial Completion does not occur by December 31, 2010, or (iii) construction of the New Arena is abandoned, or (iv) such construction is suspended by Developer for a period in excess of thirty (30) days. Notwithstanding the foregoing, if the Developer is then ready to otherwise commence the New Arena Work all deadlines and time periods set forth in this Section 8.1(e) shall be subject to extension due to (x) any delays at arriving at a Final Project Budget due to the circumstances set forth in Section 2.4(d)(iv), or (y) Force Majeure as provided in Section 8.4(a).

8.2 INJUNCTIVE RELIEF AND OTHER REMEDIES OF OWNER.

If an Event of Default under Section 8.1 above occurs, the Owner may exercise any of the following rights and remedies:

(a) The Developer acknowledges that the rights given by this Agreement to the Owner are of a unique and special nature, and that any violation of this Agreement may result in immediate and irreparable harm to the Owner and any third party beneficiaries of this Agreement (including without limitation any Owner Indemnified Person), and that in the event of any actual or threatened breach or violation of any of the provisions of this Agreement, including without limitation the occurrence of an Event of Default, the Owner, and any third party beneficiaries of this Agreement, shall be entitled as a matter of right to an injunction or a decree of specific performance without bond from any equity court of competent jurisdiction. The Developer waives the right to assert the defense that such breach or violation can be compensated adequately in damages in an action at law.

(b) The Owner may terminate the agency relationship between the Owner and the Developer that has been established pursuant to this Agreement, may direct the Developer to assign the CM Agreement, the Architect Agreement, Construction Drawings, and any Contract, and to deliver any other documents or instruments pertinent to the ongoing development of the Project, to the Owner.

(c) Following its exercise of the remedies described in subsection (b) above, the Owner may enter onto the Site and take control of the Site and all material, supplies, equipment and inventory located thereon or located elsewhere and paid for with Project Funds, and may direct the Architect, the Construction Manager, any Contractor and such other members of the Construction Team as the Owner determines to continue to perform New Arena Work under the direction of the Owner Representative or such other Person as the Owner may designate .

(d) The Owner may make a claim for actual monetary damages sustained by the Owner arising out of the occurrence of an Event of Default, which damages will be reimbursed by the Developer to the Owner upon demand.

(e) The Developer will, at the request of the Owner, execute and deliver all such documents, instruments and assurances to the Owner, or to such other Person as the Owner may direct, so that the Owner may exercise its rights and remedies under this Agreement.

(f) Without limitation of the remedies set forth in subsections (a) through (e) above of this Section 8.2, subject to Section 8.4(a), if the Completion Date does not occur within three (3) years after the Construction Start Date, the Owner shall have the right to terminate this Agreement and the Related Agreements at any time prior to the Completion Date by giving ninety (90) days prior written notice of cancellation to the Developer, in which event, the obligations of the Developer and the Owner under this Agreement and the Related Agreements shall terminate upon the expiration of the ninety (90) day period. The Developer and the Owner shall each be responsible for their respective obligations arising under this Agreement and the Related Agreements prior to the date of termination, provided, however, that the Developer shall repay to the Owner the payments, if any, made to the Developer or the CM pursuant to this Agreement.

8.3 REMEDIES CUMULATIVE.

All rights and remedies set forth in this Agreement are cumulative and in addition to the parties' rights and remedies at law or in equity. A party's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. A party's delay or failure to exercise or enforce any rights or remedies shall not constitute a waiver of any such rights, remedies or obligations. Neither party shall be deemed to have waived any default unless such waiver is expressly set forth in an instrument signed by such party. If a party waives in writing any default, then such waiver shall not be construed as a waiver of any covenant or condition set forth in this Agreement except as to the specific circumstances described in such written waiver. Neither payment of a lesser amount than the sum due hereunder nor endorsement or statement on any check or letter accompanying such payment shall be deemed an accord and satisfaction, and the other party may accept the same without prejudice to the right to recover the balance of such sum or to pursue any other remedy.

8.4 RISK OF CERTAIN LOSSES.

(a) Force Majeure.

The nonoccurrence of any condition under this Agreement shall not give rise to any right otherwise provided in this Agreement when such failure or non-occurrence is due to the occurrence of a Force Majeure condition and without the fault of the party claiming an extension of time to perform, except with respect to the Owner's claims for Liquidated Damages pursuant to Section 8.4(b)(i) of this Agreement. An extension of time for any such cause, if any, shall be limited to the period of delay due to such cause, which period shall be deemed to commence from the time of the commencement of the cause. Times of performance under this Agreement also may be extended as mutually agreed upon in writing by the Owner and the Developer.

However, failure to agree to a proposed extension of time for performance shall not be deemed grounds for delay or failure to timely cure an event of default under this Agreement.

(b) Risk of Delay in Completion Date or Failure to Complete.

(i) Under various circumstances, the Developer may be entitled to payments as compensation for construction delays or payments to cover certain costs of acceleration pursuant to the "owner controlled" insurance program maintained by the Developer with respect to the Project or pursuant to other insurance policies that may be maintained by the Developer to cover the costs of delays in construction or construction acceleration costs. Under certain circumstances, the Developer may also be entitled to damages for delay in the completion of the Project pursuant to the terms of the CM Agreement (such delay damages, together with any amounts payable pursuant to the immediately preceding sentence being collectively referred to herein as "**Liquidated Damages**"). All such Liquidated Damages actually received by the Developer shall be retained by the Developer and shall be expended by the Developer first to cover costs of completing the Project, and then to reimburse the Developer for actual out of pocket expenses incurred. Any Liquidated Damages not required for such purpose shall be paid to Owner.

(ii) The Developer shall not be obligated to cause to be played in the New Arena any of its regularly scheduled home games until the Completion Date; however, the Developer will be required to continue to play its regularly scheduled home games and playoff games at Mellon Arena until the Completion Date.

(c) Risks of Damage or Destruction Prior to Completion.

The Owner and the Developer acknowledge that the Developer has obtained a builder's risk policy of property insurance for the Project, which names the Owner and the Commonwealth as "additional insured" entities, and which provides coverage for direct physical loss or damage resulting from an insured peril at the Project or to personal property that is at the Project, in storage or in transit up to the amount of the GMP, as further set forth on *Exhibit 14*. The policy is to be an "all risk" or "special form" policy. In the event of any damage to or destruction of the Project prior to the Completion Date that results in loss or damage in excess of the coverage provided by the builder's risk policy or that is otherwise excluded from coverage under the builder's risk policy, the Developer shall be responsible for such excess loss or damage as set forth and to the extent provided in Section 2.7 hereof (it being understood that the Developer shall not be liable or otherwise financially responsible for any loss or damage caused by actions or omissions of the Owner that is not covered by the builder's risk insurance).

(d) Certain Other Risks.

Each party assumes the risk that one or more terms or provisions of this Agreement and/or any of the Related Agreements may be deemed or found to be invalid, ultra vires, in violation of or contrary to Legal Requirements, or otherwise unenforceable. Accordingly, notwithstanding and prevailing over any contrary term, provision, acknowledgment, representation and/or warranty, or any implication contained in this Agreement or any of the Related Agreements, each party acknowledges and agrees that neither the

Developer, nor the Owner shall have any liability to the others (including any liability for any breach of any representation or warranty under this Agreement or any Related Agreement) in the event any term or provision of this Agreement and/or any of the Related Agreements is ever found or deemed to be invalid, illegal, in violation of or contrary to Legal Requirements, ultra vires, or otherwise unenforceable.

(e) Additional Developer Duties.

It is understood that to the extent Developer is first-named insured under any insurance policy purchased pursuant hereto (and the Owner and the Commonwealth are "additional insured") or otherwise from Project Funds, in such capacity it is as agent of the Owner, and shall act in such capacity in regard to all matters relating to such insurance policies. It is further understood that the Developer, in its capacity as agent of the Owner, will apply the proceeds of any recovery under such builder's risk policy of property insurance toward restoration of the damage giving rise to such proceeds and to other costs arising out of such damage. The Developer, in its capacity as agent of the Owner, will also apply the proceeds of any other insurance policy maintained under this Agreement toward payment of the costs, expenses and liabilities arising out of the claim that gave rise to such insurance proceeds.

8.5 DEFAULT OF THE OWNER; REMEDIES OF DEVELOPER.

Each of the following shall constitute a default by the Owner (an "**Owner Default**") under this Agreement, following the occurrence of which the Developer shall be limited to the specific remedies available to the Developer under the terms of this Agreement (including, without limitation, indemnification as provided in Section 9.3 hereof):

(a) The Owner's failure to disburse in a timely manner any Project Funds as required by the terms of this Agreement, and Owner fails to cure this default within thirty (30) days after written notice from Developer.

(b) Any Site Work Deficiency which is not corrected by Owner if required by the terms of this Agreement, and which shall delay the Construction Start Date or the Completion Date hereunder for a period in excess of sixty (60) days.

(c) If the Owner materially fails to fund the overall construction of the New Arena with the Bond Proceeds that the Owner is required to provide pursuant to this Agreement (and, if applicable, any subsequent bond issue or other financial mechanism issued or made available by the Commonwealth as described in Section 2.5), including without limitation (i) the failure of the Owner to make funds available from Bond Proceeds in an amount not less than the Target Project Cost, or (ii) the failure of the Commonwealth to fund the Budget Excess under Section 2.4(d)(ii), and as a result of this material failure to fund the New Arena cannot be constructed, and the Owner fails to cure this material failure to fund within thirty (30) days after written notice thereof from the Developer.

(d) If the Owner otherwise fails to perform any of its obligations under this Agreement, and fails to cure any such default within sixty (60) days after written notice of default is delivered by the Developer to the Owner (plus such additional period as may be

reasonably necessary to cure, provided that the Owner is proceeding diligently and in good faith to do so).

(e) Following the occurrence of an Owner Default described in subsections (a) to (d) above, the Developer shall, in addition to any other remedy expressly set forth in this Agreement, (i) have the right to immediately commence expedited proceedings seeking specific performance of, or other equitable relief to enforce, the Owner's applicable obligations under this Agreement, (ii) to the extent that an Owner Default described in subsections (a) or (b) above results in a Cost Overrun or other expense for which the Developer is otherwise liable hereunder, to cause Owner to pay such expense directly to the Person to whom such expense is due or payable, and/or (iii) be entitled to indemnification against the Owner for any Damages arising of such Owner Default in accordance with Section 9.3 hereof. The Owner and the Developer stipulate and agree that (A) any proceeding described in clause (i) above will be commenced only in the Court of Common Pleas of Allegheny County, Pennsylvania, (B) they will jointly request and stipulate that such proceeding shall be assigned to and be heard by the President Judge of said Court, or at his or her direction, the Administrative Judge of the Civil Division of such Court, (C) such proceeding shall be heard and determined by the Court sitting without a jury, (D) it shall be heard on an expedited basis, with the hearing thereon commenced and concluded within thirty (30) days after the filing of the proceeding and (E) the Court will render its judgment and decision, which shall be binding upon the parties, within thirty (30) days thereafter. In the event that the Owner does not, pursuant to a Court order resulting from such proceeding requiring it to do so in accordance with the immediately preceding sentence, provide the required funding for the New Arena construction, within thirty (30) days of the entry of such order, or otherwise cure its Owner Default, then the Developer shall have the right to terminate this Agreement and its obligations hereunder. Upon any termination under this Section 8.5, the Lease and the other Related Agreements shall also terminate, and the Developer, or its affiliated entities, shall be released from all obligations thereunder.

(f) Notwithstanding anything to the contrary set forth in this Section 8.5, the right of the Developer to enforce a judgment against the Owner will be subject to (i) the limited recourse provisions set forth in subsection (g) below, and (ii) such laws and procedures as may otherwise relate to the enforcement of a money judgment against an instrumentality of the Commonwealth. Any sums payable by the Owner under this Section 8.5 shall bear interest at the Default Rate.

(g) Notwithstanding and prevailing over any contrary provision or implication of this Agreement or any of the Related Agreements, any and all duties, liabilities and obligations of the Owner under this Agreement relating to the construction of the Project shall be required to be paid or performed by the Owner only to the extent that Project Funds are available, and no duties, liabilities, or obligations of the Owner with respect to this Agreement relating to the construction of the Project shall be required to be satisfied from any other funds, revenues or reserves of the Owner. All covenants, stipulations, promises, agreements and obligations of the Owner contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Owner and not of any member, director, officer, employee or agent of the Owner in his or her individual capacity or any other Governmental Authority, and no recourse shall be had for any claim hereunder against any member, director, officer, employee or agent of the Owner or any other Governmental Authority.

8.6 TERMINATION OF THIS AGREEMENT.

Terms and conditions relating to termination of the Lease because of certain actions or failure to act on the part of Owner are set forth in Section 17.24 of the Lease, which terms and conditions are incorporated into this Agreement by this reference.

9. INDEMNIFICATION.

9.1 INDEMNIFICATION AND PAYMENT OF DAMAGES BY DEVELOPER.

Developer will indemnify, defend and hold harmless the Owner, the Commonwealth, the City and the County, and each of their respective elected officials, appointed officials, board members, officers, employees, agents and attorneys (collectively, the "**Owner-Indemnified Persons**") for, and will pay to the Owner-Indemnified Persons the amount of any Damages, whether or not involving a third-party claim arising, directly or indirectly, from or in connection with:

(a) any material breach of any representation or warranty made by Developer in this Agreement or in any schedule or exhibit attached hereto or any other certificate or document delivered by the Developer to the Owner pursuant to this Agreement;

(b) any material breach by the Developer of any covenant or obligation of Developer in this Agreement;

(c) any claim by any Person for Damages in connection with the violation by the Developer, any Affiliate, the Construction Manager, the Program Manager or any employee or agent of the Developer, of any Legal Requirements;

(d) Defects in the New Arena Work, except to the extent caused by the gross negligence or willful misconduct of the Owner, its employees, agents or contractors;

(e) otherwise arising in any manner out of, or related to the occupancy of the Site pursuant to this Agreement (except as set forth in Section 9.3 hereof), except to the extent caused by the gross negligence or willful misconduct of the Owner, its employees, agents or contractors.

If Developer fails to make any payment of any sums payable by Developer to Owner-Indemnified Persons when due, which failure shall continue for thirty (30) days, then such payment shall bear interest at the Default Rate, as defined in the Lease.

9.2 DEFENSE OF INDEMNIFIED CLAIMS.

(a) Notice of Claims. Promptly after receipt by an Owner-Indemnified Person of the notice of the commencement of a claim against it for which the Owner-Indemnified Person would be entitled to receive indemnification under Section 9.1 (a "**Proceeding**"), the Owner-Indemnified Person will give notice to the Developer of the commencement of such claim, but the failure to notify the Developer will not relieve the Developer of any liability that it may have to the Owner-Indemnified Person, except to the extent that failure to give such notice

materially prejudices the Developer or its rights under this Agreement. Developer shall promptly give written notice to Owner of any claim, including a claim for damages, against an Owner-Indemnified Person, of which the Developer receives written notice.

(b) Assumption of Defense by Developer. If any Proceeding referred to in Section 9.1(a) is brought against an Owner-Indemnified Person and it gives notice to the Developer of the commencement of such Proceeding, the Developer will, at its sole cost and expense, unless the claim involves a matter described in Section 9.3 hereof, be required to assume the defense of such Proceeding with counsel reasonably satisfactory to the Owner-Indemnified Person, and, after written notice from the Developer to the Owner and the Owner-Indemnified Person that it has undertaken to assume the defense of such Proceeding (the "**Assumption Notice**"). After the Developer delivers its Assumption Notice: (i) it will be conclusively established between the parties to this Agreement (but shall not constitute an admission of liability as to any third party claimant) that the claims made in that Proceeding are within the scope of and subject to indemnification; (ii) no compromise or settlement of such claims may be effected by the Developer without the Owner-Indemnified Person's consent unless (A) there is no finding or admission of any violation of Legal Requirements or any violation of the rights of any person and no effect on any other claims that may be made against an Owner-Indemnified Person, and (B) the sole relief provided is monetary damages that are paid in full by the Developer; (iii) Developer will not be responsible to pay additional counsel fees incurred by the Owner, and (iv) the Owner-Indemnified Persons will have no liability with respect to any compromise or settlement of such claims effected without its consent. If notice is given to the Developer of the commencement of any Proceeding and the Developer does not, within twenty (20) days after the Owner Indemnified Person's notice is given, deliver the Assumption Notice, the Developer will be bound by any determination made in such Proceeding or any compromise or settlement effected by the Owner-Indemnified Person, including the payment of money damages.

(c) Owner-Indemnified Person's Defense of Claims. If the Owner-Indemnified Person determines in good faith that there is a reasonable probability that a Proceeding may adversely affect it or its Affiliates other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Owner-Indemnified Person may, by notice to the Developer, assume the exclusive right to defend, compromise, or settle such Proceeding, and the Developer will reimburse the Owner-Indemnified Person for all legal fees and costs incurred but the Developer will not be bound by any determination of a Proceeding so defended or any compromise or settlement effected without its consent (which will not be unreasonably withheld, conditioned or delayed).

(d) Proceedings Involving a Bid-Challenge. If a bid-challenge to the award of any Contract occurs, as contemplated in Section 2.2(b)(v) above, the costs of defense of the bid-challenge shall be a Project Cost. However, if a final non-appealable determination is made by any court or other authority having jurisdiction, that the procedures followed in connection with the award of the Contract were in violation of Budget Act Requirements or other Legal Requirements, the Developer will reimburse the Owner and any Owner-Indemnified Person entitled to reimbursement under this Article 9 for all fees, costs and other sums incurred in the defense of this proceeding. Reimbursement will be made within fifteen (15) days after the decision becomes final and non-appealable.

9.3 INDEMNIFICATION AND PAYMENT OF DAMAGES BY OWNER.

In addition to any other indemnification obligations of the Owner set forth in this Agreement or in any Related Agreement, to the extent permitted by Legal Requirements and without causing Owner to waive its rights of sovereign immunity (it being understood that Owner does not hereby waive its rights of sovereign immunity, to the extent available to Owner), Owner will indemnify, defend and hold harmless the Developer and its officers, board members, directors, employees, attorneys and agents (collectively, the "**Developer-Indemnified Persons**") for, and will pay to the Developer-Indemnified Persons the amount of Damages arising, directly or indirectly, from or in connection with:

- (a) any material breach of any representation or warranty made by Owner in this Agreement or in any schedule or exhibit attached hereto or any other certificate or document delivered by Owner to the Developer pursuant to this Agreement;
- (b) any material breach by Owner of any covenant or obligation of Owner in this Agreement; or
- (c) the gross negligence or willful misconduct of the Owner; or
- (d) any indemnification obligation under any Related Agreement.

