PORTLAND DEVELOPMENT COMMISSION
Portland, Oregon

RESOLUTION NO. 6983

AUTHORIZING A PROJECT FUNDING AGREEMENT TO PROVIDE UP TO $2 MILLION IN CONTINGENT FUNDING FOR THE VETERANS MEMORIAL COLISEUM RENOVATION

WHEREAS, on November 17, 2010 (Resolution No. 36826), Portland City Council, through delegation from the Office of Management and Finance, authorized the Portland Development Commission (“PDC”) to act as its agent for the renovation of the Veterans Memorial Coliseum;

WHEREAS, on May 23, 2012, PDC’s Board approved an Amended and Restated Intergovernmental Agreement with the City of Portland (“the IGA”) to provide up to $23.8 million in funding for the redevelopment of Veterans Memorial Coliseum, including a contingent grant of $2 million which authorized reprioritizing PDC funds then designated for district energy to certain described redevelopment costs;

WHEREAS, the City of Portland (“the City”), Portland Arena Management (“PAM”) and the Portland Winterhawks (“the Winterhawks”) have finalized negotiations on a definitive Redevelopment Agreement (“the RDA”) and Project Funding Agreement;

WHEREAS, PAM and the City have requested that PDC execute the Project Funding Agreement wherein PDC would agree to backstop up to $2 million of the Winterhawks’ funding obligation in the event the Winterhawks fail to timely provide project funding, which funds would be taken from the funds currently designated in the IGA for either district energy or the Contingent Grant and will thus not increase the aggregate amount of PDC financial commitments to the renovation of Veterans Memorial Coliseum;

WHEREAS, PDC is to be provided with a guaranty of William Gallacher, owner of the Winterhawks, and a pledge of the stock of the Winterhawks, in form and substance satisfactory to PDC, securing the Winterhawks obligation to timely fund the renovation costs of the Veterans Memorial Coliseum, both of which documents shall serve as collateral should PDC be called to fund under the Project Funding Agreement; and

WHEREAS, because of legal uncertainties regarding PDC’s ability to sell the Winterhawks stock in the event of default, PDC desires to set up, in conjunction with other entities, a non-profit dedicated to economic development, and to transfer the stock pledge to such non-profit.

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to execute the Project Funding Agreement, in substantially the form attached as Exhibit A, provided that PDC has first received and approved the form and substance of a Guaranty and Pledge Agreement as described above;
BE IT FURTHER RESOLVED, that the Executive Director may approve changes to the Project Funding Agreement if such changes do not materially increase PDC’s obligations or risks, as determined by the Executive Director in consultation with PDC’s General Counsel;

BE IT FURTHER RESOLVED, that the Executive Director is further authorized to form, in conjunction with other entities, a non-profit dedicated to economic development in Portland, and to transfer the stock pledge to such non-profit; and

BE IT FURTHER RESOLVED that this Resolution shall become effective 30 days after its adoption.

Adopted by Portland Development Commission on November 29, 2012

[Signature]

Gina Wiedrick, Recording Secretary
PROJECT FUNDING AGREEMENT

BY AND AMONG:

the CITY OF PORTLAND, OREGON,

the PORTLAND DEVELOPMENT COMMISSION,

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

PORTLAND WINTER HAWKS, INC.,

AND

U.S. BANK NATIONAL ASSOCIATION
PROJECT FUNDING AGREEMENT

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

RECITALS

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

B. The City and PAM (or its predecessor-in-interest) are parties to that certain Memorial Coliseum Operating Agreement dated April 23, 1993, as amended by that certain First Amendment to Memorial Coliseum Operating Agreement dated June 23, 1993, and that certain Second Amendment to Memorial Coliseum Operating Agreement dated January ____________, 2013 (collectively, the “Operating Agreement”) governing the terms pursuant to which PAM has operated and will operate VMC.

