

MANSFIELD STARCENTER LEASE AND OPERATING AGREEMENT

This Lease and Operating Agreement (the “Lease” or “Lease Agreement”) is entered into as of the _____ day of _____, 2016 (the “Effective Date”), by and between the City of Mansfield (“Landlord” or “City”), and DSE Hockey Centers, L.P., a Delaware limited partnership (“Tenant”) (Landlord/City and Tenant may sometimes hereafter be referred to collectively as the “Parties”).

ARTICLE 1. DEFINITIONS

“Additional Security” has the meaning set forth in Section 4.5.

“Annual Rent” has the meaning set forth in Section 4.4.

“Approved Subleases” has the meaning set forth in Section 13.2.

“Affiliate” means any person directly controlling or controlled by Tenant, or any person controlling or controlled by the same person who is controlling or is controlled by Tenant. As used in this definition, the term “control” means, ownership or the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities, by contract or otherwise. Tenant shall disclose to the City any such persons that Tenant reasonably anticipates to be Affiliates upon execution of this Agreement. If new persons become Affiliates that were not anticipated Affiliates at the time of execution, Tenant shall disclose the identity of such new Affiliates to the City in a commercially reasonable amount of time.

“Alterations” has the meaning set forth in Section 11.2.

“Available Marquee Time” has the meaning set forth in Section 7.2.

“Bankruptcy Code” has the meaning set forth in Section 17.23.

“Capital Expenditures” shall have the meaning set forth in Section 11.6.

“City” means the City of Mansfield, Texas, a municipal corporation of the State of Texas and a home rule city and its successors and assigns.

“Collateral” has the meaning set forth in Section 15.3.

“Common Area” means and includes the areas of the Leased Premises located on the exterior of the Facility, including, without limitation, any common roadways, service areas, driveways, areas of ingress and egress, sidewalks and other pedestrian ways, private drives, landscaped areas, landscaped public rights-of-way and utility systems, but such term shall not include the Facility or the Parking Area.

“Dallas Stars” means the Dallas Stars, a member team of the NHL, including any successor of said hockey team and the franchise in the NHL relating thereto. The Dallas Stars are an Affiliate of Tenant.

“Development Agreement” means the Development Agreement for Mansfield StarCenter Sports Facility and Related Improvements, executed by the Parties on _____.

“Environmental Laws” has the meaning set forth in Section 8.2.

“Event of Default” has the meaning set forth in Section 15.1.

“Exhibit Amendment” has the meaning set forth in Section 17.7.

“Facility” means an indoor skating rink and sports facility located on the Land, owned by the Landlord with 77,500 – 82,500 gross square feet constructed with first-class quality, similar to look and finishes and materials as the Dr Pepper StarCenter McKinney at Craig Ranch, located at 6993 Stars Ave, McKinney, TX 75070, and providing at a minimum the following: (i) two (2) ice surfaces, each two-hundred (200) feet long by eighty-five (85) feet wide with accompanying locker rooms, (ii) programming space, (iii) viewing area, (iv) party and meeting rooms, (v) retail spaces for a concession area, bar and/or retail store and (vi) other amenities which are mutually agreed to by the City and Tenant, and publicly referred to as a StarCenter.

“FF&E” means the movable furniture, fixtures and equipment that have no permanent connection to the Facility and that are to be used to operate the Facility.

“Governmental Regulations” means all laws, ordinances, rules, regulations, statutes, and building codes of all governmental authorities having jurisdiction over the Leased Premises or Tenant’s use thereof, including, without limitation, all health, environmental and regulatory requirements, whether currently in effect or hereafter enacted.

“Hazardous Materials” has the meaning set forth in Section 8.2.

“Improvements” means the Facility, the Parking Area and all Capital Expenditures and infrastructure improvements from time to time constructed, installed, or situated on the Land that are necessary for the operation of the Facility and which exclusively serve the Facility, including, without limitation, water or sewer facility, and any renovations to or replacements of any of the foregoing.

“Invited Guests” means suppliers, employees, agents, customers, contractors, guests, subtenants, licensees and concessionaires.

“Land” means that certain real property owned by Landlord situated in the City of Mansfield, Tarrant County, Texas, being more particularly described on Exhibit “A” attached hereto.

“Landlord Entity” means Landlord or any governmental body, agency or political subdivision to whom Landlord’s power to levy, assess or collect ad valorem taxes is transferred by law or contract.

“Landlord’s Security” has the meaning set forth in Section 6.7.

“Lease Term” has the meaning set forth in Section 3.1.

“Lease Termination Date” shall have the meaning set forth in Section 3.1.

“Leased Premises” means the Land, the Improvements and the FF&E, and all rights, privileges, easements, and appurtenances belonging to or in any way appertaining to the Improvements.

“Leasehold Mortgage” means any mortgage, deed of trust or other instrument in the nature thereof which encumbers any of Tenant’s rights, titles and interests in and to use the Leased Premises,

including, without limiting the generality of the foregoing, its right to use and occupy the Leased Premises and all of its rights, titles and interests in and to any and all Improvements.

“Leasehold Mortgage” means any mortgagee, trust or anyone that claims an interest by, through or under a Leasehold Mortgage.

“Likenesses” has the meaning set forth in Section 5.3(e).

“Marquee” means a permanent, 2-sided digital billboard controlled by Landlord in the immediate vicinity of the Land but fronting or immediately visible to traffic on State Highway 287 where it intersects Broad Street in the City of Mansfield, Texas, which operates 24 hours per day, 365 days per year during the Lease Term and is designed in accordance with up to date industry standards for similar marquees that have been constructed within 24 months from the Effective Date and which has a minimum of 400 square feet of digital display area on each side and contains the name of the StarCenter in accordance with Section 5.3(c) in a permanent, fixed position.

“Monthly Rent” shall mean the amounts set forth in the table in Section 4.4.

“Mortgaged Premises” means all of Tenant's leasehold estate under this Lease covered by a Leasehold Mortgage as applicable.

“NHL” means the National Hockey League.

“Occupation Date” shall mean the first day on which Landlord grants Tenant the right to begin operating the Leased Premises as provided for in this Lease Agreement, which shall be subsequent to the issuance of a Certificate of Occupancy for the Facility and the functional readiness of materially all FF&E and ice-making capability.

“Operational Term” has the meaning set forth in Section 3.2.

“Parking Area” means the parking lot and any structures built on the Land which will serve as the primary parking area for the Facility.

“Prepaid Rent” has the meaning set forth in Section 4.3.

“Qualified Bank” has the meaning set forth in Section 12.1(b).

“Rent Commencement Date” has the meaning set forth in Section 3.2.

“Security Deposit” has the meaning set forth in Section 4.2.

“Shared Parking” has the meaning set forth in Section 5.5.

“StarCenters” means those recreational ice skating facilities (including various other amenities) in the municipalities of McKinney, Euless, Farmers Branch, Plano, Richardson and Frisco, Texas owned and operated or leased and operated by Tenant and similar in structure and operation to the Facility.

“Subtenant” means any person or entity to whom or to which Tenant grants or licenses any rights to occupy, use, operate, manage, provide services in, or sell products within the Leased Premises.

“Taxes” has the meaning set forth in Section 9.1.

“Unavoidable Delay” shall have the meaning set forth in Section 17.17.

ARTICLE 2. **LEASED PREMISES**

Section 2.1. Leased Premises. In consideration of the obligation of Tenant to pay Prepaid Rent and Annual Rent as herein provided in Article 4 and in consideration of the other terms, covenants and conditions hereof, Landlord hereby demises and leases to Tenant, and Tenant hereby takes from Landlord, the Leased Premises TO HAVE AND TO HOLD said Leased Premises for the term of this Lease, all upon the terms and conditions set forth in this Lease.

ARTICLE 3. **TERM**

Section 3.1. Lease Term. This Lease will continue in force during a period beginning on the Effective Date of this Lease and ending on June 30, 2047 (the **“Lease Termination Date”**), unless this Lease is terminated early pursuant to the terms of this Lease (the **“Lease Term”**).

Section 3.2. Operational Term. The Operational Term will commence on the Occupation Date and expire on the Lease Termination Date (the **“Operational Term”**). All rights and obligations of Tenant with respect to the Leased Premises as defined herein, excluding payment of the Security Deposit and Prepaid Rent and Tenant’s agreement to take possession of the Leased Premises (subject to any termination provisions), will accrue beginning on the Occupation Date and continue in full force and effect until Lease Termination Date, subject to earlier termination as provided herein. Payment of the Monthly Rent shall commence on the later of July 1, 2017 or the first day of the month following the Occupation Date (the **“Rent Commencement Date”**) and continue in full force and effect until the Lease Termination Date, subject to earlier termination as provided herein.

ARTICLE 4. **RENT AND DEPOSIT**

Section 4.1. Readiness of the Leased Premises. Other than Prepaid Rent payments as defined in Section 4.3, no rent is due from Tenant prior to the Rent Commencement Date.

Section 4.2. Security Deposit. No later than thirty (30) days after the Effective Date, Tenant shall pay to Landlord the amount of Six Hundred Thousand Dollars (\$600,000.00) (the **“Security Deposit”**). The purpose of the Security Deposit is to secure Tenant’s obligation to take possession of the Leased Premises and to secure Tenant’s performance of the Lease throughout the Lease Term. Landlord shall retain the Security Deposit throughout the Lease Term unless this Lease is terminated earlier for any reason, in which case Landlord shall refund the Security Deposit to Tenant after deducting any amounts that may be due to Landlord from Tenant under the terms of this Lease, including rent. Landlord shall return the Security Deposit to Tenant within thirty (30) days of the Lease Termination Date, less any amounts that may be due to Landlord from Tenant under the terms of this Lease.

Section 4.3. Prepaid Rent. No later than thirty (30) days after the Effective Date, Tenant shall prepay rent to Landlord in the amount of \$1,500,000 (the **“Prepaid Rent”**). Tenant is not entitled to a refund of the Prepaid Rent unless Tenant elects to terminate the Lease in accordance with Section 6.2(b), or in the event the Parties terminate the Development Agreement in accordance with Section 2.7 of the

Development Agreement. Additionally, subject to Sections 6.2(a) and (b) of this Lease and Section 2.7 of the Development Agreement, under no circumstances will the payment of the Prepaid Rent affect Tenant's obligation to pay the Annual Rent.

Section 4.4. Annual Rent. Subject to the terms of Section 6.2, Tenant shall pay to Landlord, on the Rent Commencement Date and on the first day of each calendar month after the Rent Commencement Date for which this Lease is in effect, by wire transfer, check or cash, one-twelfth (1/12) of the Annual Rent (as hereinafter defined), together with any other charges due and payable by Tenant hereunder. Any wire transfer shall be made to the account provided by Landlord to Tenant upon execution of this Lease, unless Landlord notifies Tenant in writing of another account for such wire transfers. Any payment which is not a wire transfer shall be made to Landlord at its address set forth in Section 17.12 unless Landlord notifies Tenant in writing of another place of payment.

The term "**Annual Rent**" shall mean the amount of rent payable by Tenant on an annual basis during the Operational Term, less an annual deduction of the Prepaid Rent applied each year as follows:

Lease Year	Dates	Rent	Less Allocation of Prepaid Rent	Annual Rent	Monthly Rent
1-7	July 1, 2017 – June 30, 2024	\$600,000.00	(\$80,000.00)	\$520,000.00	\$43,333.33
8-13	July 1, 2024- June 30, 2030	\$600,000.00	(\$60,000.00)	\$540,000.00	\$45,000.00
14	July 1, 2030- June 30, 2031	\$640,000.00	(\$80,000.00)	\$560,000.00	\$46,666.67
15-19	July 1, 2031- June 30, 2036	\$660,000.00	(\$100,000.00)	\$560,000.00	\$46,666.67
20-30	July 1, 2036- June 30, 2047	\$660,000.00	\$0	\$660,000.00	\$55,000.00

Section 4.5 Additional Security. No later than thirty (30) days after the Occupation Date, Tenant shall pay to Landlord the amount of Four Hundred Thousand Dollars (\$400,000.00) (the "**Additional Security**"). The Parties acknowledge that in the event Tenant materially breaches this Lease, Landlord will incur considerable expenses in obtaining a new operator for the Facility and developing recreational ice related programs for its citizens. Accordingly, the purpose of the Additional Security is to further secure Tenant's performance of the Lease throughout the initial ten (10) year period of the Lease Term, and to compensate Landlord in the event Tenant materially breaches this Lease. In the event Tenant materially breaches this Lease, Tenant is not entitled to a reimbursement of the Additional Security and Landlord may keep the Additional Security in full. Landlord's retention of the Additional Security will not be affected by any duty of Landlord to mitigate damages or any remedy Landlord pursues under Article 15 of this Lease. If Tenant does not materially breach this Lease, Landlord shall retain the Additional Security for a period not to exceed ten (10) years after the Occupation Date, and shall then refund the Additional Security to Tenant.

