

SPECIAL COUNCIL MEETING  
 Tuesday, September 27, 2015, 6:00 p.m.  
 Casper City Hall  
 Council Chambers

2015 CITY COUNCIL GOALS

**Downtown** - The City of Casper will foster growth and prosperity of the City's core through infrastructure development, creating public spaces and supportive facilities.

**Infrastructure** - The City of Casper will create the conditions for economic development by expanding and maintaining its physical assets and equipment, including streets, water lines, parking garages, fire stations, buildings and parks.

**Recreation** - The City of Casper will support, maintain and upgrade its current recreational facilities and programs and develop recreational opportunities that provide citizens and visitors with a variety of affordable activities for all ages that serve to enhance quality of life.

<b>Council Goals Scorecard</b> <i>Actions to Date</i>
<b>25</b>
<b>178</b>
<b>63</b>

AGENDA

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. BRIGHT SPOTS IN OUR COMMUNITY – HONORING CASPER EVENTS CENTER STAFF
4. RESOLUTION
  - A. Authorizing an Agreement with **Spectra Venue Management** to Provide **Private Management Services at the Casper Events Center.**
5. PUBLIC HEARING
  - A. Resolution
    1. **Fiscal Year 2017 Budget Adjustments** Related to the Casper Events Center.
6. INTRODUCTION OF MEASURES AND PROPOSALS BY MEMBERS OF THE CITY COUNCIL
7. ADJOURN

2015 Goals		
Downtown	Infrastructure	Recreation

**\* Press Conference will follow the Special Council Meeting in the City Hall Lobby**

September 22, 2016

MEMO TO: V. H. McDonald, City Manager  
FROM: Wallace Trembath, Assistant City Attorney w. T.  
SUBJECT: Casper Events Center Private Management Agreement

**Recommendation:**

That the Casper City Council (“Council”), by Resolution authorize a Management Agreement (“Agreement”) with Global Spectrum L.P. d/b/a Spectra Venue Management to provide private management services at the Casper Events Center (“CEC”).

**Summary:**

**History**

The CEC has historically incurred substantial net operating losses in each budget year, which require a subsidy from the General Fund to keep it operational. Staff was directed to pursue the possibility of privatizing the management of the CEC in anticipation of reducing these losses.

Two companies, Global Spectrum L.P. d/b/a/ Spectra Venue Management (“Spectra”) and SMG, were identified as having the qualifications to manage the CEC. After much due diligence, and presentation of information to Council at its work sessions, Council directed staff to negotiate an agreement with Spectra for the private management of the CEC.

**Spectra**

Spectra is very experienced in hosting and entertainment, partnering with over 300 clients at 400 global properties. Spectra offers a full range of services that impact the bottom-line success of public assembly venues, including marketing and sales, corporate partnerships, event booking, ticket services and box office management, customer service, operations and engineering, and finance and administration. Spectra manages facilities similar to the CEC in Loveland, Colorado and Nampa, Idaho, situating Casper between two of the company’s facilities.

**Highlights of The Agreement<sup>i</sup>**

The Agreement is complex, and it required months of negotiation between the parties to reach a mutual agreement. Some of the key points are highlighted below.

- **Management and Term:** Spectra is the sole and exclusive manager of the CEC for an initial, five year term<sup>ii</sup>, including employing all personnel directly.<sup>iii</sup> After the initial five year term, the Agreement renews automatically for one year periods unless a party terminates it by giving 120 days’ prior written notice.

