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PROJECT FUNDING AGREEMENT

4

BY AND AMONG:

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the CITY OF PORTLAND, OREGON,

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the PORTLAND DEVELOPMENT COMMISSION,

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RIP CITY MANAGEMENT LLC, d/b/a PORTLAND ARENA MANAGEMENT,

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PORTLAND WINTER HAWKS, INC.,

9

AND

10

U.S. BANK NATIONAL ASSOCIATION

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1 **PROJECT FUNDING AGREEMENT**

2 This Project Funding Agreement (this "Agreement") is made and entered into as  
3 of \_\_\_\_\_, 2013, by and among the **CITY OF PORTLAND**, a municipal corporation of the  
4 State of Oregon, (the "City"), the **CITY OF PORTLAND**, a municipal corporation of the State of  
5 Oregon, acting by and through the **PORTLAND DEVELOPMENT COMMISSION**, the duly  
6 designated urban renewal agency of the City of Portland ("PDC"), **RIP CITY MANAGEMENT**  
7 **LLC**, a Delaware limited liability company, doing business as **PORTLAND ARENA**  
8 **MANAGEMENT** ("PAM"), **PORTLAND WINTER HAWKS, INC.**, an Oregon corporation ("PWH"),  
9 and **U.S. BANK NATIONAL ASSOCIATION**, as funding agent (the "Funding Agent").

10 **RECITALS**

11 A. The City, PAM, and PWH are parties to the Redevelopment Agreement dated  
12 \_\_\_\_\_, 2013 (the "Redevelopment Agreement"), governing the terms pursuant to which  
13 Veterans Memorial Coliseum, located in the City of Portland, Oregon ("VMC"), will be  
14 renovated, and pursuant to which the City and PWH have each agreed to provide a portion of the  
15 funds needed to cover the costs of renovating and improving VMC (the "Renovation Project").

16 B. The City and PAM (or its predecessor-in-interest) are parties to that certain  
17 Memorial Coliseum Operating Agreement dated April 23, 1993, as amended by that certain First  
18 Amendment to Memorial Coliseum Operating Agreement dated June 23, 1993, and that certain  
19 Second Amendment to Memorial Coliseum Operating Agreement dated January [REDACTED], 2013  
20 (collectively, the "Operating Agreement") governing the terms pursuant to which PAM has  
21 operated and will operate VMC.

22 C. Funding for the costs of the Renovation Project is from multiple sources  
23 including, without limitation, tax increment financing ("TIF") funding provided to the City by  
24 PDC and cash contributions from PWH, in each case pursuant to the terms of the Redevelopment  
25 Agreement.

26 D. In order to provide for the implementation and timely completion of the  
27 Renovation Project, PAM will enter into the general construction contract (the "General  
28 Construction Contract") with Contractor, as well as separate agreements with various Vendors

1 (each, a “Vendor Agreement” and collectively, the “Vendor Agreements”), all of which will  
2 incorporate the General Conditions, including all exhibits thereto.

3 E. Each of the Contractor, the Vendors, and the Architect plays a role in providing  
4 for the timely payment of Construction Costs.

5 F. It is a condition to closing of the transactions contemplated in the Redevelopment  
6 Agreement that the City, PDC, PAM, PWH, and the Funding Agent enter into this Agreement  
7 for the purposes of providing for: (1) the deposit and disbursement of monies of the City and  
8 PWH to fund the Construction Costs and other payments related to the Renovation Project; (2)  
9 the funding by the City and PWH of their respective shares of Construction Costs; (3) the  
10 establishment, maintenance, and administration of various accounts into which deposits and from  
11 which disbursements will be made in order to make timely payment of Construction Costs; and  
12 (4) the establishment of procedures for disbursements from the accounts established hereunder  
13 and the payment of Construction Costs.

14 Accordingly, in consideration of the foregoing and the mutual covenants and  
15 promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the  
16 parties agree as follows:

17 **AGREEMENT**

18 **SECTION 1.**

19 **DEFINITIONS**

20 Capitalized terms used but not defined in this Agreement shall have the meanings set forth in the  
21 Redevelopment Agreement. For purposes of this Agreement, the following terms are defined as  
22 follows:

23 “Account” means either the PWH Account or the Project Payment Account, as  
24 applicable.

25 “Accounts” means the PWH Account and the Project Payment Account.

1                    “Agreement” has the meaning specified in the introductory paragraph of this  
2 Agreement.

3                    “Applicable Law” means any statute, law, regulation, ordinance, rule, judgment,  
4 order, decree, permit, approval, concession, grant, franchise, license, agreement, directive,  
5 requirement or other governmental restriction or any similar form of decision or determination  
6 by any Governmental Authority, whether now or thereafter in effect (including, without  
7 limitation, all laws pertaining to land use or zoning restrictions, and building, health, fire, water  
8 and land use laws).

9                    “Architect” has the meaning set forth in the Redevelopment Agreement.

10                   “Architect’s Certificate” means the certificate of the Architect, in the forms of  
11 **Exhibits C-1** and **C-2** hereto, approving, disapproving, or partially approving the payment of the  
12 amounts requested on the Third Party Draw Requests and Certificates, and, if disapproving or  
13 partially approving, stating the reason(s) for such disapproval or partial approval, as the case may  
14 be.

15                   “Architectural Services Agreement” has the meaning set forth in the  
16 Redevelopment Agreement.

17                   “City” has the meaning specified in the introductory paragraph of this Agreement.

18                   “City Funding Certificate” means the certificate of the City, in the form of  
19 **Exhibit E** hereto, approving, disapproving, or partially approving the payment of the amounts  
20 requested in the Monthly Construction Draw Request, and if disapproving or partially approving,  
21 stating the reason(s) for such disapproval or partial approval, as the case may be.

22                   “City Funding Representative” means the person designated by the City as the  
23 City Funding Representative under the Redevelopment Agreement.

24                   “Closing Date Draw Request” means a request submitted by PAM on the Closing  
25 Date for payment of Construction Costs in accordance with Section 4.3.

1                   “Comptroller of the Currency” means the Office of the Comptroller of the  
2 Currency, a bureau of the United States Department of the Treasury.

3                   “Confirmation of Permit Fees” means the certificate of PAM, in the form of  
4 **Exhibit F** hereto, confirming the payment of Permit Fees. Permit Fees may be included in  
5 Monthly Draw Requests.

6                   “Construction Completion Date” means the date on which (i) all conditions  
7 precedent to Final Completion under the Redevelopment Agreement have been satisfied and  
8 (ii) all conditions precedent in Section 6.4 hereof have been satisfied; in each case as evidenced  
9 by a written certificate of completion issued by the City (and PWH to the extent involving PWH  
10 Approval Items) to the Funding Agent.

11                  “Construction Costs” means the actual Project Costs to the extent incurred and  
12 required to be paid in connection with, and at any time prior to Final Completion of, the  
13 Renovation Project, including contingency and costs incurred under the General Construction  
14 Contract and Vendor Agreements; provided, however, the term “Construction Costs” expressly  
15 excludes any and all City Costs, PAM Costs and PWH Costs.

16                  “Construction Payment Confirmation” is defined in Section 6.2.10(b).

17                  “Construction Schedule” means the Project Schedule as defined in the  
18 Redevelopment Agreement.

19                  “Contractor” means the general contractor under the General Contractor  
20 Agreement to be entered into by PAM, and any successor of such general contractor.

21                  “Contractor’s Draw Request and Certificate” means the monthly requests (unless  
22 required more frequently in accordance with the Redevelopment Agreement) of the Contractor to  
23 PAM for payment as detailed in the Construction Contract and the General Conditions, which  
24 shall meet the requirements of Section 6.2 hereof and be substantially in the form of **Exhibit B-1**  
25 attached hereto.

26                  “Funding Agent” has the meaning specified in the introductory paragraph of this  
27 Agreement.

1                   “General Conditions” means the general conditions and all exhibits thereto  
2 attached to the General Construction Contract and the Vendor Agreements.

3                   “General Construction Contract” has the meaning specified in Recital D of this  
4 Agreement.

5                   “GMP” means the Contractor’s GMP, as defined in the Redevelopment  
6 Agreement.

7                   “Government Approvals” means all permits, annexation agreements, entitlements,  
8 licenses, orders, approvals, exemptions, authorizations, certifications, franchises, building  
9 permits, subdivision approvals, site plan reviews, environmental approvals (including an  
10 environmental impact statement or report if required under Applicable Law for any operations of  
11 PAM), sewer and waste discharge permits, zoning and land use entitlements and other  
12 authorizations and all required filings and notices, whether now existing or hereafter issued to or  
13 obtained by or on behalf of PAM or any affiliate of PAM, in each case that relate to VMC.

14                   “Governmental Authority” means any federal, state or local government,  
15 department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial or  
16 administrative body, or other body having the power to regulate or supervise VMC or any part  
17 thereof (or any of the uses thereof), or PAM, PWH, or their respective subsidiaries.

18                   “Monthly Construction Draw Request” means a request meeting the requirements  
19 of Section 6.2 hereof for a draw on the PWH Account, the Project Payment Account, and/or  
20 payment by the City to pay Construction Costs and other payments related to the Renovation  
21 Project. No Monthly Construction Draw Request shall include requests for payment of amounts  
22 due and owing to third parties that PAM or Contractor does not intend to pay because of a  
23 dispute or other reason.

24                   “Monthly Draw Documents” means the Third Party Draw Requests and  
25 Certificates, the Architect’s Certificate, the PAM Draw Certificate, the City Funding Certificate,  
26 the PWH Funding Certificate for the applicable Monthly Draw Request period, the Construction  
27 Payment Confirmation, and any additional documentation required by this Agreement with  
28 respect to each Monthly Construction Draw Request.

