

University of Nebraska/City of Lincoln

# Lease and Operating Agreement

Lincoln — West Haymarket Arena

## Lease and Operating Agreement

This Lease and Operating Agreement (Agreement) is made and entered as of this \_\_\_\_ day of October, 2011 by and between the Board of Regents of the University of Nebraska, a public body corporate and governing body of the University of Nebraska - Lincoln (UNL) and the City of Lincoln, Nebraska, a political subdivision of the State of Nebraska (City).

### Recitals:

The JPA was created by the City and UNL in part to facilitate the land acquisition, environmental remediation, site preparation, and construction, equipping, furnishing, and financing for the Arena and other West Haymarket Area Improvements.

The City and the JPA have entered into a Facilities Agreement governing the acquisition, construction, equipping, furnishing, operation and management of the Arena and other West Haymarket Area Improvements and the application of Arena Funds received from the Arena Sources of Funds.

The Facilities Agreement provides for the JPA to acquire title to the Arena site and the sites for the other West Haymarket Area Improvements and construct, equip and furnish the Arena and other West Haymarket Area Improvements in accordance with final plans and specifications approved by the City. In order to carry out its responsibilities, the JPA appointed the City as its agent for purpose of acquiring, constructing, equipping and furnishing the Arena and other West Haymarket Area Improvements. The Facilities Agreement further provides for the City to maintain, operate and manage the Arena and other West Haymarket Area Improvements.

UNL is a member of the NCAA and UNL Athletics currently has Basketball Teams that are to practice and play Home Games at the Arena.

UNL, as tenant, and the City of Lincoln, as landlord, are entering into this Agreement in connection with the design, construction, lease and operation of the Arena Basketball Space and other Leased Improvements.

The City and UNL previously entered into the Memorandum of Understanding setting forth the understandings of the City and UNL with respect to construction of the Arena on the Arena Site utilizing the JPA for financing,

Now, therefore, in consideration of mutual covenants contained herein, the Parties agree as follows:

### Section 1. Definitions

Capitalized terms shall have the following definitions and shall apply for words and phrases as used in this Agreement unless more particularly defined in this Agreement.

#### Architect

Architect shall mean the architect for the Arena as designated by the City.

#### Administrator

Administrator shall mean a duly appointed representative of a Party who has binding authority to grant consent, approval, decision or determination hereunder on behalf of a Party. Administrators shall mean the City and UNL Administrators collectively.

#### Agreement

Agreement shall mean this Lease and Operating Agreement, dated as of the date written above by and between UNL and the City, including any amendments, modifications, extensions and substitutions, now or hereafter executed.

#### Agreement Term

Agreement Term shall mean the term of this Agreement as set forth in Section 7 of this Agreement.

#### Arena

Arena shall mean the approximately 16,000 seat facility proposed for the Arena Site to be constructed as a multi-purpose sports and entertainment facility suitable for use by Athletics for Home Games of the Basketball Teams, as well as to host other sporting events, family shows, concerts, circuses, and similar entertainment and floor events.

#### Arena Funds

Arena Funds shall mean all funds collected from the Arena Sources of Funds.

#### Arena Advertising

Arena Advertising shall mean all advertising conducted in the Arena.

**Arena Naming**

Arena Naming shall mean all activity associated with the naming rights to the Arena granted by the City.

**Arena Operations Consultant**

Arena Operations Consultant shall mean SMG or such other consultant designated by the City.

**Arena Operator**

Arena Operator shall mean the operator of the Arena as designated by the City.

**Arena Project Manager**

Arena Project Manager shall mean PC Sports or such other manager designated by the City.

**Arena Rent**

Arena Rent shall mean all rent paid to the City or the JPA by any and all parties for use of the Arena and/or the Arena Improvements including but not limited to the UNL Rent.

**Arena Seating – By Category****Club Seating**

Club Seating shall mean the seating described in Section 9(C)(3) of this Agreement.

**Floor Seating**

Floor Seating shall mean the seating described in Section 9(C)(3) of this Agreement.

**Loge Seating**

Loge Seating shall mean the seating described in Section 9(C)(2) of this Agreement.

**Premium Seating**

Premium Seating shall mean the seating described in Section 9(C)(4) of this Agreement.

**Suites Seating**

Suites Seating shall mean the seating described in Section 9(C)(1) of this Agreement.

**Arena Site**

Arena Site shall mean the irregular bounded tract of land located to the south and east of the BNSF Railway tracks, west of the U.S. Post Office, and north of R Street in Downtown Lincoln as shown on Exhibit B.

**Arena Sources of Funds**

Arena Sources of Funds shall include state aid, developer contributions, occupation tax, turn back tax, Arena Rent, concessions, premium seating, naming rights, signage, tickets, interest, TIF, parking revenues, state and federal environmental funds and private donations as shown by categories in estimated amounts on Exhibit A.

**“As original” Setup**

“As original” Setup shall mean the presumed condition of the arena and the “restore to” condition after any Event other than a Home Game and shall include the following:

1. The Nebraska basketball floor in place and ready to play.
2. The basketball Scoreboard in place and ready to use for a Home Game.
3. The scoring table, backboards/goals, team seating, camera stations, related amenities and spectator seating in place for a Home Game.

4. The Nebraska banners and Athletics signage in place for a Home Game.

5. The UNL Athletic Director is allowed to and shall not unreasonably fail to waive or forego the “As original” Setup Condition where circumstances warrant on a case by case basis.

**Athletic Director**

Athletic Director shall mean the University of Nebraska-Lincoln Athletic Director.

**Athletics**

Athletics shall mean UNL’s Department of Intercollegiate Athletics.

**Bankruptcy**

Bankruptcy shall mean the commencement of a bankruptcy or similar proceeding by or against one or more of the Parties, including, but not limited to, the following: the making of a general assignment for the benefit of creditors, the commencing of a voluntary or involuntary case under the Federal Bankruptcy Code or the filing of a petition thereunder, petitioning or applying to any tribunal for the appointment of, or the appointment of, a receiver, or any trustee for a substantial part of the assets of such person, commencing any proceeding under any bankruptcy, reorganization, dissolution or liquidation law or statute of any jurisdiction, whether now or hereinafter in effect.

**Basketball Season**

Basketball Season shall mean the duration of time during the year when the Basketball Teams play games, generally November 1 through March 15.

**Basketball Space**

Basketball Space shall mean the basketball court, training rooms, UNL locker rooms, Fiber Optic Connection to Husker Vision, and Seating as delineated in Sections 9.C and related signage, center-hung and other scoreboards, and operations facilities customarily associated with an NCAA Division I basketball program including a Husker-Vision production room.

**Basketball Teams**

Basketball Teams shall mean UNL men’s and women’s varsity basketball teams.

**Black Out Dates**

Black Out Dates shall mean those designated dates during the year reserved for City sponsored events.

**Brand**

Brand shall mean the Basketball Teams.

**Branding**

Branding shall mean the process of creating, building and marketing the Basketball Teams.

**Broadcast Rights**

Broadcast Rights shall mean the right to sell or license the television, radio, motion picture, internet or other rights to the broadcasting, filming or other recording.

**Capital Improvement**

Capital Improvement shall mean an improvement for long-term betterment, expansion or addition, but excluding replacement, renovation, up dating or modernization.

**Chancellor**

Chancellor shall mean the Chancellor of the University of Nebraska-Lincoln.

**City**

City shall mean the City of Lincoln, Nebraska, a political subdivision of the State of Nebraska.

**City Administrator**

City Administrator shall mean the administrator designated in Section 2(C) below.

**Cold Shell**

Cold shell shall mean an unfinished interior space with bare studs showing lacking heating, ventilating, and air conditioning and without lighting, plumbing, ceilings or interior walls.

**Concessions**

Concessions shall mean the sale, catering, delivery, furnishing of food, beverages or consumable products, but not Merchandise, sold or served at an Event. Where applicable, Concessions may also include duties, obligation or cost to provide Concessions.

**Consent Rights**

Consent Rights shall have the meaning described in Section 2(G)(1).

**Construction Manager**

Construction Manager shall mean M.A. Mortenson Company or such other experienced contractor selected by the City and approved by the JPA to construct the Arena pursuant to a Construction Manager at Risk Contract.

**CPI**

CPI shall mean the Consumer Price Index.

**CPI-U**

CPI-U shall mean the Consumer Price Index for All Urban Consumers.

**Design Working Group**

Design Working Group shall have the meaning described in Section 2(F)(2).

**Dispute**

Dispute shall mean a matter in controversy that cannot be resolved by the Mayor and Chancellor by mutual written agreement.

**Drawings and Specifications and Construction Documents**

Drawings and Specifications and Construction Documents shall mean the same as developed utilizing the process in Section 4.

**Events – By Category****Arena Events**

Arena Events shall include any events or organized activity for public or private attendance whether formally sponsored, City or other third Party entity held at the Arena, but excluding UNL Events and Basketball Team practices.

**Events**

Events shall mean all Events held at the Arena generally.

**Home Games**

Shall mean any ticketed intercollegiate men's and Women's basketball games, (excluding any game played

outside of Lincoln, Nebraska in a facility which is neutral for both playing teams but where one of the two playing teams nevertheless must be determined as the "home team").

**Memorial Stadium Events**

Memorial Stadium shall mean the events or activities sponsored by UNL or permitted by UNL and held in Memorial Stadium.

**UNL Events**

UNL Events shall mean Home Games and UNL Non-Basketball Events.

**UNL Non-Basketball Events**

UNL Non-Basketball Events shall mean those event days (up to 15 per year) formally sponsored by UNL.

**Facilities Agreement**

Facilities Agreement shall mean that certain Facilities Agreement dated September 8, 2011 by and between the JPA and the City, respectively.

**Force Majeure**

Force Majeure shall include Acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States of America, or of any state thereof, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, storms, floods, washouts, droughts, arrests, restraining of government and people, civil disturbances, explosions, nuclear accidents, wars, or failure of utilities. Force Majeure shall not include economic hardship.

**GMP**

GMP shall mean the Construction Manager's guaranteed maximum price for construction of the Arena.

**Hazardous Material**

Hazardous Material shall mean any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" under any applicable laws, ordinances or regulations.

**Halo Area**

Halo Area shall mean that area within the Arena Site recommended jointly by the Administrators, and approved by the JPA, and revised periodically where the sale of Merchandise, food, and beverages or the resale of any Home Game tickets for commercial purposes is prohibited without prior approval during the times, places and manner as provided in the Halo Area Policy.

**Halo Area Policy**

Halo Area Policy shall mean any Home Game day Arena halo area policy to be created by UNL.

**Home Games**

Home Games are defined under "Events" above.

**Home Game Expenses**

Home Game Expenses shall mean incremental actual costs of operating the Arena related to holding Home Games consisting of actual direct costs for supplies,

materials, and labor for Arena and UNL- provided personnel and non-personnel expenses discussed in Exhibit C. Home Game Expenses do not include any materials, labor, fees or related costs to return the Basketball Space to the "As Original" Setup. Home Game Expenses do not include costs included in Rent. Home Game Expenses shall be those expenses incurred and divided between 'in the bowl' and 'out of the bowl' as delineated by Exhibit D.

**HuskerVision Control Room**

HuskerVision Control Room shall mean the control room in the Arena under the exclusive control of UNL as described in Section 4(B).

**JPA**

JPA shall mean the West Haymarket Joint Public Agency created by the City and UNL and which constitutes a separate political subdivision and a public body corporate and politic of the State of Nebraska.

**Leased Improvements**

Leased Improvements shall mean the Basketball Space, seating areas and the City designated basketball related parking spaces provided in the Parking Improvements located on the Arena Site.

**Loge Seating Net Revenue**

Loge Seating Net Revenue shall mean gross receipts, revenue and income from the sale of Loge Seating reduced by sales and marketing expenses for such seats.

**Main Control Room**

Main Control Room shall mean the control room for the Arena as described in Section 4(B).

**Maintenance**

Maintenance shall mean the timely provision of all labor and materials that are required to (a) keep the Arena in a first-class condition and good order and repair and (b) keep the Arena clean and free of debris. Maintenance shall not include the installation or construction of Capital Improvements. Maintenance shall include, but not be limited to, the following: repair, replacement, renovation, updating, modernization, of improvements and related Personal Property, utilities, and the routine provision of custodial and snow removal, lawn care, trash pickup and removal.

**Mayor**

Mayor shall mean the Mayor of the City of Lincoln, Nebraska.

**Memorandum of Understanding**

Memorandum of Understanding shall mean the agreement between the Parties related to the West Haymarket Arena Project, approved by Addendum VI-B-1 Feb. 12, 2010 by the Board of Regents and approved by Resolution No. A-85722 adopted on Feb. 8, 2010 by the City Council for the City of Lincoln.

**Merchandise**

Merchandise shall mean apparel, game programs, sporting equipment, goods, pay-for-play entertainment, novelties or merchandise for sale or sold in, out or from the Arena or Halo Area during Events, whether sold,

furnished, or rented from shops, kiosks, or by individual vendors circulating through the Arena or Halo Area, but excluding Concessions.

**Multi-Media Agency**

Multi-Media Agency shall mean UNL's agreement with IMG Communication, Inc. dba IMG College or any successor agency, department or firm.

**NCAA**

NCAA shall mean the National Collegiate Athletic Association.

**Naming Rights**

Naming Rights shall mean the right to sell, license or grant the right to name the Arena.

**Net Revenue**

Net Revenue shall mean gross receipts, revenue and income from sources other than Concessions and Premium Seating relating to Events reduced by any related sales tax, administrative fees allowed under this Agreement and/or other similar tax on gross receipts and the City Surcharge.

**Operations Working Group**

Operations Working Group shall have the meaning described in Section 2(F)(2).

**Parking Improvements**

Parking Improvements shall mean the Arena Garage, Deck 1, and Arena Surface Lot as shown on Exhibit B.

**Party**

Party shall mean the City or UNL individually and Parties shall mean the City and UNL collectively.

**Pedestrian Connector Improvements**

Pedestrian Connector Improvements shall mean the public right-of-way, pedestrian easements, sidewalks, bridges, tunnels, connectors and related improvements connecting the NW Arena Parking Lot to the Arena.

**Personal Property**

Personal Property shall mean personal property, tools, equipment, and trade fixtures that are not deemed real property that are necessary or desirable to operate the Arena, but excluding game equipment, HuskerVision equipment, and other equipment that is to be provided by UNL at its own cost and expense.