- **Termination**: The right to terminate the Agreement is purposely limited for both parties.<sup>iv</sup> Spectra needs enough time to make cost-effective, strategic, changes to operation of the CEC, and for those changes to take their full, intended effect, and the City needs the opportunity to evaluate Spectra's overall operation of the CEC over that period.
- **Compensation and Incentive**: Spectra receives a \$130,000 per year, fixed management fee; 3% of the food and beverage revenue; 15% of the revenue from the sale of commercial rights, and 20% of any reduction in the net operating loss of the CEC.<sup>v</sup> Starting in the second operating year, Spectra refunds up to 50% of its Fixed Management fee if it has a Net Operating Loss that exceeds \$994,919.<sup>vi</sup>
- **Property Ownership, Use and Insurance**: The City maintains ownership of the CEC and all the property located on the premises, and has limited use of the CEC for its meetings, seminars, training and other non-commercial uses.<sup>vii</sup> The City maintains insurance on the property and its contents, and supports the IT network.<sup>viii</sup>
- **City Approval Requirements**: City approval is required for Spectra's Annual Operating budget, its Operations Manual, and the hiring of its General Manager.<sup>ix</sup>
- **Transition Costs**: The City pays Spectra's approximately \$78,150 for out-of-pocket costs incurred in the transition of the management of the CEC to Spectra.<sup>x</sup> Examples include relocation of the General Manager or other director level positions, recruitment costs, travel, airfare, transportation, hotels, expenses and trips for high level personnel. The City will pay for this cost out of this year's CEC Operational Budget.
- **Other Terms and Conditions**: Provisions are included in the Agreement for handling income, funding, fiscal responsibility, capital expenditures, handling of existing contracts, insurance, indemnification, Wyoming Governmental Claims Act protection, and other standard legal concerns.<sup>xi</sup>

## **Benefits and Impacts**

- **Subsidy Reduction Potential**: Spectra has economy of scale advantages that should allow the CEC to operate more cost effectively. If Spectra can deliver like it has for other clients in the region, there is significant potential to reduce the amount of subsidy needed from the operating budget.
- **Ready Access to Entertainment**: When booking shows, Spectra manages hundreds of locations with thousands of events, many with routes directly in line with Casper or within the same region. It is possible to include the CEC as a stop along the route.
- **Current CEC Employees**: City employees will have the opportunity to apply with Spectra for employment. The City pays all accrued, but unused vacation upon termination of their employment with the City. Spectra agrees to credit their years of services with the City when determining how much vacation time they are entitled to under Spectra's policies. Spectra also agrees to waive any wait periods required for such employees to begin to accrue vacation time, and before such employees are eligible for other fringe benefits such

as health insurance and participation in Manager's 401(k) program.<sup>xii</sup>

The agreement and a resolution are attached for Council's consideration and approval.

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**End Notes**

<sup>i</sup> *All Articles, Sections and Exhibits listed in these endnotes are referencing the Agreement.*

<sup>ii</sup> Sections 4.1 and 4.2.

<sup>iii</sup> Section 6.1

<sup>iv</sup> Sections 4.1 and 4.2.

<sup>v</sup> Sections 3.1, 3.2, 3.4 and 3.5.

<sup>vi</sup> Section 3.3 of the Agreement.

<sup>vii</sup> Section 5.4.

<sup>viii</sup> Article 16 and Section 18.1

<sup>ix</sup> Sections 6.2, 8.2, and Exhibit A.

<sup>x</sup> Section 3.6 and Exhibit G

<sup>xi</sup> Articles 9 through 18.

<sup>xii</sup> Sections 6.1 and 6.2.

**MANAGEMENT AGREEMENT**

**between**

**CITY OF CASPER, WYOMING**

**and**

**GLOBAL SPECTRUM, L.P.  
d/b/a SPECTRA VENUE MANAGEMENT**

**Dated as of October 1, 2016**

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## MANAGEMENT AGREEMENT

This Management Agreement is made as of the 1st day of October, 2016 (“**Effective Date**”), by and between the City of Casper, Wyoming, a Wyoming municipal corporation located at 200 North David Street, Casper, Wyoming 82601 (“**Owner**”), and Global Spectrum, L.P., a Delaware limited partnership d/b/a Spectra Venue Management, whose address is 3601 S. Broad Street, Philadelphia, Pennsylvania 19148 (“**Manager**”).

