

DEVELOPMENT AGREEMENT
by and between
CITY OF SAINT PAUL
and
MUSC HOLDINGS, LLC

Dated as of _____, 2016

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “Agreement”) is made as of the _____ of _____, 2016, by and between the City of Saint Paul, a municipal corporation of the State of Minnesota (the “City”), and MUSC Holdings, LLC, a Minnesota limited liability company (the “Team”).

BACKGROUND

A. The City has acquired the right by lease to the former bus barn property on the north side of Interstate 94 and Snelling Avenue at 400 Snelling Avenue, Saint Paul, Minnesota, consisting of approximately 10 acres (the “Bus Barn Property”) pursuant to the Net Ground Lease dated _____, 2016, between the City and the Metropolitan Council.

B. The Team and its wholly-owned subsidiary, Minnesota United Soccer Club, LLC, a Minnesota limited liability company (the “Club”), have entered into a letter of intent with Major League Soccer, L.L.C., a Delaware limited liability company (“MLS”), pursuant to which the Club’s professional soccer team will play its home games in a stadium to be constructed by the Team in the Minneapolis/Saint Paul metropolitan area at a location approved by MLS and that meets the requirements of MLS (the “Stadium”).

C. The City and the Team desire that the Team design and construct the Stadium on certain portions of the Bus Barn Property and any adjacent land secured by the Team and transferred or assigned to the City (the “Team Acquired Property”) (together, called the “Stadium Site”) where the Club will play its home games in the MLS once the Stadium has been constructed as provided in the Playing and Use Agreement dated the date hereof (the “Use Agreement”) between the City and the Club, that the parties thereto are entering into contemporaneously with the execution of this Agreement. The Team will be responsible for and pay the cost of the design and construction of the Stadium. Under the Use Agreement, the Club shall provide public use of the Stadium, including club and high school soccer tournaments, and support youth sports in the community, the state and in particular the City, including non-profit soccer organizations and amateur soccer programs, and, commencing as provided in the Use Agreement, pay to the City annual rental equivalent to the annual rental payable by the City to the Metropolitan Council under the Net Ground Lease.

D. The Team has secured the approval of MLS for the Stadium Site as the location for the Team to design and construct the Stadium where the Club will play its home professional soccer games in the League and the Team has committed to MLS and the City to design and construct the Stadium in accordance with MLS requirements.

E. The Stadium Site is part of the approximately 34.5 acre parcel bounded by Snelling Avenue, University Avenue, Pascal Avenue and Interstate 94 (the “Midway Development Site”). As a material inducement for the Team to locate, design and construct the Stadium on the Stadium Site, the City will lead a master development plan (the “Master Development Plan”) for the Midway Development Site with involvement from the surrounding community, land owners and the Team. Under the Master Development Plan, and subject to approval of the City Council and Mayor of the specific improvement projects identified and

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proposed in the Master Development Plan, the City will (a) participate in the funding of building the public streets, sewers, storm water management and parking lots/structures necessary for the redevelopment of the Midway Development Site, (b) enter into a public private partnership for the construction and maintenance of green spaces or public plazas, (c) collaborate with the Team on the design of public plazas and green spaces contiguous to the Stadium, and (d) engage a consultant to prepare a Transportation and Parking Study to encourage bike and transit use, maximize transportation and parking options, and ease congestion.

F. The City and the Club, and if applicable, RK Midway, intend to enter into a separate agreement for the design, construction, improvement, operation and maintenance of the Midway Green Spaces upon transfer of the Midway Green Spaces to the City (the “Midway Green Spaces Agreement”), as described in Section 4.3(b).

G. The City, Team, Metropolitan Council and RK Midway intend to enter into a separate Environmental Project Management Agreement (the “Environmental Project Management Agreement”), as described in Section 3.2(a).

H. The City has determined that the construction and operation of the Stadium, the implementation of the Master Development Plan and the performance of this Agreement are in the best interests of the City and serve a public purpose, and the City has passed Resolution 15-1539, dated August 26, 2015 in relation to the Stadium and Master Development Plan. Among other things, the construction and operation of the Stadium will: (i) provide a multi-purpose stadium and related infrastructure for professional soccer and other events; (ii) further the vitality of the Midway Development Site by generating increased economic development; and (iii) further economic development and stimulate the local economy overall.

I. This Agreement is executed to provide for the planning, design, development, and construction of the Stadium, the City’s intentions with respect to the Master Redevelopment Plan and the involvement of the Team in the Master Redevelopment Plan.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into this Agreement, and the mutual promises, undertakings and covenants hereinafter set forth, and intending to be legally bound hereby, the City and the Team covenant and agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.1 Defined Terms.

In addition to other terms defined herein, the following terms used in this Agreement shall have the meaning set forth below:

“Affiliate” of a specified Person shall mean any corporation, partnership, limited liability company, sole proprietorship or other Person that directly or indirectly, through one or more intermediaries controls, is controlled by, or is under common control with the Person specified. For purposes of this definition, the terms “controls,” “controlled by,” or “under common control”

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mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person.

“Agreement” shall mean this Development Agreement by and between the City and the Team, as the same may be amended, modified or supplemented from time to time.

“Architect” shall mean Populous, Inc.

“Architectural Agreement” shall mean the agreement between the Team and the Architect providing for the design of the Project and the preparation of Project Design Documents and Construction Documents.

“AUAR” shall mean an alternative urban areawide review to be prepared by the Environmental Consultant, that contains all information, analysis and recommendations required by Minnesota Statutes Chapter 116D and related rules and regulations.

“Bus Barn Property” shall mean the real property leased to the City by the Metropolitan Council pursuant to the Net Ground Lease and described on Exhibit A.

“Business Day” shall mean any day other than a Saturday, Sunday or other day on which banks are required or authorized to close in St. Paul, Minnesota.

“Change Orders” shall mean any change orders or change directives that amend or modify the Contract Documents.

“City” shall mean the City of Saint Paul, a municipal corporation of the State of Minnesota.

“City Funded Public Infrastructure” shall mean the cost of Stadium Site Infrastructure funded through the City Public Infrastructure Budget, and other non-City sources as may be available.

“City Indemnified Persons” shall mean the City and its elected officials, appointed officials, board or agency members, officers, employees, agents and attorneys.

“City Public Infrastructure Budget” shall mean the City-approved budget for the costs of City Funded Public Infrastructure under this Agreement.

“City Representative” shall mean Jonathan Sage-Martinson, his designees, or any successor to the foregoing Person designated by the City by written notice to the Team.

“Claim” shall mean any claim, demand or dispute between or among the Parties relating to this Agreement or the Project.

“Club” shall mean Minnesota United Soccer Club, LLC, a Minnesota limited liability company, a wholly-owned subsidiary of the Team.

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“Completion Date” shall mean the date that is the earlier of (a) the date on which the Team has commenced occupancy of the Stadium pursuant to the Use Agreement, or (b) the date on which the following have occurred: (i) the General Contractor has issued to the City and the Team a certificate of substantial completion certifying that the Stadium has been “substantially completed,” subject to the completion of minor punchlist items that do not materially affect the use or occupancy of the Stadium; and (ii) a temporary certificate of occupancy for the Stadium has been issued by the City.

“Consequential Damages” shall mean a special, indirect or incidental loss or damage, including but not limited to, lost profits, lost business opportunities, lost MLS fees, pursuit costs, costs of delay, loss from collateral contracts, harm to reputation, loss of investment, out of pocket expenses, or costs of business interruption.

“Construction Contract” shall mean the construction contract or agreement to be entered into by and between the Team and the General Contractor, as the same may be amended, modified or supplemented from the time.

“Construction Documents” shall mean the working drawings and specifications prepared by the Architect describing the size, character, appearance, functionality, design, construction, materials, finishes, structural and mechanical, electrical and all other systems, amenities and components of the Project prepared from the Project Design Documents and which are used for obtaining Permits and constructing the Project.

“Construction Start Date” shall mean the earlier of _____, 2016, or that date on which the EIS or AUAR shall have received final approval, and the Team is able to begin construction of the Stadium.

“Construction Team” shall mean the Architect, the General Contractor, the City Representative and any other consultants, such as an owner’s representative, deemed necessary by the Team to assist in the design, construction, or development of the Project.

“Contract Documents” shall mean the Architectural Agreement, the Construction Contract, the final Construction Documents, and any Change Orders or other equivalent construction contract documents entered into to complete the Project.

“Damages” shall mean a direct loss, liability, claim, damage, cost or expense, whether the action is for money damages or for equitable or declaratory relief. In no event shall Damages by one party against the other party include punitive, exemplary, multiple, or Consequential Damages, regardless of the type or nature of the loss, claim, or theory of recovery.

“Design Documents” shall refer to, as applicable, the Project Concept Design, the Project Design Documents and the Construction Documents.

“Dispute Notice” shall have the meaning set forth in Section 9.2 thereof.

“EAW” shall mean the environmental assessment worksheet to be prepared by the Environmental Consultant, that contains all information, analysis and recommendations required by Minnesota Statutes Chapter 116D and related rules and regulations

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“EIS” shall mean the environmental impact statement, if required, to be prepared by the Environmental Consultant, that contains all information, analysis and recommendations required by Minnesota Statutes Chapter 116D and related rules and regulations.

“Environmental Consultant” shall mean Stantec Consulting Services, Inc., the consulting firm engaged by the Team and RK Midway and at the Team’s and RK Midway’s expense to perform the EAW and an EIS or AUAR, if required, with respect to the Stadium Site and the Midway Development Site.

“Environmental Law” shall mean all Laws, including, without limitation, any consent decrees, settlement agreements, judgments, or orders, issued by or entered into with a Governmental Authority pertaining or relating to: (a) pollution or pollution control; (b) protection of human health or the environment; (c) the presence, use, management, generation, processing, treatment, recycling, transport, storage, collection, disposal or release or threat of release of Regulated Substances; (d) the protection of endangered or threatened species.

“Environmental Project Management Agreement” shall mean the Environmental Project Management Agreement, dated _____, 2016, among the City, the Metropolitan Council, the Port Authority of the City of Saint Paul, the Team, and the Club relating to any environmental issues and Regulated Substances related to the Bus Barn Property, the Sublease Property and the Team Acquired Property, existing as of the Construction Start Date.

“Environmental Study” shall have the meaning set forth in Section 2.2(f) hereof.

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

“Force Majeure” shall mean acts of God, accidents, fire or other casualty, earthquake, hurricane, tornadoes, named storms, flood, war, riot, intervention by civil or military authorities of government, insurrection or other civil commotion, governmental action (excluding any governmental action or inaction with respect to the granting or withholding of any governmental approvals or Permits needed for the construction of the Project, operation of the Stadium or Stadium Site Infrastructure, or the acquisition of the Stadium Site), material shortages, strikes, boycotts, lockouts or labor disputes (but not including player labor stoppages, whether attributable to strikes or lockouts), or any other similar or like event or occurrence beyond the reasonable control of a Party hereto, that causes such Party to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder.