If Owner fails to make any payment of any sums payable by Owner to Developer-Indemnified Persons on the date due, which failure shall continue for thirty (30) days, such payment shall bear interest at the Default Rate, as defined in the Lease.

9.4 SURVIVAL.

The indemnification undertakings of this Article 9 shall survive the expiration or earlier termination of this Agreement to the extent they relate to matters arising or occurring prior to such expiration or termination.

9.5 JURISDICTION.

Subject to the following sentence, the Developer hereby consents to the nonexclusive jurisdiction of any court in which a Proceeding is brought against an Owner Indemnified Person for purposes of any claim that the Owner may have under this Agreement with respect to such Proceeding or the matters alleged therein, and agrees that process may be served on the Developer with respect to such a claim anywhere in the world. Provided, however, the Developer may, at its sole cost, contest the jurisdiction of any court in which a Proceeding is brought against an Owner-Indemnified Person if the Developer determines, in its reasonable discretion, that such jurisdiction is not be appropriate with respect to the claim out of which such Proceeding arises.

10. MISCELLANEOUS

10.1 NO WAIVERS.

No action taken pursuant to or related to this Agreement or the Related Agreements, including, without limitation, any investigation by or on behalf of a party shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, condition or agreement in this Agreement or the Related Agreements. Waiver by either party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.

10.2 **ADDITIONAL DOCUMENTS AND APPROVALS.**

The Owner and the Developer, whenever and as often as each shall be reasonably requested to do so by the other party, shall execute or cause to be executed any further documents and take any further actions as may be reasonably necessary or expedient in order to consummate the transactions provided for in, and to carry out the purpose and intent, of this Agreement and each of the Related Agreements. If at any time the approval of either party is required under the terms of this Agreement, unless otherwise specifically provided, such approval will not be unreasonably withheld, conditioned or delayed.

10.3 **GOOD FAITH.**

In exercising its rights and fulfilling its obligations under this Agreement and each of the Related Agreements, each of the Owner and the Developer shall act in good faith. Notwithstanding the foregoing, each party acknowledges that in each instance under this Agreement and the Related Agreements where a party is obligated to exercise good faith or to use good faith, diligent or other similar efforts, such party shall not be required to expend any funds, or grant any other consideration of any kind, in the performance of such undertaking, and each party further acknowledges that the obligation of any party to act in good faith, or undertake good faith, diligent or other similar efforts does not constitute a warranty, representation or other guaranty that the result which the parties are attempting to achieve will be successfully achieved and no party shall be liable for any failure to achieve the result or results intended so long as the party has complied with its obligation to act in good faith.

10.4 **CHALLENGE TO ENFORCEABILITY.**

Neither the Owner nor the Developer shall terminate this Agreement on the ground of ultra vires act or for any illegality or on the basis of any challenge to the enforceability of this Agreement, except as otherwise permitted in this Agreement or in the Related Agreements. Subject to the preceding sentence, no such challenge may be asserted by the Owner or the Developer except by the institution of a declaratory action in which the Owner and the Developer are parties.

10.5 **COOPERATION.**

The Owner and the Developer shall individually contest any challenge to the validity, authorization and enforceability of this Agreement and the Related Agreements ("**Challenge**"), whether asserted by a taxpayer or any Person, except, either party, at its option, may elect not to contest such Challenge where to do so would be contrary to applicable Law. The Developer shall select counsel to defend any such Challenge, subject to the reasonable approval of the

Owner. Any legal fees, costs and other expenses of the Developer in connection with any such Challenge shall be the responsibility of the Developer. Any legal fees, costs and other expenses of the Owner in connection with such Challenge shall be the responsibility of the Owner. Furthermore, the Owner and the Developer shall take all ministerial actions and proceedings reasonably necessary or appropriate to remedy any apparent invalidity, lack or defect in authorization, or illegality, or to cure any other defect, which has been asserted or threatened, except any such action which requires Owner Board approval or is contrary to applicable Law.

10.6 NOTICE OF MATTERS.

Should the Owner or the Developer receive knowledge about any matter which may constitute a breach of any of its warranties or covenants set forth in this Article which arises after the date of this Agreement, it shall promptly notify the other party of the same in writing, in the manner set forth below. Specifically, without limitation, the Developer and the Owner shall promptly inform the other of any claims, proceedings or suits referred to in Sections 3.3 and 3.4 or 4.4 and 4.5, respectively, and any Challenge referred to in Section 10.5.

10.7 COMPLIANCE WITH LAWS.

During the term of this Agreement, each party, in connection with the exercise of its respective rights with respect to the development of the Site and construction of the New Arena, shall comply with all Legal Requirements relating to its development and construction, and each party shall be responsible at all times to ensure its own compliance with all Legal Requirements, all at such party's sole cost and expense. Except as otherwise specifically provided herein, each party shall obtain and maintain all necessary applicable Permits that are required to be obtained and maintained by such party in connection with its development of the Site or construction of the New Arena, as applicable.

10.8 FORM OF NOTICES; ADDRESSES.

All notices, demands or requests required under this Agreement shall be in writing. All such notices, demands and requests required under this Agreement shall be deemed to have been properly given if (i) served personally, or (ii) if sent by United States registered or certified mail, or (iii) if sent by overnight delivery service, (iv) or sent by telecopy if followed within twenty-four (24) hours by service under one of the other subparts above, to the parties as follows (or at such other address as a party may from time to time designate by notice given pursuant to this Article). Each notice shall be deemed given and received upon receipt:

To the Developer	Lemieux Group LP One Chatham Center, Suite 400 Pittsburgh, PA 15219 Attention: Chief Executive Officer Telecopy: (412) 642-1859
With a copy to:	Pepper Hamilton LLP One Mellon Center 500 Grant Street, 50th Floor

Pittsburgh, PA 15219
Attention: Charles M. Greenberg, Esquire
Telecopy: (412) 281-0717

To the Owner: Sports & Exhibition Authority of Pittsburgh and
Allegheny County
Regional Enterprise Tower
425 Sixth Avenue, 27th Floor
Pittsburgh, PA 15219
Attention: Executive Director
Telecopy: (412) 393-0204

With a copy to: Buchanan Ingersoll & Rooney PC
301 Grant Street, 20th Floor
One Oxford Centre
Pittsburgh, PA 15219
Attention: Mark R. Hornak, Esquire
Telecopy: (412) 562-1041

With a copy to: Secretary of Budget
Commonwealth of Pennsylvania
238 Main Capitol
Harrisburg, PA 17120
Telecopy: (717) 787-4590

10.9 ENTIRE AGREEMENT.

This Agreement and the Related Agreements contain the sole and entire agreement between the parties with respect to their subject matter and supersede any and all other prior written or oral agreements between them with respect to such subject matter.

10.10 AMENDMENT.

No amendment, modification or termination of this Agreement shall be valid unless in writing and duly executed by the party affected by the amendment, modification or termination.

10.11 BINDING EFFECT.

This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereof, including without limitation any Affiliate of Developer authorized under Section 6.1 hereof. As a condition precedent to any sale of all or substantially all of the assets of the Developer, or a merger or consolidation of the Developer in which the Developer is not the surviving entity, the Developer shall and hereby agrees to secure the agreement of the surviving or acquiring entity which would then own the Franchise to be bound by the obligations of this Agreement and the Related Agreements.

10.12 REVIEW BY THE OWNER AND COMMONWEALTH.

The right of the Owner and Commonwealth to review and comment upon Design Documents, Construction Drawings and other documents and records, and to inspect the progress of construction, under this Agreement, shall be solely for the benefit of the Owner and Commonwealth, and no rights or remedies in favor of the Developer, or any other member of the Construction Team, shall accrue as the result of any such inspection, comment or review..

10.13 HEADINGS.

The headings contained in this Agreement are for convenience of reference only, and shall not limit, extend or otherwise affect the meaning hereof.

10.14 CONSTRUCTION.

In the construction of this Agreement, whether or not so expressed, words used in the singular or in the plural, respectively, include both the plural and the singular and the masculine, feminine and neuter genders include all other genders.

10.15 SEVERABILITY.

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it was held invalid or unenforceable, shall not be affected thereby, and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law.

10.16 THIRD PARTY BENEFICIARIES.

Nothing in this Agreement or any of the Related Agreements, express or implied, is intended to (a) confer upon any entity or person other than the parties and their permitted successor(s) and assigns any rights or remedies under or by reason of this Agreement or any of the Related Agreements as a third-party beneficiary or otherwise except as specifically provided in this Agreement or the Related Agreements; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement or the Related Agreements; provided, however, that the City, the County and the Commonwealth are expressly deemed to be third-party beneficiaries of the obligations of the Developer under this Agreement and all Related Agreements.

10.17 GOVERNING LAW AND VENUE.

This Agreement shall be governed by and shall be construed in accordance with the laws of the Commonwealth of Pennsylvania, notwithstanding its conflicts of law or choice of law provisions. Any claim or action hereunder shall, at the sole election of the Owner, be litigated or resolved, only in the Court of Common Pleas of Allegheny County, Pennsylvania, the Commonwealth Court of Pennsylvania, or the United States District Court for the Western District of Pennsylvania. The Developer is not authorized to agree (on behalf of the Owner) to arbitration of any dispute relating to the Project without the express specific authorization of the Owner.

10.18 COUNTERPARTS.

This Agreement may be executed and delivered in two counterparts, each of which shall be deemed to be an original and both of which, taken together, shall be deemed to be one Agreement.

10.19 RELATIONSHIP OF PARTIES.

It is agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture between the Owner and the Developer, or between the Owner and any other party, or cause the Owner to be responsible in any way for the debts or obligations of the Developer or any other party.

10.20 DESIGNATION OF REPRESENTATIVES.

The following persons are hereby designated as the current representatives (the "**Representatives**") of the parties:

Owner: Mary K. Conturo, Executive Director
Developer: Ken Sawyer, Chief Executive Officer, or David Morehouse, President

10.21 MEDIATION; DISPUTE RESOLUTION.

Any controversy or claim arising out of or relating to this Agreement or any of the Related Agreements shall, prior to adjudication, be first submitted to mediation administered by a mediator mutually acceptable to the Owner and the Developer.

10.22 DEVELOPER SUBJECT TO NHL.

The parties hereby acknowledge that the Team Affiliate is a constituent member of NHL, and as such, the Developer (as an Affiliate of the Team Affiliate) is, or may be, subject to (a) certain present or future agreements or arrangements entered into with third parties by, or on behalf of, the National Hockey League and any of its Affiliates. (collectively, the "NHL Entities"), either on its own behalf or on behalf of the National Hockey League clubs; (b) certain present or future agreements or arrangements entered into between the Developer and any of the NHL Entities (the Developer hereby agrees that it will not consent to an agreement or arrangement inconsistent with this Agreement); and (c) the applicable rules, regulations, guidelines, policies, agreements, bulletins or directives issued by any of the NHL Entities. The Developer represents that, as of the date of this Agreement, and to its knowledge, this Agreement is not inconsistent with any such terms.

10.23 RIGHTS OF THE COMMONWEALTH.

The Developer acknowledges that its rights and duties established in this Agreement and the Related Agreements are of a unique and special nature. Any violation of Article 6 of this Agreement, or of any comparable provision in any Related Agreement, will result in immediate and irreparable harm to the Commonwealth, and in the event of any actual or threatened breach or violation of any of the provisions of Article 6 of this Agreement, or of any comparable

provision of any Related Agreement prohibiting the relocation of the Franchise from the City during the Initial Term (as defined in the Lease), the Commonwealth will be entitled as a matter of right to (i) an injunction or a decree of specific performance without bond from any court of competent jurisdiction, including without limitation the Commonwealth Court of Pennsylvania, (ii) such monetary damages as are authorized under Pennsylvania law, and (iii) such other and further relief as is available. Nothing contained in this Section 10.23 shall be construed to affect or limit in any manner any rights or remedies of the Owner under this Agreement or any Related Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the first date above written.

DEVELOPER:

PITTSBURGH ARENA DEVELOPMENT LP, a Pennsylvania limited partnership

By: **Pittsburgh Arena Development LLC, its sole general partner**

ATTEST:

By: _____
Name:
Title:

By: _____
Name:
Title:

OWNER:

SPORTS & EXHIBITION AUTHORITY OF PITTSBURGH AND ALLEGHENY COUNTY

ATTEST:

By ATTEST. 
Name: **Mark R. Hornak**
Title: **Assistant Secretary**

By: 
Name:
Title:

JOINDER OF LEMIEUX GROUP:

Lemieux Group joins into this Agreement for the purpose of affirming its guaranty of Developer's obligations as set forth in Section 6.3 of this Agreement.

LEMIEUX GROUP LP

By: **Team Lemieux LLC, its sole general partner**

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties have executed this Agreement as of the first date above written.

DEVELOPER:

PITTSBURGH ARENA DEVELOPMENT LP, a Pennsylvania limited partnership

ATTEST:

By: **Pittsburgh Arena Development LLC**, its sole general partner

By: 
Name: Peter L. Kogan
Title: N/A

By: 
Name: KENNETH G. SAWYER
Title: CEO

OWNER:

SPORTS & EXHIBITION AUTHORITY OF PITTSBURGH AND ALLEGHENY COUNTY

ATTEST:

By: _____
Name:
Title:

By: _____
Name:
Title:

JOINDER OF LEMIEUX GROUP:

Lemieux Group joins into this Agreement for the purpose of affirming its guaranty of Developer's obligations as set forth in Section 6.3 of this Agreement.

LEMIEUX GROUP LP

By: **Team Lemieux LLC**, its sole general partner

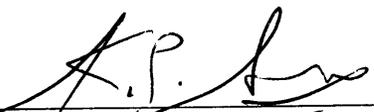
By: 
Name: KENNETH G. SAWYER
Title: CEO

EXHIBIT 1

Proposed Project Budget

**Pittsburgh Arena Project
Proposed Budget**

PRE-DEVELOPMENT EXPENSES		
	SUBTOTAL	\$ 6,000,000
ARCHITECTURAL AND DESIGN SERVICES		
	SUBTOTAL	\$ 16,500,000
PERMITS, INSURANCE AND CONTRACT ADMINISTRATION		
	SUBTOTAL	\$ 7,500,000
PROGRAM MANAGEMENT AND OVERSIGHT		
	Program Management Fees and Expenses	\$ 5,300,000
	SEA Project Oversight Fees and Expenses	2,500,000
	Commonwealth Project Oversight Fees and Expenses	1,000,000
	SUBTOTAL	\$ 8,800,000
CONSTRUCTION COSTS		
	Hard Construction Cost (incl. CM Fees and Expenses)	\$ 210,000,000
	Preconstruction Fees and Expenses	1,000,000
	SUBTOTAL	\$ 211,000,000
SYSTEMS, FURNITURE, FIXTURES & EQUIPMENT		
	SUBTOTAL	\$ 26,400,000
CONTINGENCY		
	Developer Contingency (5%)	\$ 13,800,000
	SUBTOTAL	\$ 13,800,000
TOTAL PROJECT BUDGET		\$ 290,000,000

EXHIBIT 2

Environmental Assessments

Summary of Environmental Assessment Documents

1. Phase I Environmental Site Assessment prepared by ENSR dated November 23, 2005 (Imanage SEA #41514-41517)
2. Phase I Environmental Site Assessment prepared by ENSR Addendum 1 dated February 22, 2006 (Imanage SEA #41518)
3. Phase I Environmental Site Assessment prepared by ENSR Addendum 2 dated July 28, 2006 (not provided)
4. Phase II Assessment Proposed New Arena Site Area prepared by ENSR dated October 11, 2006 (Imanage SEA #41457)
5. Phase II Environmental Investigation Report at the Proposed New Arena Site prepared by ENSR dated October 18, 2006 (Imanage SEA #41452)
6. Subsurface Investigation and Geotechnical Report, Demolition Design Services, St. Francis Central Hospital and Parking Garage prepared by CEC dated April 25, 2007 (Imanage SEA #41447)
7. Interim Design Memorandum, Subsurface Exploration and Geotechnical Engineering Investigation for Pittsburgh Penguins Arena and Parking Garage prepared by GeoMechanics, Inc. dated September 19, 2007 (Imanage SEA #41137)
8. Draft Land Use History Report prepared by Christine Davis Consultants dated May 2002 (Imanage SEA #41458)
9. Draft Criteria of Effect Report prepared by Christine Davis Consultants dated November 2006 (Imanage SEA #41444)
10. Phase I Cultural Resource Survey and Phase II Archeological Survey prepared by Christine Davis Consultants dated November 2006 (Imanage SEA #41446)
11. St. Francis Hospital Building Evaluation and Environmental Assessment prepared by Crouse Enterprises and Burt Hill Kosar & Rittelman Associates dated April 19, 2001 (Imanage MDI #85036)
12. Phase I Environmental Site Assessment prepared by Resource Professional Services, Inc. dated January 2008 for 1230 Colwell Street & F1205 Fifth Avenue (Teris Property) Imanage SEA #42024)

EXHIBIT 3
Letter Dated February 8, 2008
and Attachments, re: Garage

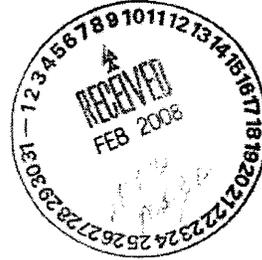


Pittsburgh Penguins

Kenneth G. Sawyer
Chief Executive Officer

February 8, 2008

Mary K. Conturo
Executive Director
Sports & Exhibition Authority
Regional Resource Center
425 Sixth Avenue, Suite 2750
Pittsburgh, PA 15219



Dear Mary:

This letter shall confirm that the Pittsburgh Penguins elect that the SEA construct the 500 space garage as described in the schematic drawings dated October 17, 2007.

This decision is conditioned upon the following:

- Commencement of construction of the garage at its west side will not occur until after the arena excavation and foundation work in that area is complete, but no later than July 2009. The SEA, the Developer and its CM will continue discussions regarding the sequencing of work on site to maximize efficiencies for the arena and garage construction.
- The entry/exit point to the garage on the south side of the garage will be situated as described in the attached email chain of February 5, 2008 and the accompanying pdf.
- The garage will not open until the first event in the new arena or October 1, 2010, whichever occurs earlier in time.
- Upon the opening of the garage, the Penguins will keep all revenues and be responsible for all operating costs.

One Chatham Center, Suite 400
Pittsburgh, PA 15219-3447
Phone: 412.642.1916 Fax: 412.642.1806

- The Penguins or its designee shall retain the right to opt at a later date for one or two additional levels to the garage and agrees that (1) the SEA will not provide the financing for the expansion, (2) such expansion will be treated as an "alteration" under the Sublease, and (3) the Penguins or the developer of the development parcel will be responsible for paying the cost of the foundation upgrade. In no case will construction of the additional two floors be permitted to begin until our construction of the "base" garage is complete.
- The Penguins may opt out of the garage commitments, and thereby negate any obligations related to its financing or operations, if it exercises its rights to terminate the Arena Sublease and related agreements as per section 2.4(d)(iv) of the current draft of the New Arena Development Agreement.

