RESOLUTION NO. 23-26

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO THE LINCOLN PARK STADIUM COMPLEX GROUND LEASE AND RALPH STOCKER STADIUM USE/OPERATING AGREEMENT WITH COLORADO MESA UNIVERSITY AND TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THE AGREEMENT

Recitals

The City of Grand Junction ("City") owns the Lincoln Park Stadium Complex ("LPSC"), including Ralph Stocker Stadium and related improvements, located at 1240 Gunnison Avenue, Grand Junction, Mesa County, Colorado.

Colorado Mesa University ("CMU"), acting by and through the Trustees of Colorado Mesa University, desires to assume long-term operational participation in the football side of LPSC and to design, construct, and fund certain football-related facilities and improvements, while preserving continued public and community uses.

After presentations at work sessions by CMU and staff, and consistent with City Council direction, the Parties negotiated business terms to implement (i) an exclusive ground lease for defined areas within LPSC and (ii) a use/operating framework for the remainder of the football side (Stocker Stadium).

The Ground Lease Premises consist of the Barn and additional football-side areas intended for CMU-constructed facilities. The remainder of the football side will be subject to a non-exclusive license for CMU use and operations.

The Agreement provides a 25-year term, financial considerations including annual payments to the City, continuation of prior CMU financial commitments, field/turf cost-sharing, and obligations for maintenance, scheduling, and preservation of public and historical uses.

The Agreement preserves existing community and institutional uses, including Mesa Valley School District 51 and public use of the stadium and track, and requires CMU to honor historical and priority access to the extent practicable.

The Agreement provides for construction coordination, design review, preservation of public daytime access, concessions administration, naming rights coordination, and dispute-resolution procedures.

City staff and the City Attorney's Office have reviewed the Agreement and recommend approval. Adoption of this Resolution authorizes the City Manager, City Attorney, and staff to finalize and execute the Agreement and to take all actions necessary to implement it.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Recitals are incorporated herein. The City Council hereby approves the Lincoln Park Stadium Complex Ground Lease and Ralph Stocker Stadium Use/Operating Agreement ("Agreement") between the City of Grand Junction and Colorado Mesa University, including all terms relating to the Ground Lease Premises, Licensed Use Area, financial contributions, operational responsibilities, scheduling, maintenance, improvements, public access, and dispute-resolution procedures as described in the Recitals above.

2. The City Council authorizes the City Manager to execute the Agreement on behalf of the City, with such minor modifications as the City Manager and City Attorney determine necessary and appropriate, consistent with the material terms approved by the City Council.

3. The City Council authorizes and directs the City Manager, City Attorney, and other appropriate City staff to take all actions necessary or desirable to implement, administer, and enforce the Agreement, including coordination on scheduling, design review, construction matters, public access requirements, concessions administration, financial contributions, and other operational obligations established in the Agreement.

4. Nothing in this Resolution shall be construed to constitute a land-use approval or to modify any independent permitting, review, or approval processes required by law.

5. All commitments or obligations arising under the Agreement are subject to compliance with applicable legal requirements, including the City's Charter, budgetary processes, and the Colorado Governmental Immunity Act.

PASSED AND ADOPTED this 4th day of March 2026.

Cody Kennedy
President of the City Council

ATTEST:

Selestina Sandoval
City Clerk

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

LINCOLN PARK STADIUM COMPLEX
GROUND LEASE AND RALPH STOCKER STADIUM USE/OPERATING AGREEMENT

2026

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

LINCOLN PARK STADIUM COMPLEX GROUND LEASE AND RALPH STOCKER STADIUM USE/OPERATING AGREEMENT

Contents

RECITALS 2
1. DEFINITIONS 2
2. GRANT OF GROUND LEASE; RESERVATIONS; QUIET ENJOYMENT 3
3. GRANT OF LICENSE AND OPERATING RIGHTS FOR LICENSED USE AREA (NO LEASE) 5
4. TERM 5
5. CONSIDERATION; PAYMENTS 5
6. PERMITTED USES; PROHIBITED USES; COMPLIANCE 6
7. SCHEDULING; USE PRIORITY; OTHER USERS 7
8. PUBLIC DAYTIME ACCESS 8
9. BARN: EXCLUSIVE USE; TRIPLE-NET OBLIGATIONS; PRESERVATION 9
10. CAPITAL IMPROVEMENTS; DESIGN REVIEW; CONSTRUCTION 9
11. JUMBOTRON (PROCUREMENT; MAINTENANCE; AVAILABILITY) 10
12. MAINTENANCE; CLEANING; UTILITIES; OPERATIONS 10
13. CONCESSIONS; SPONSORSHIPS; NAMING RIGHTS; BRANDING 11
14. COMMUNITY ROOM / CIVIC ACCESS 12
15. INSURANCE; INDEMNITY; GOVERNMENTAL IMMUNITY 13
16. MECHANIC'S LIENS; NON-ATTACHMENT 13
17. ASSIGNMENT; SUBLEASES 13
18. DEFAULT; REMEDIES; RETAKE 14
19. EXPIRATION; SURRENDER; DISPOSITION OF IMPROVEMENTS 19
20. DISPUTE ESCALATION; NEGOTIATING PROTOCOL 20
21. NOTICES 21
22. MISCELLANEOUS 21
SIGNATURES 23
Exhibit A, Legal Description 24
Exhibit B, Site Plan 25
Exhibit C, Licensed Use Area Plan 26
Exhibit D, Existing OVG Concessions Agreement 27
Exhibit E, Historical Uses and Users 74
Exhibit F, Conservation Trust Fund Requirements 75

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

LINCOLN PARK STADIUM COMPLEX
GROUND LEASE AND RALPH STOCKER STADIUM USE/OPERATING AGREEMENT

This Ground Lease and Use/Operating Agreement ("Agreement") is made and entered into as of March 31, 2026 ("Effective Date"), by and between the CITY OF GRAND JUNCTION, a Colorado home rule municipal corporation ("City"), and the STATE OF COLORADO, acting by and through the Trustees of Colorado Mesa University, for the benefit of COLORADO MESA UNIVERSITY ("CMU"). City and CMU may be referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. City owns the Lincoln Park Stadium Complex ("LPSC"), including Ralph Stocker Stadium and related improvements, located at 1240 Gunnison Avenue, Grand Junction, Mesa County, Colorado.

B. CMU wishes with the execution of this agreement to become the Stocker Stadium operator (Stocker Operator) to include long-term operational participation in the football side of LPSC and to design, permit, construct, and fund certain football-related facilities and improvements, while preserving continued public and community uses.

C. The Parties negotiated business terms which the Parties intend to implement through definitive agreement(s). This Agreement is intended to implement the operative business terms relevant to (i) an exclusive ground lease for defined areas within LPSC and (ii) a use/operating framework for the remainder of the Football Side of LPSC.

D. The Parties acknowledge City's Charter limitations on lease term length and intend that the leasehold granted herein shall not exceed twenty-five (25) years, with any continuation thereafter only by a new agreement following good-faith negotiation and required approvals.

E. The Parties further acknowledge existing community and institutional uses at Stocker Stadium (including Mesa Valley School District 51 uses) and intend that CMU's preferential scheduling and operational role will not extinguish existing priority rights previously granted.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein, the Parties agree as follows:

1. DEFINITIONS

1.1 "Baseball Side" means the Suplizio Field/baseball side of LPSC and related support areas, which are excluded from the Ground Lease Premises and excluded from CMU's operational responsibility under this Agreement except as expressly stated.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

1.2 “Barn” means the existing Lincoln Park Barn structure and surrounding area as more particularly depicted/defined in the Exhibits.

1.3 “Football Side” means the football-side facilities and areas of LPSC, generally including the football field, grandstands, running track and related support areas, but excluding the Baseball Side and the Tower, except as otherwise provided herein. This is known as and may be referred to as “Ralph Stocker Stadium” or “Stocker Stadium.”

1.4 “Ground Lease Premises” means the exclusive leasehold premises described in Exhibit A (Legal Description) and depicted on Exhibit B (Site Plan), consisting of (a) the Barn, and (b) those additional areas within the Football Side intended for CMU-constructed facilities and related exclusive use areas, contained in Exhibit B.

1.5 “Licensed Use Area” means the remainder of the Football Side not included within the Ground Lease Premises, to be depicted on Exhibit C (Licensed Use Area Plan), and subject to the non-exclusive license and operating framework in Article 3 and Article 6.

1.6 “Tower” means the LPSC tower structure between the Baseball Side and Football Side, which is known and may be referred to as “Hamilton Tower” or “Tower.”

1.7 “Project Improvements” means CMU-designed/funded improvements authorized under this Agreement, including the CMU football facility components, premium seating/amenities, and related infrastructure, as applicable.

1.8 “Existing Concession Contracts” means current City concession arrangements as of the Effective Date depicted on Exhibit D.

1.9 “Game Day Uses” means CMU’s temporary, event-related, limited, non-exclusive uses of the ticketing and concession corridor, hospitality suite and the north locker room building (excluding the corporate office area formerly occupied by the Jackalopes Baseball Club) on any day on which a CMU home football game is scheduled to occur at Ralph Stocker Stadium (each, a “Game Day”), during the reasonable period before and after such game necessary for event set-up, ingress, operations, and egress.

2. GRANT OF GROUND LEASE; RESERVATIONS; QUIET ENJOYMENT

2.1 Lease Grant. City hereby leases to CMU, and CMU hereby leases from City, the Ground Lease Premises for the Term and on the conditions stated herein, subject to all recorded easements, covenants, conditions, restrictions, and encumbrances not created by CMU and not materially interfering with CMU’s use.

2.2 Exclusive Possession. CMU’s leasehold interest is exclusive as to the Ground Lease Premises only. No leasehold is granted for the remainder of LPSC, the Licensed Use Area, or the Baseball Side, which remain in City possession except for the license and event-control rights expressly provided herein.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

2.3 Reservations. City reserves and retains:

(a) the Baseball Side and related support areas;
(b) existing and future utilities, easements, and rights-of-way serving City facilities and the public;
(c) public park areas, circulation routes, and parking intended for general public use, except as reasonably allocated for events under this Agreement (including CMU home football games and CMU commencement ceremonies);
(d) air/subsurface/mineral rights to the extent applicable and consistent with City practice;
(e) rights necessary to preserve shared use by other users consistent with this Agreement.

2.4 Covenant of Quiet Enjoyment. Provided CMU is not in default beyond applicable notice and cure periods contained herein, City covenants that CMU shall peaceably and quietly hold and enjoy the Ground Lease Premises during the Term without hindrance by City or persons claiming by, through, or under City, subject to the terms of this Agreement.

2.5 As-Is. CMU acknowledges it has had the opportunity to inspect the Ground Lease Premises and accepts it "AS IS," with all faults, without warranty by City.

2.6 Utilities. CMU shall be solely responsible, at CMU's cost, for arranging and paying all utility services serving the Ground Lease Premises and all facilities, improvements, and operations located on or within the Ground Lease Premises (including, without limitation, electricity, natural gas, water, sewer, stormwater, telecommunications/data, and trash services), whether such utilities are separately metered or allocated by reasonable submetering or other mutually acceptable allocation method; City shall have no obligation to furnish or pay for any such utilities except as expressly stated in this Agreement. Licensed Use Area utilities shall be paid by City utilizing user fee revenues collected from outside users.

2.7 Post-Execution Finalization of Ground Lease Area and Site Plan. Promptly following execution of this Agreement, the Parties shall work cooperatively and in good faith to (a) formalize the legal description of the Ground Lease Premises/ground lease area depicted by the photograph included in Exhibit A, and such finalized legal description shall be incorporated into and made part of Exhibit A, and (b) develop and formalize a site plan for the Ground Lease Premises and related improvements, and such finalized site plan shall be incorporated into and made part of Exhibit B. Upon mutual written approval by the Parties, the finalized Exhibit A and Exhibit B may be attached to this Agreement without the necessity of a further amendment, provided that such finalization is consistent with the terms and intent of this Agreement and does not materially expand CMU's rights or the scope of the Ground Lease Premises beyond that contemplated herein.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

3. GRANT OF LICENSE AND OPERATING RIGHTS FOR LICENSED USE AREA (NO LEASE)

3.1 Non-Exclusive License. During the Term, City grants CMU a non-exclusive license to use and operate the Licensed Use Area consistent with this Agreement ("License"). This License does not convey a leasehold, estate, or possessory interest in City real property beyond the Ground Lease Premises.

3.2 Scheduling Rights. In close coordination with City Parks and Recreation Department, CMU will be responsible for scheduling CMU football practices, games, and directly related events on the football side of LPSC, however, such use shall not unreasonably restrict uses by other Parks Improvement Advisory Board (PIAB) entities (i.e., District 51, JUCO, etc.). CMU will allow reasonable use of the Stadium by Mesa Valley School District 51 and other agreed community users and coordinate with the City to preserve traditional School District 51 football, track, and band as well as community uses to the extent reasonably practicable, as detailed in section 7.4 below. These historical uses are detailed in Exhibit E.

3.3 Tower Use for Specified Events. CMU shall have full utilization of the Tower (all levels) during (i) home CMU football games and (ii) CMU commencement ceremonies, subject to safety and reasonable City coordination.

3.4 Game Day Uses. In addition to CMU's rights in the Licensed Use Area, and subject to the terms and conditions of this Agreement (including Section 7 and the Scheduling SOP), City hereby grants CMU a limited, temporary, non-exclusive license to conduct Game Day Uses within the ticketing and concession corridor, hospitality suite and the north locker room building (excluding the corporate office area formerly occupied by the Jackalopes Baseball Club); provided, however, that (i) any temporary improvements, structures, barricades, equipment, or signage placed by CMU shall be temporary, comply with safety and permitting requirements, and be removed promptly following the Game Day window, and (ii) CMU shall be responsible for repair of any damage caused by CMU in connection with Game Day Uses beyond ordinary wear and tear, whether occurring within or outside the Licensed Use Area, in accordance with the Agreement's damages/repair provisions.

4. TERM

4.1 Term. The term of this Agreement and the Ground Lease (the "Term") shall be twenty-five (25) years, commencing on April 1, 2026 ("Commencement Date") and expiring at 11:59 p.m. on March 31, 2051 ("Expiration Date"), unless sooner terminated pursuant to this Agreement.

5. CONSIDERATION; PAYMENTS

5.1 Annual Ground Lease/Operations Payment. CMU shall pay City Three Hundred Thousand Dollars ($300,000.00) per year during the Term ("Annual Partnership Payment"), payable in a

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

single annual installment due on or before July 1 of each year, unless the Parties agree in writing to a different payment cadence.

5.2 Continuation of Prior Stadium Improvement Commitment. CMU shall continue paying City Two Hundred Thousand Dollars ($200,000.00) per year through calendar year 2032 and One Hundred Thousand Dollars ($100,000.00) in 2033 (or the then-current contractual end date of that obligation), consistent with prior commitments.

5.3 Annual Facility Rental Fee. CMU shall continue paying its annual facility rental fee during the Term ($36,705 in 2026), subject to annual negotiation and an annual escalation factor, if any, not to exceed two percent (2%) per year, documented annually in writing.

5.4 Parks Improvement Advisory Board Contribution. CMU shall continue paying Fourteen Thousand Dollars ($14,000.00) per year toward the Parks Improvement Advisory Board during the Term or whatever amounts are decided upon by the Parks Improvement Advisory Board from time to time.

5.5 Turf Replacement Cost Share. During the Term, CMU shall be responsible for fifty percent (50%) of the cost of the turf replacement project, when undertaken (next expected replacement is 2027), subject to a mutually agreed scope and procurement approach. Parties acknowledge CMU will pursue outside grant, partnership and funding opportunities to support this obligation.

5.6 Field Maintenance Cost Allocation. For the purposes of this Section, “Field Maintenance Costs” shall include all maintenance costs of the field, to include but not limited to leveling and infill material replenishment, and shall include all maintenance costs not associated with a full turf replacement under Section 5.5. CMU shall be responsible for eighty percent (80%) and City twenty percent (20%) of Field Maintenance Costs.

5.7 No Setoff; Late Charges; Interest. All payments due from CMU to City under this Agreement shall be due and payable without setoff, offset, deduction, counterclaim, or abatement, except as expressly provided herein. Payments shall be due within sixty (60) days of the applicable invoice or due date, as specified in this Agreement. City’s acceptance of partial or late payment shall not constitute a waiver of default or any other right or remedy.

6. PERMITTED USES; PROHIBITED USES; COMPLIANCE

6.1 Permitted Uses. CMU may use the Ground Lease Premises and Licensed Use Area for:

(a) CMU football operations and related athletic uses;
(b) stadium events consistent with University operations and this Agreement;
(c) support facilities (including in the Barn as permitted herein); and
(d) ancillary uses reasonably necessary to operate permitted events.

6.2 Prohibited Uses. CMU shall not permit:

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

(a) uses inconsistent with zoning, park designation, or City policies (including certain adult uses and cannabis-related sponsorship/activities);
(b) hazardous or unlawful activities; or
(c) activities that materially impair public use of remaining park facilities except as reasonably required for permitted events.

6.3 Compliance with Laws. CMU shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations.

7. SCHEDULING; USE PRIORITY; OTHER USERS

7.1 Scheduling; Scheduling Authority; Standard Operating Procedure.

(a) Scheduling Authority. City shall be responsible for scheduling, reserving, and coordinating events and uses at the Lincoln Park Stadium Complex ("LPSC") generally, including, without limitation, the Baseball Side and all non-Football Side areas, subject to the terms of this Agreement. CMU shall be responsible for scheduling, reserving, and coordinating events and uses occurring on the Football Side (Ralph Stocker Stadium), subject to the terms of this Agreement. Each Party shall ensure that events it schedules comply with this Agreement and do not materially interfere with the other Party's permitted uses.