Section 4.6 Refunding of Prepaid Rent and Security Deposit. As a point of clarification, Tenant is not entitled to a full refund of the Prepaid Rent or Security Deposit under this Lease unless this Lease is terminated in accordance with Section 6.2(b) of this Lease or in the event the Development Agreement is terminated in accordance with Section 2.7 of the Development Agreement. In the event this Lease is terminated for any other reason, Tenant is entitled to a refund of the Security Deposit, Additional Security, and any unapplied Prepaid Rent, less any amounts that may be due to Landlord from Tenant under the terms of this Lease, including rent.

ARTICLE 5.
USE OF DEMISED PREMISES AND OPERATIONS

Section 5.1. Use. The Leased Premises must be used by Tenant primarily as a public recreational ice skating and fitness facility. The Leased Premises may also be used by Tenant for other purposes and Landlord expressly acknowledges that the Leased Premises may seasonally be converted to other sporting or event uses (i.e. with ice melted during summer months), with the prior written consent of Landlord provided that at all times one ice sheet is maintained for use and that any alternative use of the Leased Premises is limited to public recreational purposes. The Leased Premises shall additionally be used for certain ancillary purposes related to the ice skating rinks, including, without limitation, locker room facilities, concession areas, meeting rooms and classrooms, retail spaces, and a sports medicine/therapy/conditioning center. The Leased Premises may only be used by Tenant as permitted by, and in full and strict compliance with, this Lease and all Governmental Regulations. Landlord represents and warrants that there are no restrictive covenants or other documents applicable to the Land that prohibit the use of the Leased Premises for the purposes contemplated by this Lease. Landlord shall have the right from time-to-time to review the prior twenty-four (24) months' facility scheduling records of Tenant at the Leased Premises in order to ensure that the Leased Premises is being used for the purposes provided in this Section 5.1. Landlord agrees to keep all information reviewed by Landlord relating to Tenant and the Leased Premises strictly confidential and Landlord may not disclose any such information to any third party.

Section 5.2. Limitations on Use.

(a) Tenant shall not, without Landlord's prior written consent, keep anything within the Leased Premises or use the Leased Premises for any purpose which invalidates any insurance policy carried on the Leased Premises as required in Article 10.

(b) Tenant shall not permit any objectionable or unpleasant odors to emanate from the Leased Premises; nor take or permit any other action which would constitute a nuisance. Tenant shall comply with local noise ordinances in the operation of radios, televisions, loudspeakers or amplifiers on the Leased Premises.

(c) Tenant shall keep the interior of the Facility neat, clean and free from dirt or rubbish at all times, reasonable wear and tear excepted. Tenant shall store all trash and garbage within the Leased Premises or in such area outside the Leased Premises as may be designated for such purpose by Landlord and Tenant shall arrange for the regular pickup of such trash and garbage at Tenant's expense. Tenant shall not operate an incinerator or burn trash or garbage.

(d) Use of a part of the Facility for a game room, including pay-for-use video games, pool tables and similar entertainment equipment shall be permitted, provided however, that any form of gambling, lawful or otherwise, shall not be permitted on the Leased Premises. The Leased Premises shall not be used for an adult business as such is defined by the City's ordinances.

Section 5.3. Operational Rights and Obligations.

(a) Subject to the terms and provisions of this Lease, Tenant shall have full and exclusive control of the management and operation of the Leased Premises, including, without limitation, the Facility. Without limiting the generality of the foregoing, Tenant shall own all

revenues of any source generated by or from the Leased Premises or the operation or management or the name thereof.

(b) Subject to all Governmental Regulations, Tenant shall have exclusive authority, control and rights in selecting the name of the Facility, as well as the sponsor or sponsors for which the Facility (or portions thereof) will be named from time to time or for which signage and advertising will be sold within or without the Facility, including, without limitation, the right to retain all proceeds therefrom; provided, however, that: (i) the name of the Facility must include a reference to "Mansfield" or the "City of Mansfield" and under no circumstances will the name given to the Facility include any reference to a proper geographic name, unless such reference is to "Mansfield" or the "City of Mansfield"; and (ii) all sponsors with names reflected in the name of the Facility or displayed externally on the Facility shall be consistent with other StarCenters or be nationally recognized brands, except with prior written City approval.

(c) Notwithstanding anything in Section 5.3(a) or Section 5.3(b) above to the contrary, the name given to the Facility shall not include a reference to or the name of a company that produces or distributes alcoholic beverages or tobacco products or that relates to any subject matter which Landlord finds reasonably objectionable, or would adversely affect the City of Mansfield identity or brand in the reasonable opinion of Landlord. Subject to the foregoing and the limitations in Section 5.3(b) above, Tenant shall have the full and exclusive control and discretion as to the name of the Facility.

(d) Subject to the terms and provisions of this Lease and all Governmental Regulations, Tenant shall have the right to install and shall have the full and exclusive control of any and all advertising signage displayed within the Facility and on the exterior roof or facade thereof; provided, however, the signage on the exterior of the Facility shall not include a reference to or the name of a company that produces or distributes alcoholic beverages or tobacco products or that relates to any reasonably objectionable subject matter.

(e) Tenant shall own all rights, including intellectual property rights, in, to and relating to the Leased Premises, including, without limitation, the Facility, whether now in existence or created in the future, including, without limitation, all copyrights, trademarks, trade names, trade dress and merchandising rights of, in or relating to the Leased Premises and any and all names, logos or other likenesses of the Leased Premises as well as the rights to protect, enforce and license any or all of the foregoing (collectively, the "Likenesses"). In addition, Landlord and its agents and contractors shall have the right to use the Facility name, logo and image in connection with any Landlord-approved or Landlord-sponsored campaign marketing the City of Mansfield, Texas. Under no circumstances shall Landlord have any rights to use any of the copyrights, trademarks, trade names, trade dress and merchandising rights of the NHL or the Dallas Stars.

(f) The Facility is owned by the City as part of the City park system, although the Land has not been designated as parkland by the City Council. As such, Tenant must make the Facility available to the public on a consistent basis. The Facility shall be open and in operation year round, with the exception of major holidays, and in the event of Unavoidable Delay.

(g) Tenant shall employ staffing necessary to maintain the Facility as a first class sports facility and shall attempt, to the extent legally permitted, to recruit and hire City residents.

(h) Not more than two full days per year (unless otherwise approved by Tenant), Tenant shall allow the City use of the Facility (including rental skates) at no cost to the City for

City sponsored events, provided that the City gives Tenant six months' advance notice of the desired City use date to accommodate Tenant's scheduling procedures ("**City Use Date**") and the City use one of its City Use Dates during the summer months (May-August). The City shall coordinate with the Tenant in establishing mutually agreeable dates for its sponsored activities so as not to interfere with Facility planned activities and the City shall pay all reasonable incidental costs associated with the City Use Date. For the purposes of this section, "incidental costs" includes any costs directly arising from City use of the Facility beyond normal operating costs. A City Use Date not used by the City during one lease year of the Term will not carry over into the next year. The City may not assign their right to a City Use Date and in no event shall the City Use Date be used by the City for the City's commercial gain.

(i) The Facility is being constructed to meet the recreational needs of the citizens of the City. City of Mansfield residents will have at least a 3-business day priority registration for all major programs at the Facility (including, but not limited to, hockey leagues, hockey clinics/camps, and ice skating schools) over non-residents.

(j) Tenant shall provide at a minimum 520 hours of public skating time and 364 hours of adult and youth drop-in public hockey time in its operation schedule (on a fee basis).

(k) Tenant will also provide certain initial "trial periods" for youth hockey where Tenant will provide free equipment for the youth and free ice- time in order to promote hockey to Mansfield youth. City residents will have priority to sign up for these trial periods.

(l) Tenant is required to charge fees for the Facility that are consistent with the fees charged at similar municipally-owned recreational ice skating facilities in North Texas, such as the StarCenter McKinney.

Section 5.4. Common Area. Tenant shall have no responsibility for Common Area costs or maintenance. Landlord shall bear responsibility for all Common Area costs and maintenance.

Section 5.5. Parking. This section shall govern the use of the Parking Area as well as the parking spaces separate from but adjacent to the Parking Area and within the plot of land shown in **Exhibit "B"** ("**Shared Parking**").

(a) Throughout the Operational Term, Tenant and its Invited Guests shall have the exclusive right to use the Parking Area.

(b) Landlord warrants that the Parking Area will contain at least 150 parking spaces and the Parking Area will be available free of charge at all times for use by Tenant and its Invited Guests.

(c) The Parking Area will be provided solely for the users of the Facility.

(d) Landlord agrees that Tenant and its Invited Guests will be permitted to park free of charge in up to 100 parking spaces in Shared Parking at all times during the Operational Term. All parking spaces in Shared Parking are non-exclusive on a first-come-first-serve basis, and may be used to accommodate parking for uses or events in the City other than those related to the Facility or Leased Premises. The City will not permit the parking spaces in Shared Parking to be reserved, blockaded or protected by any single user unless in the event of a public emergency nor shall the City permit users to post or construct signage that would deter use of the Shared Parking by Tenant's customers; provided, however that the City may, at its sole discretion have the ability

to temporarily reserve parking as it deems necessary to protect the health, safety, and welfare of the City and its citizens.

(e) Tenant shall have no responsibility for the operating costs, security or maintenance of the Parking Area or Shared Parking.

ARTICLE 6.

OWNERSHIP AND IMPROVEMENTS

Section 6.1. Ownership. The Facility, the Parking Area, the FF&E, and all other Improvements of any nature constructed on the Land, together with any modifications, replacements or substitutions for any of the foregoing, shall be owned by and shall be the property of Landlord throughout the Lease Term, free of any claim of Tenant or any party claiming by, through or under Tenant. Any and all fixtures which are a part of the Improvements shall remain at the Leased Premises unless replaced by Tenant with items of comparable quality, characteristics and value. Landlord will assign to Tenant any and all warranties obtained by Landlord in connection with the Facility and related Improvements.

Section 6.2. Conditions Relating to Readiness of the Leased Premises. Landlord shall deliver the Facility, Parking Area and Shared Parking fully operational for the purpose for which they were designed.

(a) In the event, except due to fault of Tenant, that the Rent Commencement Date falls after July 1, 2017 but before June 30, 2018, (i) Tenant shall be relieved of any obligation to pay Landlord any Annual Rent until the Rent Commencement Date; and (ii) the Monthly Rent due from the Rent Commencement Date through June 30, 2018 shall be reduced according to the following:

Reduced by 10% if the Rent Commencement Date is August 1, 2017;

Reduced by 20% if the Rent Commencement Date is September 1, 2017;

Reduced by 30% if the Rent Commencement Date is October 1, 2017;

Reduced by 50% if the Rent Commencement Date is on or after November 1, 2017 but before June 30, 2018.

Additionally, in the event that any reduction of the Monthly Rent contemplated by this section results in Tenant's total obligation to Landlord for rent prior to June 30, 2018 being less than the amount of Prepaid Rent intended to be allocated to the first year of the Lease, then any portion of Prepaid Rent that is not able to be applied to Year 1 of the Lease shall be applied to Year 2 and the table in Section 4.4 shall be amended accordingly.

(b) In the event, except due to fault of Tenant, that the Rent Commencement Date falls after July 1, 2018, Landlord shall not permit an Occupation Date prior to September 1, 2018 and Tenant shall be entitled to, at Tenant's election: (i) negotiate a new lease agreement with Landlord or (ii) terminate this Lease Agreement with no further obligation to Landlord, except as otherwise provided in this Lease Agreement, at which time Landlord shall refund in full any Prepaid Rent or Security Deposits previously paid by Tenant to Landlord or (iii) continue to follow the terms of this Agreement. The Parties acknowledge that certain elements of the FF&E (which may also be classified as a Capital Expenditures) related to ice-making or finishing

equipment are specialized in nature, have limited vendors, and thus may have unpredictable delivery schedules. Accordingly, the Parties agree that so long as City has placed a timely order for such FF&E after City has entered into the Construction Contract (as that term is defined in the Development Agreement), it shall not be an event of default if the vendor(s) delay delivery of such FF&E, and Tenant may not pursue the remedies listed in subsections (i) or (ii) of this Section 6.2(b) arising from such FF&E delay.

(c) Within thirty (30) days of the determination of the Occupation Date, Landlord shall deliver to Tenant in writing a letter which shall outline and acknowledge the following items as they pertain to this Lease Agreement:

- (i) The Occupation Date,
- (ii) The Rent Commencement Date, and
- (iii) The Operational Term.