### RECITALS

WHEREAS, Owner owns a multi-purpose sports and entertainment arena known as the Casper Events Center, consisting of approximately 8,395 seats, located in Casper, Wyoming (the “**Facility**”), the legal description of which is attached hereto as Exhibit H, and is hereby made a part of this Agreement; and

WHEREAS, Owner desires to engage Manager to manage and operate the Facility on behalf and for the benefit of the Owner, and Manager desires to accept such engagement, pursuant to the terms and conditions contained herein; and

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

### ARTICLE I DEFINITIONS

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

**Affiliate:** A person or company that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person or company.

**Agreement:** The “Agreement” shall mean this Management Agreement, together with all schedules and exhibits attached hereto (each of which are incorporated herein as an integral part of this Agreement).

**Capital Expenditures:** All expenditures for building additions, alterations, repairs or improvements and for purchases of additional or replacement furniture, machinery, or equipment, where the cost of such expenditure is greater than five thousand dollars (\$5,000) and the depreciable life of the applicable item is, according to generally accepted accounting principles, is in excess of five (5) years.

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

**Commercial Rights Fee:** The fee Owner shall pay to Manager under this Agreement for Manager's sale of Commercial Rights, as more fully described in Section 3.4 below.

**CPI:** The "Consumer Price Index" for the local Casper, Wyoming area, as published by the United States Department of Labor, Bureau of Labor Statistics or such other successor or similar index.

**Effective Date:** "Effective Date" shall have the meaning ascribed to such term in the opening paragraph of this Agreement.

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

**Event Account:** A separate interest-bearing account in the name of the Owner and under the Owner's Federal ID number in a local qualified public depository, to be designated by the Owner, where advance ticket sale revenue is deposited by Manager.

**Event of Force Majeure:** An act of God, fire, earthquake, hurricane, flood, riot, terrorist act, terrorist threat, washout, landslide, explosion, epidemic, hostilities or war or any other cause or occurrence outside the reasonable control of the party claiming an inability to perform and which by the exercise of due diligence could not be reasonably prevented or overcome.

**Existing Contracts:** Service Contracts, Revenue Generating Contracts, and other agreements relating to the day-to-day operation of the Facility existing as of the Effective Date, as set forth on Exhibit B attached hereto.

**Facility:** The "Facility" shall have the meaning ascribed to such term in the Recitals to this Agreement, and shall be deemed to include the entire arena complex, including but not limited to the arena, suites, locker rooms, meeting rooms, box office, common areas, lobby areas, executive and other offices, storage and utility facilities, as well as the entrances, ground, sidewalks and parking areas immediately surrounding the Facility and adjacent thereto, as identified on Schedule 1 hereto.

**FF&E:** Furniture, fixtures and equipment to be procured for use at the Facility.

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

**Food and Beverage Fee:** The fee Owner shall pay to Manager under this Agreement for Manager's management of the food and beverage service at the Facility, as more fully described in Section 3.3 below.

**General Manager:** The employee of Manager acting as the full-time on-site general manager of the Facility. The General Manager will be dedicated full-time to management of this facility only.

**Incentive Fee:** The contingent fee the Owner shall pay to Manager under this Agreement, if earned, as more fully described in Section 3.2 below.

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

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

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

**Manager:** The term “Manager” shall have the meaning ascribed to such term in the Recitals to this Agreement.

**Marketing Plan:** A plan for the advertising and promotion of the Facility and Facility events, which shall contain but not be limited to the following elements: (i) market research, (ii) market position, (iii) marketing objectives, (iv) marketing strategies, (v) booking priorities, (vi) targeted events - local, regional, national and international, (vii) targeted meetings, conventions and trade shows, (viii) industry advertising campaign, (ix) internal and external support staff, (x) advertising opportunities at the local, regional and national level, (xi) attendance at various trade shows, conventions and seminars, (xii) incentive formulas for multiple event presenters, (xiii) club seat sales, (xiv) merchandising and retail, (xv) food and beverage, (xvi) a plan for the sale of commercial rights, (xvii) a plan regarding national, regional and local public relations and media relations, (xviii) development of an in-house advertising agency, and (xix) policies regarding the use of trade/barter.