**Program Manager**

Program Manager shall mean **PC Sports Inc.** or such other manager designated by the City.

**Reviewing Party**

Reviewing Party shall have the meaning described in Section 2(G)(1).

**Submitting Party**

Submitting Party shall have the meaning described in Section 2(G)(1).

**Substantial Completion**

Substantial Completion shall mean that the work related to the construction of the Arena is essentially and satisfactorily complete in accordance with the Arena final design such that the Arena is ready for opening to the general public with full occupancy or use by UNL. A minor amount of work, as determined by UNL in the

reasonable exercise of its discretion, such as installation of minor accessories or items, a minor amount of painting, minor replacement of defective work, minor adjustment of controls or sound system, or completion or correction of minor exterior work that cannot be completed due to weather conditions, will not delay determination of Substantial Completion. In no event shall Substantial Completion be deemed to have occurred unless such certificates required by all laws for opening of the Arena to the general public have been issued to the City.

#### **Support and Storage Areas**

Support and Storage Areas shall mean areas in the Arena to store marketing materials and basketball needed equipment for Home Games.

#### **UNL**

UNL shall mean the Board of Regents of UNL of Nebraska, a public body corporate and governing body of the University of Nebraska-Lincoln.

#### **UNL Administrator**

UNL Administrator shall mean the administrator designated in Section 2(B) below.

#### **UNL Rent**

UNL Rent shall mean the annual payment provided for in Section 8.A. of the Agreement and includes all costs of utilities, janitorial services and routine maintenance incurred and attributable to Athletics' exclusive use of the Arena for Home Games and Basketball Team practices, but excludes Home Game Expenses and UNL Event expenses.

#### **West Haymarket Area Improvements**

West Haymarket Area Improvements shall mean the Arena, utilities, Arena Site Acquisition/ Preparation, Roads, Pedestrian Ways, and Parking Improvements as generally depicted on the Lincoln Haymarket Arena Project Site Diagram attached hereto as Exhibit B.

#### **West Haymarket Program Administrator**

West Haymarket Program Administrator shall mean Dan Marvin or such other program administrator designated by the City.

#### **Working Group**

Working Group shall mean the UNL Administrator and City Administrator and/or their respective designees and the persons identified by capacity in Section 2(F)2 as the Design Working Group and the Ongoing Operations Working Group.

## **1 Section 2. Administrators**

### **2 A. Role**

3 Any consent, approval, decision or determination made hereunder by each Administrator shall be construed as approval by  
4 the Party the Administrator represents; provided, however, that final decisions on any modification or amendment to the  
5 terms and conditions of this Agreement shall be in writing and approved by all Parties.

### **6 B. UNL Administrator**

7 UNL hereby designates the Vice Chancellor for Business and Finance to be the UNL Administrator.

### **8 C. City Administrator**

9 The City hereby designates the Finance Director of the City of Lincoln to be the City Administrator.

### **10 D. Arena Operator**

11 The Arena Operator shall be the senior administrative official in charge of the Arena.

### **12 E. Working Group**

13 The Working Group shall consist of UNL Administrator and City Administrator and/or their respective designees and the  
14 persons identified by capacity in Section 2(F)2 below.

### **15 F. Responsibilities**

#### **16 1. The Administrators**

17 The Administrators have the primary responsibility to provide consent and approvals as provided in this Agreement. In  
18 addition, the Administrators, in consultation with their respective Administrations, shall identify and coordinate the  
19 persons to provide support and resources from their respective Party for Working Group meetings whether related to  
20 the design process or ongoing lease matters. Administrators are also expected to call upon subject matter experts and  
21 other critical support including legal and financial advisors from time to time as needed and deemed appropriate for the  
22 Working Group or otherwise.

23 Administrators will identify issues for resolution, including elevating unresolved issues according to the process set  
24 forth below in a timely manner.

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## 2. The Working Groups

The Working Groups will have two capacities and will involve different component members as deemed appropriate by the Administrators. The Working Groups are for the purpose of aiding and assisting the Administrators in timely reviewing and granting approvals and consents.

**Design Working Group.** The Design Working Group will provide detailed review and input on design issues and work with the Architect and the Construction Manager to be sure the Arena is completed in accordance this Agreement and to the satisfaction of both the City and UNL.

The Design Working Group shall provide time critical coordination between the Parties, the Architect and the Construction Manager. Timely exchange of current and accurate information as well as oversight and coordination of design related schedules, timelines and document creation and reviews are the primary duties of the Design Working Group for this project based on the following four milestones: ( 1) schematic design development for the Arena, (2) design development for the Arena (3) contract documents for Arena Improvements, and (4) Arena GMP within project scope and budget.

The design development review by the Design Working Group shall include, but not be limited to the following: review of the project concepts for Arena site plan and construction alternatives; review of the schematic plans for the Arena; review of the design development documents; and review of the contract documents as specified above for advice and comment to the Administrators. The Design Working Group shall additionally serve as an advisory body to the City and UNL in determining the appropriate physical location(s) for UNL's branding of the Basketball Teams within the Basketball Space and providing design guidance and input that respects, and is in harmony with, the artistic and cultural thematic master planning for the Arena.

The Design Working Group, at a minimum, shall be comprised of the Architect, Construction Manager, and City Project or Program Managers and/or their respective designees plus the following representatives of UNL and the City:

UNL: Marc Boehm (Executive Associate Athletic Director), Butch Hug (Associate Athletic Director/Facilities & Events), John Ingram (Associate Athletic Director/Capital Planning & Construction), Ted Weidner (Assistant Vice Chancellor, Facilities Management and Planning), Paul Meyers (Associate Athletic Director for Development) or their respective designees or such other individuals as designed by the UNL Administrator.

City: West Haymarket Program Administrator, Arena Operations Consultant, Program Manager, Arena Project Manager, and/ or their respective designees or such other individuals as designed by the City Administrator.

The Design Working Group shall designate the Joint Public Agency's Program Manager to serve as chairperson for the group and such chairperson, or their designee, shall schedule regular meetings of the Design Working Groups. The chairperson shall be sure that meeting minutes are taken at such meetings and that such minutes are distributed to the UNL Administrator and the City Administrator following every meeting for distribution.

**Ongoing Operations Working Group.** The Operations Working Group shall hold an annual meeting to discuss and evaluate Home Game Expenses; meet as needed to address any ongoing issues of operations; and meet as needed to assist the JPA in any related determinations of financial need and the basis for allocating, beginning and ending any temporary additional surcharge.

UNL: Marc Boehm (Executive Associate Athletic Director), Butch Hug (Associate Athletic Director/Facilities & Events), John Ingram (Associate Athletic Director/Capital Planning & Construction) or their respective designees or such other individuals as designed by the UNL Administrator.

City: West Haymarket Program Administrator, Arena Operations Consultant, City Budget Officer, Mayor's Deputy Chief of Staff, and/ or their respective designees or such other individuals as designed by the City Administrator.

## G. Process

### 1. Review and Approvals or Consent Rights

The general provisions of this Section shall apply whenever under this Agreement the City or UNL exercises Review and Approval or Consent Rights; provided, however, that if other more specific provisions of this Agreement provide

1 conflicting time periods for the exercise of designated Review and Approval or Consent Rights, then the more specific  
 2 provisions shall control. As used herein, the term Review and Approval or Consent Rights shall include, without  
 3 limitation, all instances in which one Party (the Submitting Party) is permitted or required to submit to the other Party  
 4 any document, notice or determination of the Submitting Party and with respect to which the other Party or its  
 5 representative (the Reviewing Party) has the opportunity or right to review, comment, consent, approve, disapprove,  
 6 dispute or challenge the submission or determination of the Submitting Party. Unless this Agreement specifically  
 7 provides that the Review and Approval or Consent Rights may be exercised in the sole and absolute discretion (or a  
 8 similar standard) of the Reviewing Party, the Reviewing Party covenants and agrees to act in good faith, with due  
 9 diligence, and in a commercially reasonable manner with regard to each and all of such Review and Approval or  
 10 Consent Rights and to not unreasonably withhold, condition or delay its approval of or consent to any submission. The  
 11 Submitting Party shall use reasonable efforts to cause any matter submitted for Approval or Consent: (i) under a  
 12 caption such as "TIME SENSITIVE - REQUEST FOR REVIEW/APPROVAL OR CONSENT" (or similar phrase), and (ii)  
 13 stating the date by which a response is required under the terms of this Agreement.

14 **2. Deemed Approved provisions**

15 Whenever Approval or Consent is required under this Agreement, such approval or consent shall not be arbitrarily or  
 16 unreasonably conditioned, delayed, or withheld. The consent shall be deemed to have been given, unless within  
 17 twenty (20) days of the request for such approval or consent, the City or UNL, as appropriate, notifies the requesting  
 18 Party in writing that the receiving Party is denying such approval or consent.

19 **3. Controversies and Disputes**

20 Where the Administrators cannot timely resolve a matter in controversy, the matter shall be elevated for the Mayor and  
 21 Chancellor to resolve by mutual written agreement. In the event the Mayor and Chancellor cannot timely resolve the  
 22 matter, it shall be considered a Dispute under the terms of this Agreement.

23 **H. Mutual Cooperation and Best Efforts**

24 Consistent with the relationship of the Parties under this Agreement, the Parties shall at all times and in all respects use  
 25 their respective best efforts to fulfill and complete the object and purpose of this Agreement and maintain an efficient and  
 26 first quality operation at the Arena. The successful design, development and construction of the Arena and related activities  
 27 are dependent upon the continued cooperation and good faith of the Parties. Every covenant, agreement, or restriction  
 28 herein stated shall be construed in recognition of this interdependence and need for continued mutual cooperation. The  
 29 Parties specifically agree to mutual cooperation in Branding, and other marketing including cooperative efforts to sell  
 30 sponsorships, naming rights, ticketing, premium seating and advertising to optimize revenues and avoid unintended  
 31 consequences for all Parties.

32 **Section 3. Relationship of Parties**

33 **A. Special Relationship**

34 In consideration of each Party's respective resources, skills, expertise and related experience and in consideration of the  
 35 unique undertakings of this Agreement, both Parties respectively repose special confidence in the other Party and  
 36 acknowledge that this Agreement creates a special relationship between the Parties.

37 **B. Bonded Indebtedness**

38 The Parties agree that Arena Sources of Funds shall be expended in accordance with the Facilities Agreement. In  
 39 accordance with the Memorandum of Understanding, UNL shall have no responsibility or liability for repayment of the  
 40 bonds. Except as otherwise expressly provided in this Agreement, the Parties recognize and agree that any Arena  
 41 components or services identified in this Agreement shall be at the City's sole cost and expense.

42 **C. Independent Authority**

43 The Parties agree that each of them is acting on its own behalf and not as an employee, agent, joint venture or partner of  
 44 the other Party. Each Party is interested only in the results obtained from this Agreement and each Party shall be in  
 45 exclusive charge and control of its own performance according to its own means and methods. Nothing in this Agreement  
 46 shall be interpreted as creating a partnership, joint venture or relationship of principal and agent between the Parties.

47 **D. Representations and Warranties**

48 Each Party to this Agreement makes the following representations and warranties in consideration of the duties and  
 49 obligations of this Agreement:

50 The City is a political subdivision of the State of Nebraska, and UNL is a public body corporate in the state of Nebraska.  
 51 Each Party has the power to enter into and carry out the Agreements to which it is a Party. Each Party has duly approved  
 52 the execution and delivery of each of the Agreements which accordingly constitute valid and legally binding obligations of  
 53 each Party.

1 To the best of each Party's knowledge, there is no litigation now pending or threatened, challenging the powers or in any  
2 way affecting any of the Agreements to which it is a Party.

3 The Agreements and each Party's respective execution and administration of the same do not and will not (a) violate any  
4 law or regulation or any order or decree of any court or governmental instrumentality which violation would materially and  
5 adversely affect the ability to perform its obligations under the Agreements, or (b) conflict with or would result in the breach  
6 of or constitute a default under, any of the Agreements, or any other contract, lease, indenture, loan agreement, mortgage,  
7 deed of trust or other agreement or instrument which would materially and adversely affect the ability to perform its  
8 obligations under the Agreements.

9 To the best of each Party's knowledge, no event or condition currently exists, which constitutes or may, with the passage of  
10 time or the giving of notice, or both, constitute a default of the Agreements or that could otherwise materially adversely  
11 affect the Party's ability to perform the Agreements.

12 **E. Controlling Agreement**

13 The Parties agree that the Memorandum of Understanding and the terms of this Agreement are to be read together and  
14 interpreted consistently wherever possible, with the further understanding that this Agreement shall prevail regarding more  
15 specific provisions and in the event any conflicting terms or provisions cannot otherwise be resolved.

16 **F. Purpose**

17 The purpose of this Agreement is to describe and define UNL's rights, title and interest as tenant in the Arena.

18 **Section 4. Design Process**

19 **A. Design**

20 The City on behalf of the JPA has contracted with or caused a contract for the design of the Arena with the Architect.  
21 Architect will have the overall Arena design responsibilities and will provide the primary lead of the Design Working Group  
22 on the Arena and coordination with the Construction Manager. As set forth in Section 2(F)(2) above, the Design Working  
23 Group shall provide review and input on design issues.

24 **B. UNL Design Requirements**

25 The Parties recognize and agree that although the Plans and Specifications for the Arena have not been completed, there  
26 are certain components of the Arena and the Basketball Space required in order satisfy the needs of UNL. The Parties  
27 recognize that it is the intent of UNL and the City to work together in all aspects of the design, development and construction  
28 of the Arena and in particular, the Basketball Space. In addition to the UNL participation in the Design Working Group for  
29 the design and construction of the Arena in general, the City recognizes that additional members of Athletics shall be fully  
30 involved in the design of the Basketball Space. The City agrees that Athletics will be given an opportunity to have  
31 representatives present at meetings and briefings with the City's design and construction professionals with the intent being  
32 that Athletics is entitled to full disclosure of and participation in the process for the design and construction of the Basketball  
33 Space. The City agrees to work together with Athletics to locate, design and build the Arena seating, including the number  
34 of suites, loge seating, club seating, and floor seating; media work area; the press box area; the studio and production area;  
35 interview room; hospitality rooms, and any other area reasonably necessary to carry out the Home Games.

36 The plans and specifications for the Basketball Space will be prepared at the direction of the City subject to preliminary  
37 approval of Design Working Group and final approval by the JPA.