1                   “Monthly Draw Schedule” means the schedule of events specified in **Exhibit A**  
2 hereto. In the event of any inconsistency between the Monthly Draw Schedule and the terms of  
3 this Agreement, the terms of this Agreement shall control.

4                   “Officer’s Certificate” means, with respect to PAM, a certificate signed on behalf  
5 of PAM by the PAM Funding Representative.

6                   “Operating Agreement” has the meaning specified in Recital B of this Agreement.

7                   “PAM” has the meaning specified in the introductory paragraph of this  
8 Agreement.

9                   “PAM Draw Certificate” means the certificates of PAM, in the form of  
10 **Exhibits D-1** and **D-2** hereto, requesting funds to pay the amount of a Third Party Draw Request  
11 and Certificate, and other Construction Costs incurred by PAM for a month or other period of  
12 time (which have not been previously reimbursed to PAM by any prior disbursement).

13                   “PDC” has the meaning provided in the introductory paragraph of this  
14 Agreement.

15                   “Permit Fees” means permit fees or other governmental fees required to be paid in  
16 connection with the design, construction or occupancy of the Renovation Project or any portion  
17 thereof. Permit Fees are Project Costs.

18                   “Permitted Investments” means the investments set forth in **Exhibit I** hereto.

19                   “Project Budget” has the meaning set forth in the Redevelopment Agreement.  
20 The Initial Project Budget is attached as **Exhibit G** hereto.

21                   “Project Payment Account” means the account into which the Public Contribution  
22 monies will be deposited, which funds may be commingled with funds withdrawn from the PWH  
23 Account by Funding Agent, all of which funds shall be used to pay Construction Costs.

1                   “Public Contribution” means the City’s monetary contribution to the Renovation  
2 Project in the amount of Twenty-One Million Five Hundred Thousand and No/100 Dollars  
3 (\$21,500,000.00) to fund construction costs of the Renovation Project.

4                   “PWH” has the meaning specified in the introductory paragraph of this  
5 Agreement.

6                   “PWH Account” means the account by that name described in Section 3 hereof  
7 into which the PWH Contribution will be deposited.

8                   “PWH Contribution” means PWH’s monetary contribution to the Renovation  
9 Project in the amount of Ten Million and No/100 Dollars (\$10,000,000.00) to fund Construction  
10 Costs of the Renovation Project.

11                   “PWH Funding Certificate” means the certificate of PWH, in the form of  
12 **Exhibit K** hereto, approving, disapproving, or partially approving the payment of the amounts  
13 requested in the Monthly Construction Draw Request, and if disapproving or partially approving,  
14 stating the reason(s) for such disapproval or partial approval, as the case may be.

15                   “PWH Funding Representative” means the person designated by PWH as the  
16 PWH Funding Representative under the Redevelopment Agreement.

17                   “Redevelopment Agreement” has the meaning specified in Recital A of this  
18 Agreement.

19                   “Renovation Project” has the meaning specified in the Recital A of this  
20 Agreement.

21                   “Schedule of Values” means the schedule of values submitted by PAM to the City  
22 and PWH pursuant to Section 18.2.1 of the Redevelopment Agreement, which includes a  
23 schedule of values for the General Construction Contract and for each Vendor Agreement as of  
24 the date hereof, which may be updated from time to time pursuant to the Redevelopment  
25 Agreement.

26                   “Termination Date” has the meaning specified in Section 8.1.



1 “TIF” has the meaning specified in Recital C of this Agreement.

2 “Third Party Draw Requests and Certificates” collectively means the Contractor’s  
3 Draw Requests and Certificates and the Vendors’ Draw Requests and Certificates.

4 “Vendor Agreement(s)” has the meaning specified in Recital D of this  
5 Agreement.

6 “Vendors’ Draw Request and Certificate” means the monthly requests (unless  
7 required more frequently in accordance with the Redevelopment Agreement) of a Vendor to  
8 PAM for payments as detailed in the applicable Vendor Agreements, which shall meet the  
9 requirements of Section 6.2 hereof and be substantially in the form of **Exhibit B-2** attached  
10 hereto.

11 “VMC” has the meaning specified in the Recital A of this Agreement.

12 **SECTION 2.**

13 **[Reserved]**

14 **SECTION 3.**

15 **FUNDING AGENT AND ESTABLISHMENT OF ACCOUNTS**

16 **Section 3.1. Creation of PWH Account and the Project Payment Account.**

17 **Section 3.1.1** The Funding Agent hereby establishes and agrees to maintain the  
18 PWH Account and the Project Payment Account as special, segregated, and irrevocable cash  
19 collateral accounts, each of which shall be maintained in the State of Oregon, until such time that  
20 such PWH Account and the Project Payment Account may be closed pursuant to the terms of this  
21 Agreement.

22 **Section 3.1.2** PWH shall deposit the PWH Contribution into the PWH Account  
23 as follows: (a) Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00) at  
24 Closing; (b) Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00) at  
25 twenty-five percent (25%) completion based on the total amount of the PWH Contribution and  
26 Public Contribution spent, but not before April 1, 2013; and (c) Five Million and No/100 Dollars

1 (\$5,000,000.00) on the earlier of (i) fifty percent (50%) completion based on the total amount of  
2 the PWH Contribution and Public Contribution spent, or (ii) seventy-five percent (75%) of the  
3 total amount of the PWH Contribution and the Public Contribution committed based on contracts  
4 signed, including the Architectural Services Agreement, the General Construction Contract and  
5 Vendor Agreements, provided, however, that funding under this Section 3.1.2(c) shall be due not  
6 later than July 1, 2013. In accordance with the terms of this Agreement, the Funding Agent shall  
7 withdraw funds from the PWH Account and deposit such funds into the Project Payment  
8 Account to pay PWH's share of Construction Costs. Notwithstanding anything to the contrary  
9 contained in this Agreement, the City shall have no obligation to review or approve any Retained  
10 Party Contracts if (Y) the completion threshold provided in subsection 3.1.2(b) has been satisfied  
11 on or before April 1, 2013, but PWH has not yet funded under such subsection, and/or (Z) the  
12 completion or commitment thresholds provided in subsections 3.1.2(c)(i) or (ii) have been met  
13 on or before July 1, 2013, but PWH has not yet funded under such subsection. When any of the  
14 percentage thresholds described in this Section 3.1.2 have been reached, the City or PAM will  
15 send notice to PWH of the same, and PWH shall have ten (10) Business Days from receipt of  
16 such notice to deposit the required portion of the PWH Contribution into the PWH Account.

17 **Section 3.1.3** Because PWH is not funding the entire PWH Contribution at  
18 Closing, the following shall occur:

19 (A) Because PWH is funding the PWH Contribution in phases,  
20 and unless PAM and the City agree otherwise, PAM shall cause the Project Schedule to  
21 be structured in such a way as to provide that as much and as many of the PWH Approval  
22 Items will be completed, and the scoreboard ordered, after PWH actually funds the final  
23 \$5,000,000.00 of the PWH Contribution. To the extent feasible, PAM will manage the  
24 Renovation Project and Construction Schedule such that the majority of the PWH  
25 Approval Items are ordered, purchased and installed after PWH has funded the entire  
26 PWH contribution;

27 (B) At Closing, the executed Guaranty will be delivered to the  
28 City and PDC;

29 (C) At Closing, the executed Pledge will be delivered to PDC;  
30 and;

31 (D) To backstop a portion of the PWH Contribution, PDC will  
32 reprioritize the Two Million and No/100 Dollars (\$2,000,000.00) currently budgeted for  
33 the stand-alone energy system at VMC such that such funds will be used if and as

1 necessary to provide cash flow to the Renovation Project in order to ensure that VMC is  
2 fully operable.

3 **Section 3.1.4** The City shall deposit the Public Contribution, less any amounts  
4 credited to the City in accordance with Section 22.3 of the Redevelopment Agreement, into the  
5 Project Payment Account, and, in accordance with the terms of this Agreement, the Funding  
6 Agent shall withdraw funds from the Project Payment Account to pay the City's share of  
7 Construction Costs.

8 **Section 3.1.5** Except as expressly provided in the Redevelopment Agreement,  
9 PAM has no obligation to contribute money to the Construction Costs.

10 **Section 3.1.6** In addition to the Accounts established hereunder, the Funding  
11 Agent may from time to time establish such subaccounts in the Accounts and such other  
12 Accounts as may be necessary or appropriate for purposes of carrying out the terms and  
13 conditions of this Agreement, including for purposes of holding and administering any cash  
14 collateral from time to time deposited with the Funding Agent or cash or other consideration  
15 received by the Funding Agent in connection with certain extraordinary events.

16 **Section 3.1.7** Monies in the PWH Account shall be held by the Funding Agent  
17 uninvested, or shall be invested overnight in Permitted Investments in accordance with the  
18 written instructions of PWH. Monies in the Project Payment Account shall be held uninvested  
19 by the Funding Agent, or shall be invested overnight in Permitted Investments in accordance  
20 with the written instructions from the City.

21 **Section 3.2. Investment of PWH Account and Project Payment Account.**

22 **Section 3.2.1** The Funding Agent shall (i) deposit into the PWH Account and  
23 credit income earned on funds held in the PWH Account to the PWH Account, and (ii) deposit  
24 into the Project Payment Account and credit income earned on funds held in the Project Payment  
25 Account to the Project Payment Account. All income earned on funds in the PWH Account and  
26 the Project Payment Account shall accrue to the benefit of the Project and be used to pay  
27 Construction Costs.

1           **Section 3.2.2** Funds in the PWH Account and the Project Payment Account shall  
2 be invested in accordance with Section 3.1 above.

3           **Section 3.2.3** The City, PAM, and PWH acknowledge that to the extent  
4 regulations of the Comptroller of the Currency or any other regulatory entity grant the Funding  
5 Agent the right to receive brokerage confirmations of security transactions as they occur, the  
6 Funding Agent shall provide copies to the City and PWH, as applicable. The Funding Agent will  
7 furnish the City and PWH monthly transaction statements, which include the detail for all  
8 investment transactions made by the Funding Agent hereunder.