Section 6.3. Replacement of FF&E. Tenant may elect to purchase additional FF&E (in addition to that FF&E funded by City in accordance with the Development Agreement) from time to time, at Tenant's sole cost and expense, and any such additional FF&E purchased by Tenant shall be deemed owned by Tenant and may, unless affixed to the Facility, be removed by Tenant upon the expiration or early termination of this Lease. In addition, Tenant may dispose of items of the FF&E that Landlord has purchased, or has contributed in purchasing that have become obsolete or have no useful value. For the disposal of any other FF&E that Landlord has purchased or contributed in purchasing, Tenant shall seek the prior written consent of Landlord and Landlord shall be entitled, but not obligated, to remove such FF&E from the Facility, and to sell or otherwise dispose of such FF&E in such manner and upon such terms as Landlord deems appropriate, in Landlord's sole discretion, and any proceeds therefrom shall be the sole property of Landlord. Notwithstanding anything in this Lease to the contrary, any FF&E Landlord has purchased, or has contributed in purchasing will become and remain the property of Landlord. This section is not applicable to any FF&E which qualifies as a Capital Expenditure.

Section 6.4. Surrender of Premises. Upon the expiration or earlier termination of this Lease, Tenant shall deliver up the Leased Premises, including the Improvements and any remaining items of the FF&E, to Landlord in good condition, reasonable wear and tear excepted. Upon the expiration of this Lease, Tenant may, and at Landlord's request shall, at Tenant's sole cost, remove any and all furniture, trade fixtures, equipment, and other FF&E which (a) is not permanently affixed to the Improvements and (b) was purchased at Tenant's sole cost (expressly excluding any remaining items of the FF&E), title to which shall not be in or pass automatically to Landlord upon such expiration, repairing all damage caused by such removal. Property not so removed shall, unless requested to be removed, be deemed abandoned by Tenant and title to the same shall thereupon pass to Landlord under this Lease as by a bill of sale.

Upon the termination of this Lease, Tenant will execute a release or other recordable instrument, of all Tenant's leasehold interest in the Leased Premises, and Landlord and Tenant shall further execute such other instruments as may be necessary to evidence the termination of this Lease and stating the termination date.

Section 6.5. Tenant's Work. Tenant shall have no right, authority or power to bind Landlord for any claim for labor or material or for any other charge or expense incurred in connection with any construction work done by Tenant on the Leased Premises or any change, alteration or addition thereto, or replacement or substitution therefor, or to render the Landlord's interest in the Leased Premises liable to any lien or right of lien for any labor or material or any other charge or expense incurred in connection therewith, and Tenant shall in no way be considered as the agent of Landlord in the construction or operation of the Improvements or any replacement or substitution therefor.

All work at any time done by Tenant within the Leased Premises during the Operational Term shall be performed in a good and workmanlike manner, in compliance with all Governmental Regulations, and in such manner as to cause a minimum of interference with other construction in progress. Tenant agrees to indemnify Landlord and hold Landlord harmless from and against any loss, liability or damage resulting from Tenant's work, and Tenant shall, if requested by Landlord, furnish bond or other security satisfactory to Landlord against any such loss, liability or damage.

Section 6.6. Permits. Tenant shall obtain the issuance of all permits, licenses and approvals by all public authorities, which are required in order for Tenant to carry on its business upon the Leased Premises.

Section 6.7. Discharge of Liens. Landlord shall deliver the Leased Premises free from any mechanic's, materialman's or other types of liens or lien claims. Tenant shall not permit any mechanic's or materialman's liens to remain against the Leased Premises for work or materials furnished in connection with any services or Improvements to the Leased Premises or the Facility. If any mechanic's, materialman's or other types of liens or lien claims are filed against the whole or any part of the Leased Premises, arising or resulting from actions or omissions by Tenant, then Tenant shall promptly secure their release, or if Tenant wishes to contest any such lien or claim and has a reasonable basis for a contest, Tenant may do so, but only if Tenant furnishes Landlord with surety bonds or escrow funds ("**Landlord's Security**") sufficient in amount to protect Landlord's interest in the Leased Premises and Landlord's and Tenant's interest in this Lease during the pendency of the contest. If Tenant does not secure a lien release or furnish Landlord's Security, such failure shall constitute an Event of Default by Tenant hereunder and, in addition to all other rights and remedies available to Landlord by reason thereof, Landlord may, after thirty (30) days' prior written notice, pay such lien or claim and secure such release, and Tenant shall be obligated to reimburse Landlord for all sums reasonably expended by Landlord in paying such lien or claim and securing such release, including reasonable attorney's fees, plus interest at the highest lawful rate from the date of Landlord's payment until it is reimbursed. Nothing contained in this **Section 6.7**, or elsewhere in this Lease shall be deemed or construed as an authorization by or consent of Landlord to the filing of any mechanic's or materialman's lien against the Land, or against all or any portion of the Leased Premises or any interest therein.

ARTICLE 7.

ADVERTISING AND PROMOTIONS

Section 7.1. Joint Promotions. Landlord and Tenant shall jointly endeavor to attract customers to the Facility throughout the duration of the Operational Term through marketing and promoting the Facility utilizing resources of Landlord and Tenant's and Affiliate's marketing department.

Section 7.2. Marquee. Landlord shall permit the Tenant to use the Marquee to advertise events at the Leased Premises and to promote Tenant's and Affiliates' business and corporate sponsors using a commercially reasonable mix of event and sponsor advertising. In consideration of Tenant's obligation to operate the Facility, Tenant shall retain one hundred percent (100%) of any revenue generated from Tenant's use of the Marquee which is derived from its advertising or sponsorship agreements with third parties.

(a) Landlord shall be responsible for all utility, maintenance, upkeep and other costs of the Marquee and shall ensure that the Marquee, once constructed and completed, is available for use approximately 95% of each day during the Operational Term, hereinafter defined as the "**Available Marquee Time**".

(b) All promotions and advertising displayed on the Marquee shall be: (i) publicly appropriate; and (ii) consistent with industry standards. Further, all promotions and advertising displayed on the Marquee shall be: (i) related to an event held at the Facility or at another location owned or operated by Tenant or its Affiliates, provided Tenant may not advertise any location or event, excepting the American Airlines Center in Dallas, Texas, which would be in direct competition with the Facility or any other City facilities and activities, or (ii) promoting Tenant's or its Affiliates' business and corporate sponsors. Tenant shall review its sponsor categories with Landlord and shall endeavor to sell advertising on the Marquee only to sponsors whose products fall into categories that are acceptable to Landlord. Landlord shall restrict, in its sole discretion, any other contemplated Marquee use that could be deemed harmful to the operation of the Facility or the City of Mansfield.

(c) Tenant shall have the right to utilize up to twenty-five percent (25%) of the Available Marquee Time on the Marquee to promote Tenant events, sponsors and other commercial uses in compliance with section 7.2(b) above. Tenant's use of the Marquee shall be spread equally over the course of the day, including during peak traffic hours. Tenant shall deliver its content to Landlord in a format and timeframe specified by Landlord, who shall then include it in the normal rotation on the Marquee. Upon approval of the content and/or design by Landlord, Tenant shall additionally have the right to properly identify the Facility on suitable bi-directional fixed signage attached to the Marquee. Notwithstanding the foregoing, in the event of an emergency or public calamity, Tenant shall, at Landlord's direction and in Landlord's sole discretion during such emergency or public calamity, forfeit up to 100% of Tenant's available time on the Marquee to convey information Landlord deems necessary to protect and preserve the public health, safety, or welfare.

ARTICLE 8.

COMPLIANCE WITH LAW

Section 8.1. Compliance with Laws.

(a) Tenant shall comply, and shall require any Subtenants of the Leased Premises at all times to comply, at Tenant's and/or Subtenants' sole cost and expense, with (i) any and all Governmental Regulations applicable to the Leased Premises, including, without limitation, those related to the use and occupancy of the Leased Premises, (ii) any Governmental Regulations relating to the design and construction of the Facility, including, without limitation, those related to signage at the Leased Premises, and (iii) all governmental orders for the correction, prevention and abatement of nuisances or other violations of Governmental Regulations on or about the Leased Premises, including, without limitation, any repairs, additions or alterations which are required in connection therewith.

(b) Tenant or approved Subtenants shall procure at their sole expense any permits and licenses required for the transaction of business in the Leased Premises and/or in any way related to the Leased Premises, including, without limitation, any permits required in connection with the sale of alcoholic beverages, if any, at the Facility.

Section 8.2. Environmental Covenants. Tenant shall not, and shall not direct, suffer or permit Subtenants or any of Tenant's or Subtenants' Invited Guests to at any time handle, use, manufacture, store or dispose of, in or about the Leased Premises in violation of Environmental Laws, any flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other

similar substances, petroleum products or derivatives or any substance subject to regulation by or under any Environmental Law, as hereinafter defined (collectively, "**Hazardous Materials**"), nor shall Tenant suffer or permit any Hazardous Materials to be used in or on the Leased Premises and appurtenant land in any manner not fully in compliance with all Environmental Laws or allow the environment to become contaminated with any Hazardous Materials. The term "**Environmental Laws**" shall mean, collectively, any and all federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or wastes, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances. Notwithstanding the foregoing, Tenant and Subtenants may:

(a) subject to Landlord's prior consent, handle, store, use or dispose of products containing small quantities of Hazardous Materials (such as aerosol cans containing insecticides, toner for copiers, paints, paint remover and the like) to the extent customary and necessary for general office use; and

(b) store and use on the Leased Premises such quantities of anhydrous ammonia, gasoline, refrigeration oil, water base house paint, spray paint, mineral spirits, automotive oil, grease, and household cleaning products, as are reasonably necessary in connection with ice rink use or any other Tenant use of the Leased Premises;

provided that Tenant and Subtenants shall always handle, store, use, and dispose of any such Hazardous Materials in a safe and lawful manner and never allow such Hazardous Materials to contaminate the Leased Premises, the appurtenant land, or the environment in violation of Environmental Laws. Tenant shall protect, defend, indemnify and hold Landlord harmless from and against any and all loss, claims, liability or costs (including court costs and reasonable attorney's fees) incurred by reason of any actual or asserted failure of Tenant or Subtenants to fully comply with all applicable Environmental Laws, or by reason of any actual or asserted failure of Tenant or Subtenants to keep, observe, or perform any provision of this Section 8.2. Notwithstanding anything to the contrary contained herein, Tenant shall have no liability to Landlord for (a) any Hazardous Materials which are located at the Leased Premises prior to Tenant taking possession of the Leased Premises and which have not been placed at the Leased Premises by Tenant, Subtenants, or Tenant's or Subtenants' agents, employees or contractors, (b) any Hazardous Materials which are placed or disposed of in or about the Leased Premises by Landlord, its employees, agents, or contractors; or (c) any Hazardous Materials which are released underground or into the groundwater by parties other than Tenant, Subtenants, or Tenant's or Subtenants' agents, employees or contractors; provided, however, that Tenant shall give immediate written notice to Landlord upon becoming aware of any such actual or alleged contamination, and shall cooperate with Landlord in Landlord's investigation and/or cleanup thereof.

ARTICLE 9.

TAXES

Section 9.1. Assumptions Regarding Taxes. Landlord and Tenant acknowledge that the Leased Premises, and Tenant's leasehold interest in the Lease, (excluding in certain circumstances Tenant's Improvements therein) are intended to be exempt from property taxes ("**Taxes**"), and it is the intention of the Parties that during the Lease Term such exemption shall continue and Tenant shall not incur any Taxes relating to the Leased Premises or Tenant's leasehold interest in the Lease (excluding in certain circumstances Taxes on Tenant's Improvements or personal business property owned by Tenant, which the Parties acknowledge may be subject to taxation). Landlord, at the request of Tenant, agrees to jointly take and pursue such lawful actions with Tenant, including, if necessary, judicial actions, as may be available, to challenge the levy, assessment or collection of such Taxes. In the event that Taxes are subsequently imposed upon the Leased Premises or Tenant's leasehold interest in the Lease (other than

such Taxes pertaining to Tenant's Improvements or business personal property), the parties hereto agree, at Tenant's election, to engage in negotiations, to restructure the Lease and/or permit Tenant's assignment of its interest in the Lease. The Parties recognize and acknowledge that at the time this Lease is executed no Party to this Lease believes Taxes will be assessed against the Leased Premises. The Parties recognize that the decision to impose Taxes available upon the Leased Premises lies with entities outside the control of either Party and may occur without the consent of the Parties. The imposition of Taxes on the Leased Premises will affect and impact the economic interest of each Party in a way that may require the renegotiation of the Lease terms. The Parties recognize that in order to address such a change in the Lease arrangement, the following factors will need to be considered in arriving at a new agreement: (a) what actions that can be undertaken by the Parties to preserve or reestablish the exempt status of the Leased Premises for property tax purposes, (b) to the extent possible, to provide the reasonably equivalent economic benefit to Tenant that Tenant would have received during the Lease Term if no Taxes were imposed upon the Leased Premises during the Lease Term, and (c) the agreement must maintain the City's ability to service any remaining debt incurred related to the Leased Premises. In such circumstances, the Parties shall each engage in good faith negotiations to seek to restructure the terms and conditions of the Lease to reach and maintain a reasonably equivalent economic benefit to the Tenant and maintain a sound economic structure of the Lease for the benefit of the Landlord.

