

QUALIFIED CONVENTION CENTER MANAGEMENT AGREEMENT

for

THE RIVERSIDE CONVENTION CENTER

between

THE CITY OF RIVERSIDE

and

RAINCROSS HOSPITALITY CORPORATION (RHC)

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QUALIFIED CONVENTION CENTER MANAGEMENT AGREEMENT

(Riverside Convention Center)

This Qualified Convention Center Management Agreement (this "QMA") is made as of the 6th day of September, 2013 (the "Effective Date"), between the **CITY OF RIVERSIDE**, a California charter city and municipal corporation, as "City", and **RAINCROSS HOSPITALITY CORPORATION (RHC)**, a California corporation, as "Manager".

WITNESSETH:

WHEREAS, the City is the owner of that certain facility and land located at 3637 Fifth Street in the City of Riverside, California (the "Land") described in Exhibit A attached hereto;

WHEREAS, the City is significantly rehabilitating and making improvements to its existing convention center facility in order to attract and book regional, state and national conventions, meetings and trade shows, and to host other events that will attract visitors to and promote the economic development of, the City of Riverside; and

WHEREAS, Manager has extensive experience and proven success in the management and operation of public meeting venues, including the Riverside Convention Center; and

WHEREAS, Manager's experience and success in venue operations includes providing high quality food and beverage catering at the Riverside Convention Center; and

WHEREAS, in 2012-2013 Manager operated the Riverside Municipal Auditorium, booking and managing 130 events, resulting in revenues in excess of \$1.5 million, the consumption of more than 5,900 hotel room nights, and an operating profit for the City; and

WHEREAS, the City desires to have the new convention center managed and operated by Manager for the City in accordance with the terms and conditions and subject to the limitations contained in this QMA, which include provisions limiting the Manager to receiving a fixed management fixed fee and the City solely benefitting by operational profits; and

WHEREAS, the City and Manager have entered into the QMA with the intent of complying with U.S. Internal Revenue Service Revenue Procedure 97-13 ("Procedure 97-13") as amended from time to time, and attached hereto as Exhibit B and by this reference made a part hereof, to the extent applicable; and

WHEREAS, the subject property will be financed with tax exempt debt and the parties agree to only engage in transactions permitted pursuant to all applicable laws and regulations which govern said debt; and

WHEREAS, leading up to the reopening of the Convention Center, Manager has provided and will provide important Convention Center Pre-Opening Management Services, as defined in Section 1.1(ee) below for the City.

NOW, THEREFORE, the City and Manager agree as follows:

ARTICLE 1

DEFINITIONS, TERMS AND REFERENCES

1.1 Definitions. In this QMA and any exhibits, addenda or riders hereto, the following terms shall have the following meaning:

(a) Accounting Period shall mean any one of four (4) ninety day periods within each Fiscal Year including those ninety day periods starting on July 1 and ending on September 30; starting October 1 and ending December 31; starting January 1 and ending March 31; and starting April 1 and ending June 30.

(b) Affiliate shall mean any parent, subsidiary, affiliated or related corporation or other entity of Manager or the City or any officer, director, employee or stockholder of Manager or the City or of any said parent, subsidiary, affiliated or related corporation or other entity, except a stockholder owning less than ten percent (10%) of the issued and outstanding stock of Manager or the City or of such parent, subsidiary, affiliated or related corporation or other entity.

(c) Agency Account shall mean a special account or accounts, bearing the name of the Convention Center, established by Manager in a bank or trust company selected by Manager and Approved by the City.

(d) QMA shall mean this Qualified Convention Center Management Agreement, as it may be amended, modified or supplemented from time to time.

(e) Approval or Approved shall mean prior written approval which, except as herein otherwise provided, shall not be unreasonably withheld or delayed.

(f) Capital Expenditures shall mean expenditures for non-routine repairs, alterations, maintenance, and refurbishment to the Convention Center that are normally capitalized under generally accepted accounting principles, including by way of example but not limited to mechanical systems, elevators, floors and roofs.

(g) City shall mean the City of Riverside.

(h) Commencement Date shall mean (i) the date on which the Convention Center has been completed in accordance with the plans and specifications Approved by the City and Manager and the facilities of the Convention Center are ready for occupancy or (ii) if applicable, the date on which the Convention Center is deemed to have been placed in use under Revenue Procedure 97-13.

(i) Convention Center means the planned meeting space complex on the Land which shall include, without limitation, approximately 100,000 gross square feet of space, including a grand ballroom, a junior ballroom, exhibit space, meeting rooms, support pre-function and circulation areas and supporting back-of-house areas and related furniture, fixtures, operating supplies and equipment.

(j) Consumer Price Index or CPI shall mean the Consumer Price Index-All Urban Consumers (CPI-U) Los Angeles-Riverside-Orange County, CA/All Items, Not Seasonally Adjusted, 1982-84=100 as

published by the United States Department of Labor Statistics, for the applicable comparison period and region. If the CPI shall cease to use 1982-84 as the base year, the CPI shall be converted in accordance with the conversion factor, if any, published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI is discontinued or revised during the term of this Agreement, such government index or computation, if any, with which it is replaced shall be used. If no conversion factor is supplied by the United State Department of Labor Bureau of Statistics, either for a new base year or a new index, the parties shall agree upon a conversion factor for the CPI to be used.

(k) Effective Date shall mean the date first written, which shall be deemed as the date of execution of this QMA.

(l) Event of Default shall mean any of the events described in Article 12.

(m) FF&E shall mean furniture, furnishings, light fixtures, equipment, food service equipment and all other items or personal property installed in or used in connection with the operation of the Convention Center.

(n) First Amendment shall mean the First Amendment to Management and Operations Agreement for Riverside Convention Center dated August 28, 2012 regarding the temporary relocation of the Manager services to the Riverside Municipal Auditorium.

(o) Fiscal Year shall mean a calendar Fiscal Year starting on July 1 and ending on June 30 or portion thereof depending upon the Commencement Date (as defined above) and the date of termination (as determined in accordance with Article 5 hereof).

(p) Force Majeure Event means any of the following which may have a Material Adverse Effect (as defined below) in the Convention Center or the market in which the Convention Center operates (i) an act of God, (ii) acts of war, (iii) acts of terrorism, (iv) civil disturbance, (v) labor disputes among Convention Center employees or providers of services, material or equipment, (vi) reasonably unforeseeable weather conditions, (vii) reasonably unforeseeable unavailability of materials, supplies or equipment and delays in transportation, (viii) governmental action (including revocation of any license or permit necessary for the development, construction and/or operation of the Convention Center not caused by the act or omission of the City), or (ix) any other causes, other than downturns in the local or national economy (unless such downturns results from any of the causes listed in items (i) through (x)), that are beyond the control of either party.

(q) Gross Revenues shall mean all revenues, receipts and income of any kind derived directly or indirectly from or in connection with the operation and promotion of the Convention Center (including but not limited to facility or equipment rental, payments from licensees or concessionaries, box office sales, utility rental agreements, payments for advertising and signage), whether on a cash basis or credit , paid or collected, determined in accordance with generally accepted accounting principles, excluding, however: (i) working capital or other funds furnished by the City, (ii) federal, state and municipal excise, sales and use taxes collected directly from Patrons and Guests or as part of the sales price of any foods, services or displays, such as gross receipts, admissions or similar or equivalent taxes and paid over to federal, state or municipal governments, (iii) gratuities or service charges not retained by RHC, (iv) interest or other investment income; and (v) proceeds of insurance and condemnation except for proceeds of business interruption insurance.

(r) Independent Auditor shall mean a reputable firm of independent certified public accountants having appropriate experience and Approved by the City.

(s) Inventories shall mean "inventories of merchandise" and "inventories of supplies" such as food and beverage inventories, paper products, menus, expendable office and kitchen supplies, fuel, cleaning supplies, reserve stocks and similar items all necessary to the operation of the Convention Center.

(t) Land shall mean the tracts or parcels of land upon which the Convention Center will be located, the Convention Center and the rights to use Parking Lot 33 for Convention Center events, which land is more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof, together with all rights, privileges, licenses and easements appurtenant to such tracts or parcels.

(u) Management Term shall mean the term of this QMA as established under Section 4.1.

(v) Manager shall mean Raincross Hospitality Corporation, a California corporation.

(x) Manager's Base Fee shall have the meaning ascribed to such term in Section 9.1.

(y) Manager's Incentive Bonus shall have the meaning ascribed to such term in Article 9.

(z) Material Adverse Effect means any circumstance or event which individually or in the aggregate could substantially limit the ability to use, occupy or operate the Convention Center.

(aa) Operating Expenses shall mean any and all expenses reasonably incurred by Manager in the operation and maintenance of the Convention Center including, without limitation, operating expenses allocated to the Convention Center, salaries and employee expense and taxes of employees of the Convention Center, including reasonable salaries, wages, bonuses and other compensation and benefits (which shall include, but not be limited to, life, medical and disability insurance and retirement benefits); expenditures for ordinary and non-structural repairs and maintenance necessary to maintain the Convention Center in good operating condition and in compliance with the Quality Standards; expenditures for utilities, insurance, governmental fees and assessments, possessory interest taxes (if any), laundry service; the cost of Inventories and Operating Supplies, license fees; expenditures for advertising, marketing, reservation systems, if any, federal, state and municipal excise, sales and use taxes, except those collected directly from Patrons and Guests as part of the sales prices of any goods, services or displays, such as gross receipts, admissions, cabaret or similar or equivalent taxes and paid over to federal, state or municipal governments; and rentals paid for items leased in the day-to-day operation of the Convention Center. Operating Expenses specifically excludes, however, (i) Capital Expenditures (as defined herein), (ii) operating expenses of the City, (iii) interest expense, (iv) amortization expense, (v) depreciation expense and (vi) Manager's Incentive Fee. No part of Manager's central office overhead or general or administrative expense (as opposed to that of the Convention Center) shall be deemed to be a part of Operating Expenses. Notwithstanding the foregoing, the following shall be considered Operating Expenses and the City shall reimburse Manager for: (i) the salaries or wages of any officers, directors or employees of Manager or Manager's Affiliates who shall be regularly or temporarily employed or assigned on a full-time or part-time basis (prorated for time spent on Convention Center activities) at the Convention Center; (ii) personnel providing legal services to Manager in connection with matters involving the Convention Center; (iii) the out-of-pocket expenses of Manager incurred for the account of or in connection with the Convention Center operations for

reasonable travel expenses of employees, officers and other representatives and consultants of Manager and its Affiliates, but specifically excluding any charges for fax, telephone, copying, overnight delivery and postage.

(bb) Operating Supplies shall mean all chinaware, glassware, linens, silverware, uniforms, utensils and other similar items necessary to the operation of the Convention Center.

(cc) Operations Manual shall mean that series of documents and/or handbook, prepared by the Manager, describing the services, rental rates, activities, policies, rules and regulations for use and operation of the Convention Center, as more fully described in Section 2.9.

(dd) Patron and Guest shall mean a person who visits any event at the Convention Center.

(ee) Pre-Opening Management Period shall mean that time between January 1, 2013 and the Commencement Date, as defined herein, and during which the Manager will prepare for the grand re-opening of the Convention Center facility.

(ff) Quality Standards shall have the meaning ascribed to such term in Section 2.7.

(gg) Renovation and Construction Period shall mean the period during which the Convention Center is undergoing renovation and construction and shall include all times between the Effective Date and the Commencement Date.

(ii) Revenue Procedure 97-13 shall mean regulations promulgated by the Internal Revenue Code setting forth the conditions under which a management contract does not result in a private business use under Section 141 of the Internal Revenue Code of 1986 and complies with the private business use restrictions on facilities financed with proceeds of tax exempt bonds.

(jj) Substantial Part of the Convention Center means ten percent (10%) or more of the gross square footage of the Convention Center or any portion of the Convention Center or the land on which it is situated necessary for reasonable access to the Convention Center.

(kk) Target Annual Budget shall mean the written Target Annual Budget related to Operating Revenues as determined by the parties pursuant to Section 6.1.

1.2 Terminology. All personal pronouns used in this QMA, whether used in the masculine, feminine or neutral gender, shall include all genders; the singular shall include the plural, and the plural shall include the singular. The Table of Contents, and titles of Articles, Sections, Subsections and Paragraphs in this QMA are for convenience only and neither limit nor amplify the provisions of this QMA, and all references in this QMA to Articles, Sections, Subsections, paragraphs, clauses, subclasses, exhibits, addenda or riders shall refer to the corresponding Article, Section, Subsection, paragraph, clause or sub-clause of, or exhibit, addendum or order attached to this QMA, unless specific reference is made to the articles, sections or other subdivisions of, or exhibits, addenda or riders to, another document or instrument.

1.3 Exhibits, Addenda and Riders. All exhibits, addenda and riders attached hereto are by reference made a part hereof.

ARTICLE 2

ENGAGEMENT OF MANAGER

2.1 Operation of Convention Center. The City hereby authorizes and engages Manager as its exclusive agent to act as the operator and manager of the Convention Center during the Management Term, with exclusive responsibility and complete and full control and discretion in the operation, direction, management and supervision of the Convention Center subject only to the limitation expressed herein, and Manager hereby accepts such engagement subject to the terms and conditions expressed in this QMA. Manager is entering into this QMA as an independent contractor to provide the services set forth in this QMA. By entering into this QMA, Manager acknowledges that it is acquiring no rights whatsoever in the Convention Center or any portion thereof, except a nonexclusive and revocable license to enter upon the Convention Center, if and to the extent reasonably necessary to carry out its obligations pursuant to this QMA. Manager further agrees that it will not assert, in any legal action or otherwise, any additional right or interest in the Convention Center, or any portion thereof and will not record any lis pendens or any similar notice of lien against the Convention Center, or any portion thereof under any circumstances. In no event shall Manager alter or improve any portion of the Convention Center, except as otherwise expressly permitted by this QMA.

To the extent applicable, Manager's and the City's actions under this QMA shall at all times be consistent with Procedure 97-13 (or such other restrictions, rules or regulations that, in the reasonable opinion of the City's tax counsel, are required to ensure the tax-exempt status of the Convention Center's financing). The authority of Manager shall include the use of the Convention Center for public purposes, and without limiting the generality of the foregoing, Manager is hereby authorized, and shall be obligated, to:

- (a) Determine all terms for admittance and charges for rooms, facilities, commercial space, if any, equipment rental, telecommunications services, audiovisual equipment, labor and other amenities and services provided at or with respect to the Convention Center;
- (b) Administer and cause compliance with the obligations of the Convention Center under a Booking Policy approved by the City;
- (c) In accordance with the Operations Manual, determine all credit policies with respect to the operation of the Convention Center, including entering into credit card processing agreements;
- (d) In accordance with the Operations Manual with respect to the types of events held at the Convention Center;
- (e) Provide event management, including but not limited to, crowd control, security, box office supervision, admission procedures and servicing of users such as conventions, trade shows, exhibitors and entertainment;
- (f) Administer, assure compliance with, and direct the performance of all agreements pertaining to the use of the Convention Center, and services provided by and for the Convention Center, including the collection of all sums due from users and the general public for the rental and use of and admissions to the Convention Center;

(g) In accordance with the Operations Manual, establish catering and food and beverage policies (including pricing) with respect to the Convention Center;

(h) Determine all labor policies, including wages and salary rates and terms, fringe benefits, pension, retirement, bonus and employee benefit plans, collective bargaining agreements and the hiring or discharge of all employees (including Shared Employees), with respect to the Convention Center; provided, however, the City shall have the right to have a representative present at any time during Manager's negotiations with any labor union lawfully entitled to represent employees of the Convention Center and Manager shall not enter into any collective bargaining agreements with respect to employees of the Convention Center without the Approval of the City;

(i) Subject to Section 2.9 hereof, arrange for utility, telephone, extermination, security, trash removal and other services for the operation of the Convention Center;

(j) In consultation with the City coordinate and, when appropriate, implement all sales, advertising, public relations and promotional policies with respect to the Convention Center;

(k) Subject to Section 2.9 hereof, purchase all Inventories and all necessary additions to and replacements of Operating Supplies, FF&E and such other services and merchandise as are necessary for the proper operation of the Convention Center;

(l) In accordance with the Operations Manual and subject to Section 2.9 hereof, enter into such concession agreements and other undertakings as Manager shall from time to time consider appropriate for the operation of the Convention Center;

(m) Hire such persons or organizations as Manager may deem necessary to provide advice with respect to Manager's operation of the Convention Center, including accountants and other professionals provided, however, (i) excluding attorneys engaged by insurers in accordance with applicable insurance policies, the City's Approval shall be required to engage attorneys. The Manager shall not be required to obtain the City's approval to hire attorneys to represent the Manager to assist it in the ordinary course of operating the Convention Center, including without limitation, drafting and negotiating contracts. It shall be Manager's sole expense to hire any attorneys relating to its role as Manager of the Convention Center; except, subject to conflict of interest waivers, in the ordinary course of operations and as necessary to comply with Section 2.1(o) below, Manager is not authorized to hire attorneys with respect to any issues that arise from or are related to claims or disputes relating to the Convention Center building and any such issues shall be referred to the City;

(n) Cause all needed repairs and maintenance to be made to the Convention Center and cause all such other things to be done in or about the Convention Center as set forth on Exhibit C attached hereto and by this reference made a part hereof;

(o) Institute proceedings for the collection of rents and other amounts due for services rendered, property let or merchandise sold;

(p) Execute and administer contracts for all events, including food and beverage services, at the Convention Center;

(q) In accordance with the Operations Manual, establish and maintain the master set of all booking records and schedules for the Convention Center (such records and schedules shall be provided to the City and to such third parties as directed by the City, at any time upon reasonable notice of request, and shall remain the property of the City); and

(r) Use commercially reasonable efforts to maintain the liquor licenses necessary for the operation of the Convention Center.

(s) Make available to City as may be requested by the City Manager or his designee, the Convention Center's meeting rooms, if not booked at time of City's request, for up to eight (8) City-sponsored meetings each Fiscal Year at no cost to City other than Contractor's out-of-pocket expense for staffing and clean up.

2.2 Pre-Opening Management Services. At the City's expense, prior to the Commencement Date, Manager and its Affiliates shall provide certain pre-opening management and marketing activities and pre-opening expenses as set forth below in the amount not to exceed One Hundred Eighty Thousand Dollars (\$180,000.00) to the City in anticipation of Manager assuming management of the Convention Center. City shall provide a lump sum payment of said amount to Manager for the Pre-Opening Management Services relating to the operation of the Convention Center, and such expenses are to be considered operating expenses for FY 2013/2014. Pre-Opening Management Services shall include the following:

(a) Complete review of existing equipment. Review shall include a determination as to which equipment is salvageable and useable in the operation of the new center;

(b) Oversight of any refurbishment projects required to ensure prior equipment will ready for use at new center;

(c) Liquidation of all equipment determined un-useable at new center. Manager shall provide a list of all equipment and suggested methods of liquidation to include distribution to other facilities within the City of Riverside, sale of items to a qualified liquidator, donation to non-profits, etc;

(d) Review of all equipment that is within the scope of construction project. Manager shall review all FF&E that is part of the deliverables of the Center rehabilitation project and determine and advise the City as to what additional FF&E will be required to successfully open and operate the Center;

(e) Provide a complete list with accompanying budget of necessary Operating Supplies including, china glassware, silverware, uniforms, linens, kitchen utensils, tables, chairs, portable staging, service equipment and other similar items necessary to the successful operation of the Center;

(f) Pending City approval of Operating Supplies budget and City funding for same, procure, or work with the City to procure, all necessary Operating Supplies in accordance with City Purchasing Resolution regarding Goods, Services and Construction Services;

(g) Prepare Annual Operating Budget for a time period to include Commencement Date through the end of the Fiscal Year 2013 – 2014. In addition, prepare Annual Operating Budget for Fiscal Year 2014 – 2015 based on certain operating assumptions and historical data from prior convention center;

- (h) Prepare Staffing Guidelines for operation of new center;
- (i) Conduct wage and compensation surveys, as directed by the City;
- (j) Recruit, hire and train personnel necessary for the proper operation, maintenance and security of the Center;
- (k) Create an Employee Handbook;
- (l) Create an Organization Chart and Job Descriptions;
- (m) Draft Performance Bonus Criteria and Service Charge Distribution policy;
- (n) Establish Booking Policy that takes into account not only those events which generate substantial direct revenue for the Convention Center, but also takes into account those events which produce less direct revenue, but generate significant peripheral economic benefits in the form of City hotel utilization and increased tourist revenues;
- (o) Establish Convention Center Facility Rental Charges based on Market Demand Analysis, historical, Peak/Shoulder/and Off Peak periods and local competitor and regional competitor rates in order to ensure the optimal pricing strategy;
- (p) Determine all charges for any equipment rental, telecommunication services, audio visual equipment, labor and other amenities and services provided at or with respect to the Center;
- (q) In accordance with the Operations Manual, establish all credit policies with respect to the operation of the Center;
- (r) In accordance with the Operations Manual, establish all contracting policies and creation of a Facility Rental Contract to use in the operation of the Center;
- (s) In accordance with the Operations Manual, establish entertainment and amusement policies including pricing with respect to the operation of the Center;
- (t) In accordance with the Operations Manual, establish catering and food and beverage policies with respect to the operation of the Center;
- (u) Prepare, cost, and develop food and beverage menus based on current culinary trends, prior customer base requests, cost/value relationship, and locally sourced ingredients;
- (v) Develop and implement all sales, advertising, public relations, marketing and promotional campaigns with respect to the opening of the Center;
- (x) Obtain bids and enter into such service provider agreements that will be necessary for the successful operation of the Center;
- (y) Establish and provide for the set-up of computerized booking system in order to maintain a master set of all booking records and schedules for the Center, including financial records for events;

(aa) In accordance with the Operations Manual, establish insurance requirements and required licenses and permits, including health permits, ABC Liquor license, elevator/escalator licenses and other licenses necessary to fulfill Managers obligations under the QMA (but not the cost of obtaining such licenses which will fall under Operating Expenses;

(bb) Prepare an Emergency and Disaster Plan as it relates to the operation of the Center;

(cc) Establish necessary reporting requirements including customer satisfaction reports, convention booking calendars, hotel utilization reports, facility maintenance reports, lost business reports and other reports reasonably requested by the City;

(dd) Establish "Agency Account" for deposit of Operating Funds in a bank or trust company recommended by Manager and approved by the City;

(ee) Develop floor plan with accurate dimensions and provide meeting space capacities for various room configurations for use in all marketing materials;

(ff) Establish a "Green Operations" program for the operation of the Center, including food waste recycling programs;

(gg) Plan, budget and execute successful Grand Opening Gala for community partners, previous and prospective clients, and hotel partners; and

(hh) Perform other reasonable services, as agreed to between the City and Manager, in regard to the opening of the Center.

2.3 Employees of the Convention Center.

(a) Manager shall have the sole right to select, appoint, train and supervise the personnel necessary for the proper operation, maintenance and security of the Convention Center.

(b) Manager shall use reasonable efforts to recruit as many employees as possible that are full-time residents of the City of Riverside.

(c) All personnel of the Convention Center shall be employees of Manager or an Affiliate and the terms of their employment and all hiring and firing thereof shall be at the sole discretion of Manager.

(d) In establishing compensation levels for employees, Manager agrees to perform reasonable wage and compensation surveys upon request of the City, which surveys shall include comparable local and regional convention and conference centers (to the extent publicly available). Such surveys shall be made available to the City upon request.

2.4 Name. During the term of this QMA, the Convention Center shall at all times be known and designated by such name as from time to time may be Approved by the City.

2.5 Operation at the City's Expense. Subject to the cap on Pre-Opening Management Services set forth in Section 2.2 above, all expenses incurred by Manager in performing its duties hereunder shall be borne by the City. To the extent the funds necessary therefore are not generated by

the operation of the Convention Center, they shall be supplied by the City to Manager. Manager shall in no event be required to advance any of its own funds for the operation of the Convention Center, nor incur any liability in connection therewith unless the City shall have furnished Manager with funds necessary for the discharge thereof. If Manager shall at its sole option at any time advance any funds in payment of Operating Expenses or any other expenditure, which Manager shall have the right but not the obligation to do, the City shall repay Manager immediately the amount thereof on demand. Any amounts thus advanced and expended by Manager shall be Operating Expenses, but the amounts paid by the City in reimbursement to Manager shall not.

2.6 Revenue Procedure 97-13. It is the intent of the City and Manager to enter into this QMA in compliance with Revenue Procedure 97-13. If a conflict exists between this QMA and Revenue Procedure 97-13, then Revenue Procedure 97-13 will govern.

2.7 Quality Standard. While performing the Services, Manager shall exercise the reasonable professional care and skill customarily exercised by reputable members of Manager's profession practicing in the Metropolitan Southern California Area, and shall use reasonable diligence and best judgment while exercising its professional skill and expertise.

2.8 Booking Policy. The parties recognize that the interest of the City required a booking policy that takes into account not only those events which generate substantial direct revenue for the Convention Center, but also takes into account those events which produce less direct revenue, but generate significant peripheral economic benefits in the form of City hotel utilization, increased retail revenues, and provide a stimulus to the general economy of the City of Riverside. Manager agrees to use its commercially reasonable best efforts to market, promote and operate the Convention Center consistent with Booking Policy.

2.9 Operations Manual. Manager shall prepare (as part of Pre-Opening Management Services) and periodically update an Operations Manual for Approval by the City. Following Approval of the initial Operations Manual, and any updates thereto, Manager shall use commercially reasonable efforts to implement the Operations Manual. The Operations Manual shall contain standard forms of agreements, schedules of rates and fees, booking policies, contract services and preferred vendor lists; provided, however, Manager shall have the right to negotiate these provisions as the business environment dictates. The Operations Manual shall also contain other policies related to use and operation of the Convention Center including, but not limited to, insurance requirements, food & alcoholic beverage service, routine repairs, janitorial services, fire prevention and security guidelines.

2.10 Contracts. In carrying out its responsibilities under this QMA, Manager will in the ordinary course of business, negotiate and enter into contracts, subcontracts and vendor agreements (in the name of Manager as agent for the City) pertaining to the use and occupancy of the Convention Center, as well as relating to Convention Center operations. Manager shall maintain a current list of all approved vendors providing services at the Convention Center for the City's review.

(a) All vendors of service to be performed at the Convention Center, whether subcontracted by Manager or contracted directly between a user and a vendor approved by Manager (e.g. decorators, etc.) must conform to the requirements of this QMA and any other requirements established from time to time by the City and Manager.

(b) Manager shall not, without the City's Approval:

(i) Enter into any service contract or vendor agreement which extends beyond the term of this QMA, unless cancelable on thirty (30) day notice without penalty; or

(ii) Enter into any lease, license or concession agreement for convention facilities, office space or tenant or lobby space at the Convention Center unless the term is one (1) year or less; or

(iii) Purchase goods, supplies and services from itself or an Affiliate unless the prices and terms thereof are competitive with those obtainable from unrelated vendors or are the subject of competitive bidding; or

(iv) Enter into any contract that contemplates, entails or relates to any rebate, discount, bonus or other remuneration not accruing to the City's account (in obtaining the City's Approval, Manager agrees to disclose to the City in writing such affiliations, interests and rebate to national vendor programs and comparative costs to the City and quality factors).

(c) Manager shall select vendors based upon the best combination of cost to the City and quality of goods and services available to the Convention Center.

(d) Manager shall require that proper Certificate of Insurance evidencing general liability, automobile, bodily injury, property damage, death and workers compensation coverage shall be furnished, with copies to the City, and require that all policies be kept enforced during the term of the Agreement, by all vendors, concessionaires, subcontractors and service providers in the minimum amounts set forth by the City's Risk Manager, or designee. All such policies shall name the City and Manager as additional insureds as their respective interests may appear.

(e) In soliciting bids and quotes and in entering into contracts with respect to the Convention Center, Manager shall comply with all applicable public bidding requirements. City shall provide Manager with a copy of its Purchasing Resolution regarding Goods, Services and Construction Services which is currently Resolution No. 21182, attached hereto as Exhibit "E" and incorporated herein by reference.

Manager shall be authorized to give such preferences for goods and services based on Local Preference. Preference shall be given to those vendors who have a local presence in the City of Riverside, provided that price, quality, terms, delivery and service reputation are determined to be equal by the Manager. (The defined terms "Procurement, Competitive Procurement, Open Market Procurement and Local Preference" shall have the meanings set forth in City Resolution 21182 or any subsequently adopted resolution.)

ARTICLE 3

COMPLIANCE WITH LAWS

3.1 Compliance by Manager and the City after Commencement Date. Manager shall make all reasonable efforts, at expense of the City, to comply with all laws, rules, regulations, requirements, orders, notices, determinations and ordinances of any governing authority, including, without limitation, the state and the Alcohol Beverage Control, and the requirements of any insurance companies covering any of the risks against which the Convention Center is insured ("Legal Requirements"). If the cost of compliance exceeds Two Thousand Five Hundred Dollars (\$2,500) in any instance, Manager shall promptly notify the City, and the City shall act in a manner consistent with prudent business judgment with respect to providing adequate funds to comply with applicable Legal Requirements subject to Section 3.2 hereof.

3.2 The City's Right to Contest or Postpone Compliance. With respect to a violation of any Legal Requirements, the City shall have the right to contest the alleged violation and postpone compliance pending the determination of such contest, if so permitted by law and not detrimental to the operation of the Convention Center, but in such event, the City shall indemnify and hold harmless Manager from any loss, cost, damage or expense incurred by Manager, as a result thereof, not directly caused by Manager or Manager's Affiliates, and Manager shall indemnify and hold harmless the City from any loss, cost, damage or expense in connection therewith directly caused by Manager or Manager's Affiliates.

3.3 Manager's Rights to Terminate Agreement. Notwithstanding anything in this QMA to the contrary, if, within thirty (30) days of receiving Manager's written request and all information necessary for proper evaluation of the matter, the City fails to approve plans for reasonable accommodation of changes, repairs, alterations, improvements, renewals or replacements to the Convention Center which Manager determines in its reasonable judgment as explained in the written materials submitted to the City are necessary to (i) protect the Convention Center, the City or Manager from innkeeper liability exposure; or (ii) ensure material compliance with any applicable legal requirements pertaining to life safety systems requirements; then Manager may, notwithstanding the provisions of Article 4, terminate this QMA any time after such thirty (30) day period upon twenty (20) days' written notice, provided if the City is exercising its right to contest as provided in Section 3.2 above, Manager shall have no right to terminate as long as such contest postpones the need for compliance. In the event of such termination, Manager shall have the right to seek any and all legal remedies it may have, including without limitation the Manager's Base Fee and any Manager's Incentive Fee that it could have earned for the remainder of the Agreement.

ARTICLE 4

MANAGEMENT TERM

4.1 Management Term. The Management Term shall commence on the Commencement Date and terminate on June 30, 2023, subject to termination as provided in Article 5 hereof.

(a) Prior Agreements. This QMA supersedes all other agreements and their respective amendments, verbal and written, between City and Manager for the operation of the Convention Center, including any agreement for the temporary operations at the Riverside Municipal Auditorium.

All other or previous agreements shall terminate and have no further force of effect as of the Commencement Date of this QMA.

ARTICLE 5

TERMINATION

5.1 Termination. This QMA may be terminated prior to the expiration of the then effective Management Term upon occurrence of one or more of the following events:

(a) Upon any Event of Default, at the option of the non-defaulting party exercised by written notice to the defaulting party and following the expiration of all applicable cure periods.

(b) Upon at least thirty (30) days prior written notice if either party shall: apply for or consent to the appointment of a receiver, trustee or liquidator of it or of all or a substantial part of its assets; file a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they come due; make a general assignment for the benefit of creditors; file a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceedings; or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating it as bankrupt or insolvent or approving a petition seeking reorganization of it or appointing a receiver, trustee or liquidator of it or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(c) At the option of the City if, (1) as a result of a change of control of Manager (as defined below), which change in the City's reasonable discretion is detrimental to the City's relationship with Manager and Manager's ability to operate the Convention Center as provided under this QMA; and (2) the City provides to Manager at least sixty (60) days written notice of termination, which written notice must be provided to Manager within twelve (12) months of written notice from Manager to the City of the change of control, referencing this Section and the right to terminate.

For the purposes of this Section 5.1(c), the term "change of control" shall mean the acquisition by a person or a group (as defined under the Securities and Exchange Act of 1934, as amended) in a single transaction or a series of transactions of fifty-one percent (51%) or more of the voting stock or voting rights of Manager.

(d) At the option of the City, if the City (or its successor) permanently ceases operation of the Convention Center, the City provides to Manager at least sixty (60) days written notice of termination and the City pays to Manager the Manager's Base Fee which it would have received for the remaining balance of the Term.

5.2 Transition Procedures. Upon the expiration or termination of the Management Term, for whatever reason, the City and Manager shall do the following (and the provisions of this Section 5.2 shall survive the expiration or termination of this QMA until they have been fully performed):

(a) Manager shall peacefully vacate and surrender the Convention Center to the City, on the effective date of termination. Manager shall leave the premises in a clean and orderly condition.

(b) Within fifteen (15) days after delivery of such information as may be required by the City to confirm the accuracy and validity of amounts requested by Manager, the City shall pay Manager all amounts, if any, owing under the applicable provisions of this QMA (including, but not limited to, Article 9).

(c) Manager shall turn over, assign and transfer to the City without compensation:

(i) All Convention Center assets including (i) all cash in Manager's custody and control, whether segregated or commingled with the monies of Manager or other parties, which has been generated in connection with or arising from operations of the Convention Center or otherwise which belongs to the Convention Center and (ii) any contracts, leases or concession agreements then in Manager's, rather than the City's name.

(ii) All coupons, instruments for the payment of money, certificates of deposit, accounts receivable or other contract rights or intangible personal property arising in connection with operation of the Convention Center or otherwise which belongs to the Convention Center.

(iii) All City-owned equipment, supplies, keys, locks, safe combinations, computer passwords, telephone and fax numbers associated with the Convention Center, alarm access codes, and key cards.

(iv) All of the City's books and records, including all electronic records, respecting the Convention Center and all contracts, leases, and other documents respecting the Convention Center and which are in the custody or control of Manager (and the City or the successor manager shall assume all contracts made in accordance with this QMA).

(v) Where legally permissible all of Manager's right, title, and interest in and to all licenses and permits (excluding liquor), if any, used by Manager in the operation of the Convention Center. Provided that the City has paid for all licenses, Manager recognizes that all licenses held for the operation of the Convention Center are held for the benefit of the City and Manager has no ownership therein, except in order to fulfill its obligations hereunder.

(vi) The City shall cause the Convention Center to recognize all business confirmed for the Convention Center with reservation dates after the expiration or earlier termination of this QMA. The City shall be responsible for any and all liability that may exist to groups whose confirmed future reservations are not honored by the Convention Center after expiration or earlier termination of this QMA.

(vii) Manager shall provide reasonable assistance to the City in facilitating the orderly transfer of the City's records data. Manager shall cooperate with the City to the extent possible in order to avoid disruption in the operation of the Convention Center in connection with the transition.

(viii) Manager shall not delete, alter, change, modify and/or optimize any electronic records or data relating to the operation of the Convention Center, whether contained in the computers located at the Convention Center or elsewhere, without prior notice to and the

written consent of the City, which consent may be withheld in the sole and absolute discretion of the City.

(ix) Manager and the City shall cooperate with each other to effect an orderly transition of management functions from Manager to the City, any transferee of the City, any transferee of the City or to any managing agent designated by the City or any transferee of the City.

(d) If Manager or its Affiliate (the "Licensee") holds the Convention Center's liquor license and the successor manager is unable to secure a replacement license on or before the date of termination, then, to the extent legally permissible, the Licensee agrees to enter into a written agreement, in form and substance Approved by the Licensee and such successor manager, allowing the successor manager to temporarily operate under the Licensee's license for no more than ninety (90) days. Manager requires that such agreement shall contain, at a minimum, the following provisions:

(i) The Licensee shall have the option to maintain one employee at the Convention Center to supervise the alcoholic beverage operations at the Convention Center and, if the Licensee does so elect, the successor Manager shall reimburse the Licensee for all costs of employing such employee (including wages and benefit);

(ii) The successor Manager shall provide to the Licensee customary indemnification against liability; and

(iii) The successor Manager shall maintain insurance with respect to alcoholic beverage operations at the Convention Center, approved by the Licensee and naming the Licensee as an additional insured thereon.

ARTICLE 6

TARGET ANNUAL BUDGET AND REPORTING

6.1 Target Annual Revenue Budget; Condition Precedent.

(a) On or before May 1 of each year, City and Manager shall meet and confer in good faith, on an annual basis, to establish a written Target Annual Budget related to Operating Revenue ("Target Annual Revenue Budget") of the Convention Center Management which shall be formalized on or before June 30 of each year.

(b) If the Manager meets the Target Annual Revenue Budget then it will be eligible for an Incentive Bonus described in Article 9 below. Subject to the City's review of the Convention Center financials, the Manager will be deemed to meet the Target Annual Revenue Budget if the books of accounts reflect that Manager generated revenues that meet or exceed the Target Annual Revenue Budget, if Manager generates less revenue than the Target Annual Revenue Budget, then Manager shall not be eligible for the Incentive Bonus.

6.2 Deviations from Target Annual Budget. Manager shall diligently pursue all feasible measures to enable the Convention Center to adhere to the Target Annual Revenue Budget. Notwithstanding anything herein to the contrary, Manager is not warranting or guaranteeing in any respect that the

actual annual Operating Revenues of the Convention Center during the period covered by the Target Annual Revenue Budget will not materially vary from the projections described in the Target Annual Revenue Budget.

6.3 Books and Records. Manager shall keep full and adequate books of accounts and other records reflecting the results of operation of the Convention Center on an accrual basis, all substantially in accordance with generally accepted accounting principles. The books of the account and all other records relating to or reflecting the operation of the Convention Center shall be kept at the Convention Center, or at Manager's office in Riverside, California, and shall be available to the City and its representatives and its auditors or accountants, at all reasonable times for examination, audit, inspection and transcription. All of such books and records pertaining to the Convention Center at all times shall be the property of the City and shall not be removed from the Convention Center by Manager without the City's Approval.

6.4 Financial Statements. Manager shall deliver to the City within sixty (60) days after the end of each Accounting Period a quarterly profit and loss statement showing the results of the operation of the Convention Center for such Accounting Period and for the Fiscal Year to date (including a comparison of results for those periods for such Fiscal Year to such periods in the Target Annual Budget and for the prior Fiscal Year). Such quarterly profit and loss statement and the annual financial statement referred to below shall: (i) be taken from the books and records maintained by Manager for the Convention Center in the manner described herein above, (ii) allowing for deviations which are necessary in order to comply with this QMA, (iii) contain a cash flow forecast for the next succeeding 90 days; (iv) include a balance sheet as of the close of such Accounting Period; and (vi) be accompanied by an executive summary.

Within one hundred twenty (120) days after the end of each Fiscal Year, Manager shall deliver to the City an annual financial statement, reviewed or audited (if required by the City) and certified by the Independent Auditor (if such audit is requested by the City prior to the end of such Fiscal Year), showing the results of operation of the Convention Center during such Fiscal Year, the Gross Revenues and Operating Expenses, and any other information necessary to make the computations required hereby or which may be requested by the City, all for such Fiscal Year. If the City does not present objections to the audited statements within one hundred eighty (180) days following receipt of the City, such audited statements shall be deemed correct and conclusive for all purposes. The cost and expense of such reviewed or audited statements shall be borne exclusively by the City as an Operating Expense.

6.5 Quarterly Reports. Manager shall deliver to the City within sixty (60) days after the end of each quarter of each Accounting Period the following additional reports:

- (a) Customer satisfaction report;
- (b) Convention booking calendar, identifying tentative and confirmed bookings;
- (c) "Hotel utilization" report, estimating the number of hotel rooms generated by the Convention Center for hotels located in the City of Riverside;
- (d) Facility maintenance report identifying breakdowns of, or significant repairs to, major pieces of installed and portable equipment;

- (e) Lost business report; and
- (f) Other reports reasonably requested by the City.

ARTICLE 7

REVENUE AND EXPENSES

7.1 Agency Account. All monies received by Manager in the operation of the Convention Center, including the Operating Funds furnished by the City, shall be deposited in a special account or accounts, such as operating, credit card, box office accounts (collectively called the "Agency Account") in Manager's name, as agent of the City, in the bank or trust company recommended by Manager and Approved by the City. Such monies shall not be commingled with Manager's other funds. Out of the Agency Account, Manager shall pay all Operating Expenses and any fees or compensation of any kind due it pursuant to this QMA in accordance with the provisions of this QMA. In addition, if repairs to the Convention Center are of an emergency nature, Manager shall make such repairs with funds in the Agency Account. An emergency repair is defined herein as the repair of a condition, which if not performed immediately, (a) creates an imminent danger to persons or property or (b) an unsafe condition at the Convention Center threatening persons or property, or (c) with the prior approval of the City, that if left unrepaired would materially interfere with the operation of the Convention Center. Withdrawals from accounts established pursuant to this Section 7.1 shall be signed by representatives of the Manager only, provided such representatives are insured, and Manager shall supply the City with insurance upon the City's request unless said insurance shall have been placed by the City and delivered directly by the insurance company to the City.

7.2 Operation funds. On or before the Commencement Date, the City shall deposit, and thereafter continually maintain, cash in the Agency Account in an amount equal to Three Hundred Thousand Dollars (\$300,000.00). Manager will deposit all Gross Revenue into the Agency Account. The City shall disburse funds as needed to maintain an average balance of \$300,000.00.

ARTICLE 8

INSURANCE

8.1 Insurance Coverage. The City, or Manager at the direction of the City, shall provide and maintain, at the City's cost and expense, insurance sufficient to furnish to the City and Manager reasonable and adequate protection in the management and operation of the Convention Center. Such insurance shall provide coverage for comprehensive general liability, automobile, excess and umbrella liability, and property damage insurance, all as more particularly set forth on the attached Exhibit D. All insurance shall be in the name of the City and Manager as the insureds and shall contain riders and endorsements adequately protecting the interests of Manager as it may appear including, without limitation, provisions for at least twenty (20) days' notice to Manager of cancellation or of any material change therein. Prior to the Commencement Date and the commencement of each Fiscal Year thereafter, the party providing insurance shall furnish the other party with certificates evidencing the insurance coverages required pursuant to Exhibit D and with evidence of the payment of premiums

therefor. The City agrees that it will utilize Manager's insurance program to satisfy the requirements of this Section 8.1 unless the City can obtain more comprehensive coverages at a better price and on more advantageous terms. It shall be the Manager's obligation as the employer, at the City's expense, to obtain Workers Compensation, Crime/Fidelity Bond, and Employment Practices coverages as set forth on Exhibit D. If the City becomes the employer, this obligation shall become the responsibility of the City, at its own expense.