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

D. In order to provide for the implementation and timely completion of the Renovation Project, PAM will enter into the general construction contract (the “General Construction Contract”) with Contractor, as well as separate agreements with various Vendors.
(each, a “Vendor Agreement” and collectively, the “Vendor Agreements”), all of which will incorporate the General Conditions, including all exhibits thereto.

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

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

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

AGREEMENT

SECTION 1.

DEFINITIONS

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

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

“Accounts” means the PWH Account and the Project Payment Account.
“Agreement” has the meaning specified in the introductory paragraph of this Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Funding Agent” has the meaning specified in the introductory paragraph of this Agreement.
“General Conditions” means the general conditions and all exhibits thereto attached to the General Construction Contract and the Vendor Agreements.

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

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

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

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

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

“Monthly Draw Documents” means the Third Party Draw Requests and Certificates, the Architect’s Certificate, the PAM Draw Certificate, the City Funding Certificate, the PWH Funding Certificate for the applicable Monthly Draw Request period, the Construction Payment Confirmation, and any additional documentation required by this Agreement with respect to each Monthly Construction Draw Request.
“Monthly Draw Schedule” means the schedule of events specified in Exhibit A hereto. In the event of any inconsistency between the Monthly Draw Schedule and the terms of this Agreement, the terms of this Agreement shall control.

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

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

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

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

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

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

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

“Project Budget” has the meaning set forth in the Redevelopment Agreement.

The Initial Project Budget is attached as Exhibit G hereto.

“Project Payment Account” means the account into which the Public Contribution monies will be deposited, which funds may be commingled with funds withdrawn from the PWH Account by Funding Agent, all of which funds shall be used to pay Construction Costs.
“Public Contribution” means the City’s monetary contribution to the Renovation Project in the amount of Twenty-One Million Five Hundred Thousand and No/100 Dollars ($21,500,000.00) to fund construction costs of the Renovation Project.

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

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

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

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

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

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

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

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

“Termination Date” has the meaning specified in Section 8.1.
“TIF” has the meaning specified in Recital C of this Agreement.

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

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

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

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

SECTION 2.
[Reserved]

SECTION 3.
FUNDING AGENT AND ESTABLISHMENT OF ACCOUNTS

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

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

Section 3.1.2 PWH shall deposit the PWH Contribution into the PWH Account as follows: (a) Two Million Five Hundred Thousand and No/100 Dollars ($2,500,000.00) at Closing; (b) Two Million Five Hundred Thousand and No/100 Dollars ($2,500,000.00) at twenty-five percent (25%) completion based on the total amount of the PWH Contribution and Public Contribution spent, but not before April 1, 2013; and (c) Five Million and No/100 Dollars
($5,000,000.00) on the earlier of (i) fifty percent (50%) completion based on the total amount of
the PWH Contribution and Public Contribution spent, or (ii) seventy-five percent (75%) of the
total amount of the PWH Contribution and the Public Contribution committed based on contracts
signed, including the Architectural Services Agreement, the General Construction Contract and
Vendor Agreements, provided, however, that funding under this Section 3.1.2(c) shall be due not
later than July 1, 2013. In accordance with the terms of this Agreement, the Funding Agent shall
withdraw funds from the PWH Account and deposit such funds into the Project Payment
Account to pay PWH’s share of Construction Costs. Notwithstanding anything to the contrary
contained in this Agreement, the City shall have no obligation to review or approve any Retained
Party Contracts if (Y) the completion threshold provided in subsection 3.1.2(b) has been satisfied
on or before April 1, 2013, but PWH has not yet funded under such subsection, and/or (Z) the
completion or commitment thresholds provided in subsections 3.1.2(c)(i) or (ii) have been met
on or before July 1, 2013, but PWH has not yet funded under such subsection. When any of the
percentage thresholds described in this Section 3.1.2 have been reached, the City or PAM will
send notice to PWH of the same, and PWH shall have ten (10) Business Days from receipt of
such notice to deposit the required portion of the PWH Contribution into the PWH Account.