With respect to the Oxford Memorandum of October 24, 2007 (attached), the Pittsburgh Penguins respond as follows:

- The cost of the foundation upgrade will be repaid to the SEA with interest at 5.92% when the "hotel parcel" is taken down for development. (The cost will be added to the acquisition price of the land.)
- The Penguins do not elect to have the garage enclosed.
- The Penguins will not pay for any costs in connection with preparation of the development parcel as a surface parking lot. Should the SEA choose to do so, the SEA will retain parking revenues from the surface lot and bear related operating costs.
- The Penguins do not elect to have the garage include a parking level at the same elevation of the arena service level (approximately 804 elevation).

We understand that the Penguins will need to advise you by April 2008 if it wants to include an additional level as part of the garage design in order to preserve architectural fees and hard costs estimated for the additional level(s). If we so notify you, we agree that the additional architectural fees due to Graves Architects will be \$63,712, plus reimbursables of up to \$17,500. In the event that the Penguins do not proceed at that time with the design of an additional garage level,

Mary K. Conturo
February 8, 2008
Page 3

the Penguins acknowledge that these fees and related costs may change.

Lastly, the Penguins also agree that as per the prior discussions at the project implementation meetings, the connections on the west side of the garage to the arena are Project Costs and, as such, should be included in the arena construction budget.

Yours truly,


Ken Sawyer

KGS/fem
Enclosures

cc: Marc Farha
Art Aaron
Ted Black



Oxford / Chesler Project Office
425 Sixth Avenue, Suite 2750
Pittsburgh, PA 15219
412.325.3005

TO: Marc Farha, Art Aaron
FROM: Chris Cieslak
CC: DVaillant, MConturo, DStraley, SPollock, MBarnard, JPJones, MAlsayegh, CHaupt,
CShaw
DATE: October 24, 2007
SUBJECT: New Arena Garage – 100% Schematic Design Documents and Estimate

Gentlemen, on behalf of the Sports & Exhibition Authority, we are providing the attached 100% Schematic Design Documents and Estimate for the New Arena Garage. These documents are provided to enable a decision regarding the site and design of the garage by November 1, 2007 in accordance with Section 5.12.2 of the Sublease Agreement dated September 18, 2007 between the SEA and Lemieux Group, LP.

The estimate is divided into a baseline option as well as several additional options to aid the Penguins in their decision-making process. We have also provided a baseline schedule. Please note that, at this point, the baseline estimate of \$10,246,720 exceeds the budget of \$9,130,000 by \$1,116,720.

The options include the following:

- B. Escalate to Start July 2009. Our baseline schedule assumes a start date of July 2008. We've provided an estimate for escalating to as late as July 2009 for your use in evaluating the best timeframe for garage construction.
- C. Foundation Upgrade. This is the cost to upgrade the foundations to provide for future expansion by two levels. It is NOT included in the baseline cost.
- D. 2-Level Extension. This is the cost to add 2 levels. It does NOT include Option C, Foundation Upgrade, thus, if Option D is exercised, Option C would also have to be exercised.
- E. Enclosed Garage. This is the cost to accommodate an enclosed structure in the event that the hotel design abuts the garage.
- F. Additional Surface Lot. This is the cost to add a substantial retaining wall along the north face to support a temporary surface lot on the hotel parcel (approximately 120 cars.)
- G. Team Parking in Basement. This is the cost to provide a 50-car parking area at the basement level dedicated for team parking.

Please note that Options B through G are not within the funding obligations of the SEA. If Lemieux Group elects to proceed with any of the options, it would be responsible for the 'actual' costs, not the estimated costs.

Please review prior to our next Garage Design Meeting, planned for October 31, 2007 at 8:30 am. We look forward to answering any questions between now and then or further discussing the documents at that time.



Oxford / Chester Project Office
425 Sixth Avenue, Suite 2750
Pittsburgh, PA 15219
412.325.3005

Document List:

Title	Date
Cover Sheet	10/17/2007
SP1.1, Site Plan	10/17/2007
SDS-1	10/2/2007
SDS-2	10/2/2007
A1.1, Architectural Garage Plans	10/17/2007
A2.1, Exterior Elevations	10/17/2007
A3.1, Transverse Sections	10/17/2007
HPFP-1, Heating, Plumbing, Fire Protection	10/3/2007
E-1, Lighting, Power, Systems	10/3/2007
Outline Specifications	October 2007
ODC Estimate with Soft Costs	10/24/2007
Grave's Qualifications & Assumptions Letter	10/19/2007
Grave's Construction Cost Detail and Options	10/22/2007
Schedule	10/22/2007



NEW ARENA PARKING GARAGE
100% SD ESTIMATE
OCTOBER 24, 2007

COST CATEGORY

Not No No No No No

TOTAL WITH ALL OPTIONS

TEAM PKG BASEMENT

ADD'L SURFACE LOT

ENCLOSED GARAGE

1 LEVEL EXTENSION

FOUNDATION UPGRADE

ESCALATOR START STUDY

BASELINE ESTIMATE

BASELINE BUDGET

COST CATEGORY	BASELINE BUDGET	BASELINE ESTIMATE	ESCALATOR START STUDY	FOUNDATION UPGRADE	1 LEVEL EXTENSION	ENCLOSED GARAGE	ADD'L SURFACE LOT	TEAM PKG BASEMENT	TOTAL WITH ALL OPTIONS
CONSTRUCTION HARD COSTS									
1 CONSTRUCTION (SEE GRAVES 10/16/07 ESTIMATE)	7,779,732	8,369,947	578,896	126,000	3,351,292	245,000	886,795	948,000	14,405,730
2 CONSTRUCTION MANAGEMENT FEE	0	289,448	28,261	4,419	154,205	8,575	34,838	33,180	504,208
TOTAL CONSTRUCTION HARD COSTS	57,779,732	58,559,395	599,157	130,419	3,475,587	253,575	921,633	981,180	14,910,138
SOFT COSTS									
1 ARCHITECTURE, ENGINEERING & CONSULTING FEES	687,132	715,133	0	16,088	284,103	19,600	54,944	75,340	1,432,700
2 ADMINISTRATION	299,000	544,122	17,376	3,782	156,592	7,354	45,614	53,454	828,304
3 OWNER'S CONTINGENCY	483,135	421,979	29,858	6,311	183,779	13,079	35,842	49,050	745,597
TOTAL SOFT COSTS	1,469,267	1,682,234	47,234	26,171	624,474	39,633	136,399	177,844	2,273,601
TOTAL PROJECT COSTS	59,150,000	60,241,629	646,391	156,592	4,100,062	293,207	1,058,032	1,159,024	17,183,739

**Conceptual Cost Estimate for: Original Scope
PITTSBURGH PENGUINS PARKING GARAGE
PITTSBURGH, PENNSYLVANIA**



ITEM	DESCRIPTION	GRAVES COST	COMMENTS
1	OBSTRUCTION REMOVAL	\$50,000	Allowances
2	SITE UTILITY	\$100,000	Allowances
3	PUBLIC ROADS	\$150,000	Allowances
4	EXCAVATION & FOUNDATIONS	\$425,000	Historical Data
5	RETAINING WALLS	\$315,000	Historical Data
6	STRUCTURE	\$2,550,000	Historical Data
7	GENERAL CONSTRUCTION	\$1,640,000	Historical Data
8	SPECIALTIES AND EQUIPMENT	\$75,000	Historical Data
9	VERTICAL TRANSPORTATION - HYDRALIC	\$140,000	Historical Data
10	FIRE PROTECTION - STAND PIPE SYSTEM	\$65,000	Historical Data
11	PLUMBING	\$138,000	Historical Data
12	HVAC	\$26,000	Historical Data
13	ELECTRICAL	\$456,000	Historical Data
14	PARKING REVENUE CONTROL AT TWO LOCATIONS	\$287,000	Historical Data
15	SITE WORK & PRIVATE ROADS	\$197,000	Allowances
16	GENERAL CONDITIONS @ 8%	\$529,120	Allowances
	SUBTOTAL	\$7,143,120	\$ 14,286/CAR
	DESIGN CONTINGENCY @ 10%	\$714,312	
	ESCALATION @ 7% FOR 9 MONTHS	\$412,515	Jul-08
	TOTAL BUDGETARY COST	\$8,269,947	\$ 16,540/CAR
	ESCALATION @ 7% FOR 12 ADDITL MONTHS	\$578,896	Jul-09
	TOTAL BUDGETARY COST	\$8,848,843	\$ 17,698/CAR

Conceptual Cost Estimate for: Optional Scope
PITTSBURGH PENGUINS PARKING GARAGE
PITTSBURGH, PENNSYLVANIA



ITEM	DESCRIPTION	GRAVES COST	COMMENTS
1	TWO LEVEL EXTENSION 270 CARS, 83,328SF	\$3,551,292	Assumed 310\$/car
2	FOUNDATION UPGRADE	\$126,000	
3	SPRINKLERS/VENTILATION	\$245,000	
4	RETAINING WALL @NORTH/SURFACE PARKING LOT	\$686,795	
5	TEAM PARKG@BASEMT LVL, 50CARS, 16,900SF	\$946,000	Assumed 338\$/car Ind. J. Std.
GRAND TOTAL		\$5,557,087	\$ 17,365/ car



Graves Architects, Inc.

Benedum-Trees Building
221-223 4th Avenue, Suite 600
Pittsburgh, Pennsylvania 15222
Tel: 412.338.1976 Fax: 412.338.1982

October 19, 2007

Mr. Douglas J. Straley, Project Executive
PITTSBURGH SPORTS & EXHIBITION AUTHORITY
Regional Enterprise Tower, Suite 2750
424 Sixth Avenue
Pittsburgh, PA 15219

RE: New Arena Parking Garage

Dear Mr. Straley:

Pursuant to our team meeting, on 10/17/07, regarding the referenced project; kindly, find below our revised conceptual budgetary analysis for the garage configuration and related design options.

The statement of budgetary construction costs, attached, represents a best judgement as professionals familiar with the construction industry in the Greater Allegheny County area. It should be recognized, however, that the architect has no control over cost of labour, material, equipment, or methods used by contractors in determining prices, or, over competitive bidding and market conditions. Accordingly, we can not guarantee that actual bids will not vary from any budgetary costs submitted herein.

Arena Parking Garage:

The garage is a single helix, 90 degree parking, two-way traffic configuration, with continuously sloping ramps. The base design will accommodate 500 parking spaces over three one-half tiers, with a total gross area of 158,000 square feet, including stairs, elevators, and support space. We have also included the optional cost involved for the (2) two additional levels of 270 parking spaces and 50 basement-level "team" spaces .

Further, qualifications and assumptions have been made regarding the budgetary profiles present herein. They are, as follows:

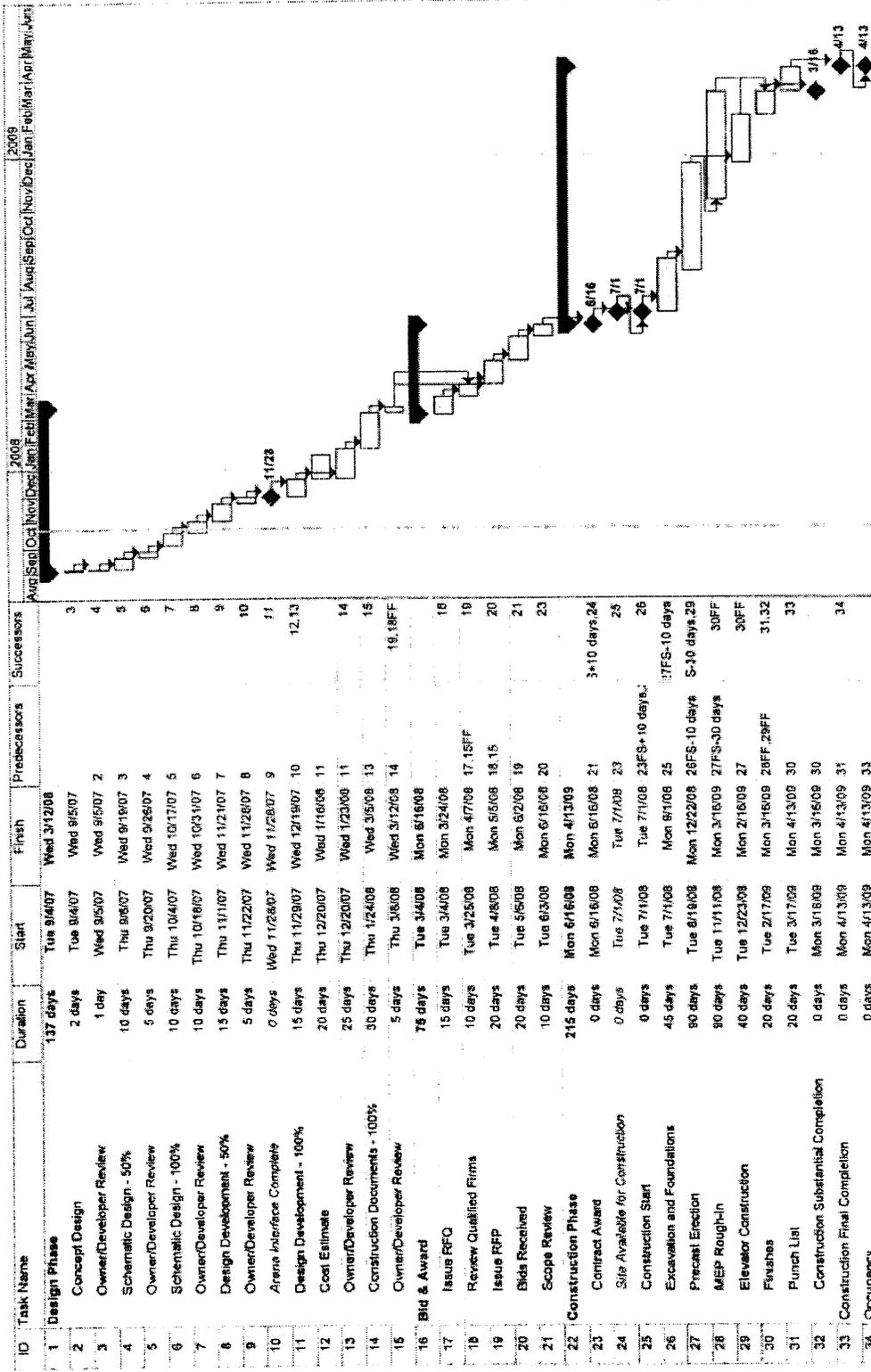
- A. The description of work outlined within Items 1-16 represent the original scope 500 car garage program and reflects cost \$ 16,355. per car, inclusive of a design contingency of 10% and 7% escalation to July 2008.
1. Graves' estimate for excavation & foundations are based upon current knowledge of the site via the latest available geotechnical report.
 2. The foundation concept is based upon the use of spread footing, north of the site, and caisson foundations to the south.
 3. The breezeway and/or main concourse plaza is not within SEA's scope.
 4. The retaining walls were calculated based upon a 25' height, within Graves' estimate came to 8,500s.f.; and, were directly related to the walls east of the breezeway.
 5. The project will have (3) three revenue control gates: (1) one north, (1) one east, and (1) one west.
 6. Estimates do not include a new traffic signal at Centre Avenue.
 7. Budgetary escalation of 7% runs thru July 2008 and July 2009, respectively.
- B. The descriptions shown under "allowances" relate to costs that will require further investigation; historic reference was not a relevant indicator.
- C. The description shown under "optional scope", page 2, directly relate to the work beyond the original scope for a 500 car parking garage.

I trust that the above is helpful in your financial planning for the project. If you should have any questions, please contact me.

Sincerely,

Howard K. Graves, AIA
President

PROPOSED ARENA PARKING STRUCTURE
MILESTONE DEVELOPMENT SCHEDULE
AS OF 100% SCHEMATIC DESIGN, OCTOBER 22, 2007



Task
 Split
 Progress
 Milestone
 Summary
 Project Summary
 External Task
 External Milestone
 Deadline



Ken Sawyer

From: Marc Farha [mfarha@iconvenue.com]
Sent: Tuesday, February 05, 2008 12:34 PM
To: Ken Sawyer; Ted Black
Cc: dvaillant@iconvenue.com
Subject: FW: Colwell entry to garage
Attachments: Colwell Access- Garage.pdf

Ken, as you requested last week, attached is the both the most recent email chain and drawing that shows how the Colwell entry to the garage was determined between Graves and HOK.

Let me if you have any questions or require additional information.

From: Kurt Amundsen [mailto:Kurt.Amundsen@hoksve.com]
Sent: Monday, February 04, 2008 1:51 PM
To: Marc Farha
Subject: FW: Colwell entry to garage

Marc, the attached and email trail confirms the location of the Colwell entry to the garage. Let me know if you need anything more.

kurt amundsen, aia
senior associate

HOK Sport
300 Wyandotte
Suite 300
direct: 816.329.4385
kurt.amundsen@hoksve.com

From: Farmer, Ryan [mailto:rfarmer@cecinc.com]
Sent: Monday, February 04, 2008 10:15 AM
To: Kurt Amundsen
Cc: Celender, Rick; Robert Daniels
Subject: RE: Colwell entry to garage

The 168.15 dimension was from the gridline to the approximate center of the egress lane. I have attached a PDF that shows the dimension to the centerline of the access into the garage (indicated with a rev cloud).

Best Regards,

Ryan Farmer
Project Consultant
Civil & Environmental Consultants, Inc.
333 Baldwin Road
Pittsburgh, PA 15205
Direct: 412-249-3146
Corporate: 412-429-2324 x146
rfarmer@cecinc.com

From: Kurt Amundsen [mailto:Kurt.Amundsen@hoksve.com]
Sent: Monday, February 04, 2008 10:59 AM

2/7/2008

To: Farmer, Ryan
Cc: Celender, Rick; Robert Daniels
Subject: RE: Colwell entry to garage

What is the 168.15' dimensioned to? Please send me a revised .pdf with the correct dimension to the center of the entry.

Thanks.

kurt amundsen, aia
senior associate

HOK Sport
300 Wyandotte
Suite 300
direct: 816.329.4385
kurt.amundsen@hoksve.com

From: Farmer, Ryan [mailto:rfarmer@cecinc.com]
Sent: Monday, February 04, 2008 9:18 AM
To: Kurt Amundsen
Cc: Celender, Rick; Robert Daniels
Subject: RE: Colwell entry to garage

Kurt,

To the center of the entry the dimension is 170.583'. thanks

Best Regards,

Ryan Farmer
Project Consultant
Civil & Environmental Consultants, Inc.
333 Baldwin Road
Pittsburgh, PA 15205
Direct: 412-249-3146
Corporate: 412-429-2324 x146
rfarmer@cecinc.com

From: Kurt Amundsen [mailto:Kurt.Amundsen@hoksve.com]
Sent: Monday, February 04, 2008 9:55 AM
To: Farmer, Ryan
Cc: Celender, Rick; Robert Daniels
Subject: RE: Colwell entry to garage

Ryan, the dimension does not appear to go to the center of the entry. I thought our earlier discussions were about the 168' dimension being from the east gridline to the centerline of the entry.