**Material Agreements:** (a) all agreements that require payments to any third party in excess of Twenty Thousand Dollars (\$20,000.00) in any given Operating Year for the design, engineering or construction of improvements, for maintenance or repair of structures, fixtures, furniture or equipment, or for the purchase or lease of any goods or services; (b) any agreements which permit the same or a related or similar user or promoter to utilize the facility for more than fifteen (15) event days in any Operating Year, (c) agreements for events that are promoted or co-promoted by the Manager or any of its Affiliates, or wherein the revenues generated by an event are otherwise shared with Manager or any of its Affiliates; (d) agreements for any events that are promoted or co-promoted by the City or otherwise place the City at financial risk; (e) agreements between Manager and any of its Affiliates; (f) all other agreements that have a term in excess of one year (excluding renewal options exercisable by Manager or the Owner) and that may not be canceled by Manager or the Owner without premium or penalty.

**Net Operating Loss Benchmark:** The Net Operating Loss Benchmark shall be as described in Section 3.2 below.

**Net Operating Profit/Loss:** The amount (if any) by which Revenues exceed Operating Expenses in any Operating Year (a Net Operating Profit) or by which Operating Expenses exceed Operating Revenues in any Operating Year (a Net Operating Loss).

**Operating Account:** A separate interest-bearing account in the name of the Manager and under the Manager's Federal ID number in a local qualified public depository, to be designated by the Owner, where Revenue is deposited and from which Operating Expenses are paid. Notwithstanding that such account shall be Manager's name, the Revenue held in such account shall be held in trust for Owner and belong to Owner.

**Operating Budget:** A line item budget for the Facility that includes a projection of Revenues and Operating Expenses, presented on a monthly and annual basis that is approved by Owner pursuant to Section 8.2 hereof.

**Operating Expenses:** All expenses incurred by Manager in connection with its operation, promotion, maintenance and management of the Facility, and incurred consistent with the terms of this Agreement, including but not limited to the following: (i) employee payroll, benefits, relocation costs, severance costs, bonus and related costs, (ii) cost of operating supplies, including general office supplies, (iii) advertising, marketing, group sales, and public relations costs, (iv) cleaning expenses, (v) data processing costs, (vi) dues, subscriptions and membership costs, (vii) the Fixed Management Fee, (viii) printing and stationary costs, (ix) postage and freight costs, (x) equipment rental costs, (xi) minor repairs, maintenance, and equipment servicing, not including expenses relating to performing capital improvements or repairs, (xii) security expenses, (xiii) telephone and communication charges, (xiv) travel and entertainment expenses of Manager employees, (xv) cost of employee uniforms and identification, (xvi) exterminator and trash removal costs, (xvii) computer, software, hardware and training costs, (xviii) parking expenses, (xix) utility expenses, (xx) office expenses, (xxi) audits specified in this Agreement, (xxii) legal expenses related to outside counsel support (as necessary) with the day-to-day operation of the Facility; (xxiii) all bond and insurance costs, including but not limited to personal property, liability, and worker's compensation insurance, (xxiv) commissions and all other fees payable to third parties, (xxv) cost of complying with any Laws, (xxvi) amount of any deductible or self-insured retention under insurance policies; (xxvii) costs incurred under Service Contracts and other agreements relating to Facility operations, (xxviii) costs incurred by Manager to settle or defend claims asserted against Manager arising out of its operation at the Facility on behalf of Owner, unless Manager or its employees are determined to have acted negligently or otherwise have been found to be at fault in causing the claim, (xxix) costs related to the sale of food and beverage such as labor, food and beverage product, small wares, obtaining alcohol permits/licenses, and other similar costs, (xxx) cost related to the sale of Commercial Rights such as labor, marketing materials, fulfillment costs and other similar costs, and (xxx) Taxes.