9           **Section 3.2.4** The Shareholder Communications Act of 1985 and its regulations  
10 require that banks and trust companies make an effort to facilitate communication between  
11 registrants of U.S. securities and the parties who have the authority to vote or direct the voting of  
12 those securities regarding proxy dissemination and other corporate communications. Unless the  
13 City, PAM, or PWH indicates their objection in writing to the Funding Agent, the Funding Agent  
14 will provide the obligatory information to the registrant upon request.

15   **SECTION 4.**

16           **CLOSING DATE DEPOSITS AND DISBURSEMENTS; PRO-RATA FUNDING OF**  
17   **CONSTRUCTION COSTS**

18           **Section 4.1. Schedule of Value.** PAM shall submit to the City and PWH the  
19 Statement of Values as and when required under the Redevelopment Agreement.

20           **Section 4.2. Delivery of Funds on Closing Date.**

21           **Section 4.2.1 Monies of PWH.** On or before the Closing Date, PWH shall  
22 deliver to the Funding Agent for credit to the PWH Account moneys of PWH in an aggregate  
23 amount of Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00).

24           **Section 4.2.2 Public Contribution.** On the Closing Date, the City shall provide  
25 funds in an aggregate amount of Twenty-One Million Five Hundred Thousand and No/100  
26 Dollars (\$21,500,000.00), in accordance with the provisions of Section 5 hereof, less any  
27 amounts credited to the City in accordance with Section 22.3 of the Redevelopment Agreement.

1           **Section 4.3. Closing Date Draw.**

2           **Section 4.3.1** At least five (5) Business Days prior to the Closing Date, PAM  
3 may submit to the Funding Agent and the City Funding Representative and the PWH Funding  
4 Representative, a Closing Date Draw Request showing the respective amounts of the total  
5 requested payment amount to be paid by the City (if any) and the amount to be paid from the  
6 PWH Account (if any) and accompanied by an Officer’s Certificate certifying that all conditions  
7 to expenditure of the applicable amounts have been satisfied, and including back up  
8 documentation that is required with Monthly Construction Draw Requests. If PWH and the City  
9 approve such Closing Date Draw Request, they shall indicate such approvals by countersigning  
10 the Closing Date Draw Request and providing the Funding Agent original countersigned copies  
11 of their respective Closing Date Draw Requests. If there are any amounts in the Closing Date  
12 Draw Request to be paid by the City or PWH, such party shall notify the Funding Agent of its  
13 intent to provide such funds to the Funding Agent. The City and PWH shall provide copies of  
14 their respective countersigned Closing Date Draw Requests to PAM. Upon receipt of such  
15 Closing Date Draw Requests countersigned by the City and PWH, the Funding Agent shall  
16 withdraw from the PWH Account and deposit into the Project Payment Account the amount  
17 shown in the Closing Date Draw Request as being drawn from the PWH Account.

18           **Section 4.3.2** From the amounts deposited in the Project Payment Account  
19 pursuant to Section 4.3.1 above, the Funding Agent shall pay to the payees listed in the Closing  
20 Date Draw Request the respective amounts shown therein.

21           **Section 4.4. Pro-Rata Funding of Construction Costs.** The PWH Contribution and  
22 the Public Contribution will be used to pay Project Costs on a dollar-for-dollar basis to the extent  
23 of the amount of the PWH Contribution funded. In other words, as and when the PWH  
24 Contribution is funded, it will be spent on all Project Costs then due and owing in the future  
25 unless and until such dollars equal the dollars spent from the Public Contribution. In other  
26 words, as and when the first \$5,000,000.00 of the PWH Contribution is funded, it will be spent  
27 on all Project Costs then due and owing in the future unless and until such dollars equal the  
28 dollars spent from the Public Contribution. With respect to amounts disbursed under the Project  
29 Funding Agreement after PWH has funded all of the PWH Contribution, such disbursements

1 shall be funded one-third (1/3) from the PWH Contribution and two-thirds (2/3) from the Public  
2 Contribution.

3 **SECTION 5.**  
4 **CITY LINE OF CREDIT**

5 Intentionally Omitted.

6 **SECTION 6.**  
7 **POST-CLOSING DEPOSITS TO AND DISBURSEMENTS**  
8 **FROM PWH ACCOUNT AND PROJECT PAYMENT ACCOUNT**

9 **Section 6.1. Withdrawals from and Deposits to PWH Account.** If at any time  
10 amounts in the PWH Account are insufficient to pay all of the PWH Costs, PWH shall deposit  
11 the amount of the deficiency into the PWH Account.

12 **Section 6.1.4** If at any time amounts in the Project Payment Account are  
13 insufficient to pay all of the City Costs, the City shall deposit the amount of the deficiency into  
14 the Project Payment Account.

15 **Section 6.1.5** If at any time amounts in the Project Payment Account are  
16 insufficient to pay PAM's share of Construction Costs pursuant to Section 17.3.3 of the  
17 Redevelopment Agreement, if any, and all PAM Costs, PAM shall deposit the amount of the  
18 deficiency into the Project Payment Account.

19 **Section 6.2. Monthly Construction Draws.**

20 **Section 6.2.1 Monthly Construction Draw Requests.** Except as otherwise  
21 provided in Section 7.1 and Section 8.7 hereof, prior to the Construction Completion Date, PAM  
22 shall have the right to submit to the Funding Agent on a monthly basis (or more frequently if  
23 required under the Redevelopment Agreement) a Monthly Construction Draw Request satisfying  
24 the conditions set forth in this Section 6.2 for payment of Construction Costs. PAM, the City,  
25 and PWH shall use commercially reasonable efforts to attend the meetings and make the various  
26 submittals, approvals, and disbursements on or before the dates set forth on the Monthly Draw  
27 Schedule attached hereto as **Exhibit A.**

1                   **Section 6.2.2 Third Party Draw Requests and Certificates.** In accordance  
2 with the Monthly Draw Schedule, on or about the twenty-fifth (25<sup>th</sup>) day of each month during  
3 phases of construction, the Contractor and each Vendor shall deliver to PAM in final draft form  
4 by hand delivery, electronic delivery or overnight delivery service, an applicable Third Party  
5 Draw Request and Certificate for work which is projected to be complete as of the last day of the  
6 month to which such Third Party Draw Request and Certificate relates in accordance with the  
7 Monthly Draw Schedule. The Third Party Draw Requests and Certificates shall include the  
8 items listed on **Exhibit J** attached hereto. PAM shall provide an initial review of each  
9 Contractor and Vendor Third Party Draw Request for general complete and correct preparedness  
10 and shall cause prompt corrections by applicable Contractor and Vendors. Upon receipt of  
11 adequately prepared Third Party Draw Requests, PAM shall provide Third Party Draw Requests  
12 to the City, PWH, and the Architect (as applicable) in advance of the meeting to review third  
13 party draw requests and certificates per Section 6.2.3.

14                   **Section 6.2.3 Meeting to Review Third Party Draw Requests and**  
15 **Certificates.**

16                   (a) On or about the twenty-seventh (27<sup>th</sup>) day of each month, unless  
17 otherwise mutually agreed to by the Parties, appropriate representatives of the Architect, the  
18 Contractor and any applicable Vendor (if necessary to facilitate review of applicable Third Party  
19 Draw Requests) and the City Funding Representative, the PAM Funding Representative, and the  
20 PWH Funding Representative shall meet in Portland, Oregon and/or by teleconference if  
21 acceptable to PAM, the City and PWH, to review the draft Third Party Draw Requests and  
22 Certificates provided by PAM pursuant to Section 6.2.2 above. All parties shall schedule these  
23 meetings according to the Monthly Draw Schedule and shall plan to spend the day reviewing and  
24 approving or disapproving the current month's pencil draft Third Party Draw Requests and  
25 Certificates. The parties shall raise objections to the pencil draft at or prior to the meeting and, if  
26 they do not, objections will be waived except as otherwise provided herein.

27                   (b) Within two (2) Business Days following the meeting to review the  
28 pencil draft Third Party Draw Requests and Certificates, in accordance with the Monthly Draw  
29 Schedule, the Contractor and Vendor(s) shall modify the draft Third Party Draw Requests and

1 Certificates to conform to decisions made in the draft meeting and deliver to PAM executed final  
2 copies of the Third Party Draw Requests and Certificates with all required documentation. PAM  
3 shall provide the City and PWH a complete final copy of the Third Party Draw Requests and  
4 Certificates and other documentation provided by the Contractor and Vendors to PAM.

5 **Section 6.2.4 Architect's Approval.** Within five (5) Business Days of the  
6 meeting described in Section 6.2.3(a) above, in accordance with the Monthly Draw Schedule and  
7 following PAM's receipt of the Third Party Draw Requests and Certificates in final form, PAM  
8 shall (a) cause the Architect (with respect to Work under the Architect's supervision) to execute  
9 and deliver to PAM eleven (11) copies of the Architect's Certificate or (b) prepare itself (with  
10 respect to Work not under the Architect's supervision) a version of the Architect's Certificate to  
11 be executed by PAM. If the Architect or PAM, as applicable, believes that the Third Party Draw  
12 Requests and Certificates are inconsistent with or have items not included in the form agreed  
13 upon at the pencil draft meeting, PAM shall cause the Architect to immediately so inform or  
14 PAM shall so inform the Contractor, Vendor(s), PAM, PWH, and the City in writing, and until  
15 so amended to the Architect's (with respect to Work under the Architect's supervision) and  
16 PAM's reasonable satisfaction, as applicable, no disbursement shall be made from the Project  
17 Payment Account or the PWH Account to make such payment, and no funds from the City shall  
18 be required to make such payment (except in the case of a partial approval, such payments  
19 partially approved may, subject to the satisfaction of the other conditions herein contained, be  
20 disbursed from the Project Payment Account and the PWH Account as required to pay the City's  
21 and PWH's respective shares of such partially approved amounts).