Please confirm.

kurt amundsen, aia
senior associate

HOK Sport
300 Wyandotte
Suite 300
direct: 816.329.4385

2/7/2008

kurt.amundsen@hoksve.com

From: Farmer, Ryan [mailto:rfarmer@cecinc.com]
Sent: Monday, February 04, 2008 8:41 AM
To: Kurt Amundsen
Cc: Celender, Rick; Robert Daniels
Subject: RE: Colwell entry to garage

Kurt,

I have attached a PDF that shows the location of the access to Colwell. The 168' dimension is correct. Thanks

Best Regards,

Ryan Farmer
Project Consultant
Civil & Environmental Consultants, Inc.
333 Baldwin Road
Pittsburgh, PA 15205
Direct: 412-249-3146
Corporate: 412-429-2324 x146
rfarmer@cecinc.com

From: Celender, Rick
Sent: Friday, February 01, 2008 3:50 PM
To: Farmer, Ryan
Subject: FW: Colwell entry to garage

See below

Richard P. Celender, C.E.T., CPESC
Project Manager
Civil & Environmental Consultants, Inc.
333 Baldwin Road
Pittsburgh, PA 15205
Phone: 412.429.2324
Fax: 412.429.2114
rcelender@cecinc.com

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From: Kurt Amundsen [mailto:Kurt.Amundsen@hoksve.com]
Sent: Friday, February 01, 2008 2:47 PM
To: Celender, Rick
Cc: Marc Farha; Robert Daniels
Subject: Colwell entry to garage

Rick/Rob:

Please confirm our previous conversation that the south entrance to the garage along Colwell is to be located 168'-0" west of the eastern most gridline of the garage.

2/7/2008

Thanks.

kurt amundsen, aia
senior associate

HOK Sport
300 Wyandotte
Suite 300
direct: 816.329.4385
kurt.amundsen@hoksve.com

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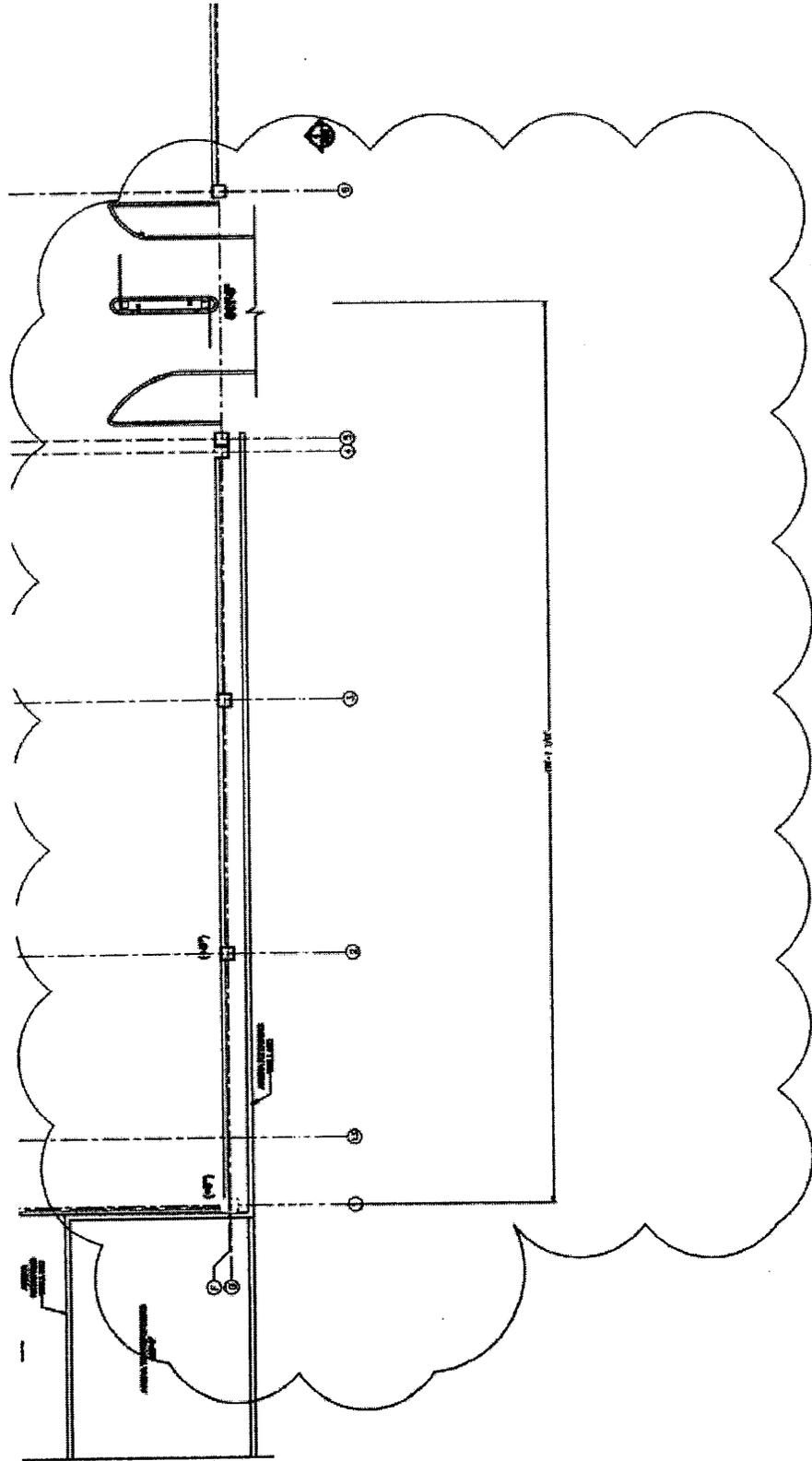


EXHIBIT 4-A
Master Project Schedule

(See Attached)

4.A

Exhibit 4^A Proposed Master Project Schedule

Pittsburgh Arena Project

July 31, 2010 Substantial Completion	OCT 07	NOV 07	DEC 07	JAN 08	FEB 08	MAR 08	APR 08	MAY 08	JUN 08	JUL 08	AUG 08	SEP 08 to MAY 10	JUN 10	JUL 10	AUG 10	SEP 10
Concept/Program (complete)																
Contract Design Team																
Solicit/Contract CM for PreCon																
Schematic Design Documents																
SD Approval (Estimate / VE)																
Design Development Documents																
DD Approval (Estimate / VE)																
Construction Documents																
CD Approval																
GMP Development																
Finalize GMP Contract & Mobilize																
Construction																
Commissioning																
Closeout																

4.B

EXHIBIT 4-B

Site Work Delivery Schedule

Delivery of all properties comprising the Site by June 1, 2008 except:

1. Delivery of current Synagogue Building on or before August 1, 2008.
2. Delivery of current Epiphany Church rectory building site and adjacent staging area on or before December 1, 2008.

EXHIBIT 5

Minority and Women Business Enterprise Participation Plan

WHEREAS, Pittsburgh Arena Development LP (the "Developer") has entered into a New Arena Development Agreement dated _____, 2008, effective as of September 30, 2007 (the "Development Agreement") with the Sports and Exhibition Authority of Pittsburgh and Allegheny County (the "Authority") pursuant to which the Developer shall act as the Authority's agent in the development, design and construction of the New Arena (as defined in the Development Agreement); and

WHEREAS, the Developer acknowledges that it is the policy of the Authority to require that all contractors and subcontractors demonstrate a good faith effort to obtain the participation of Minority and Women Business Enterprises in work to be performed for the Authority, and that it is the goal of the Authority that twenty-five percent (25%) of the contract amount be expended for participation by Minority Business Enterprises and ten percent (10%) of the contract amount be expended for participation by Women Business Enterprises; and

WHEREAS, pursuant to the Development Agreement, the Developer is required to adopt an MBE/WBE Plan (as defined herein).

NOW, THEREFORE, as agent for the Authority and in fulfillment of its obligations under the Development Agreement, the Developer hereby adopts this Plan with respect to its development, design and construction of the New Arena.

1. The Minority and Women Business Enterprise participation of the parties with which the Developer enters into contracts shall be subject to the review of the Equal Opportunity Review Commission of Pittsburgh.
2. "Minority Business Enterprise" (MBE) and "Women Business Enterprise" (WBE) means businesses certified as such by Allegheny County, Port Authority of Allegheny County, Pennsylvania Department of Transportation, Pennsylvania Department of General Services or the U.S. Small Business Administration. The MBE/WBE must be certified for the specific type of work it will be responsible for in connection with the contract. The certification must be current throughout the time the MBE/WBE will be doing work under the contract.
3. The Developer shall require that each party with whom it enters into a contract must demonstrate to the Developer that it has made a diligent good faith effort to meet the Authority's goals for MBE and WBE participation in the contract work.
4. For purposes of the Plan, the Developer shall allow that MBE and WBE participation by any contracting party may be achieved by any combination of the following:
 - a. Direct (prime) contract with MBE or WBE. If the direct (prime) contractor is an MBE or WBE, participation shall be the full amount of the contract.

- b. Subcontract for work on the project. If work is subcontracted to Minority and/or Women Business Enterprises, participation for this element shall be the total amount of subcontracts with MBE/WBEs for work on the project.
 - c. Supply contracts for the contracted work. If materials are purchased from Minority and/or Women Business Enterprises, participation for this element shall be 2% of the amount of the purchase order unless evidence acceptable to the Developer is submitted that the broker or supplier is acting as a “full service supplier” on this job and in such case the credit shall be 60% of the dollar value of the purchase order. Evidence to be submitted to qualify as a “full service supplier” should include warehouse or storage capacity, inventory records, agreements with manufacturers, ownership of material handling or delivery equipment and demonstration of fiscal responsibility on previous sales.
5. Whether a party with whom the Developer is contracting undertook the following actions, among others, will be considered in determining if a good faith effort to obtain participation has been made:
- a. attended pre-bid meetings to inform MBE/WBE’s of sub contracting opportunities;
 - b. advertised in general, trade, and minority focused media;
 - c. provided timely written notice to a reasonable number of MBE/WBE’s;
 - d. followed up the initial solicitations by contacting MBE/WBE’s to determine interest;
 - e. selected or reduced the size of specific contract parts to facilitate MBE/WBE participation;
 - f. provided interested MBE/WBE’s with plans, specifications, and contract requirements;
 - g. negotiated in good faith with interested MBE/WBE’s,
 - h. made efforts to provide bonding, line of credit, or insurance assistance to interested MBE/WBE’s;
 - i. utilized the services of available minority community organizations and other organizations that provide assistance in the recruitment and placement of MBE/WBE’s; and
 - j. utilized the services of the office of the Equal Opportunity Review Commission of Pittsburgh to provide assistance in the recruitment and placement of MBE/WBE’s.

The Developer will require reasonable evidence, including, without limitation, appropriate documentation in the form of letters, meeting notes, copies of advertisements, etc. will be required to confirm these efforts. With respect to parties with whom the Developer entered into contract negotiations prior to the date of this Plan, in addition to the considerations listed above, the Developer shall exercise its reasonable discretion in determining whether the contracting party’s good faith efforts were appropriate in the overall context of the project and the facts and

circumstances surrounding the Developer's solicitation for and selection of the relevant contracting party.

6. In connection with entering into a contract related to the New Arena, the Developer will adhere to the following procedures:
 - a. The contracting party must submit the "Certificate of Minority and Women's Participation" forms attached hereto as Exhibit A (including Schedule A) and Exhibit B, properly filled out and signed in ink.
 - b. The Developer shall meet with any contracting party to discuss the implementation of its MBE/WBE plan as set forth on Exhibit B, and approval of the plan by the Developer shall be a condition to entering into the contract. Implementation of the approved plan shall be a contract obligation.
 - c. In the case of a competitive bidding process conducted by the Developer, failure to submit this signed certification, including Schedule A, as part of the bid will be grounds for rejection of the bid.
 - d. In the case of a competitive bidding process conducted by the Developer, prior to award of the contract but within 24 hours of being notified that it is the apparent successful bidder, bidder shall submit to the Authority its participation plan (the Minority and Women's Participation Plan), in the form of Exhibit B hereto. The contractor shall meet with the Authority to discuss the implementation of the plan. The bidder's Minority and Women's Participation Plan must be approved by the Authority before the contract is awarded. Implementation of the approved plan shall be a contract obligation.
7. During the course of the New Arena project, the Developer shall require each of its contracting parties to submit monthly reports on the form attached hereto as Exhibit C detailing MBE/WBE participation in the contract compared with the approved plan. Prior approval by the Developer will be required for any change in the Minority and Women's Participation Plan. The contractor's compliance with the approved Minority and Women's Participation Plan shall be monitored by the Developer. The Developer may consider failure of the contractor to make a good faith effort to fulfill its obligations with respect to its Minority and Women's Participation Plan during the term of the contract as a material breach of the contract.

Exhibit A

Certificate of Minority and Women Business Enterprise Participation

In the case of a bidder, the undersigned bidder certifies that it understands and agrees to actively solicit the participation of Minority and Women Business Enterprises in all work to be performed under this contract, and to make a diligent good faith effort to achieve the minority and women's participation goals of the Authority. In the case of a contracting party, the undersigned contracting party certifies that it understands and agrees to actively solicit the participation of Minority and Women Business Enterprises in that portion of the work to be performed under this contract identified by the Developer, and with respect to such work to make a diligent good faith effort to achieve the minority and women's participation goals of the Authority.

The bidder or contracting party, as the case may be, further certifies that the attached Schedule A- "MBE/WBE Solicitation Statement" details its efforts regarding the solicitation and utilization of minorities and women in the work to be performed under this contract.

The bidder or contracting party, as the case may be, further certifies that it understands that prior to award or final execution, as the case may be, of this contract a written Minority and Women's Participation Plan, using Exhibit B- "MBE/WBE Participation Plan," must be submitted by bidder and approved by the Developer and the Authority.

In the case of a bidder, failure of the bidder to comply with these conditions or failure to sign and submit this Certificate and Schedule A with the bid is grounds for disqualification of the bid. In the case of a contracting party, the contracting party agrees that it must sign and submit this Certificate, Schedule A and Exhibit B in form acceptable to the Developer and the Authority prior to execution of the contract.

Name of Bidder or Contracting Party _____

By (signed) _____

Title _____

Date _____

APPROVED BY:

Pittsburgh Arena Development LP

By (signed) _____

Title _____

Date _____

EXHIBIT C
MONTHLY MBE/WBE UTILIZATION REPORT

PROJECT: _____
 BID PACKAGE/CONTRACT: _____
 PRIME CONTRACTOR: _____

AMOUNT OF PRIME CONTRACT COMPLETE TO DATE: \$ _____
 PERCENT OF PRIME CONTRACT COMPLETE TO DATE: _____ %

ORIGINAL \$ _____
 CHANGES* \$ _____
 TOTAL \$ _____

* Changes to original order of contract require amendments to MBE/WBE Participation Plan

MBE/WBE Participation	Form of Participation					Paid to Date (\$)		Contract Amount (\$) Completed to Date		Percent (%) of Contract Completed to Date					
	MBE (%)	WBE (%)	MBE/WBE Contract Amount (\$)	Prime (%)	Sub (%)	Full Services Supplier (%)	Broker (%)	Supplier (%)	Eligible Amount (%)	MBE	WBE	MBE	WBE	MBE	WBE
Plan															
Actual															
Plan															
Actual															
Plan															
Actual															
Plan															
Actual															
Plan															
Actual															
TOTALS**			\$												

** If actual is less than planned, provide an adequate explanation and detail good faith efforts to meet the plan.

** If more space is needed, use a second page and carry labels forward.

Prepared by: _____ Title: _____

Information in this report is as of the above date.

**EXHIBIT 6
New Arena Permits**

**SEA - Pittsburgh Arena
Project Permitting Matrix**

Description	Submittal		Completion		Status	B/C	Notes
	Schedule	Actual	Schedule	Actual			
City Planning Task Force							
City Planning Design Review Committee							
Community Groups							
Master Plan Approval							
Overall Construction Management Plan							
NPDES Permitt							
Demolition							
On-Site Plans							
Off-Site Plans							
Utilities							
PWSA Approvals							
Encroachment Permits							
Parking Garage							
City Planning Design Review Committee							
Schematic Design							
Design Development							
Planning Commission							
Excavation and Foundations							
Submit Plans							
Briefing							
Hearing and Action							
Building Core and Shell							
Submit Plans							
Briefing							
Hearing and Action							
Department of Engineering and Construction							
Construction Management Plan							
Bureau of Building Inspection							
Excavation Permit							
Foundation Permit							
Core and Shell Building Permit							

EXHIBIT 7

Permitted Encumbrances

OWNED PROPERTY

1000 Colwell Street (Lot 350) File No. 06-0446 dated 9/11/06

1. Utilities lines, if any, within the vacated portions of Old Washington Place and Congress Street
2. Right of way from The Downtown Racquet and Athletic Club to Duquesne Light Co., dated July 14, 1983 and recorded in Deed Book Volume 6700, Page 152.

1015 Fifth Avenue (Lot 347) File No. 06-0445 dated 9/11/06

1. Rights of others incident to the ownership of a party wall structure

1017 Fifth Avenue (Lot 346) File No. 06-0444 dated 9/11/06

1. Rights of others incident to the ownership of a party wall structure

1021 Fifth Avenue (Lot 345) File No. 06-0443 dated 9/11/06

1. Rights of others incident to the ownership of a party wall structure

1023 Fifth Avenue (Lot 344) File No. 06-0442 dated 9/11/06

1. Rights of others incident to the ownership of a party wall structure
2. Five (5) foot wide private alley crossing the Northerly portion of the land and rights of others therein.