(b) Scheduling SOP. Within a reasonable time after the Effective Date, the Parties shall collaboratively develop and implement a written standard operating procedure for scheduling (the "Scheduling SOP"). The Scheduling SOP shall be updated from time to time by mutual written agreement to reflect operational needs and legal requirements.

(c) No Waiver of Legal Requirements. Nothing in this Section 7.1 or the Scheduling SOP shall be construed to authorize any event, alcohol service, or use that is prohibited by applicable law, license conditions, or permit requirements.

7.2 CMU Preferential Use of the Football Side (Not Exclusive). CMU shall have first rights to schedule CMU football practices, games, and directly related events for each football season according to long-standing scheduling practices of the City; however, CMU's preferential rights are not exclusive, and CMU shall not unreasonably restrict uses by other entities.

7.3 Preservation of District 51 and Established Uses. District 51 and other established users, as shown in Exhibit E, shall continue to have access to the facility based on historical usage, and CMU's operational role shall not diminish existing priority scheduling status previously granted to these users. CMU acknowledges and represents that, prior to execution of this Agreement, CMU has been advised of and has had the opportunity to review the historical and customary uses of Ralph Stocker Stadium and associated portions of the Lincoln Park Stadium Complex

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

(collectively, “Stadium”), and institutional users (collectively, “Historical Uses” and “Historical Users”), as shown in Exhibit E. CMU further acknowledges that preservation of Historical Uses is a material premise of the Parties’ bargain. CMU agrees that, during the Term, Historical Uses by Historical Users shall continue and be honored to the extent practical, and CMU shall accept such Historical Uses as permitted uses of the Stadium moving forward. CMU shall not unreasonably impede, condition, or restrict Historical Uses, and shall administer operations in a manner intended to preserve Historical Uses consistent with the Agreement’s scheduling framework. In the event a scheduling or access conflict arises for use of the Stadium or the Football Side of the Lincoln Park Stadium Complex due to CMU’s prioritized use status under this Agreement (a “Priority Conflict”), CMU shall use good-faith, commercially reasonable efforts to identify and make available to the displaced user a comparable CMU-controlled or City-controlled facility that is reasonably suitable for the user’s intended purpose (an “Alternate Facility”), at a mutually agreeable date and time. In providing an Alternate Facility, CMU may impose reasonable, uniformly applied facility rules, staffing and security requirements, and scheduling constraints, and the user shall remain responsible for any user-specific costs customarily charged for such use (if any), which costs shall not exceed any costs that would have been imposed by the use of the Stadium. CMU’s obligation under this Section is subject to facility availability and applicable law, and CMU does not warrant that an Alternate Facility will be available for every Priority Conflict; however, CMU shall coordinate in good faith with the user and the City to minimize disruption and to provide a practicable alternative when available.

7.4 Practice Scheduling. For practice events, CMU football practices shall have priority over other practice uses such as District 51 band practice and track practice, which shall be scheduled around increased CMU use, recognizing that certain uses may need to relocate, subject to Section 7.3 of this Agreement.

7.5 Equipment Storage. CMU shall store all equipment, materials, and personal property used in connection with CMU’s activities at the LPSC within facilities and areas as mutually agreed upon by CMU and the City, such as existing and contemplated storage facilities.

8. PUBLIC DAYTIME ACCESS

8.1 Public Access Requirement. Stocker Stadium (the Football Side), field, and track facility must remain open for public use during normal daytime hours when not reserved for scheduled events, subject to safety, weather, maintenance needs, reasonable security measures, and temporary closures necessary for construction or major events. CMU shall post public notice hours when Stocker Stadium will be closed for football practices at least one week in advance.

8.2 Definition of Normal Daytime Hours. For purposes of this Agreement, “normal daytime hours” shall mean the hours mutually agreed in writing by the City and CMU from time to time, to generally include sunrise to sunset, which hours may be adjusted by mutual written agreement to account for seasonal conditions, safety, maintenance, or operational needs.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

8.3 Funding/Grant Compliance. The Parties intend this Section to support continued compliance with funding requirements applicable to the Stadium, including lottery-derived Conservation Trust Fund requirements detailed in Exhibit F.

9. BARN: EXCLUSIVE USE; TRIPLE-NET OBLIGATIONS; PRESERVATION

9.1 Exclusive Use. CMU shall have exclusive use of the Barn for CMU football related activities, including but not limited to: athletic strength and conditioning, sports medicine, team support, or related uses. CMU shall allow the City to store City program material and School District 51 track equipment on the East side of the Barn as historically used. CMU shall not unreasonably impede the City's ability to store or access said equipment.

9.2 Triple-Net Style Responsibilities. CMU shall be responsible for all maintenance, repairs, utilities, custodial services, and operations within the Barn, and for keeping the Barn in a clean, safe condition and as required for CMU's use.

9.3 City Review and Approval of Changes. Any changes, renovations, or improvements to the Barn require City Manager review and approval, including scope of work, preservation of the exterior façade, and code compliance approach; CMU shall maintain the Barn's exterior facade and shall not make any material or substantive alteration to the exterior of the Barn (including without limitation exterior materials, openings, fenestration, rooflines, façade treatments, or exterior-mounted equipment) without City Manager's prior approval.

9.4 Condition of Barn. The Barn shall remain in place, assuming life-safety conditions continue to meet expectations of both Parties.

10. CAPITAL IMPROVEMENTS; DESIGN REVIEW; CONSTRUCTION

10.1 CMU-Funded Improvements. CMU may design and construct football facilities and enhancements, including locker rooms, team facilities, meeting rooms, offices, training areas, spectator amenities, premium spaces, and related infrastructure (the "Project Improvements"). CMU is solely responsible for securing and providing all funds necessary for design, construction, and equipping the Project Improvements; City is not responsible for repayment of CMU financing.

10.2 City Manager Review and Concurrence. City Manager shall have review and concurrence over designs and architecture for new construction or major renovations, exterior materials, massing, lighting, signage, and changes affecting the running track, stadium seating, tower, or public circulation and storage areas. This design review by the City Manager will occur at the concept, schematic, design development and construction documents phases.

10.3 Permitting; Means and Methods. CMU is responsible for engagement of architects, engineers, consultants, design documents, applicable permits and approvals, contractor procurement and management, and construction means and methods.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

10.4 Construction Coordination and Constraints. Construction phasing and access will be coordinated to minimize disruption to park operations and community use. Construction timeframes and schedules must be approved by the City Manager. The City Manager may impose reasonable constraints on construction hours, haul routes, staging, and restoration. CMU shall restore adjacent City areas disturbed by construction to an agreed standard.

10.5 No City Warranty; As-Is Acceptance. CMU accepts the existing field and facilities "as-is." Any improvements CMU desires (including NCAA/RMAC-driven) shall be at CMU's expense, subject to City approval as described herein.

11. JUMBOTRON (PROCUREMENT; MAINTENANCE; AVAILABILITY)

11.1 CMU Responsibility. Subject to funding availability, CMU may procure a large, digital video board (jumbotron) serving Stocker Stadium (the "Jumbotron").

11.2 Availability to Other Partner Users. Once installed, the Jumbotron shall be available for use by other authorized partner users of LPSC, subject to scheduling coordination, reasonable operating rules, and any staffing and safety requirements. All maintenance and replacement associated with the Jumbotron is the sole responsibility of CMU. CMU may not charge, above actual costs, the City or Mesa Valley School District 51 for use of the Jumbotron for display of traditional scoreboard information, but may sell advertising space on the Jumbotron as customary for events and shall keep all proceeds from the sale of any advertising displayed during District 51 and City events.

12. MAINTENANCE; CLEANING; UTILITIES; OPERATIONS

12.1 City Responsibilities (Football Side). City shall continue providing:

(a) routine day-to-day cleaning and maintenance of Stocker Stadium facilities (excluding the inside of the Barn and any CMU football facility interiors) and grounds not specific to CMU events; and
(b) ongoing utilities and basic park operations consistent with current practice.
(c) cleaning and trash removal following all non-CMU-sponsored events, returning the Stadium and related areas to pre-event condition

12.2 CMU Responsibilities. CMU shall provide:

(a) routine cleaning and maintenance of the Barn and CMU-controlled football facility interiors;
(b) game-day operations for CMU football and other CMU-sponsored events
(d) traffic management plans for major events.

12.3 Track Preservation. The existing track and related elements may remain intact and usable so long as maintained properly and used regularly by Mesa Valley School District 51. Any future

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

improvements may maintain a competition-level track suitable for community and school use per CHSAA (or equivalent) standards.

13. CONCESSIONS; SPONSORSHIPS; NAMING RIGHTS; BRANDING

13.1 Existing OVG Concession Agreement; Exclusivity; Football Side Remittance Under Current Contract. The Parties acknowledge that City currently contracts with OVG for concessions and that such agreement is exclusive (the "OVG Agreement") for the Lincoln Park Stadium Complex ("LPSC"), including the Ralph Stocker Stadium. During the term of the OVG Agreement, concessions services for events at LPSC shall be provided only as permitted under and subject to the OVG Agreement, and CMU shall have no independent right to operate concessions except through the OVG Agreement's permitted structure.

Notwithstanding the foregoing, for all events occurring on the Football Side (as defined in Section 1.3) during the term of the OVG Agreement, City shall remit to CMU the Net Concessions Revenue attributable to such Football Side events, as follows: (i) City shall collect or receive from OVG all concession revenue and reporting applicable to such Football Side events; (ii) City shall account for and pay (A) all amounts due to OVG and/or any other vendor(s) under the OVG Agreement for such Football Side events, and (B) all City-incurred, documented, out-of-pocket costs and expenses associated with providing, supporting, and administering concessions for such Football Side events; and (iii) City shall remit the remaining amount to CMU. For purposes of this Section, "Net Concessions Revenue" means gross concession receipts attributable to the applicable Football Side event(s) less the amounts described in clauses (ii)(A) and (ii)(B) above, and less any taxes/fees that City is required by law to collect and remit.

City shall provide CMU a reconciliation statement for each reporting period reasonably consistent with the OVG Agreement's reporting cadence and City's administrative practices and shall remit the Net Concessions Revenue to CMU within a commercially reasonable time after City's receipt of the applicable revenues and reports from OVG and completion of City's reconciliation.

13.2 Successor Concessionaire Procurement; Single Concessionaire for Entire LPSC; Joint RFP Process. Upon expiration (or earlier termination) of the exclusive term of the OVG Agreement, the City may procure and enter into a successor concessions agreement for the Lincoln Park Stadium Complex (the "Successor Concession Agreement"). The Parties' intent is that concession services for the entire LPSC, including the Football Side and the Baseball Side, be provided under a single concessionaire agreement covering both sides of the LPSC.

The City and CMU shall work collaboratively and in good faith to develop, issue, and evaluate a request for proposals (or other competitive procurement vehicle) for the Successor Concession

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Agreement (the "RFP"). The RFP shall include meaningful CMU participation in drafting and evaluating Football Side operational requirements and Football Side financial terms, and meaningful City participation in drafting and evaluating Baseball Side operational requirements and Baseball Side financial terms. The Parties further intend that the selection of the successor concessionaire be made jointly by the Parties, consistent with the RFP evaluation framework and applicable procurement rules; provided, however, that the City retains sole contracting authority and final award/execution discretion, subject to the City's applicable approval requirements.

The City and CMU may, at any time before or after award of the Successor Concession Agreement, negotiate and execute a separate standard operating procedure ("SOP") and/or letter agreement governing the detailed administration and day-to-day operation of the successor concessionaire's services at the LPSC. Any SOP and/or letter agreement shall be in writing and effective only upon execution by both Parties and, to the extent applicable, shall be consistent with and not materially conflict with the Successor Concession Agreement and applicable law.

13.3 Naming Rights. CMU will have primary responsibility for soliciting and negotiating stadium naming rights opportunities in consultation with City. City will work with CMU in good faith to accommodate sponsorship deals, but retains veto authority if a proposed name is outside community interests or sensibilities, as determined by the City in its sole discretion. Any new stadium or field name must incorporate "Ralph Stocker" (e.g., [Brand Name] Field at Ralph Stocker Stadium).

13.4 Branding/Advertising Review. The Parties will confer on naming, branding, and major sponsorship signage/graphics, standards and processes for design review, size, location, and content. Notwithstanding the foregoing, City shall have the right to veto, in its sole discretion, any proposed naming, branding, sponsorship, advertising, or related signage/graphics (including design, size, placement, or content) if City determines, in City's discretion, that the proposal is inconsistent with or would violate community interests or sensibilities. The City shall not unreasonably interfere with CMU branding of Stocker Stadium.

14. COMMUNITY ROOM / CIVIC ACCESS

14.1 Community Room Availability. CMU shall include within CMU-controlled football facilities a room suitable for meetings or community use ("Community Room"). The City may request use of the Community Room for civic or community purposes at mutually agreed times, generally understood to be outside of the football season. City use of the room will be at no charge.

14.2 Standard for Approval. CMU shall not unreasonably withhold approval of City requests, provided that (a) the requested use does not materially interfere with scheduled CMU football operations, (b) City complies with facility rules, and (c) security and safety requirements are satisfied.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

15. INSURANCE; INDEMNITY; GOVERNMENTAL IMMUNITY

15.1 Insurance—CMU. CMU shall provide proof of general liability and other customary coverages for CMU events and activities, naming City as an additional insured where commercially available and consistent with State coverage structures.

15.2 Insurance—City. City shall maintain governmental immunity protections and insurance consistent with its general practices for facilities under its responsibility.

15.3 No Waiver of Immunities. Nothing in this Agreement shall be construed as an express or implied waiver of, or limitation upon, (i) any immunity, defense, limitation of liability, or other protection available to the Parties, its officers, employees, or agents under the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, et seq., as amended ("CGIA"), (ii) any authority, protection, limitation, or defense available under the City's home-rule powers and City Charter, or (iii) any other applicable federal or state statutory or common-law immunity or defense. Any purported waiver of the Party's immunities, defenses, or limitations of liability that is not expressly authorized by law and approved in the manner required by law is void and unenforceable.

15.4 Damages to Licensed Use Area; CMU Responsibility. CMU shall be responsible for, and shall promptly repair or cause to be repaired, any damage to the Licensed Use Area (including improvements, fixtures, furnishings, turf, track, seating, restrooms, concourses, utilities, and appurtenances) occurring in connection with or arising out of any CMU Event, to the extent such damage is beyond ordinary wear and tear. If CMU fails to commence repairs within a reasonable time after written notice from City (or sooner if necessary to protect public health and safety or to prevent further damage), City may perform or cause to be performed such repairs and CMU shall reimburse City for the reasonable, documented costs incurred. This obligation is in addition to, and not in lieu of, any other remedy available to City under this Agreement or at law, and is subject to applicable immunities and limitations of liability.

16. MECHANIC'S LIENS; NON-ATTACHMENT

16.1 CMU shall keep City property free of mechanic's and/or materialmen's liens arising from CMU work and shall promptly bond around, discharge, or otherwise remove any such lien.

17. ASSIGNMENT; SUBLEASES

17.1 City Consent Required. CMU shall not assign, sublease, transfer, pledge, mortgage, encumber nor convey any or all of its rights, duties or obligations hereunder without the prior written consent of the other party hereto.

17.2 Conditions. Any approved assignment or sublease shall require the transferee to assume applicable obligations contained within this Agreement, and CMU remains responsible unless expressly released in writing by City.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

18. DEFAULT; REMEDIES; RETAKE

18.1 Events of Default. Defaults include failure to make required payments, material breach of scheduling and public access obligations, unauthorized prohibited uses, abandonment, or material failure to perform maintenance or repair obligations, subject to notice and cure periods.

18.2 Cure Periods.

(a) Notice of Default. Except in the case of an Emergency (as defined below), upon the occurrence of any Event of Default, the non-defaulting Party ("Non-Defaulting Party") shall provide the defaulting Party ("Defaulting Party") written notice describing, in reasonable detail, the nature of the alleged default and the action required to cure (a "Default Notice"). Delivery of a Default Notice shall be made in accordance with the Notice provisions of this Agreement.

(b) Initial Cure Period. Subject to subsection (c), the Defaulting Party shall have thirty (30) days after receipt of the Default Notice to cure the default (the "Initial Cure Period"); provided, however, that for defaults solely involving the failure to pay money when due, the Initial Cure Period shall be ten (10) days after receipt of the Default Notice (unless a different period is expressly stated elsewhere in this Agreement). The Parties acknowledge that certain defaults may require longer periods to cure due to the nature of the work, procurement processes, third-party approvals, seasonality, or other practical constraints.

(c) Extended Cure Period for Non-Monetary Defaults. If the default is of a nature that cannot, with the exercise of diligent efforts, reasonably be cured within the Initial Cure Period, the Defaulting Party shall not be deemed in default at the end of the Initial Cure Period so long as (i) the Defaulting Party delivers written notice to the Non-Defaulting Party within the Initial Cure Period identifying why cure cannot reasonably be completed within the Initial Cure Period, (ii) the Defaulting Party commences cure within the Initial Cure Period, and (iii) the Defaulting Party thereafter diligently and continuously prosecutes cure to completion in good faith. In such event, the cure period shall be extended for a reasonable additional time as is necessary to complete cure, but in no event longer than ninety (90) days from receipt of the Default Notice, unless the Parties mutually agree in writing to a longer period based on documented circumstances beyond the Defaulting Party's reasonable control.

(d) Standards for Cure. A "cure" under this Agreement requires, as applicable, that the Defaulting Party (i) fully remedies the default, (ii) repairs or restores any resulting damage, (iii) reimburses the Non-Defaulting Party for any documented, reasonable out-of-pocket costs incurred as a direct result of the default (to the extent recoverable under this Agreement and permitted by law), and (iv) provides reasonable written assurance of

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

future performance sufficient to prevent recurrence, where the default reasonably indicates a risk of repeated nonperformance.