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

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

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

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

(D)  To backstop a portion of the PWH Contribution, PDC will
reprioritize the Two Million and No/100 Dollars ($2,000,000.00) currently budgeted for
the stand-alone energy system at VMC such that such funds will be used if and as
necessary to provide cash flow to the Renovation Project in order to ensure that VMC is fully operable.

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

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

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

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

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

Section 3.2.1 The Funding Agent shall (i) deposit into the PWH Account and credit income earned on funds held in the PWH Account to the PWH Account, and (ii) deposit into the Project Payment Account and credit income earned on funds held in the Project Payment Account to the Project Payment Account. All income earned on funds in the PWH Account and the Project Payment Account shall accrue to the benefit of the Project and be used to pay Construction Costs.
Section 3.2.2 Funds in the PWH Account and the Project Payment Account shall be invested in accordance with Section 3.1 above.

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

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

SECTION 4.
CLOSING DATE DEPOSITS AND DISBURSEMENTS; PRO-RATA FUNDING OF CONSTRUCTION COSTS

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

Section 4.2. Delivery of Funds on Closing Date.

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

Section 4.2.2 Public Contribution. On the Closing Date, the City shall provide funds in an aggregate amount of Twenty-One Million Five Hundred Thousand and No/100 Dollars ($21,500,000.00), in accordance with the provisions of Section 5 hereof, less any amounts credited to the City in accordance with Section 22.3 of the Redevelopment Agreement.
Section 4.3. Closing Date Draw.

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

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

Section 4.4. Pro-Rata Funding of Construction Costs. The PWH Contribution and the Public Contribution will be used to pay Project Costs on a dollar-for-dollar basis to the extent of the amount of the PWH Contribution funded. In other words, as and when the PWH Contribution is funded, it will be spent on all Project Costs then due and owing in the future unless and until such dollars equal the dollars spent from the Public Contribution. In other words, as and when the first $5,000,000.00 of the PWH Contribution is funded, it will be spent on all Project Costs then due and owing in the future unless and until such dollars equal the dollars spent from the Public Contribution. With respect to amounts disbursed under the Project Funding Agreement after PWH has funded all of the PWH Contribution, such disbursements
shall be funded one-third (1/3) from the PWH Contribution and two-thirds (2/3) from the Public Contribution.

SECTION 5.

CITY LINE OF CREDIT

Intentionally Omitted.

SECTION 6.

POST-CLOSING DEPOSITS TO AND DISBURSEMENTS FROM PWH ACCOUNT AND PROJECT PAYMENT ACCOUNT

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

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

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


Section 6.2.1 Monthly Construction Draw Requests. Except as otherwise provided in Section 7.1 and Section 8.7 hereof, prior to the Construction Completion Date, PAM shall have the right to submit to the Funding Agent on a monthly basis (or more frequently if required under the Redevelopment Agreement) a Monthly Construction Draw Request satisfying the conditions set forth in this Section 6.2 for payment of Construction Costs. PAM, the City, and PWH shall use commercially reasonable efforts to attend the meetings and make the various submittals, approvals, and disbursements on or before the dates set forth on the Monthly Draw Schedule attached hereto as Exhibit A.
Section 6.2.2 Third Party Draw Requests and Certificates. In accordance with the Monthly Draw Schedule, on or about the twenty-fifth (25th) day of each month during phases of construction, the Contractor and each Vendor shall deliver to PAM in final draft form by hand delivery, electronic delivery or overnight delivery service, an applicable Third Party Draw Request and Certificate for work which is projected to be complete as of the last day of the month to which such Third Party Draw Request and Certificate relates in accordance with the Monthly Draw Schedule. The Third Party Draw Requests and Certificates shall include the items listed on Exhibit J attached hereto. PAM shall provide an initial review of each Contractor and Vendor Third Party Draw Request for general complete and correct preparedness and shall cause prompt corrections by applicable Contractor and Vendors. Upon receipt of adequately prepared Third Party Draw Requests, PAM shall provide Third Party Draw Requests to the City, PWH, and the Architect (as applicable) in advance of the meeting to review third party draw requests and certificates per Section 6.2.3.

