

PROJECT FRAMEWORK AGREEMENT

THE CITY OF CALGARY

-and-

**CSE REAL ESTATE CORPORATION, in its capacity as general partner for
and on behalf of CSE REAL ESTATE LIMITED PARTNERSHIP**

MADE AS OF OCTOBER 5, 2023

TABLE OF CONTENTS

ARTICLE 1 INTERPRETATION	2
1.1 Definitions	2
1.2 Accounting Terms	15
1.3 Extended Meanings	15
1.4 Business Days	15
1.5 Calculation of Interest	16
1.6 Statute References	16
1.7 Schedules	16
1.8 Currency	16
1.9 Headings	16
1.10 Interpretation	16
ARTICLE 2 PROJECT DEVELOPMENT	16
2.1 Project Development	16
2.2 Development Manager; Development Management Agreement	17
2.3 Fundamental Project Principles	17
2.4 Environmental Condition of the Lands	17
2.5 Title to Lands and Event Centre	17
2.6 Acquisition of a Leasehold Interest	17
ARTICLE 3 DEVELOPMENT OBLIGATIONS	18
3.1 General Obligations of the Parties	18
3.2 The City's Development Obligations	18
3.3 Saddledome Obligations	19
ARTICLE 4 PROJECT BUDGET AND FUNDING OBLIGATIONS	20
4.1 Funding Obligations of the Parties	20
4.2 Project Costs Invoicing	22
4.3 GST	22
4.4 Budget Limit and Eligible Cost Overruns	22
ARTICLE 5 STEERING COMMITTEE AND PROJECT COMMITTEE	24
5.1 Decisions by the Steering Committee	24
5.2 Decisions by the Project Committee	24
5.3 Approval Requirements	24
5.4 Actions of the Parties and Committee Members	25
5.5 Approval of Project Budget/Eligible Costs	25
5.6 Sole Cost Items	26
5.7 Agreements in Writing	26
5.8 Formation of Steering Committee	26
5.9 Formation of Project Committee	26
5.10 Governance Support	27
5.11 Terms of Reference (Steering Committee)	27
5.12 Terms of Reference (Project Committee)	27

5.13	Members (Steering Committee)	27
5.14	Members (Project Committee)	28
5.15	Decision-Making of the Steering Committee	29
5.16	Decision-Making of the Project Committee	29
5.17	Deadlock of the Steering Committee	30
5.18	Deadlock of the Project Committee	30
5.19	Defaulting Party	30
ARTICLE 6 REPRESENTATIONS AND WARRANTIES		30
6.1	Representations and Warranties of The City	30
6.2	Representations and Warranties of CSERELP	31
ARTICLE 7 INDEMNITIES AND LIABILITY		33
7.1	Indemnity by The City	33
7.2	Indemnity by CSERELP	33
7.3	Consequential Damages	34
7.4	Notice of Claim	34
7.5	Right to Contribution	35
7.6	Duration	36
ARTICLE 8 DEFAULT AND TERM OF AGREEMENT		36
8.1	City Events of Default	36
8.2	CSERELP Events of Default	37
8.3	Rights of The City Upon CSERELP Event of Default	38
8.4	Rights of CSERELP Upon City Event of Default	38
8.5	Rights against a Defaulting Party	39
8.6	Term	39
ARTICLE 9 DISPUTE RESOLUTION		39
9.1	Dispute Notice	39
9.2	Negotiation	40
9.3	Expert Mediation	40
9.4	Commencement of Arbitration	41
9.5	Arbitration Procedure	41
9.6	Other Remedies	42
9.7	Payments Not Suspended	43
9.8	Continuation of Work During Dispute	43
ARTICLE 10 CONFIDENTIALITY AND FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY		43
10.1	Freedom of Information and Protection of Privacy Act	43
10.2	Confidentiality	43
10.3	Disclosure of Information	43
10.4	Survival	44
10.5	Improper Disclosure or Use	44
10.6	Indemnity	44

ARTICLE 11 INTELLECTUAL PROPERTY	44
11.1 Ownership of Intellectual Property	44
ARTICLE 12 GENERAL	45
12.1 Notices	45
12.2 Enforceability	46
12.3 Successors and Assigns	46
12.4 Capacity of The City.....	48
12.5 Time of Essence	48
12.6 Governing Law	49
12.7 Third Parties.....	49
12.8 Reporting as a Civic Partner and on the Use of Public Funds	49
12.9 Rivers District Endorsement	49
12.10 Entire Agreement	49
12.11 Survival of Covenants	49
12.12 Waivers	49
12.13 Counterparts and Electronic Execution.....	50

THIS AGREEMENT is made as of the 5th day of October, 2023 (the “**Effective Date**”)

BETWEEN:

THE CITY OF CALGARY

(hereinafter referred to as “**The City**”),

-and-

CSE REAL ESTATE CORPORATION, in its capacity as general partner for and on behalf of **CSE REAL ESTATE LIMITED PARTNERSHIP**

(hereinafter referred to as “**CSERELP**”),

WHEREAS The City and CSERELP desire to collaborate in and contribute funding for the design, permitting, construction and development of a new event centre, community rink and associated amenities that will be owned by The City and will be located on the Lands that will be acquired by The City;

AND WHEREAS the Parties acknowledge that various agreements are necessary to fund, design, permit, develop and construct a new event centre, community rink and associated amenities;

AND WHEREAS at the April 25, 2023 Regular Meeting of Council, Council acknowledged the authority of the City Manager, under the Execution of Contracts Bylaw 43M99, to negotiate and execute various definitive agreements which are necessary or desirable to deliver the Event Centre Project and related district-wide improvements as generally outlined in Report C2023-0482 including the attachments thereto;

AND WHEREAS The City and CSERELP are entering into this Agreement whereby both The City and CSERELP will contribute funds that will be used to design, permit, develop, and construct the Project, on the terms and subject to the conditions set out below;

AND WHEREAS The City’s Contribution will be used to design, permit, construct and develop the Event Centre and the Community Rink, which The City will own, and CSERELP’s Contribution will be used, together with the payments to be made by CSERELP to The City under the Management and Lease Agreement, to acquire a leasehold interest in the Event Centre and the Community Rink from The City, pursuant to the Management and Lease Agreement, which contribution will be used by The City to fund the design, permitting, construction and development of the Event Centre and the Community Rink;

AND WHEREAS The City and CSERELP concurrently with the execution of this Agreement, will enter into the Development Management Agreement with the Development Manager whereby the Development Manager will manage the development of the Project;

AND WHEREAS The City and CSERELP desire to enter into certain agreements related to the Project concurrently with the execution of this Agreement, including the Facility Fee Agreement, the Management and Lease Agreement and the Event Management and Road Usage Agreement, together with various documents pursuant to which CSERELP or CSEC grants security to The City in support of its obligations under such agreements;

THIS AGREEMENT WITNESSES THAT in consideration of the respective covenants, agreements, representations, warranties and indemnities of the Parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each party hereto), the Parties hereby agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

The following definitions shall apply in the interpretation of this Agreement and in the Recitals and the Schedules hereto (provided that where a word or term is defined in a Schedule hereto, the word or term as defined in such Schedule shall apply in the interpretation of the Schedule and in this Agreement):

"Affiliate" of any Person means any Person that, directly or indirectly, Controls, is Controlled by or under common Control with such Person including:

- (a) an "affiliate" within the meaning of the *Business Corporations Act* (Alberta);
- (b) a partnership, the majority of whose partnership interests are directly or indirectly held by such Person or an Affiliate of such Person and such majority is sufficient to Control the affairs of such partnership; or
- (c) a trust, the majority of whose beneficial interests are directly or indirectly held by such Person or an Affiliate of such Person or of which such Person or an Affiliate of such Person is, directly or indirectly, a trustee or manager which directs the management or policies of the trust;

"Agreement", **"this Agreement"**, **"the Agreement"**, **"hereto"**, **"hereof"**, **"herein"**, **"hereby"**, **"hereunder"** and similar expressions mean or refer to this Agreement as amended from time to time and any agreement or instrument supplemental hereto and the expressions **"Article"**, **"Section"**, **"Subsection"** and **"Schedule"** followed by a number or letter mean and refer to the specified Article, Section, Subsection or Schedule of or attached to this Agreement;

"AHL" means the American Hockey League;

"Applicable Laws" means, with respect to any Person, property, agreement, transaction or event, all applicable present and future laws, statutes, bylaws, codes, ordinances, decrees, rules, regulations, treaties, City Policies, federal or provincial policies or guidelines and judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, directives, rulings or awards, general principles of common law and conditions of any grant of approval, permission, authority, licence or registration of any federal or provincial court, statutory body, regulatory authority, agency, commission, tribunal, board, department of any government, or any other Governmental Authority, including any self-regulatory organization recognized by such Governmental Authority;

"Approval Form" has the meaning ascribed thereto in the Development Management Agreement;

“Approved” or **“Approval”** means Approved by the Project Committee, Approval of the Project Committee, Approved by the Steering Committee or Approval of the Steering Committee, as the context requires;

“Approved by the Project Committee” or **“Approval of the Project Committee”** means approved by, or the approval of, the Parties given as follows and otherwise in accordance with Schedule C:

- (a) by resolution passed by the vote of at least one member of the Project Committee appointed by each of The City and CSERELP present at a meeting of the Project Committee pursuant to Section 5.16(b); or
- (b) by resolution in writing signed by at least one member of the Project Committee appointed by each of The City and CSERELP pursuant to Section 5.16(a); or
- (c) by the execution and delivery of an Approval Form by at least one member of the Project Committee appointed by each of The City and CSERELP; or
- (d) by the execution and delivery of any other written approval by both of the Parties;

in each case except as otherwise provided herein, including pursuant to Section 5.19 in respect of a Defaulting Party;

“Approved by the Steering Committee” or **“Approval of the Steering Committee”** means approved by, or the approval of, the Parties given as follows:

- (a) by resolution passed by the unanimous vote of all of the members of the Steering Committee present at a meeting of the Steering Committee pursuant to Section 5.15(b); or
- (b) by resolution in writing signed by all of the members of the Steering Committee then in office pursuant to Section 5.15(a); or
- (c) by the execution and delivery of an Approval Form by both Parties’ members of the Steering Committee; or
- (d) by the execution and delivery of any other written approval by both of the Parties;

in each case except as otherwise provided herein, including pursuant to Section 5.19 in respect of a Defaulting Party;

“Approving Authorities” means the municipal and regulatory authorities having jurisdiction over the Subdivision and permit applications, or any of them as the context requires;

“Arbitration Court” has the meaning ascribed thereto in Section 9.5(b);

“Arbitration Notice” has the meaning ascribed thereto in Section 9.5(a);

“Award” has the meaning ascribed thereto in Section 9.5(f);

“Bank Rate” means the prime rate of interest per annum published by Royal Bank of Canada, from time to time, as may be in effect on the first day of each month as its reference rate of interest used to determine rates of interest for commercial loans in Canada in Canadian funds, expressed as an annual rate;

“Business Day” means any day which is not a Saturday, Sunday or a day observed as a holiday under the laws of the Province of Alberta or the federal laws of Canada applicable therein;

“Change in Control” means any transaction or series of transactions including any transfer, assignment, conveyance or other disposition of all or part of the equity interests, securities, partnership interest or other ownership interests of a Person by operation of law or otherwise which results in a change in the effective Control of such Person and includes any merger, amalgamation or other similar corporate reorganization of a Person, a change in any one or more partners of a general partnership or a change in one or more limited partners of a limited partnership or a change in the general partner of a limited partnership to an entity that is not Controlled by: (i) one or more of the current holders (as of the Effective Date) of the equity interests or other security interests of such limited partnership; or (ii) an approved assignee, where approval is required under this Agreement, of the holders of the equity interests or other security interests of such limited partnership;

“Change Order” has the meaning ascribed thereto in the Development Management Agreement;

“City Additional Costs” means the following costs in respect of the Project or the Lands which are the exclusive responsibility of The City:

- (e) all costs relating to the performance of The City’s obligations pursuant to Section 3.2, including any land value and land acquisition costs and any payment of cash in lieu of dedication of all reserve lands or other lands;
- (f) all costs relating to the performance of The City’s obligations pursuant to Section 3.3;
- (g) all costs of Sole Cost Items which are the responsibility of The City pursuant to Section 5.5, including any cost overruns in respect of such Sole Cost Items;
- (h) any offsite levies payable in respect of the Project;
- (i) any costs of installation and construction of underground utility lines or other utility facilities servicing the Event Centre or the Community Rink to the face of the foundation;
- (j) Incremental City Policy and Council Project Approval Costs;
- (k) Ineligible Costs solely attributable to The City;
- (l) all costs of any infrastructure on, under or relating to the Lands which is not required for purposes of the Project; and

(m) any other costs designated as a City Additional Cost by the Steering Committee;

“City Contribution” has the meaning ascribed thereto in Section 4.1(a);

“City Event of Default” has the meaning ascribed thereto in Section 8.1;

“City Indemnity Beneficiaries” means The City and its elected officials, directors, officers, employees and agents;

“City Manager” means the person appointed to the position of chief administrative officer of The City pursuant to the *Municipal Government Act* (Alberta), or such person’s designate from time to time;

“City Maximum Budgeted CR Contribution Amount” means the maximum budgeted amount to be contributed by The City for Eligible Costs incurred in connection with the Community Rink, such amount being equal to 75% of the Overall Community Rink Budget Limit, exclusive of GST, and which amount, for greater certainty, does not include amounts contributed by The City in respect of City Additional Costs or Ineligible Costs;

“City Maximum Budgeted EC Contribution Amount” means the maximum budgeted amount to be contributed by The City for Eligible Costs incurred in connection with the Event Centre, such amount being equal to the Overall Event Centre Budget Limit less \$27,000,000, each exclusive of GST; and which amount, for greater certainty, does not include amounts contributed by The City in respect of City Additional Costs or Ineligible Costs;

“City Policies” means those policies of The City of Calgary, in its capacity as a Governmental Authority and not in its capacity as a Party to this Agreement, which are listed in Schedule E (to the extent such policies are applicable to the Project), and such amendments thereto or such other policies of The City of Calgary in such capacity as, in either case, may be Approved by the Project Committee from time to time as applying to the Project;

“Claim” means all past, present and future claims, suits, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, legal fees on a substantial indemnity basis and other professional fees and disbursements, interest, demands and actions of any nature or any kind whatsoever;

“Community Rink” means a separate community skating rink which will: (i) be an integral part of the Project and will include seating for approximately 1,000 spectators; (ii) comply with applicable NHL standards for an NHL practice facility, (iii) include concourses; mechanical, electrical and plumbing systems, and certain amenities which are shared with the Event Centre, and (iv) be located entirely within the Lands;

“Comparable Event Centres” means Little Caesars Arena in Detroit, T-Mobile Arena in Las Vegas, Rogers Place in Edmonton, Nationwide Arena in Columbus, and Xcel Energy Center in St. Paul;

“Completion” has the meaning ascribed thereto in the Development Management Agreement;

“Confidential Information” means information considered proprietary by a Party that is delivered or disclosed pursuant to this Agreement (and, for certainty, shall not include this Agreement) and identified as such, and includes any and all material, data and information (regardless of form and whether or not patentable or protectable by copyright and whether or not identified as confidential or proprietary) that is not available to the public or required to be disclosed by Applicable Laws such as technical and business information, financial plans and records, marketing plans, business strategies, trade secrets, present and proposed products, customer lists and information regarding customers and suppliers;

“Construction Phase Design Plans” has the meaning ascribed thereto in the Development Management Agreement;

“Control” or **“Controlled”** means: (a) with respect to any Person that is a corporation, incorporated or unincorporated association, incorporated or unincorporated syndicate, or other incorporated or unincorporated organization, trust or other legal entity that has issued voting securities, the ownership in the aggregate, directly or indirectly, of voting securities of such Person carrying 50% or more of the votes for the election of directors (or individuals performing a similar function or occupying similar position, including the trustees of a trust); (b) with respect to any Person that is a trust that has not issued voting securities, control by the trustees of such trust; or a Person who Controls each trustee of such trust and in each case, ownership in the aggregate, directly or indirectly of 50% or more of the beneficial interests in such trust held by Persons that are not charities; (c) with respect to any Person that is a partnership that does not have directors (or Persons performing a similar function or occupying a similar position) (other than a limited partnership), the ownership in the aggregate directly or indirectly of 50% or more of the interests in such partnership; or (d) with respect to any Person that is a limited partnership, the Control of each general partner of such limited partnership and the ownership in the aggregate directly or indirectly of 50% or more of the limited partnership interests in such limited partnership; and a Person is Controlled (within the meaning of paragraphs (a) to (d) of this definition) by a Person when one or more of such first-mentioned Persons are directly or indirectly Controlled (within the meaning of paragraphs (a) to (d) of this definition) by the second-mentioned Person, and the terms **“Controlling”**, **“Controlled by”** and **“under common Control with”** will have corresponding meanings;