The term "Operating Expenses" does not include debt service on the Facility, Capital Expenditures, Transition Costs, property taxes, property insurance on the Facility of contents within the Facility owned by Owner;; the Incentive Fee, costs of snow and ice removal, or the costs for IT network and infrastructure support provided by the Owner, all of which shall be borne by Owner, or the costs of fines or expenses relating to a violation of the law by Manager.

**Operating Year:** Each twelve (12) month period during the Term, commencing on July 1 and ending on the next June 30, provided that the initial Operating Year shall commence on the Effective Date and end on June 30, 2017.

**Operations Manual:** Document to be developed by Manager within ninety (90) days of Effective Date which shall contain detailed policies and procedures to be implemented in operating the Facility, as agreed upon by both the Owner and the Manager.

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

**Revenue:** All revenues generated by Manager's operation of the Facility, including but not limited to event ticket proceeds income including service fees, rental and license fee income, merchandise income, gross food and beverage income, gross income from any sale of Commercial Rights, gross service income, equipment rental fees, box office income, and miscellaneous operating income, but shall not include event ticket proceeds held by Manager in trust for a third party and paid to such third party. Without the prior, written approval of Owner, Manager shall not institute parking fees to generate revenue, or for any other purpose.

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

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

**Taxes:** Any and all governmental assessments, franchise fees, excises, license and permit fees, levies, charges and taxes, of every kind and nature whatsoever, which at any time during the Term may be assessed, levied, or imposed on, or become due and payable out of or in respect of, (i) activities conducted on behalf of the Owner at the Facility, including without limitation the sale of concessions, the sale of tickets, and the performance of events (such as any applicable sales and/or admissions taxes, use taxes, excise taxes, occupancy taxes, employment taxes, and withholding

taxes), or (ii) any payments received from any holders of a leasehold interest or license in or to the Facility, from any guests, or from any others using or occupying all or any part of the Facility.

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

**Trailing Commissions:** shall have the meaning ascribed to such term in Section 3.4 of this Agreement.

**Transition Budget** shall mean the budget reflecting anticipated Transition Costs attached hereto as Exhibit G.

**Transition Costs** shall mean the out-of-pocket costs incurred, or to be incurred, by Manager in connection with its activities related to the transition of management of the Facility to Manager, as set forth in the Transition Budget.

## ARTICLE 2 SCOPE OF SERVICES

### Section 2.1 Engagement.

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

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

Section 2.2 Limitations on Manager's Duties. Manager's obligations under this Agreement are contingent upon and subject to the Owner making available, in a timely fashion, the funds budgeted for and/or reasonably required by Manager to carry out such obligations during the Term. Manager shall not be considered to be in breach or default of this Agreement, and shall have no liability to the Owner or any other party, in the event Manager does not perform any of its obligations hereunder due to failure by the Owner to timely provide such funds.

## ARTICLE 3 COMPENSATION; TRANSITION COSTS

Section 3.1 Fixed Management Fee. In consideration of Manager's performance of its services hereunder, Owner shall pay Manager a Fixed Management Fee. Beginning on the Effective Date and continuing through the first (1<sup>st</sup>) Operating Year, the Fixed Management Fee shall be Ten Thousand Eight Hundred Thirty Three Dollars and 33 cents (\$10,833.33) per month. Beginning in

the second (2<sup>nd</sup>) Operating Year, the Fixed Management Fee shall be increased over the Fixed Management Fee from the previous Operating Year in accordance with the percentage increase in the CPI over the previous twelve (12) month period (i.e., the difference, expressed as a percentage, between the value of the CPI published most recently prior to the commencement of the preceding Operating Year and the value of the CPI published most recently prior to the commencement of the Operating Year for which the CPI adjustment will apply). The Fixed Management Fee shall be payable to Manager in advance, beginning on the Effective Date, and payable on the first (1<sup>st</sup>) day of each month thereafter (prorated as necessary for any partial months). Manager shall be entitled to pay itself such amount from the Operating Account.