8.2 Waiver of Subrogation – the City Assumes Risk of Adequacy. The City shall have all policies of insurance provide that the insurance company will have no right of subrogation against either party hereto, their agents or employees. The City assumes all risks in connection with the adequacy of any insurance or self-insurance program, and subject to the provisions of Article 14 hereof, waives any claim against Manager for any liability, costs or expenses arising out of any uninsured claim, in part or in full, of any nature whatsoever.

ARTICLE 9

MANAGER'S FEES

9.1 Manager's Base Fee. In consideration of Manager's performance hereunder the City shall pay to Manager annually a base management fee ("Manager's Base Fee") in the amount of Four Hundred Thousand Dollars (\$400,000.00). The Manager's Base Fee shall increase each year by the Consumer Price Index.

9.2 One Time Increase in Manager's Base Fee. If during the term of this Agreement, the Gross Revenues exceed Four Million Five Hundred Thousand Dollars (\$4,500,000.00) for any fiscal year the Manager's Base Fee shall be increased to Four Hundred Eighty Thousand Dollars (\$480,000.00). The adjusted Manager's Base Fee shall also increase each year by the Consumer Price Index, commencing on the year after the one-time adjustment is made hereunder.

9.3 Incentive Bonus Eligibility. Manager shall be eligible for an incentive bonus in the event the Manager meets the Target Annual Revenue Budget for Revenues as set forth in Article 6 above. Subject to the City's review of the revenue financials, Manager will be deemed to meet the Target Annual Revenue if the books of accounts reflect that Manager has a Target Annual Revenue greater than Four Million Dollars (\$4,000,000.00). If Manager receives the one time increase in the Manager's Fee set forth in Section 9.2 above, the Target Annual Revenue for the incentive bonus shall increase to greater than Five Million Dollars (\$5,000,000.00).

9.4 Incentive Bonus Calculation. Provided Manager meets the Target Annual Revenue Budget, Manager shall receive the Incentive Bonus in an amount equal to One Hundred Thousand Dollars (\$100,000.00). If the Manager's Base Fee is increased in accordance with Section 9.2 above, Manager shall receive the Incentive Bonus in an amount equal to One Hundred Twenty Thousand Dollars (\$120,000.00). Notwithstanding anything herein to the contrary, the Incentive Bonus shall not exceed twenty percent (20%) of the total annual compensation received by Manager in any given year. The Incentive Bonus will be payable at the end of each Fiscal Year immediately following the preparation of the financial statements by the Independent Auditor.

ARTICLE 10

TAXES AND UTILITIES

10.1 Taxes. Manager shall pay on behalf of the City, which City will reimburse Manager as an "Operating Expense," prior to delinquency, all personal property taxes and all betterment assessments, if any, levied against the Convention Center or any of its component parts. Manager shall promptly deliver to the City all notices of assessments, valuations and similar documents to be filed by Manager or the City or which are received from taxing authorities by Manager. Notwithstanding the foregoing obligations of Manager, Manager may, at the City's sole expense, contest the validity or the amount of any such tax or assessment, provided that such contest does not materially jeopardize Manager's or the City's rights under this QMA. The City agrees to cooperate with Manager and execute any documents or pleadings required for such purpose, but the City shall reimburse Manager any such out-of-pocket costs incurred by Manager in so doing.

ARTICLE 11

LIMITED PRIVATE USE; PARKING

11.1 Limited Private Use. Manager shall have the right to use the Convention Center kitchen for periodic, unrelated private use. At no time will any private use interfere with the operation of the kitchen for Convention Center events. The City represents and acknowledges that the Convention Center kitchen does not represent a Substantial Part of the Convention Center.

11.2 Parking Lot 33. Upon prior request and in cooperation with the Public Works Department, Manager shall have the right to use of Parking Lot 33 for Convention Center events. Manager's request shall include the amount of the Parking Lot 33 it needs for the subject event. Manager shall track all parking revenue expenses for each event for which it uses Parking Lot 33. Manager shall pay the City's Public Works Department fifty percent (50%) of any net revenues and shall add the remaining fifty percent to the Gross Revenues of the Convention Center. Payments to the Public Works Department shall be made quarterly, within 30 days of the end of the respective quarter.

ARTICLE 12

EVENTS OF DEFAULTS; REMEDIES

The occurrence of any of the following events shall constitute an event of default ("Event of Default") hereunder on the part of the party with respect to whom such event occurs:

12.1 Manager Event of Default

(a) If Manager fails to (i) pay any sum of money due to the City within ten (10) days after receipt of written notice that the same is due, provided however that such written notice shall not be required more than twice in any twelve (12) month period after which the failure to pay any sum of money within ten (10) days after the same is due shall be an immediate Event of Default; or

(b) If Manager or an Affiliate owns, operates, licenses or otherwise engages in any sexually-oriented businesses or any unlawful business, and such activity shall continue for a period of thirty (30) days after written notice thereof by the City to Manager, unless it is impossible for such non-compliance

to be remedied or corrected within such time due to no fault of Manager, in which event Manager shall remedy or correct such non-compliance as soon as reasonably possible but in any event no later than ninety (90) days after such written notice; or

(c) If Manager shall fail to keep, observe or perform any other material covenant, agreement, terms or provisions of this QMA to be kept, observed or performed by Manager, and such default shall continue for a period of thirty (30) days after written notice thereof by the City to Manager, unless it is impossible for such breach or non-compliance to be remedied or corrected within such time due to no fault of Manager, in which event Manager shall remedy or correct such breach or non-compliance as soon as reasonably possible but in any event no later than ninety (90) days after such written notice unless the cure or remedy for such breach or non-compliance requires construction, in which event Manager shall proceed with such construction as expeditiously as possible and shall have a reasonable period of time to complete such work.

12.2 City Event of Default

(a) If the City fails to pay any sum of money due to Manager within ten (10) days after receipt of written notice that the same is due, provided however that such written notice shall not be required more than twice in any twelve (12) month period after which the failure to pay any sum of money within ten (10) days after the same is due shall be an automatic Event of Default; or

(b) If the City fails to furnish required Operating Funds in accordance with the provisions of Article 6 hereof; or

(c) If the City fails to provide and maintain the insurance policies called for in Article 8 hereto; or

(d) If the City shall fail to keep, observe or perform any other material covenant, agreement, term or provision of this QMA to be kept, performed or observed by the City, and such default shall continue for a period of thirty (30) days after written notice thereof by Manager to the City, unless it is impossible for such breach or non-compliance to be remedied or corrected within such time due to no fault of the City, in which event, the City shall remedy or correct such breach or non-compliance as soon as reasonably possible but in any event no later than ninety (90) days after such written notice unless the cure or remedy for such breach or non-compliance required construction, in which event, the City shall proceed with such construction as expeditiously as possible and shall have a reasonable period of time to complete such work.

12.3 Remedies. Notwithstanding the other provisions of this Article 12, the party asserting an Event of Default hereunder may, without prejudicing its rights to seek all remedies available to it including Manager's rights under Section 3.3 above, terminate this QMA pursuant to Section 5.1.

ARTICLE 13

TRANSFER RESTRICTIONS

13.1 Assignment by Manager. Manager shall not assign, pledge, encumber or otherwise transfer this QMA without the prior written consent of the City, which consent the City may withhold in its sole discretion; provided, however, Manager shall have the right, with consent of the City which shall

not be unreasonably withheld, to assign its interest in this QMA to (i) any of its Affiliates, (ii) any successor by merger or consolidation with Manager, or (iii) any party succeeding to substantially all of the assets of the Manager so long as such assignee has as its principle business the management of conference centers which are comparable to the Convention Center. In the event of consent by the City to an assignment of this QMA by Manager, no further assignment shall be made without the express consent in writing of the City, unless such assignment may otherwise be made without such consent pursuant to the terms of this QMA. An assignment by Manager of its interest in this QMA shall not relieve Manager from its obligation hereunder and any assignee must assume and agree to be bound by the provisions of this QMA.

13.2 Assignment by the City. The City shall have the right to transfer its interest in this QMA to any Affiliate of the City, which Affiliate or entity acquires ownership of the Convention Center and assumes all obligations of the City under this QMA, without the written consent of Manager. Upon any such assignment by the City, the City shall be relieved of all liabilities and obligations under this QMA accruing after the effective date of such assignment.

ARTICLE 14

INDEMNIFICATION

14.1 Manager's Indemnification. Manager shall indemnify, defend, and save City harmless from all damages, liability, cost, claim, or expense, including attorney's fees and court costs arising out of Manager's or its agents, employees, representatives, subcontractor's, concessionaire's, or licensee's breach of this QMA, any claims made against Manager for Manager's violation of employment laws, excepting therefrom, however, all damages, liability, costs, claims, or expenses arising out of or caused by the sole negligence or willful misconduct of City. Payment of any claim by City shall not be a condition precedent to recovery under this indemnity. The provisions of this subparagraph shall survive the expiration or early termination of this QMA.

14.2 City's Indemnification. City shall indemnify, defend, and save Manager harmless from all damages, liability, cost, claim, or expense, including attorney's fees and court costs arising out of City's or its agents, employees, representatives, subcontractor's, concessionaire's, or licensee's breach of this QMA, Manager's compliance with City's specific direction for operation of the Convention Center as set forth in the QMA, any building code violations or structural defects of the Convention Center or any other claims related to the Convention Center building, including without limitation compliance with the Americans With Disabilities Act, unless said violations are a direct result of Manager's actions taken without the prior approval of City, excepting therefrom, however, all damages, liability, costs, claims, or expenses arising out of or caused by the sole negligence or willful misconduct of Manager or its agents, employees, representatives, subcontractors, concessionaires or licensees, or for claims against Manager by its employees for employment related claims. Payment of any claim by Manager shall not be a condition precedent to recovery under this indemnity. The provisions of this subparagraph shall survive the expiration or early termination of this QMA.

14.3 Indemnification Procedure. Upon the occurrence of an event giving rise to indemnification, the party seeking indemnification shall notify the other party hereto and provide the other party hereto with copies of any documents reflecting the claim, damage, loss or expense. The party seeking indemnification is entitled to engage such attorneys and other persons to defend against the claim,

damage, loss or expense, as it may choose. The party providing indemnification shall pay the reasonable charges and expenses of such attorneys and other persons on a current basis within twenty (20) days of submission of invoices or bills. If any claim, lawsuit or action (administrative or judicial) is maintained against Manager, the City or the Convention Center due to allegations or actions arising prior to the Management Term, the City shall bear full and complete responsibility for the defense of the Convention Center, the City, the Manager, specifically including all legal fees and necessary and attendant expenses for the vigorous defense and representation of the interests of the Manager (for pre-trial, trial and appellate proceedings), the Convention Center and the City. The City shall support and pay for all legal fees and representations necessary to remove Manager from any claim, action (administrative or judicial), or lawsuit covered by this provision.

ARTICLE 15

REPRESENTATIONS AND WARRANTIES

15.1 Representations and Warranties of the City. In order to induce Manager to enter into this QMA, the City does hereby make the following representations and warranties:

(a) The execution of this QMA is permitted by City Council approval and this QMA has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of the City enforceable in accordance with the terms hereof;

(b) There is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to the City, threatened, against or relating to the City, the properties or business of the City or the transactions contemplated by this QMA which does, or may reasonably be expected to, materially and adversely affect the ability of the City to enter into this QMA or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigations, except as has been fully disclosed in writing to Manager; and

(c) Neither the consummation of the actions completed by this QMA on the part of the City to be performed, nor the fulfillment of the terms, conditions and provisions of this QMA, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which the City is a party or by which it is bound.

15.2 Representations and Warranties of Manager. In order to induce the City to enter into this QMA, Manager does hereby make the following representations and warranties:

(a) The execution of this QMA is permitted by the Articles of Incorporation and By-Laws of Manager and this QMA has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Manager enforceable in accordance with the terms hereof:

(b) There is no claim, litigation, proceedings or governmental investigation pending, or as far as is known to Manager, threatened, against or relating to Manager, the properties or business of Manager or the transactions contemplated by this QMA which does, or may reasonably be expected to, materially and adversely affect the ability of Manager to enter into this QMA or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceeding or governmental investigation, except as has been fully disclosed in writing to the City;

(c) Neither the consummation of the actions completed by this QMA on the part of Manager to be performed, nor the fulfillment of the terms, conditions and provisions of this QMA, conflicts with or will result in the breach of any of the terms, conditions of provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Manager is a party or by which it is bound; and

(d) Manager or its Affiliates, does not currently own, operate, license or otherwise engage in any unlawful business.

ARTICLE 16

MISCELLANEOUS

16.1 Further Assurances. The City and Manager shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this QMA fully and legally effective, binding and enforceable as between them and as against third parties.

16.2 Waiver. The waiver of any of the terms and conditions of this QMA on any occasion or occasions shall not be deemed a waiver of such terms and conditions on any future occasions.

16.3 Successors and Assigns. This QMA shall be binding upon and inure to the benefit of the City, its successors and permitted assigns, and shall be binding upon and inure to the benefit of Manager, its successors and permitted assigns.

16.4 Governing Law. This QMA shall be governed by the laws of the State of California.

16.5 Amendments. This QMA may not be modified, amended, surrendered or changed except by a written instrument executed by the City and Manager.

16.6 Estoppel Certificates. The City and Manager agree, at any time and from time to time, as requested by the other party upon not less than ten (10) days prior written notice, to execute and deliver to the other a statement certifying that this QMA is unmodified and in full force and effect (or if there have been modifications, that this QMA is in full force and effect as modified and stating the modifications), certifying the dates to which required payments have been paid, and stating whether or not, to the best knowledge of the signer, the party is in default in performance of any of its obligations under this QMA, and if so, specifying each such default of which the signer may have knowledge, if being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the party requesting such certificate may be dealing.

16.7 Inspection Rights. The City shall have the right to inspect the Convention Center and examine the books and records of Manager pertaining to the Convention Center at all reasonable times during the Management Term upon reasonable notice to Manager, and the City shall have access to the Convention Center and the books and records pertaining thereto at all times during the Management Term, all to the extent consistent with applicable law and regulations and the rights of guests, tenants and concessionaires of the Convention Center.

16.8 Severability. Each provision, term, condition and/or restriction, in whole and in part, of this agreement shall be considered severable. In the event any provision, term, condition and/or restriction, in whole and/or in part, of this agreement is declared invalid, unconstitutional, or void for any reason,

such provision or part thereof shall be severed from this agreement and shall not affect any other provision, term, condition and/or restriction of this agreement, and the remainder of the agreement shall continue in full force and effect.

16.9 No Representation. In entering into this QMA, Manager and the City acknowledge that neither the City nor Manager have made any representation to the other regarding projected earnings, the possibility of future success or any other similar matter respecting the Convention Center, and that Manager and the City understand that no guarantee is made to the other as to any specific amount of income to be received by Manager, other than the Pre-Opening Management Fee and the Annual Base Fee, or the City or as to the future financial success of the Convention Center.

16.10 Relationship. The relationship of the City and Manager shall be that of principle and agent. Neither this QMA nor any agreements, documents or transactions contemplated hereby shall in any respect be interpreted, deemed or construed as making Manager a partner or joint venture with the City, tenant or holder of any real estate rights in the Convention Center, or as creating any similar relationship or entity, and the City agrees that it will not make any contrary assertion, contention, claim or counterclaim in any action, suite or other legal proceeding involving Manager and the City.

16.11 Entire Agreement. This QMA constitutes the entire agreement between the parties relating to the subject matter hereof, superseding all prior agreements or undertakings oral or written.

16.12 Force Majeure. In the event of a Force Majeure Event, as defined in Article 1 above), then Manager or the City, as applicable, shall be deemed to be excused from performance of those obligations hereunder which such Force Majeure Event has adversely affected the ability of such party to perform and any termination rights associated therewith shall not be activated by the failure to perform.

16.13 Interpretation. No provisions of this QMA shall be construed against or interpreted to the disadvantage of any part hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

16.14 Counterparts. This QMA may be executed in any number of counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the parties hereto and all of which shall constitute one and the same agreement.

16.15 Notices. Any notices required to be given, hereunder shall be in writing and shall be personally served or given by mail. Any notice given by mail shall be deemed given when deposited in the United States mail, certified and postage prepaid, addressed to the party to be served as follows:

16.16 Meetings with the City. Manager shall meet with representatives of the City (or its designee), from time to time, so that Manager and the City may discuss the status of operations and future plans, recommendations and projections. The meetings will be held at mutually convenient dates and locations, on an annual basis.

16.17 Exclusive Compensation. The payment to be made to Manager hereunder shall be in lieu of all other or further compensation or commissions of any nature whatsoever for the services described herein and this QMA shall be considered as a special agreement between the parties hereto

covering the appointment and compensation of Manager to the exclusion of any other method of compensation unless otherwise agreed to in writing.

16.18 Tax-Exempt Status. The City and Manager have entered into this QMA with the intent of complying with U.S. Internal Revenue Service Procedure 97-13. Although Manager makes no representations, and shall have no liability, regarding the effect, if any, of this QMA on the tax-exempt status of the financing structure that may be employed to generate the capital necessary to develop the Convention Center, Manager and the City agree to make reasonable modifications to this QMA as may be necessary in the reasonable opinion of the City's tax counsel to ensure the tax-exempt status of such financing.


[Signatures Appear on Following Page]

IN WITNESS WHEREOF, Manager and the City, acting by and through their proper and duly authorized officers or representatives, have each duly executed this QMA under seal the day and year first above written.

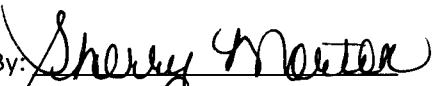
CITY OF RIVERSIDE
California charter city and
municipal corporation


RAINCROSS HOSPITALITY CORPORATION
a California corporation

By: 
City Manager

By: 
Printed Name: TED WEGGEAND
Title: President

ATTEST:


By: 
City Clerk

By: 
Printed Name: DEBBI H GUTHRIE
Title: SENIOR VICE PRESIDENT

APPROVED AS TO FUNDS:

By: 
Finance Director

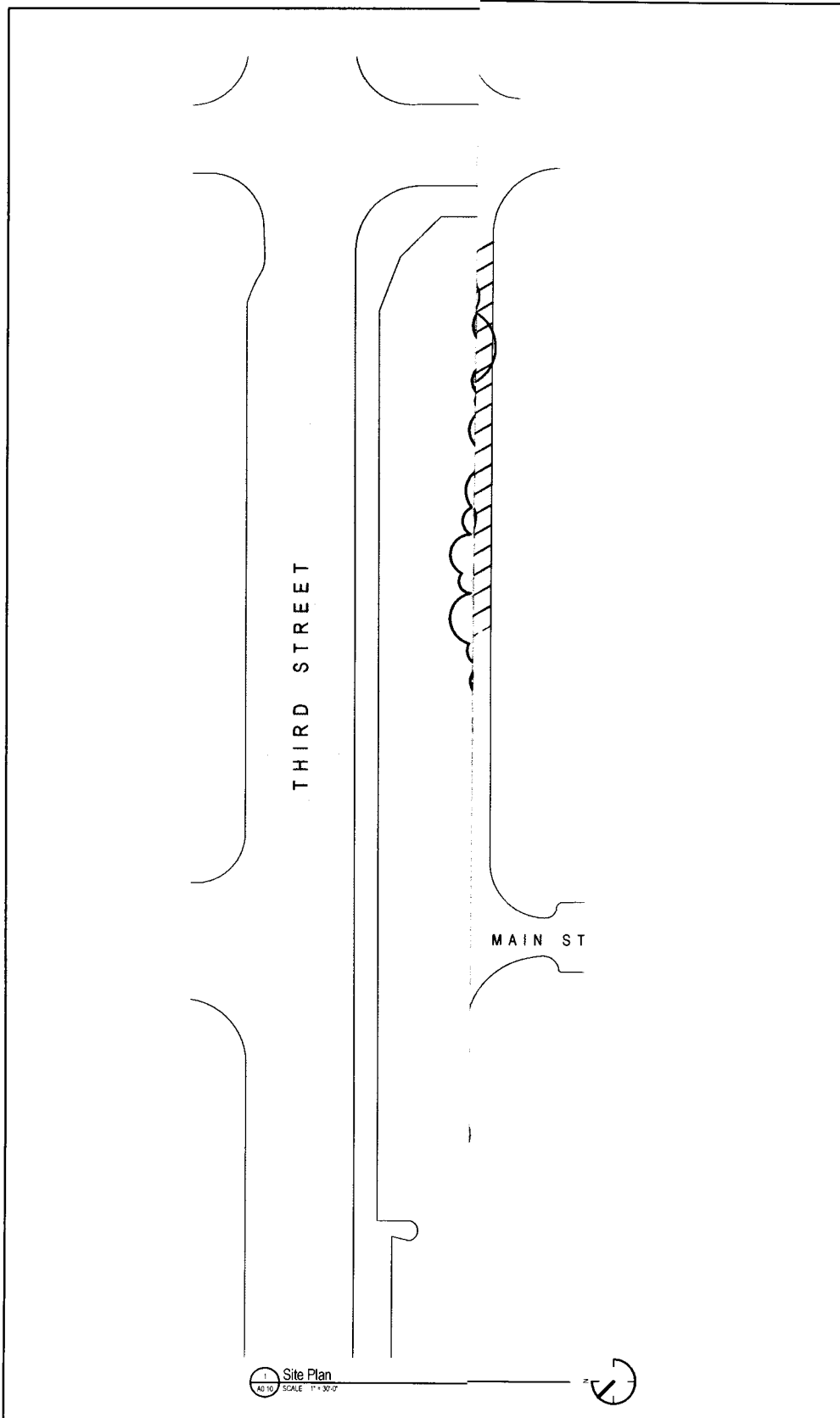
APPROVED AS TO FORM:

By: 
Deputy City Attorney

O:\Cycom\Wpdocs\D020\P017\00169627.Docx
13-0540 RMG 8/21//13

EXHIBIT A

THE LAND



Recording requested by:

DOCUMENTARY TRANSFER TAX = \$0.00
When recorded mail to:

**CITY SURVEYOR,
CITY OF RIVERSIDE**
Public Works Department
City Hall, 3900 Main Street
Riverside, California 92522

DOC # 2012-0187191
04/25/2012

Customer Copy Label
The paper to which this label is
affixed has not been compared
with the recorded document
Larry W Ward
County of Riverside
Assessor, County Clerk & Recorder

FOR RECORDER'S OFFICE USE ONLY

Project: Convention Center Remodel
APN: 213-102-011, & -013,
213-111-005, -006, -007, & -008
213-152-007,
213-161-006, & -007

Address: Por. Block of 3rd to 4th and Market to Orange

CO-P12-0042
REVISED

CITY OF RIVERSIDE
CERTIFICATE OF COMPLIANCE

Property Owner(s): CITY OF RIVERSIDE, a California charter city and municipal corporation;
Pursuant to Section 66499.35(a) of the Government Code of the State of California, and Section 18.120.030 of the Riverside Municipal Code, the real property located in the City of Riverside, County of Riverside, State of California, as described in **Exhibit "A"** attached hereto and incorporated herein by this reference, complies with the applicable divisions of the California Subdivision Map Act and Title 18 of the Riverside Municipal Code and is hereby issued this Certificate of Compliance.

THIS CERTIFICATE RELATES ONLY TO ISSUES OF COMPLIANCE OR NONCOMPLIANCE WITH THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES ENACTED PURSUANT THERETO INCLUDING TITLE 18 OF THE RIVERSIDE MUNICIPAL CODE. THE PARCEL DESCRIBED HEREIN MAY BE SOLD, LEASED, OR FINANCED WITHOUT FURTHER COMPLIANCE WITH THE SUBDIVISION MAP ACT OR ANY LOCAL ORDINANCE ENACTED PURSUANT THERETO.

THE ISSUANCE OF THIS CERTIFICATE OF COMPLIANCE DOES NOT SUPERSEDE, MODIFY, OR AFFECT ANY REQUIREMENTS OF THE BUILDING OR ZONING REGULATIONS OF THE CITY OF RIVERSIDE. DEVELOPMENT OF THE PARCEL MAY REQUIRE ISSUANCE OF A PERMIT OR PERMITS, OR OTHER GRANT OR GRANTS OF APPROVAL.

ZONING ADMINISTRATOR
CITY OF RIVERSIDE

Steve Hayes
Interim City Planner

By: [Signature]
Erin Gettis, Principal Planner

3/27/2012
Date

State of California

County of Riverside } ss

On March 28, 2012, before me, MERCEDES DAEMS,
notary public, personally appeared, Erin Gettis

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he is she they executed the same in his is her their authorized capacity(ies), and that by his is her their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
Notary Signature

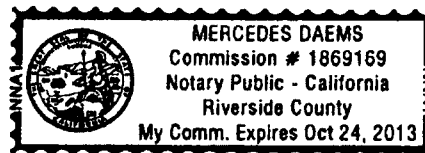


EXHIBIT A

CONVENTION CENTER REMODEL

APN 213-111-005, -006, -007, & -008
213-102-011 & -013
213-152-007,
213-161-006 & -007

PARCEL 1

IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING A PORTION OF PARCEL 2 AND PARCEL 3 OF PARCEL MAP WAIVER No. 42-812 ISSUED BY THE CITY OF RIVERSIDE AND RECORDED APRIL 30, 1982 AS INSTRUMENT NO. 74618 OFFICIAL RECORDS OF RIVERSIDE COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF FOURTH STREET AND THE SOUTHEASTERLY LINE OF MARKET STREET AS SHOWN ON THE MAP OF THE TOWN OF RIVERSIDE ON FILE IN MAP BOOK 7, PAGE 17 THEREOF, RECORDS OF SAN BERNARDINO COUNTY CALIFORNIA;

THENCE NORTH 29°06'24" EAST ALONG SAID SOUTHEASTERLY LINE OF MARKET STREET A DISTANCE OF 100.29 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 34.50 FEET AND FROM WHICH THE RADIUS POINT BEARS NORTH 77°57'32" EAST;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 48°51'08", AN ARC DISTANCE OF 29.42 FEET;

THENCE SOUTH 60°53'36" EAST A DISTANCE OF 178.59 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 116.50 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°00'00" AN ARC DISTANCE OF 91.50 FEET;

THENCE SOUTH 15°53'36" EAST A DISTANCE OF 17.53 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, AND HAVING A RADIUS OF 83.50 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°17'20" AN ARC DISTANCE OF 12.08 FEET;

THENCE SOUTH 60°53'36" EAST A DISTANCE OF 131.25 FEET;

THENCE NORTH 29°06'24" EAST A DISTANCE OF 70.07 FEET;

CONV CTR REMODEL - EXHIBIT A.doc

THENCE SOUTH 60°51'33" EAST A DISTANCE OF 321.00 FEET TO THE NORTHWESTERLY LINE OF ORANGE STREET AS SHOWN BY SAID MAP OF THE TOWN OF RIVERSIDE;

THENCE SOUTH 29°06'01" WEST ALONG SAID NORTHWESTERLY LINE OF ORANGE STREET A DISTANCE OF 104.28 FEET TO THE INTERSECTION OF SAID NORTHWESTERLY LINE OF ORANGE STREET WITH THE CENTERLINE OF FOURTH STREET AS SHOWN ON SAID MAP OF THE TOWN OF RIVERSIDE;

THENCE CONTINUING ALONG SAID NORTHWESTERLY LINE OF ORANGE STREET SOUTH 29°05'43" WEST, A DISTANCE OF 323.13 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, AND HAVING A RADIUS OF 35.00 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'45" AN ARC DISTANCE OF 54.99 FEET TO A LINE THAT IS PARALLEL WITH AND 38.00 FEET NORTHEASTERLY AS MEASURED AT RIGHT ANGLE FROM THE CENTERLINE OF FIFTH STREET AS SHOWN ON SAID MAP OF THE TOWN OF RIVERSIDE;

THENCE NORTH 60°53'32" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 345.42 FEET TO ITS INTERSECTION WITH THE CENTERLINE OF MAIN STREET AS SHOWN ON SAID MAP OF THE TOWN OF RIVERSIDE;

THENCE CONTINUING ALONG SAID PARALLEL LINE NORTH 60°50'35" WEST A DISTANCE OF 354.36 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 26.00 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°56'38" AN ARC DISTANCE OF 40.82 FEET TO SAID SOUTHEASTERLY LINE OF MARKET STREET AS SHOWN ON THE MAP OF THE TOWN OF RIVERSIDE;

THENCE NORTH 29°06'03" EAST ALONG SAID SOUTHEASTERLY LINE OF MARKET STREET, A DISTANCE OF 332.14 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF FOURTH STREET AND THE SOUTHEASTERLY LINE OF MARKET STREET AS SHOWN ON THE MAP OF THE TOWN OF RIVERSIDE ON FILE IN MAP BOOK 7, PAGE 17 THEREOF, RECORDS OF SAN BERNARDINO COUNTY CALIFORNIA;

THENCE NORTH 29°06'24" EAST ALONG SAID SOUTHEASTERLY LINE OF MARKET STREET A DISTANCE OF 100.29 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 34.50 FEET AND FROM WHICH THE RADIUS POINT BEARS NORTH 77°57'32" EAST;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 48°51'08", AN ARC DISTANCE OF 29.42 FEET;

THENCE SOUTH 60°53'36" EAST A DISTANCE OF 178.59 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 116.50 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°00'00" AN ARC DISTANCE OF 91.50 FEET;

THENCE SOUTH 15°53'36" EAST A DISTANCE OF 17.53 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, AND HAVING A RADIUS OF 83.50 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°17'20" AN ARC DISTANCE OF 12.08 FEET;

THENCE SOUTH 65°49'02" WEST A DISTANCE OF 32.50 FEET;

THENCE SOUTH 32°50'15" WEST A DISTANCE OF 31.46 FEET;

THENCE SOUTH 29°06'03" WEST A DISTANCE OF 176.99 FEET;

THENCE SOUTH 60°53'57" EAST A DISTANCE OF 24.00 FEET;

THENCE SOUTH 29°06'03" WEST A DISTANCE OF 36.00 FEET;

THENCE NORTH 60°53'57" WEST A DISTANCE OF 24.00 FEET;

THENCE SOUTH 29°06'03" WEST A DISTANCE OF 122.01 FEET TO SAID LINE THAT IS PARALLEL AND 38.00 FEET NORTHEASTERLY AS MEASURED AT RIGHT ANGLE FROM THE CENTERLINE OF FIFTH STREET;

THENCE NORTH 60°50'35" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 261.02 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 26.00 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°56'38" AN ARC DISTANCE OF 40.82 FEET TO SAID SOUTHEASTERLY LINE OF MARKET STREET AS SHOWN ON THE MAP OF THE TOWN OF RIVERSIDE;

THENCE NORTH 29°06'03" EAST ALONG SAID SOUTHEASTERLY LINE OF MARKET STREET, A DISTANCE OF 332.14 FEET TO THE POINT OF BEGINNING.

PARCEL 2

IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING A PORTION OF PARCEL 2 AND PARCEL 3 OF PARCEL MAP WAIVER No. 42-812 ISSUED BY THE CITY OF RIVERSIDE AND RECORDED APRIL 30, 1982 AS INSTRUMENT NO. 74618 OFFICIAL RECORDS OF RIVERSIDE COUNTY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF FOURTH STREET AND THE SOUTHEASTERLY LINE OF MARKET STREET AS SHOWN ON THE MAP OF THE TOWN OF RIVERSIDE ON FILE IN MAP BOOK 7, PAGE 17 THEREOF, RECORDS OF SAN BERNARDINO COUNTY CALIFORNIA;

THENCE NORTH 29°06'24" EAST ALONG SAID SOUTHEASTERLY LINE OF MARKET STREET A DISTANCE OF 100.29 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 34.50 FEET AND FROM WHICH THE RADIUS POINT BEARS NORTH 77°57'32" EAST, SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND BEING DESCRIBED;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 48°51'08", AN ARC DISTANCE OF 29.42 FEET;

THENCE SOUTH 60°53'36" EAST A DISTANCE OF 178.59 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 116.50 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°00'00" AN ARC DISTANCE OF 91.50 FEET;

THENCE SOUTH 15°53'36" EAST A DISTANCE OF 17.53 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, AND HAVING A RADIUS OF 83.50 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°17'20" AN ARC DISTANCE OF 12.08 FEET;

THENCE SOUTH 60°53'36" EAST A DISTANCE OF 131.25 FEET;

THENCE NORTH 29°06'24" EAST A DISTANCE OF 70.07 FEET;

THENCE SOUTH 60°51'33" EAST A DISTANCE OF 321.00 FEET TO THE NORTHWESTERLY LINE OF ORANGE STREET AS SHOWN BY SAID MAP OF THE TOWN OF RIVERSIDE;

THENCE NORTH 29°06'01" EAST ALONG SAID NORTHWESTERLY LINE OF ORANGE STREET A DISTANCE OF 217.21 FEET TO A POINT IN THE SOUTHWESTERLY LINE OF THIRD STREET ACCEPTED FOR PUBLIC STREET PURPOSES BY THE CITY COUNCIL OF THE CITY OF RIVERSIDE PER RESOLUTION NO. 12346 RECORDED JUNE 13, 1974 AS INSTRUMENT No. 72950, OFFICIAL RECORDS OF SAID RIVERSIDE COUNTY, SAID

SOUTHEASTERLY POINT ALSO BEING THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 35.00 FEET;

THENCE ALONG SAID CURVE AND SOUTHWESTERLY LINE OF THIRD STREET PER INSTRUMENT No. 72950 THROUGH A CENTRAL ANGLE OF 64°06'54" AN ARC DISTANCE OF 39.17 FEET;

THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE OF THIRD STREET NORTH 60°51'33" WEST A DISTANCE OF 360.89 FEET TO ITS INTERSECTION WITH THE CENTERLINE OF MAIN STREET (VACATED);

THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE OF THIRD STREET NORTH 60°52'20" WEST A DISTANCE OF 370.08 FEET;

THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE OF THIRD STREET SOUTH 74°07'07" WEST A DISTANCE OF 14.14 FEET TO SAID SOUTHEASTERLY LINE OF MARKET STREET;

THENCE SOUTH 29°06'24" WEST ALONG SAID SOUTHEASTERLY LINE OF MARKET STREET A DISTANCE OF 242.72 FEET TO THE POINT OF BEGINNING.

PARCEL 3

IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING A PORTION OF PARCEL 2 AND PARCEL 3 OF PARCEL MAP WAIVER No. 42-812 ISSUED BY THE CITY OF RIVERSIDE AND RECORDED APRIL 30, 1982 AS INSTRUMENT NO. 74618 OFFICIAL RECORDS OF RIVERSIDE COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF FOURTH STREET AND THE SOUTHEASTERLY LINE OF MARKET STREET AS SHOWN ON THE MAP OF THE TOWN OF RIVERSIDE ON FILE IN MAP BOOK 7, PAGE 17 THEREOF, RECORDS OF SAN BERNARDINO COUNTY CALIFORNIA;

THENCE NORTH 29°06'24" EAST ALONG SAID SOUTHEASTERLY LINE OF MARKET STREET A DISTANCE OF 100.29 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 34.50 FEET AND FROM WHICH THE RADIUS POINT BEARS NORTH 77°57'32" EAST;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 48°51'08", AN ARC DISTANCE OF 29.42 FEET;

THENCE SOUTH 60°53'36" EAST A DISTANCE OF 178.59' FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 116.50 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°00'00" AN ARC DISTANCE OF 91.50 FEET;

THENCE SOUTH 15°53'36" EAST A DISTANCE OF 17.53 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, AND HAVING A RADIUS OF 83.50 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°17'20" AN ARC DISTANCE OF 12.08 FEET;

THENCE SOUTH 65°49'02" WEST A DISTANCE OF 32.50 FEET;

THENCE SOUTH 32°50'15" WEST A DISTANCE OF 31.46 FEET;

THENCE SOUTH 29°06'03" WEST A DISTANCE OF 176.99 FEET;

THENCE SOUTH 60°53'57" EAST A DISTANCE OF 24.00 FEET;

THENCE SOUTH 29°06'03" WEST A DISTANCE OF 36.00 FEET;

THENCE NORTH 60°53'57" WEST A DISTANCE OF 24.00 FEET;

THENCE SOUTH 29°06'03" WEST A DISTANCE OF 122.01 FEET TO SAID LINE THAT IS PARALLEL AND 38.00 FEET NORTHEASTERLY AS MEASURED AT RIGHT ANGLE FROM THE CENTERLINE OF FIFTH STREET;

THENCE NORTH 60°50'35" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 261.02 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 26.00 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH CENTRAL ANGLE OF 89°56'38" AN ARC DISTANCE OF 40.82 FEET TO SAID SOUTHEASTERLY LINE OF MARKET STREET AS SHOWN ON THE MAP OF THE TOWN OF RIVERSIDE;

THENCE NORTH 29°06'03" EAST ALONG SAID SOUTHEASTERLY LINE OF MARKET STREET, A DISTANCE OF 332.14 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

ALL OF PARCEL 1 OF PARCEL MAP WAIVER NO. 42-812 ISSUED BY THE CITY OF RIVERSIDE AND RECORDED APRIL 30, 1982 AS INSTRUMENT NO. 74618 OFFICIAL RECORDS OF RIVERSIDE COUNTY DESCRIBED AS FOLLOWS:

THAT PORTION OF BLOCK 4 RANGE 7 AND BLOCK 3 RANGE 7, AS SHOWN BY MAP OF THE TOWN OF RIVERSIDE RECORDED IN BOOK 7 OF MAPS AT PAGE 17 THEREOF RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA TOGETHER WITH THAT PORTION OF

FOURTH STREET (VACATED) AS SHOWN ON SAID MAP, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF FOURTH STREET WITH THE NORTHEASTERLY PROLONGATION OF THE NORTHWESTERLY LINE OF SAID BLOCK 4, RANGE 7;

THENCE SOUTH 29°06'03" WEST ALONG SAID NORTHEASTERLY PROLONGATION AND ALONG SAID NORTHWESTERLY LINE, A DISTANCE OF 332.14 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY, AND HAVING A RADIUS OF 26.00 FEET;

THENCE SOUTHWESTERLY, SOUTHERLY, AND SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°56'38" AN ARC DISTANCE OF 40.82 FEET TO A LINE THAT IS PARALLEL WITH AND 38.00 FEET NORTHEASTERLY AS MEASURED AT RIGHT ANGLE FROM THE CENTERLINE OF FIFTH STREET;


THENCE SOUTH 60°50'35" EAST ALONG SAID PARALLEL LINE A DISTANCE OF 205.37 FEET;

THENCE NORTH 29°06'03" EAST, A DISTANCE OF 406.32 FEET;

THENCE NORTH 60°53'36" WEST, A DISTANCE OF 231.34 FEET TO THE NORTHWESTERLY LINE OF SAID BLOCK 3, RANGE 7;

THENCE SOUTH 29°06'24" WEST ALONG SAID NORTHWESTERLY LINE OF BLOCK 3, RANGE 7, AND ALONG THE SOUTHWESTERLY PROLONGATION THEREOF A DISTANCE OF 48.00 FEET TO THE POINT OF BEGINNING.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

 3/16/12 Prep. _____
Mark S. Brown, L.S. 5655 Date

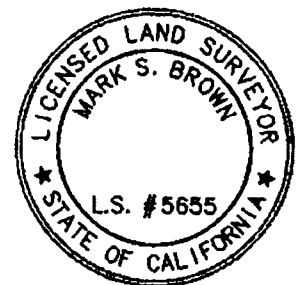


EXHIBIT B

U.S. INTERNAL REVENUE SERVICE REVENUE PROCEDURE 97-13

Rev. Proc. 97-13

SECTION 1. PURPOSE

The purpose of this revenue procedure is to set forth conditions under which a management contract does not result in private business use under § 141(b) of the Internal Revenue Code of 1986. This revenue procedure also applies to determinations of whether a management contract causes the test in § 145(a)(2)(B) of the 1986 Code to be met for qualified 501(c)(3) bonds.

SECTION 2. BACKGROUND

.01 Private Business Use.

(1) Under § 103(a) of the 1986 Code, gross income does not include interest on any state or local bond. Under § 103(b)(1) of the 1986 Code, however, § 103(a) of the 1986 Code does not apply to a private activity bond, unless it is a qualified bond under § 141(e) of the 1986 Code. Section 141(a)(1) of the 1986 Code defines "private activity bond" as any bond issued as part of an issue that meets both the private business use and the private security or payment tests. Under § 141(b)(1) of the 1986 Code, an issue generally meets the private business use test if more than 10 percent of the proceeds of the issue are to be used for any private business use. Under § 141(b)(6)(A) of the 1986 Code, private business use means direct or indirect use in a trade or business carried on by any person other than a governmental unit. Section 145(a) of the 1986 Code also applies the private business use test of § 141(b)(1) of the 1986 Code, with certain modifications.

(2) Corresponding provisions of the Internal Revenue Code of 1954 set forth the requirements for the exclusion from gross income of the interest on state or local bonds. For purposes of this revenue procedure, any reference to a 1986 Code provision includes a reference to the corresponding provision, if any, under the 1954 Code.

(3) Private business use can arise by ownership, actual or beneficial use of property pursuant to a lease, a management or incentive payment contract, or certain other arrangements. The Conference Report for the Tax Reform Act of 1986, provides as follows:

The conference agreement generally retains the present-law rules under which use by persons other than governmental units is determined for purposes of the trade or business use test. Thus, as under present law, the use of bond-financed property is treated as a use of bond proceeds. As under present law, a person may be a user of bond proceeds and bond-financed property as a result of (1) ownership or (2) actual or beneficial use of property pursuant to a lease, a management or incentive payment contract, or (3) any other arrangement such as a take-or-pay or other output-type contract.

2 H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II-687-688, (1986) 1986-3 (Vol. 4) C.B. 687-688 (footnote omitted).

(4) A management contract that gives a nongovernmental service provider an ownership or leasehold interest in financed property is not the only situation in which a contract may result in private business use.

(5) Section 1.141-3(b)(4)(i) of the Income Tax Regulations provides, in general, that a management contract (within the meaning of § 1.141-3(b)(4)(ii)) with respect to financed property may result in private business use of that property, based on all the facts and circumstances.