“Council” means the municipal council of The City;

“Council Project Approvals” means all approvals, directions and policies of Council respecting the Project made as of the Effective Date, and such other approvals, directions and policies of Council respecting the Project made from time to time after the Effective Date;

“CSEC” means Calgary Flames Limited Partnership (by its general partner Calgary Sports and Entertainment Corporation) and its successors and permitted assigns;

“CSEC Guarantee” means the guarantee of CSEC of all of the obligations of CSERELP to The City under this Agreement and the Development Management Agreement, among other agreements, dated October 5, 2023;

“CSEC Security” means the security granted by CSEC to The City in support of, among other things, its obligations to The City under the CSEC Guarantee, consisting of a general security agreement dated October 5, 2023;

“CSEC’s Teams” means the Calgary Flames of the NHL, the Calgary Wranglers of the AHL, the Calgary Hitmen of the WHL, the Calgary Roughnecks of the NLL and any other sports teams owned by CSEC;

“CSERELP” means CSE Real Estate Limited Partnership (by its general partner CSE Real Estate Corporation) and its successors and permitted assigns;

“CSERELP Additional Costs” means the following costs in respect of the Project which are the exclusive responsibility of CSERELP:

- (a) Third Party Fit Up Costs;
- (b) the first \$1 million of Fit Up Costs incurred in respect of any fit-out or tenant improvement work of any retail premises undertaken by CSERELP or any subtenant or licensee which is an Affiliate of CSERELP;
- (c) all costs of Sole Cost Items which are the responsibility of CSERELP pursuant to Section 5.5, including any cost overruns in respect of such Sole Cost Items;
- (d) Ineligible Costs solely attributable to CSERELP;
- (e) Incremental NHL Change Costs; and
- (f) any other costs designated as a CSERELP Additional Cost by the Steering Committee;

“CSERELP Contribution” has the meaning ascribed thereto in Section 4.1(b);

“CSERELP Event of Default” has the meaning ascribed thereto in Section 8.2;

“CSERELP Indemnity Beneficiaries” means CSERELP and CSEC and their respective directors, officers, employees and agents;

“CSERELP Maximum Budgeted CR Contribution Amount” means the maximum budgeted amount to be contributed by CSERELP for Eligible Costs incurred in connection with the Community Rink, such amount being equal to 25% of the Overall Community Rink Budget Limit, exclusive of GST, and which amount, for greater certainty, does not include amounts contributed by CSERELP in respect of CSERELP Additional Costs or Ineligible Costs;

“CSERELP Maximum Budgeted EC Contribution Amount” means the maximum budgeted amount to be contributed by CSERELP for Eligible Costs incurred in connection with the Event Centre, such amount being \$27,000,000, exclusive of GST, and which amount, for greater certainty, does not include amounts contributed by CSERELP in respect of CSERELP Additional Costs or Ineligible Costs;

“CSERELP Security” means the performance security granted by CSERELP to The City in support of its obligations under this Agreement and all of the other agreements between The City and CSERELP, consisting of a general security agreement granted by CSERELP to The City dated as of October 5, 2023;

“Deadlock” means, (i) with respect to a Decision, the members of the Project Committee are deadlocked and are unable to reach a decision despite having formally considered the matter at two meetings of the Project Committee; or (ii) with respect to a Major Decision, the members of the Steering Committee are deadlocked and are unable to reach a decision despite having formally considered the matter at two meetings of the Steering Committee;

“Decision” means any decision or approval required in respect of the Project to be made by the Project Committee from time to time under this Agreement or under the Development Management Agreement, excluding any decision or approval which constitutes a Major Decision and is required to be made by the Steering Committee;

“Defaulting Party” has the meaning ascribed thereto in Sections 5.19 and 8.5;

“Development Management Agreement” means the development management agreement dated October 5, 2023 between The City, CSERELP and the Development Manager or any other replacement development management agreement entered into by The City and CSERELP in respect of the appointment of a development manager for the Project, as amended, modified, and supplemented from time to time in accordance with the provisions thereof;

“Development Manager” means the sports arena/stadium development manager selected by the Parties and appointed as the “Development Manager” pursuant to the Development Management Agreement;

“Disposition” has the meaning ascribed thereto in Section 12.3(b);

“Dispute” has the meaning ascribed thereto in Section 9.1;

“Dispute Notice” has the meaning ascribed thereto in Section 9.1;

“District Benefits and Off-Site Infrastructure” means the projects and infrastructure improvements to be undertaken by The City to benefit the Rivers District generally, which are more particularly described in Schedule D;

“Effective Date” has the meaning ascribed thereto on the first page of this Agreement;

“Eligible Cost Overrun” has the meaning ascribed thereto Section 4.4(b);

“Eligible Cost Savings” has the meaning ascribed thereto in Section 4.4(c);

“Eligible Costs” has the meaning ascribed thereto in Schedule B of the Development Management Agreement;

“Event Centre” means the new event centre being developed by the Parties, and all associated on-site parking (whether below, at, or above grade), all as more particularly described in Schedule A-2; and also including, upon finalization and Approval by the Project Committee of any Project Plans, any other components of the Event Centre as may be set out such Project Plans;

“Event Management Plan Agreement” means the Event Management Plan and Road Usage Agreement between the Parties and Calgary Exhibition and Stampede Limited dated October 5, 2023, as amended, modified, and supplemented from time to time in accordance with the provisions thereof;

“Event of Insolvency” means with respect to a Person the occurrence of any one of the following events:

- (a) if such Person shall:
 - (i) be wound up, dissolved, or liquidated, or become subject to the provisions of the *Winding-up and Restructuring Act* (Canada), as amended or re-enacted from time to time, or have its existence terminated or have any resolution passed therefor, unless, in any such case it forms part of a bona fide corporate reorganization or a merger or amalgamation not forming part of any relief being sought under any present or future law relative to bankruptcy, insolvency or other relief for debtors, provided that it shall not be an Event of Insolvency if the Person, being a corporation, is dissolved involuntarily pursuant to its governing legislation and the Person is revived within forty-five (45) Business Days of any of the directors or officers of such corporation at the time of its dissolution becoming aware of such dissolution; or
 - (ii) make a general assignment for the benefit of its creditors or a proposal under the *Bankruptcy and Insolvency Act* (Canada) as amended or re-enacted from time to time, or shall be declared bankrupt or insolvent by a court of competent jurisdiction; or
 - (iii) propose a compromise or arrangement under the *Companies’ Creditors Arrangement Act* (Canada) or any similar legislation, as amended or re-enacted from time to time, or shall file any petition or answer seeking any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution or similar relief for itself under any present or future law relative to bankruptcy, insolvency or other relief for debtors; or
 - (iv) become insolvent within the meaning of the *Bankruptcy and Insolvency Act* (Canada); or
- (b) if a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against such Person seeking any reorganization, arrangement, composition, re-adjustment, liquidation, dissolution, winding up, termination of existence, declaration of bankruptcy or insolvency or similar relief under any present or future law relating to bankruptcy, insolvency or other relief for or against debtors, and such Person shall acquiesce in the entry of such order, judgment or decree or such order, judgment or decree shall remain unvacated and unstayed for an aggregate of thirty (30) days (whether consecutive or not) from the day of entry thereof; or if any trustee in bankruptcy, receiver or receiver and manager, liquidator, monitor or any other officer with similar powers shall be appointed for such Person or of all or any substantial part of its property with the consent or acquiescence of such Person, or such appointment shall remain

unvacated and unstayed for an aggregate of thirty (30) days (whether or not consecutive);

“Expert” has the meaning ascribed thereto in Section 9.3;

“Expert Notice” has the meaning ascribed thereto in Section 9.3;

“Final Completion” has the meaning ascribed thereto in the Development Management Agreement;

“Fit Up Costs” has the meaning ascribed thereto in the Development Management Agreement;

“Fundamental City Event of Default” means a City Event of Default under Section 8.1(a) or The City defaults in the payment of an amount in excess of \$10 million and such default is not cured within the cure period of ten (10) days after notice of such default has been given to The City by CSERELP in accordance with Section 8.1(b);

“Fundamental CSERELP Event of Default” means a CSERELP Event of Default under Section 8.2(a), 8.2(d) or CSERELP defaults in the payment of an amount in excess of \$10 million and such default is not cured within the cure period of ten (10) days after notice of such default has been given to CSERELP in accordance with Section 8.2(b);

“Fundamental Principles” has the meaning ascribed thereto in Section 2.3;

“General Construction Contract” means the construction contract with the General Contractor for the construction of the Project, on terms and conditions Approved by the Project Committee;

“General Contractor” means the general contractor or construction manager under the General Construction Contract;

“GMP Amendment” means the amendment to the General Construction Contract pursuant to which the guaranteed maximum price is established in respect of the General Construction Contract;

“Governmental Authority” means any: (a) federal, provincial, municipal, local or other governmental or public department, central bank, court, utility, commission, board, bureau, agency or instrumentality, domestic or foreign, having jurisdiction over the Project or the Parties; (b) any subdivision or authority of any of the foregoing, including the subdivision authority, development authority, municipal planning commission and subdivision and development appeal board of The City of Calgary (in its capacity as a Governmental Authority and not in its capacity as a Party to this Agreement); and (c) any professional body or quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing or regulating professional standards for any of the Development Manager, contractors, subcontractors or consultants engaged in connection with the Project;

“Gross Negligence” means a marked and flagrant departure from the standard of conduct of a reasonable person acting in the circumstances at the time of the alleged misconduct and reckless disregard for harmful, foreseeable and avoidable consequences;

“GST” means the tax imposed under Part IX of the *Excise Tax Act* (Canada), or any tax replacing such imposition and any similar tax that may hereafter be imposed under the laws of the Province of Alberta or Canada, including in any such case any interest thereon and penalties relating thereto;

“Incremental City Policy and Council Project Approval Costs” means all incremental costs incurred to comply with: (a) the adoption, implementation or coming into effect, of any amendments to, changes in the enforcement or application of, or new, City Policies on or after the Effective Date; or (b) any Council Project Approvals made from time to time on or after the Effective Date;

“Incremental NHL Change Costs” means all incremental costs incurred to comply with any NHL Change;

“Ineligible Costs” has the meaning ascribed thereto in Schedule B of the Development Management Agreement;

“Initiating Party” has the meaning ascribed thereto in Section 9.5(a);

“Intellectual Property” has the meaning ascribed thereto in the Development Management Agreement;

“Lands” means the entirety of Plan 2110110; Block 4; Lot 1, Portion of Plan C; Block 93; Lots 1-6 and Lots 40-45, Portions of Plan C; Block 94; Lots 1-6 and Lots 38-43, Plan 0711603; Areas E and F and portion of Area I, all as shown for reference purposes outlined in black on the plan attached as Schedule A hereto; provided that the exact area and dimensions of the Lands shall be determined according to the subdivision plan approved by the applicable Approving Authority and the road plan in respect of the proposed new 5A Street to be registered and any consolidations of the parcels; and this definition of “Lands” shall be deemed for all purposes under this Agreement to be the Lands set forth in the registered Subdivision Plan and the certificate(s) of title issued by the Alberta Land Titles Office upon such registrations;

“Major Decision” means the decisions and approvals from time to time respecting the substance of the following matters:

- (a) the classification of costs as Project Costs or Ineligible Costs;
- (b) the classification of Project Costs as Eligible Costs, City Additional Costs, or CSERELP Additional Costs;
- (c) the approval of the GMP Amendment;
- (d) the resolution of funding an Eligible Cost Overrun under Section 4.4(b)(iv);
- (e) any increase in the Overall Event Centre Budget Limit or the Overall Community Rink Budget Limit;
- (f) any amendment of the Project Schedule which would result in the Scheduled Substantial Completion Date being delayed beyond August 31, 2026;

- (g) any amendment to the Fundamental Principles;
- (h) termination of the Development Management Agreement; and
- (i) any other matter that by the express terms of this Agreement requires the Approval of the Steering Committee and is not otherwise a Decision or specifically stated under the terms of this Agreement to be determined by the Project Committee;

“Management and Lease Agreement” means the management and lease agreement among The City and CSERELP dated October 5, 2023, as amended, modified, or supplemented from time to time in accordance with the provisions thereof;

“NHL” means the National Hockey League;

“NHL Changes” means, in respect of the design of the Event Centre, any changes to the design that are required to be made by the NHL after the approval of the NHL of such design is received as part of the Approval by the Project Committee of the Design Plans (as such term is defined in the Development Management Agreement);

“NHL Policies” means any NHL rules, regulations, policies, memos or other guidelines that are referenced by the NHL in providing their approval for any element of the Event Centre;

“NLL” means the National Lacrosse League;

“Non-Funding Party” has the meaning ascribed thereto in Section 4.4(b)(iii);

“Overall Budget Limit” means \$926,400,000, exclusive of GST, being the aggregate of the Overall Community Rink Budget Limit and the Overall Event Centre Budget Limit;

“Overall Community Rink Budget Limit” means \$52,800,000, or such greater amount as may be Approved by the Steering Committee pursuant to Section 4.4(b) in respect of Eligible Cost Overruns; in either case, exclusive of GST;

“Overall Event Centre Budget Limit” means \$873,600,000, or such greater amount as may be Approved by the Steering Committee pursuant to Section 4.4(b) in respect of Eligible Cost Overruns, in either case, exclusive of GST;

“Parties” means, collectively, The City and CSERELP, and **“Party”** means any of them;

“Person” or **“person”** means any individual, partnership, corporation, joint venture, association, society, joint stock company, trust, unincorporated organization or a Governmental Authority, and “corporation” shall include “company” and vice versa;

“Pre-Development Agreement” means the pre-development agreement dated as of May 2, 2023 between The City and CSEC pursuant to which The City and CSEC agreed to fund certain costs incurred prior to the entry into this Agreement, as amended, modified, or supplemented from time to time including by way of an amendment and restatement dated as of July 28, 2023;

“Preliminary Design Framework” has the meaning ascribed thereto in the Development Management Agreement;

“Project” means the planning, design, development, pre-construction, construction and post-construction (including warranty, follow-up and final documentation) of the Event Centre and the Community Rink to be located on the Lands and any associated infrastructure and improvements and the fit up work which is necessary to complete the Event Centre and Community Rink, all as further described in the Development Management Agreement, and including, upon completion and Approval by the Project Committee of any Project Plans, any other components of the Project as may be set out such Project Plans;

“Project Budget” has the meaning ascribed thereto in the Development Management Agreement;

“Project Committee” has the meaning ascribed thereto in Section 5.9;

“Project Costs” means the aggregate of all Eligible Costs, City Additional Costs and CSERELP Additional Costs;

“Project Plans” has the meaning ascribed thereto in the Development Management Agreement;

“Project Requirements” means all of the functional requirements related to the design, performance and technical specifications of the Project which are specified in this Agreement and are developed by the Development Manager and Approved by the Project Committee in accordance with Section 4.2(c) of the Development Management Agreement, including functional program requirements, special equipment and facility needs, constraints, space needs and relationships, site requirements, specifications and criteria and which requirements shall include any items, components or specifications of the Project that:

- (a) are required by Applicable Laws, or any Governmental Authority;
- (b) are required to comply with Council Project Approvals;
- (c) are, in the case of the Event Centre, required to meet the requirements of a multi-purpose, state-of-the-art event facility and to meet the standards required to host and sustain an NHL franchise;
- (d) are, in the case of the Community Rink, required to meet the requirements of a Calgary municipal community skating rink and to meet the standards required for a practice facility for an NHL franchise;
- (e) are elements which are required to satisfy The City's obligation to provide public space or facility for the benefit of the public; or
- (f) that otherwise comply with the Fundamental Principles.

“Project Schedule” has the meaning ascribed thereto in the Development Management Agreement;

“Proposing Party” has the meaning ascribed thereto in Section 5.6;

“Province” means the Province of Alberta;

“Required Change Order” has the meaning ascribed thereto in the Development Management Agreement;

“Responding Party” has the meaning ascribed thereto in Section 9.5;

“Rivers District” means The City of Calgary Rivers District community revitalization levy area established pursuant to Section 3 of the *City of Calgary Rivers District Revitalization Levy Alberta Regulation*, Alta Reg 232/2006;

“Saddledome” means the Scotiabank Saddledome Arena, located at 555 Saddledome Rise SE, Calgary, AB;

“Scheduled Substantial Completion Date” has the meaning ascribed thereto in the Development Management Agreement;

“Site Remediation Costs” means all incremental construction and regulatory costs and expenses which are incurred in respect of the remediation of the Lands or in preparation for the installation of improvements or facilities on the Lands, and which are in excess of any such costs and expenses which would have been incurred if the Lands were in a development-ready state in accordance with Applicable Laws, including all costs incurred in respect of:

- (a) the excavation and disposal of materials (such as existing foundations, structures and demolition materials) located on or under the Lands which result from the Lands not being in a development-ready state in accordance with Applicable Laws (including incremental handling and tipping fees in respect of excavated materials which result from the existence of any hazardous or other materials in, at, on or under the Lands); and
- (b) environmental reclamation and remediation of the Lands (including cleanup costs in respect of the hazardous materials located at or within the Lands);

“Sole Cost Item” has the meaning ascribed thereto in Section 5.6.