38 The Parties agree that the Arena shall include, at a minimum, the following:

39 **Basketball Space**

40 **Basketball Court.** The basketball court shall consist of a portable basketball playing surface with all customary related  
41 items including, without limitation, state-of-the-art basketball goals, back-up basketball goals, nets, lines and striping,  
42 timekeeper's tables, scorekeeper's tables, adequate signs and markers, home and visiting team benches, tables and  
43 chairs, adequate lighting, communications systems, telephone hook-up from each team's bench on floor level to  
44 coaches and assistant coaches, radio and television booths; The playing surface shall be customized with Athletics  
45 logos and other design elements at the sole discretion and cost of Athletics, and will be refurbished and kept in  
46 playable condition at all times, including replacement when needed whether due to damage or ordinary wear and tear.  
47 The basketball court shall be re-sealed by the City every summer to preserve its longevity. The basketball court shall  
48 be repainted by the City in a manner designed by Athletics at least every 5 years. Every 5 years, the Operations  
49 Working Group shall evaluate the condition of the basketball court. The Parties recognize that on average, basketball  
50 courts require replacement every 10 years and that the basketball court may require replacement more frequently  
51 depending on the wear and tear on the court caused by the repeated removal and reset of the court.

1 **Locker Rooms.** Two locker rooms the exclusive use of the UNL Men's and Women's Basketball Teams shall be  
 2 provided. Two additional locker rooms for Visitor Teams, one locker room for officials, and one locker room for cheer  
 3 squads shall be provided. Locker Rooms are expected to include suitable and customary amenities including common  
 4 areas and separate interior rooms for team meetings, coaches and training/support. UNL shall have the right to make  
 5 any design, finish and make post construction betterments to UNL locker rooms, provided that any changes or  
 6 requirements in excess of that provided in the locker rooms for visitor teams will be paid for by Athletics at its own cost  
 7 and expense. In lieu of finishing the UNL locker rooms to visiting team standards and then having UNL improve such  
 8 space to its standards, the City agrees that the Design Working Group shall determine the cost of finishing the locker  
 9 rooms for the visitor teams and shall provide an allowance to UNL for UNL to use toward the total cost of finishing the  
 10 UNL locker rooms.

11 UNL locker rooms shall be an exclusive area for UNL. Access to the UNL locker rooms by any other parties shall not  
 12 be permitted during the Basketball Season. Use of the UNL locker rooms for Arena events in the basketball off-season  
 13 may be permitted only by preapproved exception by the UNL Athletic Director or by the UNL Athletic Director's  
 14 designee.

15 **Fiber Optic connection to Husker Vision.** The City will install or cause to be installed a 48-strand fiber optic cable  
 16 from the Arena to Memorial Stadium's HuskerVision Control Room. UNL shall be responsible for connecting the  
 17 HuskerVision Control Room to the fiber optic cable. UNL shall be responsible for the termination of all connections  
 18 specific to their equipment.

19 **HuskerVision Control Room.** The HuskerVision Control Room will be provided for the exclusive use of UNL. The  
 20 HuskerVision control room shall be managed by Nebraska Athletics HuskerVision Department to produce UNL Events.  
 21 Size and location of this production room will be determined by the Design Working Group. UNL shall equip and  
 22 furnish the HuskerVision Control Room at its own cost and expense.

23 **Main Control Room.** The Main Control Room shall be provided for the mutual use of the City and UNL. Size and  
 24 location of this production room will be determined by the Design Working Group.

25 **UNL Team Store Vending and Storage.** The official Team Store of UNL Athletics (Huskers Authentic) will be provided  
 26 a location on the lower level near the main entrance and the box office or on the main concourse. Huskers Authentic  
 27 will also be provided at least two satellite sales locations in the main concourse to be used on UNL Events days. In  
 28 addition, Huskers Authentic will be provided a secure storage room to store back stock inventory. The City shall  
 29 provide a Cold Shell for the Huskers Authentic store and storage area plus an allowance of \$25,000 for UNL to use  
 30 toward the total cost of finishing the Huskers Authentic store and storage area. Any finishing costs in excess of this  
 31 allowance shall be the responsibility of UNL.

32 **Student Seating.** The student seating areas will be located on the lower level and will be used to fulfill UNL student  
 33 ticket purchases. The exact seat location will be determined by the Design Working Group. There will be a minimum  
 34 of 2,000 student seats. At UNL's option a portion of the student seating area may be comprised of risers for students to  
 35 stand on in lieu of seats. Such risers shall be at UNL's sole cost and expense and shall be the exclusive property of  
 36 UNL. In the event the City or its contractors desire to use the risers for another event, such party shall lease the risers  
 37 from the University. The University shall consult with Arena Operator concerning the type of risers purchased as the  
 38 risers shall be stored within the Arena and will be assembled and disassembled by the Arena Operator.

39 **Signage.** All seating bowl signage will be LED format only. This sponsorship signage will be present on the center  
 40 hung scoreboard (if any), rotators on the scorer's table that will be placed in television view, all ribbon boards and any  
 41 other locations agreed to by UNL and the Big Ten. UNL will hold exclusive rights to the sponsorship inventory at UNL  
 42 Events within the seating bowl while working with its Multi-Media Agency. Notwithstanding the foregoing, permanent  
 43 signage within the Arena bowl shall be subject to the mutual approval of the parties, which approval shall not be  
 44 unreasonably withheld.

45 **Ribbon Boards/ Scoreboards.** LED ribbon board signage in the Arena bowl will be used to enhance crowd  
 46 involvement, disseminate statistics, scores, promote sponsors of Athletics, and other acknowledgements. UNL will  
 47 hold exclusive rights to the sponsorship inventory at UNL Events.

48 **Halo Area.** As defined in this agreement the boundaries of the Halo Area within the Arena Site shall be recommended  
 49 by the Design Working Group and approved by the Administrators. Final approval of the designated halo area, and any  
 50 expansion of that area shall be subject to the approval of the JPA Board.

51 **Preparation Area.** A large open space near the basketball court is required for the holding, practice and warm up of  
 52 various groups participating in events associated with basketball games including but not limited to cheerleaders, half-  
 53 time acts, pep-bands, and event staff.

1

2 **Section 5. Construction**3 **Program Manager and Construction Manager**

4 Given the unique characteristics, need for coordination and time table for this project, the JPA, on behalf of the Parties has  
5 contracted with the Program Manager and Construction Manager to provide program manager and construction manager  
6 services for the Arena Improvements and coordination of the other contractors who might be selected in connection with the  
7 West Haymarket Improvements.

8 The Arena will be designed and constructed in accordance with the approved Drawings and Specifications and Construction  
9 Documents.

10 **Section 6. Agreement**

11 City agrees to lease to UNL and UNL agrees to lease from City, the Leased Improvements upon the terms and conditions of this  
12 Agreement.

13 **Section 7. Term**14 **A. Initial Term**

15 This Agreement shall commence on September 1, 2013 or upon Substantial Completion of the Arena whichever occurs first  
16 and shall continue for a period of 30 years thereafter, unless extended or sooner terminated as provided in this Agreement.

17 **B. Usage Dates**

18 Usage dates for the Leased Improvements are integral to the tenancy and shall be established on an annual basis as set  
19 forth in Section 9.B.1.

20 **C. Option to Extend; Rentals Beyond Term**

21 UNL shall have the right and option to extend the Term of this Agreement upon the same terms and conditions for three  
22 additional periods of five (5) years each by providing written notice to the City no less than three hundred sixty-five (365)  
23 days prior to the expiration date of the Initial Term, or the date of expiration of any additional extended term thereafter,  
24 stating UNL's intent to exercise the option.

25 **Section 8. UNL Rent**26 **A. Annual UNL Rent**

27 Athletics agrees to pay the City UNL Rent of Seven Hundred Fifty Thousand and 00/100th Dollars (\$750,000.00). The UNL  
28 Rent shall be increased for inflation on an annual basis beginning September 1, 2014 and in each succeeding year utilizing  
29 the CPI-U, or a successor index that most closely approximates the CIP-U as agreed to by the Parties, over the last 12  
30 months before seasonal adjustment as reported for the month the adjustment is made by the U.S. Bureau of Labor  
31 Statistics (or its successor). The UNL Rent shall be payable in one installment following the Basketball Season but not later  
32 than May 15 of each year of the Agreement Term.

33 **B. Credit Against UNL Rent**

34 UNL shall be entitled to take as a credit against UNL Rent an annual amount equal to: all turnback sales tax receipts the  
35 City receives from the sale of basketball tickets for Home Games (includes 70% of the state sales tax) pursuant to the  
36 Convention Center Facility Financing Assistance Act (Neb. Rev. Stat. §§13-2601 to 13-2612); the first dollar of all City  
37 imposed ticket surcharges on basketball tickets sold for Home Games during each Basketball Season; and a make-whole  
38 provision for lost Concessions revenues in an amount of \$300,000 which shall first be applied as a credit toward UNL Rent  
39 and then to other Athletics Home Game expenses. The City agrees to renegotiate the make-whole provision for  
40 concessions in the event UNL eliminates or modifies its restrictions on the sale of alcohol at Home Games and other UNL  
41 events held in the Arena. The concessions make whole annual amount shall be increased for inflation on an annual basis  
42 beginning September 1, 2014 and in each succeeding year utilizing the CPI-U over the last 12 months before seasonal  
43 adjustment as reported for the month the adjustment is made by the U.S. Bureau of Labor Statistics (or its successor).

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2 **Section 9. Operations**3 **A. Public purpose**4 **1. Ownership**

5 The City or the JPA will own the Arena Improvements including the Basketball Space.

6 **2. Athletics Programs**7 The Parties agree that pursuant to NCAA guidelines, UNL Basketball teams are engaged in the furtherance of  
8 amateurism, education, and the best interests of student-athletes, and nothing in this Agreement shall be interpreted or  
9 applied in derogation of these principles.10 **3. Liens and Encumbrances**11 UNL covenants and agrees that, except for this Agreement, it will not create or suffer to be created by, through, or  
12 under UNL any lien, encumbrance or charge upon the Leased Improvements or UNL's interest in this Agreement. UNL  
13 shall satisfy or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days  
14 after the same occurs, all such claims and demands for labor, materials, supplies or other items which, if not satisfied,  
15 might by law become a lien upon the Leased Improvements. If any such lien is filed or asserted against UNL or the  
16 Leased Improvements by reason of work, labor, services or materials supplied or claimed to have been supplied on or  
17 to UNL or the Leased Improvements at the request or with the permission of UNL or of anyone claiming under it, UNL  
18 shall, within sixty (60) days after it receives notice of the filing thereof or the assertion thereof against the Leased  
19 Improvements, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure  
20 thereof, by contest, payment, deposit, bond, order of court or otherwise.21 **4. Right of UNL to Revenues**22 Except as specifically provided otherwise in this Agreement, UNL shall be entitled to, and is hereby granted the  
23 exclusive right to, contract for, collect, receive and retain all gross income and revenues and other consideration of  
24 whatever kind or nature realized by, from sale of Merchandise, sale of UNL Suites, Club and Floor Seating for Home  
25 Games, UNL ticket sales to UNL Events, sale of UNL Naming Rights, sale of UNL Signage, and sale of UNL Broadcast  
26 Rights or other intangible rights in connection with UNL's uses of the Leased Improvements as provided for in Sections  
27 4.B (Signage and Ribbon Boards/Scoreboards), 9.B.7., 9.C.1., 9.C.3., 9.E.1., 9.F.1., 9.G., and 9.J., respectively.28 **B. Uses**29 **1. Use by Athletics**30 During the Agreement Term, the Basketball Teams shall be considered the Arena's primary tenant and as such  
31 Athletics shall be accorded the privilege of securing the dates it needs for all pre-season and regular season Home  
32 Games of the Basketball Teams during Basketball Season of each year of the Agreement Term before any dates  
33 within the Basketball Season are offered to any other entity. Athletics shall also be accorded the privilege of securing  
34 the date before each Home Game for practice by the Basketball Teams and visiting teams. In order to secure the  
35 foregoing privileges, Athletics shall inform the City as early as possible, but no later than by September 1 of each year  
36 during the Agreement Term of the day before practice dates and dates for Home Games of the Basketball Teams.  
37 During each Basketball Season, Athletics shall play in the Arena all of the Home Games of both Basketball Teams.  
38 Athletics will use its best efforts to play a minimum of 30 Home Games (15 men's and 15 women's) in the Arena during  
39 each Basketball Season. During the Basketball Season, Athletics shall have the right to use the Arena for practice on  
40 any other dates the Arena is not scheduled or being prepared for another event subject to City approval which shall not  
41 unreasonably be withheld. During Basketball Season, the City, at its sole cost and expense, shall deliver the Arena to  
42 Athletics set up for use by the Basketball Teams for practice or Home Games. Athletics shall quit and surrender the  
43 Basketball Space to the City at the end of each practice and/or Home Game in the same condition as at the date and  
44 time of the commencement of the practice and/or Home Games, ordinary wear and tear excepted. The City will have  
45 the right to lease the Arena to other entities on the dates when the Basketball Teams are not scheduled to practice or  
46 play Home Games in the Arena provided that at the end of such other event the Arena, at the City's sole cost and  
47 expense, is again set up for use by the Basketball Teams for practice or Home Games. Notwithstanding the above, the  
48 City will use commercially reasonable efforts to work with Athletics to hold use of the Arena open during the last two  
49 weeks of March for basketball post-season play at a mutually agreed upon rental rate.

1  
23       **2. Home Games**

4       The City through its arena operator shall be responsible for providing 'out of bowl' Home Game Expenses. UNL shall  
5       be responsible for providing 'in the bowl' personnel as discussed in Exhibit C. The City and Athletics will meet annually  
6       to discuss and evaluate the required staffing for Home Games. Athletics will retain operational control of the Home  
7       Games for purposes of NCAA compliance.

8       **Basketball Space.** The City shall provide or cause to be provided for each Home Game the leased Basketball Space  
9       in a first class condition.

10       **3. Concessions**

11       The City itself, or through its concessionaires, shall operate all Concessions at the Arena including Home Games and  
12       shall be entitled to retain all Net Revenues received therefrom. The City agrees that no alcohol sales shall be allowed  
13       during UNL Events. City agrees to include an assortment of affordable foods as part of its Concessions during Home  
14       Games. The City agrees to provide, at cost, basic concession food and beverage service to the locker rooms of the  
15       Basketball Teams and visiting teams at Home Games, UNL event staff and media members, and officials.