(6) Section 1.141-3(b)(4)(i) provides that a management contract with respect to financed property generally results in private business use of that property if the contract provides for compensation for services rendered with compensation based, in whole or in part, on a share of net profits from the operation of the facility.

(7) Section 1.141-3(b)(4)(iii), in general, provides that certain arrangements generally are not treated as management contracts that may give rise to private business use. These are—

(a) Contracts for services that are solely incidental to the primary governmental function or functions of a financed facility (for example, contracts for janitorial, office equipment repair, hospital billing or similar services);

(b) The mere granting of admitting privileges by a hospital to a doctor, even if those privileges are conditioned on the provision of de minimis services, if those privileges are available to all

qualified physicians in the area, consistent with the size and nature of its facilities;

(c) A contract to provide for the operation of a facility or system of facilities that consists predominantly of public utility property (as defined in § 168(i)(10) of the 1986 Code), if the only compensation is the reimbursement of actual and direct expenses of the service provider and reasonable administrative overhead expenses of the service provider; and

(d) A contract to provide for services, if the only compensation is the reimbursement of the service provider for actual and direct expenses paid by the service provider to unrelated parties.

(8) Section 1.145-2(a) provides generally that §§ 1.141-0 through 1.141-15 apply to § 145(a) of the 1986 Code.

(9) Section 1.145-2(b)(1) provides that in applying §§ 1.141-0 through 1.141-15 to § 145(a) of the 1986 Code, references to governmental persons include section 501(c)(3) organizations with respect to their activities that do not constitute unrelated trades or businesses under § 513(a) of the 1986 Code.

.02 *Existing Advance Ruling Guidelines.* Rev. Proc. 93-19, 1993-1 C.B. 526, contains advance ruling guidelines for determining whether a management contract results in private business use under § 141(b) of the 1986 Code.

SECTION 3. DEFINITIONS

.01 *Adjusted gross revenues* means gross revenues of all or a portion of a facility, less allowances for bad debts and contractual and similar allowances.

.02 *Capitation fee* means a fixed periodic amount for each person for whom the service provider or the qualified user assumes the responsibility to provide all needed services for a specified period so long as the quantity and type of services actually provided to covered persons varies substantially. For example, a capitation fee includes a fixed dollar amount payable per month to a medical service provider for each member of a health maintenance organization plan for whom the provider agrees to provide all needed medical services for a specified period. A capitation fee may include a variable component of up to 20 percent of the total capitation fee designed to

protect the service provider against risks such as catastrophic loss.

.03 *Management contract* means a management, service, or incentive payment contract between a qualified user and a service provider under which the service provider provides services involving all, a portion of, or any function of, a facility. For example, a contract for the provision of management services for an entire hospital, a contract for management services for a specific department of a hospital, and an incentive payment contract for physician services to patients of a hospital are each treated as a management contract. See §§ 1.141-3(b)(4)(ii) and 1.145-2. .

.04 *Penalties* for terminating a contract include a limitation on the qualified user's right to compete with the service provider; a requirement that the qualified user purchase equipment, goods, or services from the service provider; and a requirement that the qualified user pay liquidated damages for cancellation of the contract. In contrast, a requirement effective on cancellation that the qualified user reimburse the service provider for ordinary and necessary expenses or a restriction on the qualified user against hiring key personnel of the service provider is generally not a contract termination penalty. Another contract between the service provider and the qualified user, such as a loan or guarantee by the service provider, is treated as creating a contract termination penalty if that contract contains terms that are not customary or arm's-length that could operate to prevent the qualified user from terminating the contract (for example, provisions under which the contract terminates if the management contract is terminated or that place substantial restrictions on the selection of a substitute service provider).

.05 *Periodic fixed fee* means a stated dollar amount for services rendered for a specified period of time. For example, a stated dollar amount per month is a periodic fixed fee. The stated dollar amount may automatically increase according to a specified, objective, external standard that is not linked to the output or efficiency of a facility. For example, the Consumer Price Index and similar external indices that track increases in prices in an area or increases in revenues or costs in an industry are objective external standards. Capitation fees and per-unit fees are not periodic fixed fees.

.06 *Per-unit fee* means a fee based on a unit of service provided specified in the contract or otherwise specifically determined by an independent third party, such as the administrator of the Medicare program, or the qualified user. For example, a stated dollar amount for each specified medical procedure performed, car parked, or passenger mile is a per-unit fee. Separate billing arrangements between physicians and hospitals generally are treated as per-unit fee arrangements.

.07 *Qualified user* means any state or local governmental unit as defined in § 1.103-1 or any instrumentality thereof. The term also includes a section 501(c)(3) organization if the financed property is not used in an unrelated trade or business under § 513(a) of the 1986 Code. The term does not include the United States or any agency or instrumentality thereof.

.08 *Renewal option* means a provision under which the service provider has a legally enforceable right to renew the contract. Thus, for example, a provision under which a contract is automatically renewed for one-year periods absent cancellation by either party is not a renewal option (even if it is expected to be renewed).

.09 *Service provider* means any person other than a qualified user that provides services under a contract to, or for the benefit of, a qualified user.

SECTION 4. SCOPE

This revenue procedure applies when, under a management contract, a service provider provides management or other services involving property financed with proceeds of an issue of state or local bonds subject to § 141 or § 145(a)(2)(B) of the 1986 Code.

SECTION 5. OPERATING GUIDELINES FOR MANAGEMENT CONTRACTS

.01 *In general.* If the requirements of section 5 of this revenue procedure are satisfied, the management contract does not itself result in private business use. In addition, the use of financed property, pursuant to a management contract meeting the requirements of section 5 of this revenue procedure, is not private business use if that use is functionally related and subordinate to that management contract and that use is not, in substance, a separate contractual agreement (for example, a separate lease of a portion of the financed property). Thus,

for example, exclusive use of storage areas by the manager for equipment that is necessary for it to perform activities required under a management contract that meets the requirements of section 5 of this revenue procedure, is not private business use.

.02 *General compensation requirements.*

(1) *In general.* The contract must provide for reasonable compensation for services rendered with no compensation based, in whole or in part, on a share of net profits from the operation of the facility. Reimbursement of the service provider for actual and direct expenses paid by the service provider to unrelated parties is not by itself treated as compensation.

(2) *Arrangements that generally are not treated as net profits arrangements.* For purposes of § 1.141-3(b)(4)(i) and this revenue procedure, compensation based on—

(a) A percentage of gross revenues (or adjusted gross revenues) of a facility or a percentage of expenses from a facility, but not both;

(b) A capitation fee; or

(c) A per-unit fee is generally not considered to be based on a share of net profits.

(3) *Productivity reward.* For purposes of § 1.141-3(b)(4)(i) and this revenue procedure, a productivity reward equal to a stated dollar amount based on increases or decreases in gross revenues (or adjusted gross revenues), or reductions in total expenses (but not both increases in gross revenues (or adjusted gross revenues) and reductions in total expenses) in any annual period during the term of the contract, generally does not cause the compensation to be based on a share of net profits.

(4) *Revision of compensation arrangements.* In general, if the compensation arrangements of a management contract are materially revised, the requirements for compensation arrangements under section 5 of this revenue procedure are retested as of the date of the material revision, and the management contract is treated as one that was newly entered into as of the date of the material revision.

.03 *Permissible Arrangements.* The management contract must be described in section 5.03(1), (2), (3), (4), (5), or (6) of this revenue procedure.

(1) *95 percent periodic fixed fee arrangements.* At least 95 percent of the compensation for services for each annual period during the term of the

contract is based on a periodic fixed fee. The term of the contract, including all renewal options, must not exceed the lesser of 80 percent of the reasonably expected useful life of the financed property and 15 years. For purposes of this section 5.03(1), a fee does not fail to qualify as a periodic fixed fee as a result of a one-time incentive award during the term of the contract under which compensation automatically increases when a gross revenue or expense target (but not both) is reached if that award is equal to a single, stated dollar amount.

(2) *80 percent periodic fixed fee arrangements.* At least 80 percent of the compensation for services for each annual period during the term of the contract is based on a periodic fixed fee. The term of the contract, including all renewal options, must not exceed the lesser of 80 percent of the reasonably expected useful life of the financed property and 10 years. For purposes of this section 5.03(2), a fee does not fail to qualify as a periodic fixed fee as a result of a one-time incentive award during the term of the contract under which compensation automatically increases when a gross revenue or expense target (but not both) is reached if that award is equal to a single, stated dollar amount.

(3) *Special rule for public utility property.* If all of the financed property subject to the contract is a facility or system of facilities consisting of predominantly public utility property (as defined in § 168(i)(10) of the 1986 Code), then “20 years” is substituted—

(a) For “15 years” in applying section 5.03(1) of this revenue procedure; and

(b) For “10 years” in applying section 5.03(2) of this revenue procedure.

(4) *50 percent periodic fixed fee arrangements.* Either at least 50 percent of the compensation for services for each annual period during the term of the contract is based on a periodic fixed fee or all of the compensation for services is based on a capitation fee or a combination of a capitation fee and a periodic fixed fee. The term of the contract, including all renewal options, must not exceed 5 years. The contract must be terminable by the qualified user on reasonable notice, without penalty or cause, at the end of the third year of the contract term.

(5) *Per-unit fee arrangements in certain 3-year contracts.* All of the

compensation for services is based on a per-unit fee or a combination of a per-unit fee and a periodic fixed fee. The term of the contract, including all renewal options, must not exceed 3 years. The contract must be terminable by the qualified user on reasonable notice, without penalty or cause, at the end of the second year of the contract term.

(6) *Percentage of revenue or expense fee arrangements in certain 2-year contracts.* All the compensation for services is based on a percentage of fees charged or a combination of a per-unit fee and a percentage of revenue or expense fee. During the start-up period, however, compensation may be based on a percentage of either gross revenues, adjusted gross revenues, or expenses of a facility. The term of the contract, including renewal options, must not exceed 2 years. The contract must be terminable by the qualified user on reasonable notice, without penalty or cause, at the end of the first year of the contract term. This section 5.03(6) applies only to—

(a) Contracts under which the service provider primarily provides services to third parties (for example, radiology services to patients); and

(b) Management contracts involving a facility during an initial start-up period for which there have been insufficient operations to establish a reasonable estimate of the amount of the annual gross revenues and expenses (for example, a contract for general management services for the first year of operations).

.04 No Circumstances Substantially Limiting Exercise of Rights.

(1) *In general.* The service provider must not have any role or relationship with the qualified user that, in effect, substantially limits the qualified user’s ability to exercise its rights, including cancellation rights, under the contract, based on all the facts and circumstances.

(2) *Safe harbor.* This requirement is satisfied if—

(a) Not more than 20 percent of the voting power of the governing body of the qualified user in the aggregate is vested in the service provider and its directors, officers, shareholders, and employees;

(b) Overlapping board members do not include the chief executive officers of the service provider or its governing body or the qualified user or its governing body; and

(c) The qualified user and the service provider under the contract are not related parties, as defined in § 1.150-1(b).

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 93-19, 1993-1 C.B. 526, is made obsolete on the effective date of this revenue procedure.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective for any management contract entered into, materially modified, or extended (other than pursuant to a renewal option) on or after May 16, 1997. In addition, an issuer may apply this revenue procedure to any management contract entered into prior to May 16, 1997.

DRAFTING INFORMATION

The principal author of this revenue procedure is Loretta J. Finger of the Office of Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this revenue procedure contact Loretta J. Finger on (202) 622-3980 (not a toll-free call).

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GUIDANCE ON SAFE HARBORS FOR MANAGEMENT CONTRACTS

On January 16, 1997, the Internal Revenue Service published final regulations (the "Final Regulations") on private activity bonds as defined under Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The Final Regulations, among other things, provide rules governing the extent to which management contracts between a governmental entity and a private business could comply with the private business use restrictions imposed by the Code on facilities financed with the proceeds of tax-exempt bonds. The IRS also issued Revenue Procedure 97-13 (1997-5 I.R.B., February 5, 1997), setting forth liberalized safe harbors for management contracts to comply with the private business use restrictions.

Revenue Procedure 97-13 is effective for any management, service or incentive payment contract that is entered into, materially modified or extended (other than pursuant to a renewal option) on or after May 16, 1997. Additionally, issuers may opt to apply Revenue Procedure 97-13 retroactively to existing management contracts involving facilities financed with tax-exempt obligations.

Background

For interest on an issue of municipal obligations to be excluded from gross income, no more than 10% of the proceeds of the issue (5% for 501(c)(3) bonds) may be used in the trade or business of a nongovernmental person *and* secured by an interest either in property used in a nongovernmental person's trade or business or in payments in respect of such property. Among other things, the terms of all management, service and incentive payment contracts must be reviewed to determine whether a facility is used in the trade or business of a nongovernmental person.

In addition to the qualified management contracts discussed below, certain management contracts generally do not cause private business use under the Final Regulations. Such arrangements include: (i) incidental service contracts (*i.e.*, contracts for services that are incidental to the governmental functions of the financed facility, including janitorial, office equipment repair and hospital billing services); (ii) hospital admitting privileges, by a hospital to a doctor, so long as the same privileges are available to all qualified physicians in the area consistent with the size and nature of the facilities; (iii) expense-sharing arrangements (*i.e.*, service contracts in which the only compensation is the reimbursement of the service provider for actual and direct expenses paid by the service provider to unrelated parties); and (iv) service contracts to operate primarily public utility property (as such term is defined below), provided that the only compensation is the reimbursement

of actual and direct expenses of the service provider and reasonable administrative overhead expenses.¹

Safe Harbors of Revenue Procedure 97-13

In general, a management contract causes private business use under the Final Regulations if it provides for services rendered with compensation based in whole or in part on net profits. Similarly, Revenue Procedure 97-13 requires that compensation must be reasonable and not based in whole or in part on a share of the net profits from the operation of the facility. Compensation is generally not considered to be based on a share of net profits if it is based on a percentage of gross revenues (or adjusted gross revenues) of a facility or a percentage of expenses of the facility (but not both), a “capitation fee,” or a “per-unit fee.” In addition, a “productivity reward” does not cause a compensation arrangement to be based on net profits. For this purpose, a productivity reward is a stated dollar amount under a contract that is based on increases or decreases in gross revenues (or adjusted gross revenues), or reductions in total expenses (but not both), in any annual period.

Permitted Contract Terms Based on Types of Compensation

Under the safe harbors of Revenue Procedure 97-13, the permitted maximum term of the management or service contract is dependent upon the extent to which the compensation under the contract is fixed. Consequently, the more fixed the compensation to the service provider, the longer term permitted for a management or service contract. Each of the compensation and term limitations is discussed as follows.

1. *95% Periodic Fixed Fee Compensation -- 15-year Contract Term.* The maximum permitted term of a contract (other than a contract pertaining to public utility property, discussed below), including renewal options, is the lesser of 15 years or 80% of the reasonably expected useful life of the financed property, if at least 95% of the compensation paid during each year of the contract is based on a periodic fixed fee. A periodic fixed fee is a stated dollar amount for services rendered for a specified period of time (e.g., a stated dollar amount per month). The stated dollar amount may automatically increase according to a specified, objective, external standard that is not linked to the output or efficiency of the facility, such as the Consumer Price Index. For this purpose, a fee does not fail to be a periodic fixed fee as a result of a one-time incentive award in a single stated dollar amount, based on gross revenues or expenses (but not both). There is no requirement that a cancellation provision be included in such contracts.

2. *80% Periodic Fixed Fee Compensation -- 10-year Contract Term.* The maximum permitted term of a contract (other than a contract pertaining to public utility property, discussed below), including renewal options, is the lesser of 10 years or 80% of the

¹ Thus, the pass-through of direct payroll costs and costs of supplies and raw material paid to unrelated third parties appears permissible. This would appear to permit compensation to be paid for management or supervisory services in accordance with the compensation methods described below, in addition to a compensation schedule that passes direct costs through to the owner of the financed facility.

reasonably expected useful life of the financed property, if at least 80% of the compensation paid during each year of the contract is based on a periodic fixed fee (as such term is defined above). For this purpose, a fee does not fail to be a periodic fixed fee as a result of a one-time incentive award in a single stated dollar amount, based on gross revenues or expenses (but not both). There is no requirement that a cancellation provision be included in such contracts.

3. *Special Rule for Public Utility Property -- 95% or 80% Periodic Fixed Fee Compensation -- 20-year Contract Term.* The maximum permitted term of a contract pertaining to public utility property including renewal options, is the lesser of 20 years or 80% of the reasonably expected useful life of the financed property, if at least 80% of the compensation paid during each year of the contract is based on a periodic fixed fee. For this purpose, the term public utility property means property used predominantly in the furnishing or sale of (i) electrical energy, water or sewage disposal services, (ii) gas or steam through a local distribution system, (iii) telephone services or other certain communication services, or (iv) transportation of gas or steam by pipeline, so long as the rates are subject to public regulation.

4. *50% Periodic Fixed Fee or 100% Capitation Fee -- 5-year Contract Term.* The maximum permitted term of a contract, including renewal options, may not exceed five years, if (i) at least 50% of the compensation for each annual period during the term of the service contract is based on periodic fixed fees, (ii) all of the compensation is based on a capitation fee², or (iii) all of the compensation is based on a combination of a capitation fee and a periodic fixed fee. In addition, the contract must be cancelable by the governmental entity (or Section 501(c)(3) organization, as the case may be) on reasonable notice, without penalty or cause, within three years.

5. *Per-Unit Fee -- 3-year Contract Term.* The maximum permitted term of a contract, including renewal options, may not exceed three years, if all of the compensation is based on a per-unit fee or a combination of a per-unit fee and a periodic fixed fee. In addition, the contract must be cancelable by the governmental entity (or Section 501(c)(3) organization, as the case may be) on reasonable notice, without penalty or cause, within two years.

A per-unit fee is a fee based on a unit of service provided (e.g., a stated dollar amount for each specified medical procedure performed, car parked, meal served or passenger mile). The amount of the per-unit fee must be specified in the contract or otherwise specifically limited by the governmental entity (or 501(c)(3) organization, as the case may be) or an independent third party, such as the administrator of the Medicare

² A capitation fee is a fixed periodic amount payable for each person for whom the services are provided, so long as the quantity and type of services actually provided to such persons varies substantially. For example, this would include a fixed dollar amount payable monthly to a medical service provider for each member of a health maintenance organization for whom the provider agrees to provide all needed medical services for a specified period.

program. Hence, in the case of physicians using bond-financed property and paid on the per-unit basis, the fees must be limited by the facility owner or third party.³

6. *Percentage of Revenues or Expenses -- 2-year Contract Term.* The maximum permitted term of a contract, including renewal options, may not exceed two years, if all of the compensation is based on a percentage of revenues fee, or a combination of a per-unit fee and a percentage of revenues fee. During an initial start-up period for which a reasonable estimate of the amount of gross revenue and expenses is unavailable due to insufficient operational experience, compensation may be based on a percentage of gross revenues, a percentage of adjusted gross revenues or a percentage of expenses of the facility. In any event, the contract must be cancelable by the governmental entity (or 501(c)(3) organization, as the case may be) on reasonable notice, without penalty or cause, within one year.

A percentage of revenues fee is a fee based on a percentage of the gross revenues or "adjusted gross revenues" of a facility. "Adjusted gross revenues" are the gross revenues of all or a portion of a facility, less allowances for bad debts and contractual and similar allowances. In certain start-up situations, described below, a percentage of the expenses of the facility may be used in place of gross revenues or adjusted gross revenues. In no case may the percentage be based on both the gross revenues (or adjusted gross revenues) and the expenses of the facility.

As stated above, it appears that all of these methods of compensation may be used in combination with a pass-through of the direct costs the service provider incurs in providing services. For qualified management contracts referenced under categories 4,5 and 6 above, the governmental entity must have the ability to cancel the contract on reasonable notice without penalty or cause at the end of a period specified by the revenue procedure and dependent on the type of compensation arrangement. Termination penalties include a limitation on the governmental entity's right to compete with the service provider, a requirement that the governmental entity purchase goods, equipment or services from the service provider, and a requirement that the governmental entity pay liquidated damages for cancellation of the contract. A requirement for reimbursement of the service provider, however, for ordinary and necessary expenses or a restriction against hiring key employees of the service provider is generally not a termination penalty.

Common Management and Control

Revenue Procedure 97-13 generally prohibits any relationship between the service provider and the governmental entity that limits the governmental entity's ability to exercise its rights, including cancellation rights, under the contract. Specifically, not more than an aggregate of 20% of the voting power of the governmental entity may be vested in the service provider and its directors, officers, shareholders and employees. Further, the chief executive officers of the governmental entity or the service provider or their respective governing bodies are precluded from sitting on both

³ If a periodic fixed fee is used as the balance of the compensation to be paid under the contract and such fee is at least 50% of the total compensation, the contract may be analyzed as a periodic fixed fee contract, with appropriate term limitations and cancellation requirements.

governing boards. Revenue Procedure 97-13 also prohibits the governmental entity and the service provider from being “related parties,” as defined in Section 1.150-1(b) of the Treasury Regulations

Assistance from Stradling Yocca Carlson & Rauth

For more information regarding these and other tax law developments affecting municipal bonds, please contact any member of the Public Law Department of Stradling Yocca Carlson & Rauth.

EXHIBIT C

MAINTENANCE OBLIGATIONS

a. Manager shall have no obligation to seek prior written approval from the City for any single item of maintenance or repair of the Convention Center that does not exceed the sum of Ten Thousand Dollars (\$10,000.00). Manager shall first apply the proceeds of any damage deposit posted by a rental user towards the repair of any damage resulting from such rental user's use of the Convention Center before determining if the cost of any single repair exceeds the sum of Ten Thousand Dollars (\$10,000.00).

b. The City, except as provided above in this subparagraph, shall be responsible for and pay any cost of maintenance or repair ("repair costs"), provided that Manager must obtain prior written approval for any repair costs that exceeds Ten Thousand Dollars (\$10,000.00) for repairs (structural or non-structural, interior or exterior), and maintenance required to the Convention Center and all its fixtures, signs, displays, equipment, machinery, appliances, appurtenances, improvements, alterations, systems (including but not limited to the plumbing system, electrical system, wiring and conduits, heating and air conditioning systems).

c. Items of multiples, including but not limited to seats and chairs, which in the ordinary course of business would be repaired, maintained, or replaced in multiple units shall not be considered a single repair item for the purpose of this subparagraph. Manager will have the option to have these multiple units repaired, maintained or replaced. The costs for such repairs, maintenance or replacement shall be deemed to be the total cost for all necessary multiple units.

d. Repairs and maintenance shall be made promptly, as and when necessary. All repairs and maintenance shall be in quality and class at least equal to the original work.

e. Manager shall notify the City of repairs with costs in excess of Ten Thousand Dollars (\$10,000.00) and request the City determine the next step regarding the repairs. The City shall notify Manager in writing within fifteen (15) working days of receipt of Manager's notice to repair that it will either: (i) commence such repairs within thirty (30) days thereafter, (ii) commence forthwith the competitive bidding process as necessary for such repairs, or (iii) request Manager to commence such repairs subject to reimbursement from the City. If the City requests Manager to commence such repairs subject to reimbursement by the City, Manager shall commence such repairs. Any repairs made by Manager shall be at competitive market prices and costs.

f. In case of emergency repair, Manager may proceed to make same even where the costs exceed Ten Thousand Dollars (\$10,000.00), in which case the City shall reimburse Manager for the full amount of the repair. Manager shall give written notice to the City of the nature and cause of the repair and the cost or estimated cost within twenty-four (24) hours after determining such emergency exists. Throughout this Agreement, the term "emergency repair" shall mean a repair of a

condition which, if not accomplished immediately, creates a dangerous and/or unsafe condition at the Convention Center or is needed to permit a scheduled event at the Convention Center to take place.

g. To the extent permitted by law, the parties agree that the Ten Thousand Dollars (\$10,000.00) limitation on the cost of repairs mentioned in this subparagraph may be adjusted as of July 1 of any year during the term of this Agreement by written amendment to this Agreement. Any repairs that may be required by reason of Manager's sole gross negligence shall be the sole responsibility, regardless of dollar amount, of the Manager to repair.

h. On or before January 1 of each year during the term of this Agreement, the Manager may make recommendations to the City for additions of fixtures, furniture, furnishings, and equipment and for capital improvement projects at the Convention Center for the following Fiscal Year. Throughout this Agreement, the term "Fiscal Year" shall mean a year commencing on July 1 and ending on June 30 of the following year. The term "capital improvement" shall mean improvements of a durable nature costing in excess of Ten Thousand Dollars (\$10,000.00). The City shall not be obligated to make any additions or capital improvements unless the City: (i) budgets and obligates funds for such improvements, and (ii) if over Fifty Thousand Dollars (\$50,000) has been given approval through its City Council.

j. Manager shall not make any alterations, improvements or additions in, on or about any of the Convention Center, without first obtaining the City's prior written consent.

EXHIBIT D
INSURANCE

1. Insurance.

1.1 General Provisions. Prior to the City's execution of this Agreement, RHC shall provide satisfactory evidence of, and shall thereafter maintain during the term of this Agreement, such insurance policies and coverages in the types, limits, forms and ratings required herein. The rating and required insurance policies and coverages may be modified in writing by the City's Risk Manager or City Attorney, or a designee, unless such modification is prohibited by law.

1.1.1 Limitations. These minimum amounts of coverage shall not constitute any limitation or cap on RHC's indemnification obligations.

1.1.2 Ratings. Any insurance policy or coverage provided by RHC or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

1.1.3 Cancellation. The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to City by certified or registered mail, postage prepaid.

1.1.4 Adequacy. The City, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by RHC pursuant to this Agreement are adequate to protect RHC. If RHC believes that any required insurance coverage is inadequate, RHC will obtain such additional insurance coverage as RHC deems adequate, at RHC's sole expense.

1.2 Workers' Compensation Insurance. By executing this Agreement, RHC certifies that RHC is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. RHC shall carry the insurance or provide for self-insurance required by California law to protect said RHC from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, RHC shall file with City either 1) a certificate of insurance showing that such insurance is in effect, or that RHC is self-insured for such coverage, or 2) a certified statement that RHC has no employees, and acknowledging that if RHC does employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with City

shall provide that City will be given ten (10) days prior written notice before modification or cancellation thereof.

1.3 **Commercial General Liability and Automobile Insurance.** Prior to City's execution of this Agreement, RHC shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure RHC against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of RHC. The City, and its officers, employees and agents, shall be named as additional insureds under the RHC's insurance policies.

1.3.1 RHC's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

1.3.2 RHC's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence and an aggregate limit of not less than \$1,000,000. All of RHC's automobile and/or commercial general liability insurance policies shall cover all vehicles used in connection with RHC's performance of this Agreement, which vehicles shall include, but are not limited to, RHC owned vehicles, RHC leased vehicles, RHC's employee vehicles, non-RHC owned vehicles and hired vehicles.

1.3.3 Prior to City's execution of this Agreement, copies of insurance policies or original certificates along with additional insured endorsements acceptable to the City evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with City and shall include the City and its officers, employees and agents, as additional insureds. Said policies shall be in the usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

It is agreed that the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the City of Riverside.

1.3.4 The insurance policy or policies shall also comply with the following provisions:

- a. The policy shall be endorsed to waive any right of subrogation against the City and its employees, officers and agents for services performed under this Agreement.

- b. If the policy is written on a claims made basis, the certificate should so specify and the policy must continue in force for one year after completion of the services. The retroactive date of coverage must also be listed.
- c. The policy shall specify that the insurance provided by RHC will be considered primary and not contributory to any other insurance available to the City and Endorsement No. CG 20010413 shall be provided to the City.

1.4 Errors and Omissions Insurance. Prior to City's execution of this Agreement, RHC shall obtain, and shall thereafter maintain during the term of this Agreement, errors and omissions professional liability insurance in the minimum amount of \$1,000,000 to protect the City from claims resulting from the RHC's activities.

1.5 Subcontractors' Insurance. RHC shall require all of its subcontractors to carry insurance, in an amount sufficient to cover the risk of injury, damage or loss that may be caused by the subcontractors' scope of work and activities provided in furtherance of this Agreement, including, but without limitation, the following coverages: Workers Compensation, Commercial General Liability, Errors and Omissions, and Automobile liability. Upon City's request, RHC shall provide City with satisfactory evidence that Subcontractors have obtained insurance policies and coverages required by this section.

1.6 Crime Insurance. RHC shall purchase from a company acceptable to the City, at RHC's expense, a crime insurance policy in an amount not less than One Million Dollars (\$1,000,000), and shall have a deductible not to exceed \$10,000. The policy shall indemnify the City against any fraud or dishonest acts of RHC, its agents or its employees, individually or in collusion with others. RHC shall maintain such insurance until City consents to its removal following a final audit of RHC's records at the end of the contract term.

1.7 Liquor Liability Insurance. Prior to City's execution of this Agreement, RHC shall obtain, and shall thereafter maintain during the term of this Agreement, liquor liability insurance in the minimum amount of \$1,000,000 to protect the Owner from claims resulting from the Manager's sale of alcohol.

1.8 Umbrella or Excess Insurance. Prior to City's execution of this Agreement, RHC shall obtain and maintain umbrella or excess insurance coverage in the minimum amount of Ten Million Dollars (\$10,000,000). Such excess coverage shall be at least as broad as any underlying coverage. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion and no contractor's limitation endorsement. The policy shall have starting and ending dates concurrent with the underlying coverage's. The Named Insured may determine the layering of primary and excess liability insurance provided that if such layering

differs from that described here, the actual coverage program meets the minimum total required limits and complies with all other requirements listed in this Article. RHC shall maintain this coverage for a minimum of five (5) years after final completion and acceptance of the Work. The Umbrella or Excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.

1.9 **Manager's Failure to Obtain, Pay For, or Maintain Insurance.** RHC shall deliver to City the required certificate(s) of insurance and endorsement(s) before City signs this Agreement. RHC's failure to obtain, pay for, or maintain any required insurance shall constitute a material breach upon which City may immediately terminate or suspend this Agreement. In the event of any termination or suspension, City may use the services of another manager, without City incurring any liability to RHC. At its sole discretion, City may obtain or renew RHC's insurance, and City may pay all or part of the premiums. Upon demand, RHC shall pay City all monies paid to obtain or renew the insurance. City may offset the cost of the premium against any monies due RHC from City.

2.0 **Mutual Waiver of Subrogation.** The Parties hereto release each other and their respective authorized employees, agents and representatives, from any and all claims, demands, loss, expense or injury to any person, or to the Premise or to personal property, including, but not limited to, furnishings, fixtures or equipment located therein, caused by or resulting from perils, events or happenings which are the subject of insurance in force at the time of such loss. Each Party shall cause each insurance policy obtained by it to provide that the insurer waives all right of recovery by way of subrogation against either party in connection with any damage covered by any policy.

EXHIBIT E
RESOLUTION 21182

1 RESOLUTION NO. 21182

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE,
3 CALIFORNIA (1) RESTATING THE RULES AND REGULATIONS GOVERNING
4 PROCUREMENTS OF GOODS, SERVICES AND PUBLIC WORKS
5 CONSTRUCTION; (2) AUTHORIZING THE PURCHASING SERVICES MANAGER
6 TO AWARD CONTRACTS AND/OR ISSUE PURCHASE ORDERS WHERE THE
7 PROCUREMENT IS PREVIOUSLY MADE THROUGH COMPETITIVE
8 PROCUREMENT OR NEGOTIATIONS CONDUCTED BY THE CITY OR
9 ANOTHER PUBLIC AGENCY, OR FEDERAL, STATE AND/OR OTHER PUBLIC
10 AGENCY PRICING CONTRACTS OR AGREEMENTS; AND (3) REPEALING
11 RESOLUTION NO. 20942.

12 WHEREAS, the City Manager is authorized and directed by Article VI, Section 601 (e)
13 of the Charter of the City of Riverside and Chapter 3.16 of the Riverside Municipal Code to
14 prepare and recommend adoption of rules and regulations governing the contracting for and the
15 procuring, purchasing, storing, distributing and disposing of all supplies, materials and
16 equipment required by any office, department or agency of the City government; and

17 WHEREAS, on October 21, 2003, the City Council adopted Resolution No. 20557,
18 which provided the rules, regulations and procedures for the procurement of supplies, materials
19 equipment and non-professional services and the awarding of public works/construction
20 contracts ("Purchasing Resolution"); and

21 WHEREAS, on May 17, 2005, the City Council adopted Resolution No. 20942 to
22 conform the rules and regulations governing procurements of goods, services and public works
23 construction to the voter approved Measures R, S, KK and MM, increase City Manager authority
24 limits for such procurements for all departments to \$50,000 and repeal Resolution No. 20557;
25 and

26 WHEREAS, it is desirable to adopt a new Purchasing Resolution to clarify Section 201(i)
27 to provide that the Purchasing Services Manager ("Manager") is authorized to determine whether
28 a procurement, other than public works construction as defined in Charter Section 1109, made
without competitive bid, is in the best interest of the City, and to authorize the Manager to award
contracts and/or issue purchase orders based upon or consistent with competitive procurement or

1 negotiations previously conducted by the City or another public agency, or Federal, State and/or
2 other public agency pricing contracts or agreements.

3 NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Riverside
4 California, as follows:

5 Section 1: That the following rules and regulations are hereby adopted for the
6 administration of the City's centralized purchasing system:

7 **TITLE: PURCHASING RESOLUTION RULES AND REGULATIONS**

8 **ARTICLE ONE: DEFINITION OF TERMS**

9 SECTION 100. Definitions. The words set forth hereinafter in the Section shall have the
10 following meanings whenever they appear in these rules and regulations, unless the context in
11 which they are used clearly requires a different meaning:

12 (a) "Awarding Entity" means the City Council when referencing Procurement for the
13 City or for any Using Agency of the City except for the Riverside Board of Public Utilities or
14 Riverside Department of Public Utilities; and means the Riverside Board of Public Utilities when
15 referencing Procurement for the Riverside Department of Public Utilities in accordance with
16 Section 1202 of the City Charter.

17 (b) "Bid" means an offer or proposal submitted by a Bidder setting forth the price for the
18 Goods, Services, or Construction to be provided.

19 (c) "Bidder" means any individual, firm, partnership, corporation, or combination
20 thereof, submitting a Bid, acting directly or through a duly authorized representative.

21 (d) "Change Order" means a City-issued document used to modify a Purchase Order to
22 add, delete, or revise the quantity, price or scope of Goods, Services, Professional Services or
23 Construction being provided.

24 (e) "City" means the City of Riverside.

25 (f) "Competitive Procurement" means a process involving the solicitation under the
26 authority and supervision of the Manager of Formal Bids by Formal Procurement or Informal
27 Bids by Open Market Procurement (all as hereinafter defined) under procedures and
28 circumstances intended to foster effective, broad-based competition within the private sector to

1 provide Goods, Services or Construction to the City.

2 (g) "Construction" means the process of building, altering, repairing, improving or
3 demolishing any public structure or building, or other public improvements of any kind to any
4 public real property, and includes the projects described in Section 1109 of the City Charter; it
5 does not include routine operation, maintenance or repair of existing structures, buildings or real
6 property by the City's own forces. "Construction" shall also include "public project" as defined in
7 Section 20161 of the California Public Contract Code.

8 (h) "Contract" means any type of legally recognized agreement to provide Goods,
9 Services or Construction, no matter what it may be titled or how described, including executed
10 Purchase Orders, for the Procurement or disposition of Goods, Services or Construction, but does
11 not include any agreement for collective bargaining, Professional Services or utility extensions,
12 subdivision improvements or other similar agreements whereby an owner of real property or his
13 or her authorized representative agrees to construct improvements of a public nature on property
14 to be dedicated to the City.

15 (i) "Contractor" means any Person (as hereinafter defined) who enters into a Contract
16 with the City.

17 (j) "Cooperative Purchasing" means a purchasing method whereby the Procurement
18 requirements of two or more governmental entities are combined in order to obtain the benefit of
19 volume Procurement or reduction in administrative expenses.

20 (k) "Design-Build" means a process involving contracting with a single entity for both
21 the design and Construction of a public works project pursuant to a competitive negotiation
22 process established by City Council ordinance from time to time in accordance with Section
23 1114 of the City Charter.

24 (l) "Emergency Procurement" means the Procurement of Goods, Services or
25 Construction without utilizing Competitive Procurement in circumstances set forth in Article
26 Three hereof as constituting an "emergency".

27 (m) "Formal Bid" means a written Bid which shall be (1) submitted in a sealed envelope,
28 or electronically, in conformance with a City-prescribed format and procedure, (2) publicly

1 opened, read and-recorded at a City-specified date, time and place, and (3) accepted only by an
2 award made by the Awarding Entity.

3 (n) "Formal Procurement" means Procurement by written Notice Inviting Bids and
4 Formal Bid, and includes Procurement of Construction, Goods and Services subject to the
5 bidding requirements of Section 1109 of the City Charter.

6 (o) "Goods" means supplies, materials, equipment and other things included within the
7 definition of "Goods" in Section 2105 of the California Uniform Commercial Code.

8 (p) "Informal Bid" means an offer, which may be conveyed to the Manager by letter,
9 telegram, fax, telephone or other means, to provide for stated prices, Goods, Services or
10 Construction which are not required to be Procured by Formal Procurement; Informal Bids shall
11 be solicited only by City personnel who are authorized to do so, and for each instance of
12 Procurement by Informal Bid, the authorized personnel shall obtain Informal Bids from at least
13 three different Persons, if practicable.

14 (q) "Life Cycle Cost" means the estimated total cost of Goods, Services or Construction
15 Procured by the City over the useful life of the Goods, Services or Construction based upon their
16 initial Procurement price as adjusted by projected operating, maintenance and related ownership
17 expenses which the City will incur during their useful life.

18 (r) "Lowest Responsible Bidder" means the Responsible Bidder who submits the lowest
19 responsive Formal Bid or Informal Bid in response to the City's invitation or request therefore.

20 (s) "Manager" means the City's Purchasing Services Manager, who is sometimes referred
21 to as the Purchasing Agent in the Riverside Municipal Code.

22 (t) "Open Market" means the private sector business marketplace in which private
23 persons, exercising prudent business practices and judgment, would Procure Goods, Services or
24 Construction utilizing an Informal Bid procedure instead of Formal Bid.

25 (u) "Open Market Procurement" means Procurement by Request For Quotation and/or
26 Request for Proposals issued by the Manager and Informal Bid submitted by Persons in the Open
27 Market.

28 ///

1 (v) "Person" means any individual, partnership, limited partnership, association,
2 corporation, labor union, committee, club, governmental entity or other entity recognized by
3 California law.

4 (w) "Procure" and "Procurement" mean buying, purchasing, renting, leasing or otherwise
5 acquiring or obtaining Goods, Services or Construction; this also includes all functions and
6 procedures pertaining thereto.

7 (x) "Professional Services" means advisory, consulting, architectural, information
8 technology, engineering, financial, legal (including claims adjustment), surveying, research or
9 developmental and any other services which involve the exercise of professional discretion and
10 independent judgment based on an advanced or specialized knowledge, expertise or training
11 gained by formal studies or experience.

12 (y) "Purchase Order" means a City-issued document which authorizes the delivery of
13 Goods, the rendering of Services or the performance of Construction at a stated price and
14 encumbers City funds for the payment therefore.

15 (z) "Purchase Requisition" means a written request prepared on the requisite City form
16 prepared by the Manager, and submitted by a Using Agency to the Manager for Procurement of
17 specified Goods, Services or Construction.

18 (aa) "Request for Proposals" means a written solicitation issued by a Using Agency
19 which (1) generally describes the Goods or Services sought to be Procured by the City, (2) sets
20 forth minimum standards and criteria for evaluating proposals submitted in response to it, (3)
21 generally describes the format and content of proposals to be submitted, (4) provides for
22 negotiation of terms and conditions of the Procurement Contract and (5) may place emphasis on
23 described factors other than price to be used in evaluating proposals.

24 (bb) "Request for Quotations" means a written or verbal solicitation issued under the
25 authority and supervision of the Manager for Informal Bids for described Goods, Services or
26 Construction, which may be Procured by Open Market Procurement.

27 (cc) "Responsible Bidder" means a Bidder who is determined by the Manager or the
28 Awarding Entity to be responsible based on the following criteria:

- (1) The Bidder's ability, capacity and skill to perform the Contract, and to provide post-performance maintenance and repair;
- (2) The Bidder's facilities and resources;
- (3) The Bidder's character, integrity, reputation, judgment, experience and efficiency;
- (4) The Bidder's record of performance of prior Contracts with the City and others; and
- (5) The Bidder's compliance with laws, regulations, guidelines and orders governing prior Contracts performed by the Bidder.

(dd) "Responsive Bid" means a Formal Bid or Informal Bid submitted in response to a City-issued Notice Inviting Bids or Request For Quotations which meets and conforms to the substantive requirements specified by the City without material qualification or exception, as determined by the City.

(ee) "Services" means all services which are described in City specifications or are in the nature of advertising, cleaning, gardening, insurance, janitorial, leasing of Goods, membership, postal, printing, security, subscriptions, travel, utilities (electric, gas, telegraph, telephone, transportation and water), weeding and discing, and the repairing, maintaining or servicing of Goods, but does not include Professional Services, real property transactions, Construction, Design-Build, nor employment and collective bargaining Contracts.

(ff) "Specifications" means a City-issued or referenced definite, detailed written description of the Goods to be furnished, the Services to be performed or the Construction work to be done and materials to be used under a Contract with the City, which specifies the composition, Construction, dimension, durability, efficiency, form, nature, performance characteristics and standards, quality, shape, texture, type and utility of Goods, Services or Construction sought by the City.

(gg) "Surplus Goods" means any Goods having a remaining useful life or salvage value but which are no longer used, needed for use or retained for potential use by the Using Agency which has care, custody or control of them.

1 (hh) "Using Agency" means all City departments, institutions, offices, boards,
2 commissions, divisions, agencies and authorities which derive their support totally or in part
3 from City funds and for which the Manager is directed to Procure Goods, Services, Professional
4 Services, Design-Build, or Construction.

5 **ARTICLE TWO: COMPETITIVE PROCUREMENT**

6 **SECTION 200. Policy.** It is hereby determined and declared to be the policy and
7 requirement of the City that Procurement of Goods, Services and Construction by the City shall,
8 whenever practicable and advantageous to the City, be based on Competitive Procurement,
9 whether by Formal Procurement if required, or Open Market Procurement if permitted, except as
10 otherwise provided in this Resolution or the City Charter. Failure to procure Goods, Services and
11 Construction in compliance with this Resolution is strictly prohibited.