“Stampede” means Calgary Exhibition and Stampede Limited and its successors;

“Steering Committee” has the meaning ascribed thereto in Section 5.8;

“Subdivision” the subdivision of the parcels comprising the Lands necessary to create a separate legal parcel and issuance of certificate of title for the Lands;

“Subdivision Approval” means approval by the relevant Approving Authorities of the Subdivision and the Subdivision Plan;

“Subdivision Approval Conditions” means, collectively, the terms and conditions imposed by the Approving Authorities in connection with the Subdivision Approval;

“Subdivision Plan” means the plan of subdivision Approved by the Project Committee in accordance herewith and by the relevant Approving Authorities which will, upon registration at the Land Titles Office, subdivide and consolidate all parcels necessary to create the Lands as a separate legal parcel and result in the issuance of a separate certificate of title for the Lands;

“The City” means The City of Calgary and any successor thereto;

“Third Party Costs” means all actual and verifiable costs incurred in respect of third party claims arising in connection with the Project (excluding any liabilities relating to the non-payment of contract prices, fees or expenses under any Construction Contract or Consulting Contract, as those terms are defined in the Development Management Agreement), other than third party claims resulting from the Gross Negligence (as defined in the Development Management Agreement) or wilful misconduct of a Party;

“Third Party Fit Up Costs” means all Fit Up Costs incurred in respect of any fit-out or tenant improvement work of any retail premises undertaken by any subtenant or licensee which is not an Affiliate of CSERELP;

“Turnover Date” has the meaning ascribed thereto in the Development Management Agreement;

“Warranties” has the meaning ascribed thereto in the Development Management Agreement; and

“WHL” means the Western Hockey League.

1.2 **Accounting Terms**

The accounting terms used herein unless otherwise defined, shall have the meaning accorded thereto from time to time by Canadian generally accepted accounting principles.

1.3 **Extended Meanings**

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Whenever a statement or provision in this Agreement is followed by words denoting inclusions or examples (such as “including” or “such as” or “by way of example”) and then a list of, or reference to, specific matters or items, such list or reference shall not be read as to limit or restrict the generality of such statement or provision, even though words such as “without limitation” or “without limiting the generality of the foregoing” or “but not limited to” do not precede such list or reference.

1.4 **Business Days**

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day.

1.5 **Calculation of Interest**

In calculating interest payable under this Agreement for any period of time, the first day of such period shall be included and the last day of such period shall be excluded. Interest shall accrue from day to day on the basis of a 365 day year, for the actual number of days elapsed and shall be calculated monthly in arrears. Where the calendar year of calculation contains 366 days, each rate of interest herein shall be expressed as a yearly rate for purposes of the *Interest Act* (Canada) as such rate multiplied by 366 and divided by 365.

1.6 **Statute References**

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

1.7 **Schedules**

The Schedules attached to this Agreement and listed below shall have the same force and effect as if the information contained therein were contained in the body of this Agreement:

Schedule A1	–	Lands
Schedule A2	–	Project Description
Schedule B	–	Fundamental Principles
Schedule C-1	–	Steering Committee Terms of Reference
Schedule C-2	–	Project Committee Terms of Reference
Schedule D	–	District Benefits and Off-Site Infrastructure
Schedule E	–	City Policies

1.8 **Currency**

All references to money herein are references to lawful money of Canada.

1.9 **Headings**

The table of contents hereto and the headings of any article, section or part thereof are inserted for purposes of convenience only and do not form part hereof.

1.10 **Interpretation**

The interpretation of this Agreement shall not permit a revenue, expense, liability, recovery, receipt, payment, reserve or reimbursement to be duplicated.

ARTICLE 2 PROJECT DEVELOPMENT

2.1 **Project Development**

The Parties agree, subject to and in accordance with the terms and conditions in this Agreement and the Development Management Agreement, to develop and construct the Project on the Lands in accordance with the Project Requirements, the Project Plans Approved by the Project Committee from time to time, and in accordance with Section 2.3. Notwithstanding

anything else set forth herein, the Parties further agree to contribute funding to the Project in accordance with, and subject to the limitations set forth in, Article 4.

2.2 **Development Manager; Development Management Agreement**

The Parties will appoint the Development Manager and will, concurrently with the entry into this Agreement, enter into the Development Management Agreement with the Development Manager.

2.3 **Fundamental Project Principles**

The Parties agree that they shall, and shall cause their respective members of the Project Committee and the Steering Committee to, make decisions under this Agreement and the Development Management Agreement having regard to and which are generally consistent with the fundamental principles set out in Schedule B, as the same may be amended by the Steering Committee from time to time (the “**Fundamental Principles**”).

2.4 **Environmental Condition of the Lands**

The City shall be responsible for remediating the Lands to the standard of a development ready parcel in accordance with Applicable Laws and shall be responsible for all Site Remediation Costs.

2.5 **Title to Lands and Event Centre**

CSERELP acknowledges and agrees that the Event Centre, Community Rink and Lands shall be 100% owned by The City, and CSERELP shall not, other than in respect of the leasehold interest described in Section 2.6, acquire any estate, right, title or ownership interest in the the Event Centre, the Community Rink, or the Lands pursuant to this Agreement. Notwithstanding any provision herein to the contrary, all fee simple interest in and freehold title to the Lands, or any part thereof, and the Project, shall at all times remain unencumbered by any interest of CSERELP, other than as expressly permitted in writing by The City.

2.6 **Acquisition of a Leasehold Interest**

Notwithstanding that CSERELP's Contribution will be used to fund the design, permitting, construction and development of the Project, CSERELP's Contribution is on account of the acquisition of a leasehold interest in the Project from The City pursuant to the Management and Lease Agreement, and CSERELP is acquiring such leasehold interest for purpose of subleasing the Project to the Calgary Flames Limited Partnership. CSERELP acknowledges and agrees that no amount of CSERELP's Contribution is or will become refundable as a result of CSERELP failing, at any time, to exercise any option to renew that it may have under the Management and Lease Agreement pursuant to its terms.

**ARTICLE 3
DEVELOPMENT OBLIGATIONS**

3.1 General Obligations of the Parties

Each Party agrees:

- (a) to cooperate with the other in good faith in all matters necessary to enable the Parties to meet the goals and objectives of the Project and will endeavour to minimize sources of disagreement and take timely action before they become matters of Dispute;
- (b) throughout the delivery of the Project, to use commercially reasonable efforts to:
 - (i) consider any input that it receives from the other Party;
 - (ii) act in accordance with the best interests of the Project;
 - (iii) cooperate and provide reasonable assistance to the other Party in connection with the performance of the other Party's obligations set out in this Article 3; and
 - (iv) to cause its Project Committee and Steering Committee members to comply with the foregoing provisions and the requirements of this Agreement which pertain to such members.

3.2 The City's Development Obligations

- (a) **Subdivision Approval.** The City shall:
 - (i) as promptly as reasonably practical, but in any event not more than 30 days, after the date of this Agreement, cause a tentative plan of subdivision for the Lands to be prepared and submitted to the Project Committee for information;
 - (ii) enforce its rights pursuant to its agreements with the Stampede pursuant to which the Stampede is to apply for and continuously and diligently proceed with the Subdivision process to effect Subdivision as promptly as practicable;
 - (iii) as soon as reasonably practicable, upon receipt of detailed team review conditions from the Approving Authorities, submit copies of same to the Project Committee for information;
 - (iv) upon issuance of the Subdivision Approval Conditions, deliver to the Project Committee for Approval, a copy of the Subdivision Approval Conditions which impact the functional design or operation of the Project. The City shall additionally deliver to the Project Committee for information any other relevant documents or correspondence including any agreements required by the Approving Authorities to be registered against title to the Lands and any proposed modifications or additions that are

required by the Governmental Authorities. The Project Committee may then determine whether it wishes to Approve the Subdivision Approval Conditions or pursue any appeals and, if appeals are to be so pursued, The City shall enforce its rights pursuant to its agreements with the Stampede to require the Stampede to pursue any such appeals;

- (v) be responsible for satisfying and performing all terms, conditions, obligations and requirements whatsoever relating to the Subdivision Approval as set out in the Subdivision Approval Conditions, including the payment of cash in lieu of dedication of all reserve lands or other lands; and
 - (vi) following Subdivision Approval, cause the Subdivision Plan approved under Subdivision Approval to be submitted to the Alberta Land Titles Office, together with all required applications and documents for consolidation, and shall thereafter provide the Project Committee with a copy of the certificate of title to the Land evidencing the registration of the Subdivision Plan and consolidation.
- (b) **Land Acquisition.** The City shall use commercially reasonable efforts to acquire registered title to the Lands from the Stampede as soon as reasonably practicable following registration of the Subdivision Plan, subject to the terms of any agreements between The City and the Stampede and to the terms of any agreements between The City and the Province. Notwithstanding any other provision of this Agreement, if The City has not obtained registered title to the Lands from the Stampede by the date which is one year after the Effective Date, CSERELP may by notice to The City terminate this Agreement and in the event of such termination The City shall reimburse CSERELP for all amounts contributed by CSERELP pursuant to this Agreement (including, for clarity, any amounts that may have been contributed under the Pre-Development Agreement) within 30 days after the date of receipt of such notice.
- (c) **District Benefits and Off-Site Infrastructure.** The City shall design, develop and construct the District Benefits and Off-Site Infrastructure in accordance with the provisions of the Event Management and Road Usage Agreement.
- (d) **Costs.** The City shall be solely responsible for all costs and expenses incurred in connection with the performance of its obligations in this Section 3.2. For greater certainty, such costs shall not apply toward the City Maximum Budgeted CR Contribution Amount or the City Maximum Budgeted EC Contribution Amount, and shall be City Additional Costs unless otherwise agreed in writing by CSERELP.

3.3 **Saddledome Obligations**

- (a) The City shall obtain all third party consents and approvals as may be required (as determined by The City) to terminate all agreements binding upon The City in respect of the Saddledome, such terminations to be effective on the dates determined by The City but in any event by no later than the Turnover Date as determined in accordance with the Development Management Agreement. CSERELP shall obtain the consent of the Saddledome Foundation to the termination of a Management and License Agreement and an Operating

Agreement, each in favour of CSEC and each relating to the Saddledome, such terminations to be effective on the Turnover Date.

- (b) The City shall cause the Saddledome to be demolished as soon as reasonably practicable following the Turnover Date, but subject to the terms of an agreement to be entered into between The City and the Stampede as to a defined period of time in any year during which such demolition may not occur. The City shall be responsible for all costs in respect of such demolition and the reclamation of the lands on which the Saddledome is situate. For greater certainty, such costs shall not apply toward the City Maximum Budgeted CR Contribution Amount or the City Maximum Budgeted EC Contribution Amount and shall be City Additional Costs.
- (c) It is acknowledged by The City and CSERELP that there may be a period of time after the Turnover Date when both the Event Centre and the Saddledome may be operational. So long as the Manager (as defined in the Management and Lease Agreement) is not in default of any of its obligations under the Management and Lease Agreement beyond the expiration of any applicable cure period provided therefor, The City and CSERELP shall work together to ensure that no programming which competes with programming offered at the Event Centre by the Manager pursuant to the Management and Lease Agreement will be offered at the Saddledome prior to the commencement of the demolition of the Saddledome by The City. CSERELP shall retain the right to approve of any and all programming offered at the Saddledome which may be in competition with programming at the Event Centre prior to the commencement of the demolition of the Saddledome. Accordingly, where The City proposes to offer programming in the Saddledome following the Turnover Date, The City will obtain the written approval of CSERELP prior to such programming being offered, which approval shall be denied only where CSERELP, acting reasonably, considers such proposed Saddledome programming to be in competition with the programming offered at the Event Centre. CSERELP will provide written notice confirming its approval or non-approval of the proposed programming within five (5) Business Days of receiving a request for approval by The City. If CSERELP has not responded within such five (5) Business Day period, it shall be deemed to have approved the proposed programming at the Saddledome.

ARTICLE 4 PROJECT BUDGET AND FUNDING OBLIGATIONS

4.1 Funding Obligations of the Parties

- (a) Subject to the terms and conditions of this Agreement, The City shall contribute funding for the Project and its other obligations under this Agreement as follows:
 - (i) Eligible Costs incurred in respect of the Event Centre, to a maximum contribution by The City of the City Maximum Budgeted EC Contribution Amount, as follows:
 - (A) 50% of the first \$54,000,000 of Eligible Costs incurred in connection with the Event Centre; and

(B) 100% of the next \$819,600,000 of Eligible Costs incurred in connection with the Event Centre;

(ii) Eligible Costs incurred in connection with the Community Rink, to a maximum contribution by The City of the City Maximum Budgeted CR Contribution Amount, being 75% of the first \$52,800,000 of Eligible Costs incurred in connection with the Community Rink; and

(iii) 100% of all City Additional Costs;

(collectively, the "**City Contribution**"). Amounts contributed prior to the date of this Agreement by The City under the Pre-Development Agreement shall be considered to be contributions by The City on account of the City Maximum Budgeted EC Contribution Amount.

(b) Subject to the terms and conditions of this Agreement, CSERELP shall contribute funding for the Project and its other obligations under this Agreement as follows:

(i) Eligible Costs incurred in respect of the Event Centre, to a maximum contribution by CSERELP of the CSERELP Maximum Budgeted EC Contribution Amount, being 50% of the first \$54,000,000 of Eligible Costs incurred in connection with the Event Centre;

(ii) Eligible Costs incurred in connection with the Community Rink, to a maximum contribution by CSERELP of the CSERELP Maximum Budgeted CR Contribution Amount, being 25% of the first \$52,800,000 of Eligible Costs incurred in connection with the Community Rink;

(iii) 100% of all CSERELP Additional Costs;

(collectively, the "**CSERELP Contribution**"). Amounts contributed prior to the date of this Agreement by CSERELP under the Pre-Development Agreement shall be considered to be contributions by CSERELP on account of the CSERELP Maximum Budgeted EC Contribution Amount.

(c) For greater certainty:

(i) any funding contributed by The City for City Additional Costs shall not apply to the City Maximum Budgeted CR Contribution Amount or the City Maximum Budgeted EC Contribution Amount;

(ii) any funding contributed by CSERELP for CSERELP Additional Costs shall not apply to the CSERELP Maximum Budgeted CR Contribution Amount or the CSERELP Maximum Budgeted EC Contribution Amount;

(iii) the City Contribution is made in consideration for the title and ownership of the Event Centre, the Community Rink and the Lands, as set out in Section 2.5 hereof; and

- (iv) the CSERELP Contribution is on account of the acquisition of a leasehold interest in the Project from The City pursuant to the Management and Lease Agreement, as set out in Section 2.6 hereof.
- (d) The Parties acknowledge that each of the City Contribution and CSERELP Contribution is exclusive of GST.

4.2 **Project Costs Invoicing**

The City will pay all invoices received for Project Costs and will invoice CSERELP for its share of Eligible Costs incurred in respect of the Event Centre, its share of Eligible Costs incurred in respect of the Community Rink and all CSERELP Additional Costs, all in accordance with Section 4.1(b). CSERELP shall make the CSERELP Contribution set out in such invoices within 30 days of receipt.

4.3 **GST**

- (a) In the event that GST or any other sales or use tax is applicable to any amounts payable to any Party hereunder after assessing all reasonably available exemptions, such taxes shall be payable in respect of (and in addition to) such amounts. Each of the Parties shall comply with the *Excise Tax Act* (Canada) and regulations thereunder (as the same may be amended, replaced or any successor legislation from time to time) and all other legislation and regulations applicable to GST from time to time (in this Section, collectively, the “**GST Act**”) and shall pay applicable GST on all amounts payable by such Parties under this Agreement, and each of the Parties shall comply with the *Income Tax Act* (Canada) and regulations thereunder (as the same may be amended, replaced or any successor legislation from time to time) and all other legislation and regulations applicable to income tax from time to time (in this Section, collectively, the “**ITA Act**”). Each of the Parties (in this Section, the “**Indemnifying Party**”) shall indemnify and hold harmless the other Party, and its respective officers and employees (in this Section, each an “**Indemnified Party**”), from and against any and all actions, suits, claims, judgments, damages, penalties, interest, fines, assessments, reassessments, costs and expenses (in this Section, a “**Tax Claim**”), that the Indemnified Party may suffer, sustain, pay or incur, arising from or in respect of the failure of the Indemnifying Party to: (a) comply with the GST Act or the ITA Act in any respect; (b) pay GST, income tax or other taxes as required by law or the Canada Revenue Agency (or successor agency); and (c) perform its obligations in respect of GST, income tax or other taxes or submit any required returns or filings within the required time periods, such Tax Claims to include, without limitation, any legal fees on a solicitor and own client basis which the Indemnified Party incurs in response to or in defence of any Tax Claim and the Indemnifying Party shall further pay to the Indemnified Party interest on all amounts required to be paid by the Indemnified Party on account of a Tax Claim at the Bank Rate plus 5% per annum from the date paid or incurred to the date reimbursed by Indemnifying Party (both before and after judgment until fully paid).