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

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

(b) Within two (2) Business Days following the meeting to review the pencil draft Third Party Draw Requests and Certificates, in accordance with the Monthly Draw Schedule, the Contractor and Vendor(s) shall modify the draft Third Party Draw Requests and
Certificates to conform to decisions made in the draft meeting and deliver to PAM executed final copies of the Third Party Draw Requests and Certificates with all required documentation. PAM shall provide the City and PWH a complete final copy of the Third Party Draw Requests and Certificates and other documentation provided by the Contractor and Vendors to PAM.

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

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

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

(b) A spreadsheet showing the amount of the requested payment to be made to each payee, the total amount of the requested payment, the City’s share and PWH’s
share of such payment (by payee and total), and the balance of the payment to be paid from amounts in the Project Payment Account and the PWH Account (by payee and total).

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

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

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

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

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

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

Section 6.2.7 City’s Approval. Within two (2) Business Days after receipt of
the Monthly Construction Draw Request in final form (including all of the material identified in
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
City fully or partially approves the Monthly Construction Draw Request, shall deliver to each of
PWH, PAM, and the Funding Agent, an executed copy of the City Funding Certificate indicating
such full or partial approval, including approval of payment by the City of all or part of the
City’s share as indicated in the spreadsheet described in Section 6.2.5(b) above.

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

Section 6.2.8 PWH’s Approval. Within two (2) Business Days after receipt of
the Monthly Construction Draw Request in final form (including all of the material identified in
Sections 6.2.2, 6.2.4, 6.2.5, and 6.2.6 above), PWH shall have completed its review and, if PWH
fully or partially approves the Monthly Construction Draw Request, shall deliver to each of the
City, PAM, and the Funding Agent, an executed copy of the PWH Funding Certificate indicating
such full or partial approval, including approval of payment by PWH of all or part of PWH’s
share as indicated in the spreadsheet described in Section 6.2.5(b) above. Notwithstanding anything to the contrary set forth herein, if PWH disapproves of all or a portion of the Monthly Construction Draw Request in accordance with Section 18.2.6 of the Redevelopment Agreement (which PWH is required to do at the draft meeting), or if the Monthly Construction Draw Request is inconsistent with or has items not included in the form agreed upon at the pencil draft meeting, PWH immediately shall so inform the City, PAM, and the Funding Agent in writing, and until so amended to PWH’s reasonable satisfaction, PWH shall not be required to pay such disapproved costs, and none of the PWH Contribution will be provided (except in the case of a partial approval, in which case PWH shall pay the amount approved, subject to the satisfaction of the other conditions herein contained). If PWH fails to timely approve or disapprove the Monthly Construction Draw Request, PWH shall be deemed to have approved the same.

Disputes between the City, PWH, PAM, or any of them, arising under this Section 6.2.8 shall be subject to Dispute Resolution under the Redevelopment Agreement.

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

Section 6.2.10 Payment of Monthly Construction Draw Requests.

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

(b) On or about the seventeenth (17th) day of each month, in accordance with the Monthly Draw Schedule but not fewer than two (2) Business Days nor more than three (3) Business Days after the Funding Agent’s receipt of the executed City Funding Certificate, the executed PWH Funding Certificate, and the executed PAM Draw Certificate, the Funding Agent shall send an email to the City, PWH, and PAM with a copy of the completed Schedule 1 attached to the applicable PAM Draw Certificate (the “Construction Payment Confirmation”).
(c) On or about the twentieth (20th) day of each month, in accordance with the Monthly Draw Schedule, the Funding Agent shall make payment from the Project Payment Account to the payees listed in the Construction Payment Confirmation by wire transfer or otherwise according to the instructions given by PAM as described in Section 6.2.5 hereof.

Section 6.3. Amounts Drawn on the Line of Credit to Pay the City Share.