22 **Section 6.2.5 PAM Information.** Within five (5) Business Days of receipt of  
23 the Architect's Certificate, PAM shall forward to the City Funding Representative (3 copies), the  
24 PWH Funding Representative (1 copy), and the Architect (1 copy), the following materials:

25 (a) A draft copy of the PAM Draw Certificate approving the Third  
26 Party Draw Requests and Certificates for that month, as modified based on the pencil draft  
27 meeting.

28 (b) A spreadsheet showing the amount of the requested payment to be  
29 made to each payee, the total amount of the requested payment, the City's share and PWH's



1 share of such payment (by payee and total), and the balance of the payment to be paid from  
2 amounts in the Project Payment Account and the PWH Account (by payee and total).

3 (c) Invoices from other Retained Parties, including a statement of the  
4 fees of the Architect, with appropriate backup documentation.

5 (d) Backup documentation for any amounts requested to be paid or  
6 reimbursed to PAM.

7 (e) A confirmation of Permit Fees known as of the date of the Monthly  
8 Draw Request in the form attached hereto as **Exhibit F** for all known Permit Fees to be paid  
9 from amounts drawn under the Monthly Construction Draw Request.

10 (f) A copy of the Monthly Construction Draw Request requesting  
11 payment to the payees listed thereon.

12 (g) Wire transfer or other payment information for each payee listed.

13 **Section 6.2.6 PAM's Approval.** Within five (5) Business Days of receipt of the  
14 Architect's Certificate, in accordance with the Monthly Draw Schedule, and following PAM's  
15 receipt of the final Third Party Draw Requests and Certificates including all other items referred  
16 to above in this Section 6.2, PAM shall execute and deliver final, original, executed copies of  
17 (i) the PAM Draw Certificate described in subsection (a) above and (ii) the Monthly  
18 Construction Draw Request described in subsection (f) above to each of the City, PWH, and the  
19 Funding Agent by messenger or overnight delivery service. If PAM disapproves or partially  
20 approves the amount of any payments because any of the terms and provisions of this Agreement  
21 or the Redevelopment Agreement are not met, satisfied, or waived, then PAM shall,  
22 immediately, and in any event within the time period specified in the Monthly Draw Schedule,  
23 so inform the Contractor, the applicable Vendors, the City, PWH, the Funding Agent, and the  
24 Architect (if applicable) in writing of the reasons for disapproval or partial approval, and shall  
25 amend the Monthly Draw Documents to provide for satisfaction or waiver of such requirements,  
26 and until the Monthly Draw Documents are so amended and approved in the manner specified in  
27 this Agreement, no disbursement shall be made from the Project Payment Account or the PWH  
28 Account to make such payment (except in the case of a partial approval, such payments partially

1 approved may, subject to satisfaction of the other conditions herein contained, be disbursed from  
2 the Project Payment Account to make such payment).

3 **Section 6.2.7 City's Approval.** Within two (2) Business Days after receipt of  
4 the Monthly Construction Draw Request in final form (including all of the material identified in  
5 Sections 6.2.2, 6.2.4, 6.2.5, and 6.2.6 above), the City shall have completed its review and, if the  
6 City fully or partially approves the Monthly Construction Draw Request, shall deliver to each of  
7 PWH, PAM, and the Funding Agent, an executed copy of the City Funding Certificate indicating  
8 such full or partial approval, including approval of payment by the City of all or part of the  
9 City's share as indicated in the spreadsheet described in Section 6.2.5(b) above.

10 Notwithstanding anything to the contrary set forth herein, if the City disapproves of all or a  
11 portion of the Monthly Construction Draw Request in accordance with Section 18.2.6 of the  
12 Redevelopment Agreement (which the City is required to do at the draft meeting), or if the  
13 Monthly Construction Draw Request is inconsistent with or has items not included in the form  
14 agreed upon at the pencil draft meeting, the City immediately shall so inform PWH, PAM, and  
15 the Funding Agent in writing, and until so amended to the City's reasonable satisfaction, the City  
16 shall not be required to pay such disapproved costs, and none of the Public Contribution will be  
17 provided to pay such disapproved costs (except in the case of a partial approval, in which case  
18 the City shall pay, the amount approved, subject to the satisfaction of the other conditions herein  
19 contained). If the City fails to timely approve or disapprove the Monthly Construction Draw  
20 Request, the City shall be deemed to have approved the same, and the Funding Agent may draw  
21 from the Project Payment Account the City's share of amounts shown on the Monthly  
22 Construction Draw Request. Disputes between the City, PWH, PAM, or any of them, arising  
23 under this Section 6.2.7 shall be subject to Dispute Resolution under the Redevelopment  
24 Agreement.

25 **Section 6.2.8 PWH's Approval.** Within two (2) Business Days after receipt of  
26 the Monthly Construction Draw Request in final form (including all of the material identified in  
27 Sections 6.2.2, 6.2.4, 6.2.5, and 6.2.6 above), PWH shall have completed its review and, if PWH  
28 fully or partially approves the Monthly Construction Draw Request, shall deliver to each of the  
29 City, PAM, and the Funding Agent, an executed copy of the PWH Funding Certificate indicating  
30 such full or partial approval, including approval of payment by PWH of all or part of PWH's

1 share as indicated in the spreadsheet described in Section 6.2.5(b) above. Notwithstanding  
2 anything to the contrary set forth herein, if PWH disapproves of all or a portion of the Monthly  
3 Construction Draw Request in accordance with Section 18.2.6 of the Redevelopment Agreement  
4 (which PWH is required to do at the draft meeting), or if the Monthly Construction Draw  
5 Request is inconsistent with or has items not included in the form agreed upon at the pencil draft  
6 meeting, PWH immediately shall so inform the City, PAM, and the Funding Agent in writing,  
7 and until so amended to PWH's reasonable satisfaction, PWH shall not be required to pay such  
8 disapproved costs, and none of the PWH Contribution will be provided (except in the case of a  
9 partial approval, in which case PWH shall pay the amount approved, subject to the satisfaction of  
10 the other conditions herein contained). If PWH fails to timely approve or disapprove the  
11 Monthly Construction Draw Request, PWH shall be deemed to have approved the same.  
12 Disputes between the City, PWH, PAM, or any of them, arising under this Section 6.2.8 shall be  
13 subject to Dispute Resolution under the Redevelopment Agreement.

14 **Section 6.2.9 City and PWH Right to Withhold Payment.** Intentionally  
15 Omitted.

16 **Section 6.2.10 Payment of Monthly Construction Draw Requests.**

17 (a) On or about the sixteenth (16<sup>th</sup>) day of each month, in accordance  
18 with the Monthly Draw Schedule, PAM shall deliver to the Funding Agent the executed City  
19 Funding Certificate, the executed PWH Funding Certificate (if applicable), and the executed  
20 PAM Draw Certificate so that the Funding Agent can begin processing payment of amounts to  
21 be paid from the Project Payment Account and the PWH Account.

22 (b) On or about the seventeenth (17<sup>th</sup>) day of each month, in  
23 accordance with the Monthly Draw Schedule but not fewer than two (2) Business Days nor more  
24 than three (3) Business Days after the Funding Agent's receipt of the executed City Funding  
25 Certificate, the executed PWH Funding Certificate, and the executed PAM Draw Certificate, the  
26 Funding Agent shall send an email to the City, PWH, and PAM with a copy of the completed  
27 Schedule 1 attached to the applicable PAM Draw Certificate (the "Construction Payment  
28 Confirmation").

1 (c) On or about the twentieth (20<sup>th</sup>) day of each month, in accordance  
2 with the Monthly Draw Schedule, the Funding Agent shall make payment from the Project  
3 Payment Account to the payees listed in the Construction Payment Confirmation by wire transfer  
4 or otherwise according to the instructions given by PAM as described in Section 6.2.5 hereof.

5 **Section 6.3. Amounts Drawn on the Line of Credit to Pay the City Share.**  
6 Intentionally Omitted.

7 **Section 6.4. Disbursement of Funds at Construction Completion Date.** For  
8 purposes of this Agreement, the Construction Completion Date for the Renovation Project or a  
9 portion thereof will be deemed to have occurred as of the date that the Funding Agent receives a  
10 Certificate of Final Completion that has been executed by the City Funding Representative after  
11 reasonable consultation with the PWH Funding Representative. Funds shall be disbursed from  
12 the PWH Account and the Project Payment Account upon the Funding Agent's receipt of all  
13 final Monthly Draw Documents, which shall be prepared and submitted in accordance with  
14 Section 6.2; provided that the Third Party Draw Requests and Certificates shall include the items  
15 listed on **Exhibit J** as required for the final Third Party Draw Requests and Certificates.  
16 Following final disbursement from the Project Payment Account to pay Project Costs, funds  
17 remaining in the Accounts shall be disbursed in accordance with Section 17.4 of the  
18 Redevelopment Agreement.

19 **Section 6.5. Effect of Authorization.** The City's or PWH's authorization of payment  
20 from the Project Payment Account or the PWH Account, as applicable, will not constitute a  
21 representation or inference that the City or PWH has or have: (a) made inspections to check the  
22 quality or quantity of the Work; (b) reviewed adequacy of designs, compliance of the Work with  
23 designs, or adequacy of construction means, methods, techniques, sequences or procedures; (c)  
24 finally approved or accepted any item of cost in the applicable Monthly Draw Request; or (d)  
25 examined or approved how or for what purpose PAM or any Retained Party used money  
26 previously paid on account of this Agreement or the Redevelopment Agreement.