4.4 **Budget Limit and Eligible Cost Overruns**

- (a) It is the intention of the Parties that the Eligible Costs incurred in respect of the Event Centre will not, in aggregate, exceed the initial Overall Event Centre Budget

Limit of \$873,600,000, exclusive of GST, and that the Eligible Costs incurred in respect of the Community Rink will not, in aggregate, exceed the initial Overall Community Rink Budget Limit of \$52,800,000, exclusive of GST.

- (b) If the Development Manager notifies the Project Committee pursuant to Section 8.1 of the Development Management Agreement that the total aggregate Eligible Costs necessary to complete the Event Centre or the Community Rink, as the case may be, including Required Change Orders and Third Party Costs, could exceed the initial Overall Event Centre Budget Limit of \$873,600,000, exclusive of GST, or the initial Overall Community Rink Budget Limit of \$52,800,000, exclusive of GST (any such excess, an “**Eligible Cost Overrun**”), The City and CSERELP shall:
- (i) *first*, explore if any unallocated allowances or contingency amounts attributable, respectively, to either the Event Centre or the Community Rink, as applicable, are available to offset the Eligible Cost Overrun and, if so, the Parties may agree to allocate any such allowance or contingency to reduce or eliminate the Eligible Cost Overrun, and if the Eligible Cost Overrun is not eliminated through the use of allowances or contingencies, then;
 - (ii) *second*, explore value engineering, mutually agreeable reductions in the scope of the Event Centre or the Community Rink, as the case may be, and other cost mitigation strategies to determine if any such measures or strategies can be implemented to reduce or eliminate the Eligible Cost Overrun, and if sufficient measures or strategies to eliminate the Eligible Cost Overrun cannot be agreed to within twenty (20) Business Days from the date the Development Manager notified The City and CSERELP of the Eligible Cost Overrun, then;
 - (iii) *third*, determine the amount of additional contributions necessary from both The City and CSERELP, on a 50/50 basis to fund the Eligible Cost Overrun in respect of an Eligible Cost Overrun attributable to the Event Centre and on a 75/25 basis, for the first \$7,200,000 of Eligible Cost Overruns, and on a 50/50 basis thereafter, to fund the Eligible Cost Overrun in respect of an Eligible Cost Overrun attributable to the Community Rink, and commit to any such additional funding pursuant to an Approval of the Steering Committee. It is acknowledged and agreed that the determination of whether or not any additional contributions are available from: (i) The City will require Council approval and (ii) CSERELP will require approval of the board of directors of CSERELP’s general partner. If such contributions are insufficient or unavailable (including if Council or the board of directors of CSERELP’s general partner does not approve additional funding), then,
 - (iv) *fourth*, the Event Centre or the Community Rink, as the case may be, shall be suspended until the Parties mutually agree to a resolution to address the Eligible Cost Overrun.
- (c) If the total aggregate Eligible Costs necessary to complete the Event Centre or the Community Rink, as the case may be, including Required Change Orders, are less than the initial Overall Event Centre Budget Limit of \$873,600,000, exclusive of

GST, or the initial Overall Community Rink Budget Limit of \$52,800,000, exclusive of GST (any such cost savings, "**Eligible Cost Savings**"), such Eligible Cost Savings shall be reinvested into the Project or shared as to 40% to the benefit of CSERELP and 60% to the benefit of The City in respect of Eligible Cost Savings attributable to the Event Centre and as to 25% to the benefit of CSERELP and 75% to the benefit of The City in respect of Eligible Cost Savings attributable to the Community Rink, in each case as Approved by the Project Committee. In respect of cost savings which are attributable to City Additional Costs or CSERELP Additional Costs, such costs savings shall accrue to the benefit solely of the Party responsible for contributing funding for such costs pursuant to this Agreement.

ARTICLE 5 STEERING COMMITTEE AND PROJECT COMMITTEE

5.1 Decisions by the Steering Committee

All Major Decisions with respect to the Project are subject to Approval by the Steering Committee in accordance with Section 5.15. No action shall be taken, sum expended, decision made or obligation incurred by a Party in respect of any Major Decision unless such action, sum, decision or obligation is expressly permitted hereunder or shall have been first Approved by the Steering Committee.

5.2 Decisions by the Project Committee

All Decisions with respect to the Project are subject to Approval by the Project Committee in accordance with Section 5.16. No action shall be taken, sum expended, decision made or obligation incurred by a Party in respect of any Decision unless such action, sum, decision or obligation is expressly permitted hereunder or shall have been first Approved by the Project Committee.

5.3 Approval Requirements

- (a) The City and CSERELP agree that all decisions that are to be Approved by the Steering Committee shall require the unanimous approval of the voting members of the Steering Committee then in office, given in accordance with Section 5.15.
- (b) The City and CSERELP agree that each of The City and CSERELP shall have one vote and all decisions that are to be Approved by the Project Committee shall require unanimous approval of the members of the Project Committee from each of The City and CSERELP then in office, given in accordance with Section 5.16.
- (c) Matters which are not referred to in the agenda of a meeting of the Steering Committee or the Project Committee, as the case may be, shall not be voted on at that meeting unless all the members consent. Any decisions that are Approved by the Steering Committee or Approved by the Project Committee shall be binding on the Parties and shall constitute the Approval of the Steering Committee or the Approval of the Project Committee, as the case may be, of any steps reasonably necessary to implement, perform or carry out such Major Decision or Decision, as the case may be, and each of The City and CSERELP shall do all things and execute any and all deeds, transfers, agreements, and other documents

reasonably required to carry out such Major Decision or Decision, as the case may be.

5.4 **Actions of the Parties and Committee Members**

Each of the Parties agrees that in respect of the Major Decisions and Decisions under this Agreement or the Development Management Agreement to be made by the Steering Committee or the Project Committee, as the case may be, each of The City and CSERELP shall (and shall cause its Steering Committee members or its Project Committee members, as the case may be, to) act reasonably, promptly, honestly and in good faith in accordance with this Agreement (including Section 2.3) and the Development Management Agreement, and good business practices in connection with the Project and with regard to the best interests of the Project; provided that in no instance shall any Party be obligated to act in a manner which contravenes Applicable Laws, conflicts with City Policies, NHL Policies, or the corporate or other policies of CSERELP and its Affiliates, conflicts with the constating documents of a Party, creates any actual or potential adverse tax consequences to a Party or, in the case of The City, is inconsistent or conflicts with or is in contravention of any Council Project Approvals.

5.5 **Approval of Project Budget/Eligible Costs**

- (a) It shall be reasonable for The City's Project Committee member or members to withhold approval of the Project Budget if the Eligible Costs set out in such Project Budget to be paid by The City exceeds the aggregate of the City Maximum Budgeted CR Contribution Amount and the City Maximum Budgeted EC Contribution Amount.
- (b) It shall be reasonable for CSERELP's Project Committee member or members to withhold approval of the Project Budget if the Eligible Costs set out in such Project Budget to be paid by CSERELP exceeds the aggregate of the CSERELP Maximum Budgeted CR Contribution Amount and the CSERELP Maximum Budgeted EC Contribution Amount.
- (c) It shall be unreasonable for a Party's Project Committee member or members to withhold approval of the items comprising the Eligible Costs or the Project Budget on the basis that it wishes to include in Eligible Costs any City Additional Costs, CSERELP Additional Costs or Ineligible Costs.
- (d) If the Eligible Costs set out in the Project Budget in respect of all Project Requirements Approved by the Project Committee (other than elements relating to City Additional Costs, CSERELP Additional Costs and Ineligible Costs) do not exceed the Overall Budget Limit, the members of the Project Committee shall be obligated to approve the Project Budget and shall not have the discretion to withhold their approval of the Project Budget.
- (e) The City's Project Committee members shall not have the discretion to withhold approval of the Project Budget in respect of any CSERELP Additional Costs and CSERELP's Project Committee members shall not have the discretion to withhold approval of the Project Budget in respect of any City Additional Costs.

5.6 Sole Cost Items

If the Project Committee, acting in accordance with Section 2.3, determines that a design feature, functional component, other specification or Change Order proposed by one Party (the “**Proposing Party**”) or its Steering Committee or Project Committee member or members to be included in the Project Requirements, Preliminary Design Framework or Construction Phase Design Plans or otherwise incorporated in, or implemented in respect of, the Project is not Approved by the Project Committee, or it is otherwise determined pursuant to the Dispute resolution procedure in Article 9 that such feature, component, other specification or Change Order proposed by one Party is not to be included in the Project Requirements, Preliminary Design Framework or Construction Phase Design Plans or otherwise incorporated in, or implemented in respect of, the Project, then, with the consent of the other Party (not to be unreasonably withheld, conditioned or delayed), the Proposing Party shall be entitled to have such feature, component, specification or Change Order (the “**Sole Cost Item**”) included in the Project Requirements or Construction Phase Design Plans or otherwise incorporated in, implemented in respect of, the Project, as the case may be, provided that the Proposing Party shall be responsible for all costs, fees and expenses in connection with such Sole Cost Item, including all cost overruns in respect of such Sole Cost Item. For greater certainty:

- (a) if CSERELP is the Proposing Party, such costs, fees and expenses shall not apply toward the CSERELP Maximum Budgeted CR Contribution Amount or the CSERELP Maximum Budgeted EC Contribution Amount and shall be CSERELP Additional Costs; and
- (b) if The City is the Proposing Party, such costs, fees and expenses shall not apply toward the City Maximum Budgeted CR Contribution Amount or the City Maximum Budgeted EC Contribution Amount and shall be City Additional Costs.

5.7 Agreements in Writing

The execution of any contract or other document by The City and CSERELP shall constitute the approval of the Parties of that contract or other document and all of its provisions. The receipt, review or approval of the Parties of any contract or document shall not be deemed to be a representation or warranty that the approved document complies with any Applicable Laws or is suitable for the Project.

5.8 Formation of Steering Committee

The City and CSERELP hereby form and establish a steering committee (the “**Steering Committee**”) to oversee and provide direction and approval regarding any matters associated with the Project as set out in this Agreement and in the Development Management Agreement. The Steering Committee shall remain in place until Final Completion has occurred and all Warranties have expired.

5.9 Formation of Project Committee

The City and CSERELP hereby form and establish a project committee (the “**Project Committee**”) to provide direction and approval regarding any matters associated with the Project as set out in this Agreement and in the Development Management Agreement. The Project Committee shall remain in place until Final Completion has occurred and all Warranties have expired.

5.10 **Governance Support**

Each of the Parties will support and contribute to the governance of the Project and facilitate communication between the Parties on matters related to this Agreement, the Development Management Agreement and the Project through participation in the Project Committee and the Steering Committee, as may be required.

5.11 **Terms of Reference (Steering Committee)**

The terms of reference for the Steering Committee, including the roles and responsibilities of the Steering Committee, are attached hereto as Schedule C-1.

5.12 **Terms of Reference (Project Committee)**

The terms of reference for the Project Committee, including the roles and responsibilities of the Project Committee, are attached hereto as Schedule C-2.

5.13 **Members (Steering Committee)**

(a) **Members.** Each of The City and CSERELP will appoint and have one member on the Steering Committee at all times. Each Party may designate an alternate natural person to act as a member of the Steering Committee in the absence from time to time of its appointed member. Each Party shall notify the other Party in writing of the name of its appointee and alternate. If a Party wishes to replace its member or alternate to the Steering Committee, it may do so in writing at any time and from time to time. Each member of the Steering Committee shall have authorization to act on behalf of the Party that appointed them. Until removed or replaced by its appointing body, the members of the Steering Committee will be:

- (i) member for The City – Stuart Dalgleish; and
- (ii) member for CSERELP – John Bean.

The Development Manager shall be entitled to attend all Steering Committee meetings, provided that the Development Manager shall not be entitled to vote at any meeting of the Steering Committee. Each of the Parties' Steering Committee members shall further be entitled to invite one or more of its representatives to attend Steering Committee meetings from time to time, provided that such representatives shall not be entitled to vote at any meeting of the Steering Committee or otherwise participate in providing any Approvals.

(b) **Termination.** The office of a member of the Steering Committee shall be vacated upon the occurrence of any of the following events:

- (i) if they die or a medical declaration or an order is made declaring them to be mentally incompetent or incapable of managing their affairs;
- (ii) if they are removed from office by a written notice from the Party that appointed them; or

- (iii) if by notice in writing to the Parties they resign their office and such resignation, if not effective immediately, becomes effective in accordance with its terms.
- (c) Vacancies. Any vacancies in the Steering Committee shall be filled by the Party that appointed the former member of the Steering Committee whose loss of office created the vacancy within five Business Days following the creation of the vacancy. Such Party shall fill the vacancy by written notice stating the name of the natural person whom it appoints to the Steering Committee to fill the vacancy. Copies of such written notice shall be given to the other Party and the Development Manager and the natural person so appointed shall thereafter be a member of the Steering Committee.

5.14 **Members (Project Committee)**

- (a) Members. Each of The City and CSERELP will appoint and have two members on the Project Committee at all times. Each Party may designate up to two alternate natural persons to act as a member of the Project Committee in the absence from time to time of one or both of its appointed members. Each Party shall notify the other Party in writing of the name of its appointees and alternates. If a Party wishes to replace its members or alternates to the Project Committee, it may do so in writing at any time and from time to time. Each member of the Project Committee shall have authorization to act on behalf of the Party that appointed them. Until removed or replaced by its appointing body, the members of the Project Committee will be:

- (i) members for The City – James McLaughlin and Bob Hunter; and
- (ii) members for CSERELP – Susan Darrington and Tom Bond.

The Development Manager shall be entitled to attend all Project Committee meetings, provided that the Development Manager shall not be entitled to vote at any meeting of the Project Committee or otherwise participate in providing any Approvals of the Project Committee.

- (b) Termination. The office of a member of the Project Committee shall be vacated upon the occurrence of any of the following events:
 - (i) if they die or a medical declaration or an order is made declaring them to be mentally incompetent or incapable of managing their affairs;
 - (ii) if they are removed from office by a written notice from the Party that appointed them; or
 - (iii) if by notice in writing to the Parties they resign their office and such resignation, if not effective immediately, becomes effective in accordance with its terms.
- (c) Vacancies. Any vacancies in the Project Committee shall be filled by the Party that appointed the former member of the Project Committee whose loss of office created the vacancy within five Business Days following the creation of the

vacancy. Such Party shall fill the vacancy by written notice stating the name of the natural person whom it appoints to the Project Committee to fill the vacancy. Copies of such written notice shall be given to the other Party and the Development Manager and the natural person so appointed shall thereafter be a member of the Project Committee.

5.15 **Decision-Making of the Steering Committee**

- (a) Decision-Making. The power of the Steering Committee may be exercised by resolution at a meeting at which a quorum of its members is present or by resolution in writing consented to by all of the members of the Steering Committee then in office, all in accordance with the terms of reference set forth in Schedule C-1. All decisions and determinations made by the Steering Committee shall constitute the Approval of the Steering Committee and shall be binding upon the Parties and may be implemented by the Steering Committee without any further approvals of the Parties.
- (b) Unanimous Vote. At all meetings of the Steering Committee, every question shall be decided by the unanimous vote of the members of the Steering Committee at the meeting, provided that a quorum is present in accordance with terms of reference set forth in Schedule C-1. The member of the Steering Committee appointed by The City shall be entitled to one vote and the member of the Steering Committee appointed by CSERELP shall be entitled to one vote. The Development Manager shall not be entitled to vote.
- (c) Compensation. No fees, salaries, expenses, commissions or other compensation shall be paid by the Parties as an Eligible Cost to the members of the Steering Committee in respect of their work on the Steering Committee.

5.16 **Decision-Making of the Project Committee**

- (a) Decision-Making. The power of the Project Committee may be exercised by resolution passed by the unanimous votes of the Project Committee, with each of The City and CSERELP having one vote, by the members of the Project Committee present at a meeting at which a quorum of its members is present or by resolution in writing signed by at least one member of the Project Committee appointed by each of The City and CSERELP, all in accordance with the terms of reference set forth in Schedule C-2. All decisions and determinations made by the Project Committee shall constitute the Approval of the Project Committee and shall be binding upon the Parties and may be implemented by the Project Committee without any further approvals of the Parties.
- (b) Vote. At all meetings of the Project Committee, every question shall be decided in the affirmative if the unanimous votes of the Project Committee, with each of The City and CSERELP having one vote, vote in favour of the matter to be determined at the meeting, provided that a quorum is present in accordance with terms of reference set forth in Schedule C-1. The members of the Project Committee appointed by The City shall be entitled to one vote in the aggregate and the members of the Project Committee appointed by CSERELP shall be entitled to one vote in the aggregate. The Development Manager shall not be entitled to vote.