Section 9.2. Payment of Taxes. If, for any reason, the Leased Premises or interest of Landlord or Tenant in and to any of the Leased Premises should no longer be exempt from Taxes by reason of a change of law, then Tenant shall, to the extent required by Landlord, pay such Taxes before they become delinquent, subject to Tenant's right of contest and the Parties' obligation to negotiate to restructure the Lease as provided in Section 9.1 hereof (and provided that the City shall rebate to the Tenant any City imposed Taxes paid by Tenant, and Tenant shall be entitled to offset from the next payment of Annual Rent due any City Taxes owed to Tenant that remains unreimbursed on the date of the next required payment of any Annual Rent payment).

Section 9.3. Standing. If Tenant determines that it lacks standing to contest any Taxes imposed by a governmental authority or to obtain an extended payment period for any such Taxes, Landlord (to the maximum extent allowed by law) shall join in such contest or otherwise provide Tenant with sufficient authority to obtain such standing.

ARTICLE 10. **TENANT'S INSURANCE**

Section 10.1 Liability Insurance. Tenant agrees, at its sole expense, commencing as of the Occupation Date, to obtain and maintain public liability insurance at all times during the Lease Term with reputable insurance companies authorized to transact business in the State of Texas for bodily injury (including death) and property damage with minimum limits of \$5,000,000 Combined Single Limit protecting Landlord and Tenant against any liability, damage, claim or demand arising out of or connected with the condition or use of the Leased Premises. Such insurance shall include contractual liability, personal injury and advertising liability, business automobile (including owned, non-owned and hired) and independent contractor liability. Such insurance coverage must be written on an "occurrence" basis. It may be maintained by any combination of single policies and/or umbrella or blanket policies and may be obtained and maintained by a SubTenant with respect to that portion of the Leased Premises subleased to such SubTenant. Landlord, and its elected officials, shall be named as an additional insured, as their interests appear, on all insurance policies required by this Section 10.1.

Section 10.2 Workers' Compensation Insurance. Tenant agrees, at its sole expense, commencing as of the Occupation Date, to obtain and maintain workers' compensation insurance for Tenant's own employees, as required by applicable law, during the Lease Term.

Section 10.3 Property Insurance. Commencing as of the Occupation Date, Tenant shall keep the Facility and Leased Premises insured against “all risk” of loss for full replacement cost coverage, to include direct loss by fire, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, boiler and machinery and flood. Landlord shall be named as an additional insured or additional loss payee, as appropriate. Tenant shall have option for inclusion under City insurance policies (ie. Property, etc.). Tenant will reimburse City for cost of inclusion within the City policies.

Section 10.4 Policies. All insurance policies required by this Article 10 to be carried by Tenant shall provide for at least thirty (30) days written notice to Landlord before cancellation and certificates or copies of policies of insurance shall be delivered to Landlord. If any blanket general insurance policy of Landlord and/or Tenant complies with the terms of this Article 10, the naming of Landlord therein as an additional insured shall be deemed compliance with the requirements for the insurance coverage provided in any such blanket policy. Landlord and Tenant hereby waive all claims, rights of recovery and causes of action that either Party or any party claiming by, through or under such Party by subrogation or otherwise may now or hereafter have against the other Party or any of the other Party’s present and future subsidiaries, Affiliates, partners, officers, directors, employees, direct or indirect stockholders, agents, other representatives, successors and assigns for bodily injury (including death) to persons, or loss or damage to property of Landlord and Tenant whether caused by the negligence or fault of Landlord and Tenant or their partners, directors, officers, employees, agents or representatives or otherwise, to the extent that the injuries, losses or damages are covered by the proceeds of insurance policies maintained by either Party.

Section 10.5 Adjustment of Losses. At any time during the Lease Term of this Lease, Tenant may name any Leasehold Mortgagee as a mortgagee or an additional insured, as appropriate, under any of the insurance policies required under Section 10.3 hereof, as its interest may appear, provided that such Leasehold Mortgagee shall agree to permit the insurance proceeds to which it is entitled to be used to rebuild, repair or restore the Facility if the Tenant is required under this Lease to repair such casualty damage. Any loss under any such insurance policy required under Section 10.3 hereof shall, except as otherwise provided herein, be for the benefit of Tenant and Landlord, and to that end Landlord agrees that if Tenant is to repair or reconstruct any improvement or to restore any of the Leased Premises as provided herein, Tenant shall be entitled to receive all money due under such insurance policies payable in the event of and by reason of the loss of or damage to the Leased Premises, to be applied pursuant to Section 10.6 and 12.1(b) below. Any accumulation of interest on the insurance proceeds collected under this Article 10 shall be added to, and become a part of, the funds being held hereunder for the benefit of Landlord and Tenant. The adjustment of losses with the insurer shall be made by Tenant.

Section 10.6 Application of Proceeds of Property Insurance. All proceeds payable pursuant to the provision of any policies of property insurance required to be carried under the terms of this Lease (net of reasonable expenses of collection) shall be applied for the following purposes: all such net proceeds shall first be used, subject to any other terms and conditions contained in this Lease, as a fund for the rebuilding, restoration and repair of the portion of the Facility and, to the extent applicable, to the Leased Premises, which have become destroyed or damaged for which such proceeds are payable.

Section 10.7 Failure to Maintain Insurance. If, after written notice and a ten (10) day opportunity to cure, Tenant shall fail to obtain any insurance required under this Lease, the City may, at its election, obtain such insurance. If Tenant fails or refuses to maintain insurance as required hereunder, or fails to provide proof of insurance, the City shall, subject to the notice and cure provisions of Article 15, have the right to declare this Lease in default, and the City shall be entitled to exercise the legal remedies set forth in this Lease.

Section 10.8 Coverage Re-Evaluation. Not more frequently than once every five (5) years, if in the reasonable opinion of the City the amount or type of any insurance at that time is not adequate to provide coverage to the City as of such future date which is comparable to the coverage afforded the City under this Lease as of the Effective Date, Tenant shall either acquire or increase the insurance coverage as reasonably required by the City provided Tenant may obtain such increased coverage on commercially reasonable terms.

ARTICLE 11.
MAINTENANCE AND REPAIR; ALTERATIONS; UTILITIES; SECURITY

Section 11.1. Maintenance and Repair. Tenant shall maintain in good repair and condition the entire Facility and the FF&E (together with any other equipment, furniture or fixtures purchased by Tenant, whether in replacement thereof, substitution therefor, or otherwise) and keep them free from waste or nuisance. Landlord, at its sole expense, shall maintain in good repair and condition the Common Area, the Shared Parking and the Parking Area, including but not limited to the provision of and maintenance of exterior lighting, and irrigation systems, payment of utility services to these areas, parking lot striping, pothole repairs and similar maintenance needs. Additionally, Landlord shall maintain all exterior landscaping on the Leased Premises.

Section 11.2. Alterations. Tenant shall have the right, from time to time, to make additions, alterations and changes (hereinafter sometimes referred to collectively as "**Alterations**") in or to the Improvements, provided that no Event of Default shall exist by Tenant in the performance of Tenant's covenants or agreements in this Lease, subject, however, to the following:

(a) subject to the Governmental Regulations, no structural Alterations or Alterations to the original facade or exterior of the Improvements will be commenced without Landlord's prior written consent of such Alterations, which consent shall not be unreasonably withheld or delayed;

(b) no Alterations will be made which would impair the structural soundness of the Improvements;

(c) no Alterations will be undertaken until Tenant has obtained all necessary building permits, licenses and authorizations of all municipal departments and governmental subdivisions having jurisdiction. Landlord shall join, but without expense to Landlord, in the application for such permits, licenses or authorizations whenever such action is necessary and is requested by Tenant;

(d) any Alterations which costs exceed \$10,000 will require the prior written approval of Landlord, with such approval being deemed granted if Landlord has not responded after thirty (30) days' written notice;

(e) no Alterations will be made which are inconsistent with Tenant's use of the Leased Premises, as set forth in this Lease;

(f) any Alterations shall be made within a reasonable time and in a good and workmanlike manner and in substantial compliance with all applicable permits, licenses and authorizations, and building laws and with all other Governmental Regulations; and

(g) Tenant will upon demand by Landlord give reasonably satisfactory proof or assurances to Landlord that the funds required to pay for such Alterations are or will be available to Tenant for such purpose.

Section 11.3. Utilities. Tenant shall pay all charges for water, electricity, gas, sewer, telephone or any other utility connections, tap-in fees and services furnished to the Leased Premises from and after the Occupation Date. Landlord shall in no event be liable or responsible for any cessation or interruption in, or damage caused by, any such utility services, unless the cessation or interruption results from Landlord's intentional or negligent conduct. City will use its best efforts to include Tenant under City utility pricing agreements that encompass City-owned facilities.

Section 11.4. Security. Landlord will provide exterior lighting on the Leased Premises as deemed necessary by Landlord, in its sole discretion, to secure the Leased Premises. Landlord will provide security to the Leased Premises consistent with the services provided by its police department to any other location in the City. Landlord shall have no obligation to provide security services for the interior of the Facility or to provide security personnel for special events conducted by Tenant that utilize the Parking Area.

Section 11.5. Inspection. Landlord and its agents, will have access to enter into and upon the Leased Premises during normal business hours for the purpose of inspecting the same on the condition that Tenant's and any Subtenant's quiet enjoyment of the same is not interfered with.

Section 11.6. Capital Expenditures. Except as provided for in this Section 11.6, Tenant and Landlord shall be jointly responsible for all costs as deemed necessary to keep the Facility in the same condition as delivered to Tenant (normal wear and tear excluded) throughout the Operational Term, which shall generally include major building components of the Facility, including but not limited to HVAC systems, refrigeration plant, electrical systems and underground plumbing, certain FF&E including but not limited to ice resurfacing machines, computers, telecommunications equipment and ice skates for public use, and structural building elements, including but not limited to roof and foundation repairs ("**Capital Expenditures**"). To be considered a Capital Expenditure, the item or homogenous group of items must have a projected useful life of no less than 3 years and have a minimum value of \$5,000. The cost of any Capital Expenditures shall be divided between Landlord and Tenant according to the following schedule:

Lease Years	Tenant's Share of Capital Expenditures	Landlord's Share of Capital Expenditures
1-13	100%	0%
14-22	66.67%	33.33%
23	50%	50%
24	40%	60%
25	30%	70%
26	20%	80%
27	10%	90%
28-30	0%	100%

Tenant agrees to follow commonly accepted accounting rules to distinguish Capital Expenditures from operating expenses. Landlord and Tenant agree that any single Capital Expenditure to the Facility costing in excess of \$10,000 will be approved by both Parties hereto in advance, provided that Tenant shall have the authority to approve any such expense deemed necessary on an emergency basis when: (a) immediate approval of the Capital Expenditure is required to protect the integrity of the Facility and Tenant's

ongoing operations; and (b) Tenant has made reasonable but unsuccessful efforts to contact Landlord regarding the Capital Expenditure and Landlord has not responded within 48 hours. Notwithstanding anything herein to the contrary, Tenant's total annual outlay on Capital Expenditures shall not exceed \$300,000 in any single year of the Lease and shall not exceed an aggregate total of \$3,000,000 over the Operational Term. Notwithstanding anything herein to the contrary, Landlord's total outlay on Capital Expenditures shall not exceed \$300,000 in any single year of the Lease. Landlord shall be required to pay 100% of any incremental amount for any Capital Expenditures deemed necessary by both Parties once the annual maximum or the aggregate total for the Operational Term has been reached by Tenant, subject to the limitations set forth in this Section 11.6. The procurement, installation and delivery of all Capital Expenditures shall be overseen by Tenant during the Operational Term. As long as Tenant's share of the Capital Expenditure cost is 50% or greater, Tenant shall make all payments for all Capital Expenditures and, after the work has been completed to Tenant's satisfaction, shall make application to Landlord in a format acceptable to Landlord to reimburse Tenant for Landlord's share of the Capital Expenditure as set forth above. If any amount due to Tenant from Landlord for a Capital Expenditure remains unpaid 30 days after Tenant's submission for reimbursement, Tenant shall have the right to deduct Landlord's share of the Capital Expenditure from Tenant's next payment of Annual Rent. If Landlord's share of the Capital Expenditure is cost greater than 50%, Landlord shall make all payments for all Capital Expenditures and, after the work has been completed to Tenant's satisfaction, shall make application to Tenant in a format acceptable to Tenant to reimburse Landlord for Tenant's share of the Capital Expenditure as set forth above, which payment shall be made by Tenant within 30 days, subject to the limitations set forth in this Section 11.6. The Parties must at all times comply with Governmental Regulations in purchasing Capital Expenditures, including but not limited to all state bidding laws and regulations. Further, Tenant agrees to obtain the prior written consent of Landlord prior to disposing of any Capital Expenditure.