## 27 **SECTION 7.**

### 28 **FUNDING AGENT'S DISBURSEMENT DUTIES, RIGHTS,** 29 **AND OBLIGATIONS**

1           **Section 7.1. Funding Agent Acceptance.**

2           **Section 7.1.1** Pursuant to this Agreement, the Funding Agent has agreed to act as  
3 Funding Agent under this Agreement and to accept all cash, checks, instruments, or other forms  
4 of payment, other money, and Permitted Investments to be delivered to or held by the Funding  
5 Agent pursuant to the terms of this Agreement. The Funding Agent shall hold and safeguard the  
6 Accounts during the term of this Agreement.

7           **Section 7.1.2** If an Event of Default under the Redevelopment Agreement shall  
8 occur, the procedures for draws from the Accounts shall be as described in Section 8.6 hereof.  
9 The City, PWH, or PAM shall notify the Funding Agent and PDC if such an Event of Default  
10 occurs or if a party alleges that an Event of Default has occurred under the Redevelopment  
11 Agreement.

12           **Section 7.2. Funding Agent’s Duty to Send Monthly Statements.** The Funding  
13 Agent shall provide PAM, PWH, and the City with a monthly statement showing all Account  
14 balances and disbursements made from each of the Accounts during the term of this Agreement  
15 and with a closing statement showing all Account balances and disbursements made from  
16 closing under the Redevelopment Agreement through the termination of this Agreement. PWH  
17 will have online access to monthly statements for the PWH Account, and the City will have  
18 online access to monthly statements for the Project Payment Account. PAM will have online  
19 read-only access to the PWH Account and the Project Payment Account.

20           **Section 7.3. Written Instructions.** The Funding Agent shall not be required to act on  
21 any verbal or telephonic instructions, and may insist that all instructions, notices, certificates,  
22 authorizations, approvals, and the like required or desired hereunder be provided in written form  
23 (except that, when expressly provided for herein, the Funding Agent shall act on email  
24 instructions, to be followed by a courtesy hard copy of the originals).

25           **Section 7.4. Limitation on Duties.**

26           **Section 7.4.1** Notwithstanding any other provisions of this Agreement to the  
27 contrary, the Funding Agent shall have no duties or responsibilities hereunder except those  
28 expressly set forth herein. If at any time the Funding Agent is uncertain as to the amounts to be

1 deposited into or withdrawn from the PWH Account, or as to which Account any amounts are to  
2 be deposited into or withdrawn from the Project Payment Account, the Funding Agent may  
3 request written direction from PWH (with respect to the PWH Account) or from the City (with  
4 respect to the Project Payment Account), and the Funding Agent may conclusively rely on and  
5 shall be fully protected in reliance on such directions.

6 **Section 7.4.2** The Funding Agent shall be entitled to rely upon any certificates,  
7 notices, instructions, or other communications (including any thereof by telecopy, telegram,  
8 facsimile, email or cable) consistent with the terms of this Agreement and believed by it to be  
9 genuine and to have been signed or delivered by or on behalf of an authorized representative of a  
10 party hereto and upon advice and statements of legal counsel, independent accountants, and other  
11 experts selected by the Funding Agent. The Funding Agent shall in all cases be free from  
12 liability to the extent acting, or refraining from acting, hereunder in accordance with this  
13 Agreement, certificates, notices, instructions, and other communications required and permitted  
14 herein (without substantiation, investigation, or verification of any collateral or supporting  
15 documentation), and any action taken or failure to act pursuant thereto, shall be binding on all  
16 parties hereto.

17 **Section 7.5. Timing of Requests and Draws.** In each case that the Funding Agent  
18 withdraws from an Account for deposit into another Account, such deposit shall occur promptly  
19 after such withdrawal. All actions specified on the Monthly Draw Schedule shall be taken by  
20 close of business on the dates shown in such Monthly Draw Schedule unless otherwise provided  
21 herein. If any date specified herein for withdrawal or deposit of funds is not a Business Day, the  
22 action to be taken on that date shall be taken on the next succeeding Business Day.

23 **Section 7.6. Successor Funding Agent.** Any successor Funding Agent must be  
24 approved in writing by the City, PAM and PWH and shall have all rights, powers, and duties of  
25 the Funding Agent under this Agreement.

26 **SECTION 8.**  
27 **MISCELLANEOUS**

1           **Section 8.1. Term and Termination.** Unless terminated sooner in accordance with  
2 Section 8.7, the term of this Agreement shall commence on the Closing Date, and shall terminate  
3 on the date (the “Termination Date”) on which all of the following apply: (a) ninety (90) days  
4 have elapsed from the Construction Completion Date; (b) all proper payments in each submitted  
5 Monthly Construction Draw Request have been paid to the payees shown therein; (c) the City  
6 has issued the Certificate of Final Completion; and (d) the balance in each of the PWH Account  
7 and the Project Payment Account is zero (0). PAM shall notify the City, PWH, PDC and the  
8 Funding Agent in writing of the date on which PAM believes all such conditions have been met,  
9 and, if none of the Funding Agent, the City, or PWH objects within five (5) Business Days, such  
10 date shall be deemed the Termination Date for purposes of this Agreement. Upon the occurrence  
11 of the Termination Date, all obligations of PAM, PWH and the City under this Agreement shall  
12 cease and be of no further force or effect.

13           **Section 8.2. Business and Workforce Equity.** PDC hereby acknowledges and agrees  
14 that the provisions of Section 3.2.7 of the Redevelopment Agreement, with respect to the  
15 enforcement of PDC’s Business Equity Policy and Workforce Training and Hiring policy, are  
16 binding upon PDC.

17           **Section 8.3. Mutual Representations and Warranties; Confirmation.** Each party  
18 hereto hereby represents and warrants to each of the other parties hereto that (a) this Agreement  
19 has been duly authorized and executed by such party and (b) no consents are necessary from any  
20 third parties for such party’s execution, delivery, or performance of this Agreement.

21           **Section 8.4. Section Headings, Recitals; Exhibits.** The title and headings that appear  
22 in this Agreement have been included solely for ease of reference and shall not be considered in  
23 the interpretation or construction of this Agreement. The Recitals set forth herein are hereby  
24 incorporated into this Agreement by this reference. All Exhibits attached hereto are also  
25 incorporated herein by this reference.

26           **Section 8.5. Waivers, Amendments.** No waiver or amendment of any of the  
27 provisions hereof shall be effective unless made in a writing and signed by each of the parties  
28 hereto. Excepts for amendments to increase the amount of the Public Contribution, this

1 Agreement may be modified or amended by the CAO or his or her designee on behalf of the City  
2 and by the Executive Director of PDC of his or her designee on behalf of PDC.

3 **Section 8.6. Notices.** Unless otherwise provided herein, all notices, requests, demands,  
4 or other communications called for or contemplated hereunder shall be in writing and shall be  
5 deemed to have been duly given on the earlier of actual delivery or refusal of a party to accept  
6 delivery if sent by one of the following means with all postage or delivery charges prepaid, to the  
7 applicable address set forth below: (a) messenger; (b) overnight delivery service; (c) certified or  
8 registered U.S. Mail, return receipt requested; or (d) if simultaneously transmitted by another  
9 means allowed hereunder, email transmission.

10 If to the City:

11 City of Portland  
12 1120 S.W. Fifth Avenue, 12th Floor  
13 Portland, OR 97204  
14 Attn: SFDM; Project Funding Agent  
15 cc: CAO; Debt Manager  
16 Email: [VMC.PFA@portlandoregon.gov](mailto:VMC.PFA@portlandoregon.gov)

17 with a copy to:

18 Office of the City Attorney  
19 City of Portland, Oregon  
20 1221 S.W. Fifth Avenue, 4th Floor  
21 Portland, OR 97204  
22 Attn: City Attorney  
23 Email: [mark.moline@portlandoregon.gov](mailto:mark.moline@portlandoregon.gov)

24 and to:

25 Radler White Parks & Alexander LLP  
26 1100 SW Columbia Street, Suite 1100  
27 Portland, OR 97201  
28 Attn: Dina Alexander  
29 Email: [dalexander@radlerwhite.com](mailto:dalexander@radlerwhite.com)

30 If to PAM:



1 Rip City Management LLC  
2 One Center Court, Suite 200  
3 Portland, OR 97227  
4 Attn: Chris Oxley, General Manager  
5 Email: chris.oxley@trailblazers.com

6 with a copy to:

7 Lane Powell PC  
8 601 SW Second Avenue, Suite 2100  
9 Portland, OR 97204-3158  
10 Attn: Michael Silvey  
11 Email: SilveyM@LanePowell.com

12 and to:

13 D2M NW, LLC  
14 c/o Portland Arena Management  
15 One Center Court, Suite 150  
16 Portland, OR 97227  
17 Attn: Dave Daterman  
18 Email: dave@D2Mnw.com

19 If to PWH:

20 Portland Winter Hawks, Inc.  
21 300 Winning Way  
22 Portland, OR 97208  
23 Attn: Douglas Piper, President  
24 Email: dougp@winterhawks.com

25 with a copy to:

26 Dunn Carney Allen Higgins & Tongue LLP  
27 851 SW Sixth Avenue, Suite 1500  
28 Portland, OR 97204  
29 Attn: Jon Bennett  
30 Email: jbenett@dunncarney.com

31 If to Funding Agent:

32 U.S. Bank National Association  
33 555 S.W. Oak Street, PD-OR-P6TD  
34 Portland, Oregon 97204

1 Attn: Cheryl Nelson  
2 Email: [cherylk.nelson@usbank.com](mailto:cherylk.nelson@usbank.com)

3 with a copy to:

4 U.S. Bank National Association  
5 60 Livingston Ave., EP-MN-WS3T  
6 St. Paul, MN 55107  
7 Attn: Erik Magnuson  
8 Email: [erik.magnuson@usbank.com](mailto:erik.magnuson@usbank.com)

9

10 If to PDC:

11 Portland Development Commission  
12 222 NW Fifth Avenue  
13 Portland, OR 97209  
14 Attn: Peter Englander  
15 Email: [englanderp@pdc.us](mailto:englanderp@pdc.us)

16 A party may change its address by written notice in the manner provided in this Section 8.5.  
17 Notices may be sent by counsel for a party. Notwithstanding anything to the contrary in this  
18 Agreement, the Funding Agent may make written demands under Section 6 by e-mail.