“General Contractor” shall mean M.A. Mortenson Co. or such other construction firm selected by the Team to be the general contractor for the Project.

“Geotechnical Report” shall mean the report or reports (which may be a preliminary report and a final report) prepared by a licensed geotechnical engineer to perform the following geotechnical evaluation (i) definition of the depth of the bedrock, and (ii) definition of the water table (including monitoring wells if necessary). A geotechnical report of the Bus Barn Property will be provided by the City, as provided by the Metropolitan Council. A geotechnical report of the Team Acquired Property will be performed and paid for by the Team.

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“Governmental Authority” shall mean any federal, state, county, city, local or other government or political subdivision or any agency, authority, board, bureau, commission, department or instrumentality thereof.

“Law” or “Laws” shall mean any law, statute, code, ordinance, rule, regulation or constitutional or charter provision, duly enacted or adopted by any Governmental Authority.

“League” shall mean the professional soccer league of the MLS.

“Legal Requirements” shall mean present and future Laws (including Environmental Laws) applicable to the design, development, construction, equipping, use, occupancy, possession, operation, maintenance and management of the Project.

“Master Development Plan” shall mean the master development plan for the Midway Development Site referred to in Recital E of this Agreement.

“Metropolitan Council” shall mean the Metropolitan Council, a Minnesota public corporation and political subdivision.

“Midway Development Site” shall have the meaning set forth in Recital E hereto and shall consist of the area depicted on Exhibit B.

“Midway Green Spaces” shall mean the green spaces in the Midway Development Site outside of the Stadium Site that are an extension of the Stadium Site Green Spaces, which, upon transfer to the City will be governed by the Midway Green Spaces Agreement.

“Midway Green Spaces Agreement” shall mean the separate agreement to be entered into by the City and Club, and RK Midway, if applicable, upon transfer of the Midway Green Spaces to the City, which will set forth the provisions relating to the design, construction, operations and maintenance of the Midway Green Spaces.

“Midway Infrastructure” shall mean the streets, sidewalks, bikeways, public spaces, lighting of such streets, sidewalks, bikeways and public spaces, ingress and egress points, all within the public right of way of the City, the storm water management system, and sewer and water controlled by the City or in which the City has rights that are deemed necessary and desirable to facilitate the use and development of the Midway Development Site other than the Stadium Site, as contemplated by the Master Development Plan, and as determined in the design, planning or construction of the Midway Development Site and subject to approval by the City Council and Mayor.

“MLS” shall mean Major League Soccer, L.L.C., a Delaware limited liability company.

“Net Ground Lease” shall mean the Net Ground Lease dated _____, 2016, between the Metropolitan Council, as lessor, and the City, as lessee, pursuant to which the City has a long-term lease for the Bus Barn Property. The Net Ground Lease is attached hereto as Exhibit J.

“Party” or “Parties” shall mean either or both of the City and the Team.

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“Permits” shall mean any permit, license or approval to be issued by any Person, including Required Environmental Permits, required for construction, demolition, installation, alteration or repair of any improvements related in any manner to the Project.

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

“PLA” shall have the meaning in Section 2.8 hereof.

“Plaza Area” shall mean the plaza area to the north of the Stadium and outside of the Stadium Footprint within the Stadium Site as shown in the Project Concept Design and as finally determined in the Design Documents.

“Prime Rate” shall mean, for interest accruing during any month, the rate that is 300 basis points over the federal funds rate on the first Business Day of such calendar month.

“Project” shall mean the Stadium and all activities relating to the design and construction of the Stadium and other improvements on the Stadium Site, including the Plaza Area, the Promenade, the Stadium Site Green Spaces, Stadium Parking Areas and Stadium Site Infrastructure.

“Project Concept Design” shall mean the conceptual design for the Stadium and other improvements on the Stadium Site prepared by the Architect and attached hereto as Exhibit C.

“Project Design Documents” shall mean drawings and specifications prepared by the Architect based upon and refining the Project Concept Design and illustrating the scope, relationship, forms, size, functionality and appearance of the Project, which shall provide detail regarding the exterior and interior public spaces of the Project, including materials and colors, by means of plans, sections and elevations, typical construction details, equipment schedules and layouts and specifications and that show all significant Project components, all in sufficient detail to define for the Team and the City the scope, character and quality of the entire Project.

“Promenade” shall mean the area outside of the Stadium Footprint within the Stadium Site other than the Plaza Area as shown in the Project Concept Design and as finally determined in the Design Documents.

“Regulated Substances” shall mean any substance, material or waste, regardless of its form or nature, defined under Environmental Laws as a “hazardous substance,” “hazardous waste,” “toxic substance,” “extremely hazardous substance,” “toxic chemical,” “toxic waste,” “solid waste,” “industrial waste,” “residual waste,” “municipal waste,” “special handling waste,” “mixed waste,” “infectious waste,” “chemotherapeutic waste,” “medical waste,” “regulated substance,” “pollutant” or “contaminant” or any other substance, material or waste, regardless of its form or nature that otherwise is regulated by Environmental Laws.

“Representative” or “Representatives” shall mean one (1) or more of the City Representative or the Team Representative.

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“Required Environmental Permits” shall mean Permits, licenses, bonds, consents, programs, approvals or authorizations required under Environmental Laws for the construction of the Project regardless of whether such Permits are required to be or have been obtained by the City or the Team.

“Response Action” shall mean the investigation, cleanup, removal, remediation, containment, control, abatement, monitoring of or any other response action to the presence of Regulated Substances in, on, at, under or emanating from the Stadium Site, including the correction or abatement of any violation required pursuant to Environmental Laws, Required Environmental Permits or by a Governmental Authority.

“Response Action Plan” shall mean the plan developed by the City in collaboration with the Metropolitan Council, the Team, and RK Midway to address any Response Action relating to the presence of Regulated Substances in, on, at, under or emanating from the Stadium Site which plan will have been approved by the Minnesota Pollution Control Agency prior to the Construction Start Date, and subject to the Environmental Project Management Agreement.

“RK Midway” shall mean the owner of the real property outside of the Bus Barn Property within the Midway Development Site.

“Stadium” shall mean the new soccer stadium meeting the requirements of the MLS to be owned by the City for the use of the Team and other users, which will be constructed on the Stadium Site, with seating capacity of at least [_____] and a capacity for up to [_____] spectators at an aggregate cost of at least One Hundred Twenty Million Dollars (\$120,000,000). The Stadium is a municipal stadium as set forth in Minnesota Statutes section 272.01, subdivision 2(b)(1).

“Stadium Footprint” shall mean the area within and including the exterior walls of the Stadium.

“Stadium Parking Areas” shall mean any parking areas within the Stadium Site.

“Stadium Site” shall have the meaning set forth in Recital C hereto and shall consist of the Bus Barn Property, minus the Sublease Property, plus the Team Acquired Property that are used for the Stadium and Project.

“Stadium Site Green Spaces” shall mean the green spaces within the Stadium Site.

“Stadium Site Infrastructure” shall mean the streets, sidewalks, bikeways, public spaces, lighting of such streets, sidewalks, bikeways and public spaces, ingress and egress points, all within the public right of way of the City, the storm water management system, and sewer and water controlled by the City or in which the City has rights that are deemed necessary and desirable to facilitate the use and development of the Stadium and the Stadium Site, as determined in the design, planning or construction of the Stadium and the Stadium Site and as provided in the City Public Infrastructure Budget. The Stadium Site Infrastructure includes the Plaza Area, Promenade, Stadium Site Green Spaces and Stadium Parking Areas.

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“Sublease Property” shall mean the portion of the Bus Barn Property that is either (i) subleased by the City to RK Midway for the term of the Net Ground Lease, (ii) removed from the Net Ground Lease and leased by the Metropolitan Council to RK Midway for the term of the Net Ground Lease, or (iii) in which the Team grants use rights to RK Midway for the term of the Net Ground Lease, as in each case the Team may request to facilitate the Team’s acquisition of the Team Acquired Property as provided in Section 3.1.

“Survey” shall mean the survey or surveys of the Stadium Site prepared by a licensed surveyor to perform the following survey of the Stadium Site: (i) topography and elevations, (ii) boundaries, setbacks and easements, (iii) utilities, including verification of underground locations, (iv) physical features, including pavements, buildings, sidewalks, signs, billboards, utility structures and other improvements. A survey of the Bus Barn Property will be provided by the City, as provided by the Metropolitan Council. A survey of the Team Acquired Property will be performed and paid for by the Team.

“Team” shall mean MUSC Holdings, LLC, a Minnesota limited liability company.

“Team Acquired Property” shall mean any property adjacent or contiguous to the Bus Barn Property acquired by the Team for the purpose of inclusion in the Stadium Site and transferred or assigned to the City as provided in Section 3.1 hereof.

“Team Indemnified Persons” shall mean the Team and its governors, officers, managers, members, employees, agents and attorneys.

“Team Project Costs” shall mean all costs necessary and desirable to design, construct and equip the Stadium within the Stadium Footprint and, as included by the Team, other upgrades to improvements on the Stadium Site, including the Plaza Area, the Promenade, the Stadium Site Greenways and Stadium Parking Areas, other than the cost of Stadium Site Infrastructure.

“Team Representative” shall mean William W. McGuire, his designees, or any successor to the foregoing Person designated by the Team by written notice to the City.

“Transportation and Parking Study” shall mean the report prepared by SRF Consulting Group, Inc. and engaged by the City at the City’s expense to perform a traffic and parking study for the Project area.

“Use Agreement” shall mean the Playing and Use Agreement to be entered into contemporaneous with the execution of this Agreement between the City and the Club for the use, operation and maintenance of the Stadium and the Stadium Site, and the maintenance of the Stadium Site Green Spaces.

Section 1.2 Construction of Terms.

As the context of this Agreement may require, terms in the singular shall include the plural (and vice versa) and the use of feminine, masculine or neuter genders shall include each other. Wherever the word “including” or any variation thereof is used herein, it shall mean

“including, without limitation” and shall be construed as a term of illustration, not a term of limitation. Wherever the words “and” or “or” are used herein, they shall mean “and/or.”

ARTICLE 2
DESIGN AND CONSTRUCTION OF THE STADIUM

Section 2.1 Collaborative Effort; Project Costs.

(a) General. The Team has selected the Architect and the General Contractor for the Project. The Team and the City agree to meet, confer, and consult with each other as either Party may reasonably request throughout the design and construction of the Project to ensure that the Project and related amenities are suitable for the Stadium Site and for the expected related Stadium Site Infrastructure and development of adjacent parcels as contemplated by the Master Development Plan.

(b) Project Representatives.

(i) Team Representative. The Team has designated the Team Representative as its agent and representative authorized to act on the Team’s behalf with respect to the Project. The Team Representative is the Team’s exclusive representative insofar as this Agreement is concerned. All instructions from the Team to the City relating to this Agreement shall be issued or made in writing through the Team Representative. All communications and submittals from the City to the Team with respect to matters covered by this Agreement shall be issued or made through the Team Representative, unless the Team or the Team Representative shall otherwise direct in writing.