12 **SECTION 201. Exceptions.** Competitive Procurement shall not be required in any of the
13 following circumstances:

14 (a) When an emergency arises and Emergency Procurement is undertaken pursuant to
15 Article Three hereof;

16 (b) When the Procurement involved is less than \$2,500.00;

17 (c) When the Procurement can only be obtained from a sole source or timely from a
18 single source and the Manager is satisfied that the best price, terms and conditions for the
19 Procurement thereof have been negotiated;

20 (d) When the Procurement consists of replacement parts for the City's vehicles, aviation
21 units, and other City equipment;

22 (e) When, in the opinion of the Manager, there is no price difference between recognized
23 manufacturers and suppliers of Goods;

24 (f) When Cooperative Purchasing is available and undertaken;

25 (g) When Goods or Services can be Procured from a Contractor who offers the same or
26 better price, terms and conditions as the Contractor previously offered as the Lowest Responsible
27 Bidder under Competitive Procurement or negotiations conducted by the City or another public
28

1 agency, provided that, in the opinion of the Manager, it is in the best interests of the City to do
2 so;

3 (h) When the Goods or Services can be obtained through Federal, State and/or other
4 public entity pricing contracts or price agreements;

5 (i) When the Awarding Entity waives bidding requirements under and according to the
6 circumstances set forth in Section 1109 of the City Charter, or when it is determined by the
7 Manager to be in the best interests of the City to do so;

8 (j) When, in the opinion of the Manager expressed in writing, the City requires Goods,
9 Services or Construction, not subject to the bidding requirements of Section 1109 of the City
10 Charter, which are of such a nature that suitable technical or performance specifications
11 describing them are not readily available and cannot be developed in a timely manner to meet the
12 needs of the City, in which case the Manager shall be authorized to negotiate with any Person or
13 Persons for the Procurement thereof upon the price, terms and conditions deemed by the
14 Manager to be in the best interests of the City, and in so doing may utilize the Open Market
15 Procurement process;

16 (k) When the Procurement is for books, journals, maps, publications and other supplies
17 peculiar to the needs of the library, which are subject to the provisions of Section 710(d) of the
18 City Charter;

19 (l) When the Procurement is for wholesale energy, energy ancillary services, energy
20 transmission, wholesale water commodity, and water transmission purchases by or on behalf of
21 the City's Public Utilities Department; or

22 (m) When the Procurement is for the Design-Build of public works projects pursuant to
23 Section 1114 of the City Charter.

24 **ARTICLE THREE: EMERGENCY PROCUREMENT**

25 **SECTION 300. Policy.** While the need for Emergency Procurement is recognized, the
26 practice shall be curtailed as much as possible by anticipating needs so that normal Competitive
27 Procurement may be used.

28

1 SECTION 301. Conditions. An "emergency" shall be deemed to exist under anyone or
2 more of the following circumstances:

3 (a) A great public calamity;

4 (b) An immediate need to prepare for national or local defense;

5 (c) A breakdown in machinery or essential service which requires the immediate
6 Procurement of Goods, Services or Construction to protect the public health, welfare, safety or
7 property;

8 (d) A Using Agency operation directly affecting the public health, welfare or safety or the
9 protection of public property, is so severely impacted by any cause that personal injury or
10 property destruction appears to be imminent and probable unless Goods, Services or
11 Construction designed or intended to mitigate the risks thereof are Procured immediately; or

12 (e) A Using Agency is involved in a City project which is of such a nature that the need
13 for particular Goods, Services or Construction can only be ascertained as the project progresses
14 and, when ascertained, must be satisfied immediately for the preservation of public health,
15 welfare, safety or property.

16 SECTION 302. Authorization. Emergency Procurement may be initiated by the head of a
17 Using Agency or his or her duly authorized representative (the "individual") only as follows:

18 (a) During normal City business hours, the individual shall contact the Manager and
19 explain to the Manager's satisfaction the reasons and justification for Emergency Procurement. If
20 the nature of the emergency is such that Goods, Services or Construction must be Procured
21 immediately and the Manager is satisfied with the explanation of reasons and justifications given
22 therefor, the Manager shall authorize the Procurement and cause an emergency Purchase Order
23 to be issued as soon as possible and in no event later than the following business day. A Purchase
24 Requisition confirming the Procurement must be prepared by the individual and submitted to the
25 Manager no later than the following business day.

26 (b) After normal City business hours, the individual shall exercise his or her best
27 judgment in ascertaining whether the actual circumstances necessitate Emergency Procurement,
28 and if deemed necessary shall order it. As soon as possible and in no event later than the
following business day, the individual shall prepare a Purchase Requisition confirming the

1 Emergency Procurement and deliver it to the Manager, who shall then cause an emergency
2 Purchase Order therefor to be prepared. The word "confirmation" shall be clearly imprinted on
3 all Purchase Requisitions and Purchase Orders issued in confirmation of Emergency
4 Procurement.

5 **ARTICLE FOUR: PURCHASE REQUISITION PROCEDURES**

6 **SECTION 400. Purpose.** The purpose of the Purchase Requisition is to inform the
7 Manager, in clear and explicit terms, of the needs of the Using Agencies, thus enabling the
8 Manager to Procure all Goods, Services and Construction required by the City. Except as
9 otherwise provided in this Resolution, each Using Agency shall prepare a Purchase Requisition
10 and submit it to the Manager before attempting to obtain any Goods, Services or Construction.
11 No Purchase Requisition shall be broken into smaller units to evade any requirement of this
12 Resolution, except that unrelated items requisitioned by Using Agencies may be separated to
13 provide different lists to vendors dealing in different types of Goods.

14 **SECTION 401. Who May Requisition.** All Purchase Requisitions shall be completed
15 and shall be signed by the head or duly authorized representative of the Using Agency making
16 the requisition. At such times and in such manner as shall be prescribed by the Manager, the
17 head of each Using Agency shall file with the City Finance Director a written designation of
18 each person who is authorized to sign Purchase Requisitions on behalf of the Using Agency or
19 any division or section thereof.

20 **SECTION 402. When to Requisition.** Purchase Requisitions shall be prepared and
21 submitted far enough in advance of the date that the Goods, Services or Construction will be
22 needed to enable the Manager to implement the necessary Competitive Procurement therefor.
23 The Manager shall attempt to secure the best price and earliest delivery practicable, consistent
24 with the requirements of the Purchase Requisitions.

25 **SECTION 403. Specifications.** Specifications shall be required in every instance of
26 Formal Procurement and in those instances of Open Market Procurement where practicable and
27 deemed by the Manager, in the exercise of prudent procurement judgment, to be in the City's
28 best interests. The Manager shall be responsible for the review of all Specifications, which shall

1 be prepared and submitted by the requisitioning Using Agency.

2 SECTION 404. Purchase Order and Encumbrance of Funds. Procurement of Goods,
3 Services and Construction shall be made only by Purchase Order, except that alternate forms and
4 procedures may be specified by the Manager for the Procurement of Services or Construction,
5 and no Purchase Orders shall be required for petty cash purchases less than an amount
6 recommended from time to time by the Finance Director and approved by the City Manager.
7 Except in cases of Emergency Procurement, no Purchase Order shall be issued unless there exists
8 an unencumbered appropriation in the fund account against which the Procurement is to be
9 charged. Except for Emergency Procurement, no Goods or Services shall be ordered, obtained or
10 received without authorization by the Manager, which authorization shall be in the form of an
11 executed or confirming Purchase Order. The Manager, or his designees, shall be authorized to
12 issue and execute Purchase Orders in accordance with policies and procedures established by the
13 City Manager from time to time, that are consistent with this Resolution. Further, the Manager is
14 authorized to issue a purchase order without further approval where the procurement is made
15 pursuant to Section 201(g) or (h) herein and a supplemental appropriation is not otherwise
16 required.

17 SECTION 405. Change Orders. Modifications to a Purchase Order shall be made only
18 by Change Order. Change Orders may be utilized for purposes of (1) adding and/or deleting
19 quantity of items being procured, (2) modifying unit prices, (3) modifying scope of work/
20 services being provided, (4) changing funding source(s), (5) modifying contract completion time,
21 or (6) any other change approved by the Manager. Unless otherwise specifically authorized by
22 the Awarding Entity, Change Orders which cumulatively exceed the following will require
23 Awarding Entity approval:

- 24 a) \$10,000 for Contracts and/or Purchase Orders greater than \$50,000 and up to
25 \$100,000;
- 26 b) 10% of the original contract price for Contracts and/or Purchase Orders exceeding
27 \$100,000 and up to \$1 Million;
- 28 c) 100,000 plus one percent of the original Contract or Purchase Order amount for

1 Contracts and/or Purchase Orders in excess of \$1 Million;

2 d) \$150,000; and

3 e) any Change Order which causes the contract price to exceed \$50,000, if the Contract
4 and/or Purchase Order was not previously approved by the Awarding Entity.

5 The Manager, or his designees, shall be authorized to issue and execute Change Orders in
6 accordance with policies and procedures established by the City Manager from time to time, that
7 are consistent with this Resolution. For purposes of this Section the term Contract also includes
8 Professional Services.

9 SECTION 406. Bidders' Lists. The Manager shall maintain public lists of prospective
10 bidders for each class of Goods, Services or Construction for which Competitive Procurement is
11 required. These lists shall set forth the names and addresses of prospective sources of Goods or
12 Services and shall include the manufacturer of the Goods or the provider of the Services in all
13 instances in which the manufacturer or provider follows the practice of direct bidding in addition
14 to or in lieu of bidding through a local wholesaler, distributor or representative. The Manager
15 shall keep the bidders' lists current by periodically striking there from the names of prospective
16 Bidders who have failed to respond to recent bid requests.

17 ARTICLE FIVE: PREFERENCES

18 SECTION 500. Policy. In the Manager's administration of Competitive Procurement
19 pursuant to this Resolution, the Manager shall be authorized to give such preferences for Goods,
20 Services or Construction as chartered cities are required to give by applicable state or federal
21 law, or such preferences as are permitted by such law and specifically provided for from time to
22 time by City Council resolution or ordinance.

23 SECTION 501. Local Preference. In the Procurement of Goods for the City's
24 requirements, preference shall be given to those vendors who have a local presence in the City of
25 Riverside, provided that price, quality, terms, delivery and service reputation are determined to
26 be equal by the Manager under the criteria set forth in Section 706 hereof. To qualify as a local
27 vendor, the Bidder must certify to the following at the time of Bid submission:

28 (a) it has fixed facilities with employees located within the City limits;

1 (b) it has a business street address (Post Office box or residential address shall not suffice
2 to establish a local presence);

3 (c) all sales tax returns for the Goods purchased must be reported to the State through a
4 business within the geographic boundaries of the City and the City will receive one
5 percent (1 %) or such percentage of sales tax of Goods purchased as is allocable to the
6 City from time to time under then existing state law; and

7 (d) it has a City business license.

8 False certifications shall be immediate grounds for rejection of any Bid or if the Bid is
9 awarded, grounds for voiding the Bid, terminating any Contract, and seeking damages thereto.

10 SECTION 502. Recycled Goods. In the Procurement of Goods for the City's
11 requirements, preference shall be given, as the City Council from time to time hereafter directs
12 by resolution or ordinance, to recycled Goods as defined and provided for in such state
13 legislation as the State Assistance for Recycling (STAR) Markets Act of 1989 (commencing at
14 Section 12150 of the California Public Contract Code) and the California Integrated Waste
15 Management Act of 1989 (commencing at Section 40000 of the California Public Resources
16 Code).

17 ARTICLE SIX: OPEN MARKET PROCUREMENT

18 SECTION 600. Policy. Although less formal, procedurally, than Formal Procurement,
19 Open Market Procurement shall nonetheless be conducted by the Manager and the Manager's
20 duly authorized representatives in a manner and under circumstances intended to elicit
21 competitive Informal Bids in response thereto.

22 SECTION 601. General Limitations On Open Market Procurement. Open Market
23 Procurement may be conducted under the supervision of the Manager if the Procurement
24 expenditure is estimated to be less than Fifty Thousand Dollars (\$50,000.00) and does not
25 involve the Procurement of Construction or Goods of the type required by Section 1109 of the
26 City Charter to be acquired by Formal Procurement. The Manager shall maintain and keep
27 records of all Open Market Procurements, including Informal Bids received, in accordance with
28 the applicable City's Record Retention Schedule adopted by the City Council from time to time,

1 and those records shall be open to public inspection upon request during normal City business
2 hours.

3 SECTION 602. Utilities Exception. The following supplies, equipment, and materials
4 are determined to be peculiar to the needs of the City's Public Utilities Department and may, if it
5 appears to the Manager to be in the best interest of overall economy and efficiency of the City to
6 do so and is within existing budget authorization, be acquired by Open Market Procurement, or
7 negotiations regardless of their estimated Procurement expenditure amounts, provided that the
8 City's Board of Public Utilities shall have approved the proposed acquisition if required under
9 the provisions of Section 1202 of the City Charter:

10 Bus and Bus Support
11 Capacitors
12 Chemicals
13 Conduit and Duct
14 Connectors
15 Electric Motor Controls
16 Electrical Motors, Panels and Repairs
17 Electrical Line Devices
18 Fiber Optics Equipment and Materials
19 Fittings, Electrical and Water
20 Fire Hydrants
21 Insulators
22 Luminaries
23 Meter and Metering Devices
24 Pipe and Pipe Fittings
25 Pole Line Hardware
26 Poles, Utility
27 Power Generation Materials and Equipment
28 Pumps and Repairs
 Regulators
 Relaying and Protective Devices
 Road and Backfill Materials
 SCADA Equipment
 Substation Supervisory Equipment
 Switches and Switchgear
 Transformers
 Treatment Equipment
 Tubing, Copper and Plastic
 Valves and Operators
 Vaults and Accessories
 Wire and Cable

1 Well Equipment and incidental labor to install, which labor shall not exceed the amount
2 set by state law for which bids are required for public works projects of a general law city

3 Such other supplies and materials peculiar to the needs of the Public Utilities Department,
4 which re carried as inventory items in Central Stores stock

5 SECTION 603. Request for Quotations. The Manager shall solicit Informal Bids by
6 means of a written or verbal Request For Quotations, accompanied by City specifications if
7 deemed necessary by the Manager.

8 SECTION 604. Rejections and Awards. The Manager may reject any and all Informal
9 Bids submitted in response to a Request for Quotations and otherwise shall award all Open
10 Market Procurement, insofar as practicable, to the Lowest Responsible Bidder. The Manager
11 shall be authorized to administer Contracts for Goods and Services awarded by Open Market
12 Procurement.

13 SECTION 605. Contract Bonds. The provisions of Section 708 shall also apply to all
14 Contracts for Goods, Services or Construction awarded under Open Market Procurement.

15 ARTICLE SEVEN: FORMAL PROCUREMENT

16 SECTION 700. When Required. Except in those Procurement situations described in
17 Sections 201 and 602 hereof, Formal Procurement shall be required for all estimated
18 Procurement expenditures of Fifty Thousand Dollars (\$50,000.00) or more.

19 SECTION 701. Soliciting Formal Bids. A Notice Inviting Bids shall be published at
20 least once in a newspaper of general circulation in the City, the first publication of which shall be
21 at least ten days before the time and date set by the Manager for opening the Formal Bids
22 received. The notice shall include a general description of the Goods, Services or Construction
23 sought to be Procured by the City, shall state where Specifications therefor may be obtained and
24 shall set forth the time and place for a public opening of Formal Bids received timely. The
25 Manager shall, in addition and as practicable, solicit Formal Bids from a sufficient number of
26 responsible prospective bidders whose names appear on the bidders' lists maintained pursuant to
27 Section 406 hereof by causing to be sent to them a copy of the newspaper notice or such other
28 notice as will acquaint them with the Procurement items sought by the City. The words "Bid"

1 and "Bids" as hereinafter set forth within this Article shall mean Formal Bid and Formal Bids,
2 respectively.

3 SECTION 702. Submittal of Bids and Bid Securities. Bids and bid securities, which
4 security shall guarantee the Bid and be forfeited to the City if the Bidder is awarded the Contract
5 but fails or refuses to honor the Bid and execute the Contract documents timely, shall be
6 submitted to the City in the following manner:

7 (a) For Formal Procurement subject to Section 1109 of the City Charter, the Bids shall be
8 (i) made on forms provided by the City, (ii) accompanied by the type and amount of Bid security
9 prescribed by Section 1109, (iii) sealed as prescribed in the notice inviting Bids or the
10 specifications referenced in the notice, and (iv) submitted to the City's Purchasing Division
11 within the time and in the manner specified by the notice or Specifications.

12 (b) For Formal Procurement not subject to Section 1109 of the City Charter, the Bid shall
13 be made on the forms provided by the City, accompanied by the type and amount of Bid security
14 specified, sealed, and submitted to the Purchasing Division within the time and manner specified
15 in the notice inviting Bids or the Specifications referenced in the notice.

16 SECTION 703. Opening of Bids. The Bids shall be opened and referenced as to Bidder
17 identity and amounts Bid in public at the time and place specified in the published notice, and no
18 Bid shall be received or recognized by the Purchasing Division, which has not been delivered
19 prior to the time so specified. If, upon the opening of Bids to provide Goods or Services not
20 subject to the provisions of Section 1109 of the City Charter, the Manager determines that the
21 actual expenditure therefor would appear to be less than Fifty Thousand Dollars (\$50,000.00),
22 the Manager may convert the Formal Procurement to Open Market Procurement procedures for
23 award of a Contract.

24 SECTION 704. Tabulation and Inspection of Bids. After the Bids have been opened and
25 referenced, the Manager shall cause them to be tabulated. Upon completion and verification of
26 the tabulation of the Bids, they shall be subject to inspection as public records.

27 SECTION 705. Rejection of Bids. The Awarding Entity may in its discretion reject any
28 and all Bids, or any segregable portions thereof, for any one or more types of Goods, Services or

1 Construction included in the Specifications when the public interest is served thereby. The
2 Awarding Entity may also take any other action permitted by Section 1109 of the City Charter.

3 SECTION 706. Awards. Formal Procurement Contracts shall be awarded by the
4 Awarding Entity to the Lowest Responsible Bidder, except that:

5 (a) Formal Procurement Contracts may be awarded by the Manager where the
6 procurement is made pursuant to Section 201(g) and 201(h) herein and a supplemental
7 appropriation is not otherwise required.

8 (b) A Contract for Goods may be awarded to a local Responsible Bidder who is not the
9 Lowest Responsible Bidder but who has certified that it is a local vendor pursuant to Section 501
10 hereof and who is subject to taxation under the City's "Uniform Local Sales and Use Tax
11 Ordinance" (Chapter 3.08 of the City Municipal Code) if the Bid difference amount between the
12 local Responsible Bidder and the Lowest Responsible Bidder does not exceed five percent (5%)
13 of the lowest responsible Bid;

14 (c) A Contract for Goods or Services which will require quantifiable commitments of
15 City personnel and other resources for the satisfactory completion thereof may be awarded to the
16 Responsible Bidder whose Responsive Bid becomes the lowest evaluated when the City's costs
17 of commitment are calculated in connection with each of the Bids submitted and added thereto;
18 and

19 (d) A Contract for Goods, Services or Construction may be awarded to a Responsible
20 Bidder whose Responsive Bid is adjudged to be lowest Responsive Bid under Life Cycle Cost
21 analysis. The Awarding Entity may waive irregularities or informalities in any Bid if the public
22 interest is served thereby. In the event a tie occurs among Responsible Bidders submitting the
23 lowest Responsive Bid, the Awarding Entity may award the Contract to any one of the tie
24 Bidders either based upon proximity to the City, reputation or any other factor or upon a drawing
25 by lot at the time and place determined by the Manager.

26 SECTION 707. Approval of Contracts. All Formal Procurement Contracts shall be
27 approved as to form by the City Attorney.
28

1 SECTION 708. Contract Bonds. Contract bonds executed by good and sufficient
2 sureties authorized to conduct surety business in the State of California and in such amounts as
3 are required by law or deemed adequate to insure the faithful performance of a Contract in the
4 time and manner prescribed therein shall be required of the successful Bidder in all instances
5 where they are required by law and in other instances as determined by the Manager. Contract
6 bonds requirements shall be set out in the notice inviting bids or the specifications. "Contract
7 bonds" means performance bonds (or functional equivalent such as supply bonds) to guarantee
8 the Contractor's faithful performance of the awarded Contract in the time, manner and
9 workmanship specified and payment bonds to guarantee the Contractor's payment of claims as
10 prescribed in Section 3247 et seq. of the California Civil Code.

11 SECTION 709. Assignment of Contract. Formal Procurement contracts shall not be
12 assigned by the Contractor without the written consent of the City Manager. In no event shall a
13 Contract or any part thereof be assigned to a Bidder who was declared not to be a Responsible
14 Bidder during consideration of the Bids submitted in response to advertisement for that particular
15 Procurement.

16 **ARTICLE EIGHT: RECEIVING GOODS**

17 SECTION 800. Receiving Report. The Manager shall designate a receiving report form
18 on which the City employee receiving deliveries of Goods or Services shall immediately verify
19 by actual count the items delivered. The completed receiving report shall be processed in
20 accordance with procedures established by the Manager in order to assure prompt payment for
21 Goods and Services received and allow the City to take advantage of the best terms offered by
22 the Contractors.

23 SECTION 801. Claims. The Manager shall supervise the prosecution of all claims for
24 shortages, breakages or non-conformance of Goods against the Contractor providing them and, if
25 necessary, the shipper or carrier of the Goods.

26 SECTION 802. Inspection and Tests. At such time and manner as the Manager
27 determines in the exercise of professional judgment, the Manager shall conduct or cause to be
28 conducted such physical, chemical or other tests as may be necessary to insure the conformity of

1 Goods or Services delivered or proposed to be delivered to the City to specifications with respect
2 to quality and durability. The Manager shall, in any instance in which the Manager deems it
3 prudent, order that no Goods or Services be received or accepted prior to such testing and, in
4 such instance, the City employee designated to receive the Goods or Services shall notify the
5 Manager personally of any deliveries attempted without such testing.

6 **ARTICLE NINE: DISPOSITION OF SURPLUS GOODS**

7 **SECTION 900. Reporting.** Each Using Agency shall submit to the Manager, at such
8 times and in such form as the Manager prescribes, reports describing all Goods held by the Using
9 Agency, which the Using Agency has determined to be Surplus Goods. At such time that a
10 periodic physical inventory of the Goods held by any Using Agency is required by the Finance
11 Director, the Using Agency shall segregate all of its surplus Goods and a report thereof shall be
12 furnished to the Manager by the Finance Director for the transfer or disposition of such Goods.

13 **SECTION 901. Custody of Surplus Goods.** Each Using Agency shall retain custody of
14 its surplus Goods in such manner and at such place as the Manager shall direct, until their
15 transfer or final disposition has been made. No Using Agency shall in any event permit any
16 surplus Goods held by it to be loaned or donated without City Council approval, or destroyed or
17 otherwise removed from the City's custody without the prior written approval of the Manager.

18 **SECTION 902. Transfer.** Before disposing of surplus Goods, including unclaimed
19 property delivered to the Manager by the Police Department, the Manager shall first canvass all
20 other Using Agencies to assure that the surplus Goods cannot be used by another Using Agency.
21 If another Using Agency expresses a desire to use the Goods or hold them for potential future
22 use, the Manager shall assist in transferring the Goods to that Using Agency.

23 **SECTION 903. Disposition.** The Manager is hereby authorized to dispose of City
24 surplus Goods and Police Unclaimed Property which are not used or needed by any Using
25 Agency or which have become unsuitable for City use. The Manager may dispose of such
26 Goods and Property by any of the following procedures:

- 27 (a) They may be exchanged or traded in on new Goods;
- 28 (b) They may be sold utilizing competitive procedures similar to those prescribed herein

1 for Formal Procurement or Open Market Procurement;

2 (c) They may be sold at public auction conducted by the Manager or a professional
3 auctioneer which the Manager is hereby authorized to retain on the basis of a negotiated flat fee,
4 hourly fee or percentage of the amount of the sale, whichever is determined by the Manager to be
5 in the best interests of the City;

6 (d) They may be sold utilizing a negotiation process when the Manager deems in writing
7 that such process is in the best interests of the City;

8 (e) They may be disposed of as scrap or destroyed if they have no resale value; or

9 (f) In accordance with State law, City's Municipal Code, and City's Administrative
10 Manual policies and procedures.


11 SECTION 904. Library Books. Notwithstanding anything to the contrary in this
12 Resolution, books and other items which are subject to Section 701(d) of the City Charter and
13 which the Library Department has determined to discard may be disposed of in accordance with
14 policies as are adopted from time to time by the Board of Library Trustees and approved by the
15 City Council.

16 SECTION 905. Contributions to Other Agencies. Nothing contained in this Resolution
17 shall affect the power and authority of the City Council to make contributions of funds, Goods,
18 Services or Construction to other agencies.

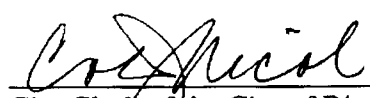
19 Section 2: That the City Manager or his/her designee is authorized to execute all
20 Contracts awarded in accordance with this Resolution.

21 Section 3. That the City Council Resolution No. 20942 is hereby repealed.

22 ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk
23 this 20th day of June, 2006.

24 
25 Mayor of the City of Riverside

26 Attest:

27 
28 City Clerk of the City of Riverside

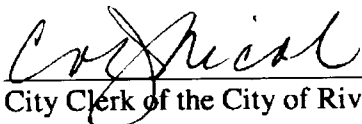
1 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
2 foregoing resolution was duly and regularly introduced and adopted at a meeting of the City
3 Council of said City at its meeting held on the 20th day of June, 2006, by the following vote, to
4 wit:

5 Ayes: Councilmembers Betro, Melendrez, Gage, Schiavone, Hart, and Adams

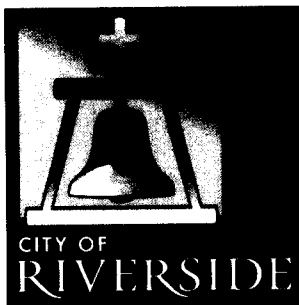
6 Noes: None

7 Absent: Councilmember Adkison

8 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of
9 the City of Riverside, California, this 20th day of June, 2006,

10
11 
12 City Clerk of the City of Riverside
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28 06-1009rbs 6/9/06



CITY COUNCIL AND SUCCESSOR AGENCY MINUTES

TUESDAY, AUGUST 27, 2013, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

COUNCIL/AGENCY MEMBERS

G A R D N E R	M E L E N D R E Z	G U T I E R R E Z	D A V I S	M A C A R T H U R	P E R R Y	A D A M S
1	2	3	4	5	6	7

WARDS

schedules, or compensation paid in the form of fringe benefits of all Executive Management employees, all Management and Confidential employees as defined by PERS, Fire Management Unit, Riverside City Firefighters Association, Riverside Police Officers Association (Police and Police Supervisory Units), Service Employees International Union #721, International Brotherhood of Electrical Workers #47, and Riverside Police Administrators Association.

RECESS

The City Council recessed at 4:33 p.m. and reconvened at 6:30 p.m. in the Art Pick Council Chamber with Mayor Bailey presiding and all Councilmembers present except Councilmember Davis.

Invocation was given by Councilmember Gardner.

The Pledge of Allegiance was given to the Flag.

PRESENTATIONS

Mayor Bailey announced the upcoming Completion Counts College Color Day.

Mayor Bailey introduced Alvord Unified School District Superintendent Sid Salazar.

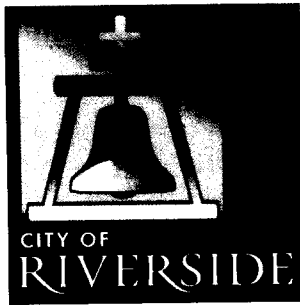
Mayor Bailey called upon Chair of the Erlangen Committee of the International Relations Council Karin Roberts to introduce Sister City Erlangen, Germany, visiting high school students.

Mayor Bailey called upon Fire Chief Earley who introduced Public Safety Officers of the Month Brush 1 Crew: Captain Garrett Coryell, Engineer Cory Bruce, and Firefighter Chris Ingalls.

DISCUSSION CALENDAR

AGREEMENTS - RIVERSIDE CONVENTION CENTER AND RIVERSIDE CONVENTION AND VISITORS BUREAU - 3443 ORANGE AND 3750 UNIVERSITY

Following discussion, the City Council (1) approved a Qualified Convention Center Management Agreement with Raincross Hospitality Corporation for management and operations of the Riverside Convention Center located at 3443 Orange Street; (2) approved a Management and Operations Agreement with Raincross Hospitality Corporation for management and



CITY COUNCIL AND SUCCESSOR AGENCY MINUTES

TUESDAY, AUGUST 27, 2013, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

COUNCIL/AGENCY MEMBERS

	G A R D N E R	M E L E N D R E Z	G U T I E R R E Z	D A V I S	M A C A R T H U R	P E R R Y	A D A M S
	1	2	3	4	5	6	7
operations of the Riverside Convention and Visitors Bureau located at 3750 University Avenue; and (3) authorized the City Manager, or his designee, to execute both agreements.	X				X		
COMPRESSED NATURAL GAS FUELING STATION - JURUPA AND ACORN - SUPPLEMENTAL APPROPRIATION Following discussion, the City Council approved the recommendations of the City Council Utility Services/Land Use/Energy Development Committee to (1) award Request for Proposal 1351 to Amtek Construction, Whittier, in the amount of \$2,146,238 for installation of a Compressed Natural Gas (CNG) station at the corner of Jurupa Avenue and Acorn Street; (2) authorize the issuance of change orders not-to-exceed ten percent of the contract award; (3) authorize the land value reimbursement of \$458,400 from the General Services Central Garage Fund (650) to the Public Works Sewer Fund (550); (4) authorize a five-year interfund loan in the amount of \$1,674,262 for a portion of the total project costs and appropriate the loan proceeds to a project account as established by the Finance Department; and (5) authorize the City Manager, or his designee, to execute the design-build agreement including making any minor, non-substantive changes, and to sign all documents and instruments necessary to make the transaction.							
ORAL COMMUNICATIONS FROM THE AUDIENCE Phyllis Purcell spoke regarding senior housing. Gurumantra Khalsa spoke regarding the University Neighborhood update. Rose Mayes spoke regarding the 50th Anniversary March on Washington. David Mersten and Nicole Wagner spoke regarding ecoATM kiosks. Christina Duran spoke regarding the Chicago and Linden project.							
CONSENT CALENDAR The following items were approved by one motion affirming the actions appropriate to each item.							
LEASE AGREEMENT - RIVERSIDE AIRPORT - 6951 FLIGHT The City Council approved a Lease Agreement with the Federal Aviation Administration for an approximately 9,500-square-foot building at the Riverside Airport located at 6951 Flight Road.							
MINUTES The Minutes of the City Council/Successor Agency meeting of August 13, 2013, and the City Council Special Meeting of August 16, 2013, were approved as presented.							
WARDS							
Motion Second All Ayes	X				X		
Motion Second All Ayes						X	X
Motion Second All Ayes						X	X

Client#: 738309

RAINHOSP

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/05/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

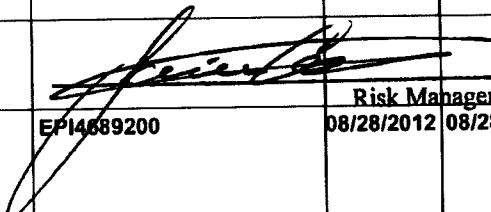
PRODUCER Hub International HUB Int'l Insurance Serv. Inc. 4371 Latham St, Ste #101 Riverside, CA 92501	CONTACT NAME: Jennifer Goldware PHONE (A/C, No, Ext): 951-779-8532 FAX (A/C, No): 951-742-4668 E-MAIL ADDRESS: jennifer.goldware@hubinternational.com														
INSURED Raincross Hospitality Corporation 3750 University Avenue, Suite 175 Riverside, CA 92501	<table border="1"> <thead> <tr> <th data-bbox="817 472 1412 504">INSURER(S) AFFORDING COVERAGE</th> <th data-bbox="1412 472 1534 504">NAIC #</th> </tr> </thead> <tbody> <tr> <td data-bbox="817 504 1412 535">INSURER A: ALLIED Mutual Insurance Company</td> <td data-bbox="1412 504 1534 535">42579</td> </tr> <tr> <td data-bbox="817 535 1412 567">INSURER B: Preferred Employers Ins Co</td> <td data-bbox="1412 535 1534 567">10900</td> </tr> <tr> <td data-bbox="817 567 1412 598">INSURER C: Gemini Insurance Company</td> <td data-bbox="1412 567 1534 598">10833</td> </tr> <tr> <td data-bbox="817 598 1412 630">INSURER D:</td> <td data-bbox="1412 598 1534 630"></td> </tr> <tr> <td data-bbox="817 630 1412 661">INSURER E:</td> <td data-bbox="1412 630 1534 661"></td> </tr> <tr> <td data-bbox="817 661 1412 684">INSURER F:</td> <td data-bbox="1412 661 1534 684"></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: ALLIED Mutual Insurance Company	42579	INSURER B: Preferred Employers Ins Co	10900	INSURER C: Gemini Insurance Company	10833	INSURER D:		INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X	ACP7823466870	08/28/2012	08/28/2013	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		ACP7823466870	08/28/2012	08/28/2013	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$		<div style="text-align: center;"> APPROVED AS TO FORM  Risk Manager </div>			EACH OCCURRENCE \$ AGGREGATE \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	EPI4689200	08/28/2012	08/28/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	Prof. Liability		VCPL061635	08/28/2012	08/28/2013	\$1,000,000 ea occurrence \$1,000,000 aggregate \$5,000 deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Verification of Insurance.

CERTIFICATE HOLDER

CANCELLATION

The City of Riverside 3900 Main Street Riverside, CA 92501	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/29/2013

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PRODUCER D.A.R.B. Insurance Services Inc 5775 E. Los Angeles Ave #125 Simi Valley, CA 93063	CONTACT NAME: PHONE (A/C No. Ext): E-MAIL: ADDRESS: PRODUCER CUSTOMER ID #:	FAX (A/C No.):
INSURED Raincross Hospitality Corporation 3750 University Ave #175 Riverside, CA 92501	INSURER(S) AFFORDING COVERAGE INSURER A: New Hampshire Insurance Company INSURER B: United States Fire Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 23841

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	INSUR WYD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Host Liquor <input checked="" type="checkbox"/> Medical Expense GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	X		SEL082848647	07/30/2013	09/30/2013	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000
B				US000110223	07/30/2013	09/30/2013	GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB EXCESS LIAB DEDUCTIBLE RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

APPROVED

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
This Certificate Holder is added as Additional Insured with respect to our insured's operations only.
This insurance is primary and non-contributory as required by written contract.
This coverage is with respect to Football Reception & Dinner event to be held 9/28/2013 - 9/29/2013 at City Call Cafe & Grier Pavilion Riverside CA
Waiver of Subrogation Applies (only as required by written contract).

CERTIFICATE HOLDER

City of Riverside
3900 Main Street
Riverside, CA 92501

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

[Signature]

DATE: August 22, 2013

CONTRACTOR: Raincross Hospitality Corporation

DESCRIPTION: Qualified Convention Center Management Agreement

DEPARTMENT: Economic Development & Community Development Department

BUDGET ACCOUNT (GL Key and Object):

DEPT. HEAD APPROVAL:  _____

RETURN TO Laura Martinez, EXT. 4276, CITY CLERK'S OFFICE

FIRST AMENDMENT TO QUALIFIED CONVENTION CENTER
MANAGEMENT AGREEMENT

(Riverside Convention Center)

This First Amendment to Qualified Convention Center Management Agreement (“First Amendment”) is made as of the 25th day of October, 2013 (the “Effective Date”), between the CITY OF RIVERSIDE, a California charter city and municipal corporation, as “City”, and RAINCROSS HOSPITALITY CORPORATION (RHC), a California corporation, as “Manager”.

RECITALS

WHEREAS, the City and Manager entered into a Qualified Convention Center Management Agreement (“Agreement”) on September 6, 2013; and

WHEREAS, the parties desire to amend the Agreement at Section 2.10 (e) and to delete Exhibit “E”.

NOW THEREFORE,

1. Section 2.10 (e) of the Agreement is hereby deleted and in its place substitute the following:

“In soliciting bids and quotes and in entering into construction contracts with respect to the Convention Center, Manager shall comply with all applicable public bidding requirements. City shall provide Manager with a copy of its current Purchasing Resolution regarding Goods, Services and Construction Services for construction contracts contemplated by Manager. All subsequently adopted resolutions are available to Manager via the City Clerk’s website. City shall endeavor to notify Manager of any subsequently adopted resolutions posted to the City Clerk’s website.

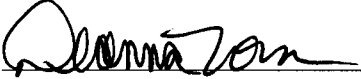
Manager shall be authorized to give such preferences for goods and services related to such construction contracts based on local preference. Preference shall be given to those vendors who have a local presence in the city of Riverside, provided that price, quality, terms, delivery and service reputation are determined to be equal by the Manager.”

2. Exhibit “E” to the Agreement is hereby deleted in its entirety.


3. All terms and conditions of the Agreement not inconsistent with this First Amendment, shall remain in full force and effect and are incorporated herein by this reference as if set forth in full.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed the day and year first above written.

CITY OF RIVERSIDE, a
California charter city and
municipal corporation

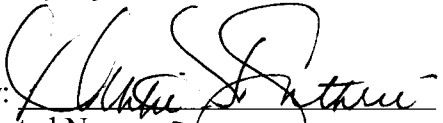
By: 
City Manager *DT*

RAINCROSS HOSPITALITY
CORPORATION, a California corporation

By: 
Printed Name: ED WEGGELAND
Title: President

ATTEST:

By: 
City Clerk

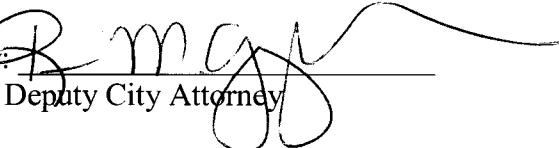
By: 
Printed Name: DEBBI H GUTHRIE
Title: SR VICE PRESIDENT

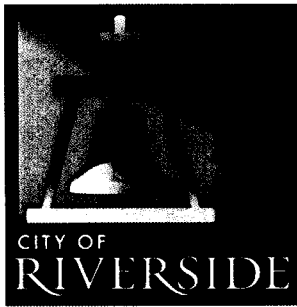
~~*APPROVED AS TO FUNDS:~~

By: _____
Finance Director

~~*Required if not approved by Council action~~

APPROVED AS TO FORM:

By: 
Deputy City Attorney



**CITY COUNCIL,
HOUSING AUTHORITY, AND
SUCCESSOR AGENCY
MINUTES**

TUESDAY, OCTOBER 22, 2013, 1:30 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL

City of Arts & Innovation

3900 MAIN STREET

WARDS

COUNCIL/AGENCY MEMBERS

GARDNER	MELLENDRIZ	GUTIERREZ	DAVIS	MACARTHUR	PERRY	ADAMS
1	2	3	4	5	6	7

1300000-450242.

REIMBURSEMENT - CODE ENFORCEMENT - 10930 STARLIGHT -
SUPPLEMENTAL APPROPRIATION

The City Council (1) accepted \$20,000 in reimbursement for costs and attorney's fees associated with code enforcement action and rehabilitation of 10930 Starlight Court; and (2) increased revenues and appropriated expenditures in the amount of \$20,000 to Special Program Account 1300000-450242.

MINUTES

The Minutes of the City Council meeting of October 8, 2013, were approved as presented.

HOLIDAY MEETING SCHEDULE

The City Council cancelled the regularly scheduled City Council meetings of Tuesday, November 26 and December 24, 2013.

PUBLIC UTILITIES ANNUAL RENEWABLES PORTFOLIO STANDARD COMPLIANCE FILING

The City Council approved the City Council Utility Services/Land Use/Energy Development Committee recommendations to (1) approve Riverside Public Utilities (RPU) 2011-12 Renewable Portfolio Standard (RPS) compliance report - 2013 Annual Progress Status (RPS) Report for Calendar Years 2011 and 2012 and Report for 2004-2010 Historic Carryover Claims and direct staff to file this report with the California Energy Commission (CEC), as required by SBX1-2; (2) authorize staff to file for the Historic Carryover of RPS resources as provided in its RPS Procurement Plan; (3) authorize staff to file the CEC detailed forms with RPU data once the final versions are released; and (4) authorize the City Manager, or his designee, to sign the associated RPS compliance report attestation forms upon approval of the annual RPS compliance report by the City Council.

AGREEMENT AMENDMENT - RIVERSIDE CONVENTION CENTER -
3637 FIFTH STREET

The City Council approved the First Amendment to the Qualified Convention Center Management Agreement with Raincross Hospitality Corporation (RHC) specifying purchasing practices for the operation of the Riverside Convention Center located at 3637 Fifth Street.

SECOND AMENDMENT TO QUALIFIED CONVENTION CENTER
MANAGEMENT AGREEMENT

(Riverside Convention Center)

This Second Amendment to Qualified Convention Center Management Agreement ("Second Amendment") is made as of the 24th day of September, 2019 ("Effective Date"), by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City"), and RAINCROSS HOSPITALITY CORPORATION, a California corporation ("Manager").

RECITALS

A. The City and Manager entered into a Qualified Convention Center Management Agreement dated September 6, 2013 and amended on October 25, 2013 (collectively "Original Agreement").

B. When the City and Manager entered into the Original Agreement, Internal Revenue Service regulations ("Regulations") limited the management term to no more than ten (10) years.

C. Subsequent to the date of the Original Agreement the Regulations have changed and no longer cap the term of the management at ten (10) years. The parties desire to extend the term of the Original Agreement by an additional five (5) years to 2028.

D. The City is pleased with the performance of Manager and its success in operating the Convention Center. Successes include: Ranking in the Top 3 for Best Conference/Convention Center under 100,000 square feet by California Meetings and Events; establishing a rating of 96% for both customer satisfaction and clients likely to return; achieving 57% operational profit growth and 73% parking revenue growth; and economic impact growth of 37.85% since fiscal year 2014-15.