ARTICLE 12.

CASUALTY DAMAGE, DESTRUCTION AND CONDEMNATION

Section 12.1. Casualty Damage or Destruction.

(a) **Tenant's Obligation to Restore.** With regard to casualty damage to the Leased Premises during the Operational Term, Tenant shall, as soon as reasonably practicable but no event later than 180 days after the date of a casualty, commence the work of repair, reconstruction or replacement of the damaged Improvement. If such casualty occurs during the last two (2) years of the Lease, and the extent of the damage to the Leased Premises is greater than twenty percent (20%) of the then replacement value thereof (exclusive of the value of the Land) or in the event the net insurance proceeds are estimated not to be sufficient to pay the estimated costs to repair, reconstruct, or replace the damaged Improvement to substantially the same condition as of the date of such casualty, all as reasonably estimated by Tenant, then Tenant shall have the option, within 180 days from the date of the occurrence of such casualty damage, to terminate this Lease by giving written notice of such termination to Landlord within such 180 day period, in which event (i) this Lease shall terminate as of the termination date specified in such notice to Landlord, which shall not be less than 60 days after the date of such notice; (ii) Tenant shall be required to pay the Annual Rent through the Lease Termination Date; (iii) Tenant shall not be required to repair the damage; (iv) all insurance proceeds available as a result of such damage shall be paid to and be the property of Landlord and Tenant, in proportion to their respective ownership of various components or property contained within the Leased Premises; (v) the Parties hereto shall have no further liability or obligations one to the other except as expressly provided for herein.

(b) **Deposit of Funds for Restoration.** All insurance proceeds shall be deposited with a national bank in Texas selected by Landlord ("**Qualified Bank**"). Such proceeds shall be received, held and paid out by such Qualified Bank, and shall be disbursed for restoration of the Improvements and

replacement of the FF&E (and any other equipment, furniture or fixtures in replacement thereof or substitution therefor or otherwise purchased by Tenant) as follows:

(i) Tenant must first secure Landlord's reasonable approval of (A) the budget for such restoration and replacement, and (B) the plans and specifications for the proposed restorative work if such plans and specifications for restoration deviate materially from the original plans and specifications for the Improvements which have been so damaged. The insurance proceeds will be disbursed by such Qualified Bank after delivery of evidence reasonably satisfactory to Landlord that (x) such repair, restoration, rebuilding or replacement for which a disbursement has been requested has been completed and effected in compliance with this Lease and all applicable laws, and (y) no mechanics' or materialmen's liens have attached to the fee or leasehold estate. At the option of Tenant, such proceeds may be disbursed by such Qualified Bank in reasonable installments. Each such installment (except the final installment) is to be disbursed by such Qualified Bank in an amount equal to the cost of construction of the work completed or FF&E (or other equipment, furniture, or fixtures purchased by Tenant) replaced since the prior advance (or since commencement of work, as to the first advance) according to a certificate by the Tenant's architect in charge, less statutorily required retainage in respect of mechanics' and materialmen's liens, together with a reasonable showing of bills for labor and material, and evidence satisfactory to Landlord that no lien affidavit has been filed in Tarrant County for any labor or material in connection with such work. The final payment or disbursement shall then be made upon the architect's proper certificate of completion and upon receipt of evidenced required by (i)(x) and (i)(y) above, but in no event shall such Qualified Bank be required to advance more than the balance of such insurance proceeds remaining on deposit with such disbursing agent;

(ii) Should the cost of said repairs, restoration, rebuilding or replacement be estimated by Tenant's architect in charge to be in excess of said insurance proceeds or should the actual cost determined after Tenant has commenced restoration and replacement be in excess of said proceeds, Tenant will deposit 100% of the necessary funds to cover such deficiency with such Qualified Bank; and

(iii) Any and all such insurance proceeds in excess of the cost of such repairs, restoration, rebuilding or replacement shall be paid to Tenant upon completion of the restoration.

(c) **No Abatement.** In the event of any such casualty, the Annual Rent and other payments herein provided for shall not be abated, and the happening of any such casualty shall not cause a termination of this Lease except as herein provided.

Section 12.2. Condemnation.

(a) **Definitions.** Whenever used in this Section 12.2, the following words shall have the definitions and meanings hereinafter set forth:

"Condemnation Proceeding". Any action brought for the purpose of any taking of the Leased Premises, or any part thereof or of any property interest therein (including, without limitation, the right to the temporary use of all or any portion of the Leased Premises), by competent authority as a result of the exercise of the power of eminent

domain, including a voluntary sale to such authority either under threat of condemnation or while such action or proceeding is pending.

“Taking” or “Taken”. The event and date of vesting of title to the Leased Premises or any part thereof or any property interest therein (including, without limitation, the right to the temporary use of all or any portion of the Leased Premises), pursuant to a Condemnation Proceeding.

(b) Efforts to Prevent Taking. Landlord shall use its best efforts to cause all other competent authorities with the power of eminent domain to refrain from instituting any Condemnation Proceedings or exercising any other powers of eminent domain with respect to the Leased Premises, or any part thereof or any interest therein, during the Operational Term of this Lease.

(c) Entire Taking. If all or substantially all of the Leased Premises shall be Taken in Condemnation Proceedings, Annual Rent shall be fully abated from and after the date of such Taking and from and after such date Tenant and Landlord shall not have any obligations under this Lease with respect to the Leased Premises, except for those obligations which expressly survive the termination hereof.

(d) Partial Taking.

(i) If less than all of the Leased Premises shall be Taken in any Condemnation Proceeding and following such Taking, Tenant reasonably determines that the remaining Leased Premises are not sufficient to operate the Facility and provide adequate parking as intended by the Parties hereto, then Tenant, at its election, may vacate the Leased Premises, whereupon the Annual Rent shall be fully abated from and after the date of such partial Taking, and from and after such date Tenant and Landlord shall not have any other obligations under this Lease with respect to the Leased Premises, except for those obligations which expressly survive the termination hereof. Such election to vacate must be exercised no later than ninety (90) days after the date of such Taking.

(ii) If Tenant does not elect to vacate the Leased Premises upon any partial Taking, then (a) the Leased Premises shall be reduced by the portion thereof taken, in the Condemnation Proceedings, and the Annual Rent payable hereunder shall be proportionately reduced in consideration of the portion Taken, for the unexpired portion of the Operational Term, and (b) subject to Tenant’s receipt of all proceeds awarded pursuant to any Condemnation Proceedings, Tenant shall commence and proceed with reasonable diligence to repair or reconstruct the remaining Improvements on the Leased Premises, if any; provided, however, Tenant’s obligation to so repair or reconstruct the remaining Improvements shall be limited to the proceeds of the condemnation award actually received by Tenant.

(e) Condemnation Award.

(i) Subject to Section 12.2(c), no Taking shall have the effect of terminating this Lease. None of the provisions of this Section 12.2 shall affect the right, title or interest of Tenant in the leasehold interest created by this Lease. For the purposes of determining the portion of any condemnation award to which Tenant is entitled to receive from the condemning authority as a matter of law, Tenant’s right, title and interest in the Leased Premises shall be granted and arising under this Lease without consideration of this Section 12.2. This Section 12.2 pertains only to Tenant’s and Landlord’s continuing

obligations under this Lease following a Taking and to the agreement between Tenant and Landlord regarding any condemnation awards.

(ii) Any condemnation award (other than awards for the value of Tenant's leasehold interest or for the disruption of Tenant's business, all of which shall be the sole property of Tenant or awards to be applied to the repair or restoration of the Leased Premises pursuant to Section 12.2(d)(ii)), shall be divided between Landlord and Tenant in accordance with the relative amounts expended by each Party for any capital costs of any kind pertaining to the Leased Premises. Landlord shall deliver to Tenant that portion of any condemnation award that Landlord may receive to which Tenant is entitled as provided in this Section 12.2(e)(ii). The provisions of this Section 12.2(e)(ii) shall survive any such termination.

(f) Settlement of Proceeding. Landlord shall not make any settlement with the condemning authority in any Condemnation Proceedings nor convey or agree to convey the whole or any portion of the Leased Premises to such authority in lieu of condemnation without first obtaining the written consent of Tenant and all Leasehold Mortgagees.

(g) Easements. Landlord and Tenant further agree that easements over and upon the Leased Premises may be granted to the City or to any utility company if such easements are reasonably necessary in connection with the construction and operation of Improvements on the Land. Any dedication of any portion of the Land by plat or easement grant approved in connection with the construction of Improvements or for utilities or other purposes as provided above shall not result in any reduction or abatement of Annual Rent under this Lease.

ARTICLE 13.

ASSIGNMENT AND SUBLETTING; TRANSFERS BY LANDLORD

Section 13.1. Assignment. Except for Approved Subleases (as defined below) of space within the Improvements and except as otherwise provided in Section 13.5 below, Tenant shall not sell, assign, sublease mortgage, pledge, or otherwise transfer any portion of its leasehold estate, or undivided interests therein without the prior written consent of Landlord.

Section 13.2. Subleasing. Subleases of space within the Improvements that satisfy the requirements of this Section 13.2 are referred to herein as "**Approved Subleases**." Landlord shall not restrict Tenant's ability to enter into Approved Subleases of any kind so long as Approved Subleases conform to the terms and conditions of this Section 13.2.

(a) **Conditions for Sublease.** Tenant shall not sublet any portion of the Leased Premises for occupancy by any Subtenant unless (i) such sublease is consistent with Tenant's use of the Leased Premises, (ii) such Subtenant is a reputable and quality business or restaurateur, (iii) prior written notice of such sublease is provided to Landlord, and (iv) the sublease is limited to rights of use to programming areas, concessions, retail areas, and other portions of the Leased Premises which are only incidental to Tenant's operational use of the Leased Premises.

(b) **Sublease Terms.** In addition to the other required provisions contained in this Lease, Tenant's sublease agreements shall include provisions which provide that:

(i) the sublease is subject to every provision of this Lease;

(ii) the sublease shall not be for a term extending beyond the Operational Term of this Lease;

(iii) the Subtenant is responsible for complying with all Governmental Regulations and other easements and restrictions encumbering or otherwise affecting the Leased Premises, and that Subtenant's failure to cure after receiving notice of non-compliance will result in Tenant's right to terminate the sublease;

(iv) the Subtenant is responsible for obtaining insurance identical to that required of Tenant as described in Article 10; and

(v) the Subtenant has no right to sublease or otherwise assign or encumber its interest in the Leased Premises.

Tenant shall provide to Landlord copies of any and all subleases of any portion of the Leased Premises, together with the names and addresses of all Subtenants.

Section 13.3. Continuing Obligations. Except as otherwise stated herein, Tenant shall at all times remain fully responsible and liable for the payment of the Annual Rent herein specified and for compliance with all of its other obligations under this Lease (even if future assignments and sublettings occur subsequent to the assignment or subletting by Tenant, and regardless of whether or not Landlord's approval has been obtained for such future assignments and sublettings). Landlord shall be permitted to enforce the provisions of this Lease against the undersigned Tenant and/or any assignee without demand upon or proceeding in any way against any other person. Tenant shall reimburse Landlord for Landlord's reasonable expenses, including attorneys' fees, incurred by Landlord in connection with any request by Tenant for assignment or subletting which requires Landlord's prior consent.

Section 13.5. Approved Assignments. Notwithstanding anything to the contrary set forth herein, Tenant may assign or transfer this Lease without the consent of Landlord to any person or entity who acquires the ownership interests of the Dallas Stars NHL Franchise. Upon such assignment, the assignee shall execute and deliver to Landlord a written assumption, in form and substance reasonably satisfactory to Landlord, of all Tenant's obligations hereunder accruing after the date of such assignment. Tenant will thereafter be released of all liabilities or obligations arising under this Lease after the date of such assignment.

Section 13.6. Leasehold Mortgages.