(ii) City Representative. The City has designated the City Representative as its agent and representative authorized to act on the City’s behalf with respect to the Project, except in cases where approval by the City Council is denoted or reserved by the City Council or required by Law. The City Representative is the City’s exclusive representative insofar as this Agreement is concerned. All instructions from the City to the Team relating to this Agreement shall be issued or made in writing through the City Representative. All communications and submittals from the Team to the City with respect to matters covered by this Agreement shall be issued or made through the City Representative, unless the City or the City Representative shall otherwise direct in writing.

Section 2.2 Team Responsibilities.

The Team’s responsibilities are as follows:

(a) Stadium. The Team shall be responsible for, shall manage and oversee, and shall pay or cause to be paid the cost of the design, construction and equipping of the Stadium. The provisions of Minnesota Statutes Section 471.345 are not applicable to contracts entered into by the Team or the Team’s contractors or subcontractors with regard to design, construction and equipping of the Stadium.

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(b) Stadium Site. The Team shall also participate in the design of the Stadium Site Green Spaces, Plaza Area, Promenade, and Stadium Parking Areas. The City has requested, and the Team is willing to take on the responsibility for, the design and the construction portions of the Stadium Site Infrastructure and other work that is the City's responsibility under Section 2.3(a) and (h) below using funds in the City Public Infrastructure Budget. The City and the Team have collaborated on the City Public Infrastructure Budget and based on current information believe that the City Public Infrastructure Budget is sufficient to pay for the costs for such City Funded Public Infrastructure. In consideration of the Team agreeing to take on the responsibility for the design and construction of the Stadium Site Infrastructure and the Team's agreement to pay the cost of the Stadium Site Infrastructure in excess of the City Public Infrastructure Budget which is, in the aggregate \$_____, and subject to the City's approval rights of material changes, where a change is deemed material if it increases any City cost by the greater of \$50,000 or more than 15% of the relevant line item in the City Public Infrastructure Budget, or increases the City Public Infrastructure Budget in total after any applicable contingency has been applied, the Team may reallocate amounts within the line items of City Public Infrastructure Budget to pay for the hard costs and soft costs related to the design and construction of the Stadium Site Infrastructure. The Team shall collaborate with the City in the design of the Stadium Site Infrastructure and shall make the General Contractor, the Architect and their subcontractors reasonably available to the City in connection with the design and construction of the Stadium Site Infrastructure.

(c) Environmental Study; Transportation and Parking Study. The Team will consider and implement the reasonable recommendations in the Environmental Study and the Transportation and Parking Study that relate directly to the Stadium.

(d) Geotechnical Report. The Team shall obtain the Geotechnical Report for the Team Acquired Property and provide the Geotechnical Report to the City no later than _____, 2016.

(e) Survey. The Team shall obtain the Survey of any Team Acquired Property and provide the Survey to the City no later than _____, 2016.

(f) EIS/AUAR. The Team will jointly with the owner of the remaining portion of the Midway Development Site retain the Environmental Consultant to complete the AUAR and, if required, the EIS or EAW on the Midway Development Site as expeditiously as possible (the "Environmental Study"). The City will provide reasonable assistance in expediting such process. The Team (and, if the Team and owner of the remaining portion of the Midway Development Site jointly retain the Environmental Consultant, such owner) will be responsible for the cost of the AUAR, the EIS or EAW. The Team will use reasonable efforts to implement the requirements or recommendations of the Environmental Study applicable to the design and construction of the Stadium so that there is not a delay in the Construction Start Date; provided that the Team shall not be responsible for any environmental remediation that is the responsibility of the City pursuant to the Environmental Project Management Agreement.

(g) Contract Compliance.

(i) In the construction of the Stadium, the Team shall require that the General

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Contractor comply with the Business Utilization Goals set forth in Exhibit G and provide status and progress reports to the City as requested.

(ii) In the construction of the City Funded Public Infrastructure and the City Site preparation work referred to in clauses (i), (ii), (iii) and (iv) of Section 2.3(a), the Team shall require that the General Contractor comply with Chapter 84 and Chapter 86.06 of the Saint Paul Administrative Code, which include the Business Utilization Goals and Workforce Inclusion Goals set forth in Exhibit G, and provide status and progress reports to the City as requested. The Team shall also require the General Contractor to follow the “best value” procurement approach. The General Contractor and the City shall jointly establish the “best value” process to be utilized for the City Funded Public Infrastructure.

(h) Water. The Team will pay for any water used in the construction of the Stadium not provided through the storm water management system.

(i) Access. Prior to the Construction Start Date, the Team and its representatives shall have access to the Bus Barn Property for the purpose of soil and other tests, planning the design and location of the Stadium and such other pre-construction and site preparation activities as the Team determines will assist in the design and construction of the Project; provided that the Team shall (i) give the City prior written notice of such entry; (ii) only permit access to Team representatives with adequate insurance; and (iii) indemnify, defend and hold harmless the City and the City Indemnified Persons from and against any Damages caused by the Team and its representatives in exercising such access to the Bus Barn Property, but the Team shall not have any responsibility for costs relating to any Regulated Substances identified by the Team or its representatives as a result of such activities on the Bus Barn Property.

(j) Team Project Costs. The Team will pay for all design and construction costs of the Stadium and any Stadium construction overrun costs. The Team commits to pay and incur at least One Hundred Twenty Million Dollars (\$120,000,000) for the Team Project Costs.

(k) Displays and Projection Tower. Subject to complying with City ordinances, the Team may, at its expense, design, construct and install video displays and a light projection tower on the Plaza, Promenade and Stadium Site Green Spaces.

(l) Upgrades. The Team will pay the cost of any upgrades above standard grade for the Stadium Site Green Spaces, the Plaza Area, the Promenade and the Stadium Parking Areas on the Stadium Site and Stadium Site Infrastructure that the Team includes in the design and construction of those improvements.

(m) Sewer and Water Connection Charges. The Team will pay for connecting the sewer and water utilities to the Stadium. The City shall seek and provide the Team with all available Sewer Access Charge (“SAC”) credits, including the SAC Credits as defined in and made available to the City under the Net Ground Lease.

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Section 2.3 City Responsibilities.

(a) Site Preparation. The City will deliver, or commit the costs associated with delivery of, the Bus Barn Property to the Team in a development/shovel ready state suitable for the site preparation and construction of the Project by the Team, which means:

(i) The removal of the existing asphalt, building, fences and debris from the Bus Barn Property;

(ii) The relocation of the rights of way for the utility services (water, sewer, electric and other public utilities present) to the nearest appropriate connection point or points to the Stadium Footprint;

(iii) Burying the overhead power lines, and relocating the transformers on the power poles;

(iv) The curbing and curb cuts as contemplated in the approved site plan;

(v) Subject to the provisions of the Net Ground Lease providing the Team the right to request removal upon sixty (60) days' prior notice of the two (2) Clear Channel billboards from the Bus Barn Property; and

The City has requested that the General Contractor perform, at the City's expense, the site preparation referred to in clauses (i), (ii), (iii) and (iv) and the cost therefore shall be charged by the General Contractor to the Team and shall be paid as part of the City Public Infrastructure Budget.

(b) Approval of Response Action Plan. The City will develop and obtain the approval, prior to the Construction Start Date, of a Response Action Plan by the appropriate Government Authorities.

(c) Access to Bus Barn Property. Prior to the delivery of the Bus Barn Property to the Team, the City shall afford the Team and its representatives shall have access to the Bus Barn Property for the purposes set forth in and subject to the provisions of Section 2.2(i) above.

(d) Geotechnical Report. The City will provide the Team with the Geotechnical Report of the Bus Barn Property, as provided by the Metropolitan Council, no later than _____, 2016.

(e) Survey. The City will provide the Team the survey of the Bus Barn Property, as provided by the Metropolitan Council, no later than _____, 2016.

(f) Transportation and Parking Study. The City will provide the Team the Transportation and Parking Study no later than _____, 2016. The City will consider and implement the reasonable recommendations of the Transportation and Parking Study. The City will, in collaboration with the Team, identify adequate parking for the Team's use of the Stadium and those attending events in the Stadium.

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(g) Environmental Study. The City will consider and implement the reasonable recommendations of the Environmental Study to the extent they pertain to the Stadium Site outside of the Stadium.

(h) City Public Infrastructure Budget. The City has prepared and approved the City Public Infrastructure Budget for the costs for the City to perform its obligations under this Agreement, a copy of which is attached hereto as Exhibit H. The City Public Infrastructure Budget will not include internal staff or other costs incurred by the City that are directly related to the administration of the City Public Infrastructure Budget; provided, however, that the City Public Infrastructure Budget will include Project-related costs, such as City permits and inspections, as set forth in the final approved City Public Infrastructure Budget. Pursuant to the City Public Infrastructure Budget, the City shall be responsible for and pay the cost of construction, at standard grade, subject to the aggregate amount of the City Public Infrastructure Budget, for:

(i) The design (in collaboration with the Team) and construction of the Plaza Area, the Promenade, Stadium Parking Areas and the Stadium Site Infrastructure within the Stadium Site;

(ii) The construction of the Stadium Site Green Spaces;

(iii) Grading, blacktopping, striping and curbing of any parking areas within the Stadium Site.

(iv) The design and construction of the water utilities for the Stadium Site Infrastructure, including domestic water service and sanitary sewer service to the Stadium, provided that the Team will pay for connecting the sewer and water utilities to the Project;

(v) The design and construction of the storm sewer connection point or points;

(vi) The design and construction of the storm water management system for the Stadium Site (and, if the City elects, such system may be integrated with the storm water management system for the entire Midway Development Site), including storm water retention, storm water cisterns(s), filtration and water quality system, as determined by the storm water plan developed for the Stadium and the Stadium Site which may, as determined by the City, also include the entire Midway Development Site; provided that the City shall use commercially reasonable efforts to obtain grants, loans or other sources of funding for the upgrade of the storm water system so that the storm water can be recycled and used for irrigation of the Stadium Site Green Spaces, the Plaza, the Promenade, the playing field in the Stadium and other wash-down systems within the Stadium and the Stadium Site, and provided further that the cost of such upgrades to the extent other funding is not available will be paid by the Team subject to agreement on the cost of such upgrades; and

(vii) The design/engineering, team assembly and construction administration for the City's responsibilities under clauses (iv) – (vi) in this paragraph (h).

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(i) Team Undertaking of Design, Construction and Work; Draw Requests. Pursuant to Section 2.2, the City has requested, and the Team has agreed to take on the responsibility for, the work, design and the construction referred to in Sections 2.3(a) and (h) above using funds in the City Public Infrastructure Budget. The City and the Team have collaborated on the City Public Infrastructure Budget and based on current information believe that the City Public Infrastructure Budget is sufficient to pay for the Stadium Site Infrastructure. In consideration of the Team agreeing to take on the responsibility for the work, design and construction referred to in Sections 2.3(a) and (h) above and the Team's agreement to pay the cost thereof in excess of the City Public Infrastructure Budget, and subject to the City's approval rights of material changes, where a change is deemed material if it increases any City cost by the greater of \$50,000 or more than 15% of the relevant line item in the City Public Infrastructure Budget, or increases the City Public Infrastructure Budget in total after any applicable contingency has been applied, the Team may reallocate amounts within the line items of City Public Infrastructure Budget to pay for the hard costs and soft costs related to such work, design and construction. The City and the Team will determine a process for the submission of draw requests against the City Public Infrastructure Budget, which process may include the designation of a title company for the performance of specific duties. The Team, or the General Contractor, may submit draw requests for the performance of City Funded Public Infrastructure.