E. The City is presently negotiating with a developer for the development of Parking Lot 33, expansion of the Convention Center, development of the Plaza Area adjacent to the Convention Center, and the development of a new parking structure ("Project"). The Parties seek to work together during the pre-development, development and construction phases of the Project to allow for both the efficient development of the Project and to optimize Convention Center revenues and profitability during the development and construction period. The Parties acknowledge and agree that an expanded Convention Center will: 1) alter the responsibilities of Manager leading up to and after expansion, including providing pre-opening management services, 2) change the financial performance of the Convention Center; and 3) require the terms of the Original Agreement and this Second Amendment to be amended to reflect these changed circumstances. The Parties further agree that, upon the earlier of the issuance of a grading permit for the new parking structure or any other aspect of the Parking Lot 33 development, they will meet in good faith to discuss and revise the terms of the Original Agreement and this Second Amendment.

F. The Parties acknowledge that 1) the development of the areas adjacent to the Convention Center may negatively impact revenue and profitability of the Convention Center during construction; and 2) construction of the Plaza Area may interfere with existing rental obligations of Manager during a period of time when the Plaza Area is under construction. Manager will inform future clients of said potential short-term impacts.

G. The parties desire to amend the Original Agreement to extend the term by an additional five (5) years to 2028 and work together collaboratively to address the impact development and construction of Parking Lot 33 will have on the Agreement and operation of the Convention Center; and revise the CPI and budget submittal requirements, among other clarifying issues.

NOW THEREFORE, City and Manager hereby agree as follows:

1. The seventh WHEREAS clause of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“WHEREAS, the City and Manager have entered into the QMA with the intent of complying with U.S. Internal Revenue Service Procedure 97-13 and all references to Revenue Procedure 97-13 shall be deemed to be references to Revenue Procedure 97-13 as modified and superseded by Revenue Procedure 2016-44 as further modified and superseded by Revenue Procedure 2017-13, which Revenue Procedure is set forth in Exhibit “B” attached hereto and incorporated herein by reference.”

2. Section 1.1(i) of the Original Agreement is hereby amended to add the following additional paragraph:

“(i) The Convention Center also includes the 10,000 square foot plaza and landscape areas (“Plaza Area”) adjacent to the Convention Center. Said Plaza Area is shown on the site plan attached hereto as Exhibit “A-1” and incorporated herein by reference. Manager has exclusive use of this area until such time as said Plaza Area is included in any proposed development of Parking Lot 33, at which time it will become under the exclusive control of the City or the City’s selected developer of Parking Lot 33. The City shall give Manager at least twelve (12) months’ notice, if possible, prior to any development. For the purpose of this section, “development” means that point in time when a developer assumes control of Parking Lot 33 for any pre-construction activity.”

3. Section 1.1(j) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“(j) Consumer Price Index or CPI shall mean the March Consumer Price Index–All Urban Consumers for Riverside-San Bernardino-Ontario, CA

(CPI-U)/All Items, Not Seasonally Adjusted, 1982-84=100 as published by the United States Department of Labor Statistics, for the applicable comparison period and region. If the CPI shall cease to use 1982-84 as the base year, the CPI shall be converted in accordance with the conversion factor, if any, published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI is discontinued or revised during the term of this Agreement, such government index or computation, if any, with which it is replaced shall be used. If no conversion factor is supplied by the United State Department of Labor Bureau of Statistics, either for a new base year or a new index, the parties shall agree upon a conversion factor for the CPI to be used.”

4. Section 2.1 of the Original Agreement is hereby amended to add the following paragraph at the end of said section.

“The above authorizations and obligations of Manager shall continue not only during the term of this QMA but also during any extensions of the Term.”

5. Section 2.10(e) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“(e) In soliciting bids and quotes and in entering into contracts with respect to the Convention Center, Manager shall comply with all applicable public bidding requirements. City shall provide Manager with a copy of its Purchasing Resolution No. 23256 regarding Goods, Services and Construction Contracts, which may be amended from time to time. A copy of Resolution No. 23256 is attached hereto as Exhibit “E” and incorporated herein by reference.”

6. Section 2.10 of the Original Agreement is hereby amended to add the following new subsection (f):

“(f) The Parties understand and agree that existing contract for the use of the Plaza Area may be impacted during any construction of the Plaza Area. Manager will use commercially reasonable efforts to modify existing contracts to avoid conflicts during the construction of the Plaza Area; provided, however, City understands and acknowledges that existing agreements with third parties may not be modified without the consent of such third parties, which is out of the control of Manager. Likewise, Manager will inform any prospective users of the construction and the unavailability of the Plaza Area during said construction. City agrees to work with Manager to relocate any existing contract for the use of the Plaza Area to another City facility at no cost to the Manager or Plaza Area user.”

7. Section 4.1 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“4.1 Management Term. The Management Term shall commence on the Commencement Date and terminate on June 30, 2028, subject to termination as provided in Article 5 hereof.

(a) Prior Agreements. This QMA supersedes all other agreements and their respective amendments, verbal and written, between City and Manager for the operation of the Convention Center, including any agreement for the temporary operations at the Riverside Municipal Auditorium. All other or previous agreements shall terminate and have no further force or effect as of the Commencement Date of this QMA.

(b) Request for Proposals. On or before December 2026, the City shall issue a Request for Proposal to procure a management firm to manage the Convention Center after the end of this QMA. In the event Manager does not respond to the Request for Proposal or is not the successful proposer, Manager shall cooperate and ensure a smooth transition between Manager and the new manager.”

8. Section 5.2 (c)(vi) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“(vi) The City shall cause the Convention Center to recognize all business confirmed for the Convention Center with reservation dates after the expiration or early termination of this QMA. Manager shall cooperate with the City prior to and after termination of this QMA for the smooth transition of any confirmed reservations. At least six (6) months prior to the end of this QMA, Manager shall provide the City with a detailed list and related agreements/contracts of all future events scheduled after said end of the Term. The list shall include, but not be limited to, the name of the event, contact information for the event organizer, size, value, duration, food and beverage, and any special conditions. The City shall be responsible for any and all liability that may exist to groups whose confirmed future contracts are not honored in full and as contracted by the Manager after expiration or early termination of this QMA. For purposes of clarity, the Parties acknowledge that their respective indemnity obligations set forth in Article 14 apply to any breach of this Section.”

9. Section 6.1 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“6.1 Target Annual Revenue Budget; Condition Precedent; Performance Metric.

(a) On or before December of each year, the City shall provide a projected budget preparation schedule to Manager in connection with the City’s two-year budget. The City and Manager shall meet and confer in good faith, to establish a written Target Annual Budget related to Operating Revenue (“Target Annual Revenue Budget”) of the Convention Center Management which shall be formalized on or before June 30 of the year the two-year budget is adopted. Manager shall comply with the timelines set forth in the budget preparation schedule.

(b) If Manager meets the Target Annual Revenue Budget then it shall receive an Incentive Bonus described in Article 9 below. Subject to the City’s review of the Convention Center financials, Manager will be deemed to meet the Target Annual Revenue Budget if the books of accounts reflect that Manager generated revenues that meet or exceed the Target Annual Revenue Budget. If Manager generates less revenue than the Target Annual Revenue Budget, then Manager shall not be eligible for the Incentive Bonus.

(c) Manager will provide the City with external Performance Measures to be mutually agreed upon by the City and Manager. Manager agrees to provide quarterly updates to the City in alignment with City Performance updates to City Council which estimated schedule will be provided to Manager no later than December of each year. The parties agree that they will coordinate from time to time for additional performance measures.”

10. Beginning on July 1, 2023, the following Section 6.1 shall replace Section 6.1 as amended above.

“(a) On or before December of each year, the City shall provide a projected budget preparation schedule to Manager in connection with the City’s two-year budget. The City and Manager shall meet and confer in good faith, to establish a written Target Annual Budget related to Operating Revenue (“Target Annual Revenue Budget”) of the Convention Center Management which shall be formalized on or before June 30 of the year the two-year budget is adopted. Manager shall comply with the time-lines set forth in the budget preparation schedule.

(b) If Manager meets the Target Annual Revenue Budget and Performance Measures, then it shall receive an Incentive Bonus described in Article 9 below. Subject to the City’s review of the Convention Center

financials, Manager will be deemed to meet the Target Annual Revenue Budget if the books of accounts reflect that Manager generated revenues that meet or exceed the Target Annual Revenue Budget. If Manager generates less revenue than the Target Annual Revenue Budget, then Manager shall not be eligible for the Incentive Bonus.

(c) Manager will provide the City with external Performance Measures to be mutually agreed upon by the City and Manager. Manager agrees to provide quarterly updates to the City in alignment with City Performance updates to City Council which estimated schedule will be provided to Manager no later than December of each year. The parties agree that they will coordinate from time to time for additional performance measures.”

11. Section 7.3 is hereby added to the Original Agreement as follows:

“7.3 Capital Projects. In connection with Manager’s proposed budget for the Management of the Convention Center, the City and Manager shall mutually agree to annually set aside up to One Hundred Thousand Dollars (\$100,000) of Convention Center profits for potential capital improvements (as defined in Exhibit “C”), unless otherwise approved by City Council, facility improvements, programs and/or services that will increase economic activity at the Convention Center and the City. All such set aside funds will be set aside in a special City operating account. City and Manager shall meet annually, or as needed, to review the available set aside balance and proposed expenditures. Manager understands and agrees that any project mentioned herein will be subject to Section 2.10 of this QMA.”

12. Beginning on July 1, 2023, Section 9.3 is hereby deleted in its entirety and replaced with the following:

“9.3 Incentive Bonus Eligibility. Manager shall receive an incentive bonus in the event Manager meets the Target Annual Revenue Budget for Revenues as set forth in Article 6 above including the specific weighted criteria outlined in this section below. Manager will be deemed to meet the Target Annual Revenue Budget if: a) total annual revenue for the given year is equal to or greater than the average of the previous three (3) years (e.g., Manager will receive 70% of incentive bonus); b) revenue per occupied square foot is equal to or greater than the average of the previous three (3) years (10% of incentive bonus); c) increase in food and beverage per attendee is equal to or greater than the average of the previous three (3) years (10% of incentive bonus); and d) parking revenue is equal to or greater than the average of the previous three (3) years (10% of incentive bonus). If Parking Lot 33 is removed due to construction of a development project, the weighted 10% shall be shifted equally to (b) and (c).”

13. Beginning on July 1, 2023, and/or upon completion of adjacent construction activity, whichever occurs first, Section 9.4 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“9.4 Incentive Bonus Calculation. Provided Manager meets the Target Annual Revenue Budget, Manager shall receive the Incentive Bonus in an amount equal to One Hundred Thousand Dollars (\$100,000.00). If Manager’s Base Fee is increased in accordance with Section 9.2 above, Manager shall receive the Incentive Bonus in an amount equal to One Hundred Twenty Thousand Dollars (\$120,000.00). Notwithstanding anything herein to the contrary, the Incentive Bonus shall not exceed twenty percent (20%) of the total annual compensation received by Manager in any given year. The Incentive Bonus will be payable at the end of each Fiscal Year immediately following the preparation of the financial statements by the Independent Auditor.”

14. Section 11.2 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“11.2 Parking Lot 33. Upon prior approval and in cooperation with the Public Works Department, Manager shall have the right to use of Parking Lot 33 for Convention Center events. Manager’s request shall include the amount of the Parking Lot 33 it needs for the subject event. Manager shall track all parking revenue expenses for each event for which it uses Parking Lot 33. Manager shall pay the City’s Public Works Department fifty percent (50%) of any net revenues and shall add the remaining fifty percent to the Gross Revenues of the Convention Center. Payments to the Public Works Department shall be made quarterly, within 30 days of the end of the respective quarter.

Manager understands and agrees that the City intends to develop Parking Lot 33 with a private developer. The Parties agree to coordinate prior to and during any development to discuss how to maximize the revenue and profitability of the Convention Center and, if possible, phase construction to minimally impact the Convention Center’s operation and its events. Should any development occur, the City will require that any new development provide sufficient parking for the Convention Center. The City agrees to provide advance notice to Manager prior to development of Parking Lot 33 and will continue to provide status updates during all phases of construction.”

15. Section 16.18 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

“The City and Manager have entered into this QMA with the intent of complying with U.S. Internal Revenue Service Procedure 97-13. Although

Manager makes no representations, and shall have no liability, regarding the effect, if any, of this QMA on the tax-exempt status of the financing structure that may be employed to generate the capital necessary to develop the Convention Center, Manager and the City agree to make reasonable modifications to this QMA as may be necessary in the reasonable opinion of the City's tax counsel to ensure the tax-exempt status of such financing. Manager agrees that it is not entitled to and will not take any tax position that is inconsistent with being a service provider to the City with respect to the Convention Center. For example, Manager agrees not to claim any depreciation, investment tax credit or deduction for any payment as rent with respect to the Convention Center."

16. Exhibit "B" of the Original Agreement is hereby replaced in its entirety with Exhibit "B" attached to and incorporated herein by reference to this Second Amendment.

17. Exhibit "E" of the Original Agreement is hereby replaced in its entirety with Exhibit "E" attached to and incorporated herein by reference to this Second Amendment.

18. All terms and conditions of the Original Agreement and First Amendment not inconsistent with this Second Amendment, shall remain in full force and effect and are incorporated herein by this reference as if set forth in full.


[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed the day and year first above written.


CITY OF RIVERSIDE, a California charter city and municipal corporation

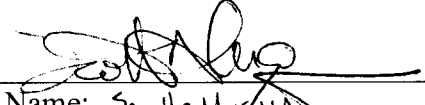
By: 
Moises Lopez
Deputy City Manager

RAINCROSS HOSPITALITY CORPORATION, a California corporation

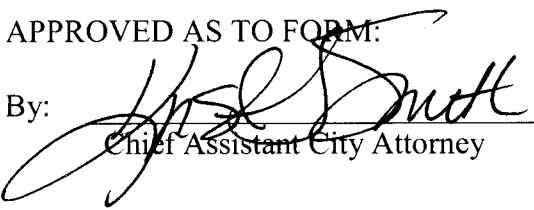
By: 
Printed Name: Tai Waggeland
Title: CEO

ATTEST:

By: 
City Clerk

By: 
Printed Name: Scott Megna
Title: President

APPROVED AS TO FORM:

By: 
Chief Assistant City Attorney

CA 13-0540.2
08/06/19

EXHIBIT “A-1”

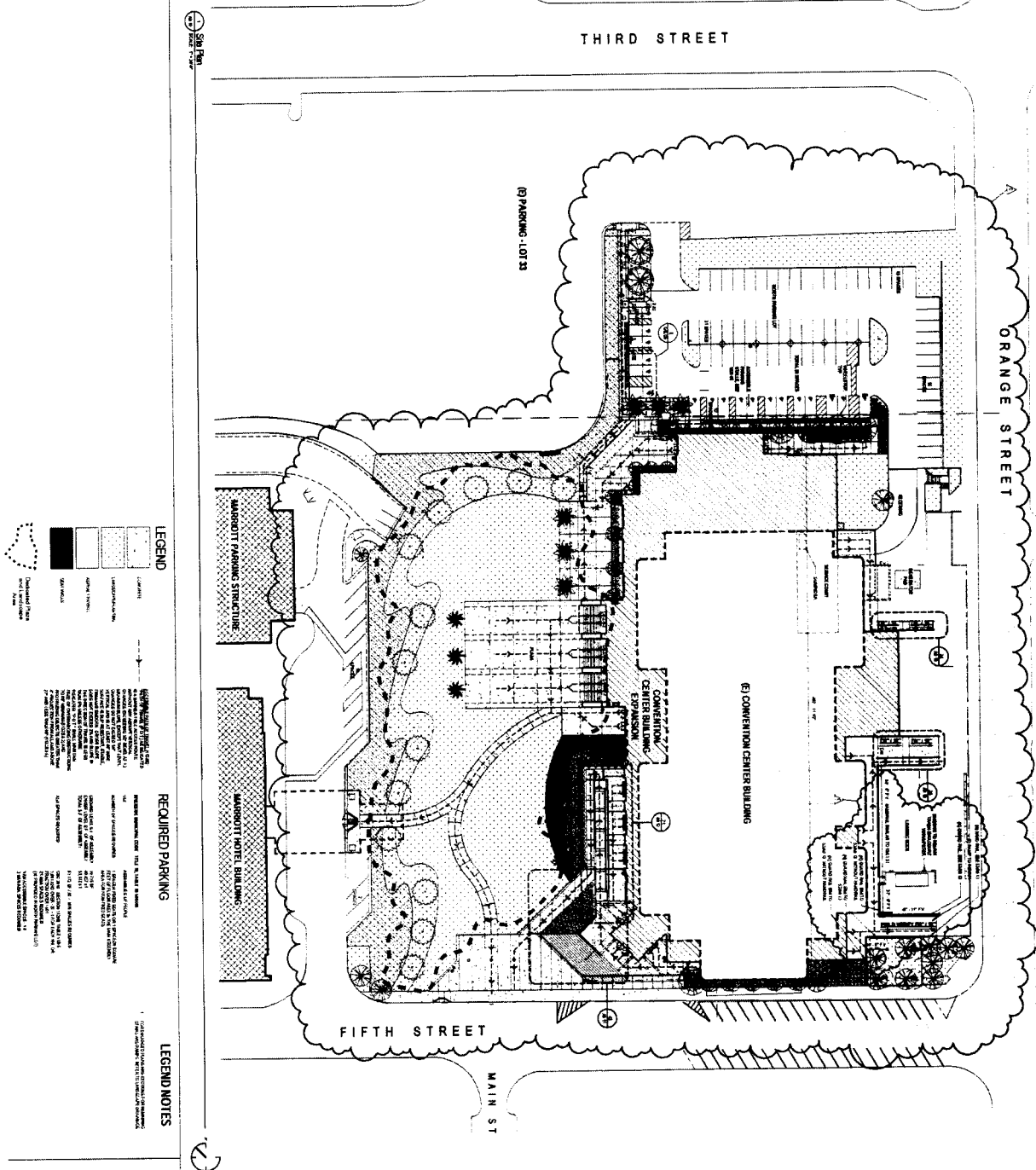


Exhibit A-1

REVISED EXHIBIT “B”

26 CFR 601.601: Rules and regulations.
(Also: §§ 141, 145, 1.141-3, 1.145-2)

Rev. Proc. 2017-13

SECTION 1. PURPOSE

This revenue procedure provides safe harbor conditions under which a management contract does not result in private business use of property financed with governmental tax-exempt bonds under § 141(b) of the Internal Revenue Code or cause the modified private business use test for property financed with qualified 501(c)(3) bonds under § 145(a)(2)(B) to be met. This revenue procedure modifies, amplifies, and supersedes Rev. Proc. 2016-44, 2016-36 IRB 316, to address certain types of compensation, the timing of payment of compensation, the treatment of land, and methods of approval of rates. Sections 2.11 through 2.14 of this revenue procedure generally describe the modifications and amplifications made to Rev. Proc. 2016-44 by this revenue procedure.

SECTION 2. BACKGROUND

.01 Section 103(a) provides that, except as provided in § 103(b), gross income does not include interest on any State or local bond. Section 103(b)(1) provides that § 103(a) shall not apply to any private activity bond that is not a qualified bond (within the meaning of § 141). Section 141(a) provides that the term “private activity bond” means any bond issued as part of an issue (1) that meets the private business use test and private security or payment test, or (2) that meets the private loan financing test.

.02 Section 141(b)(1) provides generally that an issue meets the private business use test if more than 10 percent of the proceeds of the issue are to be used for any private business use. Section 141(b)(6) defines "private business use" as use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit. For this purpose, any activity carried on by a person other than a natural person must be treated as a trade or business.

.03 Section 1.141-3(a)(1) of the Income Tax Regulations provides, in part, that the 10 percent private business use test of § 141(b)(1) is met if more than 10 percent of the proceeds of an issue is used in a trade or business of a nongovernmental person. For this purpose, the use of financed property is treated as the direct use of proceeds. Section 1.141-3(a)(2) provides that, in determining whether an issue meets the private business use test, it is necessary to look at both indirect and direct use of proceeds. Proceeds are treated as used in the trade or business of a nongovernmental person if a nongovernmental person, as a result of a single transaction or a series of related transactions, uses property acquired with the proceeds of an issue.

.04 Section 1.141-3(b)(1) provides that both actual and beneficial use by a nongovernmental person may be treated as private business use. In most cases, the private business use test is met only if a nongovernmental person has special legal entitlements to use the financed property under an arrangement with the issuer. In general, a nongovernmental person is treated as a private business user as a result of ownership; actual or beneficial use of property pursuant to a lease, a management

contract, or an incentive payment contract; or certain other arrangements such as a take or pay or other output-type contract.

.05 Section 1.141-3(b)(3) provides generally that the lease of financed property to a nongovernmental person is private business use of that property. For this purpose, any arrangement that is properly characterized as a lease for federal income tax purposes is treated as a lease. Section 1.141-3(b)(3) further provides that, in determining whether a management contract is properly characterized as a lease, it is necessary to consider all the facts and circumstances, including the following factors: (1) the degree of control over the property that is exercised by a nongovernmental person; and (2) whether a nongovernmental person bears the risk of loss of the financed property.

.06 Section 1.141-3(b)(4)(i) provides generally that a management contract with respect to financed property may result in private business use of that property, based on all of the facts and circumstances. A management contract with respect to financed property generally results in private business use of that property if the contract provides for compensation for services rendered with compensation based, in whole or in part, on a share of net profits from the operations of the facility. Section 1.141-3(b)(4)(iv) provides generally that a management contract with respect to financed property results in private business use of that property if the service provider is treated as the lessee or owner of financed property for federal income tax purposes.

.07 Section 1.141-3(b)(4)(ii) defines "management contract" as a management, service, or incentive payment contract between a governmental person and a service provider under which the service provider provides services involving all, a portion, or

any function, of a facility. For example, a contract for the provision of management services for an entire hospital, a contract for management services for a specific department of a hospital, and an incentive payment contract for physician services to patients of a hospital are each treated as a management contract.

.08 Section 1.141-3(b)(4)(iii) provides that the following arrangements generally are not treated as management contracts that give rise to private business use:

(A) contracts for services that are solely incidental to the primary governmental function or functions of a financed facility (for example, contracts for janitorial, office equipment repair, hospital billing, or similar services); (B) the mere granting of admitting privileges by a hospital to a doctor, even if those privileges are conditioned on the provision of de minimis services if those privileges are available to all qualified physicians in the area, consistent with the size and nature of the hospital's facilities; (C) a contract to provide for the operation of a facility or system of facilities that consists primarily of public utility property, if the only compensation is the reimbursement of actual and direct expenses of the service provider and reasonable administrative overhead expenses of the service provider; and (D) a contract to provide for services, if the only compensation is the reimbursement of the service provider for actual and direct expenses paid by the service provider to unrelated parties.

.09 Section 141(e) provides, in part, that the term "qualified bond" includes a qualified 501(c)(3) bond if certain requirements stated therein are met. Section 145(a) provides generally that "qualified 501(c)(3) bond" means any private activity bond issued as part of an issue if (1) all property that is to be provided by the net proceeds of

the issue is to be owned by a 501(c)(3) organization or a governmental unit, and (2) such bond would not be a private activity bond if (A) 501(c)(3) organizations were treated as governmental units with respect to their activities that do not constitute unrelated trades or businesses, determined by applying § 513(a), and (B) § 141(b)(1) and (2) were applied by substituting "5 percent" for "10 percent" each place it appears and by substituting "net proceeds" for "proceeds" each place it appears. Section 1.145-2 provides that, with certain exceptions and modifications, §§ 1.141-0 through 1.141-15 apply to § 145(a).

.10 Rev. Proc. 2016-44 provides safe harbor conditions under which a management contract does not result in private business use of property financed with governmental tax-exempt bonds under § 141(b) or cause the modified private business use test for property financed with qualified 501(c)(3) bonds under § 145(a)(2)(B) to be met. Rev. Proc. 2016-44 modified and superseded Rev. Proc. 97-13, 1997-1 C.B. 632; Rev. Proc. 2001-39, 2001-2 C.B. 38; and section 3.02 of Notice 2014-67, 2014-46 I.R.B. 822.

.11 Section 5.02 of Rev. Proc. 2016-44 sets forth general financial requirements for management compensation arrangements eligible for the safe harbor. Sections 5.02(2) and 5.02(3) of Rev. Proc. 2016-44 provide that the contract must neither provide to the service provider a share of net profits nor impose on the service provider the burden of bearing any share of net losses from the operation of the managed property. Before the publication of Rev. Proc. 2016-44, previously applicable revenue procedures expressly treated certain types of compensation, including capitation fees, periodic fixed fees, and per-unit fees (as defined therein), as not providing a share of net profits. Questions

have arisen regarding whether these common types of compensation continue to be treated in a similar manner under Rev. Proc. 2016-44. Related questions have arisen about whether a service provider's payment of expenses of the operation of the managed property without reimbursement from the qualified user (as defined in section 4.04 of Rev. Proc. 2016-44) affects the treatment of these types of compensation. To provide continuity with the previous safe harbors, this revenue procedure clarifies that these types of compensation and certain incentive compensation will not be treated as providing a share of net profits or requiring the service provider to bear a share of net losses.

.12 Sections 5.02(2) and 5.02(3) of Rev. Proc. 2016-44 also provide that the timing of payment of compensation cannot be contingent upon net profits or net losses from the operation of the managed property. Questions have arisen about the effect of these restrictions on the timing of payment of compensation. This revenue procedure clarifies that compensation subject to an annual payment requirement and reasonable consequences for late payment (such as interest charges or late payment fees) will not be treated as contingent upon net profits or net losses if the contract includes a requirement that the qualified user will pay the deferred compensation within five years of the original due date of the payment.

.13. Section 5.03 of Rev. Proc. 2016-44 provides that the term of the contract, including all renewal options (as defined in § 1.141-1(b)), must be no greater than the lesser of 30 years or 80 percent of the weighted average reasonably expected economic life of the managed property. For this purpose, under Rev. Proc. 2016-44,

economic life is determined in the same manner as under § 147(b), but without regard to §147(b)(3)(B)(ii), as of the beginning of the term of contract. Section 147(b)(3)(B)(i) provides that generally land is not taken into account, but § 147(b)(3)(B)(ii) provides that if 25 percent or more of the net proceeds of any issue is to be used to finance the acquisition of land, such land shall be taken into account and treated as having an economic life of 30 years. Questions have arisen about excluding land when the cost of the land accounts for a significant portion of the managed property. This revenue procedure provides that economic life is determined in the same manner as under § 147(b) as of the beginning of the term of the contract. Thus, land will be treated as having an economic life of 30 years if 25 percent or more of the net proceeds of the issue that finances the managed property is to be used to finance the costs of such land.

.14 Section 5.04 of Rev. Proc. 2016-44 provides that the qualified user must exercise a significant degree of control over the use of the managed property. Section 5.04 of Rev. Proc. 2016-44 further provides that this requirement is met if the contract requires the qualified user to approve, among other things, the rates charged for use of the managed property. Section 5.04 of Rev. Proc. 2016-44 also provides that a qualified user may show approval of rates charged for use of the managed property by either expressly approving such rates (or the methodology for setting such rates) or by including in the contract a requirement that service provider charge rates that are reasonable and customary as specifically determined by an independent third party. Questions have arisen about the requirement to approve the rates in various

circumstances in which it may not be feasible to approve each specific rate charged, such as for a physician's professional services at a § 501(c)(3) hospital or hotel room rates at a governmentally-owned hotel. This revenue procedure clarifies that a qualified user may satisfy the approval of rates requirement by approving a reasonable general description of the method used to set the rates or by requiring that the service provider charge rates that are reasonable and customary as specifically determined by, or negotiated with, an independent third party.

SECTION 3. SCOPE

This revenue procedure applies to a management contract (as defined in section 4.03 of this revenue procedure) involving managed property (as defined in section 4.04 of this revenue procedure) financed with the proceeds of an issue of governmental bonds (as defined in § 1.141-1(b)) or qualified 501(c)(3) bonds (as defined in § 145).

SECTION 4. DEFINITIONS

For purposes of this revenue procedure, the following definitions apply:

.01 Capitation fee means a fixed periodic amount for each person for whom the service provider or the qualified user assumes the responsibility to provide all needed services for a specified period so long as the quantity and type of services actually provided to such persons varies substantially. For example, a capitation fee includes a fixed dollar amount payable per month to a medical service provider for each member of a health maintenance organization plan for whom the provider agrees to provide all needed medical services for a specified period. A fixed periodic amount may include an automatic increase according to a specified, objective, external standard that is not

linked to the output or efficiency of the managed property. For example, the Consumer Price Index and similar external indices that track increases in prices in an area or increases in revenues or costs in an industry are objective, external standards. A capitation fee may include a variable component of up to 20 percent of the total capitation fee designed to protect the service provider against risk such as risk of catastrophic loss.

.02 Eligible expense reimbursement arrangement means a management contract under which the only compensation consists of reimbursements of actual and direct expenses paid by the service provider to unrelated parties and reasonable related administrative overhead expenses of the service provider.

.03 Management contract means a management, service, or incentive payment contract between a qualified user and a service provider under which the service provider provides services for a managed property. A management contract does not include a contract or portion of a contract for the provision of services before a managed property is placed in service (for example, pre-operating services for construction design or construction management).

.04 Managed property means the portion of a project (as defined in § 1.141-6(a)(3)) with respect to which a service provider provides services.

.05 Periodic fixed fee means a stated dollar amount for services rendered for a specified period of time. For example, a stated dollar amount per month is a periodic fixed fee. The stated dollar amount may automatically increase according to a specified, objective external standard that is not linked to the output or efficiency of the

managed property. For example, the Consumer Price Index and similar external indices that track increases in prices in an area or increases in revenues or costs in an industry are objective external standards. Capitation fees and per-unit fees are not periodic fixed fees.

.06 Per-unit fee means a fee based on a unit of service provided specified in the contract or otherwise specifically determined by an independent third party, such as the administrator of the Medicare program, or the qualified user. For example, a stated dollar amount for each specified medical procedure performed, car parked, or passenger mile is a per-unit fee. Separate billing arrangements between physicians and hospitals are treated as per-unit fee arrangements. A fee that is a stated dollar amount specified in the contract does not fail to be a per-unit fee as a result of a provision under which the fee may automatically increase according to a specified, objective, external standard that is not linked to the output or efficiency of the managed property. For example, the Consumer Price Index and similar external indices that track increases in prices in an area or increases in revenues or costs in an industry are objective, external standards.

.07 Qualified user means, for projects (as defined in § 1.141-6(a)(3)) financed with governmental bonds, any governmental person (as defined in § 1.141-1(b)) or, for projects financed with qualified 501(c)(3) bonds, any governmental person or any 501(c)(3) organization with respect to its activities which do not constitute an unrelated trade or business, determined by applying § 513(a).

.08 Service provider means any person other than a qualified user that provides services to, or for the benefit of, a qualified user under a management contract.

.9 Unrelated parties means persons other than either: (1) a related party (as defined in § 1.150-1(b)) to the service provider or (2) a service provider's employee.

SECTION 5. SAFE HARBOR CONDITIONS UNDER WHICH MANAGEMENT CONTRACTS DO NOT RESULT IN PRIVATE BUSINESS USE

.01 In general. If a management contract meets all of the applicable conditions of sections 5.02 through section 5.07 of this revenue procedure, or is an eligible expense reimbursement arrangement, the management contract does not result in private business use under § 141(b) or 145(a)(2)(B). Further, under section 5.08 of this revenue procedure, use functionally related and subordinate to a management contract that meets these conditions does not result in private business use.

.02 General financial requirements.

(1) In general. The payments to the service provider under the contract must be reasonable compensation for services rendered during the term of the contract. Compensation includes payments to reimburse actual and direct expenses paid by the service provider and related administrative overhead expenses of the service provider.

(2) No net profits arrangements. The contract must not provide to the service provider a share of net profits from the operation of the managed property. Compensation to the service provider will not be treated as providing a share of net profits if no element of the compensation takes into account, or is contingent upon, either the managed property's net profits or both the managed property's revenues and

expenses (other than any reimbursements of direct and actual expenses paid by the service provider to unrelated third parties) for any fiscal period. For this purpose, the elements of the compensation are the eligibility for, the amount of, and the timing of the payment of the compensation. Incentive compensation will not be treated as providing a share of net profits if the eligibility for the incentive compensation is determined by the service provider's performance in meeting one or more standards that measure quality of services, performance, or productivity, and the amount and the timing of the payment of the compensation meet the requirements of this section 5.02(2).

(3) No bearing of net losses of the managed property.

(a) The contract must not, in substance, impose upon the service provider the burden of bearing any share of net losses from the operation of the managed property. An arrangement will not be treated as requiring the service provider to bear a share of net losses if:

(i) The determination of the amount of the service provider's compensation and the amount of any expenses to be paid by the service provider (and not reimbursed), separately and collectively, do not take into account either the managed property's net losses or both the managed property's revenues and expenses for any fiscal period; and

(ii) The timing of the payment of compensation is not contingent upon the managed property's net losses.

(b) For example, a service provider whose compensation is reduced by a stated dollar amount (or one of multiple stated dollar amounts) for failure to keep the managed

property's expenses below a specified target (or one of multiple specified targets) will not be treated as bearing a share of net losses as a result of this reduction.

(4) Treatment of certain types of compensation. Without regard to whether the service provider pays expenses with respect to the operation of the managed property without reimbursement by the qualified user, compensation for services will not be treated as providing a share of net profits or requiring the service provider to bear a share of net losses under sections 5.02(2) and 5.02(3) of this revenue procedure if the compensation for services is: (a) based solely on a capitation fee, a periodic fixed fee, or a per-unit fee; (b) incentive compensation described in the last sentence of section 5.02(2) of this revenue procedure; or (c) a combination of these types of compensation.

(5) Treatment of timing of payment of compensation. Deferral due to insufficient net cash flows from the operation of the managed property of the payment of compensation that otherwise meets the requirements of sections 5.02(2) and 5.02(3) of this revenue procedure will not cause the deferred compensation to be treated as contingent upon net profits or net losses under sections 5.02(2) and 5.02(3) of this revenue procedure if the contract includes requirements that:

(a) The compensation is payable at least annually;

(b) The qualified user is subject to reasonable consequences for late payment, such as reasonable interest charges or late payment fees; and

(c) The qualified user will pay such deferred compensation (with interest or late payment fees) no later than the end of five years after the original due date of the payment.

.03 Term of the contract and revisions. The term of the contract, including all renewal options (as defined in § 1.141-1(b)), must not be greater than the lesser of 30 years or 80 percent of the weighted average reasonably expected economic life of the managed property. For this purpose, economic life is determined in the same manner as under § 147(b) as of the beginning of the term of the contract. A contract that is materially modified with respect to any matters relevant to this section 5 is retested under this section 5 as a new contract as of the date of the material modification.

.04 Control over use of the managed property. The qualified user must exercise a significant degree of control over the use of the managed property. This control requirement is met if the contract requires the qualified user to approve the annual budget of the managed property, capital expenditures with respect to the managed property, each disposition of property that is part of the managed property, rates charged for the use of the managed property, and the general nature and type of use of the managed property (for example, the type of services). For this purpose, for example, a qualified user may show approval of capital expenditures for a managed property by approving an annual budget for capital expenditures described by functional purpose and specific maximum amounts; and a qualified user may show approval of dispositions of property that is part of the managed property in a similar manner. Further, for example, a qualified user may show approval of rates charged for use of the managed property by expressly approving such rates or a general description of the methodology for setting such rates (such as a method that establishes hotel room rates using specified revenue goals based on comparable properties), or by requiring that the

service provider charge rates that are reasonable and customary as specifically determined by, or negotiated with, an independent third party (such as a medical insurance company).

.05 Risk of loss of the managed property. The qualified user must bear the risk of loss upon damage or destruction of the managed property (for example, due to force majeure). A qualified user does not fail to meet this risk of loss requirement as a result of insuring against risk of loss through a third party or imposing upon the service provider a penalty for failure to operate the managed property in accordance with the standards set forth in the management contract.

.06 No inconsistent tax position. The service provider must agree that it is not entitled to and will not take any tax position that is inconsistent with being a service provider to the qualified user with respect to the managed property. For example, the service provider must agree not to claim any depreciation or amortization deduction, investment tax credit, or deduction for any payment as rent with respect to the managed property.

.07 No circumstances substantially limiting exercise of rights.

(1) In general. The service provider must not have any role or relationship with the qualified user that, in effect, substantially limits the qualified user's ability to exercise its rights under the contract, based on all the facts and circumstances.

(2) Safe harbor. A service provider will not be treated as having a role or relationship prohibited under section 5.07(1) of this revenue procedure if:

(a) No more than 20 percent of the voting power of the governing body of the qualified user is vested in the directors, officers, shareholders, partners, members, and employees of the service provider, in the aggregate;

(b) The governing body of the qualified user does not include the chief executive officer of the service provider or the chairperson (or equivalent executive) of the service provider's governing body; and

(c) The chief executive officer of the service provider is not the chief executive officer of the qualified user or any of the qualified user's related parties (as defined in §1.150-1(b)).

(3) For purposes of section 5.07(2) of this revenue procedure, the phrase "service provider" includes the service provider's related parties (as defined in §1.150-1(b)) and the phrase "chief executive officer" includes a person with equivalent management responsibilities.

.08 Functionally related and subordinate use. A service provider's use of a project (as defined in § 1.141-6(a)(3)) that is functionally related and subordinate to performance of its services under a management contract for managed property that meets the conditions of this section 5 does not result in private business use of that project. For example, use of storage areas to store equipment used to perform activities required under a management contract that meets the requirements of this section 5 does not result in private business use.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2016-44 is modified, amplified, and superseded.

SECTION 7. DATE OF APPLICABILITY

This revenue procedure applies to any management contract that is entered into on or after January 17, 2017, and an issuer may apply this revenue procedure to any management contract that was entered into before January 17, 2017. In addition, an issuer may apply the safe harbors in Rev. Proc. 97-13, as modified by Rev. Proc. 2001-39 and amplified by Notice 2014-67, to a management contract that is entered into before August 18, 2017 and that is not materially modified or extended on or after August 18, 2017 (other than pursuant to a renewal option as defined in § 1.141-1(b)).

SECTION 8. DRAFTING INFORMATION

The principal authors of this revenue procedure are Johanna Som de Cerff and David White of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue procedure, contact David White on (202) 317-6980 (not a toll free call).

REVISED EXHIBIT “E”

RESOLUTION NO. 23256

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA ESTABLISHING RULES AND REGULATIONS FOR THE PROCUREMENT OF GOODS, SERVICES AND CONSTRUCTION CONTRACTS AND ESTABLISHING CONTRACT EXECUTION AUTHORITY, HEREINAFTER TO BE KNOWN AS THE PURCHASING RESOLUTION; AND REPEALING RESOLUTION NO. 22576.

WHEREAS, the City Manager, subject to approval of the City Council, is authorized and directed by Article VI, Section 601 (d) of the Charter of the City of Riverside, Article XI, Section 1105 of the Charter of the City of Riverside, and Chapter 3.16 of the Riverside Municipal Code to prepare and recommend adoption of rules and regulations governing the contracting for and the procuring, purchasing, storing, distributing and disposing of all supplies, materials and equipment required by any office, department or agency of the City; and

WHEREAS, the City Manager is authorized by Resolution as directed by Article IV, Section 419 of the Charter of the City of Riverside, to bind the City, with or without written contract, for the acquisition of equipment, materials, supplies, labor, services, or other items, if included within the budget approved by the City Council, and may impose a monetary limit upon such authority; and

WHEREAS, the City Council desires to consolidate the City's various rules and regulations governing procurements into a single resolution documenting the requirements and to maintain clarity and transparency for the City's procurement policies and procedures.

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Riverside California, as follows:

Section 1: That the following rules and regulations are hereby adopted for the administration of the City's centralized purchasing system:

TITLE: PURCHASING RESOLUTION RULES AND REGULATIONS

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ARTICLE ONE: DEFINITION OF TERMS

SECTION 100. Definitions. The words set forth hereinafter in this Resolution shall have the following meanings whenever they appear in these rules and regulations, unless the context in which they are used clearly requires a different meaning:

(a) "Awarding Entity" means the City Council when referencing Procurement for the City or for any Using Agency of the City except for the Riverside Board of Public Utilities or Riverside Department of Public Utilities and Board of Library Trustees or Library Department; and means the Riverside Board of Public Utilities when referencing Procurement for the Riverside Department of Public Utilities in accordance with Article XII, Section 1202 of the Charter of the City of Riverside; and means the Board of Library Trustees when referencing Procurement for the Library Department in accordance with Article VIII, Section 808(d) of the Charter of the City of Riverside.

(b) "Bid" means an offer or proposal submitted by a Bidder setting forth the price for the Goods, Services, or Construction to be provided.

(c) "Bidder" means any individual, firm, entity, partnership, corporation, or combination thereof, submitting a Bid, acting directly or through a duly authorized representative of a Using Agency.

1 (d) "Change Order" means a City-issued document used to modify a Purchase Order to
2 add, delete, or revise the quantity, price or scope of Goods, Services, Professional Services or
3 Construction being provided.

4 (e) "City" means the City of Riverside.

5 (f) "Competitive Procurement" means a process involving the solicitation under the
6 authority and supervision of the Manager by Formal Procurement or Informal Procurement (all as
7 hereinafter defined) under procedures and circumstances intended to foster effective, broad-based
8 competition within the private sector to provide Goods, Services or Construction to the City.

9 (g) "Construction" means the process of building, altering, repairing, improving or
10 demolishing any public structure or building, or other public improvements of any kind, and
11 includes the projects described in Article XI, Section 1109 of the Charter of the City of Riverside;
12 it does not include routine operation, maintenance or repair of existing structures, buildings or real
13 property by the City's own forces. "Construction" shall also include "public project" as defined in
14 Section 20161 of the California Public Contract Code.

15 (h) "Contract" means any type of legally recognized agreement to provide Goods, Services
16 or Construction, no matter what it may be titled or how described, including executed Purchase
17 Orders, for the Procurement or disposition of Goods, Services or Construction, but does not include
18 any agreement for collective bargaining, utility extensions, subdivision improvements or any
19 agreements whereby an owner of real property or his or her authorized representative agrees to
20 construct improvements of a public nature on property to be dedicated to the City.

21 (i) "Contractor" means any Person (as hereinafter defined) who enters into a Contract with
22 the City.