16       **4. UNL Non-Basketball Events**

17       Upon reasonable notice to the City, UNL may schedule use of the Arena for UNL Non-Basketball Events up to fifteen  
18       days per year without paying additional rent. Such use shall be restricted to dates the Arena is not scheduled or being  
19       prepared for another Event. Use of the Arena for a Non-Basketball Event shall be subject to UNL paying the City an  
20       amount intended to compensate the City for the approximate actual and direct costs and expenses incurred or paid by  
21       or on behalf of the City which exceed the customary Home Game Arena Provided Personnel and Non Personal  
22       Expenses. Such costs and expenses to be paid by UNL shall not exceed the lowest rates customarily charged for other  
23       Arena users for similar events. UNL, at its own cost and expense, shall employ all other support staff needed by UNL  
24       in order to hold UNL Event.

25       The Parties recognize that UNL intends to use the Arena for UNL undergraduate commencements in May and  
26       December during the Term of this Agreement. UNL's use of the Arena for commencements shall be included in and  
27       counted toward its 15 UNL Non-Basketball Events days of use per year at no additional rent. The Parties recognize  
28       that each day of use for a single commencement or multiple commencement ceremonies shall count as one of the  
29       fifteen days. UNL shall be accorded the privilege of securing the dates it needs for such commencements before the  
30       dates of such commencements are offered to any other entity. In order to secure the foregoing privileges, UNL shall  
31       inform the Arena Operator as early as possible, but no later than by May 1 of the year preceding such  
32       commencements of the dates the Arena is required for the commencements.

33       **5. Black Out Dates**

34       UNL agrees to make reasonable efforts to comply with the City's request that UNL not schedule day before practices  
35       and Home Games on Black Out Dates. UNL agrees to use its best efforts to negotiate Home Game Schedules with  
36       the Big Ten in order to make the Arena available for High School State Tournaments, including but not limited to  
37       volleyball, basketball and wrestling.

38       **6. Branding**

39       The Arena will provide an appropriate location mutually acceptable to the City and UNL for permanent signage of a  
40       Nebraska "N" on the outside of the Arena. The Arena will also provide appropriate permanent locations for UNL  
41       Branding of the Basketball Teams in the Lobby and Concourse for reasonable indications that the Arena is "Home of  
42       Nebraska Basketball." The design of the Arena will also include additional locations in the concourse, lobby and  
43       Basketball Space acceptable to the City and UNL for temporary game day UNL Branding of the Basketball Teams for  
44       Home Games. The design of such Branding shall be submitted to the Design Working Group for its report and  
45       recommendation and subject to the approval of the City. The City will not take any action that is inconsistent with the  
46       approved Branding of the Arena for the Basketball Teams. City will permit UNL to display historical banners in the  
47       Arena seating bowl that recognize the historical accomplishments of the Basketball Teams, individuals and conference  
48       affiliation. The historical banners will not be required to be displayed at events other than Home Games. UNL agrees  
49       that all copyright, trademark and service mark material used by UNL will be duly licensed or authorized by the  
50       copyright, trademark, or service mark's owner or their representative.

51       **7. Sale of Merchandise**

52       UNL, at its expense, shall have the exclusive rights to sell or at its option, contract with a third party to sell Merchandise  
53       in the Arena and Halo Area during Home Games. The cost of all Merchandise inventory and Merchandise sold shall be  
54       at UNL's expense. UNL shall determine the kind, quality, quantity, and pricing of the Merchandise to be sold. As set  
55       forth above, the Huskers Authentic will be provided at least two satellite sales locations in the main concourse to be

1 used on UNL Events days for the sale of Merchandise. Upon the reasonable request of UNL, the City shall make at  
 2 least one (1) space available on each additional concourse to be used on UNL Events days for the sale of  
 3 Merchandise. Huskers Authentic shall be authorized to sell Merchandise at the locations described above at all times  
 4 the Arena is open for UNL Events.

5 No sale of Merchandise by parties other than UNL (Huskers Authentic) within the Arena and Halo Area shall be  
 6 permitted during Home Games without the prior consent of UNL and the City. Permission to sell Merchandise in the  
 7 Halo Area during Home Games by any entity other than UNL must be submitted 14 days in advance and approved by  
 8 the UNL Administrators.

9 The City recognizes that the scope of Athletics licensing for Merchandise includes all use of logos and marks on  
 10 everything, including concession cups and the like. The Parties agree to abide by applicable restrictions on unlicensed  
 11 use of marks for any type of apparel or other Merchandise.

12 **8. Distribution of Materials**

13 Distribution of informational materials, such as political campaign materials, materials soliciting charitable contributions,  
 14 commercial materials, or any form of promotional materials shall be permitted at UNL Events, except, to the extent  
 15 allowed by law, such materials may not be distributed inside the Arena.

16 **9. Fundraising**

17 No fundraising is permitted inside the Arena or within the Halo Area during UNL Events with the following exceptions:  
 18 (a) the American Red Cross is permitted to solicit financial contributions inside the Arena during one home men's and  
 19 women's basketball game in exchange for providing first aid services at Home Games, and (b) other groups closely  
 20 associated with the mission and purpose of Athletics may occasionally be allowed to solicit funds with the prior written  
 21 approval of UNL Administrator.

22 **C. Seating**

23 **1. Suites Seating**

24 It is anticipated the Arena will initially have 36 out of a possible 48 suites of which four (4) will be designated as UNL  
 25 Suites, two (2) will be designated as City Suites, and the remaining 30 suites will be designated as Private Suites all as  
 26 approved in the Drawings and Specifications and Construction Documents. No license fee will be charged for UNL  
 27 Suites or City Suites. The City will market and sell all of the Private Suites, retaining the related Suite revenues,  
 28 provided that Athletics will be provided and retain sole control of the 4 UNL Suites for all Arena events from the initial  
 29 phase of construction to market, sell or use as determined by Athletics, UNL will cooperate with the city on the sale  
 30 prices of suites. In the event the City decides to increase the number of suites in excess of 36, the City shall offer UNL  
 31 the option to build up to one-half of the increased number of suites and to market, sell or use such suites as  
 32 determined by Athletics. If UNL does not exercise its option within 180 days from receipt of the same, unless  
 33 otherwise agreed by the Parties, the City may proceed to construct the suites and market, sell or use such suites as  
 34 determined by the City. Subject to the terms and conditions of subparagraph 4 below, UNL grants City the exclusive  
 35 right to market, license and assign the Private Suites to individuals and entities in connection therewith. UNL and City  
 36 agree to cooperate on the location of their respective suites. UNL ticket prices for suites shall not exceed the highest  
 37 price ticket for a non-premium seat (ie, seats sold without any amenities) in the lower bowl.

38 **2. Loge Seating**

39 The City will market and sell all of the Loge Seating, retaining the related Loge Seating revenues provided that  
 40 Athletics will be provided an amount in return equal to 50% of the total Loge Seating Net Revenue for the Loge  
 41 Seating. Subject to the terms and conditions of subparagraph 4 below, UNL grants City the exclusive right to market,  
 42 license and assign the Loge Seating to individuals and entities in connection therewith.

43 **3. Club and Floor Seating**

44 The Arena will have Club Seating and Floor Seating (front row or courtside) as approved in the Drawings and  
 45 Specifications and Construction Documents consisting of approximately 1,000 seats. Athletics will market and sell all of  
 46 the Club and Floor Seating for Home Games, retaining the related Club and Floor Seating revenues, provided that the  
 47 City will market and sell all of the Club and Floor Seating for non-University events and retain the related Club and  
 48 Floor Seating revenue. Combined sales for both Home Games and non-University events shall be split pro-rata, except  
 49 as otherwise provided in this Agreement. Subject to the terms and conditions of Section 9(C)(4) below, the Parties  
 50 grant to each other a reciprocal right to market license and assign Club and Floor seats to individuals and entities for  
 51 non-University events in combination with Home Games. UNL agrees to coordinate the sale of Club Seats with the  
 52 City.

53 **4. Premium Seating**

54 Notwithstanding the City's exclusive right to market, license and assign Suites Seating and Loge Seating, the City  
 55 agrees to consult with Athletics on assignment of all seats to Home Games. Athletics has exclusive rights to assign  
 56 seating for the Club Seating, Floor Seating and non-premium seats available to its students and fans for Home Games.

1 Athletics agrees to allow City to sell Suite and Loge Seating at a market rate to be determined by City and its  
 2 consultants. Athletics agrees to allow an appropriate debt related pledge of Athletics portion of the Loge Seating  
 3 revenues subject to reimbursement, should such pledge be required by bondholders as approved by the JPA and bond  
 4 counsel for UNL and then only as a special limited obligation not constituting a debt or liability of UNL.

5 **5. Combined Seating**

6 Both Parties shall cooperate with one another in bundling packages for combined seating at all Events. Combined  
 7 sales are net of administrative charges incurred by Athletics and/or City.

8 **D. Fiber Optic Cable Installation and Maintenance**

9 The City will install or cause to be installed a 48-strand fiber optic cable from the new Arena to Memorial Stadium's Husker  
 10 Vision Control Room. The City shall be responsible for the maintenance of the fiber optic cable, provided, however, that  
 11 UNL shall be responsible for the cost to maintain, repair, or replace the fiber optic cable connection in the HuskerVision  
 12 Control Room.

13 **E. Ticketing**

14 **1. UNL Ticket Sales**

15 Athletics shall have the right to set ticket prices for all UNL Events held in the Arena. Athletics shall, at its own cost and  
 16 expense, perform all duties for the sale of tickets, including operation of a box office at the Arena for the sale of single  
 17 game tickets. In operating the ticket office, Athletics may use the City's ticket system or use remote access to its own  
 18 ticketing system. City will provide Athletics access to the City's box office and equipment. Athletics shall be entitled to  
 19 receive and retain all revenues from all season and single game ticket sales. City reserves the right to fix the prices  
 20 and sell such tickets for all other Arena Events. City shall be entitled to receive and retain all revenues from the Arena  
 21 Events. Athletics and City agree to work together to resolve any problems which may arise regarding the joint use of  
 22 the City's box office and equipment.

23 **2. Surcharge**

24 City will initially assess the \$1.00 surcharge per ticket sold on all Arena Events including Home Games subject to the  
 25 provisions of Paragraph 8(B). In the case of season tickets, the \$1.00 surcharge will be assessed separately on each  
 26 Home Game during the season. If the City determines that the finances of the Arena make it necessary to increase the  
 27 ticket surcharge to all events in the arena, Athletics agrees to permit a temporary additional surcharge to apply to  
 28 tickets for Home Games with the following limitations: only for so long as financially required and not to exceed \$0.50  
 29 in any 3 year period with a total of 4 incremental increases permitted over the term of the Agreement, up to a maximum  
 30 of \$3.00/ticket inclusive of the first dollar subject to the provisions of Section 8(B). The process for determining  
 31 financial need and the basis for allocating, beginning and ending any temporary additional surcharge shall be as  
 32 follows:

33 The financial need shall be a shortfall as determined by the JPA by unanimous vote for any given budget year when  
 34 projected revenues from the following sources are significantly below projections as determined and revised by the  
 35 JPA (by unanimous vote) from time to time: Arena Naming, Arena Advertising, Arena Seating, Arena Parking  
 36 Improvements and Arena Rent. The surcharge shall be temporary and shall end in the next given budget year unless  
 37 the JPA shall by unanimous vote determine the shortfall remains.

38 All amounts collected from any City surcharge will be remitted to the City. Except as it relates to the surcharge,  
 39 Athletics shall be responsible for all sales tax, use tax, or other tax associated with the sale of tickets or use of the  
 40 Arena for all UNL Events.

41 **F. Naming Rights**

42 The City reserves and shall have the exclusive right to sell, license, or grant the right to name the Arena and identifying  
 43 such name on the Arena concourses, center-hung scoreboard, aisle end standards, the entrances to the Arena, the exterior  
 44 Arena roof, the exterior of the Arena or any other areas on, in, upon or immediately around the Arena except for the  
 45 basketball court floor and specific areas leased for the exclusive use of UNL/Athletics (e.g., HuskerVision Control Room and  
 46 UNL locker rooms for the Basketball Teams) ("City Naming Rights"). UNL is hereby granted the exclusive right to sell,  
 47 license or grant the right to name the areas controlled and managed by UNL including the basketball playing court, UNL  
 48 locker rooms, HuskerVision production room, athletic medicine areas, and any UNL office space ("UNL Naming Rights").  
 49 The City and UNL will retain all revenue arising from the sale, lease, or licensing of their respective Naming Rights. UNL  
 50 agrees to use the name of the Arena and not the name of basketball playing court in its television and/or radio broadcasts  
 51 promoting and/or advertising UNL basketball games. UNL will use its reasonable best efforts to encourage other individuals  
 52 or entities promoting or commenting on UNL basketball to use the Arena name and not the name of the basketball playing  
 53 court in such promotions or commentary.

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2 **G. Signage**

3 The City reserves and shall have the exclusive right to seek, negotiate and obtain agreements regarding the right to  
4 temporary and/or permanent signage inside or outside the Arena and to retain the revenue therefrom. Notwithstanding the  
5 foregoing, the sale of signage within the Arena bowl shall be subject to the mutual approval of the parties, which approval  
6 shall not be unreasonably withheld, and may include revenue sharing or other consideration between the parties. The City  
7 further reserves the right to advertise and promote future Arena Events during Home Games and other UNL events. UNL  
8 will provide reasonable exposure via electronic means and PA announcements for Arena Events before Home Games and  
9 once during half-time of Home Game, provided, however, that the content of such announcements shall be subject to the  
10 mutual approval of the parties. UNL will prohibit its Multi-Media Agency from selling sponsorships that include food or drink  
11 give-aways at Home Games except as coordinated and agreed with the City and their concessionaire.

12 **H. Cooperation and Potential Conflicts**

13 The Parties agree to support and cooperate with each other in the sale and promotion of Naming Rights and Signage.

14 **I. Mutual License**

15 City hereby grants and shall cause to be included in any Naming Rights agreement for the Arena a grant to UNL for the  
16 term of the lease, of a non-exclusive, royalty free, worldwide, right and license to use the Arena name and identification,  
17 solely for the purpose of promoting UNL and its athletic programs or functions that use the Arena during the term. UNL  
18 grants to the City, for the term of the Agreement, a non-exclusive royalty free, worldwide, right and license to use the name  
19 of UNL, the name of UNL Athletics, and the names of the Basketball Teams solely for the purpose of promoting the Arena,  
20 including but not limited to the sale of Naming Rights and advertisements, during the Agreement Term.