(j) District Storm Water System. The City agrees to work with RK Midway and the Team to plan a district storm water system for the larger entire Midway Development Site; provided, however, district system feasibility evaluation will be discontinued if necessary information is lacking when Stadium Site subdivision approval is sought, at which time a standard approach will be implemented.

Section 2.4 Design Phase.

(a) Architectural Agreement. The Team will enter into the Architectural Agreement with the Architect pursuant to which the Architect prepared the Project Concept Design attached hereto as Exhibit C. The City shall receive a copy of the Architectural Agreement when executed, and shall have the right to approve or disapprove any material change, modification or amendment to the Architectural Agreement. The Team shall submit to the City Representative for approval all changes, modifications or amendments to the Architectural Agreement that the Team believes are material. The Team may not implement any such material change, modification or amendment without providing such change to the City Representative for approval. Unless comments are received within five (5) Business Days after receipt of each submission, the Team may assume that the City has no comments to the material change, modification or amendment and it is deemed to be approved.

(b) Design Process. The Team will cause the Architect to prepare Design Documents for the Project. The City Representative may attend all design meetings. The City acknowledges receipt of the Project Concept Design and shall have the right to approve or disapprove the Design Documents that materially change, modify or amend the Project Concept Design. The Team shall submit to the City Representative for approval all changes, modifications or amendments to the Design Documents that the Team believes are such material changes, modifications or amendments; provided that a change is deemed material if it increases any City cost by the greater of \$50,000 or more than 15% of the relevant line item in the City

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Public Infrastructure Budget, or increases the City Public Infrastructure Budget in total after any applicable contingency has been applied. The Team may not implement any such material change, modification or amendment without providing such change to the City Representative for approval which approval shall not be unreasonably withheld, conditioned or delayed. Unless comments are received within five (5) business days after receipt of each submission, the Team may assume that the City has no comments to the material change, modification or amendment and it is deemed to be approved. The Team will provide the City Representative such information and documents available to the Team or the Architect during the design process as the City may reasonably request.

(c) Metropolitan Council Approvals. The Team shall comply with the provisions of the Net Ground Lease with respect to design review requirements for Transit Goals, as defined in the Net Ground Lease.

Section 2.5 Construction Phase.

(a) Construction Contract. The Team will enter into the Construction Contract with the General Contractor pursuant to which the General Contractor will construct the Project and shall include the provisions set forth in the immediately following paragraph. The City, shall receive a copy of the Construction Contract when executed, and shall have the right to approve or disapprove any material change, modification or amendment to the Construction Contract. The Team shall submit to the City Representative for approval all changes to the Construction Contract that the Team believes are such material changes, modifications or amendments; provided that a change is deemed material if it increases any City cost by the greater of \$50,000 or more than 15% of the relevant line item in the City Public Infrastructure Budget, or increases the City Public Infrastructure Budget in total, after any applicable contingency has been applied. The Team may not implement any such material change, modification or amendment to the Construction Contract without providing such change, modification or amendment to the City Representative for approval. Unless comments are received within five (5) Business Days after receipt of such submission, the Team may assume that the City has no comments to the material change, modification or amendment and it is deemed to be approved.

(b) The Construction Contract shall include provisions requiring the General Contractor to:

(i) Maintain insurance acceptable to the Team and the City, including commercial general liability with the City and Team named as additional insureds, and errors and omissions insurance where applicable;

(ii) Comply with all Legal Requirements, including in the delivery of services and contracting;

(iii) Discharge any lien filed by it or its respective subcontractors or consultants for labor performed or materials or services furnished in connection with the construction of the Project, subject to the requisite payments due the General Contractor having been paid by the Team or by the City, as the case may be;

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(iv) Comply with the prevailing wage law under Minnesota Statutes Sections 177.41 to 177.43;

(v) Maintain complete and accurate books and records, consistent with industry standards, regarding the design and construction of the Project, including, records relating to the Contract Documents, shop drawings, change orders, as built drawings, permits, insurance policies, bills, vouchers, receipts and lien waivers;

(vi) Develop and implement a plan to mitigate the impact of construction on the surrounding neighborhoods;

(vii) Develop and implement a plan for construction staging and storage;

(viii) Supervise and coordinate the construction of the Project so that the Project is constructed, equipped, furnished and substantially completed in a good and workmanlike manner in accordance with the Contract Documents, lien free, and in accordance with all Legal Requirements;

(ix) Provide for delivery to the City of any notice of default by the General Contractor to the Team in the event the Team is in default of any of its obligations under the Construction Contract within five (5) Business Days of such notice of default; and

(x) Develop a transportation management plan for the construction period, including traffic control, truck routing and street closures for any required City approval.

In addition, if required by the General Contractor from the Team, the Construction Contract will include provision for a payment and performance bond, and, if there is no payment and performance bond, the City will be entitled to review (but not copy) any materials the General Contractor received from the Team or others on its behalf in making its determination not to require such a bond.

(c) Team Oversight of General Contractor. The Team shall be solely responsible for oversight of the General Contractor during the construction phase of the Project. The Team will provide the City Representative such access, information and documents available to the Team or the General Contractor during the construction phase of the Project as the City may reasonably request. The City Representative may attend construction meetings.

(d) Change Orders. Any Change Order shall be subject to approval by the Team. A material Change Order shall be subject to approval by the City. The Team shall submit to the City Representative for approval all Change Orders that the Team believes are material. The Team may not implement any such material Change Order without providing such Change Order to the City Representative for approval. Unless comments are received within five (5) Business Days after receipt of each submission, the Team may assume that the City has no comments to the material Change Order and it is deemed to be approved.

(e) Punchlist and Warranty Work. The Team shall supervise punchlist and warranty work after the Completion Date.

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(f) No Liens. The Team will keep the Stadium and Stadium Site free from, and shall indemnify, defend and hold harmless the City with respect to all liens filed in connection with work performed or materials provided to the Project by the General Contractor and any other contractors, subcontractors or suppliers of the Team. If any such lien is filed, the Team shall, within five (5) Business Days of receiving notice of such filing, notify the City in writing of the filing of such lien (including a copy thereof), and shall, within thirty (30) days after notice of such filing, either satisfy such lien or post a bond with the City in an amount equal to 150% of the amount of such lien or a larger amount if requested by any court or otherwise provide the City with adequate assurance acceptable to the City of the payments of any amounts determined to be due.

Section 2.6 Permits, Zoning Changes and Easements.

Except to the extent that the City is unable to do so due to the Team's failure to perform its obligations under this Agreement, the City will facilitate such assistance as may be necessary for the Team and the General Contractor to obtain, pay for and maintain in effect all Permits and other approvals obtained from any Governmental Authorities, regardless of the procurer of such Permits, that relate to the construction of the Project. In addition, the City will facilitate any necessary zoning changes and/or relocation of easements as may be reasonably necessary for the construction of the Project and the operation of the Stadium by the Team pursuant to the Use Agreement, subject to the City's regulatory authority.

Section 2.7 Insurance.

(a) Property Insurance During Construction. The Team or the General Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in Minnesota, Builders Risk, property insurance in the form normally customary and for the full value of the Project. The form, type and amount of the insurance shall be subject to the reasonable approval of the City. A reasonable deductible may be applicable. The Team is responsible for the deductible. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons or entities who are beneficiaries of such insurance, until the Commencement Date under and as defined in the Use Agreement. This insurance shall include interests of the Team, the City, the General Contractor, subcontractors and sub-subcontractors in the Project. The Team shall cause the City and the Metropolitan Council to be named as additional insureds, and Loss Payees under this policy.

(b) General Contractor's Insurance. The City and Metropolitan Council shall be added as additional insureds on any contractors general liability insurance maintained by the General Contractor responsible for constructing the Stadium.

(c) Errors and Omissions Coverage. The Architect and the General Contractor shall maintain errors and omissions coverage in the minimum amounts of \$5,000,000 per claim with \$5,000,000 aggregate.

(d) Insurance Required by Building Permits. During construction of the Stadium, the Team shall purchase or cause the General Contractor to purchase and maintain the General

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Liability Insurance in the amounts of \$2,000,000 per occurrence and \$5,000,000 in aggregate, Workers Compensation coverage with statutory limits that meet all requirements that are in place for the City's Department of Safety and Inspections of the City of Saint Paul for all Permits to be issued for the construction of the Stadium.

(e) Termination. When the insurance requirements under the Use Agreement are applicable, the insurance requirements of this Section 2.7 shall terminate and no longer shall they be applicable.

Section 2.8 Project Labor Agreement.

The Team shall cause the Contractor to negotiate and enter into a project labor agreement ("PLA").

ARTICLE 3 SITE ACQUISITION

Section 3.1 Acquisition of Site.

(a) Acquisition. The City has entered into the Net Ground Lease to make the Bus Barn Property available for inclusion as part of the Stadium Site. The Team is responsible for the acquisition of the remainder of the Stadium Site. The Parties agree that the Stadium Site will be determined following execution of this Agreement as follows:

(i) At the request of the Team, the City will sublease such portion of the Bus Barn Property to RK Midway on a pass-through sublease of its rights and obligations under the Net Ground Lease with respect to the Sublease Property (or the Metropolitan Council will lease the Sublease Property directly to RK Midway and the Sublease Property will be released from the Net Ground Lease), release the portion of the Bus Barn Property constituting the Sublease Property from the Net Ground Lease so that the RK Midway can lease the Sublease Property from the Metropolitan Council, or the City will consent to the grant of use of the Sublease Property by the Club to RK Midway;

(ii) The Team will acquire the Team Acquired Property from RK Midway through a purchase or lease (having the same term as the Net Ground Lease) or through a combination of such lease and purchase as determined by the Team that the Team desires to include as part of the Stadium Site, and

(iii) The Team will assign the lease referred to in clause (ii) or transfer title to the City for such portion of the Team Acquired Property acquired by the Team, all on terms reasonably satisfactory to the Parties and subject to complying with any applicable provisions in the Net Ground Lease and the Team paying any costs or expenses incurred in connection with the transfer of any real property to the City.

(b) Development of Sublease Property. It is anticipated that the Sublease Property will be developed by RK Midway subject to:

(i) The Net Ground Lease;

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- (ii) The existing zoning for the parcel subject to any variances or rezoning that the City may grant in its sole discretion upon the request of RK Midway;
- (iii) The same requirements of any other development in the City, including approval by the Mayor and City Council of any proposed developments; and
- (iv) Real estate taxes and assessments.

Section 3.2 Environmental Matters.