- (c) Compensation. No fees, salaries, expenses, commissions or other compensation shall be paid by the Parties as an Eligible Cost to the members of the Project Committee in respect of their work on the Project Committee.

5.17 **Deadlock of the Steering Committee**

If there is a Deadlock in respect of any of the matters to be Approved by the Steering Committee, the Parties shall submit such matter to the dispute resolution procedure set out in Article 9.

5.18 **Deadlock of the Project Committee**

If there is a Deadlock in respect of any of the matters to be Approved by the Project Committee, the Parties shall submit such matter to the Steering Committee to be Approved by the Steering Committee.

5.19 **Defaulting Party**

So long as a City Event of Default in respect of The City or a CSERELP Event of Default in respect of CSERELP, in each case beyond all applicable cure periods, (as used in this Section, a “**Defaulting Party**”) has occurred and continues, the participation of the member of the Steering Committee or the members of the Project Committee representing such Defaulting Party shall not be required for any decisions to be Approved by the Steering Committee or Approved by the Project Committee, as the case may be, and, notwithstanding the provisions of this Article 5 and Schedule C-1 or Schedule C-2, as the case may be, during such period, a quorum of the Steering Committee shall be one representative of the non-defaulting Party and a quorum of the Project Committee shall be one representative of the non-defaulting Party and the “Approval of the Steering Committee” or the “Approval of the Project Committee”, as the case may be, may be given by the non-defaulting Party, acting alone; provided however that if the occurrence of a City Event of Default or a CSERELP Event of Default is in Dispute, the provisions of this Section 5.19 shall not apply until the Dispute is resolved. A Defaulting Party shall continue to receive notices of meetings of the Steering Committee or the Project Committee, as the case may be, and shall have the right to attend and participate thereat, but shall not be entitled to vote.

**ARTICLE 6
REPRESENTATIONS AND WARRANTIES**

6.1 **Representations and Warranties of The City**

The City represents and warrants as of the date hereof as follows and acknowledges that CSERELP is relying on such representations and warranties in connection with the transactions contemplated by this Agreement and the Development Management Agreement:

- (a) The City has the power, approval, financial capacity and right:
 - (i) to enter into and to execute and deliver this Agreement and the Development Management Agreement; and
 - (ii) to perform its obligations under and as contemplated to be performed pursuant to this Agreement and the Development Management Agreement;

- (b) each of this Agreement and the Development Management Agreement constitutes a valid and legally binding obligation of The City, enforceable against The City in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization and other laws of general application limiting the enforcement of creditors' rights generally and to the fact that specific performance is an equitable remedy available only in the discretion of the court;
- (c) the entering into and the delivery of this Agreement and the Development Management Agreement and the performance of the obligations of The City hereunder and thereunder will not result in the violation of:
 - (i) any agreement or other instrument to which The City is a party or by which The City is bound; or
 - (ii) any Applicable Laws, bylaws, ordinances, rules and regulations of any Governmental Authority having jurisdiction;
- (d) there are no actions, suits or proceedings, or circumstances which could reasonably be expected to result in an action, suit or proceeding, that are pending or threatened against or affecting The City or its undertakings, property or assets or that could be reasonably expected to have a material adverse effect on the Project or its ability to carry out its obligations in this Agreement or in the Development Management Agreement, whether at law or equity, in or before any court or any Governmental Authority;
- (e) The City is in good standing under any and all contracts, licenses, collective bargaining agreements, permits and undertakings to which it is a party or subject, as the case may be, where failure to be in good standing is reasonably likely to have a material adverse effect on the Project or its ability to carry out its obligations in this Agreement and in the Development Management Agreement; and
- (f) The City has entered into an agreement with the Stampede to acquire the Lands and, subject to satisfactions of the conditions precedent set out in such agreement, The City will acquire and become the registered owner of the Lands in accordance with the provisions of Section 4.2(b).

6.2 **Representations and Warranties of CSERELP**

CSERELP represents and warrants as of the date hereof as follows and acknowledges that The City is relying on such representations and warranties in connection with the transactions contemplated by this Agreement:

- (a) CSE Real Estate Limited Partnership is a limited partnership duly formed and subsisting under the laws of the Province of Alberta and its general partner, CSE Real Estate Corporation, is a corporation duly incorporated, organized and subsisting under the laws of the Province of Alberta;
- (b) CSE Real Estate Corporation, in its capacity as general partner and for and on behalf of CSE Real Estate Limited Partnership, has the power, authority, financial capacity and right:

- (i) to enter into and to execute and deliver this Agreement and the Development Management Agreement and to bind CSE Real Estate Limited Partnership to this Agreement and the Development Management Agreement; and
 - (ii) to perform CSE Real Estate Limited Partnership's obligations under and as contemplated to be performed pursuant to this Agreement and the Development Management Agreement;
- (c) each of this Agreement and the Development Management Agreement constitutes a valid and legally binding obligation of CSERELP, enforceable against CSERELP in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization and other laws of general application limiting the enforcement of creditors' rights generally and to the fact that specific performance is an equitable remedy available only in the discretion of the court;
- (d) the entering into and the delivery of this Agreement and the Development Management Agreement and the performance of the obligations of CSERELP hereunder and thereunder will not result in the violation of:
- (i) any of the provisions of the limited partnership agreement of CSE Real Estate Limited Partnership or the constating documents or bylaws of CSERELP; or
 - (ii) any agreement or other instrument to which CSERELP is a party or by which CSERELP is bound; or
 - (iii) any Applicable Laws, bylaws, ordinances, rules and regulations of any Governmental Authority having jurisdiction; or
 - (iv) any obligations of CSERELP to, or the requirements of, the NHL, AHL, WHL, NLL or any other applicable sports association, league or body;
- (e) CSERELP has obtained all necessary approvals and consents from the NHL, AHL, WHL, NLL or any other applicable sports association, league or body to enter into, deliver and perform this Agreement and the Development Management Agreement;
- (f) there are no actions, suits or proceedings, or circumstances which could reasonably be expected to result in an action, suit or proceeding, that are pending or threatened against or affecting CSERELP or its undertakings, property or assets or that could be reasonably expected to have a material adverse effect on the Project or its ability to carry out its obligations in this Agreement or in the Development Management Agreement, whether at law or equity, in or before any court or any Governmental Authority;
- (g) CSERELP is in good standing under any and all contracts, licenses, collective bargaining agreements, permits and undertakings to which it is a party or subject, as the case may be, where failure to be in good standing is reasonably likely to have a material adverse effect on the Project or its ability to carry out its obligations in this Agreement and in the Development Management Agreement; and

- (h) as of the Effective Date, there has been no Change in Control in CSERELP or in CSEC except as disclosed to The City prior to the Effective Date and CSERELP covenants and agrees that no Change in Control in CSERELP or in CSEC shall occur during the term of this Agreement and the Development Management Agreement, except with the prior written consent of The City in accordance with Section 12.3.

ARTICLE 7 INDEMNITIES AND LIABILITY

7.1 Indemnity by The City

Subject to Section 7.3, The City will, from time to time and at all times hereafter, well and truly save, defend and keep harmless and fully indemnify the CSERELP Indemnity Beneficiaries (without duplication) of, from and against all manner of actions, suits, claims, executions and demands that may be brought against or made upon the CSERELP Indemnity Beneficiaries, or any of them, and of, from and against all losses, costs, charges, damages, liens and expenses that may be sustained, incurred or paid by the CSERELP Indemnity Beneficiaries, or any of them, by reason of, or on account of, or in consequence of:

- (a) any material breach (including any payment default) by The City, its officers, employees, agents or other Persons for whom it is legally responsible, of any terms and provisions of this Agreement or the Development Management Agreement (or both); and
- (b) any negligence or wilful misconduct of The City, its officers, employees, agents or Persons for whom its responsible in law in connection with the performance of its obligations pursuant to this Agreement or the Development Management Agreement (or both),

and will pay to the CSERELP Indemnity Beneficiaries any losses, costs, damages and expenses (including legal fees and disbursements on a solicitor and client substantial indemnity basis) that may be sustained, incurred or paid by the CSERELP Indemnity Beneficiaries in consequence thereof or in consequence of any such action, suit, claim, lien, execution or demand or in settlement or in discharge or on account thereof, provided however that the indemnity provided under this Section 7.1 shall not extend to:

- (i) any breach by the CSERELP Indemnity Beneficiaries of any of the terms and provisions of this Agreement or the Development Management Agreement (or both); or
- (ii) any negligent act or omission, or wilful misconduct of the CSERELP Indemnity Beneficiaries or Persons for whom they are respectively responsible at law (except to the extent covered and paid by the insurance of The City relating to the Lands or the Project).

7.2 Indemnity by CSERELP

Subject to Section 7.3, CSERELP will, from time to time and at all times hereafter, well and truly save, defend and keep harmless and fully indemnify The City Indemnity Beneficiaries of, from and against all manner of actions, suits, claims, executions and demands that may be

brought against or made upon The City Indemnity Beneficiaries, or any of them, and of, from and against all losses, costs, charges, damages, liens and expenses that may be sustained, incurred or paid by The City Indemnity Beneficiaries, or any of them, by reason of, or on account of, or in consequence of:

- (a) any material breach (including any payment default) by CSERELP, its officers, employees, agents or other Persons for whom it is legally responsible, of any terms and provisions of this Agreement or the Development Management Agreement (or both); and
- (b) any negligence or wilful misconduct of CSERELP, its officers, employees, agents or Persons for whom it is responsible in law in connection with the performance of its obligations pursuant to this Agreement or the Development Management Agreement (or both),

and will pay to The City Indemnity Beneficiaries any losses, costs, damages and expenses (including legal fees and disbursements on a solicitor and client substantial indemnity basis) that may be sustained, incurred or paid by The City Indemnity Beneficiaries in consequence thereof or in consequence of any such action, suit, claim, lien, execution or demand or in settlement or in discharge or on account thereof, provided however that the indemnity provided under this Section shall not extend to:

- (i) any breach by The City Indemnity Beneficiaries of any of the terms and provisions of this Agreement or the Development Management Agreement (or both); or
- (ii) any negligent act or omission, or wilful misconduct of The City Indemnity Beneficiaries or other Persons for whom they are respectively responsible at law (except to the extent covered and paid by the insurance of CSERELP relating to the Lands or the Project).

7.3 **Consequential Damages**

Notwithstanding anything to the contrary contained in this Agreement, no Party (in this Section, the “**First Party**”) will be liable to the other Party (in this Section, the “**Other Party**”) for any loss, expense, injury, death, damage or other liability of any indirect, special or consequential nature suffered by the Other Party which arises due to the First Party’s failure to perform its obligations under this Agreement or under the Development Management Agreement or for any other reason (including negligence or wilful misconduct on its part or on the part of any Person for whose act it is responsible in law), howsoever and whensoever caused, and whether arising in contract, negligence or other tort liability, strict liability or otherwise, even if advised of the possibility thereof; and without limiting the generality of the foregoing, damage, injury or loss of an indirect or consequential nature shall include loss of revenue, loss of profits (whether direct or indirect), loss of production, loss of earnings, loss of contract, cost of purchased or replacement capacity, cost of capital and loss of the use of any facilities or property owned, operated, leased or used by the Other Party.

7.4 **Notice of Claim**

When a Party to this Agreement receives notice or otherwise becomes aware of a Claim which that Party determines may give rise to a claim for indemnification from another Party, that

Party (in this Section, the “**Indemnified Party**”) shall give prompt notice to the other Party (in this Section, the “**Indemnifier**”), including a copy of such Claim (in this Section, the “**Notice of Claim**”). Following receipt by the Indemnifier of a Notice of Claim, the Indemnifier shall be entitled to make a reasonable investigation of the Claim, as the Indemnifier considers necessary or desirable at its sole cost and expense. For the purpose of such investigation, the Indemnified Party shall make available to the Indemnifier all information concerning the Claim or relied upon by the Indemnified Party to substantiate the claim for indemnification. Within thirty (30) days following receipt by the Indemnifier of a Notice of Claim, the Indemnifier shall elect to either (a) assume control of and proceed in a diligent manner with the investigation, defence, or settlement of the Claim, including choice of counsel and other advisors, in consultation with the Indemnified Party or (b) direct the Indemnified Party to do so, at the Indemnifier’s sole cost and expense. Subject to the next sentence, the Party assuming the defence of the Claim shall, in its discretion, acting reasonably, do such acts and things and conduct such negotiations, take or defend such proceedings, and make such settlement as it deems advisable with respect to the Claim. Except with the prior written consent of the Indemnified Party, the Indemnifier shall not settle or compromise any Claim or admit liability in respect thereof or disclose the existence of the indemnity, other than as may be required in defence of a court action, in respect of matters arising out of or relating to the indemnities contained in Section 7.1 or 7.2. If the Indemnified Party shall withhold its consent to any compromise or settlement recommended by the Indemnifier, the Indemnified Party shall thereafter be responsible for all further defence costs (provided that if the ultimate disposition of the Claim results in an outcome more favourable than the compromise or settlement proposed by the Indemnifier, the Indemnifier shall be liable for and shall indemnify the Indemnified Party for all such defence costs), and, should the ultimate disposition of the Claim result in an outcome less favourable than the compromise or settlement proposed by the Indemnifier, the Indemnified Party shall be solely responsible for the difference between the ultimate result and the compromise or settlement not accepted. Each Party shall cooperate with the others fully in respect of any Claim, including providing each other on an ongoing basis with all information which may be relevant to the Indemnified Party’s or the Indemnifier’s liability hereunder and supplying copies of all relevant documentation promptly, as it becomes available, and each shall make available such witnesses as are under its control. Any payment shall be made where practically possible to give effect to any tax savings. Notwithstanding anything contained in this Article 8, the indemnities provided under this Article 7 shall not extend to any debt, cost, expense, claim or demand for which insurance proceeds have been recovered by the Indemnified Party under Project insurance policies which are placed for the benefit of the Project and the Parties pursuant to the Development Management Agreement. Subject to the exceptions in Sections 7.1 and 7.2, for the purposes of the benefit of the indemnities and limitations of liability set out in this Article 7, The City is hereby acting as agent or trustee on behalf of and for the benefit of its elected officials, directors, officers, employees and agents, and CSERELP is hereby acting as agent or trustee on behalf of and for the benefit of its directors, officers, employees and agents.

7.5 **Right to Contribution**

- (a) Each Party (in this Section, the “**Indemnifying Party**”) agrees with the other Party (in this Section, the “**Indemnified Party**”) to be responsible for paying costs in accordance with Article 4 in respect of all of the debts, liabilities, obligations, duties, agreements and expenses arising from or incurred in connection with the Project, whether present or future, provided that such debts, liabilities, obligations, duties, agreements and expenses have been Approved by the Project Committee or have been properly incurred pursuant to this Agreement or the Development Management Agreement (collectively, in this Section, the “**Liabilities**”).

- (b) Each Indemnifying Party shall at all times indemnify and save harmless each Indemnified Party from any and all Liabilities, to the extent of that portion of all Liabilities the Indemnified Party has incurred and which is in excess of the Indemnified Party's share of the Liabilities (as contemplated in Section 4.1) and which has been paid or incurred by the Indemnified Party. Each Indemnifying Party shall reimburse, forthwith on demand, each Indemnified Party with respect to such portion, provided that no Party shall be entitled to be indemnified for any Liabilities to the extent that such Liabilities result from such Party's default or breach under this Agreement or the Development Management Agreement or from such Party's Gross Negligence or willful misconduct.
- (c) Each Indemnifying Party shall at all times indemnify and save harmless each Indemnified Party from any and all Claims suffered or incurred by the Indemnified Party arising out of the Indemnifying Party's separate debts, liabilities, obligations, duties and agreements, whether present or future, in each case not related to the Project.

7.6 **Duration**

The indemnification obligations contained in this Article 7 shall survive the termination or expiry of this Agreement. Nothing in this Article 7 shall create or extend any right for the benefit of any third party, except as expressly stated herein. Any indemnity payment required to be paid by a Party pursuant to this Article 7 shall be paid within thirty (30) days after written notice and demand for payment is given by the other Party. If a Party denies that an indemnity payment is required to be paid by it pursuant to this Article, then either Party may refer that question to dispute resolution under Article 9 and, if the resolution of the dispute determines that an indemnity payment is required, the period of time for making the indemnity payment shall commence from the date that the dispute is resolved or an Award is granted, as the case may be.