19 **Section 8.7. Event of Default Under Redevelopment Agreement.**

20 **Section 8.7.1** Following any Event of Default by PAM under this Agreement or  
21 the Redevelopment Agreement, PAM's right to submit Monthly Construction Draw Requests  
22 under this Agreement shall cease. Upon such event and the Funding Agent's receipt of written  
23 notification of such event, the Funding Agent, PWH, and the City agree to work together in good  
24 faith to modify this Agreement or to execute a new agreement providing procedures for Monthly  
25 Draw Requests. The City and PWH will verify for the Funding Agent that the new procedures  
26 comply with the terms and provisions of the Redevelopment Agreement.

27 **Section 8.7.2** Following any Event of Default by the City under this Agreement  
28 or the Redevelopment Agreement and (i) the exhaustion of the Dispute Resolution proceedings  
29 set forth in the Redevelopment Agreement with a determination by a Dispute Resolver in favor  
30 of PAM, PWH, or either of them, or (ii) a court order in favor of PAM, PWH, or any of them,

1 this Agreement shall terminate and the Funding Agent shall act in accordance with written  
2 instructions received and signed by PAM or PWH, as applicable, or in accordance with the  
3 applicable court order or determination of the Dispute Resolver.

4           **Section 8.7.3** Following any Event of Default by PWH under this Agreement or  
5 the Redevelopment Agreement and (i) the exhaustion of the Dispute Resolution proceedings set  
6 forth in the Redevelopment Agreement with a determination by a Dispute Resolver in favor of  
7 PAM, PDC, the City, or any of them, or (ii) a court order in favor of PAM, the City, PDC or any  
8 of them, this Agreement shall terminate and the Funding Agent shall act in accordance with  
9 written instructions received and signed by PAM, PDC or the City, as applicable, or in  
10 accordance with the applicable court order or determination of the Dispute Resolver.  
11 Notwithstanding anything to the contrary set forth in this Agreement, PWH's failure to timely  
12 fund the PWH Contribution shall result in an Event of Default not capable of cure, and (a) the  
13 Revenue Sharing Agreement and the Conditional PDC OA shall automatically terminate, and (b)  
14 the portion of the PWH Contribution in the PWH Account shall be automatically deposited into  
15 the Project Payment Account and deemed forfeited by PWH and disbursed in accordance with  
16 the provisions of this Agreement. Furthermore, to the extent PDC funds any sums under  
17 Section 3.1.3(D) of this Agreement, a default by PAM, the City, or both under the  
18 Redevelopment Agreement shall not relieve PWH of its obligation to fund the PWH  
19 Contribution to the extent of the payments made by PDC to a maximum of Two Million and  
20 No/100 Dollars (\$2,000,000.00).

21           **Section 8.8. Counterparts.** This Agreement may be signed in one or more  
22 counterparts, each of which shall be deemed to be an original, but all of which shall be deemed  
23 to be one and the same instrument, and may be signed and delivered by facsimile or email,  
24 followed by a hard copy of the original.

25           **Section 8.9. Assignment.** This Agreement shall be binding upon and inure to the  
26 benefit of the successors and permitted transferees and assigns of the parties hereto. No party  
27 hereto may transfer or assign its rights or obligations hereunder except in connection with an  
28 assignment in whole, but not in part, of its rights or obligations in respect of the Renovation  
29 Project to the extent permitted in the Redevelopment Agreement.



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

3   **City:**  
4  
5   CITY OF PORTLAND, OREGON, a municipal  
6 corporation of the State of Oregon

7  
8  
9   By: \_\_\_\_\_  
10 Title: Mayor

11   By: \_\_\_\_\_  
12 Title: City Auditor

13   APPROVED AS TO FORM:

14  
15  
16   By: \_\_\_\_\_  
17 City Attorney

18   **PAM:**  
19  
20   RIP CITY MANAGEMENT LLC, d/b/a Portland  
21 Arena Management, a Delaware limited liability  
22 company

23  
24   By: Arena Acquisition LLC, an Oregon limited  
25 liability company, Sole Member

26  
27   By: Aegean Corporation, an Oregon  
28 corporation, Manager

29  
30   By: \_\_\_\_\_  
31 Gregg Olson, Senior Vice  
32 President/Chief Financial Officer  
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**PWH:**

PORTLAND WINTER HAWKS, INC., an Oregon corporation

By: \_\_\_\_\_  
Douglas R. Piper, President

**Funding Agent:**

U.S. BANK NATIONAL ASSOCIATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PDC:**

PORTLAND DEVELOPMENT COMMISSION,  
the duly designated urban renewal agency of the  
City of Portland

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
PDC Counsel

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13    EXHIBIT B-1 - CONTRACTOR’S DRAW REQUEST AND CERTIFICATE  
14    EXHIBIT B-2 – VENDORS’ DRAW REQUEST AND CERTIFICATE  
15    EXHIBIT C-1 - ARCHITECT’S CERTIFICATE (CONTRACTOR)  
16    EXHIBIT C-2 - ARCHITECT’S CERTIFICATE (VENDOR)  
17    EXHIBIT D-1 - PAM DRAW CERTIFICATE (CONTRACTOR)  
18    EXHIBIT D-2 - PAM DRAW CERTIFICATE (VENDOR)  
19    EXHIBIT E - CITY FUNDING CERTIFICATE  
20    EXHIBIT F - CONFIRMATION OF PERMIT FEES  
21    EXHIBIT G - PROJECT BUDGET  
22    EXHIBIT H - CONSTRUCTION SCHEDULE  
23    EXHIBIT I - PERMITTED INVESTMENTS  
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25                    CERTIFICATES  
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**EXHIBIT A**  
**MONTHLY DRAW SCHEDULE**

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**EXHIBIT B-1**

**CONTRACTOR'S DRAW REQUEST AND CERTIFICATE**

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**Schedule 1**  
**CONDITIONAL WAIVER AND RELEASE**  
**UPON PAYMENT**

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**EXHIBIT B-2**

**VENDORS' DRAW REQUEST AND CERTIFICATE**

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**Schedule 1**  
**CONDITIONAL WAIVER AND RELEASE**  
**UPON PAYMENT**

1 **EXHIBIT C-1**

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3 **ARCHITECT’S CERTIFICATE**  
4 **(Contractor)**

5 The undersigned, \_\_\_\_\_ a Delaware corporation (the “Architect”),  
6 certifies and states that based upon the review by Architect of the Contractor’s Draw Request  
7 and Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ (the “Draw Request”) submitted by  
8 \_\_\_\_\_ as the general contractor (the “Contractor”), including, without  
9 limitation, all data and documentation attached thereto (which are incorporated herein by this  
10 reference), and based upon on-site observations by the Architect of the Renovation Project in  
11 accordance with the terms of the Architectural Services Agreement: (i) the Work has progressed  
12 to the point indicated in the Draw Request; (ii) to the best knowledge, information and belief of  
13 the Architect, except for specific qualifications noted below, the Work covered by the Draw  
14 Request has been completed and performed in accordance with the 100% Design Development  
15 Documents and the 100% Construction Documents (subject to evaluation of the Work for  
16 conforming with the Contract Documents upon Substantial Completion, to the results of any  
17 subsequent tests required by or performed under the 100% Design Development Documents and  
18 the 100% Construction Documents, to minor deviations from the 100% Design Development  
19 Documents and the 100% Construction Documents correctable prior to completion, and to any  
20 specific qualifications stated herein); and (iii) except as noted below, the amount requested to be  
21 paid, in respect of the Work completed to date is appropriate and the Contractor is entitled to  
22 payment in the amount certified in the Draw Request.

23 This Certificate is being made and delivered to, and shall be relied upon by the Funding  
24 Agent, the City, PWH, and PAM.

25 \_\_\_\_\_, a Delaware corporation

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27  
28 By: \_\_\_\_\_  
29 Name: \_\_\_\_\_  
30 Title: \_\_\_\_\_

1 [IF DRAW REQUEST AND CERTIFICATE DISAPPROVED OR PARTIALLY  
2 APPROVED, SPECIFY ALL ITEMS DISAPPROVED OR PARTIALLY APPROVED  
3 AND INSERT DESCRIPTION OF REASONS FOR SUCH DISAPPROVAL OR  
4 PARTIAL APPROVAL]

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**EXHIBIT C-2**

**ARCHITECT'S CERTIFICATE**  
**(Vendor)**

5           The undersigned, \_\_\_\_\_ a Delaware corporation (the "Architect"),  
6 certifies and states that based upon the review by Architect of the Vendors' Draw Request and  
7 Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ (the "Draw Request") submitted by  
8 \_\_\_\_\_ as the \_\_\_\_\_ (the "Vendor"), [**this**  
9 **certificate to be used as basis for Vendor certificate**] including, without limitation, all data and  
10 documentation attached thereto (which are incorporated herein by this reference), and based  
11 upon on-site observations by the Architect of the Renovation Project in accordance with the  
12 terms of the Architectural Services Agreement: (i) the Work has progressed to the point  
13 indicated in the Draw Request; (ii) to the best knowledge, information and belief of the  
14 Architect, except for specific qualifications noted below, the Work covered by the Draw Request  
15 has been completed and performed in accordance with the 100% Design Development  
16 Documents and the 100% Construction Documents (subject to evaluation of the Work for  
17 conforming with the 100% Design Development Documents and the 100% Construction  
18 Documents upon Substantial Completion, to the results of any subsequent tests required by or  
19 performed under the 100% Design Development Documents and the 100% Construction  
20 Documents, to minor deviations from the 100% Design Development Documents and the 100%  
21 Construction Documents correctable prior to completion, and to any specific qualifications stated  
22 herein); and (iii) except as noted below, the amount requested to be paid, in respect of the Work  
23 completed to date is appropriate and the Vendor is entitled to payment in the amount certified in  
24 the Draw Request.