(a) Environmental Project Management Agreement. The City, the Port Authority of the City of Saint Paul, Team and Club have entered into the Environmental Project Management Agreement with the Metropolitan Council relating to environmental matters and allocation of costs between and among the parties.

(b) Historical Reports. The City has delivered to the Team all historical environmental reports, geotechnical studies and surveys available to the City or the Metropolitan Council relating to the Bus Barn Property as set forth in Exhibit F attached hereto.

(c) Team Acquired Property. Without waiving any rights that the Team may have against any Person, the Team is responsible for any Regulated Substances on the Team Acquired Property to the extent that such Regulated Substances did not migrate from the Bus Barn Property.

Section 3.3 Ownership of Project.

The Team acknowledges and agrees that the Stadium Site, together with all real property improvements constructed, installed, and placed on the Stadium Site, including the Stadium, and all right, title, and interest thereto and therein, shall be the property of and owned by the City, subject, however, to the Net Ground Lease and to such use rights as are conferred on the Team pursuant to the Use Agreement and the rights of the Team to its personal property, including fixtures, furniture and equipment. In furtherance thereof, the Team, at the request of the City, will execute and deliver a confirmatory quit claim deed or quit claim bill of sale in form and substance reasonably acceptable to the City, (subject, however, to the rights of the Club under the Use Agreement). On or before the issuance of a Certificate of Occupancy for the Stadium, the Team will provide as built drawings for the Stadium to the City and transfer to the City all warranties, etc. related to Stadium as may be reasonably requested by City; provided that the Team or the Club shall have the sole right to enforce such warranties so long as the Team is not in default under this Agreement and the Club is not in default under the Use Agreement. The Team shall not be obligated to the City for the warranties of third parties.

Section 3.4 Indemnification by City.

(a) The City shall indemnify, defend, and hold harmless the Team Indemnified Persons for, and shall pay to the Team Indemnified Persons, the amount of any Damages, whether or not involving a third-party claim arising, directly or indirectly, from or in connection with any Regulated Substances with respect to the Bus Barn Property existing as of the date the Bus Barn Property is made available to the Team pursuant to this Agreement.

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(b) If the City fails to make any payment of any sums payable by the City to the Team Indemnified Parties on the date due, which failure shall continue for thirty (30) days after written notice from the Team, then such payment shall bear interest at a rate of interest equal to the lesser of four percent (4%) above the Prime Rate or the highest rate permitted by Law, payable from the date such payment was due to the date of payment thereof.

ARTICLE 4 MASTER DEVELOPMENT PLAN

Section 4.1 Intent of Master Development Plan.

The Master Development Plan is intended to be the result of an inclusive planning process among and between the City, the community, the surrounding land owners and the Team. The City will lead the planning process and will invite the participation of the community, surrounding owners and the Team in the deliberations. The Master Development Plan is subject to the approval of the City Council and the Mayor. The proposed projects and improvements contained in the Master Development Plan, the amount of funding committed to each project or improvement and site plan approval are subject to the approval of the City Council and Mayor.

The City will participate in financing the Midway Infrastructure for the Midway Development Site outside of the Stadium Site, subject to the Master Development Plan, and subject to specific improvement project approval by the City Council and Mayor, except that the City shall not be responsible for providing the Team Project Costs of the Project which are exclusively the responsibility of the Team. The City agrees that the elements of the Master Development Plan will include:

(a) Invitation to the community, Team, and land owners within the Midway Development Site to become involved in developing the Master Development Plan;

(b) A proposal for the provision of public parking to provide sufficient parking for the patrons of the Midway Development Site;

(c) Collaboration with the Team on the design of public plazas and green spaces contiguous to the Stadium;

(d) Identification of any necessary zoning changes and/or relocation of easements necessary to implement the Master Development Plan; and

(e) A multi-model traffic management planning process with public and private partners to encourage bike and transit use, maximize transportation and parking options and ease congestion.

Section 4.2 Parking and Access/Egress.

(a) The City agrees to include as part of the Master Development Plan convenient access for ingress, egress and parking and adjacent freeway connection for ingress and egress, roads and streets and other improvements adequate and necessary for convenient vehicular,

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pedestrian and bicycle access to the Stadium. The Team acknowledges that access to Snelling Avenue and St. Anthony Avenue is subject to approval by the Minnesota Department of Transportation, and that access to University Avenue is subject to approval by Ramsey County. The City will use its reasonable efforts to obtain the approval of the Minnesota Department of Transportation or Ramsey County, respectively, for such access as contemplated by the Master Development Plan.

(b) Parking facilities may include both ramp and surface lots adjacent to the Stadium which may be funded by the City as a part of the Master Development Plan. Prior to completion of the Stadium, for game day and other events at the Stadium, the Parties shall develop a plan for use of surface parking and ramps to identify adequate convenient parking for those attending and discounted rates at City or Saint Paul Housing and Redevelopment Authority (“HRA”) owned parking facilities shall be negotiated. Subject to agreement among the landowner, the City and the Team, it is the present intention to enter into a parking agreement that will include, but not be limited to the following:

- (i) Provision of parking spaces adjacent to or in close proximity to the Stadium as set forth in Exhibit D;
- (ii) Club will have exclusive use of these parking spaces for Club events at a negotiated discount;
- (iii) The City will improve the land to the extent necessary to construct the parking areas; and
- (iv) Other terms and conditions as may be agreed by the Parties.

By mutual agreement, the Parties may adjust these parking requirements based on the Transportation and Parking Study.

Section 4.3 Plazas and Green Spaces.

(a) The City will collaborate with the Team on the design of and will include in the Master Development Plan public plazas contiguous to the Stadium Site and Midway Green Spaces within the Midway Development Area.

(b) Subject to agreement with RK Midway on the transfer to the City of the Midway Green Spaces, it is the present intention of the City and Team to enter into the Midway Green Spaces Agreement, relating to the construction, operations and maintenance of the Midway Green Spaces. The Midway Green Spaces Agreement shall be negotiated between the Parties and it is contemplated that the Midway Green Spaces Agreement will include, but not be limited to the following terms and conditions:

- (i) The Team, in collaboration with the City, shall design and construct the Midway Green Spaces;
- (ii) The City shall pay for the following at standard grade: sidewalks, bikeways, landscaping, lighting;

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(iii) The Team shall pay the costs of any desired upgrades to the Midway Green Spaces;

(iv) The Team shall operate and maintain the Midway Green Spaces;

(v) The Team shall have the exclusive right to use the Midway Green Spaces in connection with League Events, Home Games, Club Events, tryouts and practices, naming rights and exclusive right to determine any programming, provided that the City's ordinances and regulations with respect to permitting and fees shall apply; and

(vi) Other terms and conditions as may be agreed to by the Parties.

(c) If the Midway Green Spaces are transferred to the City, the Midway Green Spaces will count toward the satisfaction of the park dedication fees or requirements of the City.

Section 4.4 Participation of Team in Planning and Implementation of the Master Development Plan.

The Team shall have the right to participate in the City's planning process with respect to the Master Development Plan, and the City will provide reasonable notice to the Team of any public meetings involving the Master Development Plan. The City agrees to reasonably consider the requests, recommendations, comments and proposals by the Team relating to the Master Development Plan.

Section 4.5 Tentative Time Table.

Exhibit E attached hereto sets forth the tentative timetable for developing and implementing the Master Development Plan, including major milestones and the dates by which the Parties will use their best efforts to achieve the milestones. The Parties acknowledge that the timetable depends, in part, on actions or activities from third parties who are not parties to this Agreement.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE CITY

The City hereby represents and warrants to the Team that, as of the date of execution of this Agreement:

Section 5.1 Organization.

The City is a municipal corporation, duly organized, validly existing, and in good standing under the Laws of the State of Minnesota.

Section 5.2 Authorization, Validity, and Enforceability.

The City has all requisite power and authority to enter into this Agreement and to carry out the actions contemplated hereby. The execution, delivery, and performance by the City of this Agreement have been duly authorized and approved by all necessary City action. This

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Agreement, when executed, shall constitute the valid and legally binding obligations of the City, enforceable against it in accordance with its terms.

Section 5.3 No Conflicts.

The execution, delivery, and performance of this Agreement shall not result in a violation of, in any material respect, any provision of any other agreements, charters, instruments, contracts, judgments, or decrees to which the City is a party or by which the City or its assets may be bound or affected.

Section 5.4 No Violation of Laws.

The City has complied in all material respects with all Legal Requirements and is not in default with respect to any judgment, order, injunction, or decree of any court, administrative agency, or other Governmental Authority that is in any respect material to the transactions contemplated in and by this Agreement.

Section 5.5 Litigation.

To the actual knowledge of the City, there is no action, suit, proceeding, or investigation at law or in equity or by or before any Governmental Authority now pending or threatened against the City seeking to restrain or prohibit, or seeking Damages or other relief in connection with, the execution of this Agreement and the performance of the transactions contemplated herein or the performance of the City hereunder.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES OF TEAM

The Team hereby represents and warrants to the City that, as of the date of execution of this Agreement:

Section 6.1 Organization.

The Team is a limited liability company duly organized, validly existing, and in good standing under the Laws of the State of Minnesota.

Section 6.2 Authorization, Validity and Enforceability.

The Team has all requisite power and authority to enter into this Agreement and to carry out the actions contemplated hereby. The execution, delivery, and performance of all obligations of the Team under this Agreement have been duly authorized and approved by all necessary Team action. All corporate action necessary for the authorization, execution, delivery, and performance of all obligations of the Team under this Agreement has been taken. All consents and approvals of any Person required in connection with the execution of this Agreement have been obtained. This Agreement, when executed, shall constitute the valid and legally binding obligations of the Team, enforceable against it in accordance with its terms.

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Section 6.3 Financial Position.

The Team is able to pay its debts as they mature and possesses sufficient working capital and access to capital to meet its financial obligations, as they become due, under this Agreement, including payment of the Team Project Costs payable by the Team.

Section 6.4 No Conflicts.

The execution, delivery, and performance of this Agreement shall not result in a violation of, in any material respect, any provision of any other agreements, charters, instruments, contracts, judgments, or decrees to which the Team is a party or by which the Team or its assets may be bound or affected, including any by-laws, rules, regulations or other agreements of the MLS, nor shall the execution, delivery, and performance of this Agreement result in the breach of or constitute a default under any loan or credit agreement, or other agreement or instrument to which the Team is a party or by which the Team or its assets may be bound or affected.

Section 6.5 No Violations of Laws.

The Team has complied in all material respects with all Legal Requirements and is not in default with respect to any judgment, order, injunction, or decree of any court, administrative agency, or other Governmental Authority that is in any respect material to the transactions contemplated in and by this Agreement.

Section 6.6 Litigation.

To the actual knowledge of the Team, there is no action, suit, proceeding, or investigation at law or in equity or by or before any Governmental Authority now pending or threatened against the Team seeking to restrain or prohibit, or seeking Damages or other relief in connection with, the execution of this Agreement and the performance of the transactions contemplated herein or the performance of the Team hereunder.