ARTICLE 8 DEFAULT AND TERM OF AGREEMENT

8.1 **City Events of Default**

Any of the following events shall constitute an event of default (a "**City Event of Default**") hereunder by The City:

- (a) the occurrence of any Event of Insolvency as to The City;
- (b) if The City defaults in the payment or performance of a material obligation under this Agreement or the Development Management Agreement, and, in the case of a payment default, such default is not cured within ten (10) days after notice of such default has been given to The City by CSERELP or, in the case of any other default of a material obligation, such default is not cured within thirty (30) days after notice of such default has been given to The City by CSERELP or within such longer period as may be reasonably necessary given the nature of the default in question provided that The City promptly commenced and diligently continued to cure such default until it was so cured;
- (c) the occurrence of any Disposition by The City in contravention of Section 12.3;

- (d) any failure by The City to comply with any determination, order or Award made and binding against The City in accordance with Article 9, which is not cured within thirty (30) days after notice of such default has been given to The City by CSERELP or within such longer period as may be reasonably necessary given the nature of the default in question provided that The City promptly commenced and diligently continued to cure such default until it was so cured; or
- (e) The City making any representation or warranty herein that is false or misleading when made, and that has or will have at any time a material adverse effect on the Project or on the other Party and, in the case of a false or misleading representation or warranty that is capable of being remedied, such breach is not remedied within ten (10) Business Days of receipt of notice of the same from any other Party.

8.2 **CSERELP Events of Default**

Any of the following events shall constitute an event of default (a “**CSERELP Event of Default**”) hereunder by CSERELP:

- (a) the occurrence of any Event of Insolvency as to CSERELP;
- (b) if CSERELP defaults in the payment or performance of a material obligation under this Agreement or the Development Management Agreement, and, in the case of a payment default, such default is not cured within ten (10) days after notice of such default has been given to CSERELP by The City or, in the case of any other default of a material obligation, such default is not cured within thirty (30) days after notice of such default has been given to CSERELP by The City or within such longer period as may be reasonably necessary given the nature of the default in question provided that CSERELP promptly commenced and diligently continued to cure such default until it was so cured;
- (c) the occurrence of any Disposition by CSERELP or Change in Control of CSERELP in contravention of Section 12.3;
- (d) the loss or impairment of CSEC’s franchise rights from the NHL for any reason whatsoever such that CSEC does not have the right to operate the Calgary Flames professional hockey club in The City of Calgary;
- (e) any failure by CSERELP to comply with any determination, order or Award made and binding against CSERELP in accordance with Article 9; which is not cured within thirty (30) days after notice of such default has been given to CSERELP by The City or within such longer period as may be reasonably necessary given the nature of the default in question provided that CSERELP promptly commenced and diligently continued to cure such default until it was so cured; or
- (f) CSERELP making any representation or warranty herein that is false or misleading when made, and that has or will have at any time a material adverse effect on the Project or on the other Party and, in the case of a false or misleading representation or warranty that is capable of being remedied, such breach is not remedied within ten (10) Business Days of receipt of notice of the same from any other Party.

8.3 **Rights of The City Upon CSERELP Event of Default**

If a CSERELP Event of Default has occurred, The City shall have the right (but shall have no obligation) to take one or more of the following actions (without prejudice to any other right or remedy available to The City pursuant to this Agreement or at law or in equity):

- (a) if such CSERELP Event of Default is a payment default, maintain an action against CSERELP for any unpaid amounts and interest thereon (at the Bank Rate plus 5% per annum, calculated and payable monthly in arrears on the first Business Day of each and every month, both before and after judgment until fully paid), plus the costs of the action on a solicitor and client basis, on a continuing basis as such amounts are payable, but not paid by CSERELP, as if those payment obligations were liquidated damages due and payable on the relevant date they were due to be paid, without any right or resort of CSERELP to set-off or counterclaim;
- (b) if such CSERELP Event of Default is a Fundamental CSERELP Event of Default, terminate this Agreement by notice in writing to CSERELP, which termination shall be effective two (2) Business Days immediately following delivery of such notice (unless another later day is specified in such notice but in any event no later than thirty (30) days immediately following delivery of such notice);
- (c) take all rights and remedies under, and otherwise enforce, any or all of the CSERELP Security, the CSEC Guarantee and the CSEC Security; and
- (d) take such other action as The City deems appropriate to attempt to cure the default in question, The City's costs in respect of which shall be payable by CSERELP on demand and shall bear interest from the date incurred to the date paid at the rate of 5% per annum in excess of the Bank Rate (both before and after judgment until fully paid).

8.4 **Rights of CSERELP Upon City Event of Default**

If a City Event of Default has occurred, CSERELP shall have the right (but shall have no obligation) to take one or more of the following actions (without prejudice to any other right or remedy available to CSERELP pursuant to this Agreement or at law or in equity):

- (a) if such City Event of Default is a payment default, maintain an action against The City for any unpaid amounts and interest thereon (at the Bank Rate plus 5% per annum, calculated and payable monthly in arrears on the first Business Day of each and every month, both before and after judgment until fully paid), plus the costs of the action on a solicitor and client basis, on a continuing basis as such amounts are payable, but not paid by The City, as if those payment obligations were liquidated damages due and payable on the relevant date they were due to be paid, without any right or resort of The City to set-off or counterclaim;
- (b) if such City Event of Default is a Fundamental City Event of Default, terminate this Agreement by notice in writing to The City, which termination shall be effective two (2) Business Days immediately following delivery of such notice (unless another later day is specified in such notice but in any event no later than thirty (30) days immediately following delivery of such notice); and

- (c) take such other action as CSERELP deems appropriate to attempt to cure the default in question, CSERELP's costs in respect of which shall be payable by The City on demand and shall bear interest from the date incurred to the date paid (both before and after judgment until fully paid) at the rate of 5% per annum in excess of the Bank Rate.

8.5 **Rights against a Defaulting Party**

If any Party (as used in this Section, the "**Defaulting Party**") refuses or fails to make a payment that is required under Article 4 or otherwise pursuant to this Agreement or the Development Management Agreement or that is otherwise Approved by the Steering Committee or Approved by the Project Committee, then the other Party (as used in this Section, the "**Non-Defaulting Party**") may, but is not required to, make all or any part of the payment required to be made by the Defaulting Party, provided that the Non-Defaulting Party has made its own concomitant payment (if any). Notwithstanding anything contained in this Agreement, any election by The City to make any such payment or to cure any financial defaults of any other Party is subject at all times to Council Approval. If the Non-Defaulting Party elects to make all or any part of the payment required to be made by the Defaulting Party (the "**Deficiency Payment**") on behalf of and for the account of the Defaulting Party, then:

- (a) the Defaulting Party shall continue to be a Defaulting Party; and
- (b) the Defaulting Party shall pay or cause to be paid, within ten (10) Business Days following written demand therefor, to the Non-Defaulting Party:
 - (i) the amount of the Deficiency Payment;
 - (ii) the reasonable costs (other than interest) of the Non-Defaulting Party relating to obtaining monies to make the Deficiency Payment; and
 - (iii) interest on the amount of the Deficiency Payment outstanding from time to time equal to the Bank Rate plus 5% per annum, calculated and payable monthly in arrears on the first Business Day of each and every month (both before and after judgment until fully paid).

8.6 **Term**

The term of this Agreement shall commence as of the Effective Date and, subject to earlier termination in accordance with this Agreement, shall continue in full force and effect until the second anniversary of Completion.

ARTICLE 9 DISPUTE RESOLUTION

9.1 **Dispute Notice**

Any disagreements relating to the validity, construction, meaning, performance or effect of this Agreement or, as between The City and CSERELP, of the Development Management Agreement, or to the rights or liabilities of the Parties or any other matter related to this Agreement or the Development Management Agreement, or a Deadlock on a Major Decision or Deadlock on a Decision that cannot be resolved by the Steering Committee (each a "**Dispute**") will be referred

to the City Manager and the Chair of the Board of CSERELP's general partner for resolution. This process may be triggered by any Party providing written notice to the other Party (a "**Dispute Notice**") of the Dispute, briefly setting out the pertinent facts, the remedy or relief sought and the grounds on which such remedy or relief is sought.

9.2 **Negotiation**

Within five (5) Business Days of a Party delivering a Dispute Notice to the other Party, or such longer period as the Parties may agree, the City Manager and the Chair of the Board of CSERELP's general partner will meet and make good faith efforts to resolve the Dispute through without prejudice negotiations.

9.3 **Expert Mediation**

If the Dispute is not resolved pursuant to Section 9.2 to the mutual satisfaction of the Parties within ten (10) Business Days of a Party delivering a Dispute Notice to the other Party, or such longer period as the Parties may agree, a Party may by notice to the other Party (an "**Expert Notice**") request the appointment of an independent Person or Persons generally recognized as having familiarity with and expertise in the matter which is the subject of the Dispute (an "**Expert**") to resolve the Dispute as set out below:

- (a) Within five (5) Business Days of the delivery of an Expert Notice, each Party will submit in writing to the other Party, the names of no more than two candidates for Expert who are independent of the Parties, experienced in the resolution of similar disputes and immediately available to perform the role of Expert in respect of the Dispute at hand;
- (b) if a Party has an objection to a proposed candidate, it will give written notice of such objection with reasons to the other Party;
- (c) if for any reason within five (5) Business Days of the delivery of an Expert Notice, an Expert has not been appointed, then either Party may apply to the Court of King's Bench of Alberta for the appointment of such Expert;
- (d) the Expert's fees and expenses will be shared equally by the Parties;
- (e) the Expert will conduct an impartial review of the Dispute in such manner as the Expert thinks fit, including carrying out on site inspections and interviews with any persons that the Expert thinks fit. The Parties will comply with all reasonable requests from the Expert for additional information, documents and access to personnel which the Expert considers necessary for the review. Any submission or documentation in respect of the Dispute provided to the Expert by a Party will also be provided to the other Party;
- (f) the Expert may, with the written approval of the Parties, retain other professional persons or experts to assist with the review and will pay due regard to any request by a Party to retain such other professional persons or experts;
- (g) the Expert will not be obliged to conduct enquiries in the presence of the Parties or receive submissions from the Parties, except to the extent that the Expert thinks

fit, and may render a decision notwithstanding the failure of a Party to participate in the proceedings;

- (h) the Expert will render a brief, written, reasoned and impartial decision on the Dispute, with copies to each Party within fifteen (15) Business Days of the signing by the Expert and both parties of an agreement appointing such Expert, or such longer period as agreed to in writing by the Parties. The Expert's decision will be in the form of a proposed determination of the rights of the Parties having regard to the Expert's understanding of the relevant contractual provisions, the Applicable Law and the facts as agreed by the Parties or as best the Expert is able to determine them;
- (i) each Party acknowledges the value of having the Expert render a timely decision regarding the Dispute. If the Expert is unable to render his decision within the time set or as extended by mutual agreement of the Parties, then the Parties will request that the Expert provide to the Parties within such time such analysis of the Dispute as the Expert is able to make within that time and describe the further work the Expert recommends would be required in order to arrive at a reasoned decision;
- (j) a decision of an Expert is not binding on the Parties but is intended to assist the Parties to reach agreement with respect to the Dispute;
- (k) the proceedings under this Section 9.3 will be confidential and all information, data or documentation disclosed or delivered by either party to the Expert as a result or in connection with his duties as Expert will be treated as confidential and neither the Parties nor the Expert will disclose to any Person any such information, data or documentation unless the Parties otherwise agree in writing. Nothing contained in this provision will prevent the submission in any subsequent proceedings of any evidence other than evidence that came into existence for the express purpose of submission to, or assistance of, the Expert; and
- (l) the proceedings by or before an Expert will be without prejudice in any subsequent proceedings.

9.4 **Commencement of Arbitration**

If the Dispute is not completely resolved by agreement between the Parties within ten (10) Business Days of the receipt of the Expert's decision or analysis pursuant to Section 9.3 (or such longer period as the Parties may agree) or within ten (10) Business Days of the date on which the Expert's decision or analysis ought to have been received under Section 9.3, or if neither Party elects to issue an Expert Notice pursuant to Section 9.3, then a Party may commence proceedings to have the Dispute finally settled by arbitration under Section 9.5. In any such proceedings the scope of issues will not be limited strictly to the terms of the Dispute Notice but may extend to include directly related matters for the purpose of completely resolving the Dispute.

9.5 **Arbitration Procedure**

If a Party is entitled under Section 9.4 to commence proceedings to have a Dispute finally resolved by arbitration, such Party may submit the Dispute to arbitration in accordance with the following principles:

- (a) arbitration proceedings shall be commenced by the Person desiring arbitration (the “**Initiating Party**”) delivering, within the time and in the manner contemplated by this Agreement, notice of such election to have such matter or question determined by arbitration (the “**Arbitration Notice**”) to the other Party hereto (the “**Responding Party**”);
- (b) within ten (10) Business Days following the delivery of such notice, the Initiating Party and the Responding Party shall meet and attempt to appoint a sole arbitrator. If the Initiating Party and the Responding Party do not so meet or are unable to agree on a sole arbitrator within such ten (10) Business Days period then, upon not less than ten (10) Business Days further notice given by either the Initiating Party or the Responding Party to the other, such Person may apply to a court of competent jurisdiction pursuant to the *Arbitration Act* (Alberta) (the “**Arbitration Court**”) to appoint the sole arbitrator. The provisions of such enactment shall apply to any such application to the Arbitration Court;
- (c) the sole arbitrator selected to act hereunder shall be qualified by education, training and experience to pass upon the particular question or questions in dispute;
- (d) the compensation and expenses of the sole arbitrator and any expert (including legal counsel) or consultant appointed or retained by the sole arbitrator shall be allocated between the Parties as determined by the sole arbitrator or the Arbitration Court;
- (e) the sole arbitrator appointed shall proceed immediately to hear and determine the question or questions in dispute;
- (f) the decision of the sole arbitrator and reasons therefor (the “**Award**”) shall be drawn up in writing and signed by the sole arbitrator and shall be made and delivered by the sole arbitrator to the Initiating Party and the Responding Party within twenty (20) Business Days after the appointment of the sole arbitrator (or such other longer period as may be agreed to among the Initiating Party, the Responding Party and the sole arbitrator, in their respective sole discretions) and, in the event that the Award is not made within such time period, either the Initiating Party or the Responding Party may elect to terminate the arbitration (except where the sole arbitrator has successfully applied to the Arbitration Court for an extension in the time within which the sole arbitrator is required to make the Award); and
- (g) the Award shall be final and binding upon the Initiating Party or the Responding Party as to the question or questions so submitted to arbitration and the Initiating Party and the Responding Party shall be bound by the Award and comply with the terms and provisions thereof.

9.6 **Other Remedies**

Nothing contained in this Agreement will preclude a Party from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining an effective emergency or provisional remedy to protect its rights as necessary in the circumstances, including obtaining temporary and preliminary injunctive relief and other orders, whether before or after the Dispute has been initiated by a Dispute Notice.

9.7 **Payments Not Suspended**

In the event of a Dispute in respect of any monies to be paid by a Party pursuant to this Agreement, the obligation to make payment in respect of such amount in Dispute shall continue and each Party shall be obligated to make all payments that would have otherwise been required by it under this Agreement during the continuance of a Dispute until the Dispute is resolved pursuant to this Article 10, by court order or pursuant to the mutual agreement of the Parties involved in the Dispute. Upon resolution of the Dispute, the Parties shall make any necessary adjustments and payments to each other as may be required to comply with the resolution of the Dispute.

9.8 **Continuation of Work During Dispute**

Notwithstanding any Dispute, the development, design and construction of the Project shall continue, to the extent commercially reasonable to do so in light of the Dispute in question, in accordance with the terms of this Agreement and the Development Management Agreement.

**ARTICLE 10
CONFIDENTIALITY AND FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY**

10.1 **Freedom of Information and Protection of Privacy Act**

The Parties acknowledge that The City is subject to the protection and disclosure provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, Chapter F-25 (“**FOIP**”), as amended, revised or substituted from time to time and, notwithstanding anything contained in this Agreement, that information submitted to and in the possession of The City is governed by FOIP and may be eligible for disclosure in accordance with the requirements of same. In each case, if The City at any time receives a request for access to any CSERELP information pursuant to FOIP, The City shall, unless prohibited by Applicable Law, withhold any CSERELP information as required by FOIP. For clarity, the Parties acknowledge that this Agreement shall be made public.

10.2 **Confidentiality**

The Parties will maintain the confidentiality of all Confidential Information and will not make use of Confidential Information or release it to employees, officials, officers, authorized representatives or external advisors or consultants other than as required for the performance of this Agreement and the Development Management Agreement or as required by Applicable Laws and will not otherwise release or disclose the Confidential Information to any unauthorized third party. CSERELP agrees that The City may disclose any and all information it has in its power or control pertaining to this Agreement, the Development Management Agreement and the Project to members of Council and employees and officers of The City who require the subject information from time to time, as and when determined by The City, acting reasonably.