(a) **Leasehold Mortgages Permitted.** Tenant, from time to time and at any time, shall have the right to grant a Leasehold Mortgage. In the event that Tenant grants a Leasehold Mortgage, upon Tenant's written request to Landlord, Landlord will execute and deliver an estoppel certificate addressed to the Leasehold Mortgagee setting forth the information described in Section 17.4 of this Lease, confirming the terms of this Section 13.6, and providing Landlord's agreement to recognize the Leasehold Mortgagee or any purchaser of the Mortgaged Premises at foreclosure in the same manner as an assignee pursuant to Section 13.1 of this Lease. Notwithstanding the foregoing, no Leasehold Mortgagee shall acquire, by virtue of the Leasehold Mortgage, any greater right in the Mortgaged Premises and in any building or improvements thereon than Tenant then had under this Lease. In no event shall Tenant have the right to encumber, subordinate or render inferior in any way Landlord's fee simple title in and to the Leased Premises.

(b) **Notices to Leasehold Mortgagees.** If at any time after execution and recordation of any Leasehold Mortgage in the Real Property Records of Tarrant County, Texas, in accordance with the

provisions of Section 13.6(a) hereof, the Leasehold Mortgagee shall notify Landlord in writing that the Leasehold Mortgage on the Mortgaged Premises has been given and executed by Tenant, and shall furnish Landlord at the same time with the address to which the Leasehold Mortgagee desires copies of notices to be mailed, or designates some person or corporation as its agent and representative for the purpose of receiving copies of notices, Landlord hereby agrees that it will thereafter deliver in the manner specified in Section 17.12 to the Leasehold Mortgagee and to the agent or representative so designated by the Leasehold Mortgagee, at the address so given, duplicate copies of any and all notices in writing which Landlord may from time to time give or serve upon Tenant under and pursuant to the terms and provisions of this Lease and any and all pleadings in suits filed by Landlord against Tenant. No notice to Tenant shall be effective as to the Leasehold Mortgagee unless duplicate copies thereof are delivered to such Leasehold Mortgagee at the same time the notice is given or served upon Tenant.

(c) **Leasehold Mortgagee's Right to Cure.** If Landlord shall ever be entitled to exercise a right hereunder to terminate this Lease after the giving of notice and/or the passage of time, as applicable, Landlord, subject to notification by Leasehold Mortgagee pursuant to Section 13.6(b) hereof, shall deliver additional written notice to Leasehold Mortgagee of Landlord's intention to so terminate this Lease and describing the existing defaults, and Leasehold Mortgagee thereafter shall have thirty (30) days to cure the defaults described in such written notice. Notwithstanding the foregoing, but subject to the provisions of Section 15.2 hereof, in the event (a) such default is not capable of cure within such 30-day period, this Lease may not be terminated if Leasehold Mortgagee shall deliver to Landlord, within such 30-day period, written notice of Leasehold Mortgagee's intention to cure the specified defaults and shall commence and diligently pursue the cure of the specified defaults and such defaults are cured within 120 days of the date of such notice, or (b) any Leasehold Mortgagee is not in actual possession of the Mortgaged Premises on the date of the additional notice given the Leasehold Mortgagee under this Section 13.6(c) and possession is necessary in order to cure any default, then the time within which such Leasehold Mortgagee may commence to cure such default shall be extended for a reasonable time not to exceed 120 days until such Leasehold Mortgagee can obtain actual possession of the Mortgaged Premises. No purported termination of this Lease shall be effective until such written notice shall have been given to Leasehold Mortgagee and such 30-day period, or additional time period as provided above, shall have expired without the described defaults having been cured. Leasehold Mortgagee may, at its option and at any time before the rights of Tenant under this Lease have been terminated, pay any of the Annual Rent due hereunder, procure any insurance required hereunder, pay any taxes required hereunder, make any repairs and improvements required hereunder, or do any other act or thing or make any other payment required of Tenant by the terms of this Lease or which may be necessary and appropriate to comply with the covenants and conditions of this Lease to prevent the termination of this Lease. All payments so made and all things so done and performed by any such Leasehold Mortgagee shall be as effective to prevent a forfeiture of the rights of Tenant hereunder as if performed by Tenant.

(d) **New Lease.** Notwithstanding anything to the contrary contained in this Lease or otherwise, in the event of termination of this Lease for any reason prior to the stated expiration date, Landlord shall promptly notify all Leasehold Mortgagees of such termination. If the Leasehold Mortgagee having the highest priority with respect to the Lease cures (subject to Section 13.6(e) hereof) all defaults giving rise to such termination as provided below, Landlord shall enter into a new lease of the Mortgaged Premises with such Leasehold Mortgagee or its designee for the remainder of the Lease Term, such new lease to be effective as of the date of termination of this Lease, at the Annual Rent payable hereunder and upon all the same terms, conditions, covenants, agreements, provisions and limitations contained herein, subject to the following:

(i) the Leasehold Mortgagee entitled to the new lease shall make written request to Landlord for a new lease within sixty (60) days of receipt by the Leasehold Mortgagee of written notice from Landlord of the date of termination of this Lease; and

(ii) at the time of the execution and delivery of the new lease, the Leasehold Mortgagee or its designee shall pay to Landlord all amounts specified in the notice of termination delivered by Landlord which would have been due hereunder except for such termination and which are currently due except for such termination, and shall promptly cure (subject to Section 13.6(e) hereof) all other defaults giving rise to such termination.

(e) **Survival.** The provisions of Section 13.6(d) shall survive the termination of this Lease and shall continue in full force and effect thereafter to the same extent as if said Section 13.6(d) were a separate and independent contract among Landlord, Tenant and any Leasehold Mortgagee.

(f) **Leasehold Mortgagees' Liability.** Unless a new lease shall have been executed pursuant to Section 13.6(d) hereof, no Leasehold Mortgagee shall be or become personally liable to Landlord as an assignee of this Lease, for the payment or performance of any obligation of Tenant unless and until it expressly assumes by written instrument the payment or performance of such obligation, and no assumption of liability shall be inferred from or result from foreclosure or other appropriate proceedings in the nature thereof or as the result of any other action or remedy provided for by any Leasehold Mortgage, or from a conveyance or assignment pursuant to which any purchaser at foreclosure shall acquire the rights and interest of Tenant under the terms of this Lease; provided, however, any such assignee or purchaser must timely and diligently perform all obligations of Tenant hereunder.

Section 13.7. Nondisturbance Agreement. Upon the written request of Tenant, Landlord will enter into a Nondisturbance Agreement (herein so called) with any Subtenant or Leasehold Mortgagee. Such Nondisturbance Agreement shall include such reasonable provisions as requested by a Subtenant or a Leasehold Mortgagee, subject to the reasonable approval of Landlord, but in any event shall (a) reaffirm Landlord's ownership of the Leased Premises, (b) confirm (if true) that this Lease is in full force and effect without default by Tenant (or, if a default exists, specifying the default and the remedy required by Landlord), and (c) in the case of a Subtenant, provide, in substance, that, so long as the Subtenant complies with all of the terms of its sublease or other applicable agreement, Landlord, in the exercise of any of its rights or remedies under this Lease, shall not deprive the Subtenant of possession, or the right of possession, of the subleased property during the term of the sublease, deprive the Subtenant of any other rights under the sublease or other applicable agreement or join the Subtenant as a party in any action or proceeding to enforce or terminate this Lease or obtain possession of the property leased in the sublease for any reason other than a breach by the Subtenant of the terms of the sublease or other applicable agreement which would entitle Tenant to dispossess the Subtenant thereunder or otherwise terminate the Subtenant's rights thereunder.

ARTICLE 14.

INDEMNIFICATION

Section 14.1. Indemnification.

(a) Tenant shall indemnify, defend, protect and hold harmless the City, its council members, officers, employees and volunteers, in both their individual and official capacities (collectively the "**Indemnitees**") from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs and expenses (including reasonable attorneys' fees), arising from or in connection with, or caused in whole or in part by (i) any act, omission or negligence of Tenant or any Subtenant of Tenant, or their respective contractors, licensees, invitees, agents or employees; (ii) any use of the Leased Premises, or any accident, injury, death or damage to any person or property occurring in, on or about the Leased Premises, or any part thereof, or from the conduct of Tenant's business or from any activity, work or thing done, permitted or suffered by Tenant or its

contractors, employees or invitees in, on or about the Leased Premises (other than when arising as a result of defective construction or workmanship by the City or its contractors or agents or as a result of the storage, use or disposal of Hazardous Materials before the Occupation Date, or the gross negligence or intentional misconduct of an Indemnitee); and (iii) any breach or default in the performance of any obligations on Tenant's part to be performed under the terms of this Lease, or arising from any negligence of Tenant, or any such claim or any action or proceeding brought thereon, whether or not caused in whole or in part by any negligent act or omission of any Indemnitee. In case any action or proceeding be brought against an Indemnitee by reason of any such claim, Tenant, upon notice from the City, shall defend the same at Tenant's expense by counsel reasonably satisfactory to the City.

(b) It is the intent of the parties by agreement to this Section 14.1 that if a claim is made in any forum against Indemnities for any of the reasons referred to in Section 14.1(a), and upon resolution of the claim:

(1) There is no finding by a court of competent jurisdiction that Indemnities were negligent in connection with any of the reasons referred to in Section 14.1(a), Tenant shall hold Indemnities harmless and indemnify them for any damage, loss, expense, or liability resulting from the claim, including all attorneys' fees, costs, and penalties incurred; or

(2) There is a finding by a court of competent jurisdiction that Tenant was negligent to a greater degree than Indemnities in connection with any of the reasons referred to in Section 14.1(a), Tenant shall hold Indemnities harmless and indemnify them for any damage, loss, expense, or liability resulting from the claim, including all attorneys' fees, costs, and penalties.

(c) The City shall give Tenant prompt notice of any event triggering the foregoing indemnity and shall cooperate with Tenant in the defense of any cause of action to which the foregoing indemnity relates. Tenant shall have no duty to defend the City or any other Indemnitee from any legal challenge. Tenant, as a material part of the consideration to the City, hereby assumes, except as otherwise provided in this Lease, all risk of damage to property or injury to person in, on or about the Leased Premises. These provisions are in addition to, and not in lieu of, the insurance required under Article 10.

Section 14.2. Third Parties and Subtenants. In connection with its management, operation, promotion and subleasing of the Leased Premises, including, but not limited to Tenant's business operations, Tenant shall insert, in each and every contract or sublease entered into, a clause exculpating Landlord from personal liability under the contract or lease and a clause pursuant to which the third party or Subtenant agrees to indemnify and hold harmless Landlord for the matters set forth in Section 14.1.

ARTICLE 15.

TENANT'S DEFAULT AND LANDLORD'S REMEDIES

Section 15.1. Default. Each of the following events is an "**Event of Default**" by Tenant under this Lease:

(a) Tenant fails to pay when due any sum of money becoming due to be paid to Landlord under this Lease, whether such sum be any installment of the rent reserved by this Lease, or any other payment or reimbursement to Landlord required by this Lease, and such failure shall continue for a period of ten (10) business days after written notice that such payment was not made when due.

(b) Tenant fails to perform or observe any of the terms, covenants, conditions, agreements and provisions of this Lease which is not provided for in another clause of this Section 15.1 and such failure continues for a period of thirty (30) days after written notice thereof; provided, however, that if such failure cannot reasonably be cured within said thirty-day period despite Tenant's diligent good faith efforts, the occurrence of such failure shall not constitute an Event of Default if Tenant commences reasonable efforts to cure such failure within said thirty (30) day period and thereafter diligently pursues such efforts until such failure is cured.

(c) Tenant fails to vacate the Leased Premises immediately upon termination of this Lease, by lapse of time or otherwise, or upon termination of Tenant's right to possession only.

(d) Tenant shall become insolvent, admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy or a petition to take advantage of any insolvency statute, make an assignment for the benefit of creditors, make a transfer in fraud of creditors, apply for or consent to the appointment of a receiver of itself or of the whole or any substantial part of its property, or file a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws, as now in effect or hereafter amended, or any other applicable law or statute of the United States or any state thereof.

(e) A court of competent jurisdiction shall enter an order, judgment or decree adjudicating Tenant bankrupt, or appointing a receiver of Tenant, or of the whole or any substantial part of its property, without the consent of Tenant, or approving a petition filed against Tenant seeking reorganization or arrangement of Tenant under the bankruptcy laws of the United States, as now in effect or hereafter amended, or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within thirty (30) days from the date of entry thereof.

(f) Tenant fails to operate the Leased Premises for the purposes set forth in Section 5.1 of this Lease.

Section 15.2. Landlord's Remedies for Tenant Default. Upon the occurrence and during the continuance of an Event of Default, Landlord shall have all remedies available at law or in equity, including, without limitation, termination, injunction and specific performance, subject to the provisions of Article 13 of this Lease. All remedies of Landlord under this Lease shall be cumulative, and the failure to assert any remedy or the granting of any waiver of any event of default shall not be deemed to be a waiver of such remedy or any subsequent event of default.