21 **J. UNL Broadcast Rights**

22 UNL will have the exclusive Broadcast Rights of all Home Games held in the Arena and to retain all revenue from such sale  
23 or license of Broadcast Rights. UNL understands that the City may require payment by such broadcasters to City of  
24 reasonable and customary hookup or other fees as a condition of their use of the Arena for broadcasting purposes; all such  
25 amounts received by City shall be the exclusive property of the City.

26 **K. Parking**

27 The Parking Improvements will be constructed in accordance with the approved Drawings and Specifications and  
28 Construction Documents. At no additional cost, the City will designate as part of the Leased Improvements (A) 100 parking  
29 spaces in the Arena Surface Lot for student-athletes, coaching staff, other UNL staff, and officials for all Home Games, the  
30 day before practice dates, and other UNL Events, including commencement; and (B) 50 parking spaces in the Arena  
31 Garage for Home Games and other UNL Events.

32 The City agrees to enter into a long-term (5 years or more) contract(s) with UNL for the bulk purchase of approximately 500  
33 additional parking stalls for Home Games in Deck 1 at market rates with the expectation of a discount for bulk purchase and  
34 the long term commitment as agreed between the parties. The Parties shall designate the location of the 500 additional  
35 parking stalls by agreement between the parties, and may include the use of other city owned Parking Improvements in the  
36 vicinity as agreed.

37 **L. Maintenance**

38 In consideration of the rent paid in Section 8.A. above, the City will operate and maintain the Arena and Leased  
39 Improvements so as to cause it to remain in a condition comparable to that of other multipurpose sports and entertainment  
40 facilities of similar size, design and age, ordinary wear and tear excepted. The City, except as otherwise provided in this  
41 Agreement, will be responsible for all operating, maintenance, and capital repair expenses related to the Arena and it will be  
42 operated in a manner substantially similar to and consistent with other similarly situated multipurpose sports and  
43 entertainment arenas suitable for Division I basketball programs. UNL will not be responsible for any maintenance, repairs  
44 or replacements for the Arena or the Arena Improvements.

45 **M. Capital improvements**

46 The City will annually submit an Arena and Parking Improvements Capital Improvement Program to the JPA in the same  
47 way as the current City Capital Improvement Program is implemented. Funding sources will be identified with the Capital  
48 Improvement Program submittal, including existing revenue streams or new bond funds. The City will consider hiring a  
49 structural engineer as needed to examine the condition of the Arena and the Parking Improvements and provide input into  
50 the Capital Improvement Program submittal. The City will seek advice from the Arena operator as well as Athletics in  
51 preparing the City's annual Arena and Parking Improvements Capital Improvement Program request to JPA.

52 **N. Taxes – property tax changes**

53 In the event UNL's tenancy or other UNL interests in the Arena are ever deemed to be not exempt from ad valorem,  
54 Personal Property taxes or any other property taxes, then any resulting tax liability due to UNL's tenancy or other interests  
55 in the Arena shall be allocated to and payable by UNL.

1

2 **O. Timing of payments and transfers**

3 The City shall transfer loge revenues to UNL at such time as is mutually agreed upon by the parties.

4 **P. Source of Financing**

5 Notwithstanding any other provision of this Section 9, and specifically referencing without limitation Section 9.B, Section  
6 9.C, Section 9.F. and Section 9.I, UNL acknowledges and understands that the Arena is expected to be financed in part  
7 from the proceeds of tax-exempt obligations (within the meaning of Section 103 of the Internal Revenue Code of 1986, as  
8 amended (the "Internal Revenue Code")), Build America Bonds (within the meaning of Section 54AA of the Internal  
9 Revenue Code) and Recovery Zone Economic Development Bonds (within the meaning of Section 1400U-2 of the Internal  
10 Revenue Code) (collectively, the "Bonds"). When acting in its capacity as tenant of the Arena under this Agreement, UNL  
11 hereby agrees to be bound by the provisions contained in Exhibit B to the Facilities Agreement (Compliance Plan and  
12 Procedure for West Haymarket Joint Public Agency Tax Advantaged Bonds, including any schedules and exhibits thereto)  
13 that limit "non-qualified use" (as defined therein) of the Arena to the same extent as those provisions apply to the City and  
14 the JPA.

15

16 **Section 10. Dispute Resolution**

17 In the event any dispute between the Parties arises under this Agreement or any right, duty or obligation arising therefrom or the  
18 relationship of the Parties including, but not limited to, a dispute relating to the effectiveness, validity, interpretation,  
19 implementation, termination, cancellation or enforcement of this Agreement, the Parties shall first attempt in good faith to settle  
20 and resolve such dispute by mutual agreement. In the event a dispute arises, either Party shall have the right to notify the other  
21 that it has elected to implement the procedures set forth in this Article. Within twenty (20) days after delivery of any such notice  
22 by one Party to the other regarding a dispute, the City Administrator and UNL Administrator shall meet at a mutually agreed time  
23 and place to attempt, with diligence and good faith, to resolve and settle such controversy.

24 In the event the City Administrator and UNL Administrator cannot resolve and settle such controversy, the City and UNL agree  
25 that any claim arising out of or related to this Agreement shall be subject to mediation prior to the institution of legal or equitable  
26 proceedings by either Party. The Parties shall endeavor to resolve their controversy by mediation the procedures for which shall  
27 be mutually agreed upon by the Parties. Request for mediation shall be provided by written notice to the other Party. The  
28 request may be made concurrently with the institution of legal or equitable proceedings but, in such event, mediation shall  
29 proceed in advance of legal or equitable proceedings which shall be stayed pending mediation for a period of 60 days from the  
30 date of receipt of the request by the other Party, unless stayed for a longer period by agreement of the Parties or court order. In  
31 the event the Parties cannot agree upon a mediator and on the procedures and timing for medication within 60 days of a Party's  
32 receipt of a request for mediation, such failure shall not preclude either Party from instituting legal or equitable proceedings.

33 **Section 11. Transfer and Assignment**34 **A. Outsourcing**35 **1. Prior Approval Required**

36 Except for vendors, any outsourcing or other subcontracting or similar transfer of the rights and responsibilities under  
37 this Agreement requires the prior Consent and Approval of the other Party. No such outsourcing, subcontracting, or  
38 transfer shall release the City or UNL of their respective obligations under this Agreement.

39 **2. Liability for Breach non-transferable**

40 Any subcontract, including those with related entities, shall contain a provision making the subcontracting entity  
41 obligated to comply with the provisions of this Agreement including required insurance coverages and applicable  
42 waivers of subrogation and other clauses where applicable. In any event, outsourcing shall not relieve the Party of any  
43 obligations hereunder and the responsible Party agrees that breach or default arising out of or caused by a  
44 subcontractor shall be considered the breach or default of that Party.

45 **B. Assignment**46 **1. By UNL**

47 UNL may not assign or sublease this Agreement or portion of this Agreement without the prior written consent of City in  
48 each instance. This provision shall apply to any assignment, transfer or sublease, whether by voluntary act, operation  
49 of law, or otherwise. Consent by the City to one assignment, transfer or sublease of this Agreement or the property  
50 shall not be a waiver to City's rights under this Agreement as to any subsequent assignment, transfer or sublease. City

1 shall not unreasonably withhold consent to assign. No assignment, transfer or sublease shall release UNL of its  
 2 obligations under this Agreement.

3 **2. By City**

4 City may not assign or transfer this Agreement or portion of this Agreement without the prior written consent of UNL in  
 5 each instance. This provision shall apply to any assignment, transfer or sublease, whether by voluntary act, operation  
 6 of law, or otherwise. Consent by UNL to one assignment, transfer or sublease of this Agreement or the property shall  
 7 not be a waiver to UNL's rights under this Agreement as to any subsequent assignment, transfer or sublease. UNL  
 8 shall not unreasonably withhold consent to assign. No assignment, transfer or sublease shall release City of its  
 9 obligations under this Agreement.

10 **3. Collection of Rents**

11 City may collect any rents for this property directly from any related entities, assignee or subtenant and apply the  
 12 amount to the rent due under this Agreement. No such collection shall be a waiver of the other rights provided in this  
 13 Agreement.

14 **Section 12. Licenses, Codes and Permits**

15 **A. City**

16 The City will obtain and maintain all licenses and permits necessary for the City to manage and operate the Arena and  
 17 provide the Agreement Improvements in a manner suited for the intended uses of UNL under this Agreement.

18 **B. UNL**

19 UNL will cooperate with and assist the City in obtaining or maintaining the necessary licenses and permits.

20 **C. Structural/Building**

21 The City agrees to make structural or other improvements to the facility as may be required for applicable building, fire, life  
 22 safety, accessibility, or other code requirements.

23 **Section 13. Possession and Use**

24 Except as provided in this Agreement, the City shall deliver possession of the Leased Improvements on or before the  
 25 commencement date of the Initial Term hereof, subject only to unavoidable delays due to Force Majeure. Delivery of possession  
 26 prior to commencement date shall not affect the expiration date of this Agreement.

27 If the City fails to complete construction of the Leased Improvements on or before the beginning of the 2013-2014 Basketball  
 28 Season, the City shall pay UNL a sum to compensate UNL for relocated or rescheduled men's basketball games. The City shall  
 29 pay UNL the sum of \$100,000 for each of the first two games affected by the delay. In the event that more than two games are  
 30 affected by the delay, the City shall pay UNL the sum of \$200,000 for each game thereafter affected by the delay. In addition,  
 31 the City agrees to provide UNL the use of Pershing Auditorium free of charge for any women's basketball game that must be  
 32 relocated or rescheduled because of the delay. Any sums due and payable hereunder by the City shall be payable, not as a  
 33 penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by UNL.

34 **Section 14. Use Restrictions**

35 **A. Legal Use**

36 UNL agrees not to commit or knowingly permit any act to be performed on the property or suffer any omission to occur  
 37 which will be in violation of any law or regulation to which UNL is lawfully subject to, without waiving any legal or applicable  
 38 defenses.

39 **B. Sponsorships and Publicity**

40 The Parties agree to the following restrictions related to all UNL Events at the Arena: No publicity prohibited by law. No  
 41 publicity that is false or misleading, deceptive or offensive to the moral standard of the community. No political publicity  
 42 including advertising for or against any candidate for political office, ballot item, referendum or other political issue. No adult  
 43 oriented business publicity including anything of a sexually explicit nature or advertising any adult oriented business, service  
 44 or products. City agrees to prohibit any advertising for products that are restricted or prohibited by applicable NCAA  
 45 requirements. The City agrees that any advertising for casino gambling and tobacco products in the Arena shall be in a  
 46 digital or other format that allows such advertisements to be removed during UNL Events. The City further agrees that any  
 47 advertising for alcoholic beverages in the seating bowl shall be in a digital or other format that allows such advertisements to  
 48 be removed during UNL Events.

1 **Section 15. Insurance/Risk Management**

2 **A. Liability Insurance**

3 UNL shall provide, at UNL's expense, general liability coverage and any liability coverage which City may require as a result  
4 of the particular use of the Property including spectator and participant liability. All liability policies shall have such liability  
5 limits provided in subsection D below or UNL will comply with such other requirements as City may from time to time  
6 reasonably request for the protection by insurance of the interests of the respective Parties.

7 **B. Hazard Insurance Required**

8 The City shall provide, at City's expense, and with insurers approved by and satisfactory to UNL, insurance with respect to  
9 the Arena against loss by fire, lightning, and other perils covered by the standard all-risk endorsement and in such amount  
10 and for such other perils as is customarily carried by owners and operators of similar properties. Flood insurance shall be  
11 carried, if required, by City.

12 **C. Garagekeeper's Liability**

13 Commencing on the Commencement Date City shall provide Garagekeeper's insurance for physical damage to parked  
14 vehicles in the amount of \$500,000 combined single limit for each occurrence.

15 **D. Terms of Insurance**

16 All insurance policies maintained pursuant to this Agreement shall name UNL and City as insureds, as their respective  
17 interests may appear. Under any City or UNL self-insurance, City and UNL shall be treated as an additional (or named)  
18 insured as if the City or UNL as the self-insurer possessed such policies. All insurance policies maintained pursuant to this  
19 Agreement shall provide that there shall be no cancellation, non-renewal, termination for any reason, or modification without  
20 at least fifteen (15) days prior written notification to the insureds. All UNL policies of insurance required by this Agreement  
21 shall be delivered to and retained by City. The amounts of such coverages shall be as follows:

- 22 1. For bodily injury or damages, fatal or non-fatal, including product liability, liquor liability and automobile liability  
23 coverage, to any one person to the extent of \$3,000,000.
- 24 2. For bodily injury or damages, fatal or non-fatal, including product liability, liquor liability and automobile liability  
25 insurance coverage, to two or more persons for any one accident to the extent of \$3,000,000.
- 26 3. For property damage to the extent of \$500,000 each occurrence, \$500,000 aggregate.
- 27 4. 'Umbrella' or Excess Coverage in the amount of \$5,000,000.

28 **E. Failure to Renew or Have Insurance Coverage**

29 If any policy maintained pursuant to this Agreement is not renewed on or before fifteen (15) days prior to its expiration date  
30 or if no insurance policy is in force at any time, the City may procure such insurance, pay the premiums therefor, and such  
31 sums shall be immediately due and payable with interest, at the rate provided in this Agreement, until paid.

32 **F. Proof of Loss Upon Damage to Property**

33 If any loss occurs which may be covered by insurance, UNL will immediately notify City of the loss and shall make the proof  
34 of loss within the earlier of seven (7) days or the time required under the insurance policy. If UNL fails to make the proof of  
35 loss, the City may make the proof of loss.

36 **G. Settlement with Insurance Carrier**

37 If the hazard insurance carrier refuses to pay a claim or offers to settle for less than the full cost of repairs or replacement,  
38 UNL shall advise the City. UNL shall not make a settlement for less than the full cost of repair or replacement without the  
39 written consent of City. Any attorney fees or other costs which are incurred by City in any action against an insurance carrier  
40 shall be repaid by UNL upon demand.

41 **H. Employment Related Insurance**

42 In connection with the employment of its own employees, both Parties shall pay all applicable social security,  
43 unemployment, worker's compensation or other employment taxes or contributions of insurance, and shall comply with all  
44 federal and state laws and regulations relating to employment generally, minimum wages, social security, unemployment  
45 insurance and worker's compensation.