25           This Certificate is being made and delivered to, and shall be relied upon by the Funding  
26 Agent, the City, PWH, and PAM.



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\_\_\_\_\_, a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**[IF DRAW REQUEST AND CERTIFICATE DISAPPROVED OR PARTIALLY  
APPROVED, SPECIFY ALL ITEMS DISAPPROVED OR PARTIALLY APPROVED  
AND INSERT DESCRIPTION OF REASONS FOR SUCH DISAPPROVAL OR  
PARTIAL APPROVAL]**

1 **EXHIBIT D-1**

2  
3 **PAM DRAW CERTIFICATE**  
4 **(Contractor)**

5 [Date]

6 Funding Agent

7 Re: Renovation Project – Veterans Memorial Coliseum, Certificate No. \_\_\_\_\_

8 Dated: \_\_\_\_\_

9 Capitalized terms herein have the same meaning set forth in the Project Funding  
10 Agreement dated as of \_\_\_\_\_, 2013 (the “Project Funding Agreement”).

11 In making the following representations and warranties, PAM relied upon its’ review of  
12 the Contractor’s Draw Request and Certificate and the Architect’s Certificate.

13 1. PAM approves and authorizes payments as described and itemized on the  
14 Contractor’s Draw Request and Certificate Number \_\_\_\_\_, dated \_\_\_\_\_.

15 2. In addition to the amounts shown in the Contractor’s Draw Request and  
16 Certificate, PAM requests payment of the amounts described in Schedule 1 attached hereto.

17 3. Attached hereto is all backup and supporting documentation supporting payment  
18 of the requested amounts as required by Section 6.2.5 of the Project Funding Agreement.

19 4. PAM certifies that (1) the obligations for which payment is to be made have been  
20 incurred for Work completed, and (2) that lien releases substantially in the form of Schedule 1  
21 attached to Exhibit B-1 have been obtained from all contractors, subcontractors and material  
22 suppliers with contract values in excess of **[\$10,000]** for that portion of the Work to which those  
23 costs relate.

24 5. PAM certifies that it has received no written claims of liens submitted as of the  
25 date hereof, and PAM has no knowledge of any filed liens with respect to the Work. PAM  
26 further certifies that all bills due and payable by PAM with respect to the Work have been paid to

1 date or shall be paid from the proceeds of this Draw Request and that there is no known basis for  
2 the filing of any liens with respect to the Work.

3 6. This Draw Certificate is correct, and is conditioned upon approval or partial  
4 approval of the same Monthly Draw Request by the City in accordance with Section 6.2.7 of the  
5 Project Funding Agreement and of PWH in accordance with Section 6.2.8 of the Project Funding  
6 Agreement.

7 RIP CITY MANAGEMENT LLC, a Delaware  
8 limited liability company

9 By: Arena Acquisition LLC, an Oregon limited  
10 liability company, Sole Member

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12 By: Aegean Corporation, an Oregon  
13 corporation, Manager

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15 By: \_\_\_\_\_  
16 Gregg Olson, Senior Vice  
17 President/Chief Financial Officer  
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Schedule 1

<b>Payee</b>	<b>Total Amount of Requested Payment</b>	<b>Amount of Requested Payment to be Paid</b>	<b>City's Share of Payment (\$)</b>	<b>PWH's Share of Payment</b>

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1 **EXHIBIT D-2**

2  
3 **PAM DRAW CERTIFICATE**  
4 **(Vendor)**

5 [Date]

6 Funding Agent

7 Re: Renovation Project – Veterans Memorial Coliseum, Certificate No. \_\_\_\_\_

8 Dated: \_\_\_\_\_

9 Capitalized terms herein have the same meaning set forth in the Project Funding  
10 Agreement dated as of \_\_\_\_\_, 2013 (the “Project Funding Agreement”).

11 In making the following representations and warranties, PAM relied upon its review of  
12 the Vendors’ Draw Request and Certificate and the Architect’s Certificate, as applicable.

13 1. PAM approves and authorizes payments as described and itemized on the  
14 Vendors’ Draw Request and Certificate Number \_\_\_\_\_, dated \_\_\_\_\_.

15 2. In addition to the amounts shown in the Vendors’ Draw Request and Certificate,  
16 PAM requests payment of the amounts described in Schedule 1 attached hereto.

17 3. Attached hereto is all backup and supporting documentation supporting payment  
18 of the requested amounts as required by Section 6.2.5 of the Project Funding Agreement.

19 4. PAM certifies that (1) the obligations for which payment is to be made have been  
20 incurred for Work completed, and (2) that lien releases substantially in the form of Schedule 1  
21 attached to Exhibit B-2 have been obtained from all contractors, subcontractors and material  
22 suppliers with contract values in excess of \$10,000 for that portion of the Work to which those  
23 costs relate.

24 5. PAM certifies that it has received no written claims of liens submitted as of the  
25 date hereof, and PAM has no knowledge of any filed liens with respect to the Work. PAM  
26 further certifies that all bills due and payable by PAM with respect to the Work have been paid to

1 date or shall be paid from the proceeds of this Draw Request and that there is no known basis for  
2 the filing of any liens with respect to the Work.

3 6. This Draw Certificate is correct, and is conditioned upon approval or partial  
4 approval of the same Monthly Draw Request by the City in accordance with Section 6.2.7 of the  
5 Project Funding Agreement, and of PWH in accordance with Section 6.2.8 of the Project  
6 Funding Agreement.

7 RIP CITY MANAGEMENT LLC, a Delaware  
8 limited liability company

9 By: Arena Acquisition LLC, an Oregon limited  
10 liability company, Sole Member

11  
12 By: Aegean Corporation, an Oregon  
13 corporation, Manager

14  
15 By: \_\_\_\_\_  
16 Gregg Olson, Senior Vice  
17 President/Chief Financial Officer  
18

Schedule 1

<b>Payee</b>	<b>Total Amount of Requested Payment</b>	<b>Amount of Requested Payment to be Paid</b>	<b>City's Share of Payment (\$)</b>	<b>Balance of Payment to be Paid from PWH Account</b>

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**EXHIBIT E**

**CITY FUNDING CERTIFICATE**

**FUNDING CERTIFICATE NO. \_\_\_\_\_**

\_\_\_\_\_ [Date]

The City of Portland, Oregon (the "City") hereby executes this Funding Certificate No. \_\_\_\_\_ in accordance with Sections 6.2.7 and 6.2.10 of the Project Funding Agreement between the City, Rip City Management LLC, doing business as Portland Arena Management LLC ("PAM"), Portland Winter Hawks, Inc. ("PWH"), Portland Development Commission ("PDC"), and U.S. Bank National Association (the "Funding Agent") dated as of \_\_\_\_\_, 201\_\_ (the "Project Funding Agreement").

1. Capitalized terms not defined herein shall have the same meaning set forth in the Project Funding Agreement, unless otherwise indicated.

2. The City hereby approves the Monthly Draw Request for the month of \_\_\_\_\_, 201\_\_ and approves payment by or on behalf of the City to the Funding Agent of **[check one of the following boxes]:**

the City's share reflected on Schedule 1 of the PAM Draw Certificate.

the portions of the City's share of amounts reflected on Schedule 1 of the PAM Draw Certificate, as specified in the attached Schedule A showing the approved and disapproved amounts and the reasons for any partial approval or disapproval.

CITY FUNDING REPRESENTATIVE

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[PAM Draw Certificate and Schedule 1 to PAM Draw Certificate to be attached.]**



1 **EXHIBIT F**

2 **CONFIRMATION OF PERMIT FEES**

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4 \_\_\_\_\_ [Date]

5 City of Portland  
6 1120 S.W. Fifth Avenue, 2nd Floor  
7 Portland, OR 97204  
8 Attn: Auditor

9 Funding Agent:

10 Capitalized terms used herein shall have the same meaning set forth in the Project  
11 Funding Agreement dated as of \_\_\_\_\_, 2013.

12 The undersigned, Rip City Management LLC, doing business as Portland Arena  
13 Management LLC (“PAM”), certifies and states as follows:

14 1. That the Permit Fees for \_\_\_\_\_ required to  
15 be paid in connection with the design, construction or occupancy of the Renovation Project total  
16 the sum of \$\_\_\_\_\_.

17 2. Attached hereto is the following evidence of the amount of such Permit  
18 Fee(s):

19 \_\_\_\_\_  
20 \_\_\_\_\_

21 3. The undersigned hereby acknowledges that the parties to which this  
22 Confirmation of Permit Fees is addressed or copied may rely upon the statements contained  
23 herein.