23 (j) "Cooperative Purchasing" means a purchasing method whereby the Procurement
24 requirements of two or more governmental entities are combined in order to obtain the benefit of
25 volume Procurement or reduction in administrative expenses. Cooperative Purchasing practices
26 may include other agencies who conduct volume procurements on behalf of governmental
27 agencies.

1 (k) "Design-Bid-Build" means a traditional method of construction project delivery
2 involving the selection and award of professional design services followed by a separate process
3 for construction services once the design documents are complete.

4 (l) "Design-Build" means a process involving contracting with a single entity for both the
5 design and Construction of a public works project pursuant to a competitive negotiation process
6 established by City Council ordinance from time to time in accordance with Article XI, Section
7 1114 of the City of the Charter of the City of Riverside and Chapter 1.07 of the Riverside
8 Municipal Code.

9 (m) "Emergency Procurement" means the Procurement of Goods, Services or Construction
10 without utilizing Competitive Procurement in circumstances set forth in Article Three hereof as
11 constituting an "emergency".

12 (n) "Field Order" means in construction projects, a written order passed to the contractor
13 from the City or architect which will effect a minor change in work, requiring no further adjustment
14 to the contract sum or expected date of completion.

15 (o) "Formal Bid" means a written Bid which shall be (1) submitted in a sealed envelope,
16 or electronically, in conformance with a City-prescribed format and procedure, (2) publicly
17 opened, read and-recorded at a City-specified date, time and place, and (3) accepted only by an
18 award made by the Awarding Entity.

19 (p) "Formal Procurement" means Procurement by written Notice Inviting Bids and Formal
20 Bid, Request for Proposals, or Request for Qualifications and includes Procurement of
21 Construction, Goods and Services subject to the bidding requirements of Section 1109 of the City
22 Charter.

23 (q) "Goods" means supplies, materials, equipment and other things included within the
24 definition of "Goods" in Section 2105 of the California Uniform Commercial Code.

25 (r) "Grant" means funding from State, Federal or other sources, which require specific use
26 of the funding provided to the City.

1 (s) "Informal Bid" means an offer, which may be conveyed to the Manager by email, letter,
2 memo, financial system or other means, to provide for stated prices, Goods, Services or
3 Construction, which are not required to be Procured by Formal Procurement; Informal Bids shall
4 be solicited only by City personnel from a Using Agency who are authorized to do so, and for each
5 instance of Procurement by Informal Bid, the authorized personnel shall obtain Informal Bids from
6 at least three different Persons, if possible.

7 (t) "Informal Procurement" means Competitive Procurement by Request For Bid, Request
8 for Proposals or Request for Information submitted by Persons in the Open Market submitted to
9 the Using Agency or Manager.

10 (u) "Life Cycle Cost" means the estimated total cost of Goods, Services or Construction
11 Procured by the City over the useful life of the Goods, Services or Construction based upon their
12 initial Procurement price as adjusted by projected operating, maintenance and related ownership
13 expenses which the City will incur during their useful life.

14 (v) "Lowest Responsive Bidder" means the Bidder or Offeror who submits the lowest
15 responsive Formal Bid, Informal Bid, or Offer in response to the City's invitation or request
16 therefore, as determined by the City.

17 (w) "Manager" means the City's Purchasing Manager, who supervises the City's
18 Purchasing Division located in the Finance Department.

19 (x) "Negotiated Procurement" means the business marketplace in which a User Agency or
20 the Manager, exercising prudent business practices and judgment, would Procure Goods, Services
21 or Construction utilizing a negotiation procedure, subject to approval by the Manager, instead of
22 Informal or Formal Bid.

23 (y) "Open Market" means the private sector business marketplace in which private persons,
24 exercising prudent business practices and judgement, would Procure Goods, Services, or
25 Construction utilizing Informal Bid or Formal bid procedures.

1 (z) "Person" means any individual, partnership, limited partnership, association,
2 corporation, labor union, committee, club, governmental entity or other entity recognized by
3 California law.

4 (aa) "Procure" and "Procurement" mean buying, purchasing, renting, leasing or otherwise
5 acquiring or obtaining Goods, Services or Construction; this also includes all functions and
6 procedures pertaining thereto.

7 (bb) "Professional Services" means advisory, consulting, architectural, information
8 technology, engineering, financial, legal (including claims adjustment), surveying, research or
9 developmental and any other services which involve the exercise of professional discretion and
10 independent judgment based on an advanced or specialized knowledge, expertise or training
11 gained by formal studies or experience.

12 (cc) "Purchase Order" means a City-issued document with any necessary terms and
13 conditions, which authorizes the delivery of Goods, the rendering of Services or the performance
14 of Construction at a stated price and encumbers City funds for the payment therefore; when
15 approved by the City Council through the biennial budget process or at another time during the
16 start of any fiscal year, a Purchase Order shall be referred to as an "Annual Purchase Order."

17 (dd) "Purchase Requisition" means a written request prepared on the requisite City form
18 prepared by the Manager, and submitted by a Using Agency to the Manager for Procurement of
19 specified Goods, Services or Construction.

20 (ee) "Request for Proposals" means a written solicitation issued by the Purchasing
21 Division, through the supervision of the Manager, which (1) generally describes the Goods or
22 Services sought to be Procured by the City, (2) sets forth minimum standards and criteria for
23 evaluating proposals submitted in response to it, (3) generally describes the format and content of
24 proposals to be submitted, (4) provides for negotiation of terms and conditions of the Procurement
25 Contract and (5) may place emphasis on described factors other than price to be used in evaluating
26 proposals.

1 (ff) "Request for Bid" means a written or verbal solicitation issued under the authority and
2 supervision of the Manager for Formal or Informal Bids for described Goods, Services or
3 Construction, which may be Procured by Formal or Informal Procurement.

4 (gg) "Request for Qualifications" means a written solicitation issued by the Purchasing
5 Division, through the supervision of the Manager, which (1) generally describes the Goods or
6 Services sought to be Procured by the City, (2) sets forth in determining what qualified Persons
7 can provide those services by providing minimum standards and criteria for the Goods or Services
8 sought, and (3) generally describes the format and content of proposals to be submitted, and (4)
9 may provide for negotiation of the Procurement Contract.

10 (hh) "Request for Information" means a written solicitation issued by a Using Agency,
11 through the supervision of the Manager, which (1) generally describes the Goods or Services
12 sought to be Procured by the City, (2) sets forth in determining what Persons can provide Goods
13 or Services sought to be Procured by the City, and (3) does not provide for the negotiation of any
14 Procurement Contract.

15 (ii) "Responsible Bidder" means a Bidder who is determined by the Manager or the
16 Awarding Entity to be responsible based on the following criteria:

- 17 (1) The Bidder's ability, capacity and skill to perform the Contract, and to provide
- 18 post-performance maintenance and repair;
- 19 (2) The Bidder's facilities and resources;
- 20 (3) The Bidder's character, integrity, reputation, judgment, experience and
- 21 efficiency;
- 22 (4) The Bidder's record of performance of prior Contracts with the City and others;
- 23 and
- 24 (5) The Bidder's compliance with laws, regulations, guidelines and orders
- 25 governing prior Contracts performed by the Bidder.

26 (jj) "Responsive Bid" means a Formal Bid or Informal Bid submitted in response to a City-
27 issued Notice Inviting Bids or Request For Bids, which meets and conforms to the substantive

1 requirements specified by the City without material qualification or exception, as determined by
2 the City.

3 (kk) "Services" means all services which are described in City specifications or are in the
4 nature of advertising, cleaning, gardening, insurance, janitorial, leasing of Goods, membership,
5 postal, printing, security, subscriptions, travel, utilities (electric, gas, telegraph, telephone,
6 transportation and water), weeding and discing, and the repairing, maintaining or servicing of
7 Goods, but does not include Professional Services, real property transactions, Construction,
8 Design-Build, nor employment and collective bargaining Contracts.

9 (ll) "Specifications" means a City-issued or referenced definite, detailed written description
10 of the Goods to be furnished, the Services to be performed or the Construction work to be done
11 and materials to be used under a Contract with the City, which specifies the composition,
12 Construction, dimension, durability, efficiency, form, nature, performance characteristics and
13 standards, quality, shape, texture, type and utility of Goods, Services or Construction sought by
14 the City.

15 (mm) "Surplus Goods" means any Goods having a remaining useful life or salvage value
16 but which are no longer used, needed for use or retained for potential use by the Using Agency
17 which has care, custody or control of them.

18 (nn) "Using Agency" means all City departments, institutions, offices, boards,
19 commissions, divisions, agencies and authorities which derive their support totally or in part from
20 City funds and for which the Manager is directed to Procure Goods, Services, Professional
21 Services, Design-Build, or Construction.

22 **ARTICLE TWO: GENERAL PURCHASING POLICY STATEMENT AND**
23 **DELEGATED AUTHORITY FOR PURCHASES AND CONTRACT EXECUTION**

24 **SECTION 200. Policy.** It is hereby determined and declared to be the policy and
25 requirement of the City that Procurement of Goods, Services and Construction by the City shall,
26 whenever practicable and advantageous to the City, be based on Competitive Procurement,
27 whether by Informal Procurement (ARTICLE FOUR) if permitted, or Formal Procurement

1 (ARTICLE FIVE) if required, except as otherwise provided in this Resolution or the City Charter.
2 Goods, Services and Construction must be procured in compliance with this Resolution.

3 SECTION 201. Exceptions. Competitive Procurement shall not be required in
4 circumstances explicitly stated in this Resolution; exceptions to Competitive Procurement will be
5 included with each type of Procurement under ARTICLE THREE (Emergency Procurement),
6 ARTICLE SIX (Procurement of Goods), ARTICLE SEVEN (Procurement of Services),
7 ARTICLE EIGHT (Procurement of Construction), ARTICLE NINE (Procurement of Design-
8 Build Services, and ARTICLE TEN (Procurement of Real Property).

9 SECTION 202. Authorization. The City Manager is authorized to approve, execute, and
10 bind the City to:

11 (a) Contracts and purchase orders for Goods, Professional Services, and Design-Build
12 Services of \$50,000 or less, entered into in accordance with the policies and procedures outlined
13 in this Resolution, and

14 (b) Such other contracts as are expressly approved by the City Council, Board of Public
15 Utilities, and Board of Library Trustees.

16 SECTION 203. Delegation by City Manager. The City Manager is authorized to delegate
17 such authority to his or her designees, including among others, Department Heads, when the City
18 Manager deems it is in the best interests of the City to do so.

19 SECTION 204. City Attorney Authorization. The City Attorney is authorized to approve,
20 execute, and bind the City to contracts up to \$50,000 for expert and consultant services in
21 connection with existing and anticipated litigation and/or claim defense or prosecution, and other
22 such related matters, including, but not limited to, expert witnesses, arbitrators, mediators, court
23 transcripts, court reporters, process servers, private investigators, court filing and messenger
24 services, and other legal support services.

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ARTICLE THREE: EMERGENCY PROCUREMENT

SECTION 300. Policy. While the need for Emergency Procurement is recognized, the practice shall be curtailed as much as possible by anticipating needs so that normal Competitive Procurement may be used.

SECTION 301. Conditions. An "emergency" shall be deemed to exist under anyone or more of the following circumstances:

- (a) A great public calamity;
- (b) An immediate need to prepare for national or local defense;
- (c) A breakdown in machinery, facilities or essential services which requires the immediate Procurement of Goods, Services or Construction to protect the public health, welfare, safety, property, or personal/confidential information;

(d) A Using Agency operation directly affecting the public health, welfare or safety, the protection of public property, or personal/confidential information, is so severely impacted by any cause that personal injury or property destruction appears to be imminent and probable unless Goods, Services or Construction designed or intended to mitigate the risks thereof are Procured immediately; or

(e) A Using Agency is involved in a City project, which is of such a nature that the need for particular Goods, Services or Construction can only be ascertained as the project progresses and, when ascertained, must be satisfied immediately for the preservation of public health, welfare, safety or property.

SECTION 302. Authorization. Emergency Procurement may be initiated by the head of a Using Agency or his or her duly authorized representative (the "individual") only as follows:

- (a) During normal City business hours for non-Riverside Public Utilities purchases, the individual shall contact the Manager and explain to the Manager's satisfaction the reasons and justification for Emergency Procurement. If the nature of the emergency is such that Goods, Services or Construction must be Procured immediately and the Manager is satisfied with the explanation of reasons and justifications given therefor, the Manager shall authorize the

1 Procurement and cause an emergency Purchase Order to be issued as soon as possible and in no
2 event later than the following business day. A Purchase Requisition confirming the Procurement
3 must be prepared by the individual and submitted to the Manager no later than the following
4 business day. Items exceeding \$50,000 need to be approved by the City Council.

5 (b) After normal City business hours for non-Riverside Public Utilities purchases, the
6 individual shall exercise his or her best judgment in ascertaining whether the actual circumstances
7 necessitate Emergency Procurement, and if deemed necessary shall order it. As soon as possible
8 and in no event later than the following business day, the individual shall prepare a Purchase
9 Requisition confirming the Emergency Procurement and deliver it to the Manager, who shall then
10 review and cause an emergency Purchase Order therefor to be prepared. Upon Manager
11 concurrence, the word "confirmation" shall be clearly imprinted on all Purchase Requisitions and
12 Purchase Orders issued in confirmation of Emergency Procurement.

13 (c) For urgent purchases relating to Riverside Public Utilities, Article, XII, Section 1202(b)
14 of the City's Charter applies and shall be followed.

15 (d) For urgent purchases as defined by Article XI, Section 1109 relating to Public Works
16 Contracts over \$50,000; urgent items procured while not following Competitive Procurement, in
17 order to preserve life, health or property, shall be authorized by resolution passed by at least five
18 affirmative votes of the City Council and the resolution must contain a declaration of the facts
19 constituting such urgency.

20 SECTION 303. Expenditure Limits. Total emergency expenditures for one event, unless
21 otherwise stated in this resolution or approved by subsequent City Council action, shall not exceed
22 \$25 million as set forth in Municipal Code Section 9.20.090, Emergency Expenditures.

23 **ARTICLE FOUR: INFORMAL PROCUREMENT**

24 SECTION 400. Policy. For the acquisition of Goods, Services and Construction, Informal
25 Procurement will be conducted by the Using Agency, through the approval of the Manager and
26 the Manager's duly authorized representatives in a manner and under circumstances intended to
27 elicit competitive responses.

SECTION 401. Informal Procurement Procedure. The process, forms and systems used to conduct Informal Procurement, as recommended by the Manager and Chief Financial Officer and approved by the City Manager, shall be included in the City's Administrative Manual.

SECTION 402. General Limitations on Informal Procurement. Informal Procurement may be conducted under the supervision of the Manager if the Procurement expenditure is estimated to be Fifty Thousand Dollars (\$50,000.00) or less, does not fall within the Utilities Exception, and does not involve the Procurement of Construction or Goods of the type required by Section 1109 of the City Charter to be acquired by Formal Procurement.

SECTION 403. Exceptions. Competitive Procurement shall not be required for Information Technology software maintenance and license renewals; training; advertising; or professional recruitment services where the Manager is satisfied that the best price, terms and condition for the Procurement thereof have been negotiated.

SECTION 404. Utilities Exception. The Water, Electric and Sewer Utilities have a need for compatibility within their respective systems for uniform operation, maintenance and replacement, and this need can be met by procuring certain supplies, equipment, and materials supplies through Informal Procurement or Negotiated Procurement. Section 1109 of the City Charter provides that such procurements may be exempted from formal competitive procurement requirements if the City Council so determines by at least five affirmative votes.

If it appears to the Manager to be in the best interest of overall economy and efficiency of the City to do so, and it is within existing budget appropriation, the following supplies, equipment, and materials are determined to be peculiar to the needs of the Water Utility, the Electric Utility, and the Sewer Utility and may be acquired by Informal Procurement or Negotiated Procurement, regardless of their estimated Procurement expenditure amounts, provided that the City's Board of Public Utilities or City Council shall have approved the proposed acquisition if required under the provisions of the City Charter, either by approval of the procurement contract or approval of annual purchase orders:

- 1 Automatic Reclosers with associated controllers and communications equipment
- 2 Batteries and Chargers
- 3 Blower Equipment, Parts and Repair
- 4 Bus and Bus Support
- 5 Capacitors
- 6 Chemicals
- 7 Circuit Breakers
- 8 Circuit Switcher
- 9 Conduit and Duct
- 10 Connectors
- 11 Dewatering Equipment, Parts and Repairs
- 12 Electric Motor Controls
- 13 Electrical Line Devices
- 14 Electrical Motors, Panels, Panel Equipment, Materials and Repairs
- 15 Fiber Optics Equipment and Materials
- 16 Fire Hydrants
- 17 Fittings, Electrical, Water, and Sewer
- 18 Insulators and Bushings
- 19 Luminaries
- 20 Meter and Metering Devices
- 21 Mobile Substation
- 22 Pipe and Pipe Fittings
- 23 Pole Line Hardware
- 24 Poles, Utility
- 25 Power Generation Materials, Equipment, Parts and Repair
- 26 Prefabricated Electrical Enclosures
- 27 Pumps and Repairs
- 28 Regulators
- Relaying and Protective Devices
- Road and Backfill Materials
- SCADA Equipment
- Substation and Distribution Automation Equipment
- Substation Online Monitoring Equipment and Devices
- Substation Supervisory Equipment
- Surge Arrestors
- Switches, Switchgear, and Accessories Testing Equipment
- Transformers and Accessories Treatment Equipment
- Tubing, Copper and Plastic
- Valves and Operators
- Vaults and Accessories
- Wire and Cable
- Uninterruptable Power Supplies
- Well Equipment (including incidental labor to install, which labor shall not exceed the amount set by state law for which bids are required for public works projects of a general law city)
- Such other supplies and materials peculiar to the needs of the Public Utilities Department, which are carried as inventory items in Central Stores stock.

SECTION 405. Riverside Public Library Exception. The following supplies, materials and services are determined to be peculiar to the needs of the Library Department through City Charter Section 808(d). If it appears to the Manager to be in the best interest of overall economy and efficiency of the City to do so and is within existing budget appropriation, be acquired by Informal

1 Procurement or Negotiated Procurement, regardless of their estimated Procurement expenditure
2 amounts, provided that the City's Board of Library Trustees or City Council shall have approved
3 the proposed acquisition if required under the provisions of the City Charter, either by approval of
4 the procurement contract or approval of annual purchase orders:

5 Books
6 Journals
7 Maps
8 Office Supplies
9 Publications
10 Subscription Services
11 Other Needs as determined by the Manager

12 SECTION 406. Request for Bids or Proposals. The Manager or Using Agency shall solicit
13 Informal Bids by means of a written or verbal Request for Bids, accompanied by City
14 specifications, if deemed necessary by the Manager. Where the Using Agency seeks the
15 procurement of Services or Professional Services, a Request for Proposal or Request for
16 Qualifications, as appropriate, may be issued. Responses to the City's Request for Bids, Proposals,
17 or Qualifications shall be in writing, and documentation of responses shall be submitted to the
18 Manager prior to payment by the Finance Department.

19 SECTION 407. Rejections and Awards. The Manager may reject any and all Informal
20 Bids submitted in response to a Request for Bids and otherwise shall award all Informal Bids,
21 insofar as practicable, to the Lowest Bidder. The Manager shall be authorized to administer
22 Contracts for Goods and Services awarded by Informal Procurement, including but not limited to
23 Purchase Orders. Where the Using Agency seeks the procurement of Services or Professional
24 Services through a Request for Proposal or Request for Qualifications, the Informal Bid shall be
25 awarded in accordance with the evaluation criteria set forth in the Request for Proposals or Request
26 for Qualifications.

27 SECTION 408. Contract Bonds. The provisions of Section 510 shall also apply to all
28 Contracts for Goods, Services or Construction awarded under Informal Procurement.

SECTION 409. Public Records. The Manager shall maintain and keep records of all
Informal Procurements, including Informal Bids received, in accordance with the applicable City's

1 Record Retention Schedule adopted by the City Council from time to time, and those records shall
2 be open to public inspection upon request during normal City business hours.

3 SECTION 410. Bidder Contact with City. All communications from Bidders shall be
4 directed only to the City representative and in the form as designated in the Request for Bids. Any
5 communications, whether written or verbal with any City Councilmember or City staff other than
6 the City representative designated in the Request for Bids, prior to the award of a contract, is
7 strictly prohibited. Bidders violating this section shall be disqualified from consideration and
8 rejected by the Manager.

9 ARTICLE FIVE: FORMAL PROCUREMENT

10 SECTION 500. Policy. For the acquisition of Goods, Services and Construction, Formal
11 Procurement shall be conducted by the Manager and the Manager's duly authorized
12 representatives in conjunction with a Using Agency, or may be conducted by the Using Agency,
13 through the approval of the Manager and the Manager's duly authorized representatives in a
14 manner and under circumstances intended to elicit competitive responses.

15 SECTION 501. Formal Procurement Procedure. The process, forms and systems used to
16 conduct Formal Procurement, as recommended by the Manager and Chief Financial Officer and
17 approved by the City Manager, shall be included in the City's Administrative Manual.

18 SECTION 502. General Limitations on Formal Procurement. Formal Procurement shall
19 be conducted under the supervision of the Manager if the Procurement expenditure is estimated to
20 be more than Fifty Thousand Dollars (\$50,000.00) or falls within Section 1109 of the City Charter,
21 except in those Procurement situations described in:

- 22 (a) Article Three (Emergency Procurement);
- 23 (b) Section 402 (Informal Procurement -- General Limitations);
- 24 (c) Section 403 (Exceptions);
- 25 (d) Section 404 (Utilities Exception);
- 26 (e) Section 405 (Riverside Public Library Exception);
- 27 (f) Section 602 (Acquisition of Good Exceptions);

1 (g) Section 702 (Acquisition of Services Exceptions);

2 (h) Section 802 (Acquisition of Construction Exceptions);

3 (i) Section 902 (Design-Build Exceptions); and

4 (j) Section 1002 (Acquisition of Real Property Exceptions)

5 SECTION 503. Soliciting Formal Bids. A Notice Inviting Bids shall be published at least
6 once in a newspaper of general circulation in the City, the first publication of which shall be at
7 least ten days before the time and date set by the Manager for opening the Formal Bids received.
8 The notice shall include a general description of the Goods, Services or Construction sought to be
9 Procured by the City, shall state where Specifications therefor may be obtained and shall set forth
10 the time and place for a public opening of Formal Bids received timely. The Manager shall, in
11 addition and as practicable, solicit Formal Bids from a sufficient number of responsible
12 prospective bidders whose names appear on the bidders' lists maintained pursuant to Section 1105
13 hereof by causing to be sent to them notification that will acquaint them with the Procurement
14 items sought by the City. The words "Bid" and "Bids" as hereinafter set forth within this Article
15 shall mean Formal Bid and Formal Bids, respectively. A Notice Inviting Bids for the procurement
16 of Services or Professional Services may be issued in the form of a Request for Proposals or
17 Request for Qualifications as deemed appropriate by the Manager.

18 SECTION 504. Submittal of Bids and Bid Securities. Bids and bid securities, which
19 security shall guarantee the Bid and be forfeited to the City if the Bidder is awarded the Contract
20 but fails or refuses to honor the Bid and execute the Contract documents timely, shall be submitted
21 to the City in the following manner:

22 (a) For Formal Procurement subject to Section 1109 of the City Charter, the Bids shall be
23 (i) submitted in the manner required by the City as specified in the solicitation document, (ii)
24 accompanied by the type and amount of Bid security prescribed by Section 1109, (iii) sealed as
25 prescribed in the notice inviting Bids or the specifications referenced in the notice, and (iv)
26 submitted to the City's Purchasing Division within the time and in the manner specified by the
27 notice or Specifications.

1 (b) For Formal Procurement not subject to Section 1109 of the City Charter, the Bid shall
2 be submitted in the form required by the City, accompanied by the type and amount of Bid security
3 specified, sealed, and submitted to the Purchasing Division within the time and manner specified
4 in the notice inviting Bids or the Specifications referenced in the notice.

5 SECTION 505. Opening of Bids. The Bids shall be opened and referenced as to Bidder
6 identity and amounts Bid in public at the time and place specified in the published notice, and no
7 Bid shall be received or recognized by the Purchasing Division, which has not been received prior
8 to the time so specified. If, upon the opening of Bids to provide Goods, Services or Construction
9 not subject to the provisions of Section 1109 of the City Charter, the Manager determines that the
10 actual expenditure therefor would appear to be Fifty Thousand Dollars (\$50,000.00) or less, the
11 Manager may convert the Formal Procurement to Informal Procurement procedures for award of
12 a Contract.

13 SECTION 506. Tabulation and Inspection of Bids. After the Bids have been opened and
14 referenced, the Manager shall cause them to be tabulated. Upon completion and verification of the
15 tabulation of the Bids, they shall be subject to inspection as public records per Section 512.

16 SECTION 507. Rejection of Bids. The Manager may in his/her discretion reject any and
17 all Bids, or any segregable portions thereof, for any one or more types of Goods, Services or
18 Construction included in the Specifications when the public interest is served thereby, provided
19 specifically that any potential award does not otherwise require consideration by the Awarding
20 Entity. The Awarding Entity may also take any other action permitted by Section 1109 of the City
21 Charter.

22 SECTION 508. Awards. Contracts procured through Formal Procurement shall be
23 awarded by the Awarding Entity to the Lowest Responsive and Responsible Bidder, except that:

24 (a) Contracts procured through Formal Procurement may be awarded by the Manager
25 where the procurement is made using Cooperative Procurement methods and a supplemental
26 appropriation is not otherwise required;

1 (b) A Contract for Goods may be awarded to a local Responsive Bidder who is not the
2 Lowest Responsive Bidder but who has certified that it is a local vendor pursuant to Section 604
3 hereof and who is subject to taxation under the City's "Uniform Local Sales and Use Tax
4 Ordinance" (Chapter 3.08 of the City Municipal Code) if the Bid difference amount between the
5 local Responsive Bidder and the Lowest Responsive Bidder does not exceed five percent (5%) of
6 the Lowest Responsive Bid;

7 (c) Contracts procured through Formal Procurement for Services or Professional Services,
8 where a Request for Proposals or Request for Qualifications was used to solicit Bids, shall be
9 awarded by the Awarding Entity in accordance with the evaluation criteria set forth in the Request
10 for Proposals or Request for Qualifications.

11 SECTION 509. Approval of Contracts. All Contracts procured through Formal
12 Procurement shall be approved as to form by the City Attorney.

13 SECTION 510. Contract Bonds. Contract bonds executed by good and sufficient sureties
14 authorized to conduct surety business in the State of California and in such amounts as are required
15 by law or deemed adequate to insure the faithful performance of a Contract in the time and manner
16 prescribed therein shall be required of the successful Bidder for all Contracts over \$25,000, where
17 they are required by law and in other instances as determined by the Manager. Contract bonds
18 requirements shall be set out in the notice inviting bids or the specifications. "Contract bonds"
19 means performance bonds (or functional equivalent such as supply bonds) to guarantee the
20 Contractor's faithful performance of the awarded Contract in the time, manner and workmanship
21 specified and payment bonds to guarantee the Contractor's payment of claims as prescribed in
22 Section 9550 et seq. of the California Civil Code.

23 SECTION 511. Assignment of Contract. Contracts procured through Formal Procurement
24 shall not be assigned by the Contractor without the written consent of the City Manager. In no
25 event shall a Contract or any part thereof be assigned to a Bidder who was declared not to be a
26 Non-Responsive Bidder during consideration of the Bids submitted in response to advertisement
27 for that particular Procurement.

1 SECTION 512. Public Records. The Manager shall maintain and keep records of all
2 Formal Procurements, including Formal Bids received, in accordance with the applicable City's
3 Record Retention Schedule adopted by the City Council from time to time, and those records shall
4 be open to public inspection upon request during normal City business hours.

5 SECTION 513. Bidder Contact with City. All communications from Bidders shall be
6 directed only to the City representative and in the form as designated in the Notice Inviting Bids.
7 Any communications, whether written or verbal with any City Councilmember or City staff other
8 than the City representative designated in the Notice Inviting Bids, prior to the award of a contract,
9 is strictly prohibited. Bidders violating this section shall be disqualified from consideration and
10 rejected by the Manager.

11 **ARTICLE SIX: ACQUISITION OF GOODS**

12 SECTION 600. Policy. Acquisition of Goods by a Using Agency under the supervision of
13 the Manager:

14 (a) Of \$50,000 or less may follow the Informal Procurement process, unless as required
15 by Section 1109 of the City Charter;

16 (b) Anticipated to be more than \$50,000, shall follow the Formal Procurement process.

17 SECTION 601. Acquisition of Goods Procedure. The process, forms and systems for the
18 acquisition of Goods, as approved by the Manager, Chief Financial Officer, and City Manager,
19 shall be included in the City's Administrative Manual.

20 SECTION 602. Exceptions. Competitive Procurement through the Informal Procurement
21 and Formal Procurement process shall not be required in any of the following circumstances:

22 (a) When an emergency arises and Emergency Procurement is undertaken pursuant to
23 Article Three hereof;

24 (b) When the Procurement involved is less than \$10,000.00;

25 (c) When the Procurement can only be obtained from a sole source or timely from a single
26 source and the Manager is satisfied that the best price, terms and conditions for the Procurement
27 thereof have been negotiated;

- 1 (d) When the Procurement consists of replacement parts for the City's vehicles and aviation
2 units.
- 3 (e) When Cooperative Purchasing is available and undertaken or when Goods can be
4 obtained through Federal, State and/or other public entity pricing contracts or price agreements;
- 5 (f) Where payment for Goods is to be made to a Federal, State, and/or other public entity;
- 6 (g) When Goods can be Procured from a Bidder who offers the same or better price, terms
7 and conditions as the Bidder previously offered as the Lowest Responsive Bidder under
8 Competitive Procurement provided that, in the opinion of the Manager, it is in the best interests of
9 the City to do so;
- 10 (h) When the Procurement is subject to Section 403 of this Resolution.
- 11 (i) When the Procurement is subject to Section 404 of this Resolution, which generally
12 allows for items peculiar to the needs of Riverside Public Utilities (Section 1203 of the City
13 Charter) and Public Works to be made through Informal or Negotiated Procurement.
- 14 (j) When the Procurement is subject to Section 405 of this Resolution, which generally
15 allows for books, journals, maps, publications and other supplies peculiar to the needs of the library
16 to be made through Informal or Negotiated Procurement subject to the provisions of Section 808(d)
17 of the City Charter;
- 18 (k) When the Procurement is for wholesale energy, energy ancillary services, energy
19 transmission, wholesale water commodity, and water transmission purchases by or on behalf of
20 the City's Public Utilities Department;
- 21 (l) When the Procurement is for public art or Museum artifacts; and
- 22 (m) When approved by the Manager, the City requires Goods not subject to the bidding
23 requirements of Section 1109 of the City Charter, which are of such a nature that suitable technical
24 or performance specifications describing them are not readily available and cannot be developed
25 in a timely manner to meet the needs of the City, in which case the Manager shall be authorized to
26 negotiate with any Person or Persons for the Procurement thereof upon the price, terms and
27

1 conditions deemed by the Manager to be in the best interest of the City and in doing so may utilize
2 Informal Procurement or Negotiated Procurement process.

3 (n) When the Procurement is for the renewal of maintenance, license(s), support, or a
4 similar need for existing technology systems, including hardware, and the items procured are from
5 the owner/developer of the software/hardware or from a sole source provider, and the Manager is
6 satisfied that the best price, terms and conditions have been negotiated;

7 (o) When the Procurement is for the renewal of maintenance, license(s), support, or a
8 similar need for existing technology systems, including hardware, and the items are procured from
9 a vendor/reseller that was originally selected based on the City's procurement standards, provided
10 that 1) the vendor has been used continuously since such selection and 2) if there are any non-
11 substantive changes to the procurement, the Manager is satisfied that the best price, terms and
12 conditions have been negotiated;

13 SECTION 603. Grant Purchases. When the Procurement for Goods are to be procured
14 through the use of Federal or State grant funding, procurement shall be done in accordance with
15 the procedures herein. If the receipt of grant funding is conditioned upon requirements and
16 procedures more strict than as set forth herein, the procedures necessary for the receipt of the grant
17 funding shall be followed. The Using Agency is responsible for compliance with all aspects of
18 grant requirements and shall inform the Manager of any and all grant requirements which affect
19 the expenditure of grant funds and the procurement of Goods, Services, or Construction with grant
20 funds.

21 SECTION 604. Preference Policy. In the Manager's administration of Competitive
22 Procurement pursuant to this Resolution, the Manager shall be authorized to give such preferences
23 for Goods, Services or Construction as chartered cities are required to give by applicable State or
24 Federal law, or such preferences as are permitted by such law and specifically provided for from
25 time to time by City Council resolution or ordinance.

26 SECTION 605. Local Preference. In the Procurement of Goods for the City's
27 requirements, preference shall be given to those vendors who have a local presence in the City of
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1 Riverside, provided that price, quality, terms, delivery and service reputation are determined to be
2 equal by the Manager under the criteria set forth in Section 508 hereof. To qualify as a local
3 vendor, the Bidder must certify to the following at the time of Bid submission:

4 (a) It has fixed facilities with employees located within the City limits;

5 (b) It has a business street address within the City limits (Post Office box or residential
6 address shall not suffice to establish a local presence);

7 (c) All sales tax returns for the Goods purchased must be reported to the State through a
8 business within the geographic boundaries of the City and the City will receive one percent (1 %)
9 or such percentage of sales tax of Goods purchased as is allocable to the City from time to time
10 under then existing state law; and

11 (d) It has a City business license.

12 False certifications shall be immediate grounds for rejection of any Bid or if the Bid is
13 awarded, grounds for voiding the Bid, terminating any Contract, and seeking damages thereto.

14 SECTION 606. Recycled Goods Preference. In the Procurement of Goods for the City's
15 requirements, preference shall be given, as the City Council from time to time hereafter directs by
16 resolution or ordinance, to recycled Goods as defined and provided for in such state legislation as
17 the State Assistance for Recycling (STAR) Markets Act of 1989 (commencing at Section 12150
18 of the California Public Contract Code) and the California Integrated Waste Management Act of
19 1989 (commencing at Section 40000 of the California Public Resources Code).

20 **ARTICLE SEVEN: ACQUISITION OF SERVICES**

21 SECTION 700. Policy. Acquisition of Services by a Using Agency under the supervision
22 of the Manager:

23 (a) Of \$50,000 or less may follow the Informal Procurement process;

24 (b) Anticipated to be more than \$50,000, shall follow the Formal Procurement process.

25 SECTION 701. Acquisition of Services Procedure. The process, forms and systems used
26 in the acquisition of Services as approved by the Manager, Chief Financial Officer, and City
27 Manager, shall be included in the City's Administrative Manual.

1 (k) When the Awarding Entity waives bidding requirements under and according to the
2 circumstances set forth in Section 1109 of the City Charter, or when it is determined by the
3 Manager to be in the best interests of the City to do so;

4 (l) When the Procurement is for wholesale energy, energy ancillary services, energy
5 transmission, wholesale water commodity, and water transmission purchases by or on behalf of
6 the City's Public Utilities Department;

7 (m) When the Procurement is for the retention of outside legal counsel and services;

8 (n) When the Procurement is for the retention of services associated with litigation and/or
9 claims, or other such related matters, including but not limited to, expert witnesses, arbitrators,
10 mediators, court transcripts, court reporters, process servers, private investigators, court filing and
11 messenger services, and other legal support services;

12 (o) When the Procurement is by the City Manager or designee for an interim Department
13 Head, interim Assistant/Deputy Department Head or an interim Senior Management employee;

14 (p) When approved by the Manager and the Procurement is for the hiring of special
15 instructors/performers, including but not limited to Library, Museum, or Park, Recreation, and
16 Community Services classes.

17 (q) When the Procurement is for the annual maintenance, license(s), support, or similar
18 need for current technology systems, including hardware, and the items procured are from the
19 owner/developer of the software/hardware or from a sole source provider, and the Manager is
20 satisfied that the best price, terms and conditions have been negotiated;

21 (r) When the Procurement is for the renewal of maintenance, license(s), support, or a
22 similar need for existing technology systems, including hardware, and the items are procured from
23 a vendor/reseller that was originally selected based on the City's procurement standards, provided
24 that 1) the vendor has been used consecutively since then and 2) if there are any non-substantive
25 changes to the procurement, the Manager is satisfied that the best price, terms and conditions have
26 been negotiated;

1 (s) When the Competitive Procurement of less than \$50,000 for consultant services is
2 waived with the written approval of the City Manager; and

3 (t) When approved by the Manager, Services not subject to the bidding requirements of
4 Section 1109 of the City Charter, which are of such a nature that suitable technical or performance
5 specifications describing them are not readily available and cannot be developed in a timely
6 manner to meet the needs of the City, in which case the Manager shall be authorized to negotiate
7 with any Person or Persons for the Procurement thereof upon the price, terms and conditions need
8 by the Manager to be in the best interest of the City and in doing so may utilize Informal
9 Procurement or Negotiated Procurement process.

10 SECTION 703. Grant Purchases. When the Procurement of Services are to be procured
11 through the use of Federal or State grant funding, procurement shall be done in accordance with
12 the procedures herein. If the receipt of grant funding is conditioned upon requirements and
13 procedures more strict than as set forth herein, the procedures necessary for the receipt of the grant
14 funding shall be followed. The Using Agency is responsible for compliance with all aspects of
15 grant requirements and shall inform the Manager of any and all grant requirements which affect
16 the expenditure of grant funds and the procurement of Goods, Services, or Construction with grant
17 funds.

18 **ARTICLE EIGHT: ACQUISITION OF CONSTRUCTION SERVICES**

19 SECTION 800. Policy. Acquisition of Construction Services shall be completed in
20 conformance with Section 1109 of the City Charter. To the extent not inconsistent with the City
21 Charter, the provisions of this Resolution, as amended from time to time, shall apply to all Design-
22 Build and Design-Bid-Build Public Works Projects. Formal Procurement process and Awarding
23 Entity approval shall be required for acquisition of all services above \$50,000 pursuant to City
24 Charter Section 1109 and 1202(b).

25 SECTION 801. Acquisition of Construction Services Procedure. The process, forms and
26 systems used to acquire Construction Services, as approved by the Manager, Chief Financial
27 Officer, and City Manager, shall be included in the City's Administrative Manual.

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1 SECTION 802. Exceptions. Except as otherwise required by the City Charter, Competitive
2 Procurement through the Informal Procurement and Formal Procurement process shall not be
3 required in any of the following circumstances:

4 (a) When an emergency arises and Emergency Procurement is undertaken pursuant to
5 Article Three hereof;

6 (b) When the Procurement involved is less than \$10,000.00;

7 (c) When the Procurement can only be obtained from a sole source or timely from a single
8 source and the Manager is satisfied that the best price, terms and conditions for the Procurement
9 thereof have been negotiated;

10 (d) When procurements are conducted by Consultants on behalf of the City;

11 (e) When Construction Services can be Procured from a Contractor who offers the same or
12 better price, terms and conditions as the Contractor previously offered as the Lowest Responsive
13 Bidder under Competitive Procurement or negotiations conducted by the City or another public
14 agency, provided that, in the opinion of the Manager, it is in the best interests of the City to do so;

15 (f) When Cooperative Purchasing is available and undertaken or when Services can be
16 obtained through Federal, State and/or other public entity pricing contracts or price agreements;

17 (g) Where payment for Services is to be made to a Federal, State, and/or other public entity;

18 (h) When the Awarding Entity waives bidding requirements under and according to the
19 circumstances set forth in Section 1109 of the City Charter, or when it is determined by the
20 Manager to be in the best interests of the City to do so;

21 (i) When approved by the Manager, the City requires Construction Services, not subject to
22 the bidding requirements of Section 1109 of the City Charter, which are of such a nature that
23 suitable technical or performance specifications describing them are not readily available and
24 cannot be developed in a timely manner to meet the needs of the City, in which case the Manager
25 shall be authorized to negotiate with any Person or Persons for the Procurement thereof upon the
26 price, terms and conditions deemed by the Manager to be in the best interest of the City and in
27 doing so may utilize Informal Procurement or Negotiated Procurement process.

1 SECTION 803. Grant Purchases. When the Procurement for Construction Services are to
2 be procured through the use of Federal or State grant funding, procurement shall be done in
3 accordance with the procedures herein. If the receipt of grant funding is conditioned upon
4 requirements and procedures more strict than as set forth herein, the procedures necessary for the
5 receipt of the grant funding shall be followed. The Using Agency is responsible for compliance
6 with all aspects of grant requirements and shall inform the Manager of any and all grant
7 requirements which affect the expenditure of grant funds and the procurement of Construction
8 Services with grant funds.

9 SECTION 804. Change Order Exception. Field Orders are specifically allowed on
10 Design-Build and Design-Bid-Build projects, if contemplated for in the contract.

11 **ARTICLE NINE: ACQUISITION OF DESIGN-BUILD SERVICES**

12 SECTION 900. Policy. Acquisition of Design-Build Services shall be completed in
13 conformance with Section 1114 of the City Charter and Chapter 1.07 of the City Municipal Code.
14 To the extent not inconsistent with the City Charter and Municipal Code, the provisions of this
15 Resolution, as amended from time to time, shall apply to all Design-Build Public Works Projects.
16 All Design-Build Services, regardless of Procurement dollar amount and approval limits for each
17 Awarding Entity, shall follow the selection process and process outlined in Chapter 1.07 of the
18 City Municipal Code.

19 SECTION 901. Acquisition of Design-Build Services Procedure. The process, forms and
20 systems used to acquire Design-Build Services, as approved by the Manager, Chief Financial
21 Officer, and City Manager, shall be included in the City's Administrative Manual.

22 SECTION 902. Exceptions.

23 (a) When an emergency arises and Emergency Procurement is undertaken pursuant to
24 Article Three hereof;

25 SECTION 903. Grant Purchases. When the Procurement for Design-Build Services are to
26 be procured through the use of Federal or State grant funding, procurement shall be done in
27 accordance with the procedures herein. If the receipt of grant funding is conditioned upon
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1 requirements and procedures more strict than as set forth herein, the procedures necessary for the
2 receipt of the grant funding shall be followed. The Using Agency is responsible for compliance
3 with all aspects of grant requirements and shall inform the Manager of any and all grant
4 requirements which affect the expenditure of grant funds and the procurement of Design-Build
5 Services with grant funds.