(e) Interim Measures; Mitigation; Self-Help. During any cure period, the Parties shall cooperate in good faith to mitigate harm and maintain continuity of essential operations and public safety. If the Defaulting Party fails to implement reasonable interim measures to prevent material harm during the cure period, the Non-Defaulting Party may take commercially reasonable steps to protect persons and property and to preserve public access and essential operations (including, where necessary, temporary assumption of certain operational tasks), and the Defaulting Party shall reimburse the Non-Defaulting Party for documented, reasonable costs of such steps to the extent permitted by law and to the extent such costs were caused by the Defaulting Party's default.

(f) Failure to Cure; Resolution if Cure Not Completed. If the Defaulting Party (i) fails to cure within the Initial Cure Period, and (ii) does not qualify for or comply with an Extended Cure Period under subsection (c), or (iii) fails to complete cure within the applicable cure period (including any extension), then the Non-Defaulting Party may exercise any and all remedies available under this Agreement, at law, or in equity, including one or more of the following, as applicable and subject to any governmental immunity limitations:

(1) termination of this Agreement and/or, as applicable, termination of the Ground Lease and retaking of the Ground Lease Premises;
(2) suspension of the Defaulting Party's rights to schedule or conduct events in the affected areas until cure is completed;
(3) performance by the Non-Defaulting Party of the Defaulting Party's obligation (or procurement of third-party performance) and recovery of documented, reasonable costs from the Defaulting Party as provided herein (self-help);
(4) specific performance or injunctive relief to prevent ongoing harm or to enforce non-monetary obligations where monetary damages are inadequate; and/or
(5) for CMU defaults involving abandonment or material noncompliance, the City's assumption of operation and management of some or all affected facilities and/or areas, as otherwise provided in this Agreement.

(g) Dispute/Determination; Meet-and-Confer. If the Defaulting Party disputes the existence of a default, the sufficiency of a cure, or the reasonableness of the time required to complete cure, the Parties shall promptly meet and confer through their designated negotiators to attempt resolution. The Non-Defaulting Party is not required to forego interim protective measures under subsection (e) during such discussions. If the Parties do not resolve the dispute within fifteen (15) days after the meet-and-confer is requested (or sooner if necessary to address safety or imminent harm), either Party may pursue any dispute resolution mechanism provided in this Agreement or otherwise available at law,

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

and the cure periods in this Section shall not be construed to prohibit the Non-Defaulting Party from seeking emergency or injunctive relief.

(h) Emergency. "Emergency" means circumstances presenting an imminent threat to public health or safety, a substantial risk of significant damage to property, or a condition that materially jeopardizes continued operations or required public access such that immediate action is reasonably necessary. In an Emergency, the Non-Defaulting Party may take immediate action reasonably necessary to address the Emergency and shall provide notice to the Defaulting Party as soon as practicable thereafter.

18.3 City Retake/Assume Operations Upon Abandonment or Non-Compliance.

(a) Preconditions to Retake. City may retake possession and may assume operation and management of some or all of the Ground Lease Premises and/or leased facilities (a "Retake") only upon the occurrence of one (1) or more of the following, and then only in accordance with subsection (b):

(i) Abandonment. CMU has abandoned the Ground Lease Premises and/or the leased facilities, as defined in subsection (c); or

(ii) Uncured Material Default After Process. CMU has committed a material default under this Agreement; City has provided notice and the applicable notice and cure periods have expired without cure (including any permitted extension); and the Parties have completed the applicable dispute escalation/dispute resolution procedures required by this Agreement (or CMU has refused to participate), without resolving the default; or

(iii) Court Order. A court of competent jurisdiction has entered an order authorizing City to take possession and/or assume operations (including, as applicable, injunctive relief).

(b) Retake Notice; Scope; Transition. Except in the event of Abandonment under subsection (c)(i) or a court order under subsection (a)(iii), City shall provide CMU written notice of City's intent to Retake ("Retake Notice"), which shall: (i) identify the specific defaults and the portions of the premises/facilities to be retaken; (ii) confirm that applicable cure periods have expired and that dispute escalation/dispute resolution has not resolved the matter; and (iii) specify a Retake effective date not less than ten (10) days after CMU's receipt of the Retake Notice. City may Retake only those areas and operational functions reasonably necessary to protect public health and safety, preserve City property, and maintain scheduled public/community uses, unless a broader Retake is authorized by court order.

(c) Abandonment Standard. For purposes of this Agreement, "Abandonment" means that CMU has vacated or ceased material operations in the Ground Lease Premises and/or

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

leased facilities and has failed to maintain a responsible on-site operational presence, security, or maintenance sufficient to prevent deterioration or unsafe conditions, for a continuous period of thirty (30) days, without City's prior written consent or without a written construction/closure plan approved by City. Abandonment also includes CMU's written notice to City of its intent to permanently cease operations under this Agreement. City's determination of Abandonment shall be made reasonably and in good faith, and City shall provide written notice of its determination to CMU; provided, however, that City may proceed with an immediate Retake without further notice if Abandonment is accompanied by conditions posing a public health or safety emergency or a substantial risk of significant damage to City property.

(d) Effect of Retake; No Waiver of Claims. Upon a Retake, City may (i) enter and take possession of the applicable premises, (ii) assume or delegate to a third-party operator the operation and management of some or all of the leased facilities, (iii) preserve and prioritize public access and the historically established uses and users contemplated by this Agreement, and (iv) take such actions as City determines, in its discretion, to be in the best interest of the City. A Retake shall not operate as a waiver or satisfaction, in whole or in part, of any claim, right, or remedy City may have arising out of or connected with CMU's default, and City's remedies shall be cumulative to the extent permitted by law.

(e) CMU Personal Property; Removal; Storage. Following a Retake, City may require CMU to remove CMU's personal property from the retaken areas within a reasonable time stated in the Retake Notice (or, in the case of Abandonment, within a reasonable time after notice of Abandonment determination). If CMU fails to timely remove such property, City may remove and store it in a location selected by City, at CMU's expense and without liability to City for loss or damage except to the extent caused by City's gross negligence or willful misconduct, and City may condition return of the property upon reimbursement of City's reasonable, documented costs of removal and storage.

(f) Accounting for Interim Operations. During any period City assumes operations following a Retake, City may collect and apply revenues generated from operation of the retaken facilities (if any) first to City's reasonable, documented costs of operating, securing, and maintaining the facilities and addressing deferred maintenance attributable to CMU's default, with any remaining amounts (if any) handled as provided elsewhere in this Agreement or by written agreement of the Parties.

(g) No Limitation on Emergency Protective Action. Nothing in this Section limits City's right to take immediate, temporary protective measures reasonably necessary to address an imminent threat to public health or safety or to prevent imminent, significant damage to City property; provided that any such protective measures shall not be deemed a "Retake" unless and until one of the predicates in subsection (a) is satisfied.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

18.4 Cumulative Remedies.

(a) Cumulative. All rights and remedies of the Parties under this Agreement are cumulative and not exclusive, and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy available under this Agreement, at law, or in equity, subject always to the limitations of applicable law (including governmental and sovereign immunities and limitations on remedies).

(b) City Remedies. Upon an Event of Default by CMU, and after compliance with any applicable notice, cure, and dispute resolution requirements, City may, in addition to any other remedy available at law or equity, pursue one or more of the following remedies to the extent permitted by law:

(i) terminate this Agreement and/or terminate the Ground Lease as provided herein;
(ii) suspend, limit, or condition CMU's scheduling, access, or operational rights in the Licensed Use Area and/or Football Side to the extent reasonably necessary to protect public health and safety, preserve City property, and preserve public/community uses;
(iii) retake possession of all or part of the Ground Lease Premises and/or assume operations of some or all leased facilities in accordance with Section 18.3;
(iv) perform, or cause to be performed by third parties, any obligation CMU has failed to perform (including maintenance, repair, cleanup, security, and lien discharge) and recover City's reasonable, documented costs from CMU as provided in this Agreement (self-help), together with interest to the extent permitted by law;
(v) recover damages, including (A) unpaid amounts due and owing, (B) reimbursement of reasonable, documented out-of-pocket costs incurred as a direct result of CMU's default, and (C) to the extent permitted by law, other damages recoverable for breach of contract;
(vi) seek specific performance to compel performance of non-monetary obligations (including maintenance, public-access, and scheduling obligations), and/or seek temporary, preliminary, or permanent injunctive relief where monetary damages are inadequate;
(vii) draw upon any security or financial assurance required under this Agreement (if any), and/or set off amounts due to CMU under this Agreement against amounts CMU owes City to the extent expressly permitted herein; and
(viii) pursue any other remedy expressly provided in this Agreement or available under applicable law.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

(c) CMU Remedies. Upon an Event of Default by City, and after compliance with any applicable notice, cure, and dispute resolution requirements, CMU may, in addition to any other remedy available at law or equity, pursue one or more of the following remedies to the extent permitted by law:

(i) terminate this Agreement (and, as applicable, the Ground Lease) as provided herein;
(ii) seek declaratory relief regarding the Parties' rights and obligations under this Agreement;
(iii) seek specific performance to compel performance of non-monetary obligations by City, and/or seek temporary, preliminary, or permanent injunctive relief where monetary damages are inadequate; and
(iv) recover damages to the extent permitted by law and not barred by governmental immunities or statutory limitations, including reimbursement of reasonable, documented out-of-pocket costs incurred as a direct result of City's breach, if and as recoverable under applicable law.

(d) No Election; No Waiver; Delays. No failure or delay by either Party in exercising any right or remedy shall operate as a waiver thereof, and no waiver shall be effective unless in writing and signed by the waiving Party. Any waiver shall be limited to the specific instance and shall not constitute a waiver of any other or subsequent breach. Acceptance of performance or payments with knowledge of a breach shall not constitute a waiver unless expressly stated in a written waiver.

(e) Judicial Relief; Emergency. Nothing in this Section limits either Party's right to seek emergency relief to prevent imminent harm, protect public health and safety, or prevent imminent damage to property, consistent with applicable law and the non-waiver of immunities provisions of this Agreement.

19. EXPIRATION; SURRENDER; DISPOSITION OF IMPROVEMENTS

19.1 Surrender. Upon expiration or earlier termination, CMU shall surrender the Ground Lease Premises in good order and condition, reasonable wear and tear excepted.

19.2 If No Successor Agreement.

(a) Appraisal. CMU-constructed facilities/improvements located on City-owned land shall be appraised by a mutually acceptable independent appraiser for then-current fair market value.
(b) Disposition Election. The definitive disposition shall be subject to negotiation by the Parties, but may include:

(i) City purchases CMU's interest at appraised value; or

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

(ii) CMU removes some/all improvements at CMU's cost and restores disturbed areas to an agreed standard; or
(iii) a combination of purchase and removal as agreed.

19.3 Holding Over. Any holding over is subject to City's written consent and shall be on a month-to-month basis at a rate of 1/12 of the $300,000 lease payment ($25,000 per month) and shall not be deemed a renewal or extension. Any holding over shall only occur if the Parties are in good faith negotiations towards a renewal of the lease or sale of the property. All holding over shall be only for a reasonable time necessary to complete the negotiation and execution of any agreement based on the circumstances at that time.

20. DISPUTE ESCALATION; NEGOTIATING PROTOCOL

20.1 Designated Negotiators; Authority. The Parties designate the following representatives (each, a "Designated Negotiator") to negotiate Disputes (defined below) in good faith: (a) City: the City Manager (or designee); and (b) CMU: the CMU President (or designee). Each Designated Negotiator shall have authority to recommend settlement terms to their respective governing/approving body, as applicable.

20.2 Dispute Notice. "Dispute" means any claim, controversy, or disagreement arising out of or relating to this Agreement, including its interpretation, performance, breach, termination, or enforcement. A Party asserting a Dispute shall provide written notice to the other Party describing, in reasonable detail, the nature of the Dispute, the relief requested, and the factual and contractual basis asserted (a "Dispute Notice").

20.3 Required Good-Faith Negotiation. Within ten (10) business days after receipt of a Dispute Notice (or such other time as the Parties may agree in writing), the Designated Negotiators shall meet and confer in person or by videoconference and shall negotiate in good faith to resolve the Dispute. The Parties shall continue good-faith negotiations for not less than thirty (30) days after the initial meet-and-confer (the "Negotiation Period"), unless the Parties resolve the Dispute sooner or mutually agree in writing to shorten or extend the Negotiation Period.

20.4 Mandatory Mediation; Condition Precedent. If the Dispute is not resolved within the Negotiation Period, then, as a condition precedent to the commencement of litigation or other formal legal proceedings, the Parties shall submit the Dispute to non-binding mediation. Mediation shall be initiated by written request of either Party and shall occur within forty-five (45) days after such request, unless the Parties mutually agree to a different date. The mediator shall be selected by mutual agreement; if the Parties cannot agree within ten (10) business days after the mediation request, either Party may request that a mutually acceptable mediation service provider appoint a mediator. The mediation shall be conducted in Mesa County, Colorado (or by videoconference if mutually agreed).

20.5 Costs; Participation. The Parties shall share the mediator's fees and mediation administrative costs equally, and each Party shall bear its own attorneys' fees and internal costs

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

associated with negotiation and mediation. The Designated Negotiators (or successors with equivalent authority) shall attend the mediation session(s) and participate in good faith.

20.6 Interim/Emergency Relief; Immunities Preserved. Nothing in this Section limits either Party's right to seek temporary, preliminary, or emergency injunctive relief from a court of competent jurisdiction to prevent imminent harm to persons, to protect property, to address an immediate threat to public health or safety, or to preserve the status quo pending completion of the process above; provided that the Party seeking such relief shall continue to participate in the negotiation and mediation process to the extent practicable. All non-waiver of immunities, defenses, and limitations of liability provisions in this Agreement remain fully applicable.

20.7 Failure of Mediation; Available Legal Remedies. If mediation does not result in a written settlement agreement executed by both Parties within thirty (30) days after the mediation session concludes (or such longer period as the Parties may agree in writing), then the mediation shall be deemed to have "failed," and either Party may pursue any and all legal and equitable remedies available under this Agreement and applicable law, subject to the Agreement's notice/cure requirements (if applicable), the non-waiver of immunities provisions, and any limitations imposed by law.

20.8 No Admission; Confidentiality. Negotiations and mediation are settlement discussions and shall be treated as confidential to the extent permitted by law and applicable rules of evidence; participation shall not be construed as an admission of liability or waiver of any right, defense, or immunity

21. NOTICES

Notices shall be in writing and delivered by personal delivery, courier, or certified mail (and email if the Parties elect), to the addresses below.

To City:
City of Grand Junction, Attn: City Manager
250 North 5th Street, Grand Junction, CO 81501
With copy to: City Attorney, same address

To CMU:
Colorado Mesa University, Attn: President
1100 North Avenue, Grand Junction, CO 81501

22. MISCELLANEOUS

22.1 No Partnership/Agency. This Agreement does not create the relationship of principal and agent or of partnership or of joint venture. No party shall have any authority to act, or attempt to act, or represent itself, directly or by implication, as an agent of the other or in any manner

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

assume or create, or attempt to assume or create, any obligation on behalf of or in the name of the other.

22.2 No Dedication or Other Rights. There are no intended third party beneficiaries to this Lease Agreement. The rights of occupancy and use described in this Ground Lease Agreement are private rights granted to CMU. The parties expressly disclaim any intention to dedicate to public use the Ground Leased Premises or any portion thereof or any extension thereto.

22.3 Entire Agreement; Amendment. This Agreement (with Exhibits) is the entire agreement and may be amended only by a writing executed by both Parties and approved as required by law.

22.4 Severability. If any term or provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect by a court or other tribunal of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement. This Agreement shall be construed and given effect as if such invalid, illegal, or unenforceable term or provision had never been included herein, and the remaining provisions shall remain in full force and effect. Upon such determination, the court or other tribunal is authorized and instructed, to the fullest extent permitted by law, to sever the invalid, illegal, or unenforceable term or provision and to modify and/or enforce this Agreement so as to give effect to the original intent of the Parties as closely as possible.

22.5 Prior Agreements. This Agreement contains all of the agreements of the parties with respect to any matter covered or mentioned in this Agreement and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties or their respective successors in interest. This Agreement is not effective or binding on any party until fully executed by both parties.

22.6 Headings. The headings and titles to the sections of this Lease Agreement are not a part of this Lease Agreement and have no effect upon the construction or interpretation of any part of it.

22.7 Counterparts; Electronic Signatures. This Agreement may be executed in counterparts and by electronic signature, each of which shall be deemed an original.

22.8 COLORADO SPECIAL PROVISIONS

(A) CONTROLLER'S APPROVAL. § 24-30-202 (1), C.R.S. This Lease shall not be valid until it has been approved by the University’s Controller or designee.

(B) FUND AVAILABILITY. § 24-30-202 (5.5), C.R.S. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

(C) CHOICE OF LAW. Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Lease. Any provision included or

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution. The Landlord shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established, including those dealing with discrimination and unfair employment practice, in performing its obligations under the Lease. Venue for any action to enforce any covenant or agreement contained herein, or otherwise arising out of or relating to this Agreement, shall be in Mesa County, Colorado.

(D) LANDLORD/VENDOR OFFSET. §§ 24-30-202 (1), C.R.S. and 24-30-202.4, C.R.S. Subject to § 24-30-202.4 (3.5), C.R.S, the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in § 39-21-101, et seq., C.R.S.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

(E) EMPLOYEE FINANCIAL INTEREST. § 24-18-201, C.R.S. and § 24-50-507, C.R.S. The signatories aver that to their knowledge, no State employee has any personal or beneficial interest whatsoever in the service or property described herein.