Section 15.3. Lien For Rent. In consideration of the mutual benefits arising under this Lease, Tenant hereby grants to Landlord a lien and security interest in all property of Tenant, if any (including, but not limited to, all fixtures, machinery, equipment, furnishings, and other articles of FF&E now or hereafter placed in or on the Leased Premises and owned by Tenant, together with the proceeds from the disposition of those items) (the "Collateral"), now or hereafter placed in or upon the Leased Premises, as security for payment of all rent and other sums agreed to be paid by Tenant herein. The provisions of this Section 15.3 constitute a security agreement under the Texas Uniform Commercial Code, and Landlord has and may enforce a security interest in the Collateral. Upon the occurrence of an Event of Default under this Lease, the Collateral shall not be removed without the consent of Landlord until all arrearages in Annual Rent and other sums of money then due to Landlord hereunder have been paid and discharged. Tenant shall, upon Landlord's request, execute a Financing Statement to perfect this security interest pursuant to the Texas Uniform Commercial Code. Landlord may at its election at any time file a copy of this Lease as a Financing Statement. Landlord, as Secured Party, has all of the rights and remedies

afforded a secured party under the Texas Uniform Commercial Code in addition to and cumulative of the landlord's liens and rights provided by law or by the other terms and provisions of this Lease.

Section 15.4. Rights of Leasehold Mortgagees. Notwithstanding any other provision of this Article 15, all rights and remedies of Landlord under this Lease are subject to the provisions of Section 13.7 hereof.

ARTICLE 16.

REPRESENTATIONS AND WARRANTIES

Section 16.1. Landlord's Representations, Warranties and Special Covenants. Landlord hereby represents, warrants and covenants as follows:

(a) **Existence.** Landlord is a home rule municipal corporation of the State of Texas duly incorporated and currently existing pursuant to the constitution and laws of the State of Texas, including the Local Government Code and Texas Government Code.

(b) **Authority.** Landlord has all requisite power and authority to purchase and own the Leased Premises, to execute, deliver and perform its obligations under this Lease and to consummate the transactions herein contemplated and, by proper action in accordance with all applicable law, has duly authorized the execution and delivery of this Lease, the performance of its obligations under this Lease and the consummation of the transactions herein contemplated.

(c) **Binding Obligation.** This Lease is a valid and binding obligation of Landlord and is enforceable against Landlord in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, rearrangement, moratorium, receivership, liquidation and similar laws affecting creditors' rights generally, or (ii) general principles of equity.

(d) **No Defaults.** The execution by Landlord of this Lease and the consummation by Landlord of the transactions contemplated hereby (i) do not, as of the Effective Date, result in a breach of any of the terms or provisions of, or constitute a default, or a condition which upon notice or lapse of time or both would ripen into a default, under any resolution, indenture, agreement, instrument or obligation to which Landlord is a party; and (ii) do not, to the knowledge of Landlord, constitute a violation of any law, order, rule or regulation applicable to Landlord of any court or of any federal, state or municipal regulatory body or administrative agency or other governmental body having jurisdiction over Landlord.

(e) **Consents.** Except as expressly stated otherwise herein, no permission, approval or consent by third parties or any other governmental authorities is required in order for Landlord to enter into this Lease, make the agreements herein contained or perform the obligations of Landlord hereunder other than those which have been obtained.

(f) **Quiet Enjoyment.** From and after the date Landlord delivers possession of the Leased Premises to Tenant, and subject to the terms of this Lease, Tenant shall have the quiet enjoyment and peaceable possession of the Leased Premises against hindrance or disturbance by Landlord or any person or entity acting by, through or under Landlord.

Section 16.2. Tenant's Representations, Warranties and Special Covenants.

(a) **Existence.** Tenant is duly organized and validly existing under the laws of the state of its organization and is authorized to do business in the State of Texas.

(b) **Authority.** Tenant has all requisite power and authority to lease the Leased Premises, execute, deliver and perform its obligations under this Lease, operate its business, and consummate the transactions herein contemplated, and by proper action in accordance with all applicable law, has duly authorized the execution and delivery of this Lease, the performance of its obligations under this Lease, and the consummation of the transactions herein contemplated.

(c) **Binding Obligation.** This Lease is a valid and binding obligation of Tenant and is enforceable against Tenant in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, rearrangement, moratorium, receivership, liquidation and similar laws affecting creditors' rights generally, or (ii) general principles of equity.

(d) **No Defaults.** The execution by Tenant of this Lease and the consummation by Tenant of the transactions contemplated hereby (i) do not, as of the Effective Date, result in a breach of any of the terms or provisions of, or constitute a default, or a condition which upon notice or lapse of time or both would ripen into a default, under the organizational documents of Tenant or under any indenture, agreement, instrument or obligation to which Tenant is a party or is bound, and (ii) do not, to the knowledge of Tenant, constitute a violation of any law, order, rule or regulation applicable to Tenant of any court or of any federal, state or municipal regulatory body or administrative agency or other governmental body having jurisdiction over Tenant.

(e) **Consents.** No permission, approval or consent by third parties or any other governmental authorities is required in order for Tenant to enter into this Lease, make the agreements herein contained or perform the obligations of Tenant hereunder other than those which have been obtained.

(f) **Proceedings.** There are no actions, suits or proceedings pending or, to the reasonable best knowledge of Tenant, threatened or asserted against Tenant affecting Tenant, at law or at equity or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign that will affect Tenant's ability to execute the terms of this Lease Agreement.

ARTICLE 17.

MISCELLANEOUS

Section 17.1. Rent on Net Return Basis. It is intended that the rent provided for in this Lease shall be a net return to Landlord as provided herein, without any offsets or deductions whatsoever, except as provided for in Section 11.6. Tenant shall pay all operating expenses with respect to the Leased Premises, including, without limitation, insurance premiums, utility charges, maintenance and repair costs, and taxes and assessments, and this Lease shall be construed in accordance with and to effectuate this intention.

Section 17.2. Holding Over. If Tenant, or any of Tenant's successors in interest, fails to surrender the Leased Premises, or any part thereof, on the expiration of the Lease Term (whether by lapse of time or otherwise), the holding over shall constitute a tenancy from month-to-month terminable at any time by either Landlord or Tenant after thirty (30) days' prior written notice to the other, at a monthly rental equal to 200% of the rent paid for the month preceding the expiration of the Lease Term.

Section 17.3. Waiver of Default. No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Lease shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

Section 17.4. Estoppel Certificates. Both parties hereto agree that from time to time, on 10 days prior written request, the non-requesting party, at the requesting party's cost, will deliver to the requesting party a statement in writing certifying:

- (a) if the facts permit, that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications);
- (b) the dates to which rent and other charges have been paid;
- (c) that either the requesting party is not in default under any monetary obligation or other material term or provision of this Lease, or if in default the nature thereof in detail in accordance with an exhibit attached thereto;
- (d) that rent has not been paid more than one (1) month in advance; and
- (e) any other information reasonably requested by the requesting party.

Section 17.5. No Partnership. It is understood and agreed that in leasing and operating the Leased Premises, Tenant is acting independently and is not acting as agent, partner, joint-venturer or employee of Landlord.

Section 17.6. Survival. All of the terms, provisions, conditions, agreements and covenants contained in this Lease shall survive the expiration or termination of this Lease with respect to all rights and remedies that have accrued prior to or that accrue on the expiration or termination of this Lease.

Section 17.7. Exhibits. All exhibits, attachments, annexed instruments and addenda referred to herein shall be considered a part hereof for all purposes. As of the date of execution of this Lease, the parties have not agreed upon nor attached Exhibit "A" (Description of Land), Exhibit "B" (Depiction of Parking and Shared Parking). Promptly after execution of this Lease, Landlord and Tenant shall use good faith efforts to negotiate and reach mutual agreement of these exhibits, and upon agreement of these exhibits, will execute an amendment to this Lease attaching Exhibits "A" and "B" (the "Exhibit Amendment").

Section 17.8. Use of Language. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

Section 17.9. Captions. The captions or headings of paragraphs in this Lease are inserted for convenience only, and shall not be considered in construing the provisions hereof if any question of intent should arise.

Section 17.10. Successors. The terms, conditions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective permitted successors and assigns. All rights, powers, privileges, immunities and duties of either party under this

Lease, including, but not limited to, any notices required or permitted to be delivered by either party hereunder, may, at such party's option, be exercised or performed by such party's agent or attorney.

Section 17.11. Severability. If any provision herein is held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby.

Section 17.12. Notices. All notices which are required or permitted hereunder must be in writing and shall be deemed to have been given, delivered or made, as the case may be, (notwithstanding lack of actual receipt by the addressee): (i) upon actual receipt or refusal by the addressee by hand, telecopier or other electronic transmission; or (ii) three (3) business days after having been deposited in the United States mail, certified or registered, return receipt requested, sufficient postage affixed and prepaid; or (iii) one (1) business day after having been deposited with an expedited, overnight courier service (such as by way of example but not limitation, U.S. Express Mail, Federal Express or U.P.S) for one-day delivery, addressed to the party to whom notice is intended to be given at the following addresses:

LANDLORD'S ADDRESS:

City of Mansfield
Attention: City Manager
1200 E. Broad Street
Mansfield, Texas 76063
Fax: 817-473-1342

With a copy to:

Mansfield City Attorney
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

TENANT'S ADDRESS:

DSE Hockey Centers, L.P.
Attention: Jason Farris, Chief Operating Officer
2601 Avenue of the Stars
Frisco, Texas 75034
Fax: 214-387-5503

With a copy to:

Attention: Alana C. Newhook, General Counsel

Section 17.13. Fees or Commissions. Each party hereby represents and warrants to the other, that it has neither contacted nor entered into an agreement with any real estate broker, agent, finder, or any other party in connection with this transaction, or taken any action that would result in any real estate broker's, finder's, or other fees or commissions being due or payable to any other party with respect to the transaction contemplated by this Lease Agreement. To the extent permitted by applicable law, each party hereby indemnifies and agrees to hold the other party harmless from any loss, liability, damage, cost, or expense (including reasonable attorney's fees) resulting to the other party from a breach of the representation made by the indemnifying party in this Section 17.13.

Section 17.14. Counterparts. This Lease may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

Section 17.15. Actions for Nonpayment of Rent and Other Charges. Tenant shall not for any reason withhold or reduce Tenant's required payments of rentals and other charges provided in this Lease, it being agreed that the obligations of Landlord hereunder are independent of Tenant's obligations, except as may be otherwise expressly provided.

Section 17.16. Limitation of Landlord's Liability. Landlord's elected officials and employees shall not be personally liable for any judgments.

Section 17.17. Delays. Excepting the conditions set forth in Section 6.2(a), the time for the performance of either Landlord's or Tenant's obligations, as the case may be, relative to the delivery, restoration, repair, operation and maintenance of the Improvements as provided for in this Lease shall be extended for the period that such performance is prevented by Unavoidable Delay (as hereinafter defined). "**Unavoidable Delay**" shall mean all failures or delays in a party's performance of its obligations hereunder not within such party's reasonable control, including without limitation, the impossibility of such performance which shall result from or be caused by acts of God, acts of the public enemy, wars, blockades, epidemics, earthquakes, storms, floods, explosions, strikes, labor disputes, work stoppages, riots, insurrections, lawful acts of any governmental agency, save and except the City of Mansfield, or authority restricting or curtailing the construction of any Improvements or withholding or revoking necessary consents, approvals, permits or licenses, equipment failures, provided, that such party shall pursue with reasonable diligence the avoidance or removal of such delay. The inability or refusal of a party to settle any labor dispute shall not qualify or limit the effect of Unavoidable Delay. The provisions of this Section 17.17 shall not operate to excuse either Party from prompt payment of the Annual Rent or any other payments required by the terms of this Lease.

Section 17.18. Short Form Lease. The parties agree not to place this Lease of record, but each party shall, at the request of the other, execute and acknowledge so that the same may be recorded a short form lease or memorandum of lease, stating that Tenant has accepted possession of the Leased Premises, indicating the Lease Term, but omitting rent and other terms, and an agreement specifying the date of commencement and termination of the Lease Term; provided, however, that the failure to record said short form lease, memorandum of lease or agreement shall not affect or impair the validity and effectiveness of this Lease. The party requesting such recording shall pay all costs, taxes, fees and other expenses in connection with or prerequisite to recording.

Section 17.19. Governing Law. The laws of the State in which the Leased Premises are situated shall govern the interpretation, validity, performance and enforcement of this Lease. Exclusive venue for any action under this Lease shall be in Tarrant County, Texas.