ARTICLE 7 ADDITIONAL COVENANTS AND CONDITIONS

Section 7.1 Additional Covenants and Agreements of the Parties.

(a) Liquor Licenses. The Team shall obtain all intoxicating liquor licenses that are reasonably required for the Stadium. The City will assist and cooperate with the Team in connection with such licensing requirements and will use best efforts to cause legislation to be enacted prior to the Construction Start Date that may be required to permit the Team to obtain such licenses.

(b) Operation and Management of Stadium. The City and the Club will enter into a Use Agreement for use, operation, and maintenance of the Stadium. The Club will operate and manage the Stadium on behalf of the City and will be responsible for performing and paying for all operations, maintenance, and capital improvements for the Stadium and Appurtenant Areas, including the sidewalks, adjacent areas, and any other areas as defined and determined by the City and the Club under the Use Agreement. The Club will pay all costs and expenses related to

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the Stadium, including costs of utilities, water (not provided by the storm water management system), insurance, legal defense, and for security within and around the Stadium in an area as agreed to by the Parties.

(c) Sales Tax and Real Property Tax Exemptions. Pursuant to Section 7.4(e), it is a condition to the obligation of the Team to construct the Stadium on the Stadium Site that there be enacted legislation providing for an exemption from sales tax for all construction materials and equipment for constructing and equipping of the Project and an exemption of the Stadium Site and the improvements thereon, including the Project but excluding the Sublease Property, from real property taxes. The City agrees to support adoption of legislation for such sales tax exemption and real property tax exemption, and the City will use its best efforts to cause such legislation to be enacted prior to the Construction Start Date.

(d) No New Local Taxes. The City agrees that it will not create a new tax specific to the Stadium or the operations of the Team or the Club in the Stadium for new municipal revenue.

(e) Snelling Avenue Green Line Light Rail Stop. The City will cooperate with the Club's negotiation of an operations and maintenance agreement with the Metropolitan Council to (i) upgrade the Green Line transit stop at Snelling Avenue to address the additional and peak traffic expected for events in the Stadium, and (ii) identify the transit stop with the Club's name similar to transit stops near other sports facilities in the metropolitan area.

Section 7.2 Execution of Documents.

(a) Prior to the date hereof or contemporaneous with the execution of this Agreement:

(i) The City and the Metropolitan Council shall have executed the Net Ground Lease;

(ii) The Club and the City shall have executed the Use Agreement;

(iii) The Metropolitan Council, the City, the Port Authority for the City, the Team, the Club and RK Midway shall have entered into the Environmental Project Management Agreement; and

(iv) The Metropolitan Council, the City, the Team and the Club shall have entered into a subordination, non-disturbance and attornment agreement.

(b) If any of the documents listed in Section 7.2(a) have not been executed and delivered on or before the date this Agreement is executed, then either Party may terminate this Agreement and the Use Agreement by written notice to the other Party, unless the Parties have agreed, in their respective sole discretion, to extend the date by which any of the agreements in Section 7.2(a) need to be executed. A notice to terminate is not subject to the cure periods set forth in Section 8.1 hereof. A notice to terminate or notice providing an extension of the termination date must be given on or before fifteen (15) days after the applicable date set forth above (as such date may be extended by agreement of the Parties) or the termination right granted under this Section 7.2 relating to the particular event shall expire.

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(c) In the event this Agreement is terminated by a Party pursuant to Section 7.2(b), no Party shall be entitled to reimbursement of expended funds or to Damages of any sort.

Section 7.3 City's Conditions.

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

(a) Accuracy of Representations. All of the Team's representations and warranties in this Agreement must have been accurate in all material respects as of the date hereof.

(b) Performance. All of the covenants and obligations that the Team are required to perform or to comply with pursuant to this Agreement or pursuant to Law prior to the date of the City's performance, as applicable, including the delivery of all documents and notices provided for herein, must have been performed and complied with in all material respects.

(c) No Injunction. There shall not be in effect any Legal Requirements or any injunction or other order that prohibits the consummation of this Agreement.

(d) Delivery of Other Documents. The Team shall have delivered all documents and notices required by this Agreement.

(e) Team Acquired Property. The Team shall have acquired the Team Acquired Property and delivered the Team Acquired Property as contemplated by Section 3.1.

(f) MLS Expansion Agreement. The Club shall have entered into an Expansion Agreement with MLS as of May 31, 2016.

In the event that the foregoing conditions are not satisfied or met by the Construction Start Date or such earlier date as specified herein, the City may, upon written notice to the Team, terminate this Agreement and the Use Agreement. In the event of termination of this Agreement and the Use Agreement by the City, the Team shall bear no liability for any costs, claims, expenses, or Damages of any kind incurred by the City.

Section 7.4 Team's Conditions.

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

(a) Accuracy of Representations. All of the City's representations and warranties in this Agreement must have been accurate in all material respects as of the date hereof.

(b) Performance. All of the covenants and obligations that the City is required to perform or to comply with pursuant to this Agreement or pursuant to law prior to the date of the Team's performance, as applicable, including the delivery of all documents and notices provided for herein, must have been performed and complied with in all material respects.

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(c) No Injunction. There shall not be in effect any Legal Requirements or any injunction or other order that prohibits the consummation of this Agreement.

(d) Delivery of Other Documents. The City shall have delivered all documents and notices required by this Agreement.

(e) Sales and Property Tax Exemptions and Liquor Licenses Legislation. The Minnesota State Legislature shall have approved and there shall have been enacted into law a sales tax exemption on construction materials and equipment for the Project, a real property tax exemption for the Stadium Site and the Project, and such other amendments as may be necessary to permit the Team or the Club to have liquor licenses for facilities in the Stadium as contemplated by Section 7.1(a) no later than June 1, 2016.

(f) FTA Approval of Net Ground Lease. The Federal Transportation Administration shall have approved, to the extent such approval is required, the Net Ground Lease no later than April 1, 2016.

(g) Delivery of the Bus Barn Property. Pursuant to the right of entry agreement contemplated in Section 2.2(i), The City shall have delivered the Bus Barn Property to the Team to begin site preparation work so as not to delay the Construction Start Date, except that remediation of Regulated Substances pursuant to the Environmental Project Management Agreement shall not be required to be completed prior to the delivery of the Bus Barn Property to the Team and may proceed in accordance with Section 3.2 after construction of the Stadium has commenced if a Response Action Plan is in place and approved by the Minnesota Pollution Control Agency. The City and the Team will coordinate any such activities during the construction of the Stadium.

(h) Critical Elements in Master Development Plan. By the Construction Start Date, the Master Development Plan shall include definite elements that are acceptable to the Team for ingress, egress, freeway connection, lighting, parking, plazas, green spaces and roads, streets and other improvements adequate and necessary for convenient vehicular, pedestrian and bicycle access to the Stadium, including a timetable for completion of such elements.

(i) Team Acquired Property. The Team shall have acquired the Team Acquired Property as contemplated by Section 3.1.

(j) Response Action Plan. The Response Action Plan shall have been approved by the Minnesota Pollution Control Agency by the Construction Start Date.

(k) MLS Expansion Agreement. The Club shall have entered into an Expansion Agreement with MLS as of May 31, 2016.

In the event that the foregoing conditions are not satisfied or met by the Construction Start Date or such earlier date as specified herein, the Team may, upon written notice to the City, terminate this Agreement and the Use Agreement. In the event of termination of this Agreement and the Use Agreement by the Team, the City shall bear no liability for any costs, claims, expenses, or Damages of any kind incurred by the Team. In the event that the City does not meet a deadline or satisfy a condition under this Agreement, and the Team elects to proceed and

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not to terminate this Agreement, the City shall bear no liability for any costs, claims, expenses or damages of any kind incurred by the Team.

Section 7.5 Net Ground Lease and Non-Disturbance Agreement. [SUBJECT TO FURTHER NEGOTIATION]

The City and the Team hereby acknowledge the terms and conditions of the Net Ground Lease.

(a) During the Term of this Agreement, the City agrees to keep the Net Ground Lease in full force and effect and not to amend, modify or waive any provision of the Net Ground Lease without prior consent of the Team and no such amendment, modification or waiver shall adversely affect the rights of the Team under this Agreement. The Team shall not cause the City to be in violation of the Net Ground Lease.

(b) All terms, covenants and provisions of this Agreement and all rights, remedies and options under this Agreement are and shall at all times remain fully subject and subordinate in all respects to the Net Ground Lease, and in the event of any conflict between the terms of this Agreement and the Net Ground Lease, the terms of the Net Ground Lease shall prevail.

(c) If the Net Ground Lease and the City's leasehold estate terminates, then this Agreement shall terminate; provided that, in that event, only at the option and written request of the Metropolitan Council, this Agreement shall attach to the Metropolitan Council and the Team shall recognize the Metropolitan Council as the Team's direct landlord under this Agreement.

(d) The City shall procure for the benefit of the Team a non-disturbance agreement in the form attached hereto as Exhibit K (the "Non-Disturbance Agreement") which shall be executed contemporaneous with the execution of this Agreement by the City and the Metropolitan Council, pursuant to which the Metropolitan Council as the lessor under the Net Ground Lease agrees not to disturb the rights of the Team under this Agreement so long as no Event of Default by Team has occurred and is continuing.

Section 7.6 O&M Agreement.

The City, Team and Club shall enter into an operations and maintenance agreement, which agreement will be comparable to the Minnesota Twins operations and maintenance agreement as applicable to the Stadium and Stadium Site, with the Metropolitan Council in accordance with the Net Ground Lease.

ARTICLE 8 DEFAULT AND REMEDIES

Section 8.1 Events of Default.

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

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(a) Team's Events of Default.

(i) The Team's failure to make any payment of any sums payable by the Team, which failure shall continue for thirty (30) days after receipt of written notice to the Team by the City;

(ii) The Team's violation or failure to perform or observe any obligation, covenant or condition of this Agreement, which failure or violation shall continue for thirty (30) days after receipt of written notice to the Team by the City identifying with particularity the failure or violation; provided, however, that so long as such failure or violation is of a non-monetary nature susceptible to cure, but is not reasonably capable of being cured within such thirty (30) day period, there shall exist no Event of Default if the Team promptly advises the City of the Team's intention to duly institute all steps necessary to cure such default and the Team promptly commences cure of such failure or violation within such thirty (30) day period and diligently pursue such cure to completion;

(iii) (A) the Team shall institute voluntary proceedings in bankruptcy, (B) involuntary proceedings in bankruptcy shall be instituted against the Team that are not discharged within ninety (90) days thereafter, (C) any proceedings shall be instituted by or against the Team under any Law relating to insolvency or bankruptcy reorganization, and in the case of an involuntary proceeding, that is not discharged within ninety (90) days after filing, (D) a trustee or receiver shall be appointed for the Team by any court of competent jurisdiction, or (E) the Team shall make a general assignment for the benefit of its creditors;

(iv) Any representation or warranty made by the Team herein shall prove to have been incorrect when made, in any material respect; and

(v) The Team's violation or failure to perform or observe any obligation, covenant or condition of the Construction Contract, which failure or violation shall continue for thirty (30) days after receipt of written notice to the Team by the General Contractor (and the General Contractor shall provide the City with a copy of any such notice) identifying with particularity the failure or violation; provided, however, that so long as such failure or violation is of a non-monetary nature susceptible to cure, but is not reasonably capable of being cured within such thirty (30) day period, there shall exist no Event of Default if the Team promptly advises the General Contractor and the City of the Team's intention to duly institute all steps necessary to cure such default and the Team promptly commences cure of such failure or violation within such thirty (30) day period and diligently pursue such cure to completion or, if such default is of a monetary nature, the Team cures within ten (10) days of receipt of such notice.