Intentionally Omitted.

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

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

SECTION 7.

FUNDING AGENT’S DISBURSEMENT DUTIES, RIGHTS, AND OBLIGATIONS
Section 7.1. Funding Agent Acceptance.

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

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

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

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

Section 7.4. Limitation on Duties.

Section 7.4.1 Notwithstanding any other provisions of this Agreement to the contrary, the Funding Agent shall have no duties or responsibilities hereunder except those expressly set forth herein. If at any time the Funding Agent is uncertain as to the amounts to be
deposited into or withdrawn from the PWH Account, or as to which Account any amounts are to be deposited into or withdrawn from the Project Payment Account, the Funding Agent may request written direction from PWH (with respect to the PWH Account) or from the City (with respect to the Project Payment Account), and the Funding Agent may conclusively rely on and shall be fully protected in reliance on such directions.

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

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

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

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

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

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

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

Section 8.5. Waivers, Amendments. No waiver or amendment of any of the
provisions hereof shall be effective unless made in a writing and signed by each of the parties
hereto. Excepts for amendments to increase the amount of the Public Contribution, this
Agreement may be modified or amended by the CAO or his or her designee on behalf of the City and by the Executive Director of PDC of his or her designee on behalf of PDC.

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

If to the City:

City of Portland
1120 S.W. Fifth Avenue, 12th Floor
Portland, OR 97204
Attn: SFDM; Project Funding Agent
cc: CAO; Debt Manager
Email: VMC.PFA@portlandoregon.gov

with a copy to:

Office of the City Attorney
City of Portland, Oregon
1221 S.W. Fifth Avenue, 4th Floor
Portland, OR 97204
Attn: City Attorney
Email: mark.moline@portlandoregon.gov

and to:

Radler White Parks & Alexander LLP
1100 SW Columbia Street, Suite 1100
Portland, OR 97201
Attn: Dina Alexander
Email: dalexander@radlerwhite.com

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

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

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

**Section 8.7.2** Following any Event of Default by the City under this Agreement or the Redevelopment Agreement and (i) the exhaustion of the Dispute Resolution proceedings set forth in the Redevelopment Agreement with a determination by a Dispute Resolver in favor of PAM, PWH, or either of them, or (ii) a court order in favor of PAM, PWH, or any of them,
this Agreement shall terminate and the Funding Agent shall act in accordance with written
instructions received and signed by PAM or PWH, as applicable, or in accordance with the
applicable court order or determination of the Dispute Resolver.

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

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

Section 8.9. Assignment. This Agreement shall be binding upon and inure to the
benefit of the successors and permitted transferees and assigns of the parties hereto. No party
hereto may transfer or assign its rights or obligations hereunder except in connection with an
assignment in whole, but not in part, of its rights or obligations in respect of the Renovation
Project to the extent permitted in the Redevelopment Agreement.
Section 8.10. Third Party Beneficiaries. The parties hereto acknowledge and agree that there are no third party beneficiaries having any rights with respect to this Agreement.

Section 8.11. Severability. In case any provision in this Agreement shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 8.12. Non-Waiver of Governmental Rights. By entering into this Agreement, the City is specifically not obligating itself or any other agency with respect to any discretionary or regulatory action relating to development or operation of the Project Improvements to be constructed on the Project Site, including, but not limited to, rezoning, variances, environmental clearances, regulatory plan reviews, code compliance, or any other governmental agency approvals or regulatory actions which are or may be required or authorized.

Section 8.13. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Oregon, without reference to conflicts of law principles thereunder.