1025 Fifth Avenue (Lot 343) File No. 06-0441 dated 4/11/06

1. Rights of others incident to the ownership of a party wall structure

1029 Fifth Avenue (Lot 342) File No. 06-0440 dated 9/11/06

1. Rights of others incident to the ownership of a party wall structure

1031 Fifth Avenue (Lot 341) File No. 06-0439 dated 9/11/06

1. Rights of others incident to the ownership of a party wall structure

1033 Fifth Avenue (Lot 339) File No. 06-0438 dated 4/11/06

1. Rights of others incident to the ownership of a party wall structure

1109 Fifth Avenue (also known as 80 Congress Street and 1039 Fifth Avenue (Lot 245, 336 and 338) File No. 06-0437A dated 10/19/06

1. Rights of others incident to the ownership of a party wall structure

1101 -1103 Fifth Avenue (Lot 246 and 247) File No. 06-0437B dated 10/19/06

1. Rights of others incident to the ownership of a party wall structure

Epiphany Church (Lots 303, 306, 321, 325 and 358) File No. 06-0436 dated 4/11/06

1. Conditions, Covenants and Restrictions set forth in Disposition Contract between Urban Redevelopment Authority of Pittsburgh and Most Reverend John J. Wright, Bishop of The Roman Catholic Diocese of Pittsburgh, Trustee for The Roman Catholic Congregation, known as the Church of the Epiphany, dated July 1, 1964 and recorded in Deed Book Volume 4129, Page 670, and in deed to Most Reverend John J. Wright, Bishop of The Roman Catholic Diocese of Pittsburgh, Trustee for The Roman Catholic Congregation, known as the Church of the Epiphany, dated December 9, 1964 and recorded in Deed Book Volume 4201, Page 249.

2. Parcel of ground conveyed by Most Reverend John J. Dearden, Bishop of Diocese of Pittsburgh, Trustee for The Roman Catholic Congregation of The Church of the Epiphany, to Urban Redevelopment Authority of Pittsburgh, dated January 7, 1957 and recorded in Deed Book Volume 3657, Page 369.

3. Right of way from Epiphany Roman Catholic Church to Equitable Gas Company, dated May 8, 1961 and recorded in Deed Book Volume 3939, Page 103.

4. Release from Most Reverend John J. Wright, Bishop of The Roman Catholic Diocese of Pittsburgh, Trustee for The Roman Catholic Congregation, known as Church of Epiphany, to Urban Redevelopment Authority of Pittsburgh, dated July 1, 1964 and recorded in Deed Book Volume 4201, Page 215.

5. All matters set forth in deed from William R. Black, et ux. to Margaret Appleton, dated June 17, 1872 and recorded in Deed Book Volume 293, Page 360.

1200 Centre Avenue (Lot 284) File No. 05-0416 dated 6/8/05 (Central Medical Site)

Title Exceptions:

1. Rights in water and sewer lines in the bed of Congress Street, as reserved by Ordinance No. 159 of the City of Pittsburgh, enacted May 5, 1960, vacating Congress Street and 4 inch gas line of the Equitable Gas Company in the bed of Congress Street between Colwell Street and

Centre Avenue, as set forth in Lease Agreement between Urban Redevelopment Authority of City of Pittsburgh and Webb & Knapp, Inc., dated June 18, 1962 and recorded in Deed Book Volume 3987, Page 526.

2. Right of way granted to Duquesne Light Company by instrument from Urban Redevelopment Authority of Pittsburgh, dated April 9, 1974 and recorded in Deed Book Volume 5414, Page 35.

3. Lease Agreement from St. Francis Central Hospital to Pittsburgh SMSA, L.P., dated December 31, 1998, as evidenced by Memorandum of Lease dated December 31, 1998 and recorded in Deed Book Volume 10415, Page 478.

4. Restrictive covenants set forth in deed from Urban Redevelopment Authority of Pittsburgh to St. Francis Central Hospital, dated August 4, 2000 and recorded in Deed Book Volume 10833, Page 641.

5. Sewer lines and manholes serving the Washington Plaza Apartments, located on and beneath the easterly portion of the Site, as located on a Survey dated May 8, 2001, prepared by Crouse & Company, Project # E 0068.

Property formerly owned by Peter J. Teris, 1205 Fifth Avenue, Third (3rd) Ward of the City of Pittsburgh, Block & Lot 2 -- G -- 71.

Title exceptions:

None

EXHIBIT 8

REQUIRED BIDDING, CONTRACTING AND SELF-PERFORMANCE PROCEDURES

A. **Self-Performed Work.** Construction Manager or its partners or affiliates (any such party submitting a bid being called a "CM Bidder") may, on the restricted basis described in this provision, self-perform certain portions of the Project (the "Self-Performed Work") as follows:

1. CM Bidder may submit on the same terms and at the same time with all other bidders, a sealed bid for the Self-Performed Work in accordance with the prevailing bidding procedures established for the Project.

2. To the extent permitted by law, a CM Bidder may bid on Self-Performed Work only with Authority's and Developer's prior written approval. With respect to any work for which a CM Bidder has the option to self perform, Construction Manager shall submit its proposed packaging for the bidding of such Work to Authority and Developer for its prior written approval.

3. If fewer than two (2) competitive bids from responsible bidders (in addition to the bid from CM Bidder) are submitted for the Self-Performed Work, or if the amount of the bid submitted by CM Bidder exceeds the amount of the most recent cost estimate for such component of the Project as of the day before bidding (which cost estimate shall have been independently verified by a third party), Developer shall have the right, but not the obligation, to disqualify CM Bidder from performance of the Self-Performed Work (even if it is the lowest bidder), and to then cause the Self-Performed Work to be rebid. An award resulting from such a rebid shall not result in the adjustment of the GMP.

4. For purposes hereof, Self-Performed Work shall mean Work in which more than fifty percent (50%) of the labor component is performed directly by Construction Manager's own forces or the forces of any affiliate of Construction Manager (including the joint venture partners of Construction Manager), and not through trade contracts, subcontracts or purchase orders with third party contractors or suppliers.

5. In the event a CM Bidder elects to submit a bid for Self-Performed Work, Construction Manager shall not in any way participate in the predetermination of responsibility review or tabulation or award of bids, or the recommendation for award of the contract for Self-Performed Work. In addition, Architect and/or Program Manager and/or Construction Coordinators shall participate in the predetermination of responsibility review, the tabulation and award of bids and the recommendation for award of the contract for Self-Performed Work and, during the bidding process, all questions from potential bidders shall be directed to Architect or Program Manager (at Developer's election) rather than to Construction Manager and shall be answered in writing by addendum to the bid package. The functions performed by Architect and/or Program Manager and/or Construction Coordinators hereunder shall be paid for as part of the Project Budget. Construction Manager shall cause there to be, and shall enforce, a strict separation between personnel involved in the bidding for any Self-Performed Work and the

performance by Construction Manager of its obligations under CM Agreement. No person involved in the performance by Construction Manager of its obligations under CM Agreement shall participate in the bidding for, or performance of, Self-Performed Work, or vice versa.

6. If CM Bidder is determined to be the lowest responsible bidder for Self-Performed Work and is awarded the contract pursuant to that bid, the amount of the contingency line item (to the extent then available) shown in the Project Budget available to Construction Manager in conjunction with the Self-Performed Work shall be limited to an amount equal to the percentage thereof that the cost of the Self-Performed Work bears to the Cost of the Work (as defined in CM Agreement) and such portion of the contingency may only be used to pay Cost of the Work approved by Developer. Further, Construction Manager shall not be permitted to use the "General Conditions" budget to support the Self-Performed Work or to use "General Conditions" on terms different from the terms on which they are made available to all other bidders. The cost of Business Privilege Tax applicable to Self-Performed Work shall be accounted for in the bid for Self-Performed Work, and not in the Project's General Conditions.

7. All bidders shall be informed in the advertisement and specifications of Construction Manager's right to submit a bid to self-perform on the designated components of the Project for which self-performance is permitted.

B. Bid Procedures.

1. Definitions.

(a) "MBE/WBE Consultant" shall mean Exico, Inc., a minority business enterprise, that has entered into a contract with Developer to provide consulting services to enhance the utilization of minority and women business enterprises in the construction of the Project.

(b) "Sub-bidder" shall mean the subcontractors or material suppliers who are interested in submitting bids to bidders on the Project.

2. Applicability.

(a) These procedures shall apply to all construction work for which bids are received after the date of approval of these procedures by Authority.

(b) These procedures shall not apply to contracts for design, consulting, legal or other professional services.

(c) These procedures shall not apply to General Conditions Works in support of construction.

(d) These procedures shall not apply to Self-Performed Work.

3. Procedures for Bidding Construction Contract Work.

(a) *Solicitation of Interest.*

(i) Construction Manager shall publicly advertise for all construction Work required under the terms of the CM Agreement.

(ii) In addition to advertising for the work, the Construction Manager shall solicit the interest of at least three potential bidders.

(b) *Pre-Determination.*

(i) Construction Manager shall develop pre-determination criteria to be used to evaluate bidder responsibility in each trade category. Construction Manager shall distribute the pre-determination criteria to interested bidders.

(ii) Construction Manager shall review each potential bidder's submission and determine whether or not the potential bidder meets the pre-determination criteria for a bid package. Construction Manager shall advise the Developer, the Authority and the MBE/WBE Consultant of this determination.

(iii) Within three (3) business days after receipt of the Construction Manager's determination, the Developer, the Authority and the MBE/WBE Consultant shall advise the CM if the Developer or the Authority objects to anyone on the list of proposed bidders, or if the Developer or the Authority desires to have other bidders considered, or rejected bidders re-evaluated. CM may amend the list up until seven days prior to receipt of bids.

(iv) Following receipt of the Developer's and the Authority's comments, the Construction Manager shall notify bidders whether or not they are deemed to be qualified to bid on a bid package.

(c) *Distribution of Bid Documents.*

(i) Construction Manager will distribute Bid Documents to all bidders determined to be responsible bidders.

(ii) Construction Manager will distribute Bid Documents to the following plan rooms: Pittsburgh Builders Exchange; Dodge Report; Construction Bulletin, NAMC/BCA or other plan rooms as recommended by MBE/WBE Consultant.

(iii) Construction Manager will provide Bid Documents to the Developer and the Authority prior to distributing documents to qualified bidders.

(iv) The Bid Documents will clearly identify the factors that will be considered by the CM in recommending the award or rejection of a bid and the Bid Verification procedures described in (g) below.

(d) *Pre-Bid Conference.*

(i) Construction Manager shall conduct a pre-bid conference during which Construction Manager will address the bid requirements and lien waiver requirements. Construction Manager will afford bidders with the opportunity to ask questions and will provide appropriate responses.

(ii) The Construction Manager will include the date, time and location of the pre-bid conference in the bid documents.

(e) *Addenda.*

(i) Construction Manager shall, if necessary, issue addenda during the bid period clarifying or changing the bid documents.

(ii) The Construction Manager shall afford bidders the opportunity to ask questions during the bid period and will confirm answers by issuing addenda.

(f) *MBE/WBE Notification Requirements.*

(i) Construction Manager will require qualified bidders to contact the Developer's MBE/WBE Consultant to identify their subcontracting needs at least seven days prior to the bid date.

(ii) Developer's MBE/WBE Consultant shall provide bidders with the names of MBE/WBE firms interested in submitting bids as sub-bidders.

(g) *Bid Openings.*

(i) Construction Manager will receive bids and open them privately in the presence of Developer and Authority.

(ii) Construction Manager will verify that the requirements of each bid are included and shall tabulate bids.

(iii) Construction Manager will provide Developer and Authority with the bid tabulations and one (1) original of each bid and shall retain one (1) copy of the bid tabulations and one (1) original of each bid for its own records.

(h) *Bid Verification.*

(i) Construction Manager may meet with one or more of the bidders to verify completeness of the bid, quality of proposed materials and systems and any other aspects of the bid that Construction Manager deems appropriate. Construction Manager may also solicit areas of potential cost savings that will benefit the Project.

(ii) Developer's MBE/WBE Consultant shall verify that each interviewed bidder has complied with the requirements of the MBE/WBE program.

(iii) Construction Manager may negotiate scope, price, and terms and conditions, to achieve a contract that is in the best interests of the Project, the Developer and the CM. CM will not adjust the scope, price or terms and conditions without affording at least three bidders the opportunity to compete if such adjustment would, in CM's or Developer's reasonable discretion, have had a material impact on the outcome of the bidding.

(iv) Construction Manager shall advise the Developer, the Authority and the MBE/WBE Consultant of all meetings and Developer, the Authority and the MBE/WBE Consultant may, at its option, attend any meetings.

(i) *Recommendation of Award.*

(i) Construction Manager shall recommend to Developer the award of a contract that is in the best interests of the Project, Developer and Construction Manager, taking into account price and other relevant factors.

(ii) Developer shall advise Authority if it objects to Construction Manager's recommendation within three (3) business days after receipt of the recommendation.

(iii) Authority will advise Developer if it objects to Construction Manager's recommendation within three (3) business days after receipt of the recommendation.

(iv) Authority may object to Construction Manager's recommendation if, and only if, (1) the amount of the contract exceeds the budgeted line items for such package and Construction Manager or Developer cannot reasonably demonstrate how it will fund such excess; (2) the quality originally set forth in the bid package has been materially reduced through negotiation; (3) Construction Manager failed to follow the agreed upon procedures in any material respect and such failure had a material impact on the outcome of the bidding; or (4) the proposed award is not in compliance with the Legal Requirements.

(v) If the Authority does not object to Construction Manager's recommendation, then the Authority will award the contract in accordance with the recommendation.

(j) *Preparation and Execution of Contracts.*

(i) Construction Manager will prepare trade contracts and mechanics' lien waivers for execution by the successful bidder.

(ii) Authority and the successful bidder will both execute the trade contract.

(iii) Authority will immediately assign the contract to Construction Manager.

(iv) The successful bidder will provide performance and payment bonds.

(v) The successful bidder will become a party to the Project labor agreement.

(vi) The successful bidder will supply evidence of compliance with the requirements of the MBE/WBE programs.

(vii) Construction Manager shall distribute executed contracts and related documentation to the Developer and the Authority.

(k) *Bid Protests.*

(i) The Developer and the Authority will refer bid protests to the Construction Manager for resolution.

(ii) The Construction Manager will advise the Developer and the Authority of the disposition of bid protests.

EXHIBIT 9 Site Plan



SCALE: 1"=50'

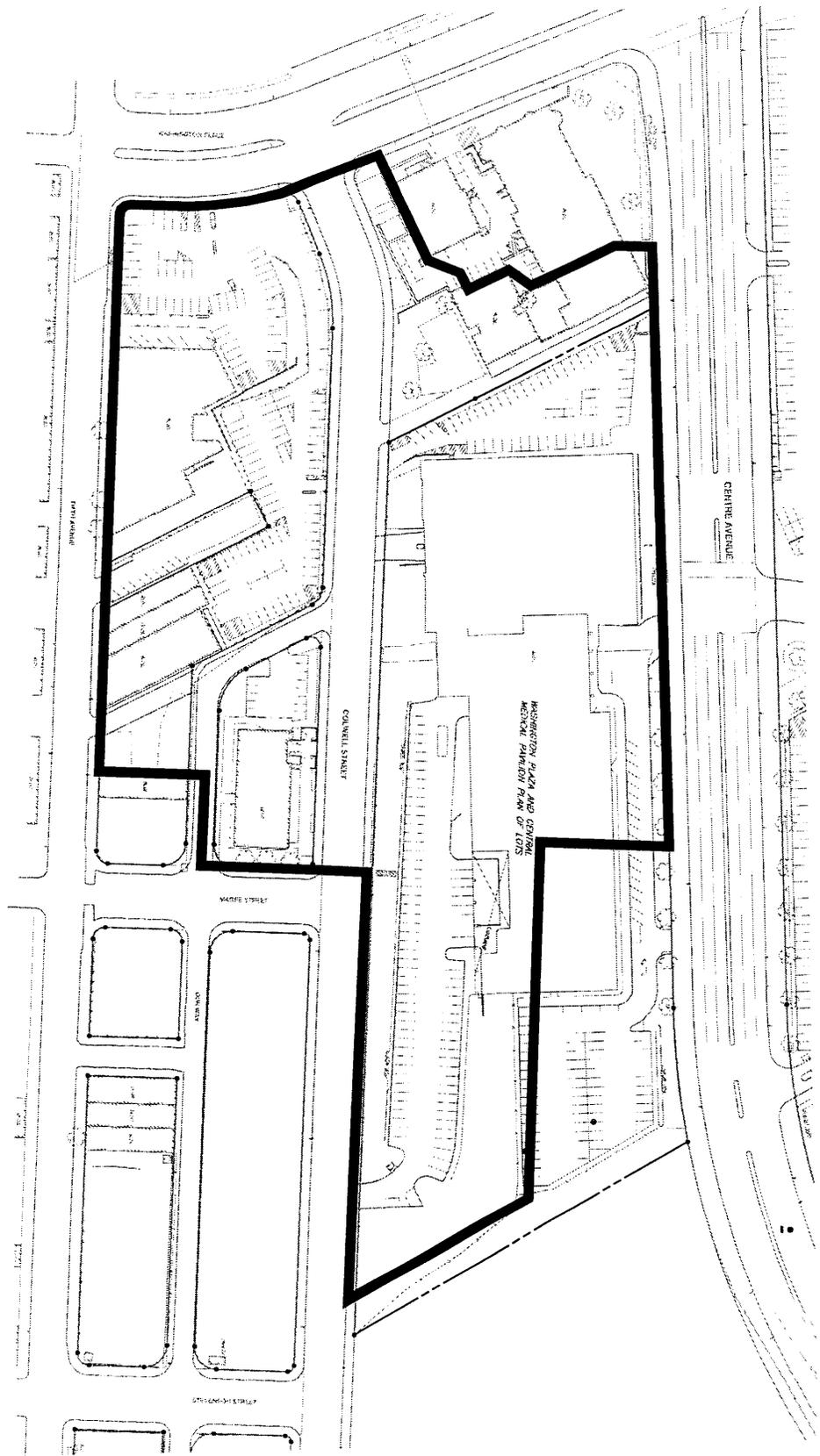


EXHIBIT 9 SITE PLAN	
SHEET 1 OF 1	DATE: 10/23/07
DWG NO.	CHECKED BY: RPC
PROJECT NO: 070-084	DRAWN BY: RPC
QUALITY MANAGER APPROVAL:	

PITTSBURGH ARENA MASTER
DEVELOPMENT PLAN
THIRD WARD, CITY OF PITTSBURGH
ALLEGHENY COUNTY, PENNSYLVANIA

C&E
**Civil & Environmental
Consultants, Inc.**
333 Baldwin Road
Pittsburgh, PA 15205-9702
(412) 429-2324 • (800) 365-2324

NO.	DATE	DESCRIPTION

Authorized Use:
 Survey
 Design Dev.
 Permitting
 Bidding
 Construction
 Other

EXHIBIT 10

Summary of Demolition Documents

1. Project Manual for New Arena Site Preparation REBID Demolition of Former St. Francis Central Hospital dated November 19, 2007
2. Project Manual for New Arena Site Preparation Demolition of Former St. Francis Central Hospital dated September 10, 2007
3. Technical Specifications Manual for New Multi-Purpose Arena Site Preparation St. Francis Hospital Demolition Work dated September 10, 2007
4. Demolition Plan Saint Francis Central Hospital dated September 10, 2007
5. Sheet C-101, Information Letter #1 dated 9/25/2007 and #2 dated 9/27/2007
6. Sheet C-300, Information Letter #2 dated 9/27/2007
7. Sheet C-301, Information Letter #2 dated 9/27/2007

EXHIBIT 11

[Intentionally Omitted]

EXHIBIT 12

Payment Procedures

A. General.

1. Construction Manager ("CM") shall receive applications for payment from each contractor and material supplier awarded a Trade Contract (as defined in the CM Agreement) pursuant to the competitive bidding process required under the CM Agreement (each a "Trade Contractor") and shall include the same in CM's Project Application for Payment (the "Application for Payment"). All Applications for Payment shall be measurable and quantifiable and shall show the percentage completion of each portion of the New Arena Work of each Trade Contractor as of the end of the period covered by the Application for Payment. The percentage completion shall be the lesser of (i) the percentage of that portion of the New Arena Work that has actually been completed or (ii) the percentage obtained by dividing (a) the expense that has actually been incurred by the CM on account of that portion of the New Arena Work for which the CM has made or intends to make actual payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price under the CM Agreement (the "GMP") allocated to that portion of the New Arena Work in the schedule of values. All Applications for Payment will be subject to verification by the Construction Coordinators. Applications for Payment shall also include a statement showing in detail the Cost of the New Arena Work completed less retainage withheld in accordance with the terms of the CM Agreement ("Retainage"). A sworn statement of the CM and the appropriate Trade Contractor, as the case may be, attesting to the satisfactory completion of the New Arena Work for which claim is made shall accompany each Application for Payment. Each Application for Payment shall contain the following attachments:

(i) to the extent permitted by applicable Legal Requirements, current unconditional lien waivers from such Trade Contractor and all subcontractors, sub-subcontractors and materialmen (as appropriate) for any prior payment, and current conditional lien waivers from the Trade Contractor and all subcontractors, sub-subcontractors and materialmen for the payments to be paid in connection with such current payment to the Trade Contractor; and

(ii) a sworn statement listing (i) the names of all parties furnishing materials, labor or services in connection with the New Arena Work in excess of \$10,000, (ii) the materials, labor or services, including any taxes paid, furnished by each such party, (iii) the amounts actually paid to each party furnishing materials, labor or services, (iv) the amounts due or to become due to each such party, and (v) a statement that said sworn statement is made in order to induce the payment requested; and

(iii) an updated schedule of values showing all committed contracts and expenses to date in format acceptable to the Developer and the Owner; and

(iv) an updated MBE/WBE form C is to be submitted monthly indicating the amounts completed and paid to date for each minority or woman owned business enterprise.

2. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. On or before the last day of each month, CM shall submit to Developer, Program Manager and Owner a preliminary, draft version of the Application for Payment (which shall include the applications for payment for Trade Contractors), together with the supporting data required by Developer, including any documents required for funding purposes such as financing statements and releases, on the Developer's form of Application for Payment. Upon receipt of the draft Application for Payment, Owner may cause its Construction Coordinators to inspect the progress of construction. The Owner may also require verification of the information contained in the Application for Payment from the CM and from the Architect to the extent provided by their respective agreements. On or before the 6th day of each month, CM, Program Manager, Owner and Developer shall meet to review the draft version Application for Payment, and, on or before the 7th day of each month, CM shall submit to Developer and Owner the revised Application for Payment reflecting the changes and comments of the parties. In addition, on or before the 7th day of each month, Developer shall submit to Owner its request for payment of invoices for Project Costs received by Developer from the Architect, Program Manager or other parties as have actually supplied labor, material or services in connection with the Project in the preceding month and for reimbursement for Project Costs directly incurred by Developer during the preceding month, together with reasonably satisfactory documentation supporting such request. Unless the Owner determines as a result of its inspection that construction is not proceeding diligently and generally in accordance with the Contract Documents, and that all conditions to such disbursement shall have not been fulfilled, then on or before 20th day of each month, Owner shall, by wire transfer of immediately available federal funds, make, or cause to be made, payment of Developer's request for payments, reimbursement, and for the Application for Payment, into the Disbursement Account (as defined in paragraph 3 below). After payment is made into the Disbursement Account, Developer, within one business day of receipt, shall pay to (a) CM the amounts set forth in the Application for Payment, and CM shall, on or before the 25th day of each month, deliver to each Trade Contractor sums due pursuant to its payment application, (b) Program Manager, Architect or other parties the amounts set forth in their respective invoices, and (c) Developer, in reimbursement of its expenses actually incurred in the preceding month.

3. All disbursements made by Owner hereunder will be made into a non-interest bearing special disbursement account of Developer to be maintained at a bank located in Pittsburgh to be selected by Developer (the "Disbursement Account").

4. Aggregate advances of the Project Funds shall be limited to the maximum amount set forth in the Final Project Budget, and shall be further limited to the amount shown for each category on the Final Project Budget, as revised by Developer in accordance with the Development Agreement, and provided by Developer to the Owner in accordance with paragraph 6 below.

5. Owner will make disbursements to defray actual and reasonable costs approved by the Developer and, to the extent required by the Development Agreement, the Owner, and shown on the Final Project Budget of (i) labor performed on the Project and equipment and materials incorporated into the Project, (ii) materials suitably stored on the Site, or such other location, as may be approved by the Owner, and (iii) other costs approved by the Developer related to development of the Project. The undisbursed balance of funds held by

Owner for payment of Project Costs, and any sums delivered and held by the Owner pursuant to the procedures set forth herein shall at no time be less than the sum of (A) the amount estimated by the Owner to complete the construction, development and financing of the Project, and (B) the aggregate amount of the Retainage to date. The amount of each disbursement with respect to the direct construction costs of the Project performed by trade contractors and subcontractors shall be subject to Retainage in an amount set forth in the CM Agreement.

6. On at least a monthly basis in connection with the submission of the Developer's payment application as described in this Exhibit 12, if the Developer reasonably determines that any change has occurred in the costs set forth in the Final Project Budget which would increase, change, or cause a reallocation of the costs as shown on the Final Project Budget, the Developer shall immediately notify the Owner Representative in writing and promptly submit the revised Final Project Budget to the Owner and Commonwealth. The Owner shall have no obligation to make disbursements into the Disbursement Account for reimbursements to the Developer, or disbursements to the CM, Program Manager, Architect or other parties, unless and until the monthly Final Project Budget is received by the Owner.

7. Following disbursement of funds to the Trade Contractors, but in no event later than thirty (30) days following payment to Developer, the Developer and/or the CM will obtain from each Trade Contractor, and furnish to Owner, a "certified payroll", certified by an appropriate officer of the Trade Contractor as accurate and complete, together with evidence that all sums required to be paid by such Trade Contractor on behalf of its employees, subcontractors and employees of subcontractors, for health insurance, pension, union dues, life and disability insurance, and other benefits payable, have been made, all of which shall be in form and content reasonably acceptable to Owner.

B. Payment Procedures for Tangible Personal Property Eligible for Sales and Use Tax Exemption. Developer, Owner and CM shall cooperate to obtain any available exemptions to the Pennsylvania Sales and Use Tax applicable to tangible personal property purchased for the Project. In order to receive the benefit of Pennsylvania Sales and Use Tax exemptions available to the Project, CM, Developer and Owner shall separately identify tangible personal property to be purchased for the Project that: (i) falls within the definition of "building machinery and equipment" as set forth in 72 P.S. § 7201(pp), and is eligible for exemption pursuant to 72 P.S. § 7204(57); or (ii) is eligible for exemption pursuant to 72 P.S. § 720(12) if purchased by and invoiced to Owner. Owner shall provide the certificate necessary for CM and the Trade Contractors at any tier to obtain the exemptions for items in the preceding clause (i). For items of tangible personal property identified pursuant to the preceding clause (ii) Owner, CM and Developer shall follow the procedures set forth below; provided, however, that nothing in this Section will be construed to reduce or limit the CM's or the Trade Contractor's overall responsibility for the quality, scheduling, coordination, or warranty of the New Arena Work under the CM Agreement in accordance with all provisions of the CM Agreement and the other Contract Documents

For items of tangible personal property identified pursuant to clause (ii) of the preceding paragraph, the following procedures shall apply:

1. The provisions of this section do not apply (i) to tangible personal property purchased by CM or any Trade Contractor at any tier for its own use that will not be incorporated into the New Arena Work, including but not limited to concrete form work, tools, construction equipment, fuel, and the like; or (ii) to procurement of materials, equipment or products totaling less than \$1,000.

2. Each Trade Contractor will select the supplier of each item of tangible personal property in accordance with the Trade Contractor's normal procurement procedures, as if the Trade Contractor were to issue its own form of purchase order for the purchase of such tangible personal property.

3. When the type, quantity, and price of each lot of tangible personal property to be purchased on a single purchase order have been determined, the Trade Contractor will complete or cause to be completed an Owner Purchase Order Form ("Purchase Order"), in a form to be prepared by CM and approved by Owner and Developer, and CM will certify to Owner and Developer that the tangible personal property described in the Purchase Order complies with the requirements of the Contract Documents and that the tangible personal property will be incorporated into the New Arena Work.

4. Upon receipt of the Purchase Order certified and approved by the Trade Contractor and CM, and following a determination by the Owner that the Purchase Order complies with Legal Requirements, the Owner will approve and execute the Purchase Order within five (5) business days of receipt by Owner.

5. Owner will issue the Purchase Order directly to the supplier. The supplier will receive the original, the Owner will retain two (2) copies, the Trade Contractor will receive one (1) copy, CM will receive one (1) copy and Developer will receive one (1) copy.

6. The supplier will deliver the tangible personal property to the Project Site, or to such other location as may be directed by the Owner, in cooperation with Developer, which delivery shall be made in care of the Trade Contractor. Upon receipt, the Trade Contractor will inspect the property as necessary to verify conformity of the materials received with the Purchase Order and with the shipping documents. The Trade Contractor will provide to Owner, Developer and CM written certification of receipt of each delivery of tangible personal property, which certification will fully describe any shortages, or defective, damaged or nonconforming tangible personal property. The Trade Contractor will provide written notice of any shortages, defects, damage or non-compliance to the supplier within five (5) days of receipt of each delivery of property, or any shorter time required by the supplier, and will arrange for the return and replacement of defective, damaged or non-conforming tangible personal property, on behalf of Owner, in accordance with the provisions of the Contract Documents Owner will have no duties, obligations, liabilities or responsibilities of any kind whatsoever with respect to any tangible personal property purchased pursuant to the procedures established under this Section B other than the obligation to make payment therefor, and CM, Developer and each responsible Trade Contractor will indemnify and hold Owner harmless against any actions, suits, claims, liabilities and damages of any kind, including reasonable legal fees incurred, relating to the purchase of tangible personal property under this Section B.

7. If for any reason other than a Developer-initiated change, the Trade Contractor requests that a Purchase Order issued be canceled, the Trade Contractor will be liable for any and all cancellation charges resulting from such cancellations.

8. All Purchase Orders for the applicable Trade Contractor, when issued, will be accompanied by an Commonwealth of Pennsylvania Sales and Use Tax Exemption Certificate, or other appropriate evidence of exemption.

9. After an Application for Payment has been approved for payment, Owner will make, or cause to be made, direct payment to the appropriate supplier, and the amount of each such payment (along with the amount which would otherwise be calculated as attributable to sales tax) will be deducted from the then unpaid balance of the contract sum under the CM Agreement and any sums otherwise payable to the Developer.

10. Developer hereby agrees that if it is determined that sales tax should have been paid with respect to tangible personal property purchased by Owner, Developer shall be responsible for the payment of such tax, it being understood, however, that Developer shall have the right to contest or appeal any such determination. Developer shall be responsible for Owner's actual administrative costs incurred as a part of this purchase order process. Prior to Developer being obligated to pay such costs, Developer and Owner shall agree to the amount of such costs.

EXHIBIT 13

[Intentionally Omitted]

EXHIBIT 14

Insurance
(to be delivered)

EXHIBIT 15

Summary of Lien Waiver Procedures for the New Arena Project

Note to Bidders: This Summary is provided for convenience only. It may be helpful to you in understanding your obligations under the lien waiver procedures the Owner will use for the Project, if you are awarded the contract for which you are submitting a bid. If there is a conflict or ambiguity as between this Summary and the Agreement Between Owner and Contractor (when executed), the terms of the Agreement Between Owner and Contractor govern.

1. Forms

The Project's lien waiver procedures are based on the following forms, all of which are attached to the Agreement Between Owner and Contractor.

- 1.1 Waiver of Liens
(Waiving All Liens by All Subcontractors and Sub-subcontractors)
- 1.2 Subcontractors' Waiver of Liens
(Waiving All Liens by this Subcontractor and its Subcontractors)
- 1.3 Sub-subcontractor's Waiver of Liens
(Waiving All Liens by this Sub-subcontractor)
- 1.4 Conditional Waiver of Liens and Release for Progress Payment
(Waiving All Liens as to the Work for which Payment is Sought)
- 1.5 Unconditional Waiver of Liens and Release for Progress Payment
(Waiving All Liens as to the Work for which Payment has been Made)
- 1.6 Conditional Waiver of Liens and Release for Final Payment
(Waiving All Liens as to the Work for which Final Payment is Sought)
- 1.7 Unconditional Waiver of Liens and Release for Final Payment
(Waiving All Liens as to the Work for which Final Payment is Made)
- 1.8 Contractor's Application and Certification for Payment
- 1.9 Contractor's Payment Affidavit

2. Execution of Agreement Between Owner and Contractor

When the Agreement between Owner and Contractor is executed, the Contractor must do the following things.

- 2.1 Provide to the Owner a list of known Subcontractors and Sub-subcontractors to be contracted with for labor or materials. The Contractor must update this list as the work proceeds, and must provide the updated list to the Owner upon request.

- 2.2 Sign the Waiver of Liens (Waiving All Liens by All Subcontractors and Sub-subcontractors) and provide it to the Owner. The Owner (or Owner's authorized representative) will file this signed instrument with the Allegheny County Prothonotary's Office.

3. Execution of Subcontracts

When the Contractor enters into any subcontract, the Contractor must do the following things.

- 3.1 Have the Subcontractor sign the Subcontractors' Waiver of Liens (Waiving All Liens by this Subcontractor and its Subcontractors) before any labor or materials are furnished by that Subcontractor.
- 3.2 File the signed Subcontractors' Waiver of Liens (Waiving All Liens by this Subcontractor and its Subcontractors) with the Allegheny County Prothonotary's Office before the Subcontractor starts work on the Project or within 10 days after execution of the Subcontract, whichever is earlier.
- 3.3 Within three days after filing the signed Subcontractors' Waiver of Liens (Waiving All Liens by this Subcontractor and its Subcontractors), provide proof of filing to the Owner.
- 3.4 Collect from all Subcontractors the signed Sub-subcontractor's Waiver of Liens, after execution by all Sub-subcontractors, and maintain these instruments for inspection by the Owner upon request. These must be executed by the Sub-subcontractors before they start work on the Project. These are not to be filed with the Allegheny County Prothonotary's Office.

4. Applications for Progress Payments

The following procedures apply to applications for payment.

- 4.1 For the first application for progress payment, attach the following forms:
 - a. A Conditional Waiver of Liens and Release for Progress Payment (Waiving All Liens as to the Work for which Payment is Sought) signed by the Contractor.
 - b. A Conditional Waiver of Liens and Release for Progress Payment (Waiving All Liens as to the Work for which Payment is Sought) signed by each Subcontractor and Sub-subcontractor scheduled to receive payment from this application.
- 4.2 For all subsequent applications for progress payment, attach the following forms:

- a. A Conditional Waiver of Liens and Release for Progress Payment (Waiving All Liens as to the Work for which Payment is Sought) signed by the Contractor.
- b. An Unconditional Waiver of Liens and Release for Progress Payment (Waiving All Liens as to the Work for which Payment has been Made) signed by the Contractor.
- c. A Conditional Waiver of Liens and Release for Progress Payment (Waiving All Liens as to the Work for which Payment is Sought) signed by each Subcontractor and Sub-subcontractor scheduled to receive payment from this application.
- d. An Unconditional Waiver of Liens and Release for Progress Payment (Waiving All Liens as to the Work for which Payment has been Made) signed by each Subcontractor and Sub-subcontractor that received payment from the previous application.

4.3 For the final application for payment, attach the following forms:

- a. A Conditional Waiver of Liens and Release for Final Payment (Waiving All Liens as to the Work for which Final Payment is Sought) signed by the Contractor.
- b. An Unconditional Waiver of Liens and Release for Progress Payment (Waiving All Liens as to the Work for which Payment has been Made) signed by the Contractor.
- c. A Conditional Waiver of Liens and Release for Final Payment (Waiving All Liens as to the Work for which Final Payment is Sought) signed by each Subcontractor and Sub-subcontractor scheduled to receive payment from this application.
- d. An Unconditional Waiver of Liens and Release for Progress Payment (Waiving All Liens as to the Work for which Payment has been Made) signed by each Subcontractor and Sub-subcontractor that received payment from the previous application.

4.4 When all conditions precedent to final payment have been satisfied, final payment will be made to the Contractor in person, at the Owner's offices, in exchange for the Contractor signing and providing its Unconditional Waiver of Liens and Release for Final Payment (Waiving All Liens as to the Work for which Final Payment is Made).

4.5 Within 30 days after it receives final payment from the Owner, the Contractor must provide a signed Unconditional Waiver of Liens and Release for Final

Payment (Waiving All Liens as to the Work for which Final Payment is Made) as executed by all Subcontractors and Sub-subcontractors.

6. Owner's Rights

- 6.1 If at any time the Owner becomes concerned that the Contractor is not paying Subcontractors or is not paying taxes, the Owner may require the Contractor to submit a Contractor's Payment Affidavit. The Owner has the right to withhold payment (in whole or in part) until this instrument is provided.
- 6.2 If at any time the Contractor fails to provide any of the signed forms described in this Summary, the Owner has the right to withhold payment (in whole or in part) until all required signed forms are provided.

EXHIBIT 16

Non-Discrimination Covenants

During the term of this Agreement, Developer agrees as follows:

- (1) Developer shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age or sex. Developer shall take affirmative action to insure that applicants are employed and that employees or agents are treated during employment, without regard to their race, color, religious creed, handicap, ancestry, national origin, age or sex. Such affirmative action shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training. Developer shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.
- (2) Developer shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age or sex.
- (3) Developer shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Developer.
- (4) It shall be no defense to a finding of noncompliance with this nondiscrimination clause that Developer had delegated some of its employment practices to any union, training program or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Developer was not on notice of the third-party discrimination or made a good-faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- (5) Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Developer will be unable to meet its obligations under this nondiscrimination clause, Developer shall then employ and fill vacancies through other nondiscriminatory employment procedures.
- (6) Developer shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities.
- (7) Developer shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by the Owner for purposes of investigation to ascertain compliance with the provisions of this clause. If Developer does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Owner.