10.3 **Disclosure of Information**

No Party shall owe an obligation of confidentiality in relation to:

- (a) disclosures of information contemplated in Sections 10.1 and 10.2;

- (b) disclosures of information by a Party to its professional advisors and consultants, to the extent necessary to enable the Party to perform its obligations or enforce its rights under this Agreement;
- (c) information that was already known to the Party receiving the information (in each case, the “**Receiving Party**”) at the time such information is received from the Party disclosing the information (“**Disclosing Party**”);
- (d) information that is developed by the Receiving Party without reference to any confidential information disclosed by the Disclosing Party;
- (e) information that is or has become or hereafter becomes publicly known or available through no fault or breach of confidence by the Receiving Party;
- (f) information that is required to be disclosed under Applicable Laws or similar requirements of or by a Governmental Authority, including a court of competent jurisdiction; or
- (g) information that is subsequently lawfully obtained by a Party from another Person in bona fide belief that such other Person is lawfully entitled to have and disclose the information without breach of any obligation of confidence on its part.

10.4 **Survival**

The duties and obligations to protect the Confidential Information survive termination of this Agreement and must continue until the Party originally claiming information to be confidential releases that claim by deed or action.

10.5 **Improper Disclosure or Use**

Improper disclosure or use of Confidential Information may cause irreparable harm to The City or CSERELP, as the case may be, and such harm may not be adequately compensated by damages. As a result, in addition to all other remedies a Party may have, a Party may seek and obtain from any court of competent jurisdiction injunctive relief in respect of any actual or threatened disclosure or use of any Confidential Information contrary to the provisions of the Agreement.

10.6 **Indemnity**

Each Party will indemnify and save the other Party harmless from and against any and all liabilities, claims, suits or actions, losses, costs, damages and expenses that may be brought against or suffered by the other Party as a consequence of the disclosure by the indemnifying Party of the Confidential Information of the other Party contrary to the terms of the Agreement.

ARTICLE 11 INTELLECTUAL PROPERTY

11.1 **Ownership of Intellectual Property**

Any Intellectual Property developed in connection with the Project shall, where possible and practical, be jointly owned by the Parties and if not possible and practical, such Intellectual

Property shall be owned by The City and The City shall grant CSERELP a royalty-free, non-exclusive and fully paid up licence to use such Intellectual Property. Other than in connection with the Project, neither Party shall be entitled to use such Intellectual Property except and to the extent agreed to by the Parties.

ARTICLE 12 GENERAL

12.1 **Notices**

Any notice, demand, request, consent, agreement or approval which may or is required to be given pursuant to this Agreement shall be in writing and shall be sufficiently given or made if delivered personally upon the party for whom it is intended, mailed by registered mail or written electronic communications which results in a written or printed notice at:

- (a) The City, addressed to it, at:

The City of Calgary
8th Floor, 800 Macleod Trail SE
Calgary, Alberta T2G 2M3

Attention: City Treasurer
Fax No.: 403-268-2578
Email: treasury@calgary.ca

With a copy to:

The City of Calgary
12th Floor, 800 Macleod Trail SE
Calgary, Alberta T2G 2M3

Attention: City Solicitor
Fax No.: 403-268-4634
Email: law.reception@calgary.ca

- (b) CSERELP, addressed to it, at:

c/o Calgary Sports and Entertainment Corporation
555 Saddledome Rise SE
Calgary, Alberta T2G 2W1

Attention: President and Chief Executive Officer
Fax No.: 403-777-5349
Email: jbean@calgaryflames.com

With a copy to:

Norton Rose Fulbright Canada LLP
3700, 400-3rd Avenue SW
Calgary, Alberta T2P 4H2

Attention: Brad Hayden
Fax No.: 403-264-5973
Email: brad.hayden@nortonrosefulbright.com

or to such other address or in care of such other officers as a party may from time to time advise to the other parties by notice in writing. The date of receipt of any such notice, demand, request, consent, agreement or approval if delivered personally or by written electronic communication shall be deemed to be the date of delivery thereof (if such day is a Business Day and if not, the next following Business Day), or if mailed as aforesaid, the date of delivery by the postal authority.

12.2 **Enforceability**

Save and except for any provisions or covenants contained herein which are fundamental to the subject matter of this Agreement (including those that relate to the payment of monies), the invalidity or unenforceability of any provisions of this Agreement or any covenants herein contained will not affect the validity or enforceability of any other provision or covenants hereof or herein contained and any such invalid provisions or covenants will be deemed to be severable. Each provision and covenant herein contained will be separately valid and enforceable to the fullest extent permitted by law.

12.3 **Successors and Assigns**

- (a) This Agreement shall enure to the benefit of and be binding upon the successors and permitted assigns of each party hereto.
- (b) No Party may assign, transfer, grant a security interest in or otherwise encumber (including by way of a floating charge), dispose of or otherwise alienate any interest in this Agreement or in the Development Management Agreement (a "**Disposition**"), whether directly or indirectly except, in each case, with the prior written consent of the other Party, which consent may be withheld or conditioned in the sole subjective and absolute discretion of the other Party, and any Disposition made otherwise shall be void as between the parties to such Disposition as well as between the Parties hereto. If any Party shall at any time effect or attempt to effect a Disposition in contravention of the provisions of this Agreement, the other Party shall, in addition to all other rights and remedies of the other Party under this Agreement or at law and/or in equity, be entitled to an order restraining and enjoining such action, and the offending Party shall not plead in defense thereto that there would be an adequate remedy at law and/or in equity, it being recognized and agreed that the injury and damage resulting from such a breach would be impossible to measure monetarily. A Party effecting a Disposition shall be responsible for all reasonable third party costs, including legal fees and disbursements, incurred by the other Party arising from the Disposition. Any permitted Disposition shall be subject to the Party effecting the Disposition (the "**Transferor**") executing and causing the assignee, grantee or transferee of the Disposition, as the case may be (the "**Transferee**") to execute promptly an

assumption agreement in favour of the other Party (in form satisfactory to the other Party, acting reasonably), whereby the Transferee agrees, *inter alia*: (a) to be bound by all of the terms, covenants and conditions contained in this Agreement and in the Development Management Agreement as if such Transferee had originally executed this Agreement and the Development Management Agreement; (b) to pay all amounts required to be paid by the Transferor hereunder and under the Development Management Agreement; and (c) notwithstanding the Disposition, the Transferor shall be jointly and severally liable with the Transferee under this Agreement and the Development Management Agreement and shall not be released from performing any of the terms, covenants and conditions of this Agreement or the Development Management Agreement (unless the other Party consents to such release in writing).

- (c) CSERELP shall not undertake or permit to be undertaken any transaction or series of transactions that would result in a change in the direct or indirect ownership interests in CSERELP or its general partner (including, without limitation, any transfer, assignment, conveyance or other disposition of all or part of the equity interests or other securities of CSERELP or the general partner of CSERELP, by operation of law or otherwise) other than in accordance with the following provisions:
- (i) In respect of any such transaction or series of transactions undertaken between the direct or indirect holders of the equity interests or other securities of CSERELP or the general partner of CSERELP as of the date of this Agreement, it shall provide The City with no less than thirty (30) days' prior written notice thereof, but without any requirement to obtain The City's approval.
 - (ii) In respect of any such transaction or series of transactions that will result in any Person that is not a direct or indirect holder of equity interests or other securities of CSERELP or the general partner of CSERELP as of the date of this Agreement to become a direct or indirect holder of equity interests or other securities of CSERELP or the general partner of CSERELP following completion of such transaction or series of transactions:
 - (A) if such transaction or series of transactions results in a direct or indirect Change in Control of CSERELP or the general partner of CSERELP, it shall require the prior written approval of The City, which approval: (x) shall not be unreasonably withheld or delayed by The City if the Person who will Control CSERELP or the general partner of CSERELP following completion of such Change in Control has been approved by the NHL and evidence of such approval has been provided to The City; or (y) in all other instances, may be withheld or conditioned by The City in its sole discretion;
 - (B) if such transaction or series of transactions shall result in such Person directly or indirectly owning between 20% to 49% of the equity interests or other securities in CSERELP or the general partner of CSERELP, CSERELP shall provide The City with written notice, but without any requirement to obtain The City's approval,

as soon as reasonably practical prior to the completion of such transaction or series of transactions, provided The City agrees to maintain the confidentiality of such information and will not make use of such information or release it to employees, officials, officers, authorized representatives or external advisors or consultants without the prior written consent of CSERELP or as required by Applicable Laws; and

- (C) if such transaction or series of transactions will result in such Person directly or indirectly owning less than 20% of the equity interests or other securities in CSERELP or the general partner of CSERELP, CSERELP shall provide The City with written notice confirming the completion of such transaction or series of transactions by no later than thirty (30) days following the completion of such transaction or series of transactions.
- (iii) Together with any notice or request for consent delivered by CSERELP to The City in the circumstances described in this Section (c), CSERELP shall provide to The City: (A) evidence satisfactory to The City, acting reasonably, confirming the identity of the direct or indirect owners of the equity interests or other securities of CSERELP and/or the general partner of CSERELP following completion of such transaction or series of transactions; and (B) if such transaction or series of transactions requires the approval of the NHL, evidence of such approval having been granted by the NHL.
- (d) Notwithstanding anything contained in this Agreement, no Disposition may be made unless the prospective new Party resulting from such Disposition enters into an agreement with the remaining Parties (in form and substance satisfactory to the remaining Parties, acting reasonably) whereby the prospective new Party agrees to be bound by, and entitled to the benefit of, this Agreement, the Development Management Agreement and the other agreements affecting the Project to which the Transferor was party, to the extent of the Party's interest (and obligations) or part thereof which is the subject of the Disposition.

12.4 **Capacity of The City**

Nothing in this Agreement shall constitute the granting by the municipality of The City of Calgary (including in its capacity as Approving Authority) of any approval or permit as may be required pursuant to the *Municipal Government Act* (Alberta) or any other legislation in force in the Province of Alberta. Nothing in this Agreement restricts the municipality of The City of Calgary, Council, its officers, employees or agents in the full exercise of any and all powers and duties vested in them in their respective capacities as a Governmental Authority or Approving Authority.

12.5 **Time of Essence**

Time shall in all respects be of the essence hereof; provided, however, that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by The City and CSERELP or their respective solicitors.

12.6 **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

12.7 **Third Parties**

None of the rights or obligations hereunder of any party shall enure to the benefit of or be enforceable by any party other than the parties to this Agreement and their respective successors and permitted assigns.

12.8 **Reporting as a Civic Partner and on the Use of Public Funds**

As a 'Partner' under the *Investing in Partnerships Policy* (CP2017-01), CSERELP may be requested to participate in an annual corporate reporting process. If and to the extent so requested to participate, CSERELP shall participate as required.

12.9 **Rivers District Endorsement**

From and after the date of this Agreement, CSERELP agrees that it will publicly and privately support, endorse and promote the Rivers District and the proposed vision and development thereof. Without limiting the generality of the foregoing, CSERELP agrees that it shall utilize its media capabilities to positively profile and promote the Rivers District by, without limitation, including such positive profiling and promotion as part of their marketing in respect of the Event Centre.

12.10 **Entire Agreement**

This Agreement, together with the other agreements contemplated by this Agreement, constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements, understandings, negotiations, proposals, representations and discussions, whether oral or written. There are no conditions, warranties, representations or other agreements between the parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as specifically set out in this Agreement and in the other agreements contemplated by this Agreement.

12.11 **Survival of Covenants**

Any covenant, term or provision of this Agreement which, in order to be effective must survive the termination of this Agreement, shall survive any such termination.

12.12 **Waivers**

No failure by The City or CSERELP to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right or remedy consequent upon the breach thereof, shall constitute a waiver of any such breach or any other or subsequent breach of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Agreement and no breach thereof shall be waived, altered or modified except by written instrument. No waiver of any breach shall affect or alter this Agreement, but each and

every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

12.13 **Counterparts and Electronic Execution**

This Agreement may be executed in counterparts each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution shall be deemed to bear the date first above written. An executed copy of this Agreement may be delivered by any party hereto by facsimile or other electronic means. In such event, such party shall forthwith deliver to the other parties hereto a copy of this Agreement executed by such party.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF this Agreement has been executed by the parties.

THE CITY OF CALGARY

by


Name: David Duckworth
Title: City Manager

CSE REAL ESTATE CORPORATION,
in its capacity as general partner for
and on behalf of **CSE REAL ESTATE
LIMITED PARTNERSHIP**

by

Name: John Bean
Title: President and CEO

by

Name: Cameron Olson
Title: Chief Financial Officer

IN WITNESS WHEREOF this Agreement
has been executed by the parties.

THE CITY OF CALGARY

by _____

Name: David Duckworth
Title: City Manager

CSE REAL ESTATE CORPORATION,
in its capacity as general partner for
and on behalf of **CSE REAL ESTATE**
LIMITED PARTNERSHIP

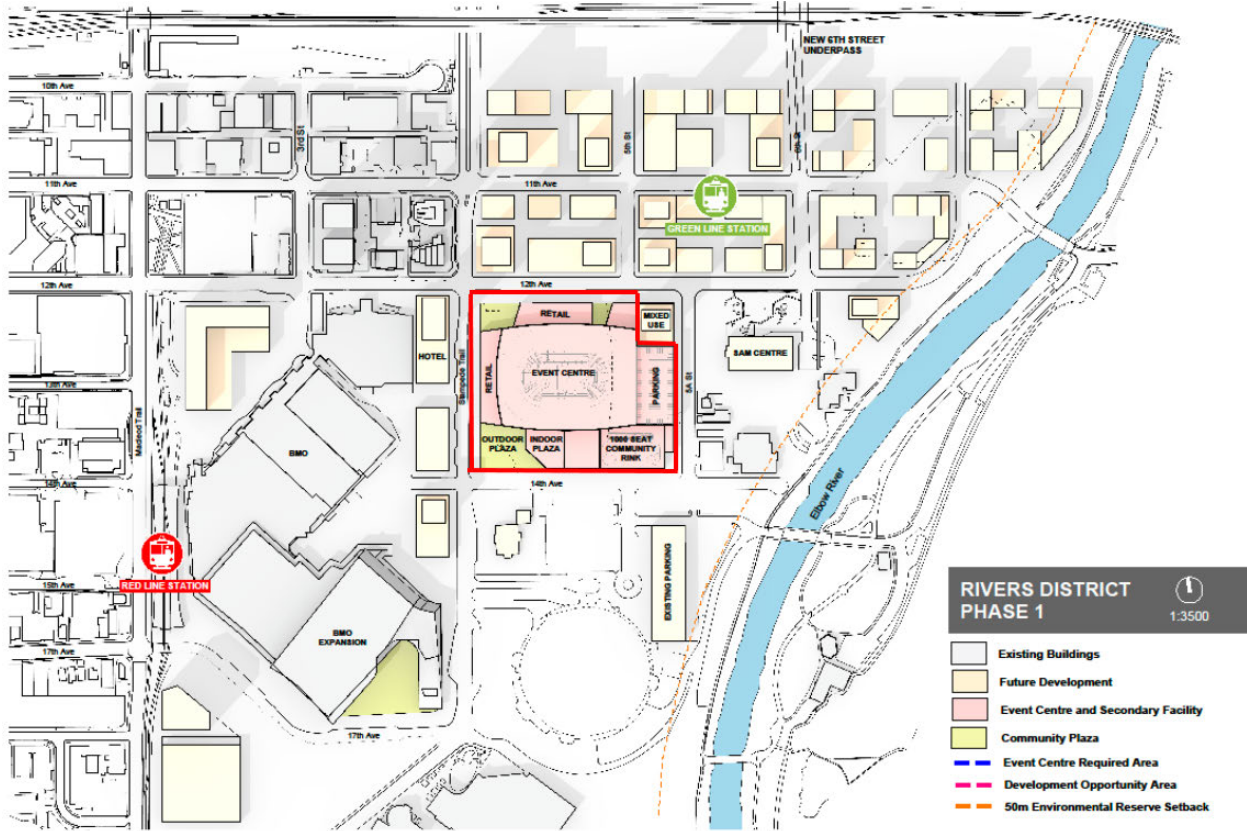
by _____

Name: John Bean
Title: President and CEO

by _____

Name: Cameron Olson
Title: Chief Financial Officer

SCHEDULE A-1 LANDS



2023-04-14 v2

Schedule A-2
PROJECT DESCRIPTION

The Project includes the Event Centre and the Community Rink.