(Remainder of Page Intentionally Left Blank)
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

City:

CITY OF PORTLAND, OREGON, a municipal corporation of the State of Oregon

By: _________________________________
Title: Mayor

By: _________________________________
Title: City Auditor

APPROVED AS TO FORM:

By: _________________________________
City Attorney

PAM:

RIP CITY MANAGEMENT LLC, d/b/a Portland Arena Management, a Delaware limited liability company

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

By: Aegean Corporation, an Oregon corporation, Manager

By: _________________________________
Gregg Olson, Senior Vice President/Chief Financial Officer
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
# PROJECT FUNDING AGREEMENT

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MONTHLY DRAW SCHEDULE
EXHIBIT B-1

CONTRACTOR’S DRAW REQUEST AND CERTIFICATE
Schedule 1

CONDITIONAL WAIVER AND RELEASE
UPON PAYMENT
EXHIBIT B-2

VENDORS’ DRAW REQUEST AND CERTIFICATE
Schedule 1

CONDITIONAL WAIVER AND RELEASE
UPON PAYMENT
EXHIBIT C-1

ARCHITECT’S CERTIFICATE
(Contractor)

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

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

____________________., 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]
EXHIBIT C-2

ARCHITECT’S CERTIFICATE

(Vendor)

The undersigned, _________________ a Delaware corporation (the “Architect”), certifies and states that based upon the review by Architect of the Vendors’ Draw Request and Certificate No. _______ dated _______________ (the “Draw Request”) submitted by _________________ as the _________________________ (the “Vendor”), [this certificate to be used as basis for Vendor certificate] including, without limitation, all data and documentation attached thereto (which are incorporated herein by this reference), and based upon on-site observations by the Architect of the Renovation Project in accordance with the terms of the Architectural Services Agreement: (i) the Work has progressed to the point indicated in the Draw Request; (ii) to the best knowledge, information and belief of the Architect, except for specific qualifications noted below, the Work covered by the Draw Request has been completed and performed in accordance with the 100% Design Development Documents and the 100% Construction Documents (subject to evaluation of the Work for conforming with the 100% Design Development Documents and the 100% Construction Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the 100% Design Development Documents and the 100% Construction Documents, to minor deviations from the 100% Design Development Documents and the 100% Construction Documents correctable prior to completion, and to any specific qualifications stated herein); and (iii) except as noted below, the amount requested to be paid, in respect of the Work completed to date is appropriate and the Vendor is entitled to payment in the amount certified in the Draw Request.

This Certificate is being made and delivered to, and shall be relied upon by the Funding Agent, the City, PWH, and PAM.
[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]
EXHIBIT D-1

PAM DRAW CERTIFICATE
(Contractor)

[Date]

Funding Agent

Re: Renovation Project – Veterans Memorial Coliseum, Certificate No. ____

Dated: ________________

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

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

1. PAM approves and authorizes payments as described and itemized on the Contractor’s Draw Request and Certificate Number ____, dated ________________.

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

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

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

5. PAM certifies that it has received no written claims of liens submitted as of the date hereof, and PAM has no knowledge of any filed liens with respect to the Work. PAM further certifies that all bills due and payable by PAM with respect to the Work have been paid to
date or shall be paid from the proceeds of this Draw Request and that there is no known basis for
the filing of any liens with respect to the Work.

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

RIP CITY MANAGEMENT LLC, a Delaware
limited liability company

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

By: Aegean Corporation, an Oregon
corporation, Manager

By: Gregg Olson, Senior Vice
President/Chief Financial Officer
### Schedule 1

<table>
<thead>
<tr>
<th>Payee</th>
<th>Total Amount of Requested Payment</th>
<th>Amount of Requested Payment to be Paid</th>
<th>City’s Share of Payment ($)</th>
<th>PWH’s Share of Payment</th>
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EXHIBIT D-2

PAM DRAW CERTIFICATE
(Vendor)

[Date]

Funding Agent

Re: Renovation Project – Veterans Memorial Coliseum, Certificate No. _____
Dated: _______________

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

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

1. PAM approves and authorizes payments as described and itemized on the Vendors’ Draw Request and Certificate Number _____, dated _______________.