(8) Developer shall actively recruit minority and women subdevelopers or subdevelopers with substantial minority representation among their employees.

(9) Developer shall include the provisions of this nondiscrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.

EXHIBIT 17

Contractor Integrity Covenants

(1) Definitions.

(a) "Confidential Information" means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring a contract with the Owner.

(b) "Consent" means written permission signed by a duly authorized officer or employee of the Owner, provided that where the material facts have been disclosed, in writing, by predetermination of responsibility, bid, proposal, or contractual terms, the Owner shall be deemed to have consented by virtue of execution of this Agreement.

(c) "Developer" means the individual or entity that has entered into this Agreement with the Owner, including directors, officers, managers, key employees, and owners of more than a five percent interest.

(d) "Financial Interest" means:

- (i) ownership of more than a five percent (5%) interest in any business; or
- (ii) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

(e) "Gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

(2) The Developer shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth of Pennsylvania or the Owner.

(3) The Developer shall not disclose to others any confidential information gained by virtue of this Agreement.

(4) The Developer shall not, in connection with this or any other agreement with the Commonwealth of Pennsylvania or the Owner, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth of Pennsylvania or of the Owner.

(5) The Developer shall not, in connection with this or any other agreement with the Commonwealth of Pennsylvania or the Owner, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth of Pennsylvania or the Owner.

(6) Except with the consent of the Owner, neither the Developer nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this Agreement except as provided herein.

(7) The Developer, upon being informed that any violation of these Contractor Integrity Provisions has occurred or may occur, shall immediately notify the Owner in writing.

(8) The Developer, by execution of this Agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that it has not violated any of these Contractor Integrity Provisions.

(9) The Developer, upon the inquiry or request of the Inspector General of the Commonwealth of Pennsylvania or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Developer's integrity or responsibility, as those terms are defined by the Commonwealth of Pennsylvania's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Developer's business or financial records, documents or files of any type or form which refer to or concern this Agreement. Such information shall be retained by the Developer for a period of three years beyond the termination of this Agreement unless otherwise provided by law.

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Contractor Integrity Covenants

(1) Definitions.

(a) "Confidential Information" means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring a contract with the Owner.

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- (ii) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

(e) "Gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

(2) The Developer shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth of Pennsylvania or the Owner.

(3) The Developer shall not disclose to others any confidential information gained by virtue of this Agreement.

(4) The Developer shall not, in connection with this or any other agreement with the Commonwealth of Pennsylvania or the Owner, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth of Pennsylvania or of the Owner.

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EXHIBIT 18

Steel Products Procurement Act Contract Clause

In the performance of any contract awarded pursuant to this Agreement, the contractor, subcontractor, materialmen or suppliers shall use only steel products, rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel-making process. Steel products include not only cast iron products, but also machinery and equipment listed in the United States Department of Commerce Standard Industrial Classifications 25 (furniture and fixtures), 35 (machinery, except electrical) and 37 (transportation equipment) and made of, fabricated from or containing steel components. If a product contains both foreign and United States steel, it shall be determined to be a United States steel product only if at least 75 percent (75%) of the cost of the articles, materials and supplies have been mined, produced or manufactured, as the case may be, in the United States. Transportation equipment shall be determined to be a United States steel product only if it complies with Section 165 of Public Law 97-424 (96 Stat. 2136).

When unidentified steel products are supplied under a contract, before any payment will be made, the Developer must provide documentation including, but not limited to, invoices bills of lading and mill certification that the steel was melted and manufactured in the United States. If a steel product is identifiable from its face, the contractor must submit certification which satisfies the Owner that the Developer has fully complied with this provision.

The Owner shall not provide for or make any payments to any person who has not complied with the Steel Products Procurement Act (the "Act"). Any such payments made to any person by the Owner which should not have been made as a result of the Act shall be recoverable directly from the Developer or subcontractor, manufacturer or supplier who did not comply with the Act.

In addition to the withholding of payments, any person who willfully violates any of the provisions of the Act shall be prohibited from submitting any bids to the Owner for a period of five years from the date of the determination that a violation has occurred. In the event the person who violates the provisions of the Act is a subcontractor, manufacturer or supplier, such person shall be prohibited from performing any work or supplying any materials to the Owner for a period of five years from the date of the determination that a violation has occurred.

The Developer shall include the provisions of the Act in every subcontract and supply contract so that the provisions of the Act shall be binding upon each subcontractor and supplier.



EXHIBIT 19

Trade Practices Act Contract Clause

In accordance with the Trade Practices Act of July 23, 1968, P.L. 686 (71 P.S. Section 7773.101 et seq.), the Developer cannot and shall not use or permit to be used in the work any aluminum or steel products made in a foreign country which is listed below as a foreign country which discriminates against aluminum or steel products manufactured in Pennsylvania. The countries of Brazil, Spain, South Korea, Mexico and Argentina has been found to discriminate against certain products manufactured in Pennsylvania. Therefore, the purchase or use of those countries' products, as listed below, is not permitted:

- (a) **Brazil:** Welded carbon steel pipes and tubes; carbon steel wire rod; tool steel; certain stainless steel products including hot-rolled stainless steel bar; stainless steel wire rods and cold-formed stainless steel bar; prestressed concrete rolled wire strand; hot-rolled wire strand; hot-rolled carbon steel plate in coil; hot-rolled carbon steel sheet; and cold-rolled carbon steel sheet.
- (b) **Spain:** Certain stainless steel products including stainless steel wire rod, hot-rolled stainless steel bars; prestressed concrete steel wire strand; and certain steel products including hot-rolled steel plate, cold-rolled carbon steel plate, carbon steel structural shapes, galvanized carbon steel sheet, hot-rolled carbon steel bars and cold-formed carbon steel bars.
- (c) **South Korea:** Welded carbon steel pipes and tubes; hot-rolled carbon steel plate; hot-rolled carbon steel sheet; and galvanized steel sheet.
- (d) **Mexico:** Certain iron-metal construction castings including manhole covers, rings and frames, catch basin frames and grates, cleanout covers, grates, meter boxes and value boxes; galvanized carbon steel sheet; cold-rolled carbon steel sheet; carbon steel sheet; carbon steel plate in coil; carbon steel plate cut to length; and small diameter carbon steel plate welded pipe.
- (e) **Argentina:** Carbon steel wire rod and cold-rolled carbon steel sheet.

Penalties for violation of this paragraph may be found in the Trade Practices Act, which penalties include becoming ineligible for public works contracts for a period of three years.

NOTE: This provision in no way relieves the contractor of responsibility to comply with those provisions of an invitation to bid which prohibits the use of foreign-made steel and cast iron products.

EXHIBIT 20

Public Works Contracting Bond Law Of 1967 Contract Clause

Prior to the award of any contract, the contractor to be awarded must furnish the following bonds which shall become binding upon the award of the contract to the contractor.

(1) A performance bond at 100 percent (100%) of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract.

(2) A payment bond at 100 percent (100%) of the contract amount. Such bond shall be solely for the protection of claimants supplying labor or materials to the prime contractor to whom the contract was awarded, or to any of its subcontractor, in the prosecution of the work provided for in such contract and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the work. "Labor or materials" include public utility services and reasonable rentals of equipment, but only for the periods when the equipment rented is actually used at the site.



EXHIBIT 21

Pennsylvania Prevailing Wage Act Contract Clause

Any contract with the awarded trade contractor is subject to the provisions, duties, obligation, remedies and penalties of the Pennsylvania Prevailing Wage Act, 43 P.S. Section 165-1 et seq., which is incorporated herein by reference as if fully set forth herein. The general prevailing minimum wage rates as determined by the Secretary of Labor and Industry of the Commonwealth of Pennsylvania shall be paid for each craft or classification of all workmen needed to perform this contract during the term hereof for the locality in which the work is to be performed.



EXHIBIT 22

Provisions Concerning The Americans With Disabilities Act

During the term of this Agreement, Developer agrees as follows:

Pursuant to federal regulations promulgated under the authority of the Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Developer understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement or from such activities provided for under this Agreement. As a condition of accepting and executing this Agreement, Developer agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130 and all other regulations promulgated under Title II of the American with Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania or the Owner through contracts without outside contractors.

CLASSIFICATION 1: SPECTATOR FACILITIES (continued)

Space Type	Room Description	Requirements		Notes
		Units	Total SF	
Public Restrooms	Public restroom facilities will be provided based on an assumed ratio of 30:50 male-female occupants. Note: All fixtures, rates are based on anticipated 10' x 100' units; check state and local requirements.	68	10,230.87	<p>Actual ratios - Rev. 02-25-00 15,605 (1,231) + 11,000 (1,82)</p> <p>80,000 (1,541)</p> <p>10,000 (1,221) + 5,000 (1,77)</p> <p>70,000 (1,500)</p>
		50	7,500	
		90	4,115	
		80	1,200	
		50	2,500	
		90	3,485	
		80	1,200	
		4	250	
		4	1,500	
		4	1,500	
Salle Level Restrooms	<p>Common restroom facilities will be provided on the Salle Level.</p> <p>a. Men's toilets: (2) total men's toilet rooms, each with 200 male toilet stalls, 2 w.c.s, 2 urinals, 4 lavs</p> <p>b. Women's toilets: (2) total women's toilet rooms, each with 200 female toilet stalls, 2 w.c.s, 2 urinals, 4 lavs</p> <p>c. Family restrooms: (2) total family restrooms, each with 200 family restrooms, 2 w.c.s, 2 urinals, 4 lavs</p> <p>d. Public restroom facilities will be provided on the Service Level for use by concert attendees who are seated on the floor.</p>	4	1,500	1,500
		4	1,500	1,500
		4	1,500	1,500
		4	1,500	1,500
		4	1,500	1,500
Event Level Restrooms	<p>a. Men's toilets: (2) total men's toilet rooms, each with 200 male toilet stalls, 2 w.c.s, 2 urinals, 4 lavs</p> <p>b. Women's toilets: (2) total women's toilet rooms, each with 200 female toilet stalls, 2 w.c.s, 2 urinals, 4 lavs</p> <p>c. Family restrooms: (2) total family restrooms, each with 200 family restrooms, 2 w.c.s, 2 urinals, 4 lavs</p> <p>d. Public restroom facilities will be provided on the Service Level for use by concert attendees who are seated on the floor.</p>	12	600	600
		14	700	700
		14	700	700
		14	700	700
		14	700	700
Guest Services	<p>a. First Aid Room for spectator use</p> <p>b. Sanitary First Aid Facilities for spectator use</p> <p>c. Information and Lost & Found Booth</p> <p>d. Request Center for program seating patron.</p>	1	200	200
		1	100	100
		1	100	100
		1	100	100
SUB-TOTAL			195,461	195,461
Multiplier (10% - excluded seating bowl)			8,939	8,939
TOTAL			204,377	204,377

CLASSIFICATION 2: FOOD AND RETAIL FACILITIES						
Space Type	Item Description	Recommended		SD - 100%		Notes
		Units	SF	Total SF	Total SF	
Concession Stands 1000 sq ft min 1000 sq ft max	a. Concession Stands will be distributed at regular intervals on the Concourse(s).	112	10,120	19,464	19,464	154 Points of Sale 10 Points of Sale Final Location and Number of Stands being determined in coordination with Architect.
	b. Public Concession stands are based on a ratio of 1:165 spectators, for a total of 92 points of sale.	112	10,120	2,546	2,546	
Per Event	c. Concession Stands are based on a ratio of 1:150 spectators, for a total of 12 points of sale.	48	2,000	1,196	1,196	Final Location and Number of Stands being determined in coordination with Architect.
	d. Portable specialty vendor concession stands will be provided in the Concourse area, with utility services available for temporary set-up.	2	1,000	600	600	
Per Event	e. Vendor Stands - facilities for food handling and storage for vendors will be distributed on each concourse.	3	300	0	0	Includes 15% overhead storage
	f. Vending Machines - space for just vending machines for Concession Stands, and catering to Stands/Lege.	0	0	0	0	
Per Event	g. Temporary storage for paper goods and food supplies, including dining-commodities storage rooms.	1	6,000	5,000	5,000	Includes 15% overhead storage
	h. Central Kitchen - to support Club Lounge/Bar/Concession Stands, and catering to Stands/Lege.	1	5,000	0	0	
Per Event	i. Cold prep kitchen - locate on service level, to prepare and store cold foods.	0	0	0	0	Includes 15% overhead storage
	j. Beer prep kitchen - to support Club Lounge/Bar/Concession Stands, and catering to Stands/Lege.	1	2,000	1,742	1,742	
Per Event	k. Portable Car Storage/Car Washing	0	0	0	0	Includes 15% overhead storage
	l. Finishing Kitchens	1	600	0	0	
Per Event	m. Show Kitchens	1	600	0	0	Includes 15% overhead storage
	n. Main Concessions Clubs	0	0	0	0	
Per Event	o. Upper Concourse Pub Kitchen	0	0	0	0	Includes 15% overhead storage
	p. Main Concourse Club Kitchen	0	0	0	0	
Per Event	q. Portable Opened Lounge Kitchen	0	0	0	0	Includes 15% overhead storage
	r. Service Support Storage and Support Room	1	150	350	350	
Per Event	s. Service Support Storage - to assist food service to the Stands	1	1,000	1,000	1,000	Includes 15% overhead storage
	t. Piece Warehouse - to assist food service to the Stands	1	300	300	300	

CLASSIFICATION 3: CIRCULATION						
Space Type	Room Description	Recommended		SD - 1975		Notes
		UNITS	SF	Total SF	Notes	
Lobbies	a. Number of Public Entrance Lobbies: 1	1	10,000	10,000	5,685	
	5th Avenue entry	1	17,000	17,000	16,337	
	NW Centre Avenue entry to Sime	1	4,000	4,000	4,895	Included in NW Centre SF
	NE Centre Avenue entry	1	1,000	1,000	0	
	Number of Ticket Lobbies: 1	1	250	250	0	
	c. Number of Train Entrances: 1	1	500	500	0	
Classrooms	d. Number of V.P. (Private Entrances): 1	1	500	500	0	
	e. Entrance to Administration Office Suite: 1	1	500	500	0	
	f. Turnstile Stages	0	500	0	0	
	a. Main Level Concourse	1	10,000	10,000	10,703	
	b. Upper Level Concourses	1	14,000	14,000	33,525	
	c. Service Concourse on Every Floor Level	1	10,000	10,000	14,757	
Corridors	d. Suite Corridors on 5th Level	1	20,000	20,000	24,602	
	e. Suite Corridors on 6th Level	1	0	0	0	
Vertical Circulation	a. Number of 2300 lb. Passenger Elevators	0	0	0	0	
	b. Number of 3500 lb. Passenger Elevators: 4 (1 per quad)	4	95	760	736	
	c. Number of 3500 lb. Passenger/Service Elevators: 0	0	185	0	0	
	d. Number of 5000 lb. Passenger/Service Elevators: 0	0	125	0	0	
	e. Number of 6000 lb. Freight Elevators: 2	2	145	200	310	
	f. Number of Stairwells: 4	4	0	0	12,408	
SUB-TOTAL						
Multiplier (0%)						
TOTAL						

Category	Room Description	Requirements		Comments	
		Units	Total SF		
Collegiate Locker	d. Grooming area	0	200		
	e. Coaches locker/shower/lockers	0	400		
	f. Coaches office	0	100		
	g. Treatment Room	0	0		
	h. Team Equipment storage	0	0		
	SUB-TOTAL: A HEMA FOOTBALL LOCKERS				
	The Home Team locker room suite includes the following spaces:				
		a. Locking/fitting space	0	500	
		b. (20) 24" lockers	0	500	
		c. Showers - ... w.c. + ... units - 1av	0	250	
NBA Basketball Locker	a. (16) 36" lockers	0	1,250		
	b. (8) Showers + (2) w.c. + (3) units - (3) lav	0	200		
	c. Dryer area	0	80		
	d. Water/Hot/Equip/Steam Room	0	600		
	e. Weight Room	0	1,000		
	f. Coaches office and Video Type	0	1,200		
	g. Training Room and Office	0	1,150		
	h. Team Equipment storage	0	550		
	SUB-TOTAL: BASKETBALL LOCKERS				
	The locker room suite includes the following spaces and per in the same facility. The Home Team locker room suite includes the following spaces:				
Short League Hockey	a. Changing Room with (20) 24" lockers	0	200		
	b. Locker Room with (20) 36" lockers	0	400		
	c. (6) Showers + (1) w.c. + (4) units	0	200		
	d. Grooming area with 4 lav and continuous mirror	0	150		
	e. Coaches locker room	0	500		
	f. Treatment Room	0	250		
	g. Team Equipment storage	0	300		
	h. Steam Showering Room	0	100		
	i. Stock Work Room	0	100		
	j. Coaches office	0	150		
SUB-TOTAL: HOCKEY LOCKERS					
The Home Team locker room suite includes the following spaces:					
MHL Hockey Locker	a. Steam Locker Room with (20) 36" lockers	1	200		
	b. Locker Lounge and Business Center	1	550		
	c. Locker Room with (20) 36" lockers + (2) 48" lockers	1	450		
	d. (10) Showers + (1) w.c. + (4) units	1	150		
	e. Steam room	1	200		
	f. Grooming area with (5) lav and cont. mirror	1	200		

CLASSIFICATION 6: ADMINISTRATION

Grade Type	Position Description	Recommendation			30-100%		Hours	Notes
		Units	BF	Total BF	10-22.07			
Arena Mgmt Offices	The Arena Management Office includes the following Offices:							
	a. General Manager's Suite	1	300	300				
	b. Operations Suite	5	120	600				
	c. Accounting Suite	4	120	480				
	d. Marketing Suite	8	120	960				
	e. Reception / Waiting	1	480	480				
	f. Conference Room	1	150	150				
	g. Break Room	1	200	200				
	h. Work Room / Copy Room	1	200	200				
	i. Office	1	200	200				
	j. Training Rooms	1	100	100				
	k. IT Space	1	100	100				
	l. Storage	1	100	100				
	SUB-TOTAL: ARENA MANAGEMENT OFFICES	18	180	2,190	4,510			
	SUB-TOTAL: ARENA MANAGEMENT OFFICES			2,190	4,510			
Ticket Office	a. Post Office: Number of Ticket Windows 12 accepted from	18	30	540	790			
	b. Standby	0	0	0	0			
	c. Standby line Office: Number of Ticket Windows 1	1	180	180	180			
	d. Office for Ticket Manager	1	180	180	180			
	e. Office for Assistant Manager	1	180	180	180			
	f. Work Area for Staff	1	180	180	180			
	g. Vendor Ticket Storage	1	180	180	180			
	h. Counting Room	1	180	180	180			
	i. Phone Sales Room (Room use for Pergues)	1	180	180	180			
	j. Staff/Trainer Room/Kitchenette	1	180	180	180			
	k. Ticket	1	180	180	180			
	SUB-TOTAL: TICKET OFFICE	12	216	2,190	3,287			
				4,380	7,797			