SIGNATURES

CITY OF GRAND JUNCTION

Signed by:
By: _____
7245B7BCA8F4F3...
Name: Michael P. Bennett, City Manager, City of Grand Junction
Title: City Manager

ATTEST:

Signed by:
_____
61343828F8604A0...
City Clerk

TRUSTEES OF COLORADO MESA UNIVERSITY
FOR THE BENEFIT OF COLORADO MESA UNIVERSITY

Signed by:
By: John Marshall, President - Colorado Mesa University
B86F5F5BBC91498...
Name: John Marshall, President - Colorado Mesa University
Title: President

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Exhibit A, Legal Description

Legal Description Provided by City; Ground Lease Area Shaded in Red Below



Exhibit A; Legal Description 07/01/2026

GROUND LEASE

A parcel of land located entirely within Lincoln Park a City of Grand Junction parcel recorded at Reception No.141853 in the office of the Mesa County Clerk and Recorder, situated in the Northwest 1/4 of the Northwest 1/4 of Section 13, Township 1 South, Range 1 West, of the Ute Meridian, City of Grand Junction, Mesa County, Colorado, more particularly described as follows:

Commencing at the Northwest corner 1/4 corner of said Section 13, whence the Northeast corner of said Section 13 bears S89°55'33"E with all bearings contained herein being relative thereto;
thence S70°22'05"E, a distance of 117.53 feet to the Point of Beginning;
thence S89°55'29"E, a distance of 74.06 feet;
thence S51°10'08"W, a distance of 55.94 feet;
thence S35°01'48"W, a distance of 48.65 feet;
thence N00°00'00"W, a distance of 14.43 feet;
thence S00°12'14"E, a distance of 85.80 feet;
thence N00°00'00"W, a distance of 12.42 feet;
thence S00°05'13"W, a distance of 5.50 feet;
thence N89°54'59"W, a distance of 38.33 feet;
thence N00°44'04"E, a distance of 101.93 feet;
thence N89°57'10"E, a distance of 22.02 feet;
thence N00°00'23"E, a distance of 20.31 feet;
thence N41°32'31"E, a distance of 58.78 feet to the Point of Beginning;

ALSO

Commencing at the Northwest corner 1/4 corner of said Section 13, whence the Northeast corner of said Section 13 bears S89°55'33"E with all bearings contained herein being relative thereto;
thence S06°30'02"E, a distance of 424.62 feet to the Point of Beginning;
thence N89°54'40"E, a distance of 40.17 feet;
thence S00°06'41"E, a distance of 42.48 feet;
thence N89°14'05"E, a distance of 10.93 feet;
thence S00°26'59"E, a distance of 37.71 feet;
thence 301.91 feet along a 138.24 foot radius curve to the left with a chord bearing of S64°13'55"E and a chord distance of 245.39 feet;
thence S32°35'50"E, a distance of 24.01 feet;
thence S24°30'41"W, a distance of 78.28 feet;
thence S61°25'24"E, a distance of 34.31 feet;
thence S26°29'23"W, a distance of 92.09 feet;
thence N63°59'08"W, a distance of 63.44 feet;
thence S26°11'33"W, a distance of 16.71 feet;
thence N64°02'41"W, a distance of 69.72 feet;
thence S29°59'24"W, a distance of 45.30 feet;
thence N62°13'19"W, a distance of 70.33 feet;
thence N67°03'32"W, a distance of 28.59 feet;
thence N36°56'23"W, a distance of 8.70 feet;
thence N10°49'58"W, a distance of 30.66 feet;
thence N10°04'08"E, a distance of 7.64 feet;
thence 28.45 feet along a 56.37 foot radius curve to the left with a chord bearing of N14°41'18"E and a chord distance of 28.15 feet;
thence N00°46'32"E, a distance of 126.39 feet;
thence N05°44'33"W, a distance of 32.01 feet;
thence N00°10'34"E, a distance of 98.87 feet to the Point of Beginning.

Said description contains 1.426 Acres as described herein.



Christopher C. Ransier
Colorado PLS 38089

Exhibit B; Site Plan 07/01/2026



Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Exhibit C, Licensed Use Area Plan



Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Exhibit D, Existing OVG Concessions Agreement

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

CITY OF Grand Junction COLORADO

Purchasing Division

CONTRACT AMENDMENT NO. 2

DATE: December 5, 2022
FROM: City of Grand Junction Purchasing Division
TO: Pinnacle Venue Services, LLC d/b/a OVG360
RE: Contract Amendment to the Management Agreement regarding the Management of Two Rivers Convention Center, Avalon Theatre and Las Colonias Amphitheater, with the original Contract Agreement RFP-4287-20-SH dated February 17, 2017 as extended and amended by Contract Extension 4670-19-SH dated July 12, 2019 and again by Contract Extension 4815-20-SH dated September 10, 2020, and as amended by Contract Amendment No. 1, dated April 27, 2022 (collectively, the "Contract")

This Contract Amendment is executed as of the 5th day of December, 2022 (the "Contract Amendment No. 2 Effective Date"), by and between the City of Grand Junction, Colorado, a Municipal Corporation in the County of Mesa, State of Colorado, hereinafter in the Contract Documents referred to as the "City" or "Owner" and Pinnacle Venue Services, LLC d/b/a OVG360, hereinafter in the Contract Documents referred to as the "Manager" or "Contractor." The Contract shall be clarified, modified, superseded and supplemented as of the Contract Amendment No. 2 Effective Date, as hereinafter described.

Contract Documents: The Owner's Request for Proposal RFP-4287-16-SH and any Addenda to the Contract Documents as set forth above, and this Signed Contract Amendment No. 2, as finally negotiated, compose the Contract Documents all of which are incorporated herein by this reference as if fully set forth.

The Contractor and Owner in consideration of the mutual covenants, promises, and agreements herein contained, agree to amend the contract as follows:

The Contract will be extended for a (5) year period, commencing January 1, 2023, and concluding December 31, 2027, subject to annual appropriation, with an option for one (1) additional three (3) year period, concluding December 31, 2030, also subject to annual appropriation. The Owner shall notify Manager of its intent to exercise its option to engage Manager for the foregoing option by September 1, 2027.

ARTICLE 13 of the Contract shall be deleted in its entirety and replaced with the following:

"ARTICLE 13
CONTRIBUTIONS BY MANAGER

Section 13.1 Manager shall engage in fundraising activities to offset Operating Costs; including applying for available grant funding and engaging in a fundraising campaign to solicit donations for the Venues and its operations.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Section 13.2 Manager Contribution. Manager shall make a capital contribution of up to US $500,000 (the "Investment") at the Venues for leasehold improvements and/or capital equipment dedicated to the Venues. City and Manager shall mutually agree upon the specific equipment and improvements to be purchased or made with the Investment, as well as the location for such improvements or installation of such equipment. The Investment shall be made over the course of the 2023 Operating Year but in any event shall be made in full by March 1, 2024.

Once identified, the specific equipment and other related tangible personal property to be purchased with the Investment shall be set forth in a writing to be signed by the parties and updated by the parties from time to time as necessary to reflect any replacements or substitutions thereof. All equipment, improvements and other items purchased with the Investment, including any replacements or substitutions thereof, shall be owned by Manager until payment of the Buyout Amount (as described below), and the City agrees to execute such documents as Manager shall reasonably request evidencing Manager's ownership interest in such improvements and equipment, including financing statements. For the sake of clarity, nothing in this paragraph shall be construed as requiring Manager to replace any equipment or other personal property at its own cost.

The Investment shall be amortized on a straight-line basis over an eight (8) year period (at the rate of 1/96 per month), commencing on January 1, 2023. Within five (5) days of the expiration of early termination of this Agreement (for any reason whatsoever, including without limitation, if the City does not exercise its option to extend the Term as set forth in Contract Amendment No. 2, or if due to a breach, default or bankruptcy event by or affecting Manager), the City shall immediately pay to Manager the unamortized amount of the Investment (the "Buyout Amount"). In the event that the City fails to pay Manager the Buyout Amount when due, the Buyout Amount shall accrue interest at the rate of one and a half percent (1.5%) per month, or the highest rate permitted by law, whichever is less. In such event, and without limiting any other rights or remedies available to it, Manager may reenter the Venues, with or without process of law, and remove in a commercially reasonably manner the improvements or equipment purchased with the Investment and retain or dispose of such improvements or equipment as Manager sees fit. In such event, Manager shall retain its right to receive the Buyout Amount, but any proceeds from the sale of such improvements or equipment, less the cost to Manager of removing, storing and selling such improvements or equipment, shall reduce the Buyout Amount.

The City covenants and agrees not to permit any liens or encumbrances to attach to the leasehold improvements and equipment purchased with the Investment, and hereby waives any right to attach any claim, lien, or attachment to such improvements or equipment. Once the Investment is fully amortized or the Buyout Amount is paid in full to Manager, title to the equipment and improvements purchased with the Investment will become vested in the City, and Manager agrees to execute all necessary documents to evidence same. The rights of Manager set forth in this Section shall be in addition to any other rights of Manager at law or in equity."

The original Contract is amended as noted. All other conditions remain the same.

[*Signatures Follow*]

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

ACCEPTED AND AREED as of the Contract Amendment No. 2 Effective Date:

CITY OF GRAND JUNCTION ("City") or ("Owner")

By: _____ 12/22/2022
Date

Print Name: Greg Caton

Title: City Manager

PINNACLE VENUE SERVICES, LLC d/b/a OVG360 ("Contractor") or ("Manager")

By: _____ _____
Date

Print Name: _____

Title: _____

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

CITY OF Grand Junction COLORADO

CONTRACT AGREEMENT-4815-20-SH

To: Tom Paquette, Managing Partner
Pinnacle Venue Services, LLC
20770 US 281 N. #108-484
San Antonio, TX 78258

SERVICE DESCRIPTION: **AGREEMENT FOR RFP-4287-16-SH MANAGEMENT OF TWO RIVERS CONVENTION CENTER, AVALON THEATRE AND LAS COLONIAS AMPITHEATER**

This CONTRACT is **executed** as of the **10th** day of **September, 2020**, by and between the **City of Grand Junction, Colorado,** a Municipal Corporation in the County of Mesa, State of Colorado, hereinafter in the Contract Documents referred to as the "Owner" and **Pinnacle Venue Services, LLC,** hereinafter in the Contract Documents referred to as the "Contractor." This award shall cover the time period from **January 1, 2021** through **December 31, 2022.**

This Contract Agreement will be a two (2) year agreement, subject to annual appropriation by the City with an option for three (3) additional one-year periods, also subject to annual appropriation.

The Contractor and the Owner, in consideration of the mutual covenants, promises, and agreements herein contained, agree to the contract as follows:

Scope of Work: The Contractor shall perform for the City the Services set forth in the Original Agreement as a result of RFP-4287-16-SH. This contract is for **management of the Two Rivers Convention Center, Avalon Theatre, and Las Colonias Park Amphitheater**.

The Contractor will continue to supply the Operating Budget and Insurance information as stated in the Original Agreement.

Contract Documents: The Owner's Request for Proposal RFP-4287-16-SH and any Addenda to the Contract Documents, and the Signed Agreement as finally negotiated compose the Contract Documents, all of which are incorporated herein by this reference as if fully set forth.

Compensation and Method of Payment: For satisfactorily performing the Services described in and required by the Contract Documents, the financial terms for **Two Rivers Convention Center and Avalon Theatre** will continue as follows:

> **Contractor shall be responsible for any operating costs above the Owner's annual subsidy of $225,000. The first $100,000 of net operating revenue above the $225,000 will be paid to the Contractor as a management fee. Any net operating revenue above the $100,000 of net operating revenue will be split evenly (50/50) between the Owner and the Contractor.**

The financial terms for **Los Colonias Park Amphitheater** will be as follows:

> **For each ticket sold at $20 or higher, $2.00 will be paid to the Owner.**
> **For each ticket sold from $10 to $19.99, $1.00 will be paid to the Owner.**
> **Twenty-five percent (25%) of net revenue from sales of sponsorships and commercial or pouring or naming rights shall be paid to the Owner.**

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

CITY OF Grand Junction COLORADO

There is no guarantee of minimum or maximum quantities. Compensation is dependent solely on events and situations as they occur. The parties acknowledge that this Contract Extension is not intended to amend the financial terms of the Contract Documents, and in the event of any ambiguity regarding the interpretation hereof, the language of the Contract Documents shall control, taking into account the parties' past practice.

In Witness whereof, the parties hereto have caused this Contract Extension to be duly executed, intending to be bound thereby.

CITY OF GRAND JUNCTION:

Authorized Signature: _____

Title: City Manager

Date: 9/16/2020

PINNACLE VENUE SERVICES, LLC:

Authorized Signature: _____

Title: Authorized Representative

Date: 9-16-20

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

CITY OF Grand Junction COLORADO

Purchasing Division

CONTRACT AMENDMENT NO. 1

DATE: **April 27, 2022**

FROM: **City of Grand Junction Purchasing Division**

TO: **Pinnacle Venue Services, LLC d/b/a OVG360**

Contract Amendment for Management of Two Rivers Convention Center, Avalon Theatre and Las Colonias Amphitheater Contract Agreement 4815-20-SH dated February 17, 2017 as extended by Contract Extension 4670-SH dated July 12, 2019

The Contract shall be clarified, modified, superseded and supplemented as to this date as hereinafter described.

The scope of work shall be modified as follow:

In addition to services provided in the Contract Agreement 4815-20-SH, the Contractor, upon full execution of this Contract Amendment No. 1, shall begin providing concession services for the Lincoln Park Stadium as follows:

- Engaging and overseeing employees necessary to perform such concession services;
- Order, stock, prepare, pay for (as an Operating Expenses under the Contract) and sell appropriate foods and beverages.

- The Contractor will manage the concession stands by and through the current Grand Junction Convention Center and Las Colonias Amphitheater staff.
- Contractor shall not provide the foregoing concession services at or in connection with any minor league baseball games held at Lincoln Park Stadium, and a calendar of all expected events shall be provided by Owner on a quarterly basis and updated, as appropriate.
- For avoidance of doubt, such concession services shall not include (i) the sale or distribution of any alcoholic beverages, or (ii) maintenance (routine or otherwise) of any equipment necessary to perform the concession services (excluding general cleaning), all of which shall be provided/paid for by Owner at its sole expense.

The Contractor may provide catering for Lincoln Park Tower Hospitality Suite (including GJ Rockies Baseball) dependent upon successful negotiations with relevant third parties. These services will be individual and separate contracts to be done with the relevant third parties.

The financial terms shall be modified as follows:

The Owner shall receive 10% of gross Food and Beverage revenue generated by Contractor at Lincoln Park Stadium up to $100,000 each Operating Year, and 20% of such gross Food and Beverage revenues in excess of $100,000 each Operating Year. The remaining gross Food and Beverage revenue shall belong to Contractor. For clarification purposes, gross proceeds shall be calculated separate from all other Revenue generated under the Contract.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

The original Contract is amended as noted.

All other conditions remain the same.

CITY OF GRAND JUNCTION, COLORADO ("City") or ("Owner")

By: DocuSigned by: Duane Hoff Jr., Contract Administrator – City of Grand Junction 5/17/2022
0F780E7D60F14BC...

Duane Hoff Jr., Contract Administrator — Date

PINNACLE VENUE SERVICES, LLC d/b/a OVG360 ("Contractor") or ("Manager")

By: Chris Granger — 5/17/2022

Chris Granger — Date

Authorized Signatory

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

CITY OF Grand Junction COLORADO

CONTRACT EXTENSION-4670-SH

To: Tom Paquette, Managing Partner
Pinnacle Venue Services, LLC
20770 US 281 N. #108-484
San Antonio, TX 78258

SERVICE DESCRIPTION: **AGREEMENT EXTENSION FOR RFP-4287-16-SH MANAGEMENT OF TWO RIVERS CONVENTION CENTER, AVALON THEATRE AND LAS COLONIAS AMPITHEATER**

This CONTRACT is **extended** as of the **12th** day of **July, 2019**, by and between the **City of Grand Junction, Colorado,** a Municipal Corporation in the County of Mesa, State of Colorado, hereinafter in the Contract Documents referred to as the "Owner" and **Pinnacle Venue Services, LLC,** hereinafter in the Contract Documents referred to as the "Contractor." This award shall cover the time period from **January 1, 2020** through **December 31, 2020.**

The original Contract Agreement signed on January 17, 2017 was a three (3) year agreement, subject to annual appropriation by the City with an option for two (2) additional years, also subject to annual appropriation. This extension is the first of the two additional years.

The Contractor and the Owner, in consideration of the mutual covenants, promises, and agreements herein contained, agree to **extend** the **contract award** as follows:

Scope of Work: The Contractor shall perform for the City the Work set forth in the Original Agreement as a result of RFP-4287-16-SH. This contract is for **management of the Two Rivers Convention Center, Avalon Theatre, and Las Colonias Park Amphitheater**.

The Contractor will continue to supply the Operating Budget and Insurance information as stated in the Original Agreement.

Contract Documents: The Owner's Request for Proposal RFP-4287-16-SH, Contractor's Response Form, any Addenda to the Contract Documents, and the Signed Agreement as finally negotiated compose the Contract Documents, all of which are incorporated herein by this reference as if fully set forth.

Compensation and Method of Payment: For satisfactorily performing the scope of work described in and required by the Contract Documents, the financial terms for **Two Rivers Convention Center and Avalon Theatre** will continue as follows:

> **Contractor shall be responsible for any operating costs above the Owner's annual subsidy of $225,000. The first $100,000 of net operating revenue above the $225,000 will be paid to the Contractor as a management fee. Any net operating revenue above the $100,000 of net operating revenue will be split evenly (50/50) between the Owner and the Contractor.**

The financial terms for **Los Colonias Park Amphitheater** will be as follows:

> **For each ticket sold at $20 or higher, $2.00 will be paid to the Owner.**
> **For each ticket sold from $10 to $19.99, $1.00 will be paid to the Owner.**
> **Twenty-five percent (25%) of net revenue from sales of sponsorships and commercial or pouring or naming rights shall be paid to the Owner.**

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

CITY OF Grand Junction COLORADO

There is no guarantee of minimum or maximum quantities. Compensation is dependent solely on events and situations as they occur.