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

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

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

5. PAM certifies that it has received no written claims of liens submitted as of the date hereof, and PAM has no knowledge of any filed liens with respect to the Work. PAM further certifies that all bills due and payable by PAM with respect to the Work have been paid to
date or shall be paid from the proceeds of this Draw Request and that there is no known basis for
the filing of any liens with respect to the Work.

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

RIP CITY MANAGEMENT LLC, a Delaware
limited liability company

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

By: Aegean Corporation, an Oregon
corporation, Manager

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

{00011144;7}
## Schedule 1

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<tr>
<th>Payee</th>
<th>Total Amount of Requested Payment</th>
<th>Amount of Requested Payment to be Paid</th>
<th>City’s Share of Payment ($)</th>
<th>Balance of Payment to be Paid from PWH Account</th>
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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.]
EXHIBIT F

CONFIRMATION OF PERMIT FEES

__________________ [Date]

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

Funding Agent:

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

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

1. That the Permit Fees for ______________________________ required to be paid in connection with the design, construction or occupancy of the Renovation Project total the sum of $__________________.

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

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

RIP CITY MANAGEMENT LLC, a Delaware limited liability company

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

By: __________________________
    Gregg Olson, Senior Vice
    President/Chief Financial Officer
EXHIBIT G
PROJECT BUDGET

[Initial Project Budget to be attached]
EXHIBIT H

Intentionally Omitted
EXHIBIT I

PERMITTED INVESTMENTS

A. Direct obligations of the United States of America or obligations the principal of and
interest on which are unconditionally guaranteed by the United States of America, with
maximum maturities of 3 years.

B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any
federal agency provided such obligations are backed by the full faith and credit of the
United States of America, with maximum maturities of 3 years.

C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any
of the following non-full faith and credit U.S. government agencies, with maximum
maturities of 3 years:

1. Federal Agricultural Mortgage Corporation (“Farmer Mac”)

2. Federal Farm Credit Bank (FFCB)

3. Federal Home Loan Bank (FHLB)

4. Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”)

5. Federal National Mortgage Association (FNMA or “Fannie Mae”)

D. Certificates of deposit, time deposits or interest-bearing deposits in banks and credit
unions in compliance with the provisions of ORS Chapter 295 regarding the Oregon State
Treasurer’s Public Funds Collateralization Program, with maximum maturities of 1 year.

E. Certificates of deposit, savings accounts, deposit accounts or money market deposits
which are fully insured by the FDIC or NCUA, with maximum maturities of 1 year.

F. Commercial paper with a minimum short-term rating at the time of purchase of A-1, P-1,
F-1 (or better) by any Nationally Recognized Statistical Rating Organization of the
Securities and Exchange Commission, with maximum maturities of 270 days. In the event of a split rating, the lowest rating will be utilized to evaluate compliance.

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

DOCUMENTS TO ACCOMPANY
THIRD PARTY DRAW REQUESTS AND CERTIFICATES

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

1. A statement of the percentage completion of each portion of the Project as of the end of the period covered by the Application for Payment. The percentage completion shall be the lesser of (1) the percentage of that portion of the Project which has actually been completed or (2) the percentage obtained by dividing (a) the expense which has actually been incurred by the Contractor or Vendor, as applicable, on account of that portion of the Project Improvements for which the Contractor or Vendor, as applicable, has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the GMP or Vendor contract amount, as applicable, allocated to that portion of the Project Improvements in the Schedule of Values. Applications for Payment shall also set forth the amount of money required to complete the Project Improvements (including all approved Change Orders) and such other information as PAM or the City may reasonably require. All Applications for Payment must contain a certification by the Contractor or Vendor, as applicable, that the progress of the Project is in accordance with the Construction Documents, all applicable Laws and the Project Schedule, and that the Work, to the best of the Contractor’s or Vendor’s knowledge at such time, as applicable, will be completed on or before the date of Substantial Completion and finally completed on or before the date of Final Completion identified in the Project Schedule;