46 **I. Waiver**

47 UNL and the City expressly waive all rights and claims they may have against the other, their subsidiaries and affiliates for  
48 loss or damage arising or resulting from the operations at the Arena caused by fire or other perils covered in a standard  
49 form fire or all risk insurance policy. Each insurance policy procured by the City and UNL shall affirmatively state that it will  
50 not be invalidated because the insured waived its rights of recovery against any Party prior to the occurrence of a loss. Any  
51 self-insurance by UNL or City shall be deemed to include such waiver of subrogation.

52 **J. Administration**

53 City shall administer, defend, process and otherwise handle all claims up to the deductible or self insured retainer amount of  
54 any such policy or coverage obtained hereunder.

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**K. Contractors and Subcontractors**

Both Parties shall require suitable and adequate insurance coverage commensurate with the coverages required herein, including spectator and participant liability.

**L. Self-Insurance**

City and UNL may satisfy its insurance obligations in this Section 15 by self-insurance as evidenced by a written statement from their respective risk management officer.

**M. Modifications of Insurance Requirements**

The Parties recognize and agree that the insurance coverages discussed in this Section 15 may require adjustment from time to time over the term of this Agreement. Not more frequently than once every five (5) years, the Administrators may reasonably modify the required insurance coverage to reflect the then current risk management practices for the use of arenas and underwriting practices in the insurance industry.

13 **Section 16. Americans with Disabilities Act (ADA)**

14 Americans With Disabilities Act compliance regarding the Arena as a building, facility or public accommodation shall be the  
15 responsibility of the City. UNL shall take all reasonable steps to provide services for individuals with disabilities as required by  
16 the Act related solely to UNL's provision of Home Games or UNL Non-Basketball Events. UNL shall defend, indemnify, protect  
17 and hold harmless City and all the officers, employees, and agents of City against any and all claims, demands, losses, actions  
18 or causes of action of whatsoever kind, arising or resulting from UNL's failure to comply with and fulfill the requirements of this  
19 Section. The City shall defend, indemnify, protect and hold harmless UNL and all the officers, employees, and agents of UNL  
20 against any and all claims, demands, losses, actions or causes of action of whatsoever kind, arising or resulting from the City's  
21 failure to comply with and fulfill the requirements of this Section.

22 **Section 17. Quiet Enjoyment**

23 On payment of UNL Rent and performance of the other covenants and agreements on the part of UNL to be paid and performed  
24 hereunder, UNL shall peaceably have and enjoy the Leased Improvements and all of the rights, privileges and appurtenances  
25 granted.

26 **Section 18. Hazardous materials**

27 **A. Pre-existing Conditions**

28 UNL shall not be liable to the City or any other person for pre-existing environmental conditions at the Project Site. The City  
29 shall indemnify, defend and hold UNL harmless from any claims arising out of such pre-existing conditions at the Project  
30 Site. This indemnification shall not include any remediation activities and other releases that may be caused or arise out of  
31 the Leased Improvements development and construction activities on the Project Site; Provided that each Party to this  
32 Agreement hereby covenants and agrees not to sue the other Parties on any cause of action arising out of or related to  
33 such activities.

34 **B. Use Restrictions**

35 UNL shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Leased  
36 Improvements by UNL, its agents, employees, contractors or invitees, without the prior written consent of the City (which  
37 consent shall not unreasonably withhold as long as UNL demonstrates to City's reasonable satisfaction that such  
38 Hazardous Materials is necessary or useful to UNL's business and will be used, kept and stored in a manner that complies  
39 with all laws regulating any such Hazardous Material so brought upon or used or kept in or about the Leased  
40 Improvements). If UNL breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material  
41 on the Leased Improvements caused or permitted by UNL results in contamination of the Leased Improvements, or if  
42 contamination of the Leased Improvements by Hazardous Material otherwise occurs for which UNL is legally liable to the  
43 City for damage resulting therefrom, then to the extent authorized by law, UNL shall indemnify, defend and hold the City  
44 harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without  
45 limitation, diminution in value of the Leased Improvements, damages for the loss or restriction on use of rentable or usable  
46 space or of any amenity of the Leased Improvements, damages arising from any adverse impact on marketing of space,  
47 and sums paid in settlement or claims, attorney's fees, consultant fees and expert fees) which arise during or after the lease  
48 term as a result of such contamination. This indemnification of City by UNL includes, without limitation, costs incurred in

1 connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any  
 2 federal, state or local governmental agency or political subdivision because of Hazardous Material present in the Leased  
 3 Improvements attributable to UNL. Without limiting the foregoing, if the presence of any Hazardous Material on the Leased  
 4 Improvements caused or permitted by UNL results in any contamination of the Leased Improvements, UNL shall promptly  
 5 take all actions at its sole expense as are necessary to return the Leased Improvements to the condition existing prior to  
 6 UNL's introduction of any such Hazardous Material to the Leased Improvements; provided that City's approval of such  
 7 actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not  
 8 potentially have any material adverse long term or short term effect on the Leased Improvements.

9 **C. Eminent Domain**

10 If the Leased Improvements are taken by any public authority under the power of eminent domain or sold to any public  
 11 authority pursuant to threat of eminent domain, then division of damages shall be made as follows:

- 12 1. UNL shall receive any amount of any damages which UNL has suffered for the loss of the remainder of its Agreement.
- 13 2. The City shall receive any damages based upon the value of the building.
- 14 3. UNL shall receive any other damages or other awards based upon considerations other than value of the building  
 15 which were awarded to UNL.

16 The allocation of damages shall be mutually agreed upon by the governmental authorities exercising the power of eminent  
 17 domain, by the City and by UNL. In the event that there is not agreement on allocation as provided in this paragraph, the  
 18 Parties may agree to an award of damages for the value of the building and the Agreement.

19 **D. Fire and Other Casualty**

20 If fire or other casualty shall render the Leased Improvements untenable, this Agreement shall terminate immediately  
 21 and any prepayments of UNL Rent shall be refunded pro-rata by the City; provided, however, that if the Leased  
 22 Improvements can be repaired within ninety (90) days from the date of such event, then at the City's option, by notice in  
 23 writing to UNL, mailed within thirty (30) days after such damage or destruction, this Agreement shall remain in full effect, but  
 24 the UNL Rent for the period during which the Leased Improvements are untenable shall be abated pro-rata.

25 **E. Surrender**

26 **1. Peaceable Surrender Required**

27 On the last day of the term of this Agreement or on the earlier termination of this Agreement, UNL shall peaceably  
 28 surrender the Leased Improvements in good condition and repair, reasonable wear and tear excepted, consistent with  
 29 UNL's duty to make repairs as provided in this Agreement. UNL shall at its expense remove all of its equipment from  
 30 the Leased Improvements, and any property not removed shall be deemed abandoned. All alterations, additions, and  
 31 fixtures, other than UNL's equipment and trade fixtures, which have been made or installed by either the City or UNL  
 32 on the Leased Improvements shall remain as the City's property and shall be surrendered with the Leased  
 33 Improvements as a part of the Leased Improvements. Trade fixtures shall not include any structural components of any  
 34 buildings.

35 **2. Failure to Surrender**

36 If the Leased Improvements are not surrendered at the end of the Agreement or on the earlier termination of the  
 37 Agreement, to the extent authorized by law, UNL shall indemnify the City against any loss or liability resulting from  
 38 delay by UNL in surrendering the Leased Improvements. The indemnification includes, but is not limited to, claims  
 39 made by any succeeding UNL founded on such delay. Any succeeding UNL is authorized to take legal action against  
 40 UNL to recover its damages from UNL. The provisions of this section shall survive the termination of this Agreement.

41 **3. Surrender of Security Devices**

42 UNL shall promptly surrender all electronic or other security/entrance devices including keys, if any, for the Leased  
 43 Improvements to the City at the place then fixed for payment of UNL Rent and shall inform the City of combinations on  
 44 any locks and safes on the Leased Improvements. Surrender of such devices before the end of the Agreement shall  
 45 not terminate this Agreement unless City accepts the surrender of the Agreement in writing. In no event shall UNL be  
 46 deemed to have abandoned the property or this Agreement during the term of this Agreement unless UNL first obtains  
 47 the express written permission of the City. The provisions of this section shall survive the termination of this  
 48 Agreement.

49 **Section 19. Holding Over**

50 In the event that UNL remains in possession of the Leased Improvements after the expiration of this Agreement without the  
 51 execution of a new lease, City may take any legal action to remove UNL. If the City accepts a UNL Rent payment for a period of  
 52 time after the end of the Agreement or otherwise acknowledges the tenancy, then UNL is deemed to be occupying the Leased  
 53 Improvements as a tenant from month- to-month. Any month-to-month tenancy is subject to all the conditions, provisions, and

1 obligations of this Agreement. The base rent for the hold-over period shall be increased to 110% of the base rent due under the  
 2 terms of this Agreement for the last year of the Agreement. The increased base rent shall then be adjusted by any CPI inflation  
 3 index or by any other adjustment method provided in this Agreement.

#### 4 Section 20. Default

##### 5 A. UNL Events of Default, Not Exclusive

6 A default by UNL under this Agreement shall occur if any of the following occur, but a default is not limited to the following:

- 7 1. Any one or more rent payments due from UNL to the City shall be and remain unpaid in whole or part after they are  
 8 due and payable;
- 9 2. UNL fails to provide insurance as required by this Agreement and the default continues for more than 10 days after  
 10 notice from City;
- 11 3. UNL violates or defaults in any of the other covenants, agreements, stipulations or conditions herein and such violation  
 12 or default shall continue for a period of thirty (30) days after written notice from the City of such violation of default;
- 13 4. If UNL shall become insolvent, make an assignment for the benefit of its creditors, or if a receiver is appointed for UNL;
- 14 5. Abandonment of the property by UNL (any absence by UNL for more than seven days without notice to City shall be  
 15 presumed to be an abandonment).

##### 16 B. City Events of Default, Not Exclusive

17 Cancellation of previously scheduled UNL Home Games or UNL Non-Basketball Events due to code enforcement and/or  
 18 lapse, revocation, suspension or termination of any required permit of the Arena or the City/Arena Operator which legally  
 19 prevent the use of the Leased Improvements by UNL.

#### 20 Section 21. Notice and Cure of Default

##### 21 A. Default of City

22 The City shall not be deemed to be in default under this Agreement until UNL has given the City written notice specifying the  
 23 nature of the default and until the City fails to cure the default within thirty (30) days after receipt of such notice or within  
 24 such reasonable time thereafter as may be necessary to cure such default where such default is of such a character as to  
 25 reasonably require more than thirty (30) days to cure.

##### 26 B. Default of UNL

27 UNL shall not be deemed to be in default under this Agreement until the City has given UNL written notice specifying the  
 28 nature of the default and until UNL fails to cure the default within thirty (30) days after receipt of such notice or within such  
 29 reasonable time thereafter as may be necessary to cure such default where such default is of such a character as to  
 30 reasonably require more than thirty (30) days to cure.

#### 31 Section 22. Remedies Upon Default

##### 32 A. Right to Cure Defaults to Third Parties

33 Notwithstanding any contrary provision herein, in the event either Party offers to cure the other Party's default or potential  
 34 default under the curative terms of this Agreement by advancing, or refunding, monies, the other Party shall repay the  
 35 monies advanced, **or refunded**, within thirty (30) days of receipt of notice of such advancement. In addition to the other  
 36 rights and remedies hereunder, the Party offering the cure may offset any advanced monies to cure the other Party's default  
 37 or potential default under this Agreement or the Construction Agreement against any other amount owed to the other Party  
 38 under this Agreement.

##### 39 B. Remedies Not Exclusive

40 The remedies provided in this paragraph are not exclusive and are in addition to any other remedies now or later allowed by  
 41 law. Upon default of UNL:

- 42 1. The City may, at its option, declare this Agreement forfeited, the Agreement's term ended, have the right to reenter the  
 43 property and have the right to take possession of the property without any further obligation to UNL. City may remove  
 44 all persons and property at the cost of UNL.
- 45 2. City may instead elect to keep UNL in possession and continue to have all rights and remedies under this Agreement.  
 46 If City elects to keep UNL in possession, City shall have the rights under subparagraph A for any future defaults or for  
 47 any previous default which remains uncured.

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2 **Section 23. Interest**

3 If UNL fails to perform any of its promises contained in this Agreement, including the failure to pay **rent**, then any unpaid rent and  
4 any sum advanced by the City under the terms of this Agreement shall bear interest from the due date or the date of payment by  
5 the City, respectively, to the date of payment to the City by UNL at the rate of 4% per annum.

6 **Section 24. Personal Property at UNL's Risk**

7 All Personal Property including fixtures kept, stored or maintained on the property by UNL shall be so kept, stored or maintained  
8 at the sole risk of UNL

9 **Section 25. Cumulative Rights**

10 No right or remedy given in this Agreement to UNL or the City is intended to be exclusive of any other right or remedy hereof  
11 provided by law. Each right and each remedy shall be cumulative and in addition to every other right or remedy given in this  
12 Agreement or now or hereafter existing at law or in equity or by statute.

13 **Section 26. Further Assurances**14 **A. Written Certification**

15 In addition to any other information which may reasonably be requested, any Party shall without charge, at any time and  
16 from time to time hereafter, within ten (10) days after written request from another Party for the same, certify by written  
17 instrument duly executed and acknowledged to any person, firm or corporation the following information which was  
18 specified in such request:

- 19 1. Whether this Agreement has been supplemented or amended, and if so, the substance and manner of such  
20 supplement or amendment;
- 21 2. Whether this Agreement is still valid;
- 22 3. The existence of any default under this Agreement;
- 23 4. The existence of any claims or amounts owed to such Party by any other Party; and
- 24 5. The commencement and expiration dates of the term of this Agreement.

25 **B. Effect of Certification**

26 Any such certificate may be relied on by the Party who requested it and by any other person, firm or corporation to whom it  
27 may be exhibited or delivered, and the contents of the certificate shall be binding on the Party executing it.

