

**Section 5.5 Profit Sharing; Application of Net Cash Flow.**

(a) The City and the Manager agree that if, as of the last day of each Fiscal Year after the date of this Agreement and prior to the satisfaction and full payment of the Bonds, there is Net Cash Flow (as defined in paragraph (e) below) from the operation of the Arena, then City and Manager agree that such Net Cash Flow shall be allocated and paid in the following order:

(i) First, to fund the All Prior Fiscal Years' Six Million Dollar Amortization Payment Cash Flow Deficiency (as hereinafter defined), with such All Prior Fiscal Years' Six Million Dollar Amortization Payment Cash Flow Deficiency to be paid eighty percent (80%) to City and twenty percent (20%) to Manager.

(ii) Second, the next Three Hundred Forty-Six Thousand Nine Hundred Eighty and 59/100 Dollars (\$346,980.59) of Net Cash Flow shall be paid eighty percent (80%) to City and twenty percent (20%) to Manager to repay to City and Manager six million dollars of the funds advanced by City and Manager (the "Six Million Dollar Advance") to fund a portion of the amount by which the cost of the Arena exceeded Two Hundred Fifty Million Dollars (\$250,000,000.00), and if in any Fiscal Year the amount of Net Cash Flow (after payment of the amounts in Section 5.5(a)(i) above) is less than Three Hundred Forty-Six Thousand Nine Hundred Eighty and 59/100 Dollars (\$346,980.59), then the amount of such deficiency (the "Fiscal Year Six Million Dollar Amortization Payment Cash Flow Deficiency") shall be cumulated with the Fiscal Year Six Million Dollar Amortization Payment Cash Flow Deficiency for any prior Fiscal Year then unpaid, and the aggregate amount of the unpaid Fiscal Year Six Million Dollar Amortization Payment Cash Flow Deficiency for all Fiscal Years prior to and including the Fiscal Year in question is hereinafter referred to as the "All Prior Fiscal Years' Six Million Dollar Amortization Payment Cash Flow Deficiency." In determining the amount of the All Prior Fiscal Years' Six Million Dollar Amortization Payment Cash Flow Deficiency, each Fiscal Year Six Million Dollar Amortization Payment Cash Flow Deficiency, to the extent not fully paid, shall accrue interest at the rate of four percent (4%) per annum.

(iii) Third, to fund the All Prior Fiscal Years' Fifty Million Dollar Amortization Payment Cash Flow Deficiency (as hereinafter defined), with such All Prior Fiscal Years' Fifty Million Dollar Amortization Payment Cash Flow Deficiency to be paid to Manager.

(iv) Fourth, the next Six Million Six Hundred Ninety-Three Thousand Nine Hundred Thirty-Nine and 00/100 Dollars (\$6,693,939.00) of Net Cash Flow shall be paid to Manager to repay to Manager Fifty Million Dollars of Manager's investment in the Arena with interest at twelve percent (12%) per annum, and if in any Fiscal Year the amount of Net Cash Flow (after payment of the amounts in Section 5.5(a)(i), Section 5.5(a)(ii) and Section 5.5(a)(iii) above) is less than Six Million Six Hundred Ninety-Three Thousand Nine Hundred Thirty-Nine and 00/100 Dollars (\$6,693,939.00), then the amount of such deficiency (the "Fiscal Year Fifty Million Dollar Amortization Payment Cash Flow Deficiency") shall be cumulated with the Fiscal Year Fifty Million Dollar Amortization Payment Cash Flow Deficiency for any prior Fiscal Year then unpaid, and the aggregate amount of the unpaid Fiscal Year Fifty Million Dollar Amortization Payment Cash Flow Deficiency for all Fiscal Years prior to and including the Fiscal Year in question is hereinafter referred to as the "All Prior Fiscal Years' Fifty

**Million Dollar Amortization Payment Cash Flow Deficiency."** In determining the amount of the All Prior Fiscal Years' Fifty Million Dollar Amortization Payment Cash Flow Deficiency, each Fiscal Year Fifty Million Dollar Amortization Payment Cash Flow Deficiency, to the extent not fully paid, shall accrue interest at the rate of twelve percent (12%) per annum. Payments under this Section 5.5(a)(iv) shall continue in each Fiscal Year until the amounts paid to Manager under Section 5.5(a)(iii) and Section 5.5(a)(iv) are sufficient to amortize the sum of fifty million dollars with interest thereon at the rate of twelve percent (12%) per annum.

(v) Fifth, all remaining Net Cash Flow in any Fiscal Year shall be paid eighty percent (80%) to City and twenty percent (20%) to Manager to repay to City and Manager Ten Million One Hundred Eight Thousand Dollars of the funds advanced by City and Manager (the "10.108 Million Dollar Advance") to fund a portion of the amount by which the cost of the Arena exceeded Two Hundred Fifty Million Dollars (\$250,000,000.00), with interest thereon at the rate of four percent (4%) per annum until such 10.108 Million Dollar Advance is paid in full with interest.