24 RIP CITY MANAGEMENT LLC, a Delaware  
25 limited liability company

26 By: Arena Acquisition LLC, an Oregon limited  
27 liability company, Sole Member  
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By: Aegean Corporation, an Oregon  
corporation, Manager

By: \_\_\_\_\_  
Gregg Olson, Senior Vice  
President/Chief Financial Officer

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**EXHIBIT G**  
**PROJECT BUDGET**

[Initial Project Budget to be attached]

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**EXHIBIT H**

**Intentionally Omitted**

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**EXHIBIT I**

**PERMITTED INVESTMENTS**

- 5 A. Direct obligations of the United States of America or obligations the principal of and  
6 interest on which are unconditionally guaranteed by the United States of America, with  
7 maximum maturities of 3 years.
- 8 B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any  
9 federal agency provided such obligations are backed by the full faith and credit of the  
10 United States of America, with maximum maturities of 3 years.
- 11 C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any  
12 of the following non-full faith and credit U.S. government agencies, with maximum  
13 maturities of 3 years:
- 14 1. Federal Agricultural Mortgage Corporation (“Farmer Mac”)
- 15 2. Federal Farm Credit Bank (FFCB)
- 16 3. Federal Home Loan Bank (FHLB)
- 17 4. Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”)
- 18 5. Federal National Mortgage Association (FNMA or “Fannie Mae”)
- 19 D. Certificates of deposit, time deposits or interest-bearing deposits in banks and credit  
20 unions in compliance with the provisions of ORS Chapter 295 regarding the Oregon State  
21 Treasurer’s Public Funds Collateralization Program, with maximum maturities of 1 year.
- 22 E. Certificates of deposit, savings accounts, deposit accounts or money market deposits  
23 which are fully insured by the FDIC or NCUA, with maximum maturities of 1 year.
- 24 F. Commercial paper with a minimum short-term rating at the time of purchase of A-1, P-1,  
25 F-1 (or better) by any Nationally Recognized Statistical Rating Organization of the

1 Securities and Exchange Commission, with maximum maturities of 270 days. In the  
2 event of a split rating, the lowest rating will be utilized to evaluate compliance.

3 G. Bankers acceptances of banks in compliance with the provisions of ORS Chapter  
4 294.035, with maximum maturities of six months.

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**EXHIBIT J**

**DOCUMENTS TO ACCOMPANY**  
**THIRD PARTY DRAW REQUESTS AND CERTIFICATES**

6 **All Third Party Draw Requests and Certificates must be accompanied by:**

- 7 1. A statement of the percentage completion of each portion of the Project as of the  
8 end of the period covered by the Application for Payment. The percentage  
9 completion shall be the lesser of (1) the percentage of that portion of the Project  
10 which has actually been completed or (2) the percentage obtained by dividing (a)  
11 the expense which has actually been incurred by the Contractor or Vendor, as  
12 applicable, on account of that portion of the Project Improvements for which the  
13 Contractor or Vendor, as applicable, has made or intends to make actual payment  
14 prior to the next Application for Payment by (b) the share of the GMP or Vendor  
15 contract amount, as applicable, allocated to that portion of the Project  
16 Improvements in the Schedule of Values. Applications for Payment shall also set  
17 forth the amount of money required to complete the Project Improvements  
18 (including all approved Change Orders) and such other information as PAM or  
19 the City may reasonably require. All Applications for Payment must contain a  
20 certification by the Contractor or Vendor, as applicable, that the progress of the  
21 Project is in accordance with the Construction Documents, all applicable Laws  
22 and the Project Schedule, and that the Work, to the best of the Contractor's or  
23 Vendor's knowledge at such time, as applicable, will be completed on or before  
24 the date of Substantial Completion and finally completed on or before the date of  
25 Final Completion identified in the Project Schedule;
- 26 2. Updated Schedule of Values from the Contractor and such Vendor;
- 27 3. A duly executed and acknowledged Contractor's and Vendor's, as applicable,  
28 sworn statement showing all subcontractors with whom the Contractor or Vendor,  
29 as applicable, has entered into subcontracts, the amount of each such subcontract,  
30 the amount requested for any subcontractor in the Application for Payment and

1 the amount to be paid to each subcontractor from such progress payment, together  
2 with similar sworn statements from all subcontractors and, when requested, from  
3 Sub-subcontractors;

4 4. Duly executed waivers of mechanics', materialmen's and construction liens from  
5 the Contractor and Vendor, as applicable, and all subcontractors with a contract  
6 value in excess of \$10,000 (each, a "Major Subcontractor"), establishing payment  
7 or satisfaction of the payment requested by the Contractor or Vendor, as  
8 applicable, in the Application for Payment, which shall also include unconditional  
9 waivers and releases of all claims relating to the Project or the Project Site,  
10 including the right to claim against the payment bond for the Project, with respect  
11 to the payment requested by the Contractor or Vendor, as applicable, in the  
12 Application for Payment. PAM, at its option, may provide unconditional waivers  
13 and releases with respect to the payment for work included in the immediately  
14 preceding Application for Payment and conditional waivers and release with  
15 respect to the payment requested by the Contractor or Vendor, as applicable, in  
16 the then-pending Application for Payment;

17 5. For material stored outside of the Project Site, if any, reasonably adequate  
18 evidence that: the stored materials are protected against theft or damage; upon  
19 payment of the cost of the stored material, the stored material will be owned by  
20 the City or PAM, as applicable, free of liens and claims; the aggregate cost of all  
21 stored materials for which payment is being requested does not exceed  
22 \$3,000,000; and the stored materials are adequately insured;

23 6. An "Insurance Certificate Log", with attached certificates of insurance from the  
24 Contractor or Vendor, as applicable, and all subcontractors as required by the  
25 General Conditions or applicable Vendor Agreements;

26 7. The then-current Project Schedule;

27 8. Copies of payment requests or billings from subcontractors for work performed  
28 during the period covered by and included in the Application for Payment;



- 1           9. A Change Order log from the Contractor or Vendor(s), as applicable, showing all  
2           Change Orders;
- 3           10. An “Open Change Requests Log” which lists and identifies any and all claims  
4           asserted by each subcontractor against the Contractor or Vendor, as applicable,  
5           which are open and pending; provided however, that such Open Change Requests  
6           Log shall not serve as notice of a Change Order Request as required by the  
7           Construction Contract or Vendor Agreement, as applicable; and
- 8           11. In each Application for Payment, the Contractor or Vendor, as applicable, shall  
9           certify that the work for which payment is requested has been done, that the  
10          information contained in the Application for Payment is true and correct to the  
11          best of the Contractor’s or Vendor’s knowledge, as applicable, and that all due  
12          and payable bills with respect to the Project Improvements have been paid or will  
13          be paid from the proceeds received from PAM pursuant to such Application for  
14          Payment.

15          **The final Third Party Draw Requests and Certificates shall each be accompanied by all**  
16          **documents required above, plus the following documents:**

- 17          1. A final Certificate for Payment issued by the Architect and the PAM Funding  
18          Representative (including the Architect’s certification that all Punch List items  
19          have been completed);
- 20          2. Final and full waivers of lien and claims from the Contractor or Vendor, as  
21          applicable, and all Major Subcontractors;
- 22          3. A copy of any and all certificates of occupancy for the Project required by the  
23          City of Portland;
- 24          4. Two duplicate sets of as-built Drawings and a CD containing the Drawings for  
25          submission to the City and to PWH as provided in the Redevelopment  
26          Agreement;

- 1           5. An affidavit that payrolls, bills for materials and equipment, and other  
2           indebtedness connected with the Project for which PAM, PWH or the City might  
3           be responsible or encumbered (less amounts withheld by PAM) have been paid or  
4           otherwise satisfied;
  
- 5           6. A certificate evidencing that insurance required by the Redevelopment  
6           Agreement, General Construction Contract and any applicable Vendor  
7           Agreements to remain in force after final payment is currently in effect and will  
8           not be canceled or allowed to expire until at least thirty (30) days prior written  
9           notice has been given to PAM, PWH and the City;
  
- 10          7. A written statement that the Contractor or Vendor, as applicable, knows of no  
11          substantial reason that the insurance will not be renewable to cover the period  
12          required by the Redevelopment Agreement, General Construction Contract and  
13          any applicable Vendor Agreements;
  
- 14          8. Consent of surety, if any, to final payment;
  
- 15          9. If required by PAM, other data establishing payment or satisfaction of  
16          obligations, such as receipts, releases and waivers of liens, claims, security  
17          interests or encumbrances arising out of the General Construction Contract or  
18          applicable Vendor Agreement, to the extent and in such form as may be  
19          designated by PAM;
  
- 20          10. Evidence that all claims of lien, if any, recorded against the Project Site have been  
21          discharged;
  
- 22          11. All manuals including equipment operation and maintenance manuals and written  
23          warranties required to be provided by the Contractor, applicable Vendor,  
24          subcontractors or sub-subcontractors, and
  
- 25          12. All other deliverables required under the General Construction Contract and the  
26          Vendor Agreements, as applicable.

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**EXHIBIT K**

**PWH FUNDING CERTIFICATE**

**FUNDING CERTIFICATE NO. \_\_\_\_\_**

\_\_\_\_\_ [Date]

Portland Winter Hawks, Inc. ("PWH") hereby executes this Funding Certificate No. \_\_\_\_\_ in accordance with Sections 6.2.7 and 6.2.10 of the Project Funding Agreement between PWH, the City of Portland, Oregon (the "City"), Rip City Management LLC, doing business as Portland Arena Management LLC ("PAM"), Portland Development Commission ("PDC"), and U.S. Bank National Association (the "Funding Agent") dated as of \_\_\_\_\_, 2012 (the "Project Funding Agreement").

1. Capitalized terms not defined herein shall have the same meaning set forth in the Project Funding Agreement, unless otherwise indicated.

2. PWH hereby approves the Monthly Draw Request for the month of \_\_\_\_\_, 201\_\_ and approves payment by or on behalf of PWH to the Funding Agent of **[check one of the following boxes]:**

PWH's share reflected on Schedule 1 of the PAM Draw Certificate.

the portions of PWH's share of amounts reflected on Schedule 1 of the PAM Draw Certificate, as specified in the attached Schedule A showing the approved and disapproved amounts and the reasons for any partial approval or disapproval.

PORTLAND WINTER HAWKS, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

1      **[PAM Draw Certificate and Schedule 1 to PAM Draw Certificate to be attached.]**