The Event Centre is a new LEED certified, multipurpose, multi-level, state-of-the-art entertainment and sports gathering place for all Calgarians which uses include, but are not limited to, concerts, assemblies, festivals, professional and amateur sports that will serve as the home practice and competition venue of the NHL's Calgary Flames, the American Hockey League's Calgary Wranglers, the Western Hockey League's Calgary Hitmen and the National Lacrosse League's Calgary Roughnecks.

In addition, the Event Centre will host multiple annual concerts of varying seat capacities, Calgary Stampede events during the annual Stampede Festival, family shows, eSports, Televised Award Shows, Community events, conference and other events consistent with this type of facility.

The Event Centre will, in addition to other amenities and facilities as are agreed upon by the Contributing Parties, include amenities and facilities that are included in two or more comparable event centres utilized by the NHL teams in Edmonton, Detroit, Las Vegas, Columbus and St. Paul and will include, but not be limited to, seating for approximately 18,000, not to exceed 19,000, spectators, on-site parking with no fewer than 500 parking spaces, an indoor plaza, and an outdoor plaza.

The Community Rink will be for public benefit, with CSERELP having the right during the term of the Management and Lease Agreement to use the Community Rink as a primary practice, development and training camp facility for the Calgary Flames and associated teams they may own from time to time. The Community Rink will include at least one sheet of ice and seating for approximately 1,000 spectators.

The Project will be located on the Lands.

SCHEDULE B
FUNDAMENTAL PRINCIPLES

In addition to Section 3.1 of the Agreement, and in compliance with Section 2.3, the Steering Committee and the Project Committee will make all decisions under this Agreement and Development Management Agreement having regard to and in a manner which is generally consistent with the following fundamental principles:

- (a) the Project will adhere to the Council Project Approvals, City Policies and NHL Policies;
- (b) the Event Centre will, in keeping with the Overall Event Centre Budget Limit and other provisions of this Agreement and the Development Management Agreement:
 - (i) meet, and where Prudent exceed, the current NHL, AHL, WHL and NLL facility and operations standards;
 - (ii) where Prudent, be designed and constructed:
 - A. with a view to optimize arena revenues for NHL events, AHL events, WHL events, NLL events and other events (such as concerts, assemblies and festivals);
 - B. as a state-of-the-art, multi-purpose facility with design features, functional components and specifications that, where appropriate and Prudent, are comparable to those consistently found in Comparable Event Centres, subject to such differences as would apply due to differences in the Calgary market, climate and urban environment;
 - (iii) foster a sense of community that, while distinctive in its own aesthetic, is complimentary to the River District neighbourhood (for example, the architectural and visual design of the Event Centre and related facilities shall be consistent with the quality and standard evident in other recent buildings and developments in the Rivers District);
 - (iv) provide for a sustainable business model with a view to optimizing profitability through revenue optimization and operating cost minimization;
 - (v) be “fan-centric” with a view to exceeding fan expectations in all areas of the guest experience;
 - (vi) be “right sized” for the Calgary market, housing approximately 18,000 seats and a maximum of 19,000 seats for NHL hockey, including suite and premium products that will meet current demand for such suites and products and allow for flexibility in the future as the market changes and evolves;
 - (vii) incorporate, where Prudent and in keeping with the Overall Event Centre Budget Limit, appropriate technologies and design elements to the

advantage of CSEC's Teams and will provide a competitive advantage in favour of CSEC's Teams;

- (viii) be environmentally responsible and designed to be operationally efficient in all aspects;
 - (ix) be a gathering place for all Calgarians that includes concerts, assemblies, festivals, professional and amateur sports, linked to an outdoor gathering space;
 - (x) be viable and sustainable (LEED Certified) while contributing as part of a comprehensive master plan vision that supports The City's planning objectives and enhances Calgary communities' brand and reputation; and
 - (xi) be a catalyst to attract further vibrancy and investment as an anchor for further development in a mixed-use neighbourhood;
- (c) public funds must be used for public benefit, including improving access and availability for individuals and groups, while also providing economic benefits for the Calgary economy; and
 - (d) the Parties will use reasonable efforts to incorporate the material items resulting from the extensive public engagement which previously occurred in respect of the 2019 event centre transaction.

For purposes of this Schedule B, the use of the term "**Prudent**" shall have an ordinary dictionary definition, but shall not involve any consideration of financial matters.

SCHEDULE C-1
STEERING COMMITTEE TERMS OF REFERENCE

1. Steering Committee Authorizing Framework and Definition

The requirement to establish a Steering Committee is a requirement of Section 5.8 of this Agreement.

2. Membership

The initial members of the Steering Committee will be those individuals named in Section 5.13 of this Agreement. A Party may remove or replace its representative from time to time in accordance with Section 5.13.

3. Scope and Purpose

The Steering Committee is empowered to make the Major Decisions, resolve Deadlocks of the Project Committee, provide strategic guidance and support to the Project, monitoring the scope, time and budget parameters, providing Approvals of the Steering Committee in accordance with this Agreement and the Development Management Agreement and ensuring that the Project approved by the Board of CSERELP's general partner and Council is what will ultimately be achieved.

4. Guiding Principles

The Steering Committee will use the following guiding principles in order to realize the Parties' vision for the Project:

- (a) timely decision-making (in accordance with Section 2.3), adherence to the Project timetable, and cost-control within the Approved Project Budget;
- (b) working collaboratively in a spirit of respect and true partnership to advance the Project and ensure the success of the Project; and
- (c) making use of all available information sources and adhering to best practices in order to provide informed direction to the Project.

5. Roles and Responsibilities

The Steering Committee is responsible for ensuring the performance of its respective responsibilities as described in this Agreement without delay and continually reviewing and responding to any concerns raised by The City or CSERELP, or both, as a result of risk analysis, planning or otherwise in respect of the Project

6. Steering Committee Meetings

- (a) The Steering Committee will meet a minimum of one time per month and special meetings of the Steering Committee will be called as required to address time-sensitive matters. The schedule of the monthly Steering Committee meetings dates will be set six (6) months in advance or as may otherwise be determined by the Steering Committee. A representative of the Development

Manager shall be entitled to be present at every meeting, but such representative shall not be entitled to vote. Steering Committee meetings will be held in person at a location to be determined by the Steering Committee, provided that attendance by phone or other means of electronic communication will be permitted as set out below in paragraph (c) of this Schedule. In order to convene a meeting of the Steering Committee, The City Steering Committee member and CSERELP Steering Committee member are required to be in attendance. Alternate Steering Committee members may attend all Steering Committee meetings but shall not be entitled to vote thereat unless the primary member appointed by the Party which appointed the alternate member is not present at the meeting, in which event the alternate member may vote in the place and stead of such primary member.

- (b) The City Steering Committee member and CSERELP Steering Committee member shall constitute a quorum for the transaction of business at any meeting of the Steering Committee. If, within thirty (30) minutes (or such longer period of time as agreed by The City Steering Committee member and CSERELP Steering Committee member) after the time fixed for holding a meeting, a quorum for the transaction of business at the meeting is not in attendance, then the voting on any Major Decision or other matter requiring Approval of the Steering Committee shall be cancelled or adjourned for at least five (5) Business Days with a notice of an adjourned meeting to be given to all members of the Steering Committee. Notice of an adjourned meeting shall be given in the same manner as set out in below in Section 7(a) of this Schedule, including specifying in reasonable detail the business to be considered at the adjourned meeting. If, within thirty (30) minutes (or such longer period of time as agreed by The City Steering Committee member or CSERELP Steering Committee member who is present) after the time fixed for holding the adjourned meeting, a quorum for the transaction of business at the meeting is not in attendance, such meeting may be adjourned for a second time according to the same procedure as for the first adjournment, but the member(s) of the Steering Committee present at the second adjourned meeting shall form the quorum and may transact business and make all the decisions for which the meeting was convened, provided that such decisions arise from business specified in the notice of the second adjourned meeting.
- (c) A meeting of the Steering Committee may be held by means of conference telephone or other communications equipment by which all members participating are able to hear each other and able to review materials prepared by the Development Manager and/or Project Representatives (as defined in the Development Management Agreement) and all members so participating shall be deemed to be present in person at such meeting and the meeting shall be deemed to have been held at the place set out in the notice of such meeting. A member of the Steering Committee may participate in a meeting of the Steering Committee by means of a telephone or other communication facility which permits all persons participating in the meeting to hear each other, and a member participating in such a meeting by such means is deemed to be present at the meeting.
- (d) The rules and procedures for the conduct of meetings of the Steering Committee not prescribed herein will be determined by the members of the Steering Committee.

- (e) Requirements for additional attendees, for the purpose of making presentations or to provide additional information to support informed decision-making will be at the Steering Committee's discretion.

7. Steering Committee Administration

- (a) For regularly scheduled meetings of the Steering Committee, the Development Manager will circulate to Steering Committee members and supporting representatives, the following documents not less than five (5) Business Days prior to the applicable Steering Committee meeting:
 - (i) the meeting agenda;
 - (ii) the minutes from the previous meeting;
 - (iii) the monthly written status report advising on progress against key milestones in accordance with the reporting requirements set out in the Development Management Agreement or any update thereto in the event that it is a supplemental meeting; and
 - (iv) to the extent known, matters to be addressed at the next scheduled Steering Committee meeting.
- (b) Items of urgent business can be added to the Agenda by any attendee for any meeting, as required.
- (c) Special meetings of the Steering Committee can be called at any time as long as all members are present for the purposes of timely decision-making. Major Decisions and discussions of all special meetings will be recorded and distributed with the minutes of the regularly scheduled meetings.
- (d) The Steering Committee will, where appropriate, cause the Development Manager to develop minutes from each Steering Committee meeting, together with instruments evidencing all written resolutions of the Steering Committee, which will create a permanent record of decisions and action items. A copy of such minutes and instruments will be sent to each member of the Steering Committee upon request to the Development Manager. Any failure to send minutes of a meeting to each member of the Steering Committee within the aforesaid period shall not affect the validity of any decision made at the meeting.

Schedule C-2
PROJECT COMMITTEE TERMS OF REFERENCE

1. Project Committee Authorizing Framework and Definition

The requirement to establish a Project Committee is a requirement of Section 5.9 of this Agreement.

2. Membership

The initial members of the Project Committee will be those individuals named in Section 5.14 of this Agreement. A Party may remove or replace its representative from time to time in accordance with Section 5.14.

3. Scope and Purpose

The Project Committee is empowered to make the Decisions and provide Approvals of the Project Committee in accordance with this Agreement and the Development Management Agreement and ensuring that the Project approved by the Board of CSERELP's general partner and Council is what will ultimately be achieved.

4. Guiding Principles

The Project Committee will use the following guiding principles in order to realize the Parties' vision for the Project:

- (a) timely decision-making (in accordance with Section 2.3);
- (b) working collaboratively in a spirit of respect and true partnership to advance the Project and ensure the success of the Project; and
- (c) making use of all available information sources and adhering to best practices in order to provide informed direction to the Project.

5. Roles and Responsibilities

The Project Committee is responsible for ensuring the performance of its respective responsibilities as described in this Agreement and in the Development Management Agreement without delay and continually reviewing and responding to any concerns raised by The City or CSERELP, or both, as a result of risk analysis, planning or otherwise in respect of the Project

6. Project Committee Meetings

- (a) The Project Committee will meet a minimum of one time per week and special meetings of the Project Committee will be called as required to address time-sensitive matters. The schedule of the weekly Project Committee meetings dates will be set one month in advance or as may otherwise be determined by the Project Committee. A representative of the Development Manager shall be entitled to be present at every meeting, but such representative shall not be entitled to vote. Project Committee meetings will be held in person at a location to be determined by the Project Committee, provided that attendance by phone

or other means of electronic communication will be permitted as set out below in paragraph 6(c) of this Schedule. In order to convene a meeting of the Project Committee, at least one member of the Project Committee appointed by each of The City and CSERELP are required to be in attendance. Alternate Project Committee members may attend all Project Committee meetings but shall not be entitled to vote thereat unless a primary member appointed by the Party which appointed the alternate member is not present at the meeting, in which event the alternate member may vote in the place and stead of such primary member.

- (b) The presence of at least one member of the Project Committee appointed by each of The City and CSERELP shall constitute a quorum for the transaction of business at any meeting of the Project Committee. If, within thirty (30) minutes (or such longer period of time as agreed by The City Project Committee members and CSERELP Project Committee members) after the time fixed for holding a meeting, a quorum for the transaction of business at the meeting is not in attendance, then the voting on any Decision shall be cancelled or adjourned for at least one Business Day with a notice of an adjourned meeting to be given to all members of the Project Committee. Notice of an adjourned meeting shall be given in the same manner as set out in below in Section 7(a) of this Schedule, including specifying in reasonable detail the business to be considered at the adjourned meeting. If, within thirty (30) minutes (or such longer period of time as agreed by The City Project Committee member or members and CSERELP Project Committee member or members who are present) after the time fixed for holding the adjourned meeting, a quorum for the transaction of business at the meeting is not in attendance, such meeting may be adjourned for a second time according to the same procedure as for the first adjournment, but the member(s) of the Project Committee present at the second adjourned meeting shall form the quorum and may transact business and make all the decisions for which the meeting was convened, provided that such decisions arise from business specified in the notice of the second adjourned meeting.
- (c) A meeting of the Project Committee may be held by means of conference telephone or other communications equipment by which all members participating are able to hear each other and able to review materials prepared by the Development Manager and/or Project Representatives (as defined in the Development Management Agreement) and all members so participating shall be deemed to be present in person at such meeting and the meeting shall be deemed to have been held at the place set out in the notice of such meeting. A member of the Project Committee may participate in a meeting of the Project Committee by means of a telephone or other communication facility which permits all persons participating in the meeting to hear each other, and a member participating in such a meeting by such means is deemed to be present at the meeting.
- (d) The rules and procedures for the conduct of meetings of the Project Committee not prescribed herein will be determined by the members of the Project Committee.
- (e) Requirements for additional attendees, for the purpose of making presentations or to provide additional information to support informed decision-making will be at the Project Committee's discretion.

7. Project Committee Administration

- (a) For regularly scheduled meetings of the Project Committee, the Development Manager will circulate to Project Committee members and supporting representatives, the following documents not less than one Business Day prior to the applicable Project Committee meeting:
 - (i) the meeting agenda;
 - (ii) the minutes from the previous meeting;
 - (iii) if not already provided, the most recent monthly written status report advising on progress against key milestones in accordance with the reporting requirements set out in the Development Management Agreement; and
 - (iv) to the extent known, matters to be addressed at the next scheduled Project Committee meeting.
- (b) Items of urgent business can be added to the Agenda by any attendee for any meeting, as required.
- (c) Special meetings of the Project Committee can be called at any time as long as all members are present for the purposes of timely decision-making. Decisions and discussions of all special meetings will be recorded and distributed with the minutes of the regularly scheduled meetings.
- (d) The Project Committee will, where appropriate, cause the Development Manager to develop minutes from each Project Committee meeting, together with instruments evidencing all written resolutions of the Project Committee, which will create a permanent record of decisions and action items. A copy of such minutes and instruments will be sent to each member of the Project Committee upon request to the Development Manager. Any failure to send minutes of a meeting to each member of the Project Committee within the aforesaid period shall not affect the validity of any decision made at the meeting.

SCHEDULE D
DISTRICT BENEFITS AND OFF-SITE INFRASTRUCTURE

1. **6th Street SE Underpass:** An underpass on 6th Street between 9th Ave and 11th Ave including 4 lanes total with lane reversal, and with the 4-lane configuration extending south to 12th Ave. For greater clarity, this includes the required temporary and permanent infrastructure, utility relocation, flood resilience, environmental cleanup of the land and acquisition of lands to effect the construction of such underpass and a corresponding transfer of lands from the Province to The City.
2. **5th St SE Relocation:** Relocation of 5th Street to a new location east of the Civic Parcel providing a minimum 3-lane cross section with lane reversal.
3. **4th St SE Improvements:** Improvements to 4th Street to add lane reversal to the 3-lane cross section.
4. **14th Ave SE Improvements:** Improvements to 14th Avenue between 4th St and 5th Street to provide a 4-lane cross section.
5. **17th Ave SE Lane Reversal:** Improvements to the area east of Macleod Trail SE at 17th Avenue to provide a 3-lane cross section with lane reversal.
6. **25th Ave SE Connector:** Improvements to lighting and wayfinding between Agricultural Trail SE and 25th Avenue SE.
7. **Site remediation.**
8. **Off-site utilities** including installation of storm and water infrastructure within the relocated 5th St to connect to the existing network.

SCHEDULE E
CITY POLICIES

Investing in Partnerships Policy (CP2017-01)

Plaque Policy (CC014)

Calgary Corporate Accessibility Policy (CSP5003)

Public Use Policy (CSPS031)

Sustainable Building Policy (CP2021-02)

Design Guidelines for City of Calgary Funded Buildings

Corporate Public Art Policy (CP2023-03)

Public Value Through Procurement (CP2021-05)