28 **Section 27. Notice**29 **A. Delivery**

30 If any notice is required to be given under this Agreement, it may be only be given in writing and delivered by mail, telegram,  
31 personal delivery, facsimile transmission, or electronic data transmission. Delivery of notice shall be effective as follows:

- 32 1. Delivery by any means other than mail shall be effective upon receipt.
- 33 2. Delivery by mail may be by first class mail, certified mail or registered mail.
- 34 3. Delivery by first class mail is complete upon the third postal business day after mailing.
- 35 4. Delivery by certified mail or registered mail is complete upon delivery; if the certified mail is not delivered as a result of  
36 refusal to accept, then upon the date of the refusal to accept; or if there is a failure of delivery as a result of the inability  
37 of the post office to deliver after three attempts at delivery (to the last-known address as provided in this Agreement)  
38 have been made, then upon the date of the last attempt.
- 39 5. Delivery may be made to any agent for service of process.
- 40 6. If the Party is a corporation, delivery of notice may be made to any officer. If the Party is a partnership, notice may be  
41 given to any partner.

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**B. Addresses**

For purposes of mailing of notice under this Agreement or as otherwise required by law, the mailing addresses of the Parties are:

**CITY:**

Mayor  
555 S. 10th St.  
Lincoln, NE 68508

With a copy to:

City Attorney  
555 S. 10th St., Suite 300  
Lincoln, NE 68508

**UNIVERSITY:**

Vice Chancellor for Business and Finance  
302 Administration Building  
University of Nebraska-Lincoln,  
Lincoln, NE 68588-0425

With one copy each to:

Athletic Director  
University of Nebraska  
MSTD  
Lincoln, NE 68588--0120

Chancellor  
201 Administration Building  
University of Nebraska-Lincoln,  
Lincoln, NE 68588-0419

Vice President and General Counsel  
University of Nebraska  
3835 Holdrege Street  
Lincoln, NE 68583-074

**C. Changes.**

Each Party shall supply any address changes to the other Party in writing. Any Party may change its address by giving notice in writing, stating its new address, to any other Party as provided in paragraph B above. The newly designated address shall be that Party's address for the purpose of all communications, demands, notices or objections permitted or required to be given or served under this Agreement.

**Section 28. Other Provisions**

**A. Successors and Assigns**

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective assigns and successors.

**B. Subordination**

UNL agrees that at the City's election, this Agreement shall be subordinate to any land lease, mortgages or trust deeds now on or placed on the property and to any and all advances to be made thereunder, and to the interest thereon, and to all renewals, replacements and extensions thereof. UNL hereby appoints the City as its attorney-in-fact to execute such documents as may be required to accomplish such subordination.

**C. Brokerage Fees**

Each Party to this Agreement warrants that it has not incurred any real estate brokerage fees, finders' fees, loan brokerage fees or any other fees to any third party in connection with this Agreement. In the event that any third party, other than those listed below, institutes legal action in any effort to recover such fees, the Parties shall jointly defend such action. If a judgment is obtained against the Parties jointly, the Party responsible for breach of this warranty shall reimburse the other for the latter's attorney fees, court costs, expenses and share of the judgment.

**D. Amendment**

No amendment of this Agreement shall be valid unless it is in writing and is signed by the Parties or by their duly authorized representatives, and unless it specifies the nature and extent of the amendment.

**E. Severable Provisions**

Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, or word hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement. Entire Agreement

This Agreement contains the entire understanding of the Parties hereto with respect to the transactions contemplated hereby and supersedes all prior agreements and understandings between the Parties with respect to such subject matter.

- 1 **F. Representations**
- 2 No representations, warranties, undertakings, or promises, whether oral, implied, written, or otherwise, have been made by
- 3 either Party hereto to the other unless expressly stated in this Agreement. Neither Party has relied on any verbal
- 4 representations, agreements, or understandings not expressly set forth in this Agreement.
- 5 **G. Duplicate Originals**
- 6 This Agreement may be executed in several duplicate originals, but all copies shall be only one agreement.
- 7 **H. Captions, Headings or Titles**
- 8 All captions, headings, or titles in the paragraphs or sections of this Agreement are inserted for convenience of reference
- 9 only and shall not constitute a part of this Agreement as a limitation of the scope of the particular paragraphs or sections to
- 10 which they apply.
- 11 **I. Waiver**
- 12 Any waiver by any Party of a default of any other Party of this Agreement shall not affect or impair any right arising from any
- 13 subsequent default. No custom or practice of the Parties which varies from the terms of this Agreement shall be a waiver of
- 14 any Party's right to demand exact compliance with the terms of this Agreement.
- 15 **J. Grammatical Changes**
- 16 The use of any particular gender in this Agreement shall refer to all genders. The use of the singular of an expression may
- 17 be read as the plural and the use of the plural may be read as the singular.
- 18 **K. Joint and Severable Liability**
- 19 If there is more than one person liable under this Agreement, the liability of each shall be joint and several.
- 20 **L. Nebraska Law**
- 21 This Agreement shall be construed and enforced in accordance with the laws of the state of Nebraska.
- 22 **M. Soldier's and Sailor's Relief Act**
- 23 No Party is a member of the armed forces of the United States or of any of its allies. Each Party states that the Soldiers and
- 24 Sailors Relief Act does not apply to him, her or it.
- 25 **N. Non-Discrimination**
- 26 UNL and the City shall not discriminate against any person because of race, color, sex, creed, religion, ancestry, national
- 27 origin, age, marital status or disability, to fail or refuse to hire, or discharge, an employee, or to accord adverse, unlawful, or
- 28 unequal treatment to any person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion,
- 29 upgrading, compensation, layoff, discharge, or any other term or condition of employment pursuant to the requirements of
- 30 Lincoln Municipal Code Chapter 11.08 and Neb. Rev. Stat. § 48-1122 (Reiss. 2004 as amended).
- 31 **O. Work Status Verification**
- 32 UNL and the City agree that all individuals involved in the design, construction and operation of the Arena must be verified
- 33 using the federal immigration verification system to determine the work eligibility status of new employees physically
- 34 performing services within the State of Nebraska pursuant to Neb. Rev. Stat. §§4-108 to 4-114 as amended.

The Board of Regents of the  
University of Nebraska

City of Lincoln

\_\_\_\_\_  
Harvey Perlman, Chancellor

\_\_\_\_\_  
Chris Beutler, Mayor

Approved as to form:

Attest:

\_\_\_\_\_  
Joel D. Pedersen, General Counsel

\_\_\_\_\_  
Joan Ross, City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

**Exhibit A**

**Arena Sources of Funds**

(See attached)

City of Lincoln  
West Haymarket  
Build Period Cash Flows  
12/30/2009

Uses	2010	2011	2012	2013	Total
Deposit to the Project Construction Fund	20,000,000	104,863,114	104,863,114	104,863,114	334,589,343
Cost of Issuance	3,000,000	-	1,745,625	360,000	5,105,625
ISG Fee	-	-	-	-	-
Debt Service Reserve Fund - JPA Debt	14,190,491	-	-	-	14,190,491
Debt Service - JPA Debt	-	10,000,000	10,000,000	15,818,750	35,818,750
Debt Service Reserve Fund - ISG Debt	-	-	-	-	-
Debt Service - ISG Debt	-	-	-	-	-
<b>Total</b>	<b>37,190,491</b>	<b>114,863,114</b>	<b>116,608,739</b>	<b>121,041,864</b>	<b>389,704,209</b>
<b>Sources</b>					
State Aid (Turn back tax) debt	-	-	116,375,000	24,000,000	140,375,000
JPA Debt Series #2	-	-	-	116,375,000	116,375,000
JPA Debt Series #1	200,000,000	-	-	-	200,000,000
Private Debt (ISG)	-	-	-	-	-
Brownfield and Title 200 Funds	800,000	-	-	-	800,000
Private Donations	22,000,000	-	-	-	22,000,000
Net Occupation taxes etc	-	9,911,999	10,110,239	10,312,444	30,334,682
Arena, pre-opening	-	-	-	2,300,593	2,300,593
Interest on cash	-	2,947,369	907,294	1,122,970	4,977,633
<b>Total</b>	<b>222,800,000</b>	<b>12,859,368</b>	<b>127,392,533</b>	<b>37,736,006</b>	<b>400,787,907</b>
Net Cash Flow	185,609,509	(102,003,747)	10,783,793	(83,305,858)	10,083,697
Beginning of Year Cash	-	185,609,509	83,605,762	94,389,555	185,609,509
Cash at End of Year	185,609,509	83,605,762	94,389,555	11,083,697	14,190,491
<b>Cumulative Reserve Accounts</b>	<b>14,190,491</b>	<b>14,190,491</b>	<b>14,190,491</b>	<b>14,190,491</b>	<b>14,190,491</b>

West Haymarket  
Operations Period Cash Flows

Uses	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Debt Service - JPA Debt Series #1	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	14,190,491	14,190,491	14,190,491	14,190,491	14,190,491
Debt Service - JPA Debt Series #2	5,818,750	5,818,750	5,818,750	5,818,750	5,818,750	5,818,750	5,818,750	8,257,092	8,257,092	8,257,092	8,257,092	8,257,092
Debt Service - General Obligation	1,702,859	1,702,859	1,702,859	1,702,859	1,702,859	1,702,859	1,702,859	1,702,859	1,702,859	1,702,859	1,702,859	1,702,859
Debt Service - ISG Debt	-	-	-	-	-	-	-	-	-	-	-	-
University Reimb for F&B	300,000	309,000	318,270	327,818	337,653	347,782	358,216	368,962	380,031	391,432	403,175	415,270
Arena Make Whole Payment	750,000	772,500	795,675	819,545	844,132	869,456	895,539	922,405	950,078	978,580	1,007,987	1,038,175
Arena Marketing Fees	308,764	314,939	321,238	327,663	334,216	340,900	347,718	354,673	361,766	369,001	376,381	383,909
City Administrative Expenses	200,000	206,000	212,180	218,545	225,102	231,855	238,810	245,975	253,354	260,955	268,783	276,847
<b>Total</b>	<b>19,080,373</b>	<b>19,134,048</b>	<b>19,168,972</b>	<b>19,215,180</b>	<b>19,262,711</b>	<b>19,311,602</b>	<b>19,361,993</b>	<b>26,042,458</b>	<b>26,095,671</b>	<b>26,150,410</b>	<b>26,206,719</b>	<b>26,264,644</b>
<b>Sources:</b>												
Turn back tax	1,690,933	1,724,752	1,759,247	1,794,431	1,830,320	1,866,927	1,904,265	1,942,350	1,981,197	2,020,821	2,061,238	2,102,462
Occupation taxes	10,518,693	10,729,056	10,943,648	11,162,521	11,385,771	11,613,487	11,845,756	12,082,671	12,324,325	12,570,811	12,822,228	13,078,672
Developer contributions	88,350	178,467	270,386	364,144	459,777	468,973	478,352	487,919	497,677	507,631	517,844	528,139
Arena revenues	6,175,275	6,298,781	6,424,757	6,553,252	6,684,317	6,818,003	6,954,363	7,093,450	7,235,319	7,380,026	7,527,656	7,678,179
Parking Revenues	1,160,479	1,230,901	1,303,629	1,378,727	1,456,258	1,480,164	1,504,391	1,528,942	1,553,818	1,579,020	1,604,550	1,630,409
TIF	425,715	425,715	425,715	425,715	425,715	425,715	425,715	425,715	425,715	425,715	425,715	425,715
Interest on debt reserve funds	231,465	263,721	312,944	379,743	464,616	566,696	682,122	742,086	745,635	758,092	779,798	811,106
<b>Total</b>	<b>20,290,909</b>	<b>21,171,402</b>	<b>22,093,125</b>	<b>23,037,732</b>	<b>24,012,374</b>	<b>24,871,963</b>	<b>25,459,605</b>	<b>26,001,067</b>	<b>26,495,579</b>	<b>27,008,646</b>	<b>27,540,798</b>	<b>28,092,579</b>
Net Cash Flow	1,210,536	2,047,354	2,924,153	3,822,552	4,749,663	5,560,361	6,097,712	(41,391)	399,907	886,236	1,394,079	1,827,935
Beginning of Year Cash	11,083,697	12,294,234	14,341,588	17,265,741	21,088,293	25,897,956	31,398,317	37,454,638	37,854,546	38,712,781	40,046,861	41,874,796
Cash at End of Year	12,294,234	14,341,588	17,265,741	21,088,293	25,897,956	31,398,317	37,454,638	37,854,546	38,712,781	40,046,861	41,874,796	44,702,731
<b>Coverage</b>	<b>1.16</b>	<b>1.21</b>	<b>1.26</b>	<b>1.31</b>	<b>1.37</b>	<b>1.42</b>	<b>1.45</b>	<b>1.08</b>	<b>1.10</b>	<b>1.12</b>	<b>1.14</b>	<b>1.16</b>

Source: City of Lincoln, Don Herz

**Exhibit B**

**Lincoln Haymarket Arena Project Site Diagram**

(See attached)



**Exhibit C**  
**"In the Bowl" Game Day Staffing Area and Job Descriptions**

The following is a narrative of the physical areas that delineate the "Inside the Bowl" and describes the areas that UNL has agreed meets the "inside the bowl" designation for purposes of Home Game staffing. The number of staff needed to service these , "in the bowl" areas was mutually determined by UNL and SMG. For the purposes of the UNL / City Lease agreement designating game day staffing costs, the areas described by this exhibit are eligible for UNL funding game day expense reimbursement to the City.

The descriptions of the "In the Bowl" game day staffing reimbursement eligible spaces are:

- The event level floor space consisting of the basketball court and the surrounding player, press and courtside seating areas inside the extended retractable seating.
- Additionally on the event level the "inside the bowl" staffing designation includes the access corridors to the basketball floor from the UNL Locker room (NE), the visitor locker room (NW), the referees locker area (SW) and the support locker / dressing rooms for the cheerleaders, band, etc (SE).
- All of the retractable seating and all of the pre-cast seating from the main concourse down toward the event level referred to as 100 level seating.
- The inner main concourse. This inner main concourse is the area at the top of the aisles that allow access to the main seating pre-cast and the retractable seating. The concourse area at the top of the seating does not extend to the arena outside walls nor does it extend to or through the arena main concourse entrance corridors except for the Club Seat Lounge.
- The Club Seat Lounge is entirely within the, "in the bowl" staffing designation. This allows the UNL reimbursed and designated SMG staff to tightly control access to the Club Lounge and Club seating area both from the arena side and from the west concourse side.
- A single security / access control location at the marshalling area security door to screen and provide access control to any UNL Athletics official, BTN or other media representative and any UNL related support participant (cheer, band, marketing, administration, timekeeper, referee, Huskervision, etc) that does not enter through the Husker locker room complex.