6 **ARTICLE TEN: ACQUISITION OF REAL PROPERTY**

7 **SECTION 1000. Policy. Acquisition of Services by a Using Agency under the**
8 **supervision of the Real Property Services Manager:**

9 **SECTION 1001. Acquisition of Real Property Procedure.** The process, forms and systems
10 used to conduct the acquisition of Real Property, as approved by the Manager, Community &
11 Economic Development Director, Chief Financial Officer, and City Manager, shall be included in
12 the City's Administrative Manual.

13 **SECTION 1002. Exceptions.** None.

14 **SECTION 1003. Grant Purchases.** When the Procurement for Real Property is to be
15 procured through the use of Federal or State grant funding, procurement shall be done in
16 accordance with the procedures herein. If the receipt of grant funding is conditioned upon
17 requirements and procedures more strict than as set forth herein, the procedures necessary for the
18 receipt of the grant funding shall be followed. The Using Agency is responsible for compliance
19 with all aspects of grant requirements and shall inform the Manager of any and all grant
20 requirements which affect the expenditure of grant funds and the procurement of Real Property
21 with grant funds.

22 **SECTION 1004. Signatory Authority.** When the cost of acquisition of real property by
23 the City is Fifty Thousand Dollars (\$50,000) or less, or when the cost of acquisition of real property
24 by the City is over Fifty Thousand Dollars (\$50,000) and said acquisition has been previously
25 approved by the City Council, the City Manager, any of the Assistant City Managers, or the
26 Community & Economic Development Director are hereby authorized to negotiate and execute
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1 any and all documents necessary to complete the transaction, including, but not limited to,
2 Purchase and Sale Agreements and Escrow Instructions.

3 SECTION 1005. Public Utilities. Pursuant to Article XII, Section 1202(b), when
4 Riverside Public Utilities funds in excess of \$50,000 are utilized for the full or partial payment for
5 the acquisition of Real Property, the Board of Public Utilities must approve the purchase prior to
6 approval of the City Council.

7 SECTION 1006. Notification to Manager. Within 90 days following the acquisition of
8 real property, the acquiring City Department will notify the Manager of the acquisition so that the
9 property may be added to the City's schedule of insured property.

10 ARTICLE ELEVEN: PURCHASE ORDER AND PURCHASE REQUISITION 11 PROCEDURES

12 SECTION 1100. Policy and Purpose. The purpose of the Purchase Requisition is to inform
13 the Manager, in clear and explicit terms, of the Procurement needs and processes followed of the
14 Using Agencies, thus enabling the Manager to oversee the Procurement of all Goods, Services,
15 Construction, and Design-Build work required by the City. Except as otherwise provided in this
16 Resolution, each Using Agency shall prepare a Purchase Requisition and submit it to the Manager
17 to provide documentation for the proper Procurement process followed. Goods shall not be
18 ordered and/or received, and Services, Construction and Design-Build work shall not commence
19 until a Purchase Requisition has been approved by the Manager or designee and a Purchase Order
20 has been issued. No Purchase Requisition shall be broken into smaller units to evade any
21 requirement of this Resolution, except that unrelated items requisitioned by Using Agencies may
22 be separated to provide different lists to vendors dealing in different types of Goods, Services,
23 Construction and Design-Build work.

24 SECTION 1101. Who May Requisition. All Purchase Requisitions shall be completed
25 and shall be approved by the head or duly authorized representative of the Using Agency making
26 the requisition. At such times and in such manner as shall be prescribed by the Manager, the head
27 of each Using Agency shall file with the City's Chief Financial Officer a written designation of
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1 each person who is authorized to approve Purchase Requisitions on behalf of the Using Agency or
2 any division or section thereof.

3 SECTION 1102. Purchase Requisition Procedure. The process, forms and systems used to
4 process Purchase Requisitions, as approved by the Manager, Chief Financial Officer, and City
5 Manager, shall be included in the City's Administrative Manual.

6 SECTION 1103. Purchase Order and Encumbrance of Funds. All Procurement of Goods,
7 Services Construction, and Design-Build shall be made by Purchase Order. Certain procurements
8 for Services, Construction and Design-Build may have terms and conditions that govern those
9 Procurements stated in Agreement/Contracts and in such case the Purchase Order will be utilized
10 to track and encumber funds. No Purchase Orders shall be required for petty cash purchases less
11 than an amount recommended from time to time by the Chief Financial Officer and approved by
12 the City Manager. Except in cases of Emergency Procurement, no Purchase Order shall be issued
13 unless there exists an unencumbered appropriation in the fund account against which the
14 Procurement is to be charged. Except for Emergency Procurement, no Goods, Services,
15 Construction or Design-Build work shall be ordered, obtained or received without authorization
16 by the Manager, which authorization shall be in the form of an executed or confirming Purchase
17 Order. The Manager, or his designees, shall be authorized to issue and execute Purchase Orders in
18 accordance with policies and procedures established by the City Manager from time to time, that
19 are consistent with this Resolution.

20 SECTION 1104. Change Orders. Modifications to a Purchase Order shall be made only
21 by Change Order. Subject to the availability of funds, Change Orders may be utilized for purposes
22 of (1) adding and/or deleting quantity of items being procured, (2) modifying unit prices, (3)
23 modifying scope of work/services being provided, where the modification is reasonably related to
24 the original scope of work/services, (4) changing funding source(s), (5) modifying contract
25 completion time, or (6) any other change approved by the Manager. Unless otherwise specifically
26 authorized by the Awarding Entity, Change Orders which cumulatively exceed the following will
27 require Awarding Entity approval:

- 1 a) 10% of the original contract price for Contracts and/or Purchase Orders up to \$50,000;
2 additional percentage authority may be authorized by the Manager up to \$50,000 or as
3 otherwise specified for in the City Charter;
4 b) Any Change Order which causes the contract price to exceed \$50,000, if the Contract
5 and/or Purchase Order was not previously approved by the Awarding Entity;
6 c) 10% of the original contract price for Contracts and/or Purchase Orders previously
7 approved by the Awarding Entity and the total Change Order amount will not exceed
8 \$150,000.

9 Any Change Order involving the modification of the scope of work/services where the
10 modification is not reasonably related to the original scope of work/services, as determined by the
11 City Attorney's Office, to the Contract is specifically prohibited.

12 An Awarding Entity can pre-approve change orders for more than the allowances included
13 above, provided the amount of the change order is explicitly stated in the recommendations to the
14 Awarding Entity. Any pre-approved change order authority will be in lieu of the amounts provided
15 above and not in addition to, unless otherwise specifically authorized by the Awarding Entity.

16 The Manager, or his designees, shall be authorized to issue and execute Change Orders in
17 accordance with policies and procedures established by the City Manager from time to time, that
18 are consistent with this Resolution. For purposes of this Section the term Contract also includes
19 Professional Services.

20 SECTION 1105. Bidders' Lists. The Manager shall maintain public lists of prospective
21 bidders for each class of Goods, Services or Construction for which Competitive Procurement is
22 required. These lists shall set forth the names and addresses of prospective sources of Goods or
23 Services and shall include the manufacturer of the Goods or the provider of the Services in all
24 instances in which the manufacturer or provider follows the practice of direct bidding in addition
25 to or in lieu of bidding through a local wholesaler, distributor or representative.

1 **ARTICLE TWELVE: DISPOSITION OF SURPLUS GOODS**

2 SECTION 1200. Reporting. Each Using Agency shall submit to the Manager, at such
3 times and in such form as the Manager prescribes, reports describing all Goods held by the Using
4 Agency, which the Using Agency has determined to be Surplus Goods. At such time that a periodic
5 physical inventory of the Goods held by any Using Agency is required by the Manager, the Using
6 Agency shall segregate all of its surplus Goods and a report thereof shall be furnished to the
7 Manager by the Using Agency for the transfer or disposition of such Goods.

8 SECTION 1201. Custody of Surplus Goods. Each Using Agency shall retain custody of
9 its surplus Goods in such manner and at such place as the Manager shall direct, until their transfer
10 or final disposition has been made. No Using Agency shall in any event permit any surplus Goods
11 held by it to be loaned or donated without City Council approval, or destroyed or otherwise
12 removed from the City's custody without the prior written approval of the Manager.

13 SECTION 1202. Transfer. Before disposing of surplus Goods, including unclaimed
14 property delivered to the Manager by the Police Department, the Manager shall first canvass all
15 other Using Agencies to assure that the surplus Goods cannot be used by another Using Agency.
16 If another Using Agency expresses a desire to use the Goods or hold them for potential future use,
17 the Manager shall assist in transferring the Goods to that Using Agency.

18 SECTION 1203. Disposition. The Manager is hereby authorized to dispose of City surplus
19 Goods and Police Unclaimed Property which are not used or needed by any Using Agency or
20 which have become unsuitable for City use. The Manager may dispose of such Goods and
21 Property by any of the following procedures:

22 (a) They may be exchanged or traded in on new Goods;

23 (b) They may be sold utilizing competitive procedures similar to those prescribed herein
24 for Formal Procurement or Informal Procurement;

25 (c) They may be sold at public auction conducted by the Manager or a professional
26 auctioneer which the Manager is hereby authorized to retain on the basis of a negotiated flat fee,
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1 hourly fee or percentage of the amount of the sale, whichever is determined by the Manager to be
2 in the best interests of the City;

3 (d) They may be sold utilizing a negotiation process when the Manager deems in writing
4 that such process is in the best interests of the City;

5 (e) They may be disposed of as scrap or destroyed if they have no resale value;

6 (f) In accordance with State law, City's Municipal Code, and City's Administrative
7 Manual policies and procedures; or

8 (g) They may be sold to another public agency utilizing a negotiation process when the
9 Manager deems in writing that such process is in the best interests of the City.

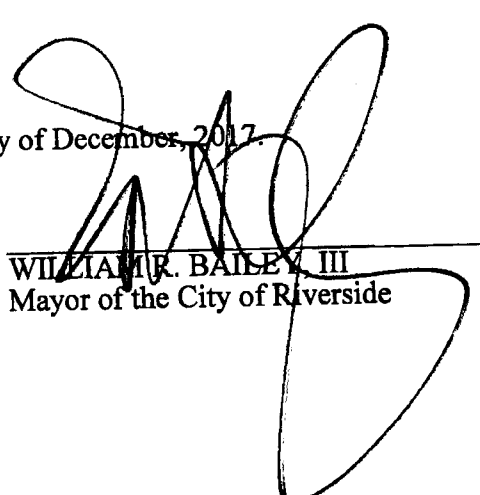
10 SECTION 1204. Library Books. Notwithstanding anything to the contrary in this
11 Resolution, books and other items which are subject to Section 808(d) of the City Charter and
12 which the Library Department has determined to discard may be disposed of in accordance with
13 policies as are adopted from time to time by the Board of Library Trustees and approved by the
14 City Council.

15 SECTION 1205. Contributions to Other Agencies. Nothing contained in this Resolution
16 shall affect the power and authority of the City Council to make contributions of funds, Goods,
17 Services or Construction to other agencies.


18 Section 2: That the City Manager or his/her designee is authorized to execute all Contracts
19 awarded in accordance with this Resolution.

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21 Section 3: That Resolution No. 22576, and all amendments thereto, is hereby repealed.
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1 ADOPTED by the City Council this 19th day of December, 2017.

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7
8 WILZIAH R. BAILEY III
9 Mayor of the City of Riverside

10 Attest:

11 
12 COLLEEN J. NICOL
13 City Clerk of the City of Riverside
14
15

16 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
17 foregoing resolution was duly and regularly adopted at a meeting of the City Council of said City
18 at its meeting held on the 19th day of December 2017, by the following vote, to wit:

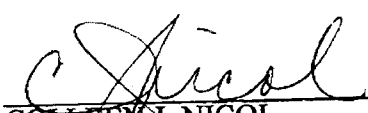
19 Ayes: Councilmembers Gardner, Melendrez, Soubirous, Conder, Mac Arthur,
20 Perry, and Adams

21 Noes: None

22 Absent: None

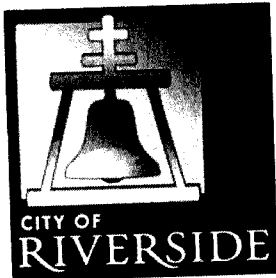
23 Abstained: None

24 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
25 City of Riverside, California, this 20th day of December, 2017.

26 
27 COLLEEN J. NICOL
28 City Clerk of the City of Riverside

16-0973 RME 11/29/17

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**CITY COUNCIL
HOUSING AUTHORITY
AND
SUCCESSOR AGENCY
MINUTES**

City of Arts & Innovation

TUESDAY, SEPTEMBER 17, 2019, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

WARDS

GARDNER	MELLENDRIZ	SUBIROUS	CONDER	MACARTHUR	PERRY	ADAMS
1	2	3	4	5	6	7

AGREEMENT AMENDMENT - CONVENTION CENTER MANAGEMENT AND OPERATION - SUPPLEMENTAL APPROPRIATION

The City Council (1) approved the Second Amendment to Qualified Convention Center Management Agreement with Raincross Hospitality Corporation to extend the Agreement for one additional five-year term to 2028, update the Consumer Price Index (CPI) and target annual revenue budget procedure, allocate up to \$100,000 of Convention Center profits for capital improvement projects, and other clarifying issues, for a base contract amount of \$400,000 plus an annual CPI increase and opportunities for an incentive bonus; (2) authorized an increase in estimated revenues in the amount of \$4,079 to account 2250000-343670 and an appropriation of expenditures in the same amount to account 2250000-459971; and (3) authorized the City Manager, or his designee, to execute the Second Amendment to the Qualified Convention Center Management Agreement with Raincross Hospitality Corporation, including making minor and non-substantive changes.

INTERNET ACCESS SERVICE CHANGE ORDER AUTHORITY

The City Council (1) approved an additional ten percent change order in the amount of \$32,987, increasing the total contract amount from \$329,872 to \$362,859, for Level 3 Communications, LLC, Purchase Order No. 161794, to maintain month-to-month internet service for the existing Internet Access Agreement, with a three-year term that ended June 1, 2018, to support City services until the activation of new internet service procured via Request for Proposal No. 1841; and (2) authorized the City Manager, or designee, to approve change orders to Level 3 Communications, LLC, Purchase Order No. 161794, and execute amendments to the Level 3 Communications, LLC, Agreement, if needed, including making minor non-substantive changes.

MEASURE Z - PURCHASE ONBOARD AND PERFORM SUBSCRIPTIONS

The City Council (1) authorized the purchase of Onboard and Perform subscriptions, in accordance with Purchasing Resolution No. 23256, Section 702(c), in an amount not-to-exceed \$64,366 for service from October 1, 2019, to July 30, 2020, through GovernmentJobs.com, Inc.,

DEPARTMENT HEAD APPROVAL FORM
Contracts/Agreements

DATE: 8/7/19

PARTIES: Raincross Hospitality Corporation

PROJECT DESCRIPTION: Second Amendment to Convention Center Agreement

SCOPE OF CONTRACT/SERVICE: Management of Convention Center

IF AN AMENDMENT, REASON FOR AMENDMENT (e.g., more time needed, additional scope added, extension permitted from original contract, etc.):

DEPARTMENT: General Services

BUDGET ACCOUNT (GL Key and Object): 2250000-459971

DEPT. HEAD APPROVAL: *Paul R. Carey*

PROCUREMENT:

Verification that procurement of goods, services, construction, etc., was done in conjunction with the City's purchasing policies and procedure:

- () Formal Procurement (Bid #, RFP #, panel, etc.): _____
- () Informal Procurement (Three quotes, single/sole source, under non-bidding threshold, etc.): _____
- () Emergency Procurement (date, event, etc.): _____
- _____
- () Requisition Number: _____
- (X) Date Approved by City Council/Board: _____ Tentative 9/17/2019 _____
- Purchasing Division Validation: _____ Date: _____

PLEASE RETURN TO: Leslie Mitchell, City Clerk's Office, Ext. 4276, LMitchell@riversideca.gov

g:\deptcommon\masters\agreements\Dept Head Approval Slip_122017

**MANAGEMENT AND OPERATIONS AGREEMENT
FOR RIVERSIDE CONVENTION CENTER
Entrepreneurial Hospitality Corporation**

THIS MANAGEMENT AND OPERATIONS AGREEMENT ("Agreement") is made and entered into this 25th day of November, 2009, by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City") and Entrepreneurial Hospitality Corporation, a California corporation ("Contractor"), with reference to the following facts:

A. By a lease known as the Riverside Community Center Ground Lease dated July 15, 1974, as amended, City leased to the Riverside Civic Center Authority ("Authority") certain real property located in the City of Riverside for the construction of a Concert Hall and Exhibit Hall. By a sublease known as the Riverside Community Center Sublease dated July 15, 1974, as amended, Authority subleased to City the real property described in the Riverside Community Center Ground Lease and now known as "Raincross Square" upon which the Ben H. Lewis Hall has been constructed and which is located at 3443 Orange Street, Riverside, California. The portion of Raincross Square which includes the Ben H. Lewis Hall and its parking structure is now commonly referred to as the "Riverside Convention Center".

B. Contractor has the expertise and ability to make the Riverside Convention Center an active and thriving convention center, and City desires to retain Contractor to operate and manage the Riverside Convention Center on the City's behalf.

NOW, THEREFORE, City and Contractor mutually agree as follows:

1. PREMISES. The premises which are subject to the exclusive operations and management of Contractor pursuant to this Agreement are the Ben H. Lewis Hall, the plaza area, the parking facilities, and the adjacent parking lot but shall exclude Lot 33 (collectively, the "Center") as shown on Exhibit "A", attached hereto and incorporated herein by this reference.

2. TERM. The term of this Agreement shall commence on November 25, 2009, and end on March 31, 2015, with an option to extend for an additional five (5) years and subject to prior approval by City Council, unless sooner terminated as provided in paragraphs 16 or 17 below.

3. SCOPE OF CONTRACTOR'S SERVICES. Contractor, at its cost, shall provide all personnel, services and materials required to manage and operate the Center consistent with

accepted convention center practices for similar size and market and as fully described on the Exhibit "B" (Scope of Services) attached hereto and incorporated herein by this reference.

4. CONTRACTOR'S AUTHORITY. In its performance under this Agreement, Contractor shall have the sole authority with respect to, and shall be solely responsible for, the direction and supervision of personnel employed by it. The parties intend that Contractor shall be acting solely in the capacity of an independent contractor. No agent, employee, or servant of either party shall be deemed to be an employee, agent, or servant of the other party. City is interested only in the results obtained under this Agreement. The manner and means employed by Contractor in accomplishing those results shall be the responsibility of Contractor. Contractor shall be solely and entirely responsible for its acts, contracts, and omissions and for the acts, contracts, and omissions of its agents, employees, servants, and subcontractors. In providing the personnel and performing the services contemplated by this Agreement, Contractor shall:

a. Fully comply with all applicable laws and regulations having to do with workers' compensation, social security, unemployment insurance, wages, working conditions, and like subjects affecting employees. Contractor may negotiate for and enter into a contract or contracts with labor unions relating to those employees retained to provide the services contemplated by this Agreement; provided, however, any such contract shall not be binding upon the City in the event of termination (whether by lapse of time or otherwise) of this Agreement.

b. Subject to the powers reserved to City under the provisions of paragraphs 6 and 16, enter into such contracts or agreements ("subcontracts") in Contractor's name as may be required to perform the services contemplated by this Agreement; provided, however, if Contractor elects to subcontract any portion of said services, Contractor shall not be released from any of its obligations under this Agreement. The term of any such subcontract shall not exceed the term of this Agreement; provided, however, City shall have the option to extend the term of any such subcontract on the same terms and conditions as contained therein in the event of an early termination of this Agreement. City, upon demand, shall have the right to inspect and examine any such subcontract to which Contractor is or becomes a party. To the extent permitted by law, any information gained by City officers or employees from the inspection of such subcontracts shall be kept confidential and shall not be disclosed except in carrying out the purposes and intent of this Agreement. However, City does not warrant or make any representation as to its ability to keep any such information confidential.

c. Procure and keep in force all permits and licenses required by all federal, state, and local laws and regulations pertaining to the services and activities to be performed by Contractor or its subcontractors, concessionaires, or licensees.

d. Subject to the powers reserved to City under the provisions of paragraph 6, set and establish rates, fees, and charges for use of Center facilities and for special staffing provided to permittees of the Center facilities.

e. Contractor shall issue all written event permits/reservations in Contractor's name to users of the Center's facilities, to concessionaires and to others engaged in any activity at the Center. If any such event shall be cancelled (whether by a permittee or Contractor) and the permittee shall be entitled to receive a refund in accordance with the provisions of the permit issued to such permittee, Contractor shall, as provided by the terms of the applicable contract and if applicable, promptly make any necessary refund to the permittee and indemnify the City from any claim for the advance rental payment and/or damage deposit.

f. City and Contractor shall in the event of early termination of this Agreement and pursuant to Paragraph 17 below, negotiate in good faith the financial and other terms (i.e., office and equipment leases to which Contractor is a party) of a wind down and transition period.

5. CONTRACTOR'S ADDITIONAL COVENANTS. Contractor covenants and agrees that at all times during the term of this Agreement, Contractor, at its cost, shall:

a. Cause sufficient working capital funds to be on hand in an operating bank account in a bank in the City of Riverside to assure payment of all liabilities and obligations attributable to Contractor's performance under this Agreement.

b. Maintain and keep in good order, condition, and repair the structural integrity of the Center and all improvements, fixtures, furniture, furnishings, and equipment situated on or used in connection for the Center; provided however, that any single repair to the structural integrity of the Center or any improvements, fixtures, furniture, furnishings, and equipment situated on or used in connection for the Center for which Contractor is responsible shall not exceed the sum of Two Thousand Dollars (\$2,000.00). Contractor shall first apply the proceeds of any damage deposit posted by a permittee towards the repair of any damage resulting from such permittee's use of the Center before determining if the cost of any single repair exceeds the sum of Two Thousand Dollars (\$2,000.00).

City, except as provided above in this subparagraph, shall be responsible for and pay from the first dollar any cost of repair ("repair costs") that exceeds Two Thousand Dollars (\$2,000.00) for repairs (structural or non-structural, interior or exterior), and maintenance required to the Center and all its fixtures, signs, displays, equipment, machinery, appliances, appurtenances, improvements, alterations, systems (including but not limited to the plumbing system, electrical system, wiring and conduits, heating and air conditioning systems).

Items of multiples, including but not limited to seats and chairs, which in the ordinary course of business would be repaired, maintained, or replaced in multiple units shall not be considered a single repair item for the purpose of this subparagraph. Contractor will have the option to have these multiple units repaired, maintained or replaced. The costs for such repairs, maintenance or replacement shall be deemed to be the total cost for all necessary multiple units.

Repairs and maintenance shall be made promptly, as and when necessary. All repairs and maintenance shall be in quality and class at least equal to the original work.

Contractor shall notify City, in accordance with paragraph 19.a. (Notice), of repairs with costs in excess of Two Thousand Dollars (\$2,000.00) and request the City determine the next step regarding the repairs. City shall notify Contractor in writing within fifteen (15) working days of receipt of Contractor's notice to repair that it will either: (i) commence such repairs within thirty (30) days thereafter, (ii) commence forthwith the competitive bidding process as necessary for such repairs, or (iii) request Contractor to commence such repairs subject to reimbursement from the City. If City requests Contractor to commence such repairs subject to reimbursement by City, Contractor shall commence such repairs. Any repairs made by Contractor shall be at competitive market prices and costs.

In case of emergency repair, Contractor may proceed to make same even where the costs exceed Two Thousand Dollars (\$2,000.00), in which case City shall reimburse Contractor for the full amount of the repair only if the cost exceeds Two Thousand Dollars (\$2,000.00). Contractor, at its cost, shall make all emergency repairs, the cost of which does not exceed Two Thousand Dollars (\$2,000.00). Contractor shall give written notice to City of the nature and cause of the repair and the cost or estimated cost within twenty-four (24) hours after determining such emergency exists. Throughout this Agreement, the term "emergency repair" shall mean a repair of a condition which, if not accomplished immediately, creates a dangerous and/or unsafe condition at the Center or is needed to permit a scheduled event at the Center to take place.

To the extent permitted by law, the parties agree that the Two Thousand Dollars (\$2,000.00) limitation on the cost of repairs mentioned in this subparagraph may be adjusted as of July 1 of any year during the term of this Agreement by written amendment to this Agreement.

Any repairs that may be required by reason of Contractor's negligence shall be the sole responsibility, regardless of dollar amount, of the Contractor to repair.

c. On or before January 1 of each year during the term of this Agreement, make recommendations to City for additions of fixtures, furniture, furnishings, and equipment and for capital improvement projects at the Center for the following Fiscal Year. Throughout this Agreement, the term "Fiscal Year" shall mean a year commencing on July 1 and ending on June 30 of the following year. The term "capital improvement" shall mean improvements of a durable nature costing in excess of Ten Thousand and No/100 Dollars (\$10,000.00).

City shall not be obligated to make any additions or capital improvements unless City: (i) budgets and obligates funds for such improvements, and (ii) has given written approval through its City Manager or the designee of the City Manager. If the necessary appropriations and approvals are not granted by City and it is deemed that the recommended additions or capital improvements are reasonably necessary to maintain the Center as a convention facility, Contractor's sole remedy shall be the termination of this Agreement.

d. Make arrangements for and pay when due the charges for all utilities and services, including gas, water electricity, sewer, telephone, janitorial service and trash removal furnished to or used by Contractor at the Center, and for all connection charges and save City harmless therefrom.

e. If applicable, in its operation of the parking facilities, receive and account for all parking fees.

f. Develop and submit marketing funding recommendations for the following Fiscal Year to City annually by February 28.

g. Develop and submit annual marketing plans based upon the Fiscal Year for the Center to the City for approval, which approval shall not be unreasonably withheld. The marketing plan shall state in reasonable detail the elements thereof, which shall include, but not be limited to, the following:

- (i) Target markets
- (ii) Advertising program

(iii) Trade shows/Exhibitions

(iv) A budget for the following Fiscal Year for each of the activities identified in the plan. The marketing plan shall be submitted by the Contractor to the City annually on March 31.

h. Upon approval of the marketing plans required in the Paragraph 5.f. above, City shall pay Contractor an annual business development activities fee in the amount of Nine Hundred Seventy Five Thousand Dollars (\$975,000). Said business development activities fee shall be paid to Contractor in equal monthly installments on the last working day of the month. The first fee payment will be on November 30, 2009 and in subsequent years the fee payment shall be paid to Contractor on the last working day of the month in which the agreement is fully executed.

i. As a condition of this Agreement, Contractor agrees to perform, at its expense, an annual limited economic analysis. The Contractor will furnish a copy of this analysis to the City annually on or before April 1 of each year. The information can be used to show the important benefit of the Center to the local economy, customer feedback and possible areas of improvement to maximize facility use. City may use the analysis information to create its own economic impact study.

j. Indemnify, defend, and save City harmless from all damages, liability, cost, claim, or expense, including attorney's fees and court costs arising out of Contractor's or its subcontractor's, concessionaire's, or licensee's performance under this Agreement, excepting therefrom, however, all damages, liability, costs, claims, or expenses arising out of or caused by the sole negligence or willful misconduct of City, and further excepting therefrom, all damages, liability, costs, claims, or expenses, which may arise or be caused by structural defects of the Center or which may be covered by a policy or policies of liability or casualty insurance. Payment of any claim by City shall not be a condition precedent to recovery under this indemnity. The provisions of this subparagraph shall survive the expiration or early termination of this Agreement.

k. As a condition precedent to the effectiveness of this Agreement, Contractor shall obtain and submit to City for approval and to thereafter maintain in force during the term of this Agreement, a policy or policies of insurance with limits, coverages, and deductibles described in Exhibit "C", attached hereto and by this reference made a part hereof, insuring against the liability of Contractor and its subcontractors, concessionaires, and licensees arising out of the operations and activities at the Center and Contractor's performance under this Agreement. City

shall be named as an additional insured and the policy or policies shall contain cross-liability endorsement. Such policy or policies shall not be cancelled or materially changed without thirty (30) days' prior written notice to City by certified or registered mail, and each policy shall contain an endorsement to so provide.

l. Contractor hereby recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that Contractor may be subject to the payment of property taxes levied on such interest. If it is determined that this Agreement creates a possessory interest subject to property taxation, Contractor agrees to promptly pay all such taxes, assessments, and other governmental or district charges that may be levied on the interest created by this Agreement. Any such tax payment shall not reduce any payment due the City hereunder.

m. Make available to City as may be requested by the City Manager or his designee, the Center's meeting rooms, if not booked at time of City's request, for up to eight (8) City-sponsored meetings each Fiscal Year at no cost to City other than Contractor's out-of-pocket expense for staffing and clean-up.

n. Respond to all inquiries and complaints from the general public, patrons of the Center and/or City officials within ten (10) working days of receipt of such inquiries or complaints.

o. Contractor shall provide City quarterly reports to the Development Department including profits and losses on the operational aspects of Center; advertising of the Center; monthly calendar of events; local/national marketing; public relations activities; types of groups using facility; estimated total attendance; and respond in a timely fashion to inquiries from City.

6. POWERS RESERVED TO CITY. City shall have, and hereby reserves, the following rights, powers, and privileges:

a. To approve Contractor's initial schedule of rates, charges, and fees for use of Center facilities and for special staffing attached as Exhibit "D" and any changes thereto. Notwithstanding the foregoing, Contractor may deviate from said schedule of rates, charges and fees without any prior approval provided any such deviation:

(i) shall be consistent with Contractor's efforts to manage and operate the Center in accordance with industry standards;

(ii) shall not adversely affect Contractor's Profit (as that phrase is defined in paragraph 10);

(iii) shall not be in the nature of reduced rentals offered in exchange for higher special staffing charges or other valuable consideration not included within the definition of Contractor's Profit; and

(iv) shall not be discriminatory.

b. To approve Contractor's policy or policies of insurance as provided in paragraph 5.k.

c. To require application if Contractor desire to use Lot 33 for events. Such application shall be made to the City by Contractor and approval must be obtained prior to marketing or conducting the event(s).

7. CITY COVENANTS. During the term of this Agreement, City at its cost, covenants:

a. To maintain a policy of standard fire and extended coverage insurance or self-insurance on the Center. City waives its rights of subrogation against Contractor and shall use its best efforts to cause its insurer to likewise do so.

b. If the Center is totally or partially destroyed from any cause, rendering the Center totally or partially inaccessible or unusable, City shall be obligated to inform Contractor within sixty (60) days whether the Center will be restored. During this initial period and, if after a decision has been made not to restore the Center, all payments and expenditures associated with fulfilling this Agreement by Contractor shall be made only with the approval of City. City is in no way obligated to restore the Center.

8. FOOD AND BEVERAGE OPERATIONS. Contractor shall direct, manage, supervise and operate all food and beverages facilities in the Center and exclusively sell therefrom. In connection with such operations, Contractor shall (i) recruit, train, direct, or otherwise employ a staff to operate said facilities; (ii) purchase all inventories of supplies, food, and beverages (alcoholic and nonalcoholic); (iii) obtain and maintain in force all necessary licenses and permits necessary to carry on such concession, banquet, and restaurant activities, including the necessary liquor licenses; (iv) neatly uniform all employees operating the facilities; (v) bond or otherwise insure all of Contractor's employees handling cash; and (vi) collect all revenues from the operation of the facilities and account therefore.

9. MANAGEMENT RIGHTS FEE. Contractor shall pay to City annually, on or before October 15th (the "due date") of each year during the term of the Agreement, a Management Rights Fee for all Contractor's Profit (as that term is defined in paragraph 10, below) in excess of Two Hundred and Fifty Thousand Dollars (\$250,000.00) ("Threshold Amount") earned by Contractor during the year ending on June 30 immediately preceding the due date. This payment due to City shall be fifty percent (50%) for amounts earned over such Threshold Amount.

10. CONTRACTOR'S PROFIT. "Contractor's Profit" is defined as the difference between Contractor's Gross Revenue and Contractor's operating expenses. "Gross Revenue" is defined as all income received by Contractor by reason of its, or its subcontractors' operations and activities at the Center from (i) facility and equipment rentals; (ii) parking fees (event, daily and monthly); (iii) food and beverage sales; (iv) vending machine sales; (v) all service charges and/or gratuities retained by Contractor; and (vi) the value of tradeoff and barter transactions received from the sale of advertising space whether on electronic signs, message boards, or other displays throughout the Center. Such tradeoff or barter transactions entered into by Contractor shall be included in Contractor's income at the fair market value of the product, good or service received from Contractor. Fair market value as used in the preceding sentence shall be usual and customary cost of product delivered or the service rendered.

The term "Gross Revenue" does not include any revenues or sums (i) paid by City to Contractor for marketing the Center; (ii) received as a result of Contractor's producing or promoting, alone or in conjunction with others, events at the Center; (iii) box office commissions; (iv) service charges and/or gratuities not retained by Contractor; (v) sums reimbursed to Contractor for providing special staffing or any commission or fees resulting therefrom; (vi) the Operation and Maintenance Fee provided for in Paragraph 11 of this Agreement; and (vii) accounting fees earned by or paid by Contractor in connection with the receipt and disbursement of sums paid to Contractor for marketing purposes.

11. OPERATION AND MAINTENANCE FEE. In exchange for the mutual promises herein, City hereby agrees to pay Contractor an annual Operation and Maintenance Fee in the amount of One Hundred and Twenty Five Thousand Dollars (\$125,000). The Operation and Maintenance Fee shall be payable in equal monthly installments. The monthly installments shall be due and payable on the first day of each month and the first installment shall be paid to Contractor on November 1, 2009.

12. PRODUCTION OF EVENTS AT CENTER. Contractor may produce or promote or join in the production or promotion of events at the Center subject to the following conditions and limitations:

a. Contractor shall pay or cause to be paid rates, prices, fees, and charges which are no less than those charged other permittees for similar types of events.

b. Contractor shall contribute from its own funds all monies required to produce, co-produce, promote, or co-promote any such event.

c. Contractor shall not disburse any money from its operating account to pay any cost of producing, co-producing, promoting, or co-promoting an event.

d. Contractor shall not commingle revenues derived from the production, co-production, promotion, or co-promotion of an event with any other revenues from the operation of the Center.

e. Contractor may retain all profits from activities permitted under this paragraph 12 and shall be solely responsible for all losses sustained as a result thereof.

13. BOOKS, RECORDS, AND STATEMENTS. Contractor shall keep or cause to be kept accurate, full and adequate books of account and other records reflecting the results of Contractor's and its subcontractor's activities under this Agreement on an accrual basis, all in accordance with generally accepted accounting practices.

Said books of account and records may be kept in a common place with other books of account and records of Contractor to facilitate efficient record keeping. This place shall be agreeable to City acting by and through its CFO and Contractor, and any change to the place must be agreed to by the CFO of City prior to the move. No books of account or records shall be removed from the agreed upon place without City's prior approval.

Said books of accounts and records shall reflect only those transactions conducted in, on, or from the Center as contemplated by this Agreement and shall not be maintained on a consolidated basis with other corporate activities of Contractor or any other person, firm, or corporation. City shall have the right at all reasonable times during business hours to examine, audit, inspect, and, as necessary, transcribe Contractor's books of account and records maintained under the provision of this Agreement.

On a quarterly basis, Contractor shall prepare and deliver to the City's Development Department two (2) copies of statements showing in reasonable detail Contractor's income from

operations of the Center. The format for these statements shall be that agreed upon by City acting by and through its Chief Financial Officer and Contractor. Statements shall be for each fiscal period commencing July 1 and ending June 30. Said statements shall be signed by and certified to be correct by a duly authorized representative of Contractor.

Within ninety (90) days after the end of each Fiscal Year (June 30th) during the term of this Agreement, and within ninety (90) days after the termination of this Agreement (whether by lapse of time or otherwise), Contractor shall deliver to City two (2) copies of its complete financial statements, including balance sheet, statement of income and expense, statement of cash flows, and accompanying notes to the financial statements along with any supporting schedules or documentation, including any management letters or reports, and a check payable to "City of Riverside" in the amount of the Contractor's Profit, as defined in paragraph 10, from operations at the Center during the preceding Fiscal Year. The financial statements shall be accompanied by a statement of income and expense in the format agreed to by City and Contractor. City shall be deemed to have waived any objection to said annual statement not specified in writing by City within one hundred eighty (180) days after receipt thereof. Any dispute as to the content of any such statement shall be determined by a reputable national firm of certified public accountants selected by the parties, whose decision shall be final and conclusive on the parties.

14. PERFORMANCE AUDIT. City, by its own staff or by a consultant employed by it for this purpose, may at any time conduct a performance audit of Contractor's operation of the Center. If this audit identifies specific substantial or material problem or problems with the operation of the Center, City shall notify Contractor in writing of the findings, and Contractor shall have thirty (30) days or such longer period as reasonably deemed necessary by City, following receipt of the notice to remedy the problems so identified. If Contractor fails to remedy the problems identified in the notice within the allotted time, City, at its sole and reasonable discretion, may terminate this Agreement upon no less than sixty (60) days' written notice.

15. COVENANT AGAINST ASSIGNMENT. The parties agree that City would not make this Agreement but for its confidence in the character, ability, and financial standing of Contractor. Contractor, therefore, agrees that it will not sell, assign, sublet, hypothecate the rights and privileges granted hereby (except as expressly authorized in paragraph 4).

16. DEFAULT. In the event:

- a. Either party shall fail to perform, keep, or fulfill any covenants, undertakings, obligations, or conditions set forth in this Agreement;
- b. Contractor shall fail to pay any amount to City provided for herein when the same is payable or the failure of City to pay or furnish to Contractor any amount City is required to pay or furnish to Contractor in accordance with the terms hereof when the same is payable or required to be furnished for a period of fifteen (15) days after any such amount becomes payable;
- c. Contractor shall file a voluntary petition in bankruptcy or insolvency or a petition for reorganization under any bankruptcy law;
- d. Contractor shall consent to any involuntary petition in bankruptcy or Contractor shall fail to vacate any order approving an involuntary petition within sixty (60) days from the date of entry thereof; or
- e. The entry of any order, judgment, or decree by any court of competent jurisdiction on the application of a creditor adjudicating Contractor a bankrupt or insolvent or approving a petition seeking reorganization or appointing a receiver, trustee, or liquidator of all or a substantial part of Contractor's assets and such order, judgment, or decree shall continue in effect for a period of one hundred twenty (120) consecutive days;

The non-defaulting party shall give to the defaulting party written notice of default specifying the nature of the default and demanding cure thereof within fifteen (15) days with respect to the non-payment of money or with respect to any other default within thirty (30) days (unless a different period is specified), or in the case of defaults not susceptible of being cured within said thirty (30) day period, provided the defaulting party shall take and continue action to cure such default with all due diligence until the same is cured but for not more than one hundred eighty (180) days from such notice. In the event a default is cured within the time provided therefore, then such notice shall be of no force and effect. In the event any default specified in a notice from a non-defaulting party is not cured within the time provided therefore, the non-defaulting party may terminate this Agreement by giving the defaulting party a thirty (30) day notice of termination. The rights granted above shall not be in substitution for but shall be, except as otherwise provided in this Agreement, in addition to any and all rights and remedies for breach of contract granted by applicable provisions of law.

17. AGREEMENT TERMINATION. City may terminate Agreement upon fifteen (15) days written notice to Contractor, in the event:

- a. Contractor substantially fails to perform or materially breaches the Agreement;
- b. Contractor fails to properly maintain the Convention Center facility;
- c. Contractor fails to provide high-quality food service; or
- d. Contractor decides to abandon or postpone the Project.

City and Contractor shall, thereafter, negotiate in good faith the financial and other terms of a wind down and transition period. Contractor's termination shall not be effective until such time as the City has retained a replacement operator and the transition is complete.

18. NONDISCRIMINATION. During the performance of this Agreement, Contractor agrees that Contractor shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex or sexual orientation in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the Government Code of the State of California.

Pursuant to the Americans with Disabilities Act ("ADA") and specifically 45 USC 12132, Contractor acknowledges and agrees that in the performance of this Agreement, no qualified individual shall, by reason of a disability, be excluded from participation in or be denied the benefits of the services, programs or activities of City or Contractor or be subject to discrimination by City or Contractor.

Notwithstanding anything to the contrary above, any physical changes to the Center required to comply with the ADA or similar federal or state requirement relating to accessibility for disabled persons shall be the sole responsibility of City.

19. MISCELLANEOUS PROVISIONS.

a. Notice. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by pre-paid, first-class mail. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the

other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within forty-eight (48) hours from the time of mailing if mailed as provided in this paragraph.

Contacts:

City

Development Department
Attn: Development Director
City of Riverside
3900 Main Street
Riverside, CA 92522

Contractor

Entrepreneurial Hospitality Corporation (EHC)
Attn: Ted Weggeland, President
2nd Floor Rotunda
3649 Mission Inn Avenue
Riverside, CA 92501

b. Waiver. No delay or omission in the exercise of any right or remedy of a non-defaulting party on any similar default shall impair such right or remedy or be construed as a waiver. The receipt and acceptance by City or Contractor of any sums due either of them hereunder shall not constitute a waiver of any other default. Said receipt shall constitute only a waiver of timely payment for that particular payment. City's consent or approval of any act by Contractor requiring City's consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any similar subsequent act of Contractor. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

c. Consent and Approvals. Except as otherwise expressly provided, whenever the consent or approval of Contractor or City is required, such consent or approval shall not be unreasonably withheld. Such consent or approval shall be in writing and shall be duly executed by an authorized officer or agent of the party granting such consent or approval.

d. Partial Invalidity. In the event that any one more of the phrases, sentences, clauses, or paragraphs contained in this Contract shall be declared invalid by the final and unappealable order, decree, or judgment of any court, this Agreement shall be construed as if such phrases, sentences, clauses, or paragraphs had not been inserted.

e. Corporate Authority. Contractor shall deliver to City on execution of this Agreement a certified copy of a resolution of Contractor's Board of Directors authorizing the

execution of this Agreement and naming the officers that are authorized to execute this Agreement on behalf of Contractor.

f. California Law. This Agreement shall be construed and interpreted both as to validity and as to the performance of the parties in accordance with the laws of the State of California. Contractor covenants and agrees to submit to the personal jurisdiction of any state court of competent jurisdiction in the County of Riverside, State of California concerning any dispute, claim or matter arising out of or related to this Agreement.

g. Attorney's Fees. If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs of suit from the losing party.

h. Integrated Agreement & Amendments. This Agreement contains all the agreements of the parties. This Agreement cannot be amended or modified except by written agreement of the parties and after approval of the City Council.

i. Captions. The captions of this Agreement shall have no effect on its interpretation.

j. Singular and Plural. When required by the context of this Agreement, the singular shall include the plural.