(vi) Sixth, after the 10.108 Million Dollar Advance is paid in full, any remaining Net Cash Flow in any Fiscal Year shall be applied to repay in full without interest, the private funds (debt and equity) invested in the development of the Arena from time to time by Manager, specifically including without limitation the Developer Contribution (as defined in the Development Agreement), plus any prior operating losses funded by Manager, net of any amounts paid to Manager as cost savings in accordance with the Development Agreement (the "Private Investment"), less any amounts previously repaid to Manager pursuant to Section 5.5(a)(i), Section 5.5(a)(ii) and Section 5.5(a)(v).

(vii) Seventh, after full payment of the amounts under Section 5.5(a)(i) - Section 5.5(a)(vi) above, any remaining Net Cash Flow in any Fiscal Year shall be applied to generate a cumulative 16% annual return upon the Private Investment for the then-current and all prior Fiscal Years, less any interest amounts paid to Manager under Section 5.5(a)(i), Section 5.5(a)(ii), Section 5.5(a)(v) and Section 5.5(a)(vi). For purposes of this Section 5.5(a), the cumulative 16% annual return shall be calculated upon advances of the Private Investment as made from time to time from and after March 17, 2005, and all amounts of the Private Investment shall be deemed to be fully made and advanced, and the cumulative 16% annual return upon the entire amount of the Private Investment, upon April 1, 2006.

(viii) Eighth, after full payment of the amounts under Section 5.5(a)(i) - Section 5.5(a)(vii) above, any remaining Net Cash Flow in any Fiscal Year shall be deposited into the Capital Reserve Fund until the sum of \$3,000,000 is on deposit therein.

(ix) Ninth, after full payment of the amounts under Section 5.5(a)(i) - Section 5.5(a)(viii) above, any remaining Net Cash Flow in any Fiscal Year shall be paid fifty percent (50%) to the City and fifty percent (50%) to the Manager.

(b) The Manager shall submit annually a complete written financial statement (the "Annual Financial Statement") to a private financial advisor selected by the City (the "City's Financial Advisor") in a format mutually acceptable to the City and

the Manager showing in such reasonable detail, as the City may reasonably require, the calculation of actual earnings from the operations of the Arena that have been initiated to that date, and the Net Cash Flow. Such Annual Financial Statement shall include all income attributable to the Arena and its operations and shall include all Operating Expenses. Each Annual Financial Statement shall be certified by Manager's Chief Financial Officer and shall be accompanied by any payment required under this section.

The Manager shall provide an Annual Financial Statement within one hundred twenty (120) days after the end of each Fiscal Year following the Operations Start Date. The City hereby agrees that the City's Financial Advisor shall review all information and the Annual Financial Statement provided by the Manager as a private advisor to determine the Manager's compliance with the requirements of this Section 5.5, and that the City hereby agrees that it will cause the City's Financial Advisor to (i) not deliver copies of such information or any Annual Financial Statement to the City or any employee or officer of the City, (ii) retain all such information and each Annual Financial Statement as confidential information, using the same level of care as the City's Financial Advisor uses with respect to its own confidential information and materials, and (iii) not disclose such information or any Annual Financial Statement except to the extent ordered to do so by a court of competent jurisdiction (in the event any such order is received by the City's Financial Advisor, the City will cause the City's Financial Advisor to notify the Manager immediately and to permit the Manager, at its option, to defend, at the Manager's expense and with counsel selected by the Manager, to seek to stay enforcement of such order or to cause such order to be vacated or overturned).

(c) Upon thirty (30) days prior written notice, given to Manager by City's Financial Advisor within ninety (90) days after the delivery of the Annual Financial Statement to the City's Financial Advisor, City's Financial Advisor may, at the direction of the City, cause an audit (the "Audit") of the Annual Financial Statement and the calculations referred to herein, such Audit to be made at the sole cost and expense of City by the City's Financial Advisor or by a private third party firm of certified public accountants. No such Audit may be made by the City's staff. City hereby agrees that, except as otherwise provided in this Section 5.5, it will cause the City's Financial Advisor to (i) not deliver copies of the report of such Audit to the City or any employee or officer of the City, (ii) retain the report of such Audit as confidential information, using the same level of care as the City's Financial Advisor uses with respect to its own confidential information and materials, and (iii) not disclose the report of such Audit or any information set forth in the report of such Audit except to the extent ordered to do so by a court of competent jurisdiction (in the event any such order is received by the City's Financial Advisor, the City will cause the City's Financial Advisor to notify the Manager immediately and to permit the Manager, at its option, to defend, at the Manager's expense and with counsel selected by the Manager, to seek to stay enforcement of such order or to cause such order to be vacated or overturned).

(d) If, as a result of any such Audit, the City's Financial Advisor believes that the Manager owes the City more money than has been remitted by the Manager as heretofore described, then the City's Financial Advisor shall inform Manager of its position in writing along with providing reasonable details of the position of the City's Financial Advisor. If City's Financial Advisor and Manager are unable to resolve

such dispute, then the dispute shall be submitted to Arbitration, in which event City's Financial Advisor shall have the right to disclose the report of such Audit and the Annual Financial Statement to the arbitrator in such Arbitration, subject to such arbitrator's agreement to comply with the requirements of this Section 5.5 with respect to maintaining the confidentiality of such Annual Financial Statement and/or the report of such Audit..

(e) For purposes of this Section 5.5, the term "Net Cash Flow" shall mean the net operating income from the Arena for the period in question, determined in accordance with GAAP consistently applied.