Section 17.20. Interest on Late Payments. In the event any installment of Annual Rent or any other sum payable by Tenant to Landlord under the provisions of this Lease is not received within ten (10) days after its due date for any reason whatsoever, it is agreed that the amount thus due shall bear interest at the maximum contractual rate which legally could be charged under the laws of the State in which the Leased Premises are situated in the event of a loan of such rental or other sum to Tenant (but in no event to exceed 1-1/2% per month), such interest to accrue continuously on any unpaid balance due to Landlord by Tenant during the period commencing with the aforesaid due date and terminating with the date on which Tenant makes full payment of such amounts to Landlord. Any such interest shall be payable as additional rent hereunder and shall be payable immediately on demand. In addition to any other charges permitted herein, if Tenant makes a payment to Landlord by check and said check is returned to Landlord by Tenant's bank marked NSF (Not Sufficient Funds), "Account Closed," or is dishonored for some similar reason, then an additional charge of \$25.00 per check shall be paid by Tenant to Landlord.

Section 17.21. No Warranties; Covenants of Performance. Tenant acknowledges that its decision to lease the Leased Premises is based solely upon Tenant's comprehensive inspection of the Leased Premises and not upon any warranty or representation of Landlord, or of Landlord's employees, agents, or representatives, with regard thereto. It is expressly stipulated and agreed that none of the

obligations to be undertaken hereunder by Landlord shall constitute any form of a warranty, express or implied, all such obligations being contractual covenants of performance. Without limiting the generality of the foregoing, THERE IS NO WARRANTY, EXPRESS OR IMPLIED, OF SUITABILITY, MERCHANTABILITY, HABITABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE GIVEN IN CONNECTION WITH THIS LEASE. The parties agree that the herein provision disclaiming warranties, express and implied, are provisions bargained for by the parties in entering into this Lease. The parties further agree that had warranties been undertaken by the Landlord hereunder or were the Landlord to undertake to perform repairs beyond that contemplated hereunder, the economics of this Lease would have been affected and would have required an increase in rent from that payable hereunder.

Section 17.22. Entire Agreement and Amendments. This Lease and the Development Agreement embody the entire agreement between Landlord and Tenant and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. Except as otherwise specifically provided herein or in the Development Agreement, no agreement hereafter made shall be effective to change, modify, discharge or effect an abandonment of this Lease, in whole or in part, unless such agreement is in writing and signed by or on behalf of the party against whom enforcement of the change, modification, discharge or abandonment is sought.

Section 17.23. Bankruptcy or Insolvency. Landlord and Tenant agree that if Tenant ever becomes the subject of a bankruptcy proceeding under the federal bankruptcy laws, as now enacted or hereinafter amended, then "adequate protection" of Landlord's interest in the Leased Premises pursuant to the provisions of Sections 361 and 363 or their successor sections of the United States Bankruptcy Code, 11 U.S.C. §101, et seq. (the "**Bankruptcy Code**") prior to the assumption and/or assignment of the Lease by Tenant shall include, but not be limited to all (or any part) of the following:

(a) The continued payment by Tenant of all rent and other sums due and owing under this Lease; the performance of all other covenants and obligations under this Lease by Tenant;

(b) The hiring of security guards to protect the Leased Premises if Tenant abandons and/or ceases operations; such obligation of Tenant only to be effective so long as Tenant remains in possession and control of the Leased Premises to the exclusion of Landlord; and

Except as noted in Section 6 of this Agreement, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated as "rent," shall constitute "rent" for the purposes of §502(b)(6) of the Bankruptcy Code. If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other considerations payable or otherwise to be delivered in connection with such assignment shall be paid and delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or the estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other considerations constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust by Tenant for the benefit of Landlord and shall be promptly paid to or turned over to Landlord.

Section 17.24. Landlord's Right to Perform Tenant's Covenants. If Tenant shall fail in the performance of any of its covenants, obligations or agreements contained in this Lease, other than the obligation to pay Annual Rent, and such failure shall continue without Tenant curing or commencing to cure such failure within all applicable grace and/or notice and cure periods, Landlord may, after ten (10) days additional written notice to Tenant specifying such failure (or shorter notice if imminent danger to the safety of persons or of substantial damage to property exists), perform the same for the account and at

the expense of Tenant, but Landlord will not be obligated to perform same, and the amount of any payment made or other reasonable expenses (including reasonable attorneys' fees incurred by Landlord for curing such default), with interest thereon at the highest rate then allowed by law, shall be payable by Tenant to Landlord on demand, or, if not so paid, shall be treated at Landlord's option as a monetary default hereunder pursuant to and subject to all of the provisions of Section 15.1(a) hereof.

Section 17.25. Non-Compete. Tenant agrees, to the extent permitted by law, that for so long as this Lease is in effect, Tenant will not participate in the design, construction or building of any recreational ice skating facility or similar facility within a radius of twenty (20) miles from the Facility.

Section 17.26. Time is of the Essence. Time is of the essence with respect to each and every provision of this Lease.

EXECUTED as of the day, month and year first above written.

LANDLORD:

CITY OF MANSFIELD, TEXAS

By: _____
Name: Clayton Chandler
Title: City Manager

TENANT:

DSE HOCKEY CENTERS, L.P.,
a Delaware limited partnership

By: DSE Hockey Centers GP, Inc.
Its general partner

By: _____
Name: Jason Farris
Title: Chief Operating Officer

Exhibit "A"

Description of Land

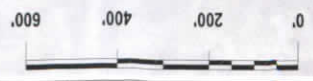
The Land is located on approximately 5.1 acres of land located at _____ in Mansfield, Tarrant County, Texas, and as depicted in more detail on the drawing attached hereto.

[Attach drawing and metes and bounds description.]

A1

SITE PLAN - MANSFIELD STARCENTER

SCALE: 1" = 100'



SP102

SHEET NUMBER

DATE: 11/11/19

BY: [signature]

PROJECT NO. 19-001

DATE: 11/11/19

BY: [signature]

PROJECT NO. 19-001

DATE: 11/11/19

BY: [signature]

PROJECT NO. 19-001

DATE: 11/11/19

BY: [signature]

PROJECT NO. 19-001

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BY: [signature]

PROJECT NO. 19-001

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PROJECT NO. 19-001

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BY: [signature]

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DATE: 11/11/19

BY: [signature]

PROJECT NO. 19-001

DATE: 11/11/19

BY: [signature]

PROJECT NO. 19-001

DATE: 11/11/19

BY: [signature]

MANSFIELD STARCENTER STUDY

600 N. U. S. 287
MANSFIELD, TEXAS



MAGEE ARCHITECTS, L.P.
DESIGNERS • PLANNERS • ENGINEERS

PORT WORTH, TEXAS

EXHIBIT "A"
LEGAL DESCRIPTION

BEING 5.112 acres of land located in the HENRY ODELL SURVEY, Abstract No. 1196, Mansfield, Tarrant County, Texas, and being a portion of the 40.0 acre tract of land conveyed to the City of Mansfield, by the deed recorded in County Clerk's File No. D204157325, of the Deed Records of Tarrant County, Texas. Said 5.112 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1" iron pipe found at the West corner of said 40.0 acre City of Mansfield Tract;

THENCE N 58° 04' 28" E 494.27 feet, to a ½" iron rod marked "Brittain & Crawford"
 set;

THENCE S 31° 55' 32" E 43.20 feet, to a ½" iron rod marked "Brittain & Crawford"
 set;

THENCE N 58° 04' 28" E 9.00 feet, to a ½" iron rod marked "Brittain & Crawford" set;

THENCE S 31° 55' 32" E 18.00 feet, to a ½" iron rod marked "Brittain & Crawford"
 set;

THENCE N 58° 04' 28" E 18.00 feet, to a ½" iron rod marked "Brittain & Crawford"
 set;

THENCE S 31° 55' 32" E 363.36 feet, to a ½" iron rod marked "Brittain & Crawford"
 set, in the Southeast boundary line of said 40.0 acre City of Mansfield Tract;

THENCE S 58° 04' 28" W 534.80 feet, along the Southeast boundary line of said
40.0 acre City of Mansfield Tract, to a ½" iron rod marked "Brittain & Crawford" found, at the
South corner of said 40.0 acre City of Mansfield Tract;

THENCE N 30° 06' 02" W 424.77 feet, along the Southwest boundary line of said
40.0 acre City of Mansfield Tract, to the POINT OF BEGINNING containing 5.112 acres
(222,691 square feet) of land.

Exhibit “B”

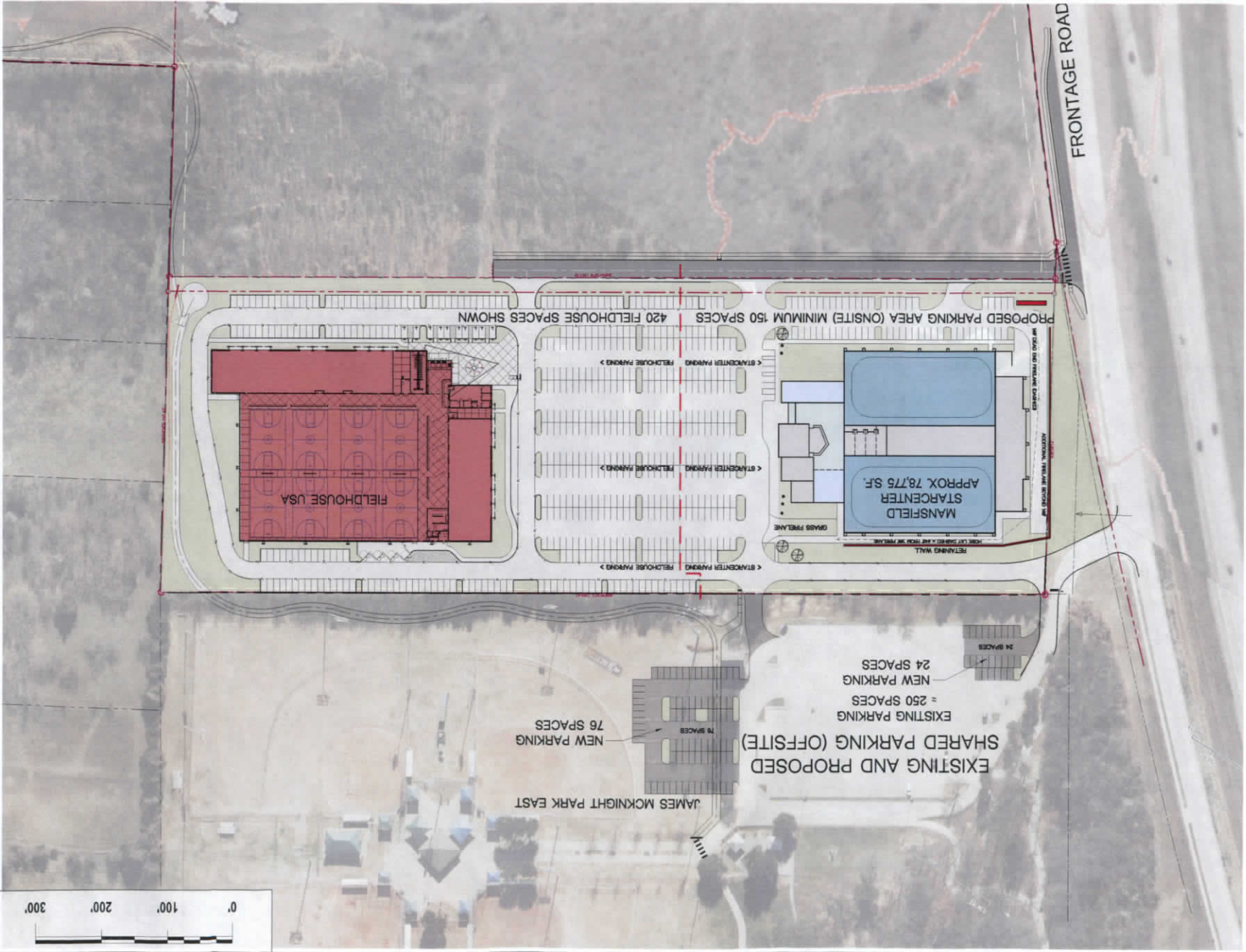
Parking Area and Shared Parking

[ATTACH PLOT SHOWING PARKING AREA AND SHARED PARKING]

A1

SITE PLAN - MANSFIELD STARCENTER

SCALE: 1" = 50'



SP101

SHEET NUMBER

SITE PLAN

SHEET CONTENT

ARCHITECT: ALAN WAGNER

PERMITTING OR

APPROVAL

NOT FOR

CONSTRUCTION

REVISION

DATE

08/17/16

PROJECT NO.

1601

MANSFIELD STARCENTER STUDY

600 N. U. S. 287
MANSFIELD, TEXAS



MAGEE ARCHITECTS, L. P.
DESIGNER • PLANNER • INTERIOR

PORT WORTH, TEXAS