CLASSIFICATION 6: ADMINISTRATION (continued)

Space Type	Problem Description	Recommendation		SD - 1993	Notes	Notes
		Units	\$F			
Regular / Coaching / Security / Offices	Officers and support areas for the Pittsburgh Penguins Administration Offices as follows:			10,2287		
	a. President/CEO's Office	1	464	4103		
	b. Officers for Administration, Advertising, Accounting, Public Relations, Sales	17	1,514	4,440		
	c. Workstation Area	10	1,000	1,660		
	d. Board's Workstation Area	3	300	300		
	e. Large Conference Room	1	400	400		
	f. Small Conference Room	1	200	200		
	g. Filing / Work Rooms / Copy Rooms	1	200	200		
	h. Mail Room	1	100	100		
	i. Break Room/Kitchenette	1	200	200		
	j. Locker / Reception / Waiting Area	1	500	400		
	k. IT Space	1	100	100		
	SUB-TOTAL: PENGUINS ADMIN. OFFICES			11001		
	Officers and support areas for the Pittsburgh Penguins Coaching Staff as follows:					
	a. Head Coach's Office	1	186	130		
	b. Assistant Head Coach's Office	1	134	120		
	c. Trainer / Manager's Office	5	140	700		
	d. Scouting Suite	1	290	290		
	e. Video Room / Storage	1	100	100		
	f. Work Rooms / Copy Rooms	1	200	200		
	g. Conference Room	1	130	120		
	h. Kitchenette	1	140	140		
	i. Waiting Area / Reception	8	80	100		
	j. Video Coaching Control			118		
	SUB-TOTAL: COACHING/SCOUTING OFFICES			6,000		
	Future Team Admin Offices Staff Space	0	\$1,000	0		
	Officers and support areas for a future pro-am team					
	SUB-TOTAL: ADMIN. STAFF SPACE			9		
	SUB-TOTAL			18,370	24,192	
	Multiplier (10x)			1,837	2,419	
	TOTAL			20,207	27,178	

CLASSIFICATION 7. MEDIA FACILITIES

Space Type	Room Description	Recommended			ED - 100's		Notes	Hidden
		Units	SF	Total SF	ED - 100's	ED - 100's		
Press Sergeant	a. Work Room / Digital Editing	1	600	600	1,400			
	b. Dining Area	1	1,200	1,200	600		Front End Print - Primary Area	
	c. News Tables	2	250	500	100	600	Make Use of Front Room	
	d. Media Check-In and Accreditation	1	250	250	150	250		
Print Box	a. Record Storage	1	200	200	200	800	Includes Print Box Storage	
	b. Storage Print - room for 300 writers for 100 photos for 1000 print runs	250	25	275	2,000	2,000	Storage for 250 @ 25 SF/minute for 10,000 SF/1,000 SF/minute	
	c. TV Broadcast Booth(s)	4	150	600	700	700		
	d. Radio Broadcast Booth(s)	3	30	90	200	200		
Control Room	a. Control Room	1	120	120	120	310		
	b. Sound and Light Booth	1	120	120	120	310		
	c. Video Control Control Room	1	150	150	150	310		
	d. Equipment Room (audio, video, network)	1	200	200	200	310		
	e. Panel Print/Photo/Thematic Control Room	1	150	150	150	310		
	f. Storage and Work Production - Video	1	4,000	4,000	700	700		
	g. Control Room	1	150	150	150	310		
	h. Office	2	150	300	150	310		
	i. Workstation Area	1	150	150	150	310		
	j. Tape Storage	1	200	200	200	310		
Interview Facilities	a. Space for Future Expansion	1	1,500	1,500	2,000	2,000	Program Expansion - 500 Above - Green Room/Focus Work Room	
	b. Multi-purpose room for several interview conferences and team meetings	1	1,500	1,500	2,000	2,000	Temporary facilities. Includes in Press Workstation Space	
Interview Facilities	a. Interview "Studios"	2	120	240	640	640		
	b. Interview "Studios"	2	120	240	640	640		

CLASSIFICATION 7: MEDIA FACILITIES (continued)

Sector Type	Item Description	Recommended		SD - 2007	Notes	NICS
		Unit	SP			
Camera	Fixed camera hardware/software shall be located at the following positions:					
	a. Keel level positions	4	35	142	1-44	
	b. Low-level Corner (MLLCT)	1	6	6	6	
	c. Middle-level Corner (MLLC) - High-level Reserve (MLCR)	3	6	18	6	
	d. Middle-level Corner (MLCC) - High-level Corner (MLC)	4	6	24	6	
	e. Middle-level Edge (MLE)	2	6	12	6	
	f. Low-level Stack (LLS)	4	6	24	6	
	g. Unmanned Fixed Camera Reserves	6	6	36	6	
	Spot light positions shall be located at the following positions:					
	h. Cross-Corridor					
Camera - included in Antisubmarine Activity						
Canada				31,920	12,482	
SUB-TOTAL				2,102	1,240	
TOTAL				33,122	13,642	

CLASSIFICATION 8: OPERATIONS SUPPORT

System Type	Room Description	Recommended		10-23-07		Notes	Remarks
		Units	SF	Total SF	\$0 - 10/01		
Event Personnel	The following space is provided for temporary use: a. Offices for use by outside show personnel b. Lockers for use by Event Staff	2	154	210	1,230	Included Production Offices in Service Level	Included in Service Level
	c. Dressing Area	1	624	1,000	1,160		Included in Service Level
Building Staff	d. Uniform Distribution	1	208	210	720	Requires Revision: Cleanroom, Dressing, Storage, Service Level	Included in Service Level
	e. Storage	1	1,200	1,200	3,613	Requires Revision: Cleanroom, Dressing, Storage, Service Level	Included in Service Level
Storage	f. Open-plan Support office	1	181	180	232		Included in Service Level
	g. Reception Area	1	200	200	440		Included in Service Level
Shipping	h. Other Office	1	125	120	677		Included in Service Level
	i. Staff Restroom	1	380	380	713		Included in Service Level
SUB-TOTAL: BUILDING STAFF	j. Lockers for use by Building Staff	2	\$0	1,000	0	Lockers SF included in Event Personnel Locker Area	Included in Service Level
				1,240	1,317		
Storage	k. Heavy Equipment Storage (tools, network cables, and /adj items)	1	1,086	1,000	1,383	Open-Bay Storage	Included in Service Level
	l. Technical Equipment Storage (television, etc.)	1	2,486	2,500	0	Included Above	Included in Service Level
Duct / Shipping	m. Shipping Area	1	8,200	8,000	14,000	Included Above in Shipping Area	Included in Service Level
	n. Trade Desk, Computer, Restroom	1	800	800	1,200		Included in Service Level
Ice Support	o. Trade Desk	1	800	800	1,200		Included in Service Level
	p. Trade Desk	1	800	800	1,200		Included in Service Level
Security	q. Trade Desk	1	800	800	1,200		Included in Service Level
	r. Trade Desk	1	800	800	1,200		Included in Service Level
SUB-TOTAL: ICE SUPPORT				12,200	16,380		
				1,000	800		
SUB-TOTAL: SECURITY				1,400	1,530		
				1,400	1,530		
SUB-TOTAL: SECURITY				1,400	1,530		
				1,400	1,530		

CLASSIFICATION 8: OPERATIONS SUPPORT (continued)

Space Type	Room Description	Units	Req'd	SE	Yield sq'	50' - 100%	Notes	Notes
Maintenance	a. Maintenance Shop	1	1	3,000	3,000	3,014		
	b. Maintenance Storage	1	1	2,000	2,000	4,701	Includes both Mechanical & General Storage	Includes Vehicle Maintenance Area
	c. General Reading Storage	1	1	4,000	4,000	2,132		
	SUB-TOTAL: MAINTENANCE				9,000	9,847		
	1. Control Laboratory Sample Storage/Issue Keeping	1	1	600	600	1,122	Issue Keeping Area	
	2. Biomedical Junior Clinics	16	16	800	1,350	892	Included in Issue Keeping Area	
	3. Biomedical Family	1	1	500	100	0		
	4. Toxic Culture Rooms	1	1	150	1,200	1,073		
	5. Research Rooms	1	1	100	150			
	SUB-TOTAL: RESEARCH				1,700	2,065		
	1. Mechanical Rooms	4	4	2,700	14,800	12,970	Includes Air Handling Units for Fuel Burn Area & Mech. Area	
	2. Other Air Handling Rooms	4	4	1,100	12,900	12,601	Includes Air Handling Units for Fuel Burn Area & Mech. Area	
	3. Radiology Rooms	1	1	1,300	1,300	1,800	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	4. Ion Bomb Caliber Room	1	1	4,100	4,100	5,250	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	5. Main Electrical Room	1	1	1,100	1,100	2,070	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	6. Emergency Generator Room	1	1	600	600	1,100	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	7. Exhaust Floor Electrical Rooms	1	1	900	900	2,900	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	8. Electrical Closets	18	18	600	2,700	2,782	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	9. Main Power Points	2	2	30	100	300	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	10. Main Teledata Rooms	1	1	450	450	370	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	11. Teledata Closets	15	15	40	440	1,370	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	12. Fire Pump Room	1	1	250	250	200	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	13. Fire Sprinkler Stand-Off Room	1	1	200	200	200	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	14. Exhaust Equipment Room(s)	1	1	100	100	5	Includes X-Ray Machine in Radiology Development Area & X-Ray Machine in Radiology Development Area	
	SUB-TOTAL: MECHANICAL				46,900	48,170		
	SUB-TOTAL				88,240	90,135		
	Multiplier (10%)					8,824		
	TOTAL					97,054	98,959	

SUMMARY				50 - 100%	Notes	Notes
	Units	SF	Total SF	1022.07		
SUB-TOTAL PART 1: SPECTATOR FACILITIES			294,371	153,118		
SUB-TOTAL PART 2: FOOD and RETAIL FACILITIES			46,471	49,341		
SUB-TOTAL PART 3: CIRCULATION			130,056	186,785		
SUB-TOTAL PART 4: EVENT FACILITIES			22,099	19,371		
SUB-TOTAL PART 5: TEAM FACILITIES			30,701	34,329		
SUB-TOTAL PART 6: ADMINISTRATION			20,661	22,275		
SUB-TOTAL PART 7: PRESS FACILITIES			23,728	13,442		
SUB-TOTAL PART 8: OPERATIONS SUPPORT			97,055	99,479		
BUILDING TOTAL			584,757	597,928		
+ NET-TO-GROSS MULTIPLIER (4.9%)			87,716	88,128		
for overheads, uppers, stairs, and wall thicknesses						
ESTIMATE OF BUILDING SQUARE FOOTAGE (9.4%)			672,473	686,056		
9th Ave. Retail (Shell)				22,053		
GRAND TOTAL				708,053		

SCHEDULE 3.4
Owner Litigation

1. **ADF, International, Inc. v. Sports & Exhibition Authority (Civil Action GD-03-8114) (Court of Common Pleas of Allegheny County, Pennsylvania).** This is a civil action filed by the contractor responsible for the fabrication and erection of structural steel at the David L. Lawrence Convention Center project. The litigation has been stayed through agreement of the parties, and final payment to the contractor is to be made at a future designated time.

2. **Sports & Exhibition Authority v. Tom Brown Contracting, Inc. (Civil Action GD-06-04476) (Court of Common Pleas of Allegheny County, Pennsylvania); and Tom Brown Contracting, Inc. v. Sports & Exhibition Authority (Civil Action GD-06-07084).** These two civil actions, both commenced by way of service of a writ of summons with no complaints filed yet, reflect an ongoing dispute between the Owner and the contractor responsible for installation of certain hot rubberized asphalt roofs at the David L. Lawrence Convention Center project. The above civil actions were commenced to toll the running of any applicable statutory limitations period, with the understanding of both parties that a good-faith attempt at global resolution through negotiation will occur prior to any further litigation efforts.

3. **Structural Collapse/David L. Lawrence Convention Center.** On February 5, 2007, a 30 by 59 foot portion of the David L. Lawrence Convention Center's second floor loading dock collapsed. No personal injuries were reported as a result of the collapse, nor are we aware at this time of any persons being injured. The area of the collapse has been restored to its original condition and the Convention Center is now fully operational. The Owner has engaged, or is in the process of engaging, experts to determine the precise cause of the collapse and whether the acts and/or omissions of design professionals and trade contractors who worked on constructing the Convention Center are responsible for the collapse. The Owner also instructed all design professionals and trade contractors who may be at fault to notify their respective insurance carriers. To date, neither the Owner nor any of its insurance carriers have filed lawsuits concerning the collapse, but the Owner reasonably anticipates that such lawsuits may be filed.

4. **Tort Claims.** This Schedule 3.4 does not include reference to various other personal injury ("slip and fall") cases, in which defense has been undertaken by the Owner's insurance carrier.

5. **Indemnity and Defense Agreements.** The Owner is the beneficiary of agreements to defend and indemnify by Pittsburgh Associates, Inc. (the Pittsburgh Pirates) and the Pittsburgh Steelers as to claims arising from, or related to, construction of PNC Park and Heinz Field, respectively. Consequently, in the actions described below, the defense was provided at the expense of one or both of those Teams, and any liability to the Owner is subject to and covered by such indemnity and defense agreements:

- Industrial Fabricating Systems, Inc. v. Sports & Exhibition Authority, Hirschfield Steel Co., Inc. and Wilhelm & Kruse, GD 00-2188 (Court of Common Pleas of Allegheny County).
- Mitsubishi Electric & Electronics, U.S., Inc. et al. v. Public Auditorium Authority et al. , GD 00-15856 (Court of Common Pleas of Allegheny County) (filed 9/20/00).
- Joseph P. Buczkowski, et al. v. The Steelers Pittsburgh Football Club and Sports & Exhibition Authority of Pittsburgh & Allegheny County. GD 04-026087 (Court of Common Pleas of Allegheny County).
- Arundel Signs Inc. v. Dick Corporation et al (USDC WPA No. 01-1429).
- Zottola-Simpson Rebar v. Dick/Barton Malow (Civil Action GD 01-13112) (Court of Common Pleas of Allegheny County, Pennsylvania).
- Multi-Phase, Inc. v. Pittsburgh Steelers, et al. (GD No. 02-3891) (Court of Common Pleas of Allegheny County, Pennsylvania).
- USF&G Inc. v. Dick/Barton Malow et al. (Civil Action No. 01-0698) (USDC WPA).
- Maverick Steel Co. LLC v. Sports & Exhibition Authority et al. (GD No. 02-5580) (Court of Common Pleas of Allegheny County, Pennsylvania).

SCHEDULE 3.5

Property to be Acquired

1. Property owned by Beth Hamedrash Hagodal -- Beth Jacob Congregation, successor by consolidation to Beth Hamedrash Hagodal Congregation, a Pennsylvania non-profit corporation, 1230 Colwell Street, Third (3rd) Ward of the City of Pittsburgh, Block & Lot: 2 -- G -- 72-001 and 2 -- G -- 72-002.

Title Exceptions:

- a. Restrictive covenants set forth in Paragraph E1(b), 1(c) and 1(d) in deed from Urban Redevelopment Authority of Pittsburgh to Beth Hamedrash Hagodal Congregation, dated October 7, 1963 and recorded in Deed Book Volume 4103, Page 150.
- b. Restrictive covenants set forth in Paragraph 5(a)(ii), (iii) and (iv) in Contract for Disposition for Sale of Land for Private Redevelopment by and between Urban Redevelopment Authority of Pittsburgh and Congregation Beth Hamedrash Hagodal, dated November 27, 1962 and recorded in Deed Book Volume 4007, Page 620.
- c. The following rights of way:
 - i. From Beth Hamedrash Hagodal Congregation to People Natural Gas Company, dated February 10, 1964 and recorded in Deed Book Volume 4074, page 476.
 - ii. From Beth Hamedrash Hagodal Congregation to Duquesne Light Company, dated March 16, 1964 and recorded in Deed Book Volume 4069, Page 460.

SCHEDULE 4.5

Developer Litigation

NONE

Litigation Involving Lemieux Group LP and Affiliates

1. Pittsburgh Penguins LP and the other NHL member clubs are jointly liable for claims made against the NHL from time to time.

2. **Tallas, et. al. v. Lemieux Group LP, et. al.**

Action filed: January 30, 2006

Venue: Multi District Litigation/Eastern District of Pennsylvania and Eastern District of Louisiana

Civil Docket: 2:06-cv-00389-EL

This claim by plaintiff Robbie Tallas, a former goaltender in the Penguins' minor league system, alleges that he sustained a heart attack as a result of Vioxx inappropriately provided to him by the Penguins or their team doctors. There are claims against Merck (the manufacturer of the Vioxx), the doctors (medical malpractice) and the Penguins (general negligence).

Lemieux Group submitted this claim to its insurance carrier, pursuant to coverage under its employee, commercial general liability and workers' compensation policies. Defense is being provided by Chubb Insurance under Lemieux Group's general liability policy. Chubb is covering the claim with no reservation and case is being handled by insurance defense counsel Wilson, Elser, Moskowitz, Edelman & Dicker LLP.

3. **Christopher Brzowski v. Wilkes-Barre Scranton Penguins, et. al.**

Action Filed: April 25, 2001

Venue: Court of Common Pleas of Luzerne County, Pennsylvania

Docket No.: 2790-C2001

This litigation arises from a barroom brawl allegedly involving several members of the Wilkes-Barre Scranton Penguins ("WBS Penguins"). Mr. Brzowski filed two lawsuits that have been consolidated and the extraneously added parties have been dismissed. Plaintiff seeks to hold the WBS Penguins vicariously liable for the acts of the players. WBS Penguins has asserted that the players were not acting within the course and scope

of their employment at the time of the altercation. This litigation is being handled by insurance defense counsel pursuant to a policy with a \$1M coverage limit.

4. **Rocco Mastermonico Claim**

The Penguins received a letter from Rocco Mastermonico, who claims that he was a demolition/salvage contractor engaged by Joe Flannery of St. Francis Central Hospital in 2000 to remove walls, fixtures and equipment from the former St. Francis Hospital building. In his letter, Mr. Mastermonico claims that he and two of his former employees have suffered adverse health effects that he believes may be attributable to asbestos located in the St. Francis Hospital building at the time of his work in the building, and requested unspecified compensation for his health and future medical expenses. Pepper Hamilton LLP, on behalf of Lemieux Group, has advised Mr. Mastermonico that his alleged injuries occurred prior to the acquisition of the Central Medical Site by Lemieux Development LP.