(b) City's Events of Default.

(i) The City's failure to make any payment of any sums payable by the City, which failure shall continue for thirty (30) days after receipt of written notice to the City by the Team;

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(ii) The City's violation or failure to perform or observe any obligation, covenant or condition of this Agreement, which failure or violation shall continue for thirty (30) days after receipt of written notice to the City by the Team identifying with particularity the failure or violation; provided, however, that so long as such failure or violation is of a non-monetary nature susceptible to cure, but is not reasonably capable of being cured within such thirty (30) day period, there shall exist no Event of Default if the City promptly advises the Team of the City's intention to duly institute all steps necessary to cure such default and the City promptly commences cure of such failure or violation within such thirty (30) day period and diligently pursues such cure to completion; and

(iii) Any representation or warranty made by the City herein shall prove to have been incorrect when made, in any material respect.

Section 8.2 Remedies Upon Event of Default.

(a) Upon the occurrence of an Event of Default by the Team, the City will have the right to exercise any of the following remedies:

(i) Terminate this Agreement, provided that, if the City intends to terminate this Agreement, the City shall provide the Team an additional thirty (30) days written notice of intent to terminate and the Team shall have the right to cure its Event of Default during such additional thirty (30) day period;

(ii) Seek Damages suffered or incurred by the City as a result of such Event of Default; or

(iii) Seek any other remedy at law or in equity, including specific performance or injunctive relief.

(b) Upon the occurrence of an Event of Default by the City, the Team will have the right to exercise any of the following remedies:

(i) Terminate this Agreement, provided that, if the Team intends to terminate this Agreement, the Team shall provide the City an additional thirty (30) days written notice of intent to terminate and the City shall have the right to cure its Event of Default during such additional thirty (30) day period;

(ii) Seek Damages suffered or incurred by the Team as a result of such Event of Default; or

(iii) Seek any other remedy at law or in equity, including specific performance or injunctive relief.

Section 8.3 Injunctive Relief; Specific Performance.

The Parties acknowledge that the rights conveyed by this Agreement and the covenants of the Parties are of a unique and special nature, and that any violation of this Agreement shall

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result in immediate and irreparable harm to the City or the Team, as the case may be, and that in the event of any actual or threatened breach or violation of any of the provisions of this Agreement, the City or the Team, as the case may be, shall be entitled as a matter of right to an injunction or a decree of specific performance from any equity court of competent jurisdiction. The Team and the City waive the right to assert the defense that such breach or violation can be compensated adequately in damages in an action at law except for Damages.

Section 8.4 Remedies Cumulative; Waiver.

All rights and remedies set forth in this Agreement are cumulative and in addition to the Parties' rights and remedies at law or in equity. A Party's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. A Party's delay or failure to exercise or enforce any rights or remedies shall not constitute a waiver of any such rights, remedies, or obligations. No Party shall be deemed to have waived any default unless such waiver is expressly set forth in an instrument signed by such Party. If a Party waives in writing any default, then such waiver shall not be construed as a waiver of any covenant or condition set forth in this Agreement, except as to the specific circumstances described in such written waiver. Neither payment of a lesser amount than the sum due hereunder nor endorsement or statement on any check or letter accompanying such payment shall be deemed an accord and satisfaction, and the other Party may accept the same without prejudice to the right to recover the balance of such sum or to pursue any other remedy. **IN NO EVENT SHALL THE TEAM BE ENTITLED TO CONSEQUENTIAL OR INCIDENTAL DAMAGES AGAINST THE CITY. IN NO EVENT SHALL THE CITY BE ENTITLED TO CONSEQUENTIAL OR INCIDENTAL DAMAGES AGAINST THE TEAM.**

Section 8.5 Risk of Certain Losses; Force Majeure.

The non-occurrence of any condition under this Agreement shall not give rise to any right otherwise provided in this Agreement when such failure or non-occurrence is due to the occurrence of a Force Majeure condition and without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause, if any, shall be limited to the period of delay due to such cause, which period shall be deemed to commence from the time of the commencement of the cause; provided, however, that if notice by the Party claiming such extension is sent to the other Party more than thirty (30) days after the commencement of the cause, the period shall be deemed to commence thirty (30) days prior to the giving of such notice. Times of performance under this Agreement also may be extended as mutually agreed upon in writing by the City and the Team. However, failure to agree to a proposed extension of time for performance shall not be deemed grounds for delay or failure to timely cure an Event of Default under this Agreement.

Section 8.6 Public Officials, Members, Directors, Officers, Employees and Agents Not Liable.

(a) Notwithstanding and prevailing over any contrary provision or implication of this Agreement other than as provided in the exception at the end of this sentence, there is no recourse against the City for any and all duties, liabilities, performance, and obligations of the City under this Agreement relating to the Project or Master Development Plan, and no duties,

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liabilities, performance, or obligations of the City with respect to this Agreement relating to the Project or Master Development Plan shall be required to be satisfied from any funds, revenues or reserves of the City except:

(i) As provided in the City Public Infrastructure Budget or any additional amounts as may hereafter be approved by the City Council to perform the City's obligations under this Agreement; and

(ii) The rights of the Team to specific performance and injunctive relief under Section 8.3 of this Agreement.

(b) All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the City and not of any member, director, officer, employee, or agent of the City in his or her individual capacity or any other Governmental Authority, and no recourse shall be had for any Claim hereunder against any member, director, officer, employee, or agent of the City or any other Governmental Authority in such capacity.

(c) All covenants, stipulations, promises, agreements, and obligations of the Team contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the Team and not of any member, partner, owner, manager, officer, employee, or agent of the Team in his or her individual capacity, and no recourse shall be had for any Claim hereunder against any member, partner, owner, manager, officer, employee, or agent of the Team in such capacity.

ARTICLE 9 DISPUTE RESOLUTION

With respect to the matters covered by this Agreement, the Parties agree to the following expedited dispute resolution process:

Section 9.1 Application.

This Article 9 shall apply to any dispute or controversy between the Parties that occurs after the execution of this Agreement. In the event that any dispute is of such a nature that the aggrieved Party believes it will suffer immediate irreparable injury unless immediate injunctive relief or specific performance is granted, the aggrieved Party may proceed immediately to seek appropriate judicial resolution of such dispute without first exhausting such Party's remedies under this Article 9. Notwithstanding any such dispute, the construction of the Project shall proceed as expeditiously as possible and such dispute will not be grounds to stop construction.

Section 9.2 Dispute Resolution Process.

Any Party may invoke the provisions of this Section 9.2 by giving notice to the other Parties in accordance with Section 10.5 outlining in reasonable detail the subject and nature of the dispute (the "Dispute Notice"). Within two (2) Business Days after the date of the Dispute Notice, authorized representatives of the Parties shall meet in person and negotiate in good faith to resolve the dispute. If the Parties' authorized representatives are unsuccessful in resolving the

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dispute, then the dispute shall be submitted to non-binding mediation administered in accordance with the American Arbitration Association (AAA). Unless the Parties otherwise agree, within three (3) days after the selection of the mediator, the Parties and the mediator shall participate in a pre-mediation conference to determine the time and place of the mediation and the procedures that will govern the mediation. The cost and expense of the mediator shall be equally shared by the Parties and each such Party shall submit to the mediator any information or position papers that the mediator may request to assist in resolving the dispute.

ARTICLE 10 MISCELLANEOUS

Section 10.1 Survival of Covenants, Agreements, Representations, and Warranties.

No action taken pursuant to or related to this Agreement, including any investigation by or on behalf of a Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, condition, or agreement in this Agreement.

Section 10.2 Additional Documents and Approval.

The Parties, whenever and as often as each shall be reasonably requested to do so, shall execute or cause to be executed any further documents and take any further actions as may be reasonably necessary or expedient and within their lawful obligation in order to consummate the transactions provided for in, and to carry out the purpose and intent of, this Agreement. Furthermore, the City shall take all ministerial actions and proceedings reasonably necessary or appropriate to remedy any apparent invalidity, lack, or defect in authorization, or illegality, or to cure any other defect that has been asserted or threatened.

Section 10.3 Good Faith; Approvals or Consents; Regulatory Authority.

(a) In exercising its rights and fulfilling its obligations under this Agreement, each of the Parties acknowledges that the other Party has acted to date in good faith and each Party agrees to continue to act in good faith. Each Party acknowledges that in each instance under this Agreement where a Party is obligated to exercise good faith or to use good faith, diligent, or other similar efforts, such Party shall not be required to expend any funds or grant any other consideration of any kind in the performance of such undertaking, and each Party further acknowledges that the obligation of any Party to act in good faith or undertake good faith, diligent, or other similar efforts does not constitute a warranty, representation, or other guaranty that the result that the Parties are attempting to achieve shall be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

(b) In each instance in this Agreement where the approval or consent of a Party may be sought or is required, except as otherwise indicated in this Agreement, such approval or consent shall not be unreasonably withheld, conditioned or delayed.

(c) Notwithstanding any provision of this Agreement to the contrary, any consent or approval by the City pursuant to its regulatory authority is governed by Law.

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Section 10.4 Notice of Matters.

In the event that any Party receives knowledge about any matter that may constitute a breach of any of its warranties or covenants set forth in this Agreement that arises after the date of this Agreement, it shall promptly notify the other Parties of the same in writing.

Section 10.5 Form of Notices; Addresses.

All notices, requests, consents, or other communications required under this Agreement shall be in writing and shall be deemed to have been properly given if served personally or if sent by United States registered or certified mail or overnight delivery service to the Parties as follows (or at such other address as a Party may from time to time designate by notice given pursuant to this Section):

To the Team: MUSC Holdings, LLC
4050 Olson Memorial Highway, Suite 295
Golden Valley, MN 55422
Attn.: William W. McGuire, Managing Member

with a copy to: Kaplan, Strangis and Kaplan, P.A.
90 South Seventh Street, Suite 5500
Minneapolis, MN 55402
Attn.: Ralph Strangis

To the City: City of Saint Paul
City Hall Annex
25 West 4th Street, Suite 1300
Saint Paul, MN 55102
Attn.: Director of Planning and Economic Development

with a copy to: Saint Paul City Attorney
400 City Hall and Courthouse
15 Kellogg Boulevard West
Saint Paul, MN 55102
Attn.: Jerry Hendrickson

and a copy to: City of Saint Paul
700 City Hall and Courthouse
15 Kellogg Boulevard West
Saint Paul, MN 55012
Attn.: Finance Director

and a copy to: McGrann Shea Carnival
 Straughn & Lamb, Chartered
800 Nicollet Mall, Suite 2600
Minneapolis, MN 55402
Attn.: Kathleen M. Lamb

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Each notice shall be deemed given and received on the date delivered if served personally or by overnight delivery service or, if sent by United States registered or certified mail, then one (1) Business Day after its delivery to the address of the respective Party, as provided in this Article, except that with respect to the notices pertaining to matters that are to be accomplished within less than three (3) Business Days (e.g., requests for consent when the Person whose consent is sought has one (1) Business Day to respond in the granting or denying of such consent), notice shall be deemed given simultaneously with its delivery. Notices sent by a Party's counsel shall be deemed notices sent by such Party.