2. Updated Schedule of Values from the Contractor and such Vendor;

3. A duly executed and acknowledged Contractor’s and Vendor’s, as applicable, sworn statement showing all subcontractors with whom the Contractor or Vendor, as applicable, has entered into subcontracts, the amount of each such subcontract, the amount requested for any subcontractor in the Application for Payment and
the amount to be paid to each subcontractor from such progress payment, together
with similar sworn statements from all subcontractors and, when requested, from
Sub-subcontractors;

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

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

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

7. The then-current Project Schedule;

8. Copies of payment requests or billings from subcontractors for work performed
during the period covered by and included in the Application for Payment;
9. A Change Order log from the Contractor or Vendor(s), as applicable, showing all Change Orders;

10. An “Open Change Requests Log” which lists and identifies any and all claims asserted by each subcontractor against the Contractor or Vendor, as applicable, which are open and pending; provided however, that such Open Change Requests Log shall not serve as notice of a Change Order Request as required by the Construction Contract or Vendor Agreement, as applicable; and

11. In each Application for Payment, the Contractor or Vendor, as applicable, shall certify that the work for which payment is requested has been done, that the information contained in the Application for Payment is true and correct to the best of the Contractor’s or Vendor’s knowledge, as applicable, and that all due and payable bills with respect to the Project Improvements have been paid or will be paid from the proceeds received from PAM pursuant to such Application for Payment.

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

1. A final Certificate for Payment issued by the Architect and the PAM Funding Representative (including the Architect’s certification that all Punch List items have been completed);

2. Final and full waivers of lien and claims from the Contractor or Vendor, as applicable, and all Major Subcontractors;

3. A copy of any and all certificates of occupancy for the Project required by the City of Portland;

4. Two duplicate sets of as-built Drawings and a CD containing the Drawings for submission to the City and to PWH as provided in the Redevelopment Agreement;
5. An affidavit that payrolls, bills for materials and equipment, and other
indebtedness connected with the Project for which PAM, PWH or the City might
be responsible or encumbered (less amounts withheld by PAM) have been paid or
otherwise satisfied;

6. A certificate evidencing that insurance required by the Redevelopment
   Agreement, General Construction Contract and any applicable Vendor
   Agreements to remain in force after final payment is currently in effect and will
   not be canceled or allowed to expire until at least thirty (30) days prior written
   notice has been given to PAM, PWH and the City;

7. A written statement that the Contractor or Vendor, as applicable, knows of no
   substantial reason that the insurance will not be renewable to cover the period
   required by the Redevelopment Agreement, General Construction Contract and
   any applicable Vendor Agreements;

8. Consent of surety, if any, to final payment;

9. If required by PAM, other data establishing payment or satisfaction of
   obligations, such as receipts, releases and waivers of liens, claims, security
   interests or encumbrances arising out of the General Construction Contract or
   applicable Vendor Agreement, to the extent and in such form as may be
   designated by PAM;

10. Evidence that all claims of lien, if any, recorded against the Project Site have been
    discharged;

11. All manuals including equipment operation and maintenance manuals and written
    warranties required to be provided by the Contractor, applicable Vendor,
    subcontractors or sub-subcontractors, and

12. All other deliverables required under the General Construction Contract and the
    Vendor Agreements, as applicable.
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: ______________________________
[PAM Draw Certificate and Schedule 1 to PAM Draw Certificate to be attached.]
RESOLUTION NO. 6983

RESOLUTION TITLE:
AUTHORIZING A PROJECT FUNDING AGREEMENT TO PROVIDE UP TO $2 MILLION IN CONTINGENT FUNDING FOR THE VETERANS MEMORIAL COLISEUM RENOVATION

Adopted by the Portland Development Commission on November 29, 2012

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<th>PRESENT FOR VOTE</th>
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<td>Commissioner Charles Wilhoite</td>
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☐ Consent Agenda  ✔️ Regular Agenda

CERTIFICATION

The undersigned hereby certifies that:

The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and as duly recorded in the official minutes of the meeting.

Date:

December 3, 2012

Gina Wiedrick, Recording Secretary