Staffing "inside the bowl" is focused on two main tasks: one is providing a high level of customer service to the UNL Athletic event patron and the other is to tightly control access to locker room, press and support staff spaces on the event level. The staffing levels to accomplish these tasks are requested by UNL and it is expected that the initial projected number of employees and their task location will remain consistent regardless of the particular game attendance expectation or projection. Staffing in these areas are expected to be the same for Men's and Women's basketball.

Staffing on the inner main concourse will be an SMG employee who will greet each patron and direct him or her to his or her reserved seat below the concourse location. The staff person will be able to direct patrons toward restrooms, concessions areas and exits. These staff will also assist special need patrons located at the top of the 100 level seating.

The staffing on the event floor is focused on providing security and access control to the exit corridors, behind the bench, to the courtside press areas and to the courtside seating. Additionally the SMG staff will assist event level special needs patrons.

One UNL "in the bowl" staffing designation, game day expense eligible staff person will be the SMG / UNL approved person at the north marshalling area security door. UNL and SMG mutually agree that this access control person is necessary to support the other "in the bowl" security.

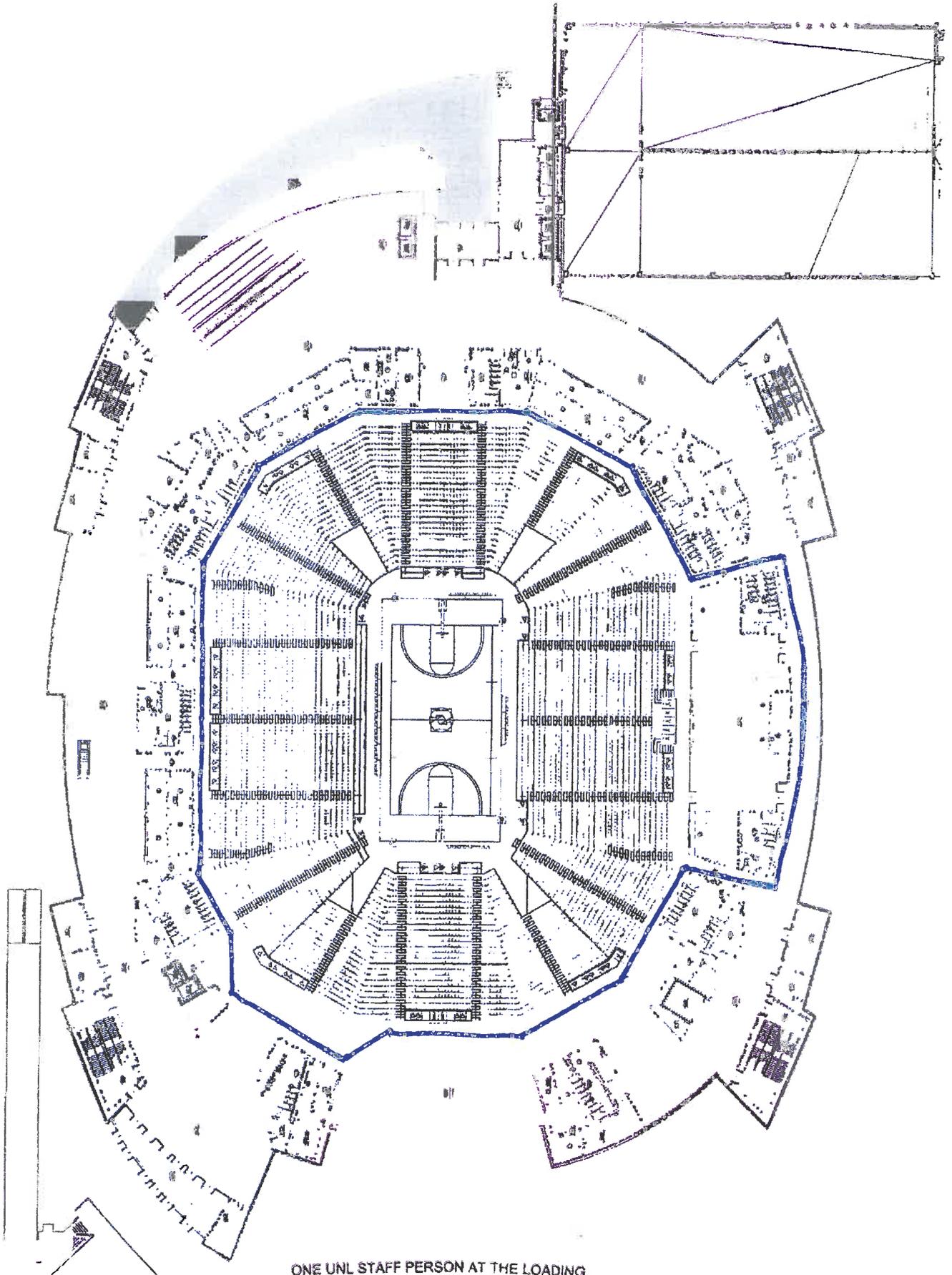
SMG and UNL will work together to put current long time UNL Security and Usher staff members on to the SMG event staff. It is an advantage and an intentional action to put trained and experienced current UNL Athletics staff in key locations to better serve the UNL Athletic Patron and UNL Athletic department's customer service and security needs.

**Exhibit D**

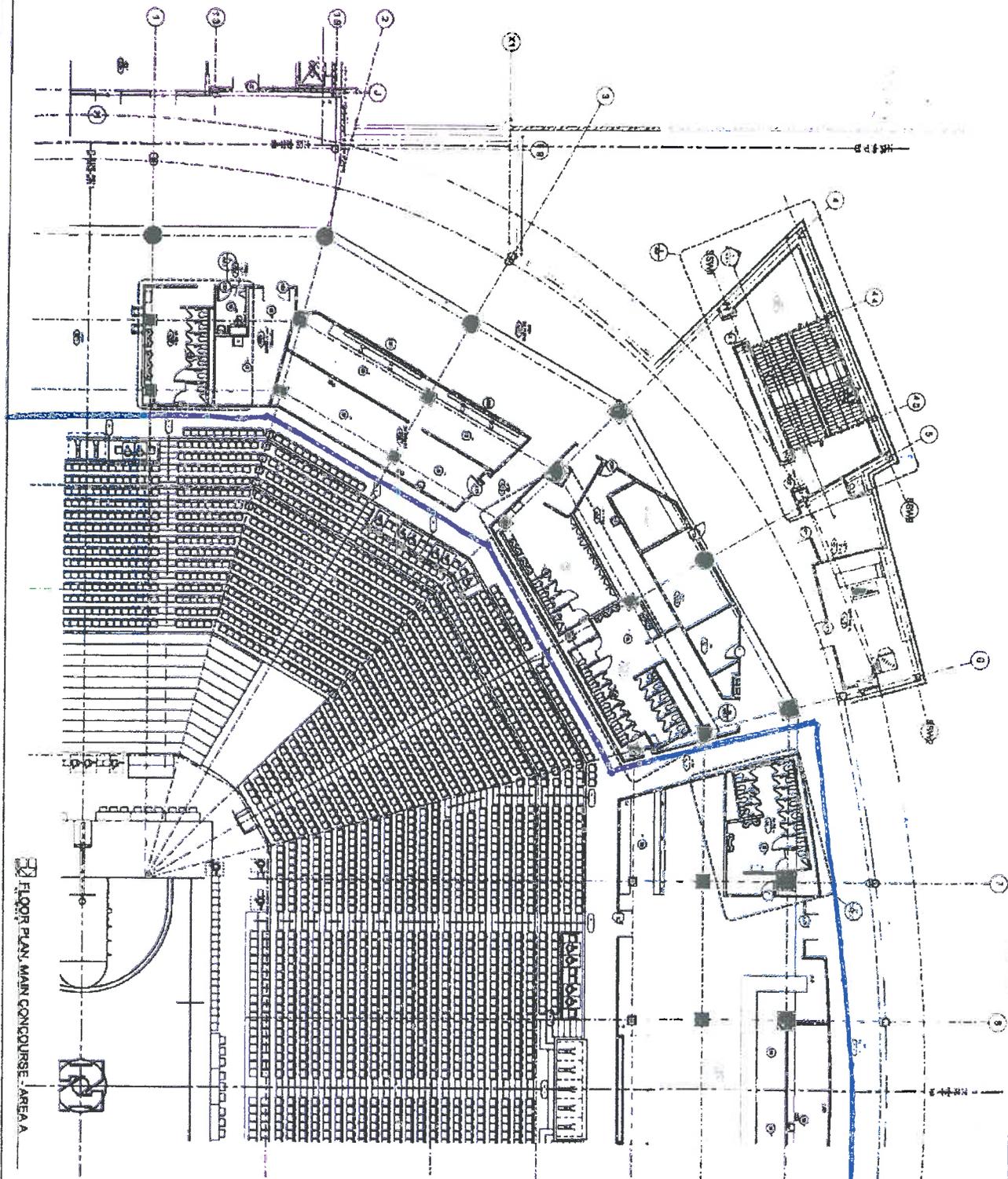
**Home Game Expenses Arena Bowl Delineation**

**See Attached Diagrams Indicating In-The-Bowl and Out-of-the-Bowl Areas**

BLUE LINE INDICATES THE "IN THE BOWL" / "OUT OF THE BOWL" BOUNDARY



ONE UNL STAFF PERSON AT THE LOADING DOCK ENTRANCE COUNTED WITH THE 'IN THE BOWL' STAFFING



FLOOR PLAN, MAIN CONCOURSE - AREA A

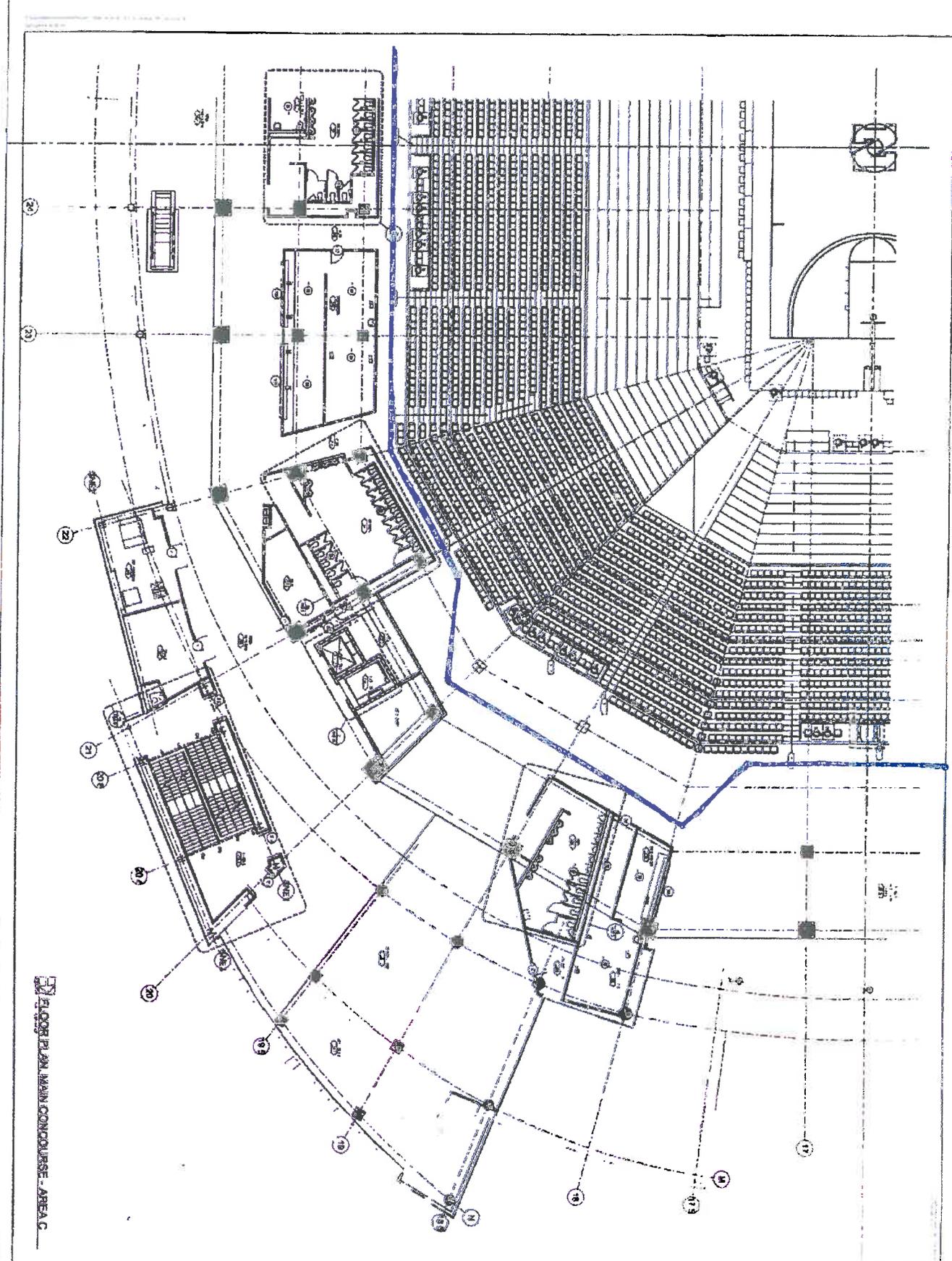
ANI SA  
KEY PLAN

FLOOR PLAN, MAIN CONCOURSE - AREA A  
WEST HAYMARKET ARENA  
BID PACKAGE #3 - 75% REVIEW SET

**DLR Group**  
ARCHITECTURAL ENGINEERING PLANNING INTERIORS

BID PACKAGE #3  
75% REVIEW SET  
NOT FOR  
CONSTRUCTION





FLOOR PLAN MAIN CONCOURSE - AREA C

ANN. 3C



FLOOR PLAN, MAIN CONCOURSE - AREA C  
 WEST HAYMARKET ARENA  
 BID PACKAGE #3 - 75% REVIEW SET



BID PACKAGE #3  
 75% REVIEW SET  
 NOT FOR  
 CONSTRUCTION

FLOOR PLAN, MAIN CONCOURSE - AREA D

ANI 3D



FLOOR PLAN, MAIN CONCOURSE - AREA D  
WEST HAYMARKET ARENA  
BID PACKAGE #3 - 75% REVIEW SET



BID PACKAGE #3  
75% REVIEW SET  
NOT FOR  
CONSTRUCTION