In Witness whereof, the parties hereto have caused this Contract Extension to be duly executed, intending to be bound thereby.

CITY OF GRAND JUNCTION:

Authorized Signature: _____

Title: City Manager

Date: 12/27/2019

PINNACLE VENUE SERVICES, LLC:

Authorized Signature: Hank Abate

Title: President, OVG Facilities

Date: 12-19-19

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

December 14, 2016

Jay Valentine

Internal Services Manager

City of Grand Junction

Dear Jay,

Per our discussion, this letter will serve as a Statement of Intent/Agreement in Principle regarding the Pinnacle Venue Services (PVS) proposal for the management of the Two Rivers Convention Center (TRCC) and Avalon Theatre. I've also include some information and ideas of how to handle logistics with the City. Hopefully, this will also serve as a basis for drafting an agreement; we have a standard agreement that is modified based on specific venues and details from which we can begin the work to develop a Services Agreement for TRCC and Avalon Theatre.

PVS will provide full management services for the TRCC and Avalon Theatre: we believe we can operate the venues more efficiently by implementing some industry best practices generating additional revenue and being responsible for more effectively managing operating costs and services. We will operate the venues as efficient businesses.

PVS will be responsible for:

- Hiring and managing all venue staff
- Staff payroll & benefits
- Event Booking and scheduling
- Event sales
- Working with VCB and business stakeholders
- Event promoter negotiations and relations
- Establishing rental rates and guidelines in an event booking scheduling policy
- Financial management including monthly financial reporting, budgeting, and forecasting
- Managing all operating expenses and securing 3rd party service contracts
- Marketing the venues and events
- Website and social media management
- Public relations related to the venues
- Sponsorship sales
- Operations including routine and preventative maintenance
- Event management, event set-up and changeover
- F&B services management

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

- Customer Service
- Security operations
- Box office operations
- Ticketing services management
- Parking operations for applicable lots
- IT and telecommunication services
- Securing appropriate insurance policies
- Communication with and reporting to the city

The City will be responsible for:

- Providing an annual operating subsidy of $225,000 (see additional information below)
- All capital repairs and improvements (see additional information below)
- Providing required information such as necessary insurance policy requirements, local tax information, licenses, permits, local codes, etc.
- Providing for all reasonable transition costs during the first six months of the agreement including PVS corporate support travel related expenses (transportation, lodging, meals, etc.), venue senior level staff recruiting and relocation expenses (if necessary), and any necessary IT and telecommunications equipment, etc.

Financial Terms

Our proposal is that PVS will guarantee the City's bottom line for operating both the TRCC and Avalon Theatre. PVS will be responsible for any operating costs above the City's annual subsidy of $225,000. The first $100,000 of net operating revenue above the $225,000 will be paid to PVS as a management fee. Any net operating revenue above the $100,000 of net operating revenue will be split evenly (50/50) between the City and PVS.

Based on the current approved operating budget, the City will advance two months of projected expenses to the venues' operating account. After the first month, PVS will produce financial statements to determine if additional funding from the City is necessary to operate the venues. After each month, PVS will reconcile the venues' financial standing for review with the City and determining what amount of funding, if any, is necessary for the upcoming month(s).

Maintenance and Capital Improvements

PVS will be responsible for all operations related expenses including general day-to-day maintenance. The City will be responsible for all capital improvements. Unless other mutually acceptable terms are established, general maintenance and capital projects will be allocated using the current projected

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

budgets of the City for those expenses for the first year. Any repairs and maintenance over that budgeted amount would be the responsibility of the City.

Staffing

Current staff and each position's duties will be evaluated. Our goal is to retain as many of the current staff as possible. City employees at the venues will be transferred to PVS' payroll and benefits at a date to be determined after the execution of an operating agreement.

Agreement Term

We are proposing a three (3) year agreement, subject to annual appropriation by the City with an option for two (2) additional years. (We would consider a five (5) year agreement with additional option years, especially if the amphitheater was added to the agreement.) The start date is January 1, 2017.

Amphitheater Management Services

We are excited for the opportunity to provide management services for the future amphitheater. We would like to learn more about this project. With additional information, we would include that in our management services agreement with the appropriate terms at the appropriate date.

Additional Services

PVS will provide consulting regarding the design of other city owned venues (amphitheater and event center) in Grand Junction at no additional cost to the City.

After you've had a chance to review this letter, let me know if this letter of intent is agreeable. If so, please have the appropriate person sign and return a signed copy to me. I can be reached at 210-784-7189. I look forward to beginning this exciting new venture.

Regards,

Tom Paquette

Tom Paquette

Managing Partner

Pinnacle Venue Services

Agreed by:

Name: Jay Valentine

Title: Internal Services Manager

Date: 1/3/17

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

MANAGEMENT AGREEMENT

between

THE CITY OF GRAND JUNCTION

and

PINNACLE VENUE SERVICES, LLC

Dated: February 17, 2017

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

TABLE OF CONTENTS

Page

RECITALS 1

ARTICLE 1 – DEFINITIONS 1
Section 1.1 Definitions 1

ARTICLE 2 – SCOPE OF SERVICES 5
Section 2.1 Engagement 5
Section 2.2 Limitations on Manager's Duties 5

ARTICLE 3 – COMPENSATION 6
Section 3.1 Management Fee/Net Operating Distribution 6
Section 3.2 Excess Revenue Distribution 6

ARTICLE 4 – TERM; TERMINATION 6
Section 4.1 Term 6
Section 4.2 Termination 6
Section 4.3 Effect of Termination 7

ARTICLE 5 – OWNERSHIP; USE OF THE VENUES 7
Section 5.1 Ownership of Theater, Data, Equipment and Materials 7
Section 5.2 Right of Use by Manager 8
Section 5.3 Observance of Agreements 8

ARTICLE 6 – PERSONNEL 8
Section 6.1 Generally 8
Section 6.2 General Manager 8
Section 6.3 Non-Solicitation/Non-Hiring 9

ARTICLE 7 – OPERATING BUDGET 9
Section 7.1 Establishment of Operating Budget 9
Section 7.2 Approval of Operating Budget 9
Section 7.3 Operating Subsidy 10

ARTICLE 8 – PROCEDURE FOR HANDLING INCOME 10
Section 8.1 Event Account 10
Section 8.2 Operating Account 10

ARTICLE 9 – FUNDING 10
Section 9.1 Venue Funding 10

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Section 9.2 Transition Expenses.....11

ARTICLE 10 – FISCAL RESPONSIBILITY; REPORTING 11
Section 10.1 Records 11
Section 10.2 Monthly Financial Reports 11
Section 10.3 Audit 11

ARTICLE 11 – CAPITAL IMPROVEMENTS 12
Section 11.1 Schedule of Capital Expenditures 12
Section 11.2 Responsibility for Capital Expenditures 12

ARTICLE 12 – VENUE MAINTENANCE 12
Section 12.1 Responsibilities of the Manager 12

ARTICLE 13 – CONTRIBUTIONS BY MANAGER 12
Section 13.1 12

ARTICLE 14 – VENUE CONTRACTS; TRANSACTIONS WITH AFFILIATES 12
Section 14.1 Existing Contracts 12
Section 14.2 Execution of Contracts 12

ARTICLE 15 – AGREEMENT MONITORING 13
Section 15.1 Contract Administrator 13

ARTICLE 16 – INDEMNIFICATION 13
Section 16.1 Indemnification by Manager 13
Section 16.2 Indemnification by the City 13
Section 16.3 Conditions to Indemnification 13
Section 16.4 Survival 14

ARTICLE 17 – INSURANCE 14
Section 17.1 Types and Amount of Coverage 14
Section 17.2 Rating; Additional Insureds 14

ARTICLE 18 – REPRESENTATIONS, WARRANTIES AND COVENANTS 15
Section 18.1 Manager Representations and Warranties 15
Section 18.2 City Representations, Warranties and Covenants 15

ARTICLE 19 – MISCELLANEOUS 15
Section 19.1 No Discrimination 15
Section 19.2 Use of Venue Names and Logos 15
Section 19.3 Venue Advertisements 16
Section 19.4 Force Majeure; Casualty Loss 16
Section 19.5 Assignment 16

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Section 19.6 Notices 16
Section 19.7 Severability 17
Section 19.8 Entire Agreements 17
Section 19.9 Governing Law; Venue 17
Section 19.10 Amendments 17
Section 19.11 Waiver; Remedies 17
Section 19.12 Relationship of Parties 18
Section 19.13 No Third Party Beneficiaries 18
Section 19.14 Limitation on Damages 18
Section 19.15 Counterparts; Facsimile and Electronic Signatures 18
Section 19.16 Manager's Compliance with Florida Public Records Law 18

EXHIBITS –

Exhibit A Manager's Duties
Exhibit B Operations Manual
Exhibit C Operating Budget
Exhibit D Insurance

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

MANAGEMENT AGREEMENT

This Management Agreement is made as of the 17th day of February, 2017, by and between the City of Grand Junction, CO ("**City**"), and Pinnacle Venue Services, LLC, a Texas Limited Liability Company ("**Manager**").

RECITALS

The, City owns, the Two Rivers Convention Center, located at 159 Main Street, Grand Junction, CO 81501 (the "**Convention Center**") and the Avalon Theatre, located at 645 Main Street, Grand Junction, CO 81501; (the "**Theatre**") which collectively may be referred to as (the "**Venues**") and

On November 8, 2016, the City issued Request for Proposal No.RFP-4287-16-SH (the "RFP").

The, Manager submitted a proposal in response to the RFP (the "Proposal") and was deemed to be the most responsible responsive proposer under the RFP.

The City has the full legal right and authority to engage a third party to manage and operate the Venues, and the City desires to engage Manager to manage and operate the Venues on behalf and for the benefit of the City, and Manager desires to accept such engagement, pursuant to the terms and conditions contained herein.

NOW THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1. Definitions. For purposes of this Agreement, the following terms have the meanings referred to in this Section:

Agreement: this Management Agreement, together with all exhibits attached hereto as well as the RFP (each of which are incorporated herein as an integral part of this Agreement).

Building Components: Structural components of the Venues including the roof system, electrical system and HVAC system.

Capital Expenditures: All expenditures for building additions, alterations, repairs or improvements and for purchases of additional or replacement furniture, machinery, or equipment,

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

where the cost of such expenditure is greater than $2,500 and the depreciable life of the applicable item is, according to generally accepted accounting principles, is in excess of five (5) years.

City: The term "City" shall have the meaning ascribed to such term in the Recitals to this Agreement.

City Events: Events hosted or presented by the City of Grand Junction.

City Expenses: Expenses incurred in the operation of the Venues for which the City will accept sole responsibility. City Expenses shall include the cost of Capital Expenditures, Property Insurance, and the costs of audits, for the Venues.

Commercial Rights: Pouring rights, advertising, sponsorships, the branding of food and beverage products for resale, premium seating (including suites, club seats and party suites) and memorial gifts at or with respect to the Venues and owned or controlled by the City.

CPI: The Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics or such other successor or similar index.

Effective Date: "Effective Date" shall be the first (1st) day of the first (1st) Operating Year of this Agreement.

Emergency Repair: The repair of a condition which, if not performed immediately, creates an imminent danger to persons or property and/or an unsafe condition at the Venues threatening persons or property.

Event: The rental or booking of any component of the Venues by a person or entity other than the City.

Event Account: A separate interest-bearing account in the name of the Manager in a local qualified public depository, where advance ticket sale revenue is deposited by Manager.

Event Calendar: The schedule of events to be held at the Venues which shall include a list of the anticipated Events to be held during the Operating Year and the number of days during which any and all portions of the Venues will be used for the production of Non-City Events.

Event of Force Majeure: An act of God, fire, earthquake, hurricane, flood, riot, civil commotion, terrorist act, terrorist threat, storm, washout, wind, lightning, landslide, explosion, epidemic, inability to obtain materials or supplies, accident to machinery or equipment, any law, ordinance, rule, regulation, or order of any public or military authority including but not limited to the City stemming from the existence of economic or energy controls, hostilities or war, affecting the Theater or services described in this Agreement, or any other cause or occurrence outside the reasonable control of the party claiming an inability to perform and which by the exercise of due diligence could not be reasonably prevented or overcome.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

FF&E: Furniture, fixtures and equipment to be procured for use at the Venues including lighting systems, audio visual equipment, a stage rigging system, furniture, computers and telephones.

Fixed Management Fee: The fixed fee the City shall pay to Manager under this Agreement, as more fully described in Section 3.1 of this Agreement.

General Manager: The employee of Manager acting as the full-time on-site person responsible for the Venues.

Laws: federal, state, local and municipal laws, statutes, rules, regulations and ordinances.

Management-Level Employees: The General Manager, Assistant General Manager, Business Manager (or employees with different titles performing similar functions), and any department head employed by Manager to perform services at the Venues (including employees performing the functions of the Director of Operations, Director of Sales and Marketing, Director of Security, Finance Director and Event Manager).

Manager: shall have the meaning ascribed to such term in the Recitals to this Agreement.

Marketing Plan: A plan for the advertising and promotion of the Venues and Venue events, which may contain but not be limited to the following elements: (i) market research, (ii) market position, (iii) marketing objectives, (iv) marketing strategies, (v) booking priorities, (vi) targeted events - local, regional, national and international, (vii) targeted meetings, conventions and trade shows, (viii) industry advertising campaign, (ix) internal and external support staff, (x) advertising opportunities at the local, regional and national level, (xi) attendance at various trade shows, conventions and seminars, (xii) incentive formulas for multiple event presenters, (xiii) suite and club seat sales, (xiv) merchandising and retail, (xv) food and beverage, (xvi) a plan for the sale of commercial rights, including without limitation naming rights, pouring rights, advertising signage, sponsorships (including event sponsorships), branding of food and beverage products for resale, premium seating (including but not limited to suites and club seats), and memorial gifts, (xvii) a plan regarding national, regional and local public relations and media relations, (xviii) development of an in-house advertising agency, and (xix) policies regarding the use of trade/barter.

Net Operating Revenue: All annual revenue generated by Manager's operation of the Venues; plus Operating Subsidy; less all related annual operating expenses.

Non-City Events: Events not hosted or presented by the City of Grand Junction.

Operating Account: A separate interest-bearing account in the name of the Manager in a local qualified public depository, where Revenue is deposited and from which Operating Expenses are paid.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Operating Budget: A line item budget for the Venues that includes a projection of Revenues and Operating Expenses and Event Calendar presented on a monthly and annual basis.

Operating Expenses: All expenses incurred by Manager in connection with its operation, promotion, maintenance and management of the Theatre, including but not limited to the following: (i) employee payroll, benefits, relocation costs, severance costs, bonus and related costs, (ii) cost of operating supplies, including general office supplies, (iii) advertising, marketing, group sales, and public relations costs, (iv) cleaning expenses, (v) data processing costs, (vi) dues, subscriptions and membership costs, (vii) printing and stationary costs, (viii) postage and freight costs, (ix) equipment rental costs, (x) minor repairs, maintenance, and equipment servicing, not including expenses relating to performing capital improvements or repairs, (xi) security expenses, (xii) budgeted travel and entertainment expenses of Manager employees, (xiii) cost of employee uniforms and identification, (xiv) exterminator, trash removal and landscaping costs, if applicable (xvii) computer, software, hardware and training costs, (xv) parking expenses, (xvi) office expenses, (xvii) accounting fees, (xviii) all insurance costs, including but not limited to personal property, liability, and worker's compensation insurance, (xix) cost of City Events, (xx) cost of complying with any Laws, (xxi) costs incurred by Manager to settle or defend any claims asserted against Manager arising out of its operations at the Theatre on behalf of City; (xxii) costs incurred under Service Contracts and other agreements relating to Venue operations, and (xxiii) Taxes, excluding federal income taxes of the Manager. The term "Operating Expenses" does not include debt service on the Venues or City Expenses.

Operating Subsidy: The annual dollar amount to be contributed by the City to subsidize the costs of operating the Venues. The Operating Subsidy shall be set at Two-Hundred Twenty-Five Thousand Dollars ($225,000) on an annual basis and shall be incorporated into the Operating Budget for each Operating Year during the Term and any Renewal Term.

Operating Year: Each twelve (12) month period during the Term, commencing on January 1, 2017 and ending on December 31.

Operations Manual: Document to be developed by Manager which shall contain terms regarding the management and operation of the Venues, including detailed policies and procedures to be implemented in operating the Venues, as agreed upon by both the City and the Manager.

Revenue: All revenues generated by Manager's operation of the Venues, including but not limited to event ticket proceeds income, rental and license fee income, merchandise income, gross food and beverage income, gross income from any sale of Commercial Rights, gross service income, equipment rental fees, box office income, and miscellaneous operating income, grants and donations, but shall not include event ticket proceeds held by Manager in trust for a third party and paid to such third party.

Revenue Generating Contracts: Vendor, concessions and merchandising agreements, user/rental agreements, booking commitments, licenses, and all other contracts or agreements generating revenue for the Venues and entered into in the ordinary course of operating the Venues.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Service Contracts: Agreements for services to be provided in connection with the operation of the Venues, including without limitation agreements for ticketing, web development and maintenance, computer support services, FF&E purchasing services, engineering services, electricity, steam, gas, fuel, general maintenance, HVAC maintenance, telephone, staffing personnel including guards, ushers and ticket-takers, extermination, elevators, stage equipment, fire control panel and other safety equipment, landscaping and other services which are deemed by Manager to be either necessary or useful in operating the Venues.