Section 10.6 Calculation of Time.

Unless otherwise stated, all references to "day" or "days" shall mean calendar days. If any time period set forth in this Agreement expires on other than a Business Day, such period shall be extended to and through the next succeeding Business Day.

Section 10.7 Time is of the Essence.

Time is of the essence of this Agreement.

Section 10.8 Incorporation by Reference.

All exhibits, schedules, or other attachments referenced in this Agreement are hereby incorporated into this Agreement by such reference and are deemed to be an integral part of this Agreement.

Section 10.9 Entire Agreement.

Except as otherwise provided in this Agreement or the Use Agreement, this Agreement and the Use Agreement contains the sole and entire agreement between the Team, the Club and the City with respect to its subject matter and supersedes any and all other prior written or oral agreements between the Team or the Club on the one hand and the City on the other with respect to such subject matter.

Section 10.10 Amendment.

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

Section 10.11 Assignment.

The Team shall not assign, convey, or transfer in any mode or manner this Agreement or any of its interests under this Agreement without the prior written consent of the City, to be granted or withheld in its sole discretion. The City shall be entitled to require, as conditions to approval of any assignment, conveyance or transfer of this Agreement or any interest hereunder by the Team, that:

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(a) any proposed assignee shall have the qualifications and financial responsibility, as solely determined by the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Team;

(b) any proposed assignee, by instrument in writing satisfactory to the City, shall, for itself and its successors and assigns, and expressly for the benefit of the City, have expressly assumed all of the obligations of the Team under this Agreement and agreed to be subject to all the conditions and restrictions to which the Team is subject;

(c) there shall be submitted to the City for review all instruments and other legal documents involved in effecting the assignment, conveyance or transfer, and if approved by the City, its approval shall be indicated to the Team in writing; and

(d) in the absence of specific written agreement by the City to the contrary, no such assignment or approval by the City thereof shall be deemed to relieve the Team or any other party bound in any way by this Agreement or otherwise with respect to the Project, from any of its obligations with respect thereto.

Section 10.12 Binding Effect.

This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the City, and the permitted successors and assigns of the Team.

Section 10.13 Headings.

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

Section 10.14 No Presumption Against Drafter.

This Agreement has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, this Agreement shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Agreement.

Section 10.15 Severability.

If any term or provision of this Agreement or the application thereof to any Person or circumstance shall, to any extent, be inconsistent with, invalid, or unenforceable under any Laws or Legal Requirements, the remainder of this Agreement or the application of such term or provision to Persons or circumstances, other than those as to which it was held invalid or unenforceable, shall not be affected thereby and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by the Laws or Legal Requirements.

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Section 10.16 Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to (a) confer upon any Person other than the Parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a Party to this Agreement to maintain an action pursuant to or based upon this Agreement.

Section 10.17 Governing Law; Venue.

This Agreement shall be governed by and construed in accordance with the Laws of the State of Minnesota, notwithstanding its conflicts of law or choice of law provisions. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement shall be controlled by and determined in accordance with the laws of the State of Minnesota, and the Team agrees that all legal actions initiated by the Team with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued exclusively in the State of Minnesota, Ramsey County, District Court and shall not be removed therefrom to any other federal or state court.

Section 10.18 Counterparts.

This Agreement may be executed and delivered in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall be deemed to be one agreement.

Section 10.19 Relationship of Parties.

It is agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture among the Parties.

Section 10.20 No Waiver of City Immunity or Liability.

Nothing contained in this Agreement, including provisions regarding the City obtaining insurance or otherwise being insured, shall in any way affect or impair the City's immunity or the immunity of the City's employees, consultants, or independent contractors, whether on account of official immunity, legislative immunity, statutory immunity, discretionary immunity, or otherwise. Nothing contained in this Agreement, including provisions regarding the City obtaining insurance or otherwise being insured, shall in any way affect or impair the limitations on the City's liability or the liability of the City's employees, consultants, or independent contractors set forth in Minnesota Statutes Chapter 466. By entering into this Agreement, the City does not waive any rights, protections, or limitations provided for the City or its employees, consultants, or independent contractors under the various rules of governmental immunity or under Minnesota Statutes Chapter 466.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW]

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IN WITNESS WHEREOF, the Parties have executed this Development Agreement as of the date stated in the first paragraph of this Agreement.

TEAM:

MUSC HOLDINGS, LLC,
a Minnesota limited liability company

By: _____

Name: _____

Title: _____

[SIGNATURE PAGE TO DEVELOPMENT AGREEMENT]

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CITY:

CITY OF SAINT PAUL,
a municipal corporation of the State of Minnesota

Christopher B. Coleman, Mayor
City of Saint Paul

Director of Parks and Recreation

Director of Financial Services

Director of Human Rights and
Equal Economic Opportunity

City Clerk

Approved as to form:

City Attorney

818362-v14
McGrann Shea Draft of 2-23-16

[SIGNATURE PAGE TO DEVELOPMENT AGREEMENT]

EXHIBIT A

Legal Description of Bus Barn Property

That part of the West Half of the Southwest Quarter (W1/2 of SW1/4) of Section 34, Township 29, North, Range 23 West of the Fourth Principal Meridian, Ramsey County, Minnesota, described as follows: Starting at a point on the easterly line of Snelling Avenue which is 703.46 feet south of the south line of University Avenue; thence north on the east line of Snelling Avenue 6.08 feet to the point of beginning; thence easterly at an included angle of 90 degrees 1 minute to the point of intersection with a line 820.35 feet east of and parallel to the east line of Snelling Avenue; thence southerly along said last described line to its intersection with the north line of St. Anthony Avenue; thence northwesterly along the north line of St. Anthony Avenue to its intersection with the east line of Snelling Avenue; thence north on the east line of Snelling Avenue 525.21 feet to the point of beginning; except that part taken by the State of Minnesota by Final Certificate filed as Document No. 1677103.

Abstract Property

400 Snelling Avenue North, St. Paul, MN

EXHIBIT B

Midway Development Site

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EXHIBIT C

Project Concept Design

EXHIBIT D

Stadium Site Infrastructure

Parking:

Minimum of parking spaces on or adjacent to the Stadium Site: [_____]¹

Minimum number of parking spaces in close proximity to the Stadium Site:
[_____]

¹ The number will include the number of space in the Stadium Parking Areas and the temporary municipal parking area in the north west portion of the Bus Barn Property.

EXHIBIT E

Tentative Time Table

EXHIBIT F

Historical Environmental Reports, Geotechnical Studies and Surveys

- Petroleum Tank Release Investigation, MTC Facility, 400 Snelling Avenue North, MPCA Leak No 5912, prepared by Nova Environmental Services (Nova), dated November 1, 1993 (the 1993 Investigation).
- Additional Investigation/Corrective Action Design, MCTO Facility, 400 Snelling Avenue North, MPCA Leak No 5912, prepared by Nova, dated August 31, 1994 (the 1994 Report).
- Ground Water Monitoring Report, MCTO Snelling Avenue Garage, MPCA Leak No. 5912, prepared by Nova, dated May 13, 1996 (the 1996 Report).
- Phase I Environmental Site, Metro Transit Snelling Garage, prepared by Wenck Associates, Inc. (Wenck), dated November 1997 (the 1997 Phase I Environmental Site Assessment [ESA]).
- Investigation Work Plan, Metro Transit Snelling Garage Site, 400 North Snelling Avenue, St. Paul, Minnesota, prepared by Peer Environmental and Engineering Resources, Inc. (PEER), dated July 9, 1998 (1998 Work Plan).
- Soil and Groundwater Investigation Report, Snelling Garage Site, prepared by Peer, dated November 11, 1998 (1998 Phase II ESA).
- Remedial Investigation/Corrective Action Design Report, MTC Snelling Avenue Garage, MPCA Leak No. 2995, prepared by Ceres Environmental (Ceres), dated January 12, 1999 (the 1999 RI/CAD).
- Petroleum Tank Release Site File Closure, MCTO Tank Farm, Leak 5912, dated August 16, 2000.
- *Response Action Plan (RAP), Snelling Avenue Bus Garage*, prepared by Earth Tech, Inc., (Earth Tech), dated March 2002.
- Revised Corrective Action Design (CAD), Snelling Garage Site, 400 North Snelling Avenue, St. Paul, Minnesota, prepared by Braun Intertec Corporation, dated May 11, 2004.
- Corrective Action Design Approval Letter, 400 North Snelling Avenue, St. Paul, Minnesota, prepared by the MPCA, dated May 26, 2004.
- *Report of Geotechnical Exploration and Review, Lowe's of Midway*, prepared by American Engineering & Testing (AET), dated May 18, 2005.

Attachment C

- Report of Additional Subsurface Exploration and Geotechnical Review, Lowe's of Midway, prepared by AET, dated August 26, 2005.
- Supplemental Report of Subsurface Exploration and Geotechnical Review, Lowe's of Midway, prepared by AET, dated on November 2, 2005.
- Corrective Action Excavation Report Worksheet, Metro Transit Snelling Bus Garage, 400 North Snelling Avenue, prepared by Braun Intertec, dated February 8, 2007 (the 2007 CAD Report).
- *Annual Monitoring Report, Metro Transit Snelling Bus Garage, 400 North Snelling Avenue*, prepared by Braun Intertec, dated February 8, 2007 (the 2007 Annual Monitoring Report).
- Petroleum Tank Release

EXHIBIT G

Project Goals

1. Workforce Inclusion Goals:
 - a. Minority : 32%
 - b. Women : 6%
2. Business Utilization Goals:
 - a. Small Business Enterprise (SBE) : 10%
 - b. Woman-Owned Business Enterprise (WBE) : 10%
 - c. Minority-Owned Business Enterprise (MBE) : 5%
3. For construction of Stadium Site Infrastructure, the Central Certification Program (CERT) must be used to certify eligible businesses.
4. For the construction of the Stadium, the Team may use the Central Certification Program (CERT), the Minnesota Unified Certification Program (“DBE”) and/or the State of Minnesota Targeted Group Business (“TGB”) directories may be used to certify eligible businesses.

EXHIBIT H
City Public Infrastructure Budget

EXHIBIT I
Environmental Project Management Agreement

EXHIBIT J
Net Ground Lease

EXHIBIT K
Non-Disturbance Agreement