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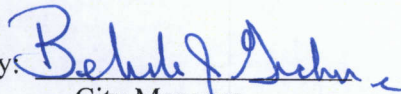
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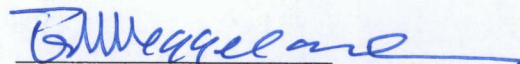
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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate counterpart the day and year first above written.

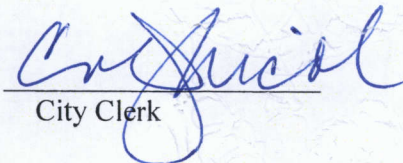
CITY OF RIVERSIDE, a California
charter city and municipal corporation

By: 
City Manager

ENTREPRENEURIAL HOSPITALITY
CORPORATION, a California corporation

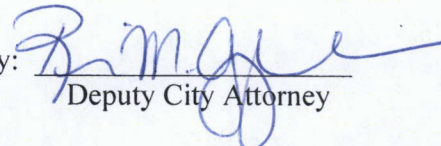
By: 
Ted Weggeland, President

Attest:

By: 
City Clerk

By: _____
Name: _____
Title: _____

Approved as to Form:

By: 
Deputy City Attorney

O:\Cycom\WPDocs\D003\P008\00020947.DOC
CA: 09-0537
10/26/09



Exhibit "A"
Convention Center & Lot 33

Exhibit "B"

Scope of Services

Contractor's duties shall include, but not be limited to, the following services:

a. Operation and Maintenance

- Maintain Center in accordance with industry standards subject to City review and/or approval.
- Furnish all personnel necessary to perform all needed services and be responsible for their performance and compensation.
- Train all personnel to be responsible for the overall management, operation and maintenance of the Center.
- Provide all tools, materials, uniforms, supplies, utilities, furnishings, and equipment necessary to provide all needed services.
- Manage the booking of events, shows, conventions, and meetings at the Center in accordance with the booking policy attached hereto as Exhibit "B-1".

b. Business Development Activities

- Develop promotional materials and activities to support efforts to promote convention sales and business lead generation consistent with the Contractor's marketing plan.
- Disseminate information to prospective meeting and convention groups through advertising, websites, collateral materials, mailers and other various marketing tools consistent with the Contractor's marketing plan.
- Build and maintain state of the art interactive Center website.
- Create monthly calendar of events at the Center and share this events calendar with the City on a monthly basis.
- Cooperate with the City, Riverside Downtown Partnership, downtown hotels and Greater Riverside Chambers of Commerce regarding distribution of destination and tourist information to City visitors.

Exhibit B-1

CONVENTION CENTER BOOKING POLICIES

Entrepreneurial Hospitality Corporation shall strictly comply with the following policies and priorities in booking events at the Convention Center:

RIVERSIDE ROOM

- FIRST: Conventions, convention-related events and State professional examinations
- SECOND: Trade shows, consumer shows and concerts
- THIRD: Local institutions, (i.e. University of California, Riverside, Riverside Community College and local school districts)
- FOURTH: Community groups (i.e. Chambers of Commerce, Service Clubs, Political Organizations)
- FIFTH: Additional events

ARLINGTON ROOM

- FIRST: Conventions, convention-related events and State professional examinations
- SECOND: Trade shows, consumer shows and concerts
- THIRD: Community Groups and local institutions
- FOURTH: Additional groups

SECOND FLOOR MEETING ROOMS

- FIRST: Convention and convention-related events
- SECOND: Community groups and local institutions
- THIRD: Additional events

The contractor will control the Booking Book.

The purpose of such a booking policy is to create usage of hotels in Riverside. The underlying policy, which should guide the booking of the Convention Center, is to maximize the receipt of Transient Occupancy Taxes for the City of Riverside.

Exhibit "C"

Insurance

1. Insurance.

1.1 General Provisions. Prior to the Agency's execution of this Agreement, Contractor shall provide satisfactory evidence of, and shall thereafter maintain during the term of this Agreement, such insurance policies and coverages in the types, limits, forms and ratings required herein. The rating and required insurance policies and coverages may be modified in writing by the City's Risk Manager or City Attorney, or a designee, unless such modification is prohibited by law.

1.1.1 Limitations. These minimum amounts of coverage shall not constitute any limitation or cap on Contractor's indemnification obligations under Section 11 hereof.

1.1.2 Ratings. Any insurance policy or coverage provided by Contractor or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

1.1.3 Cancellation. The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to Agency by certified or registered mail, postage prepaid.

1.1.4 Adequacy. The Agency and the City, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage as Contractor deems adequate, at Contractor's sole expense.

1.2 Workers' Compensation Insurance. By executing this Agreement, Contractor certifies that Contractor is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work Contractor shall carry the insurance or provide for self-insurance required by California law to protect said Contractor from claims under the Workers' Compensation Act. Prior to Agency's execution of this Agreement, Contractor shall file with Agency either (1) a certificate of insurance showing that such insurance is in effect, or that Contractor is self-insured for such coverage, or (2) a certified statement that Contractor has no employees, and acknowledging that if Contractor does employ any person, the necessary certificate of insurance will immediately be filed with Agency. Any certificate filed with Agency shall provide that Agency will be given ten (10) days prior written notice before modification or cancellation thereof.

1.3 Commercial General Liability and Automobile Insurance. Prior to Agency's execution of this Agreement, Contractor shall obtain, and shall thereafter maintain during the

term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure Contractor against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Contractor. The Agency and the City, and its officers, employees and agents, shall be named as additional insureds under the Contractor's insurance policies.

1.3.1 Contractor's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent Contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

1.3.2 Contractor's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$500,000 per occurrence and an aggregate limit of not less than \$1,000,000. All of Contractor's automobile and/or commercial general liability insurance policies shall cover all vehicles used in connection with Contractor's performance of this Agreement, which vehicles shall include, but are not limited to, Contractor owned vehicles, Contractor leased vehicles, Contractor's employee vehicles, non-Contractor owned vehicles and hired vehicles.

1.3.3 Prior to Agency's execution of this Agreement, copies of insurance policies or original certificates and additional insured endorsements evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with Agency and shall include the Agency and the City and its officers, employees and agents, as additional insureds. Said policies shall be in the usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

It is agreed that the City of Riverside and the Redevelopment Agency for the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the City of Riverside and/or the Redevelopment Agency for the City of Riverside.

1.3.4 The insurance policy or policies shall also comply with the following provisions:

- a. The policy shall be endorsed to waive any right of subrogation against the Agency and/or City and its sub-Contractors, employees, officers and agents for services performed under this Agreement.
- b. If the policy is written on a claims made basis, the certificate should so specify and the policy must continue in force for one year after completion of the services. The retroactive date of coverage must also be listed.

- c. The policy shall specify that the insurance provided by Contractor will be considered primary and not contributory to any other insurance available to the Agency and/or City.

1.4 Errors and Omissions Insurance. Prior to Agency's execution of this Agreement, Contractor shall obtain, and shall thereafter maintain during the term of this Agreement, errors and omissions professional liability insurance in the minimum amount of \$1,000,000 to protect the Agency from claims resulting from the Contractor's activities.

Exhibit "D"

Diverside Convention Center

MEETING ROOM RENTAL CHART

(PRICES ARE SUBJECT TO CHANGE AND ARE NEGOTIABLE)

ROOM	FLOOR	DIMENSIONS	SQ. FEET	PEAK	SHOULDER	OFF PEAK	GRNTE MIN.**	SET-UP FEE	RECEPTION	BANQUET	WIDANCING	EXHIBIT	THEATER	CLASSROOM	CONFERENCE
							\$5 ON FOOD								
Ben H. Lewis Hall	Concrete	150x130x30	20,800	\$6,000.00	\$4,000.00	\$3,000.00	600/\$15K	\$1.00 PP	1500	1250	1000	117	2000	1400	
North	Concrete	80x130x30	10,400	\$3,000.00	\$2,000.00	\$1,000.00	300/\$8K	\$1.00 PP	750	840	544	55	900	550	
South	Concrete	80x130x30	10,400	\$3,000.00	\$2,000.00	\$1,000.00	300/\$8K	\$1.00 PP	750	840	544	55	900	550	
Foyer/Lobby															
West	Carpet	80x40x11	3,200						200	150	NA	0			
East	Carpet	80x40x11	3,200						200	150	NA	0			
Center	Marble	40x50x11	2,000									4			
Raincross Ballroom	Carpet	80x130x11	10,400	\$4,000.00	\$2,000.00	\$1,000.00	400/\$10K	\$1.00 PP	750	640	544	60	900	550	
Victoria	Carpet	60x50x11	3,000	\$1,150.00	\$500.00	\$300.00	150	\$1.00 PP	250	180	125	20	300	200	100
North	Carpet	30x50x11	1,500	\$575.00	\$300.00	\$200.00	60	\$1.00 PP	125	75		10	150	80	50
South	Carpet	30x50x11	1,500	\$575.00	\$300.00	\$200.00	60	\$1.00 PP	125	75		10	150	80	50
De Anza Room	Carpet	60x30x11	1,800	\$700.00	\$400.00	\$250.00	60	\$1.00 PP	150	80		10	175	110	70
North	Carpet	30x30x11	900	\$350.00	\$200.00	\$100.00	30	\$1.00 PP	75	40		5	84	40	35
South	Carpet	30x30x11	900	\$350.00	\$200.00	\$100.00	30	\$1.00 PP	75	40		5	84	40	35
Magnolia Room	Carpet	60x30x11	1,800	\$700.00	\$400.00	\$250.00	60	\$1.00 PP	150	80		10	175	110	70
North	Carpet	30x30x11	900	\$350.00	\$200.00	\$100.00	30	\$1.00 PP	75	40		5	84	40	35
South	Carpet	30x30x11	900	\$350.00	\$200.00	\$100.00	30	\$1.00 PP	75	40		5	84	40	35
Aviators Room	Carpet	50x15x11	750	\$300.00	\$200.00	\$150.00	25	\$1.00 PP	60	40			70	30	40
East	Carpet	25x15x11	375	\$150.00	\$100.00	\$75.00	16	\$1.00 PP	16	20			30	16	15
West	Carpet	25x15x11	375	\$150.00	\$100.00	\$75.00	16	\$1.00 PP	16	20			30	16	15
University	Carpet	40x15x11	600	\$300.00	\$200.00	\$150.00	20	\$1.00 PP	45	24			55	28	30
East	Carpet	20x15x11	300	\$150.00	\$100.00	\$75.00	16	\$1.00 PP	16	16			20	16	15
West	Carpet	20x15x11	300	\$150.00	\$100.00	\$75.00	16	\$1.00 PP	16	16			20	16	15
Citrus Heritage	Carpet	40x20x11	800	\$350.00	\$250.00	\$150.00	30	\$1.00 PP	60	30			70	40	30
Arlington Room	Carpet	55x36x11	1,990	\$750.00	\$300.00	\$200.00	100	\$1.00 PP	170	120	80	10	175	100	60
La Sierra Room	Carpet	55x36x11	1,990	\$750.00	\$300.00	\$200.00	100	\$1.00 PP	170	130	90	10	190	100	60
Business Center	Carpet	8x18x8	128	\$0.00	\$0.00	\$0.00	0	0	0	0	0	0	0	0	0
Box Office	Carpet	32'x8'x11'	192	\$0.00	\$0.00	\$0.00	0	0	0	0	0	0	0	0	0
Plaza	Concrete	225x110	24,700	\$1,000.00	\$600.00	\$300.00	800	\$1.00 PP	1500	800	750	100	TBD	TBD	TBD
The Meadow	Grass	320x241		\$1,000.00	\$600.00	\$300.00	600	\$1.00 PP	TBD	TBD	TBD	TBD	TBD	TBD	TBD

** = Room Rental Reduced with Guarantee
pp = Per Person

Peak: Mar, Apr, May, Oct.
Shoulder: Feb, Jun, Sept, Nov, Dec
Off Peak: Jan, Jul, Aug

DEVELOPMENT DIVISION
ROUTING SLIP

DATE: 11/2/09

TYPE OF DOCUMENT:
CONTRACT _____ AGREEMENT X OTHER (SPECIFY) _____

TITLE OF DOCUMENT: MANAGEMENT & OPERATIONS AGREEMENT

PREPARED BY: RINA GONZALES CA # 09-0537

FUNDS AVAILABLE? X YES _____ NO _____ ACCT #: 2850000-459974 INT: SHDLV
~~2850000-459971~~

SIGNATURES REQUIRED:

1. DIVISION MANAGER <u>WJ Holland</u>	DATE <u>11-2-09</u>
2. DEPARTMENT HEAD <u>Dher</u>	DATE <u>11/3/09</u>
3. CITY ATTORNEY'S OFFICE _____	DATE _____
4. CITY MANAGER _____	DATE _____

*****Please Do Not Remove This Slip*****

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
11/12/09PRODUCER
Wells Fargo Insurance Services USA, Inc.
300 River Place, Suite 2900Detroit, MI 48207
Jennifer Goldware 951-779-8532INSURED
Entrepreneurial Hospitality Corporation
3443 Orange Street
Riverside, CA 92501RECEIVED
CITY OF RIVERSIDE
NOV 13 2009
RISK MANAGEMENT

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Greenwich Insurance Company

INSURER B: ACE Property & Casualty Ins Co

INSURER C:

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> SIR: \$10,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	RGE4000058	06/01/09	06/01/10	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$Excluded PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$3,000,000 PRODUCTS - COMP/OP AGG \$9,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	RAD4000059	06/01/09	06/01/10	COMBINED SINGLE LIMIT (Ea accident) \$4,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$10,000	XOOG24898209	06/01/09	06/01/10	EACH OCCURRENCE \$25,000,000 AGGREGATE \$25,000,000 \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

APPROVED AS TO FORM

Risk Manager

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

For inquiries regarding this certificate, please contact:

Jennifer Goldware, Hub International of California, 951-779-8532

The City of Riverside are named as additional insureds with respects to general liability arising out of the operations of the named insured.

CERTIFICATE HOLDER

City of Riverside
Art Torres Risk Manager
3900 Main Street
Riverside, CA 92522

USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Susan M. M. Mangel

ACORD CERTIFICATE OF LIABILITY INSURANCE		OP ID KG ENTRE-3	DATE (MM/DD/YYYY) 11/13/09
PRODUCER Alliant Insurance Services, Inc (Lic-0C36861) 735 Carnegie Drive, Ste 200 San Bernardino CA 92408 Phone: 909-886-9861 Fax: 909-886-2013		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Entrepreneurial Hospitality Corporation 4100 Newport Place, Suite 400 Newport Beach CA 92660		INSURERS AFFORDING COVERAGE INSURER A: Travelers INSURER B: Federal Insurance Company INSURER C: Twin City Fire Insurance Co INSURER D: INSURER E:	NAIC #

COVERAGES


THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$0	79808701	06/01/09	06/01/10	EACH OCCURRENCE \$ 25,000,000 AGGREGATE \$ 25,000,000 Prod Agg \$ 25,000,000 Adv Agg \$ 25,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	2591P901	10/21/09	06/30/10	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Excess Liability \$25 X \$25	SHX00082699547	06/01/09	06/01/10	Ea Occ 25,000,000 Aggregate 25,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Job: Operations pertaining to named insured for certholder.

*30 day N O C except 10 day for non-payment of premium.

CERTIFICATE HOLDER <div style="text-align: center;">CIRIVE3</div> City of Riverside 3900 Main St. Riverside CA 92522	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
---	--

Client#: 22485

10ENTREPR3

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
11/18/2009

PRODUCER

HUB International
HUB Int'l Insurance Serv. Inc.
4371 Latham St, Ste #101
Riverside, CA 92501

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

Entrepreneurial Hospitality Corporation
4100 Newport Place St. 400
Newport Beach, CA 92660

INSURERS AFFORDING COVERAGE

NAIC

INSURER A: Darwin Select Insurance Company

24319

INSURER B:

INSURER C:

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	OTHER Professional Liability	03051058	11/18/2009	11/18/2010	\$1,000,000 Ea Claim \$1,000,000 maximum \$2,500 Retention

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Verification of Coverage of Coverage

CERTIFICATE HOLDER

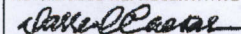
City of Riverside
3900 Main Street
Riverside, CA 92522

CANCELLATION

10 Days for Non-Payment

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



POLICY NUMBER: RGE4000058

COMMERCIAL GENERAL LIABILITY
CG 20 15 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – VENDORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s) (Vendor)	Your Products
Any person or organization for whom the insured has agreed under contract or agreement to provide such insurance.	All Products
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) (referred to below as vendor) shown in the Schedule, but only with respect to "bodily injury" or "property damage" arising out of "your products" shown in the Schedule which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:

a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

b. Any express warranty unauthorized by you;

c. Any physical or chemical change in the product made intentionally by the vendor;

d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in Sub-paragraphs d. or f.; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

CONSENT TO ASSIGNMENT AND ASSUMPTION OF MANAGEMENT AGREEMENT

THIS CONSENT TO ASSIGNMENT AND ASSUMPTION OF MANAGEMENT AGREEMENT ("Consent") is made by the City of Riverside ("City") this 28th day of August 2012 with reference to the following facts:

A. Entrepreneurial Hospitality Corporation, a Texas corporation ("Assignor") manages the facility located at 3443 Orange Street in the City of Riverside, State of California ("Property") pursuant to the Management and Operations Agreements dated November 25, 2009 ("Management Agreement") between Assignor and the City. The Management Agreement will be assigned to Assignee effective September 1, 2012 ("Effective Date").

B. Assignor requests that the City approve the assignment of the Management Agreement to Raincross Hospitality Corporation, a California corporation ("Assignee"),

C. Assignee's management team consists of the same individuals who manage Assignor.

D. Assignor will assign to Assignee all of its right, title and all of its interest in the Management Agreement ("Assignment").

NOW THEREFORE, incorporating the above recitals and in consideration of the covenants and obligations set forth herein, the parties hereto agree as follows:

1 **Consent to Assignment.** City acknowledges that the Management Agreement attached as Exhibit A has not been amended and is in full force and effect. City hereby consents to the assignment of the Management Agreement by Assignor to Assignee ("Consent"). Upon execution of the Consent, EHC and Raincross hereby acknowledge that the Management Agreement shall be assigned to Raincross as of the Effective Date. City agrees that Assignee shall have no liability to City for performance of the Management Agreement or for any claims arising under the Management Agreement, in each case prior to the Effective Date, that City will look solely to Assignor for and in respect of the same, and that City will not terminate or seek to terminate the Management Agreement, on account of any failure of performance by Assignor or any other claim against Assignor. City further agrees that Assignor shall have no liability for performance of the Management Agreement or any claims arising under the Management Agreement on or after the Effective Date, and that City will look solely to Assignee for and in respect of the same.

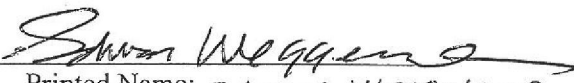
2 **Excess Profits.** City agrees that the Management Rights Fee in the amount of 152,031.53 for the fiscal year 2010-2011 shall be retained by EHC to offset expenses incurred by EHC in the fiscal year 2011-2012 related to the closure of the Riverside Convention Center. EHC shall timely pay City the Management Rights Fee, yet to be determined, for the fiscal year 2011-2012 as required by the Management Agreement.

IN WITNESS WHEREOF, Assignor and Assignee hereby requests that the City consent to Assignment and acknowledges the rights and responsibilities set for in this Assignment.

ENTREPRENEURIAL HOSPITALITY
CORPORATION, a California corporation
TEXAS

By: _____
Printed Name:
Title:

RAINCROSS HOSPITALITY
CORPORATION, a California corporation

By: 
Printed Name: Edward Weggelane
Title: President

**CONSENT TO ASSIGNMENT AND ASSUMPTION BY CITY AS PARTY TO THE
MANAGEMENT AGREEMENT**

The City of Riverside, as the party in contractual privity with Assignor to the Management Agreement, hereby consents to the assignment of said Management Agreement pursuant to this Agreement.

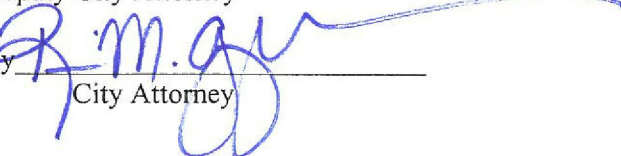
By: 
City Manager

ATTEST:

By: 
City Clerk

APPROVE AS TO FORM:

Deputy City Attorney

By: 
City Attorney

IN WITNESS WHEREOF, Assignor and Assignee hereby requests that the City consent to Assignment and acknowledges the rights and responsibilities set for in this Assignment.

ENTREPRENURIAL HOSPITALITY
CORPORATION, a Texas corporation

By: Richard D. Shippee
Printed Name: Richard D. Shippee
Title: Secretary

RAINCROSS HOSPITALITY
CORPORATION, a California corporation

By: _____
Printed Name: _____
Title: _____

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By _____
City Manager

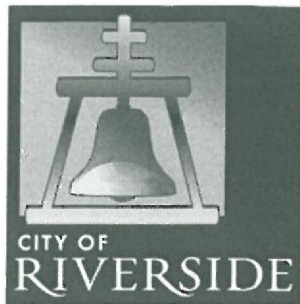
ATTEST:

By _____
City Clerk

APPROVE AS TO FORM:

Deputy City Attorney

By _____
City Attorney



**CITY COUNCIL,
HOUSING AUTHORITY,
AND
RIVERSIDE PUBLIC
FINANCING AUTHORITY
MINUTES**

City of Arts & Innovation

TUESDAY, AUGUST 28, 2012, 1 P.M.
ART PICK COUNCIL CHAMBER, CITY HALL
3900 MAIN STREET

**COUNCIL/AGENCY
MEMBERS**

G A R D N E R	M E L E N D R E Z	B A I L E Y	D A V I S	M A C A R T H U R	H A R T	A D A M S
1	2	3	4	5	6	7

WARDS

REIMBURSEMENT AGREEMENT - CITY STAFF AND LEGAL SERVICES - SUPPLEMENTAL APPROPRIATION

The City Council (1) approved an agreement between the City and the Successor Agency to the Redevelopment Agency in an amount not-to-exceed \$250,000 for providing City staff and legal services to help facilitate the winding down of the former Redevelopment Agency pursuant to ABx1 26; (2) authorized the City Manager, or his designee, to execute the agreement; and (3) authorized a supplemental appropriation in an amount not-to-exceed \$250,000 from a Fund identified by the Finance Director/Treasurer to a new account to be set up by the Finance Department.

AGREEMENTS - CONVENTION CENTER MANAGEMENT AND OPERATIONS - ASSIGNMENT AND ASSUMPTION

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DATE: August 30, 2012

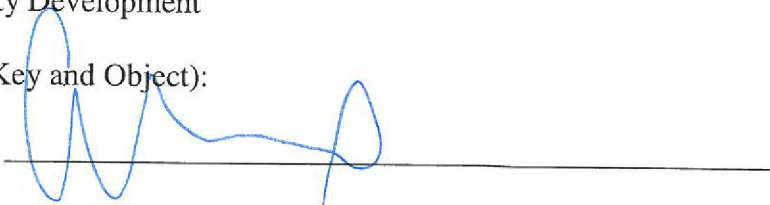
CONTRACTOR: Entrepreneurial Hospitality Corp.

DESCRIPTION: Consent to Assignment and Assumption of Management Agreement 09-0537.1

DEPARTMENT: Community Development

BUDGET ACCOUNT (GL Key and Object):

DEPT. HEAD APPROVAL:

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be a cursive representation of a name.

RETURN TO Laura Martinez, EXT. 4276, CITY CLERK'S OFFICE

**FIRST AMENDMENT TO THE MANAGEMENT AND OPERATIONS AGREEMENT
FOR RIVERSIDE CONVENTION CENTER
Raincross Hospitality Corporation**

THIS FIRST AMENDMENT TO THE MANAGEMENT AND OPERATIONS AGREEMENT ("First Amendment") is made and entered into this 28th day of August, 2012, by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City") and Raincross Hospitality Corporation, a California corporation ("Contractor"), successor in interest to Entrepreneurial Hospitality Corporation ("EHC"), with reference to the following facts:

RECITALS

WHEREAS, City and EHC entered into that certain Management and Operations Agreement for Riverside Convention Center ("Agreement") on November 25, 2009 for management and operation services relating to the Riverside Convention Center and the Riverside Convention & Visitors Bureau;

WHEREAS, EHC assigned the Agreement to Contractor and City consented to such assignment on August 28, 2012; and

WHEREAS, City will remodel the Riverside Convention Center which commenced on June 28, 2012 and will continue for approximately eighteen to twenty-four months ("Rehabilitation Period"); and

WHEREAS, to accommodate the closure of the Riverside Convention Center, to retain key Contractor employees involved with the Riverside Convention Center and to allow for continued booking of events in City, City desire to add the Riverside Municipal Auditorium ("Municipal Auditorium"), located at 3485 Mission Inn Avenue, Riverside, California to the Agreement as a venue for events during the Rehabilitation Period; and

WHEREAS, the City hereby acknowledges that the Rehabilitation Period requires Contractor to adjust to changed circumstances, including without limitation, the lack of traditional convention facilities, decreased bookings, the reduction in square footage of the facilities, limited kitchen facilities, limited venue parking and requirement for additional marketing efforts.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by this reference, City and Contractor agree as follows:

1. During the term of the Rehabilitation Period, City and Contractor agree that Contractor will have exclusive use of the Municipal Auditorium. Contractor may designate for marketing purposes, during the term of this amendment, the Municipal Auditorium as the "Riverside Auditorium and Special Events Center." City and Contractor understand and agree that to adequately market and book events through the Rehabilitation Period, Contractor likely will book events for dates after the Rehabilitation Period. City agrees that for events scheduled for dates following the Rehabilitation Period, Contractor shall have the non-exclusive right to use the Municipal Auditorium to facilitate such events. City and Contractor shall negotiate a fair and

reasonable fee to be paid to Contractor in exchange for booking and managing such events following the Rehabilitation Period.

2. During the term of the Rehabilitation Period, City and Contractor agree that Paragraph 1 of the Agreement ("Premises") shall be revised to include Contractor's occupancy of the Municipal Auditorium located at 3801 Mission Inn Avenue. Contractor's obligation and duties regarding the Riverside Convention Center are hereby suspended until the re-opening of the Riverside Convention Center. Notwithstanding the foregoing, City agrees to give Contractor at least six (6) months prior written notice of the re-opening. City and Contractor anticipate that the Riverside Convention Center will re-open no later than July 1, 2014, and that Contractor shall have the right to book events and seek deposits at any time for events at the Convention Center upon re-opening after such date.

3. Commencing on September 1, 2012 and continuing through the term of the Rehabilitation Period, City shall pay Contractor an amount of Six Thousand One Hundred Eleven Dollars and Eleven Cents (\$6,111.11) per month, each month for eighteen (18) months, for a total compensation of One Hundred Ten Thousand Dollars (\$110,000), to reimburse Contractor for the costs to provide temporary kitchen facilities (i.e., kitchen trailers) at the Municipal Auditorium.

4. For operations related to the Municipal Auditorium commencing on July 1, 2012 and continuing through the Rehabilitation Period, City shall reimburse Contractor for all expenses and losses incurred in connection with the operation of, but shall be entitled to all profits generated by, the Municipal Auditorium. Contractor shall be responsible for collecting all gross revenues generated as a result of Contractor's operations of the Municipal Auditorium. Within 30 days at the end of each quarter, Contractor shall remit to City, all profits, net of actual expenses owed to Contractor pursuant to Section 13 below. Within 30 days from receipt of a request from Contractor, with a financial report detailing the income and expenses of the Municipal Auditorium, City shall pay for all expenses and losses related to the operation of the Municipal Auditorium and shall reimburse Contractor each quarter to the extent gross revenues do not cover expenses and fees required to be paid Contractor. Contractor shall continue to keep books of accounting and records in accordance with Section 13 of the Agreement. For purposes of clarity, the Operation and Management Fee shall be paid independently of this Section 4. In addition, City understands and acknowledges that Contractor has assumed the liability for losses relating the Municipal Auditorium as of July 1, 2012 which shall be reported to City at the end of the quarter and paid in accordance with this Section 4.

5. Upon completion of Rehabilitation Period and relocation of Contractor back to the Riverside Convention Center, Contractor shall have no further rights to manage and operate the Municipal Auditorium, except to the extent of Contractor's non-exclusive rights set forth in Section 1 above, unless mutually agreed to in writing by the parties. Upon termination of services for the Municipal Auditorium, Contractor shall remove the temporary kitchen facilities from the Premises. City shall provide safe and secure storage space for the kitchen facilities. Contractor shall be responsible for moving the temporary kitchen facilities to City's storage space, at City's expense. Contractor and City shall cooperate in good faith to determine the sales price for the kitchen trailers and the Contractor shall reimburse City for fifty percent (50%) of the net sales price for the kitchen facilities upon sale. In the event that the kitchen facilities are

not sold within six (6) months of removal, City and Contractor shall jointly market the facilities in order to facilitate a timely sale.

6. The parties affirm that the City shall have access to the Municipal Auditorium to host up to eight (8) sponsored meetings each fiscal year pursuant to Section 8.m. of the Agreement. These dates shall include, but is not limited to: June 30, 2012, March 18, 2013, June 29, 2013, October 3, 2013, October 4, 2013, October 5, 2013, and October 6, 2013, for which the City, and their partners as identified by the City from time to time, will host meetings at the Municipal Auditorium.

7. In addition to the exclusive use of the Municipal Auditorium, during the herein described Rehabilitation Period and for any additional bookings following the Rehabilitation Period as authorized by Section 1 above, City will make available to Contractor additional space as follows:

a. An events and banquet area of approximately 10,000 square feet, currently referred to as the "Flex Space" and currently under construction as part of the Fox Entertainment Plaza located immediately north of the Fox Performing Arts Center. (Exhibit A-1)

b. Availability of said Flex Space shall commence upon issuance of a Certificate of Occupancy for the Flex Space.

c. Contractor and City shall agree on written operating procedures (i.e. reservation basis) for use of the Flex Space.

8. Paragraph (l.) of Section 5 is hereby deleted in its entirety and in its place substitute the following:

"City agrees to reimburse Contractor for possessory interest taxes on real and personal property, if assessed."

9. City agrees that the Management Rights Fee for the fiscal year 2010/11 shall be retained by EHC to offset expenses incurred by EHC related to the closure of the Riverside Convention Center. Upon receipt of the Management Rights Fee for the fiscal year 2011-2012 from EHC, City shall transfer the 2011-2012 Management Rights Fee to Contractor to help offset additional expenses and losses Contractor will incur in transitioning services to the Municipal Auditorium during the Rehabilitation Period.

10. Contractor acknowledges that it is not entitled to relocation benefits because the contemplated displacement is temporary in nature.

11. Section 2 of the Agreement Term is hereby deleted in its entirety and in its place substitute the following:

a. "The term of this Agreement shall commence on November 25, 2009, and end of March 31, 2015 with an option to extend for an additional five (5) years and subject to prior approval by City Council, unless sooner terminated as provided in paragraphs 16 or 17 below."

b. Section 2 (Term) of the Agreement is hereby amended to account for the time that the Convention Center will be closed, and City agrees to extend the March 31, 2015, expiration date by twenty-seven (27) months, to June 30, 2017. Furthermore, Contractor has notified City that it desires to exercise its one time option to extend the term of the Agreement. The City hereby accepts and approves a five-year extension to the Agreement. As such, the Agreement will have a term extending through and terminating on June 30, 2022."

12. Section 5 (h) of the Agreement is hereby deleted in its entirety and shall be substituted with the following and the increase in payments reflected by this amendment shall commence as of September 1, 2012:

a. "(i) Upon approval of the marketing plans required in the Paragraph 5.f. above, City shall pay Contractor an annual business development activities fee in the amount of One Million One Hundred Thousand Dollars (\$1,100,000) effective for Fiscal Year 2012-2013. Said business development activities fee shall be paid to Contractor in equal monthly installments on the last working day of the month. The parties agree that the marketing plans for fiscal year 2012-2013 have been approved by City; and (ii) Contractor shall further be entitled to a payment in an amount not to exceed One Hundred Thousand Dollars (\$100,000) to fund the Riverside Sports Commission which will be within the Riverside Convention & Visitors Bureau for Fiscal Year 2012-2013 and for the Scope of Services attached hereto as Exhibit "B-2" and incorporated herein by this reference. The parties agree this payment will be due on an annual basis at the beginning of each Fiscal Year for the remainder of the Agreement term commencing with the first payment on September 1, 2012 for the Fiscal Year 2012-2013."

13. Section 11 of the Agreement is hereby deleted in its entirety and in its place substitute the following:

a. "In exchange for the mutual promises herein, City hereby agrees to pay Contractor an annual Operation and Management Fee in the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000). The Operation and Management Fee shall be payable in equal monthly installments. The monthly installments shall be due and payable on the first day of each month."

14. Contractor shall be entitled to payment in an amount not to exceed One Hundred Thousand Dollars (\$100,000), for outreach and marketing efforts related to the Grand Opening of the Convention Center. The Fee shall be payable in equal monthly installments beginning on September 1, 2012. The monthly installments shall be due and payable on the first day of each month. City may, at its sole option and discretion, determine that Contractor will be entitled to additional payment for further marketing efforts.

15. Contractor agrees to indemnify, defend and save City harmless from all damages, liability, cost, claim or expense, including attorney's fees and court costs arising out of Contractor's or its subcontractor's, concessionaire's, or licensee's performance under this Agreement, excepting therefrom, however, all damages, liability, costs, claims or expenses arising out of or caused by the negligence or willful misconduct of City, and further excepting therefrom, all damages, liability, costs, claims, or expenses, which may arise or be caused by structural defects of the Municipal Auditorium, claims related to the American With Disabilities

Act, premises liability claims or which may be covered by a policy or policies of liability or casualty insurance. Payment of any claim by City shall not be a condition precedent to recovery under this indemnity. The provisions of this paragraph shall survive the expiration or early termination of this First Amendment. Notwithstanding anything herein that may be interpreted to the contrary, City agrees to deliver the Municipal Auditorium to Contractor in a condition as a first class events and performing arts center, construction complete and ready for operations. All costs associated with the maintenance of the Municipal Auditorium, including repairs and warranty items, shall be expenses borne by City as required by this Amendment.

16. The Contacts listed in Section 19 (a) shall be amended to read as follows:


City
City Manager's Office
City of Riverside
3900 Main Street
Riverside, CA 92522

Raincross Hospitality Corporation
Attention: Ted Weggeland, President
3485 Mission Inn Avenue
Riverside, California 92501

17. All terms and conditions of the Agreement not inconsistent with this First Amendment, shall remain in full force and effect and are incorporated herein by this reference as if set forth in fully.

IN WITNESS WHEREOF, City and Contractor have caused this First Amendment to the Management and Operations Agreement to be duly executed on the day and year first above written.

CITY OF RIVERSIDE, a California
charter city and municipal corporation

By: 

City Manager


RAINCROSS HOSPITALITY
CORPORATION, a California corporation

By: 

Name: Edward Weggeland

Its: President

Attest:

By: 
City Clerk

APPROVED AS TO FORM:


By: 
Deputy City Attorney

Exhibit B-2

RIVERSIDE SPORTS COMMISSION

Summary

The Riverside Convention & Visitors Bureau (RCVB) believes that attracting sports competitions to the City of Riverside (the City) will play an important part in the future economic development and positive perception of the City. Since opening the Riverside Aquatics Complex (RAC) in early 2011, the RCVB has been instrumental in securing numerous prestigious aquatics events at the RAC, including the USA Dive Region 9 Championships; the AAU National Junior Diving Championships; the CIF Southern Section Swimming Championships, believed to be the largest high school swim competition in the nation; and in the summer 2012, the USA Swimming Junior Olympics. These events will bring over 16,000 visitors to the City and fill over 1,800 hotel room nights. What's more, most of these competitions take place in the late spring and summer, when the City's hotels (and retailers who benefit by hotel visitations) are traditionally the slowest, providing them a much needed financial benefit. The RCVB also recently secured a USA Gymnastics competition in Riverside, and is currently in pursuit of the AYSO National Championships for 2014.

The RCVB's recent success in attracting – and helping to successfully organize and execute – these competitions has caused the RCVB to conclude that a more focused and dedicated effort to secure important year-round sport competitions is essential to continued success in this market segment. The organization dedicated to this effort would be a Riverside Sports Commission (the Commission), a division of the RCVB.

Commission's Purpose

The purpose of the Riverside Sports Commission's will be to secure competitions and ensure their success, in order to win repeat business and secure new and different sports competitions, positively impacting the City's economy.

This purpose will be achieved by generating event leads; organizing sport event familiarization tours; coordinating and leading venue/site inspections; leading the request for proposal/bid process; securing appropriate athletic venues for competitions; acting as the lead local organization coordinating the numerous organizations involved in making events a success; securing event permits; managing event transportation and parking; developing a volunteer base and deploying volunteers; securing sponsorships (bid fees) to help fund events; managing local, regional and national marketing efforts; ensuring venue development; and developing after-event reports.

Event Lead Generation

- Work closely with local athletic organizations, existing clients, and sport organizations to generate event leads.
- Initially, the Commission's efforts will be focused on securing aquatic, soccer, softball, and tennis, and life-style competitions, due to the existing venues in the City that can support these competitions.

Familiarization Tours

- Host event planners in Riverside to review competition venues, hotels and retail.
- Develop marketing material, including venue specifications.
- Coordinate with RCVB to secure hotel rooms.

Requests for Proposals/Bids

- Manage RFP process, including securing bid fees, securing athletic venues, coordinating all local stakeholders, customizing communication pieces to provide the best chance for success.

Event Planning and Production

- Coordinate site inspections leading up to event.
- Secure necessary event permits.
- Plan and manage event transportation and parking.
- Deploy and manage event volunteers.
- Secure sponsorships to help fund events.
- Coordinate welcome materials for participants and event programs for participants and visitors, including competition site maps and directions to restaurant and retail establishments.
- Manage local and regional marketing efforts.

Public Relations and Marketing Campaign

- Establish a campaign to increase awareness of sports facilities in Riverside.
- Develop a website to showcase facilities, citing examples of Riverside's successful sporting events and capabilities.
- Use social media (Twitter, Facebook, YouTube etc) to drive attendance and direct participants and visitors to retail and restaurants.
- Develop strategic partnerships to ensure event success.
- Establish/enhance relations with local news media to insure public awareness of events.

Athletic Venue Development

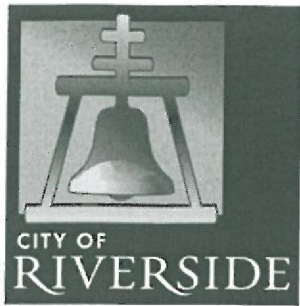
- In collaboration with the City, ensure that Riverside's athletic venues are of superior quality in order to attract athletic competitions.
- Conduct venue feasibility analysis.

Trade Association Membership

- Join the National Association of Sports Commissions (NASC).
- Attend the NASC's Sports Events Symposium and other trade events to secure leads for future business; network with event owners and industry suppliers; experience peer-to-peer interactions on hot topics in the sports event industry; develop relationship with key decision makers in the industry by sport; and nurture existing relationships.

After-Event Reports

- Working with the event owners, venue management, the RCVB, hotels, and retailers, develop after-event reports summarizing each event's successes and challenges in order to improve events in the future.
- Report will include an estimation of the economic impact to the City.



**CITY COUNCIL,
HOUSING AUTHORITY,
AND
RIVERSIDE PUBLIC
FINANCING AUTHORITY
MINUTES**

TUESDAY, AUGUST 28, 2012, 1 P.M.
ART PICK COUNCIL CHAMBER, CITY HALL
3900 MAIN STREET

City of Arts & Innovation

**COUNCIL/AGENCY
MEMBERS**

G A R D N E R	M E L E N D R E Z	B A I L E Y	D A V I S	M A C A R T H U R	H A R T	A D A M S
1	2	3	4	5	6	7

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DATE: August 30, 2012

CONTRACTOR: Raincross Hospitality Corp

DESCRIPTION: 1st Amendment to Management and Operations Agreement 09-0537.1

DEPARTMENT: Community Development

BUDGET ACCOUNT (GL Key and Object):

DEPT. HEAD APPROVAL: _____

RETURN TO Laura Martinez, EXT. 4276, CITY CLERK'S OFFICE

Client#: 738309

RAINHOSP

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/05/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hub International HUB Int'l Insurance Serv. Inc. 4371 Latham St, Ste #101 Riverside, CA 92501		CONTACT NAME: Jennifer Goldware PHONE (A/C, No, Ext): 951-779-8532 FAX (A/C, No): 951-742-4668 E-MAIL ADDRESS: jennifer.goldware@hubinternational.com															
INSURED Raincross Hospitality Corporation 3750 University Avenue, Suite 175 Riverside, CA 92501		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: ALLIED Mutual Insurance Company</td> <td>42579</td> </tr> <tr> <td>INSURER B: Preferred Employers Ins Co</td> <td>10900</td> </tr> <tr> <td>INSURER C: Gemini Insurance Company</td> <td>10833</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: ALLIED Mutual Insurance Company	42579	INSURER B: Preferred Employers Ins Co	10900	INSURER C: Gemini Insurance Company	10833	INSURER D:		INSURER E:		INSURER F:	
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INSURER F:																	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X		ACP7823466870	08/28/2012	08/28/2013	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			ACP7823466870	08/28/2012	08/28/2013	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ EACH OCCURRENCE \$ AGGREGATE \$ \$
	UMBRELLA LIAB EXCESS LIAB OCCUR CLAIMS-MADE DED RETENTION \$						\$ \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	EPI4689200	08/28/2012	08/28/2013	X WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	Prof. Liability			VCPL061635	08/28/2012	08/28/2013	\$1,000,000 ea occurrence \$1,000,000 aggregate \$5,000 deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Verification of Insurance.

CERTIFICATE HOLDER

CANCELLATION

The City of Riverside
 3900 Main Street
 Riverside, CA 92501

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

John C. C...

COMMERCIAL GENERAL LIABILITY
CG 20 26 07 04

**ADDITIONAL INSURED – DESIGNATED
PERSON OR ORGANIZATION**

SCHEDULE

[illegible]

A. In the performance of your ongoing operations; or

B. In connection with your premises owned by or rented to you.