Taxes: Any and all governmental assessments, franchise fees, excises, license and permit fees, levies, charges and taxes, of every kind and nature whatsoever, which at any time during the Term may be assessed, levied, or imposed on, or become due and payable out of or in respect of, (i) activities conducted on behalf of the City at the Venues, including without limitation the sale of concessions, the sale of tickets, and the performance of events (such as any applicable sales and/or admissions taxes, use taxes, excise taxes, occupancy taxes, employment taxes, and withholding taxes), or (ii) any payments received from any holders of a leasehold interest or license in or to the Venues, from any guests, or from any others using or occupying all or any part of the Venues.

Term: The term "Term" shall have the meaning ascribed to such term in Section 4.1 of this Agreement.

Transition Expenses: Expenses related to the transition of the management of the Venues from the City to the Manager and incurred in the first six months of the Agreement that would not normally be included in Venue operations in a typical operating year.

Venues: shall have the meaning ascribed to such term in the Recitals to this Agreement, and shall be deemed to include the entire Convention Center complex and the Theatre, including but not limited to premium seating areas, meeting rooms, box office, common areas, lobby areas, executive and other offices, storage, and the entrances, ground, sidewalks and parking areas immediately surrounding the Venues and adjacent thereto.

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Engagement.

(a) City hereby engages Manager during the Term to act as the sole and exclusive manager and operator of the Venues, subject to and as more fully described in this Agreement, and, in connection therewith, to perform the services described in Exhibit "A" attached hereto (collectively, the "Services").

(b) Manager hereby accepts such engagement, and shall perform the Services described herein, subject to the limitations expressly set forth in this Agreement and in the

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Operations Manual, which Manager shall present to the City for its approval within one hundred and twenty (120) days of the Effective Date and once approved be attached hereto as Exhibit "B".

Section 2.2 Limitations on Manager's Duties. Manager's obligations under this Agreement are contingent upon and subject to the City making available, in a timely fashion, the Operating Subsidy during any Operating Year of the Term or Renewal Term. Manager shall not be considered to be in breach or default of this Agreement, and shall have no liability to the City or any other party, in the event Manager does not perform any of its obligations hereunder due to failure by the City to timely provide the Operating Subsidy.

ARTICLE 3
COMPENSATION

Section 3.1 Management Fee/Net Operating Revenue Distribution. During each Operating Year, Net Operating Revenue shall be distributed in accordance with the following schedule:

(a) Net Operating Revenue between $1.00 - $100,000.00: Manager receives One Hundred (100%) as the Fixed Management Fee;

(b) Net Operating Revenue above $100,000: Manager receives Fifty percent (50%); City Receives Fifty percent (50%).

Manager shall make annual payments of the applicable Net Operating Revenue to the City within fourteen (14) days of the close of the City fiscal year in which the Net Operating Revenue is collected.

ARTICLE 4
TERM; TERMINATION

Section 4.1 Term. This Agreement shall begin on the Effective Date and shall continue on an annual basis, subject to the annual appropriation, for three (3) years unless sooner terminated in accordance with section 4.2. The City may at its discretion, elect to extend the Agreement for an additional two-year term under the same terms and conditions contained herein (the "Renewal Terms"). The City shall notify Manager of its intent to exercise its option to engage the Manager for the Renewal Term not less than ninety (90) days prior to the expiration of the Term.

Section 4.2 Termination. In addition to the termination right described in Section 4.1 above, this Agreement may be terminated:

(a) subject to Section 4.3(a) below, by the City upon sixty (60) days written notice to Manager in the event that the City elects in its sole discretion to permanently close the Venues, the fact of which is certified by the City in writing to Manager; or

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

(b) by either party upon thirty (30) days written notice, if the other party fails to perform or comply with any of the material terms, covenants, agreements or conditions hereof, and such failure is not cured during such thirty (30) day notification period, provided, however, if such failure cannot reasonably be cured within such thirty (30) day period, then a longer period of time shall be afforded to cure such breach, up to a total of ninety (90) days, provided that the party in default is diligently seeking a cure and the non-defaulting party is not irreparably harmed by the extension of the cure period.

(c) by either party immediately by written notice upon the other party being judged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of the other party shall be appointed and shall not be discharged within one hundred twenty (120) days after appointment, or if either party shall make an assignment of its property for the benefit of creditors or shall file a voluntary petition in bankruptcy or insolvency, or shall apply for bankruptcy under the bankruptcy or insolvency Laws now in force or hereinafter enacted, Federal, State or otherwise, or if such petition shall be filed against either party and shall not be dismissed within one hundred twenty (120) days after such filing; or

(d) by the City or the Manager upon the failure of the parties to agree on an Operating Budget including a non-appropriation by the City in any Operating Year.

Section 4.3 Effect of Termination

(a) In the event this Agreement is terminated by the City pursuant to Section 4.2(a) due to closure of the Venues, Manager shall, upon the issuance of a notice of termination by the City, relinquish control of the Operating Account to the City and provide the City with an up to date accounting of all accounts payable and receivable.

(b) Upon termination or expiration of this Agreement for any reason, (i) Manager shall promptly discontinue the performance of all services hereunder, (ii) the City shall promptly pay Manager all fixed Management Fees due Manager up to the date of termination or expiration (subject to proration if the Term ends other than at the end of the Operating Year), (iii) Manager shall make available to the City all data, electronic files, documents, procedures, reports, estimates, summaries, and other such information and materials with respect to the Venues as may have been accumulated by Manager in performing its obligations hereunder, whether completed or in process, (iv) Manager shall utilize available funds in the Operating Account to satisfy any obligations incurred by Manager prior to the date of termination or expiration. Any obligations of the parties that are specifically intended to survive expiration or termination of this Agreement shall survive expiration or termination hereof.

ARTICLE 5
OWNERSHIP; USE OF THE VENUES

Section 5.1 Ownership of Theater, Data, Equipment and Materials.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

(a) The City will at all times retain ownership of the Venues, including but not limited to real estate, technical equipment, furniture, displays, fixtures and similar property, including improvements made during the Term, at the Venues. The City and Manager agree and acknowledge that this Agreement does not grant the Manager any leasehold or other property interest in the Venues and that the City Manager or his designee shall have the right and authority to enter the Venues at any time for any reason.

(b) Any data, equipment or materials furnished by the City to Manager or acquired by Manager as an Operating Expense shall remain the property of the City, and shall be returned to the City when no longer needed by Manager to perform under this Agreement.

Section 5.2 Right of Use by Manager. The City hereby gives Manager the right and license to use the Venues solely for the purposes authorized herein, and Manager accepts such right of use, for the purpose of performing the Services herein specified, including the operation and maintenance of all physical and mechanical components of the Venues necessary for, and related to, the operation, maintenance and management of the Venues. The City shall provide Manager with a sufficient amount of suitable office space in the Venues and with such office equipment as is reasonably necessary to enable Manager to perform its obligations under this Agreement. In addition, the City shall make available to Manager, at no cost, parking spaces adjacent to the Venues for all of Manager's full-time employees and for the Venue event staff.

Section 5.3 Observance of Agreements. The City agrees to pay, keep, observe and perform all payments, terms, covenants, conditions and obligations under any leases, bonds, debentures, loans and other financing and security agreements to which the City is bound in connection with its ownership or operating rights of or at the Venues.

ARTICLE 6
PERSONNEL

Section 6.1 Generally. Manager shall engage, as its own employees (and not employees of the City) staff necessary to provide the services of Manager described in this Agreement. Manager shall select, in its sole discretion but subject to City's right to approve within the Operating Budget, the number, function, qualifications, and compensation, including salary and benefits, of its employees at the Venues and shall control the terms and conditions of employment (including without limitation termination thereof, except as specifically provided herein) relating to such employees. Manager agrees to use reasonable and prudent judgment in the selection and supervision of such personnel. The City specifically agrees that Manager shall be entitled to pay its employees, as an Operating Expense, bonuses and benefits in accordance with Manager's then current employee manual, which may be modified by Manager from time to time in its sole discretion. A copy of Manager's current employee manual shall be provided to the City upon request.

Section 6.2 General Manager. Personnel engaged by Manager will include a person with managerial experience in similar Venues to serve as a full-time on-site General Manager of the

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Venues. Hiring of the General Manager by Manager shall require the prior approval of the City Manager, which approval shall not be unreasonably withheld or delayed; provided, however, in the event of a vacancy in the General Manager position, Manager may, upon notice to the City, temporarily fill such position with an interim General Manager for up to ninety (90) days without the necessity of obtaining the City's approval. The General Manger will have general supervisory responsibility for Manager and will be responsible for day-to-day operations of the Venues, supervision of employees, and management and coordination of all activities associated with events taking place at the Venues. The City Manager may, at his/her discretion request that Manager remove and replace the General Manager. Manager shall, within 30 days of receiving a written request for the replacement of the General Manager present an alternative candidate for the role of General Manager Director to the City Manager for his/her approval.

Section 6.3 Non-Solicitation/Non-Hiring. During the Term and for a period of one (1) year after the end of the Term, neither City nor any of its affiliates shall solicit for employment, or hire, Manager's General Manager for work at the Venues. The City acknowledges that Manager will spend a considerable amount of time identifying, hiring and training the General Manager to work in such position, and that Manager will suffer substantial damages, the exact amount of which would be difficult to quantify, if the City were to breach the terms of this Section by hiring, or soliciting for employment, such individual. Accordingly, in the event of a breach or anticipated breach of this section by the City, Manager shall be entitled (in addition to any other rights and remedies which Manager may have at law or in equity, including money damages) to equitable relief, including an injunction to enjoin and restrain the City from continuing such breach, without the necessity of posting a bond.

ARTICLE 7
OPERATING BUDGET; EVENT CALENDAR

Section 7.1 Establishment of Operating Budget. Manager will develop an Operating Budget for the first operating year within ninety (90) days of the Effective Date. Manager will convert the City first (1st) year operating budget into financial reporting format used by Manager. Manager agrees that at least 60 days prior to the commencement of each subsequent Operating Year in respect of such year, it will prepare and submit to the City its proposed Operating Budget for such year. Each annual Operating Budget shall include Manager's good faith projection of Revenues, Operating Expenses and an Event Calendar, presented on a monthly and annual basis, for the upcoming Operating Year. The City agrees to provide Manager with all information in its possession necessary to enable Manager to prepare each Operating Budget.

Section 7.2 Approval of Operating Budget. Each annual Operating Budget shall be subject to the review and approval of the City, which approval shall not be unreasonably withheld or delayed. In order for the City to fully evaluate and analyze such budgets or any other request by Manager relating to income and expenses, Manager agrees to provide to the City such reasonable financial information relating to the Venues as may be requested by the City from time to time. If extraordinary events occur during any Operating Year that could not reasonably be contemplated at the time the corresponding Operating Budget was prepared, Manager may submit an amendment to such budget for review and approval by the City (which approval shall not be unreasonably withheld

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

or delayed). If the City fails to approve any annual Operating Budget (or any proposed amendment thereto), the City shall promptly provide Manager the specific reasons therefor and its suggested modifications to Manager's proposed Operating Budget or amendment in order to make it acceptable. The parties shall then engage in good faith discussions and use reasonable commercial efforts to attempt to resolve the matter to the mutual satisfaction of the parties, including, if applicable, negotiation of a mutually acceptable modification to the economic terms of this Agreement to enable the Manager to achieve the compensation, and the City to achieve the level of Service contemplated in the proposed Operating Budget.

Section 7.3 Operating Subsidy. During each Operating Year, the City will provide an Operating Subsidy of Two Hundred and Twenty-Five Thousand Dollars ($225,000) to the Manager which Manager shall use for the sole purpose of paying Operating Expenses. The Operating Subsidy shall represent the full financial contribution of the City for the operation of the Venues (excluding payment of the Management Fee/Net Operating Revenue) during each Operating Year. In the event that the funds available in the Operating Account are insufficient to pay for all outstanding Operating Expenses, Manager shall be solely responsible for the payment of all Operating Expenses.

ARTICLE 8
PROCEDURE FOR HANDLING INCOME

Section 8.1 Event Account. Manager shall deposit as soon as practicable following receipt, in the Event Account, all revenue received from ticket sales and event deposits and similar event-related revenues which Manager receives in contemplation of, or arising from, an event, pending completion of the event. Such monies will be held in escrow for the protection of ticket purchasers, the City and Manager, to provide a source of funds as required for payments to performers and for payments of direct incidental expenses in connection with the presentation of events that must be paid prior to or contemporaneously with such events. Promptly following completion of such events, Manager shall transfer all funds remaining in the Event Account, including any interest accrued thereon, into the Operating Account. Bank service charges, if any, on such account(s) shall be deducted from interest earned, if any. Operating Expenses shall not be paid from funds in the Event Account.

Section 8.2 Operating Account. Except as provided in Section 8.1, all Revenue derived from operation of the Venues shall be deposited by Manager into the Operating Account as soon as practicable upon receipt (but not less often than once each business day). The specific procedures (and authorized individuals) for making deposits to and withdrawals from such account shall be set forth in the Operations Manual, but the parties specifically agree that the Manager shall have authority to sign checks and make withdrawals from such account, subject to the limitation contained in this Agreement.

ARTICLE 9
FUNDING

Section 9.1 Venue Funding. Source of Funding. Following the Effective Date, Manager shall pay all items of expense for the operation, maintenance, supervision and management of the

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Venues from the funds in the Operating Account. The Operating Account shall be funded with amounts generated by operation of the Venues (as described in Article 8 above), or otherwise made available by the City. To ensure sufficient funds are available in the Operating Account, City will deposit in the Operating Account, on or before the Effective Date, the budgeted or otherwise approved expenses for the first two-month period following the Effective Date. The City shall thereafter, on or before the 1st day of each succeeding month (beginning with the 2nd month following the Effective Date), deposit (or allow to remain) in the Operating Account the budgeted or otherwise approved expenses for each such month, maintaining an additional one-month of expenses in such account at all times. Manager shall have no liability to the City or any third-party in the event Manager is unable to perform its obligations hereunder, or under any third-party contract entered into pursuant to the terms hereof, due to the fact that sufficient funds are not made available to Manager to pay such expenses in a timely manner.

Section 9.2 Transition Expenses. City agrees to pay for Transition Expenses during the first six months of the agreement including Manager's corporate support travel related expenses (transportation, lodging, meals, etc.), venue senior level staff recruiting and relocation expenses (if necessary), and costs related to securing any necessary IT and telecommunications equipment, software, etc.

ARTICLE 10
FISCAL RESPONSIBILITY; REPORTING

Section 10.1 Records. Manager agrees to keep and maintain, at its office in the Venues, separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its operations in connection with its management of the Venues. Such records (including books, ledgers, journals, and accounts) shall contain all entries reflecting the business operations of Manager under this Agreement. The City or its authorized agent shall have the right to audit and inspect such records from time to time during the Term, upon reasonable notice to Manager and during Manager's ordinary business hours.

Section 10.2 Monthly Financial Reports. Manager agrees to provide to the City, within thirty (30) days after the end of each month during the Term or Renewal Terms, financial reports for the Venues including a balance sheet, aging report on accounts receivable, and statement of revenues and expenditures (budget to actual) for such month and year to date in accordance with generally accepted accounting principles. In addition, Manager agrees to provide to the City a summary of bookings for each such month, and separate cash receipts and disbursements reports for each event held at the Venues during such month. Additionally, Manager shall submit to the City, or shall cause the applicable public depository utilized by Manager to submit to the City, on a monthly basis, copies of all bank statements concerning the Event Account and the Operating Account.

Section 10.3 Audit. City or its designee may audit the Manager's operation of the Venues at any time during the Term. The cost of any audit shall be borne by the City. Such audit shall be performed by an external auditor approved by the City, and shall be conducted in accordance with generally accepted auditing standards.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

ARTICLE 11
CAPITAL IMPROVEMENTS

Section 11.1 Schedule of Capital Expenditures. Starting in the second operating year, Manager shall, at the time of submission of the annual Operating Budget to the City, provide to the City a schedule of proposed capital improvements to be made at the Venues, for the purpose of allowing the City to consider such projects and to prepare and update a Capital Expenditure budget.

Section 11.2 Responsibility for Capital Expenditures. The City shall be solely responsible for all Capital Expenditures at the Venues; provided, however, the City shall be under no obligation to make any Capital Expenditures proposed by Manager, and provided further that Manager shall have no liability for any claims, costs or damages arising out of a failure by the City to make any Capital Expenditures. Notwithstanding the foregoing, Manager shall have the right (but not the obligation), upon notice to and receipt of approval from the City, to make Capital Expenditures at the Venues for Emergency Repairs. In such event, the City shall promptly reimburse Manager for the reasonable cost of such Capital Expenditure.

ARTICLE 12
VENUE MAINTENANCE

Section 12.1 Responsibilities of the Manager. The Manager acknowledges that it is willing and able to provide the Services for the Venues as it has been designed. Manager is responsible for the purchase and maintenance of all FF&E not included in the Venues currently, the cost of which shall be deemed to be Operating Expenses. Further, Manager shall be responsible for the cost of repairs to any individual FF&E due to normal wear and tear up to Two Thousand Five Hundred Dollars ($2,500.00).

ARTICLE 13
CONTRIBUTIONS BY MANAGER

Section 13.1 Manager shall engage in fundraising activities to offset Operating Costs; including the applying for available grant funding and engaging in a fundraising campaign to solicit donations for the Venues and its operation.

ARTICLE 14
VENUE CONTRACTS; TRANSACTIONS WITH AFFILIATES

Section 14.1 Existing Contracts. The City shall provide to Manager, on or before the Effective Date, copies of all existing Service Contracts.

Section 14.2 Execution of Contracts. Manager shall have the right to enter into Service Contracts, Revenue Generating Contracts and other contracts related to the operation of the Venues. Any such material agreements shall contain standard indemnification and insurance obligations on the part of each vendor, licensee or service provider, as is customary for the type of services or

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

obligations being provided or performed by such parties and shall identify the City as an Indemnittee of the contracting party as well as name the City as additional insured on all required insurance policies. Manager shall obtain the prior approval of the City (which approval shall not be unreasonably withheld or delayed) before entering into any such contract with a term that expires after the Term of this Agreement, unless such contract, by its express terms, can be terminated by Manager or City following expiration of the Term without any penalty. Manager shall be solely responsible for the payment of all third-party vendors. Manager agreements with third parties shall contain language stating that the City shall not be liable for payment and that vendors expressly forgo any right both in law and equity to attempt to collect payment from the City.

ARTICLE 15
AGREEMENT MONITORING

Section 15.1 Contract Administrator. Each party shall appoint a contract administrator who shall monitor such party's compliance with the terms of this Agreement. Manager's contract administrator shall be its General Manager at the Venues, unless Manager notifies City of a substitute contract administrator in writing. City shall notify Manager of the name of its contract administrator within thirty (30) days of execution hereof. Any and all references in this Agreement requiring Manager or City participation or approval shall mean the participation or approval of such party's contract administrator.

ARTICLE 16
INDEMNIFICATION

Section 16.1 Indemnification by Manager. Manager agrees to defend, indemnify and hold harmless the City and its officials, directors, officers, employees, agents, successors and assigns against any and all liability, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions, including attorney's fees at both the trial and appellate level, and of any kind and nature arising from or in any way connected to the performance of this Agreement whether by act or omission of the Manager, its agents, servants, employees or other, or because of or due to the mere existence of the Agreement between the Parties; unless said claim for liability is caused solely by the negligence, misfeasance or malfeasance of the City or its employees.

Section 16.2 Indemnification by the City. To the extent authorized by law, City agrees to defend, indemnify and hold harmless Manager, its parent, subsidiary and affiliate companies, and each of their respective directors, officers, employees, agents, successors and assigns, against any losses suffered by such parties, arising out of or in connection with (a) any negligent act or omission, or intentional misconduct, on the part of City or any of its employees or agents in the performance of its obligations under this Agreement, (b) any environmental condition that results in injury, loss, or damages at the Venues or on or under the premises on which the Venues are located not caused by Manager, its employees or agents, (c) any structural defect with respect to the Venues.

Section 16.3 Conditions to Indemnification. With respect to each separate matter brought by any third party against which a party hereto ("Indemnitee") is indemnified by the other party ("Indemnitor") under this Article 15, the Indemnitor shall be responsible, at its sole cost and expense,

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

for controlling, litigating, defending and/or otherwise attempting to resolve any proceeding, claim, or cause of action underlying such matter, except that (a) the Indemnitee may, at its option, participate in such defense or resolution at its expense and through counsel of its choice; (b) the Indemnitee may, at its option, assume control of such defense or resolution if the Indemnitor does not promptly and diligently pursue such defense or resolution, provided that the Indemnitor shall continue to be obligated to indemnify the Indemnitee hereunder in connection therewith; and (c) neither Indemnitor nor Indemnitee shall agree to any settlement without the other's prior written consent (which shall not be unreasonably withheld or delayed). In any event, Indemnitor and Indemnitee shall in good faith cooperate with each other and their respective counsel with respect to all such actions or proceedings, at the Indemnitor's expense. With respect to each and every matter with respect to which any indemnification may be sought hereunder, upon receiving notice pertaining to such matter, Indemnitee shall promptly (and in no event more than twenty (20) days after any third party litigation is commenced asserting such claim) give reasonably detailed written notice to the Indemnitor of the nature of such matter and the amount demanded or claimed in connection therewith.

Section 16.4 Survival. The obligations of the parties contained in this Article 16 shall survive the termination or expiration of this Agreement.

ARTICLE 17
INSURANCE

Section 17.1 Types and Amount of Coverage. Manager agrees to obtain insurance coverage in the manner and amounts as set forth in Exhibit "D", attached hereto, and shall provide to the City promptly following the Effective Date certificates of insurance evidencing such coverage. Manager shall maintain such referenced insurance coverage at all times during the Term, and will not make any material modification or change from these specifications without the prior approval of the City. Each insurance policy shall include a requirement that the insurer provide Manager and the City at least thirty (30) days written notice of cancellation or material change in the terms and provisions of the applicable policy. The cost of all such insurance shall be an Operating Expense.

Section 17.2 Rating; Additional Insureds. All insurance policies shall be issued by insurance companies rated no less than A VIII in the most recent "Bests" insurance guide, and licensed in the State of Colorado or as otherwise agreed by the parties. All such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved. The commercial general liability policy, automobile liability insurance policy and umbrella or excess liability policy to be obtained by Manager hereunder shall name City as an additional insured. The workers compensation policy to be obtained by Manager hereunder shall contain a waiver of all rights of subrogation against the City. Manager shall require that all third-party users of the Venues, including without limitation third-party licensees, ushers, security personnel and concessionaires, provide certificates of insurance evidencing insurance appropriate for the types of activities in which such user is engaged. If Manager subcontracts any of its obligations under this Agreement, Manager shall require each such subcontractor to secure insurance that will protect against applicable hazards or risks of loss as and in the minimum amounts designated herein, and name Manager and the City as additional insureds.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

ARTICLE 18
REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 18.1 Manager Representations and Warranties. Manager hereby represents, warrants and covenants to City as follows:

(a) that it has the full legal right, power and authority to enter into this Agreement and to grant the rights and perform the obligations of Manager herein, and that no third-party consent or approval is required to grant such rights or perform such obligations hereunder; and

(b) that this Agreement has been duly executed and delivered by Manager and constitutes a valid and binding obligation of Manager, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar Laws affecting creditors' rights generally or by general equitable principles.

Section 18.2 City Representations, Warranties and Covenants. City represents, warrants and covenants to Manager as follows:

(a) that it has the full legal right, power and authority to enter into this Agreement and to grant the rights and perform the obligations of City herein, and that no other third party consent or approval is required to grant such rights or perform such obligations hereunder.

(b) that this Agreement has been duly executed and delivered by City and constitutes a valid and binding obligation of City, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally or by general equitable principles.

(c) that to the best of the City's knowledge, the Venues are, as of the Effective Date, in compliance in all respects with all applicable Laws relating to the construction, use and operation of the Venues (including, without limitation, Title II of the American with Disabilities Act), and that there exist no structural defects or unsound operating conditions at the Venues.

ARTICLE 19
MISCELLANEOUS

Section 19.1 No Discrimination. Manager agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age, and will take affirmative steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, religion, color, sex, sexual orientation, disability, national origin, ancestry, physical handicap, or age.

Section 19.2 Use of Venue Names and Logos. Manager shall have the right to use throughout the Term (and permit others to use in furtherance of Manager's obligations hereunder),

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

for no charge, the name and all logos of the Venues, on Manager's stationary, in its advertising of the Venues, and whenever conducting business of the Venues; provided, that Manager shall take all prudent and appropriate measures to protect the intellectual property rights of the City relating to such logos. All intellectual property rights in any Venue logos developed by the Manager or the City shall be and at all times remain the sole and exclusive property of the City. Manager agrees to execute any documentation requested by the City from time to time to establish, protect or convey any such intellectual property rights.

Section 19.3 Venue Advertisements. The City agrees that in all advertisements placed by the City for the Venues or events at the Venues, whether such advertisements are in print, on radio, television, the internet or otherwise, it shall include a statement that the Venue is "managed by Pinnacle Venue Services".

Section 19.4 Force Majeure; Casualty Loss.

(a) Neither party shall be liable or responsible to the other party for any delay, loss, damage, failure or inability to perform under this Agreement due to an Event of Force Majeure, provided that the party claiming failure or inability to perform provides written notice to the other party within thirty (30) days of the date on which such party gains actual knowledge of such Event of Force Majeure. Notwithstanding the foregoing, in no event shall a party's failure to make payments due hereunder be excusable due to an Event of Force Majeure. In the event that Manager is unable to perform due to Force Majeure, the City shall have the right to procure substitute services from a third party or to utilize City personnel to provide the Services.

(b) In the event of damage or destruction to a material portion of the Venues by reason of fire, storm or other casualty loss that renders the Venues (or a material portion thereof) untenantable, the City shall use reasonable efforts to remedy such situation. If notwithstanding such efforts, such damage or destruction is expected to render the Venues (or a material portion thereof) untenantable for a period estimated by an architect selected by the City at Manager's request, of at least one hundred twenty (120) days from the date of such fire, storm or other casualty loss, either party may terminate this Agreement upon written notice to the other.

Section 19.5 Assignment. Neither party may assign this Agreement or any obligation arising out of or under it without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed, except that either party may, without the prior written consent of the other party but upon at least 30 days' written notice to the other party, assign this Agreement in connection with a sale of all or substantially all its assets or equity interests, and Manager may assign this Agreement to an affiliate, parent or subsidiary of Manager where such assignment is intended to accomplish an internal corporate purpose of Manager as opposed to materially and substantially altering the method of delivery of services to City. Any purported assignment in contravention of this Section shall be void.

Section 19.6 Notices. All notices required or permitted to be given pursuant to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, or by generally recognized, prepaid, overnight air courier services, to the address

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

and individual set forth below. All such notices to either party shall be deemed to have been provided when delivered, if delivered personally, three (3) days after mailed, if sent by registered or certified mail, or the next business day, if sent by generally recognized, prepaid, overnight air courier services.

If to the City:
Greg Caton
City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

If to Manager:
Pinnacle Venue Services
20770 US 281 North
San Antonio, TX 78258
Attn: Tom Paquette

The designation of the individuals to be so notified and the addresses of such parties set forth above may be changed from time to time by written notice to the other party in the manner set forth above.

Section 19.7 Severability. If a court of competent jurisdiction determines that any term of this Agreement is invalid or unenforceable to any extent under applicable law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

Section 19.8 Entire Agreement. This Agreement (including the exhibits attached hereto), in conjunction with the RFP, the terms of which are incorporated herein by reference, comprise the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior negotiations, correspondence, conversations, agreements, and understandings concerning the subject matter hereof. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations, agreements or understandings, whether oral or written. In the event of a conflict between the terms of this Agreement and the terms of the RFP, the terms of this Agreement shall prevail.

Section 19.9 Governing Law; Venue. The Agreement is entered into in Mesa County, Colorado and under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Colorado, without regard to its conflict of laws principles. The exclusive venue for any litigation arising under this Agreement shall be Mesa County, Colorado.

Section 19.10 Amendments. Neither this Agreement nor any of its terms may be changed or modified, waived, or terminated (unless as otherwise provided hereunder) except by an instrument in writing signed by an authorized representative of the party against whom the enforcement of the change, waiver, or termination is sought.

Section 19.11 Waiver; Remedies. No failure or delay by a party hereto to insist on the strict performance of any term of this Agreement, or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Agreement, but each and every term of this Agreement shall continue in full force and effect with respect to any other then

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

existing or subsequent breach thereof. The remedies provided in this Agreement are cumulative and not exclusive of the remedies provided by law or in equity.

Section 19.12 Relationship of Parties. Manager and City acknowledge and agree that they are not joint venturers, partners, or joint owners with respect to the Venues, and nothing contained in this Agreement shall be construed as creating a partnership, joint venture or similar relationship between City and Manager. In operating the Venues, entering into contracts, accepting reservations for use of the Venues, and conducting financial transactions for the Venues, Manager acts on behalf of and as agent for City (but subject to the limitations on Manager's authority as set out in this Agreement), with the fiduciary duties required by law of a party acting in such capacity.

Section 19.13 No Third Party Beneficiaries. Other than the indemnitees listed in Sections 16.1 and 16.2 hereof (who are third party beneficiaries solely with respect to the indemnification provisions in such sections), there are no intended third party beneficiaries under this Agreement, and no third party shall have any rights or make any claims hereunder, it being intended that solely the parties hereto (and the aforementioned indemnitees with respect to the indemnification provisions hereof) shall have rights and may make claims hereunder.

Section 19.14 Limitation on Damages. In no event shall either party be liable or responsible for any consequential, indirect, incidental, punitive, or special damages (including, without limitation, lost profits) whether based upon breach of contract or warranty, negligence, strict tort liability or otherwise, and each party's liability for damages or losses hereunder shall be strictly limited to direct damages that are actually incurred by the other party.

Section 19.15 Counterparts; Facsimile and Electronic Signatures. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document. This Agreement may be executed by the parties and transmitted by facsimile or electronic transmission, and if so executed and transmitted, shall be effective as if the parties had delivered an executed original of this Agreement.

Section 19.16 Manager's Compliance with Colorado Public Records Law.

To the extent that Manager is acting on behalf of the City, this Agreement shall be subject to Colorado Open Records Act.

As required pursuant to Colorado Law, Manager shall comply with Open Records Act specifically to:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided as otherwise provided by law.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the Manager upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

IN WITNESS WHEREOF, each party hereto has caused this Management Agreement to be executed on behalf of such party by an authorized representative as of the date first set forth above.

City of Grand Junction

By: _____
Greg Caton
City Manager

By: Pinnacle Venues Services, LLC

By: Tom Paquette
Tom Paquette
Chief Administrative Officer

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

EXHIBIT A
MANAGER DUTIES

Manager's obligations under the Agreement shall consist of the following obligations, all of which are subject to the terms hereof and the controls and restrictions in the Operations Manual:

(a) Manage all aspects of the Venues in accordance with the Operations Manual and the terms of this Agreement, including but not limited to managing purchasing, payroll, fire prevention, security, crowd control, routine repairs, preventative maintenance, janitorial services, promotions, advertising, energy conservation, security, box office, admission procedures, parking, and general user services.

(b) Establish and adjust prices, rates and rate schedules for user, license, concessions, occupancy, and advertising agreements, and booking commitments. Manager may deviate from the established rate schedule when entering into any such agreements if determined by Manager, using its reasonable business judgment, to be necessary or appropriate with respect to the specific situation.

(c) Procure, negotiate, execute, administer and assure compliance with Service Contracts, Revenue Generating Contracts, and other contracts related to the operation of the Venues.

(d) Require that all material vendors and licensees of the Venues execute vendor/license agreements containing the same indemnification and insurance obligations imposed on Manager pursuant to this Agreement on the part of each such vendor/licensee.

(e) Provide standard form advertising and sponsorship contracts and user/rental agreements for use at or with respect to the Venues, including a Booking Policy (located in the Operations Manual) for the rental of Venues. Manager shall submit such form agreements and Booking Policy to the City for its review and comment, and the parties shall work together to finalize such forms and Booking Policy. Once finalized, Manager shall use such forms in furtherance of its duties hereunder. Manager's sole responsibility with regard to providing legal advice or assistance hereunder shall be to provide such standard form contracts.

(f) Operate and maintain the Venues, including the equipment utilized in connection with its operation and any improvements made during the term of this Agreement, in the condition received, normal wear and tear excepted. Manager shall be responsible for repairing all Venue equipment damaged by Manager and Manager's employees.

(g) Arrange for and otherwise book Events at the Venues in accordance with an Event Calendar to be developed by Manager.

(h) Hire or otherwise engage, pay, supervise, and direct all personnel Manager deems necessary for the operation of the Venues in accordance with Article 6 of the Agreement, and conduct staff planning, retention and training programs as determined to be necessary by Manager in its sole discretion.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

(i) Maintain detailed, accurate and complete financial and other records of all its activities under this Agreement in accordance with generally accepted accounting principles, which records shall be made available to the City upon request, in accordance with Section 10.1 of the Agreement.

(j) Submit to the City in a timely manner financial and other reports detailing Manager's activities in connection with the Venues, as set forth in Section 10.2 of the Agreement.

(k) Prepare a proposed annual Operating Budget and submit such proposed budget to the City, both in accordance with Article 7 of the Agreement.

(l) Pay all Operating Expenses and other expenses incurred in connection with the operation, maintenance, supervision and management of the Venues from the Operating Account. At the end of the calendar year, in the event that the funds available in the Operating Account are insufficient to pay for Operating Expenses, Manager shall be solely responsible for the payment of outstanding Operating Expenses.

(m) Secure, or assist the City (or any other third party, as applicable) to secure, all licenses and permits necessary for the operation and use of the Venues for the specific events to be held therein, and for the general occupancy of the Venues, including without limitation all necessary food and liquor licenses, and renewals thereof. The City shall cooperate in this process to the extent reasonably required. All costs associated with this process shall be Operating Expenses.

(n) Collect, deposit and hold in escrow in the Event Account any ticket sale revenues which it receives in the contemplation of or arising from an event pending the completion of the event, as more fully described in Section 8.1 of the Agreement.

(o) Collect in a timely manner and deposit in the Operating Account all Revenue, as more fully described in Section 8.2 of the Agreement.

(p) Pay all applicable Taxes.

(q) Plan, prepare, implement, coordinate and supervise all public relations and other promotional programs for the Venues.

(r) Prepare, maintain and implement on a regular basis, subject to the City's approval, a Marketing Plan for the Venues.

(s) Manage and oversee the sale of Commercial Rights at or in connection with the Venues. Manager must obtain City approval prior to the sale of naming rights for the Venues or any portion thereof.

(t) On an annual basis, cause a written inventory to be taken of all furniture, fixtures, office equipment, supplies, tools and vehicles at the Venues, and deliver a written report of the

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

foregoing to City. Manager shall document all major damage to, or loss in, such inventory during the Term as soon as such damage or loss is discovered by Manager, and Manager shall promptly notify City of any such damage or loss.

(u) Purchase, with funds from the Operating Account, and maintain during the Term, all materials, tools, machinery, equipment and supplies necessary for the operation of the Venues.

(v) As agent for the City, manage risk management and Venue insurance needs (not including property insurance, which shall be maintained by the City), as more fully described in Article 16 of the Agreement.

(w) Make and be responsible for all routine and minor repairs, maintenance, preventative maintenance, and equipment servicing. Manager shall be responsible for ensuring that all repairs, replacements, and maintenance shall be of a quality and class at least equal to that of the item being repaired, replaced or maintained. In the event that any malfunctioning or inoperative component of the Venues or equipment utilized therein owned by the City is covered by manufacturer warranty, Manager shall assist the City in facilitating the repair or replacement of the malfunctioning or inoperative component or piece of equipment under the terms of the existing manufacturer warranty. Any replacement of an item in inventory, or any new item added to the inventory, which is paid for by the City, shall be deemed the property of the City.

(x) Cause such other acts and things to be done with respect to the Venues, as determined by Manager in its reasonable discretion to be necessary for the management and operation of the Venues following the Effective Date.

(y) Engage in fundraising activity to raise operating and capital funds from the community for the Venues.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

EXHIBIT B
OPERATIONS MANUAL

[TO BE ATTACHED]

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

EXHIBIT C
OPERATING BUDGET (1ST OPERATING YEAR)

[TO BE ATTACHED]

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

EXHIBIT D
INSURANCE

The Manager shall be required to furnish insurance certificates, reflecting evidence of the required insurance, shall be filed with the City's Risk Manager prior to the commencement of this Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Colorado. The insurance company shall be rated no less than "A" as to management, and no less than "Class VI" as to financial strength according to the latest edition of Best's Insurance Guide published by A.M. Best Company.

Policies shall be endorsed to provide the City thirty (30) days' written notice of cancellation, material change or non-renewal of policies required under the contract. If the carrier will not agree to this notification, the Manager or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of insurer's notification of cancellation or reduction in coverage.

Insurance shall be in force until all obligations required to be fulfilled under the terms of the Agreement are satisfactorily completed as evidenced by the formal acceptance by the City. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the Manager shall furnish, at least fifteen (15) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. The Manager shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. Manager shall be liable to City for any lapses in service resulting from a gap in insurance coverage.

The insurance requirements specified in this Agreement are minimum requirements and in no way, reduce any liability the Manager has assumed in the indemnification/hold harmless section(s) of this Agreement.

REQUIRED INSURANCE

A. **COMMERCIAL GENERAL LIABILITY INSURANCE** including, but not limited to: coverage for premises & operations, personal & advertising injury, products & completed operations, liability assumed under an Insured Contract (including tort liability of another assumed in a business contract), and independent Operators. Coverage must be written on an occurrence basis, with limits of liability no less than:

   1. Each Occurrence Limit - $1,000,000

   2. Fire Damage Limit (Damage to rented premises) - $1,000,000

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

3. Personal & Advertising Injury Limit - $1,000,000

4. General Aggregate Limit - $2,000,000

The City of Homestead must be shown as an additional insured with respect to this coverage. City's Additional Insured status shall extend to any coverage beyond the minimum requirements for limits of liability found herein.

B. WORKERS' COMPENSATION AND EMPLOYERS LIABILITY INSURANCE covering all employees, and/or volunteers of the Manager engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, the Manager shall require the Sub-operators similarly to provide Workers Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the Manager. Coverage for the Manager and his Sub-operators shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than:

1. Workers' Compensation: Coverage A – Statutory

2. Employers Liability: Coverage B $500,000 Each Accident

   $500,000 Disease – Policy Limit

   $500,000 Disease – Each Employee

If OPERATOR claims to be exempt from this requirement, Manager shall provide City proof of such exemption along with a written request for City to exempt Manager, written on Manager letterhead.

C. AUTO LIABILITY INSURANCE covering all owned, leased, hired, non-owned and employee non-owned vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage no less than:

1. Any Auto
   Combined Single Limit (Each Accident) - $1,000,000

2. Hired Autos
   Combined Single Limit (Each Accident) - $1,000,000

3. Non-Owned Autos
   Combined Single Limit (Each Accident) - $1,000,000

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

D. **PROFESSIONAL LIABILITY/ERRORS & OMISSIONS INSURANCE,** when applicable, with a limit of liability no less than $1,000,000 per wrongful act. This coverage shall be maintained for a period of no less than three (3) years after final payment of the contract. (Increase to 10 years for construction projects).

E. **CRIME COVERAGE** when applicable, shall include employee dishonesty, forgery or alteration, and computer fraud in an amount of no less than $1,000,000 per loss. If Operator is physically located on the City's premises, a third-party fidelity coverage extension shall apply for the **City of Grand Junction.**

REQUIRED ENDORSEMENTS

1. The City of Grand Junction shall be named as an Additional Insured on each of the General Liability polices required herein
2. Waiver of all Rights of Subrogation against the City
3. 30 Day Notice of Cancellation or Non-Renewal to the City
4. Managers' policies shall be Primary & Non-Contributory
5. All policies shall contain a "severability of interest" or "cross liability" liability clause without obligation for premium payment of the City
6. The City of Grand Junction shall be named as a Loss Payee on all Property and/or Inland Marine Policies as their interest may appear. (If applicable).
7. All policies shall contain a deductible of no more than $25,000.
8. The City may require higher limits of insurance if deemed necessary.

Manager shall name the City, as an additional insured on each of the General Liability policies required herein and shall hold the City, its agents, officers and employees harmless on account of claims for damages to persons, property or premises arising out of the services provided hereunder. Any insurance required of the Manager pursuant to this Agreement must also be required by any Sub-operator in the same limits and with all requirements as provided herein, including naming the City as an additional insured, in any work is subcontracted unless such Sub-operator is covered by the protection afforded by the Manager and provided proof of such coverage is provided to City. The Manager and any Sub-operators shall maintain such policies during the term of this Agreement.

The City reserves the right to require any other additional types of insurance coverage

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

and/or higher limits of liability it deems necessary based on the nature of work being performed under this Contract.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Addendum

Las Colonias Park Amphitheater

The City of Grand Junction, CO, (the "**City**") owner of the Las Colonias Park Amphitheater (the "**Amphitheater**") hereby grants **Pinnacle Venue Services, LLC** ("**PVS**") the following exclusive rights related to events at the Amphitheater:

(1) Schedule and manage all ticketed live entertainment events at the Amphitheater during the term of this Agreement. (Annual festivals and scheduled events existing on the effective date and produced by the City of Grand Junction Parks and Recreation Department are not included in the exclusive rights of PVS.)
(2) Negotiate and communicate with event promoters, agents, and artist representatives for ticketed live entertainment events.
(3) Procure, negotiate, execute, administer a ticketing services agreement that will exclusively provide ticketing services for all ticketed live entertainment events at the Amphitheater.
(4) Procure and negotiate vendor agreements for ticketed live entertainment events.
(5) Manage and oversee the sale of commercial rights, sponsorships, pouring rights, and naming rights at or in connection with the Amphitheater. (PVS must obtain City approval prior to the sale of sponsorships and commercial or pouring or naming rights for the Amphitheater.)

Term
The term of this addendum will match the term of the Agreement.

Fees Paid to the City
In exchange for the exclusive rights listed above, PVS will pay the City the following:
(1) For each sold ticket to events at the Amphitheater hosted by PVS:
Tickets priced at $20 or higher - $2.00 paid to the City
Tickets priced from $10 to $19.99 - $1.00 paid to the City
(2) Twenty-five percent (25%) of net revenue from sales of sponsorships and commercial or pouring or naming rights.

PVS Services
PVS will also perform the following services:

(a) Manage all aspects of ticketed live entertainment events at the Amphitheater including but not limited to managing event promoter relations, production coordination, event related staffing, security, box office and ticketing services, concessions, admission procedures, parking, and general user services.
(b) Establish an event Booking Policy that will include event scheduling priorities and procedures for securing events. PVS will also establish and adjust prices, rates and rate schedules for users for ticketed live entertainment events. PVS may deviate from the established rate schedule when entering any such agreements if determined by PVS, using its reasonable business judgment, to be necessary or appropriate with respect to the specific situation. PVS shall submit Booking Policy to the City for its review and comment, and the parties shall work together to finalize the Booking Policy.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

(c) Require that all ticketed live entertainment licensees of the Amphitheater execute an event license agreement containing the same indemnification imposed on PVS pursuant to this Agreement.
(d) Hire or otherwise engage, pay, supervise, and direct all personnel PVS deems necessary for the operation of PVS events at the Amphitheater and conduct staff planning, retention and training programs as determined to be necessary by PVS in its sole discretion.
(e) Maintain detailed, accurate and complete financial and other records of all PVS activities at the Amphitheater in accordance with generally accepted accounting principles.
(f) Pay all event operating expenses related to PVS scheduled events.
(g) Pay all applicable Taxes.

City Responsibilities and Services

The City of Grand Junction will provide or be responsible for the following:

a) Maintaining property insurance for the Amphitheater
b) All repairs, maintenance, preventative maintenance, equipment servicing, landscaping services, and non-event cleaning and waste services.
c) All costs for utility services.
d) Maintaining a liquor license and all required permits for the presentation of events at the Amphitheater.
e) Providing PVS with all City-owned equipment necessary for the presentation of events including, chairs, trash cans, tables, and other items purchased for use at the Amphitheater.
f) Providing PVS will all venue specifications and capabilities related to the hosting of events including but not limited to rigging and electrical capacities and restrictions, staging information, equipment specifications, etc.

City of Grand Junction

By: _____
Greg Caton
City Manager

Pinnacle Venues Services, LLC

By: _____ 3/30/17
Tom Paquette
Chief Administrative Officer

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Exhibit E
Historic Uses Summary
Stocker Stadium Usage

Stocker Stadium

Organization	Activity	Number of Events	Number of Practices	Season
School District 51	Track	22 Meets	46	Spring
School District 51	Band	12 Competitions	8	Fall
School District 51	Graduations	5 Ceremonies	0	Spring
School District 51	Football	23 Games	1	Fall
CMU	Football	5 Games	1	Fall
CMU	Graduations	2 Ceremonies	0	Spring
Grand Valley Youth Football	Football	6 Super Bowl Games	2	Fall
Grand Valley Youth Football	Cheer	6 Super Bowl Games	1	Fall
Jags Homeschool	Track	1 Meet	12	Spring
Messiah Lutheran	Track	2 Meets over two days	0	Spring
Colorado Bandmasters Association	Band	1 Competition - (1A, 2A, 3A State)	0	Fall
GJ Firefighters Foundation	Turkey Trot	1 Event	0	Winter
Special Olympics	Summer Games	2 Events	0	Summer
GJ Parks and Recreation	Open Track Meets	4 Meets	0	Spring/Summer/Fall
GJ Parks and Recreation	Trick, Track, Treat	1 Meet	0	Fall
GJ Parks and Recreation	Candy Cane Hunt	1 Event	0	Winter
GJ Parks and Recreation	Senior Games	1 Event	0	Summer
GJ Police Department	9/11 Memorial	1 Event	0	Fall

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Code of Colorado Regulations
Secretary of State
State of Colorado

DEPARTMENT OF LOCAL AFFAIRS

Division of Local Government

CONSERVATION TRUST FUND ADMINISTRATION, INCLUDING MONITORING, ENFORCEMENT AND GUIDANCE REGARDING ALLOWABLE EXPENDITURES (C.R.S. 29-21-101)

8 CCR 1306-3

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

BASIS AND PURPOSE

The basis for these rules is C.R.S. 29-21-101 (2)(a)(I) which states: "There is hereby created in the division the conservation trust fund."

The purpose of these rules is to implement the provisions of C.R.S. 29-21-101-102(3)(a) through (c) by developing procedures regarding monitoring of eligible entities' compliance with relevant rules and statute, procedures regarding enforcement of penalties for noncompliance, and guidance regarding allowable expenditures of conservation trust fund revenues.

RULES

Part I. Definitions

A. "Capital improvements" means the acquisition or improvement of fixed assets.

B. "Division" means the Division of Local Government in the Department of Local Affairs.

C. "Fixed assets" means land, buildings, equipment and improvements other than buildings that the recipient uses to provide Conservation Trust Fund-allowable expenditures, including costs of construction, renovation, demolition, rehabilitation, deferred maintenance, improvements, equipment and furnishings. Fixed assets are determined to be those with an original cost of $500.00 or more, or with a useful life of one year or more.

D. "Interests in land and water" means any and all rights and interests in land or water, or both, including fee interests and less than full fee interests such as future interests, developmental rights, easements, covenants, and contractual rights. Every interest in land or water may be in perpetuity or for a fixed term and shall be deemed to run with the land or water to which it pertains for the benefit of the citizens of this state.

E. "Maintenance" means keeping Conservation Trust Fund-eligible assets in an original or existing state of repair or of preserving them from failure or decline.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

F. "New conservation sites" means interests in land and water, acquired after establishment of a conservation trust fund pursuant to this section, for park or recreation purposes, for all types of open space, including but not limited to floodplains, greenbelts, agricultural lands, or scenic areas, or for any scientific, historic, scenic, recreational, aesthetic, or similar purpose.

Part II. Reporting and Monitoring - Procedures necessary to allow the division or its agents to monitor eligible entities' compliance with the requirements of C.R.S. 29-21-101 and of rules promulgated pursuant to C.R.S. 29-21-101, including annual reporting and entry and inspection of records regarding accounting and expenditures of revenues from the Conservation Trust Fund.

A. On forms supplied by the division, each eligible entity shall annually submit to the division a certification that they have established a Conservation Trust Fund and are eligible to receive Conservation Trust Fund moneys.

B. The treasurer of a municipality or special district, chief financial officer, or the official custodian of the Conservation Trust Fund of an eligible entity shall annually review and certify to the division that the eligible entity's self-reported Conservation Trust Fund expenditures comply with the requirements of Article 21 of Title 29, C.R.S., and of rules promulgated pursuant to that article.

C. On forms supplied by the division, each eligible entity shall annually submit to the division a statement showing the total amount of state moneys in its local Conservation Trust Fund, the amount of any state moneys encumbered or expended from such fund since the previous year's report, interest earned on the balance of Conservation Trust Funds from the previous year, and the purpose of the encumbrance or expenditure.

D. All recipients of Conservation Trust Fund funds shall maintain records regarding accounting and expenditures of revenues from the Conservation Trust Fund moneys.

E. An eligible entity shall not deposit any other moneys in its conservation trust fund.

F. All interest earned on the investment of moneys in a local Conservation Trust Fund shall be credited to the fund and shall be expended only for purposes authorized by C.R.S. 29-21-101.

G. In the utilization of moneys received pursuant to C.R.S. 29-21-101, each eligible entity may cooperate or contract with any other government or political subdivision pursuant to C.R.S. 29-1-201 et seq., subject to the separate accounting requirement of C.R.S. 29-21-101 (2)(b)(II). Such cooperation may include the sharing of moneys held by any such entities in their respective Conservation Trust Funds for joint expenditures for the acquisition, development and maintenance of new conservation sites.

H. All such records shall be made available for inspection upon demand by the division's staff or its agents.

I. Division staff or its agents shall develop a system to monitor accounting and expenditure of revenues from the Conservation Trust Fund. Such a monitoring system shall include review and verification of data in annual reports submitted by eligible entities. The review shall provide assurance that the information self-reported by eligible entities is accurate and complete, and identify unallowable or questionable expenditures for follow-up. When concerns are noted during the review process, documentation to verify the eligible entities' expenditures or accounting practices shall be provided upon demand.

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

Part III. Enforcement - Procedures necessary to allow the division to enforce eligible entities' compliance with C.R.S. 29-21-101, including penalties, forfeiture of shares previously distributed, issuance of an order after a hearing held pursuant to C.R.S. 24-4-105 to repay to a state or local Conservation Trust Fund specific revenues from a conservation trust fund that were expended for purposes that are not authorized by C.R.S. 29-21-101, and, if the eligible entity fails to timely comply with the order, issuance of an order to the treasurer holding moneys of the eligible entity that were generated pursuant to the taxing authority of the eligible entity to prohibit the release of any such moneys until the eligible entity complies with the order, and the ability to treat a noncompliant eligible entity as though it were an ineligible entity.

A. Upon preliminary determination that a Conservation Trust Fund recipient has violated statutes or rules governing fund expenditures or accounting practices, the division will notify the entity before considering enforcement actions.

B. Prior to considering enforcement actions, the division shall conduct a hearing held pursuant to C.R.S. 24-4-105, in which pertinent facts concerning violations are presented. The recipient shall have full rights of and access to procedural due process to present facts and to rebut the determination of violation.

C. Upon a finding of violation of statutes or rules, the division, in its sole discretion, shall have the authority to consider and take certain enforcement actions. Such actions shall include these options:

1. Provision of a written warning and a corrective course of action.

2. Issuance of an order to repay to a state or local Conservation Trust Fund specific revenues that were expended for purposes that are not authorized by statute or these rules.

3. If the eligible entity fails to comply with the order, the division will withhold future funds and treat the noncompliant eligible entity as though it were an ineligible entity.

4. Upon chronic non-compliance, the division will issue an order to the county treasurer to prohibit release of property tax revenues until the entity complies with the order.

Part IV. Expenditures - Guidance regarding allowable expenditures of Conservation Trust Fund revenues to facilitate eligible entities' compliance.

A. Allowable expenditures of Conservation Trust Funds include the following:

1. Acquisition, development, and maintenance of new conservation sites.

2. Capital improvements or maintenance for recreational purposes on any public site.

3. Operation of a system of television relay and translator facilities and the use, acquisition, equipping, and maintenance of land, buildings, and other recreational facilities therefore.

B. Unallowable expenditures of Conservation Trust Funds include, but are not limited to the following:

Docusign Envelope ID: 6874676B-7164-4C6B-9702-545E0877025D

1. Operating expenditures, including salaries, except those operating expenditures, including salaries, that are considered to be for maintenance purposes.

2. Expenditure for activities such as athletic teams, fireworks, recreational programs, and public associations or clubs.

Editor's Notes

History