Section 3.2 Incentive Fee. In addition to the other fees described herein, and as further consideration for Manager's performance of its services hereunder, Manager shall be entitled to receive an Incentive Fee each full or partial Operating Year of the Term equal to twenty percent (20%) of the improvement in the actual Net Operating Profit/Loss in such Operating Year over a Net Operating Loss of (\$994,919) (the "Net Operating Loss Benchmark"), developed as shown on Exhibit J hereto.

By way of example only:

- (a) if the actual Net Operating Profit/Loss in an Operating Year is a loss of \$300,000, resulting in \$694,919 of improvement over the Net Operating Loss Benchmark, then the Incentive Fee due to Manager for such Operating Year shall be \$138,983 (computed as  $\$694,919 \times 20\% = \$138,983$ ).
- (b) If in the next Operating Year there is a profit of \$100,000, resulting in \$1,094,919 of improvement over the Net Operating Loss Benchmark, then the Incentive Fee due to Manager for such Operating Year shall be \$218,983 (computed as  $\$1,094,919 \times 20\% = \$218,983$ ).
- (c) If in the next Operating Year there is a loss of \$1,000,000, resulting in no improvement over the Net Operating Loss Benchmark, no Incentive Fee shall be paid to Manager in such Operating Year.

The Net Operating Loss Benchmark shall be pro-rated for any Operating Years of less than a full 12-months (including, if applicable, the first Operating Year running from the Effective Date to June 30, 2017) based on the actual number of days elapsed in such Operating Years out of 365.

The Incentive Fee determined pursuant to this Section 3.2 will be paid to Manager after completion of each year-end audit, but in no event later than 120 days after the end of each Operating Year.

Section 3.3 Fixed Management Fee Rebate. For any Operating Year other than the first (1<sup>st</sup>) Operating Year in which the Facility has a Net Operating Loss that is greater than the Net Operating Loss Benchmark (the amount by which the actual Net Operating Loss exceeds the Net Operating Loss Benchmark is referred to herein as a "**Shortfall**"), Manager shall rebate to the City up to fifty percent (50%) of the Fixed Management Fee paid to Manager in such year on a dollar-for-dollar

basis to cover the Shortfall. Such rebate, if applicable, shall be made by the Manager no later than ninety (90) days following the end of each Operating Year.

By way of example only, if actual Net Operating Loss in an Operating Year is (\$2 Million), for a Shortfall of \$1,005,081, and the Fixed Management Fee in the such Operating Year is \$150,000, then Manager shall rebate to the City \$75,000 of the Fixed Management Fee. If in the same year the actual Net Operating Loss was (\$1,044,919), for a Shortfall of \$50,000, then Manager would rebate to the City \$50,000 of the Fixed Management Fee.

For the sake of clarity, the parties agree that that the terms of this Section 3.3 shall not apply in the first (1<sup>st</sup>) Operating Year.

**Section 3.4 Food and Beverage Fee.** In addition to the other fees described herein, Manager shall be entitled to receive a Food and Beverage Fee each full or partial Operating Year of the Term. The Food and Beverage Fee shall be equal to three percent (3%) of the portion of Revenue from the sale of food and beverage (including both concession and catering sales). The Food and Beverage Fee shall be paid to Manager on a monthly basis, within 30 days from the end of each month to which such fee relates. Manager shall be entitled to pay itself such amount from the Operating Account upon providing documentation of such fee to Owner.

**Section 3.5 Commercial Rights Fee.** In addition to the other fees described herein, Manager shall be entitled to receive a Commercial Rights Fee each full or partial Operating Year of the Term. The Commercial Rights Fee shall be equal to fifteen percent (15%) of the portion of Revenue from the sale of Commercial Rights, excluding Revenue from naming, sponsorship, advertising and premium seating agreements that were entered into prior to the Effective Date (“Pre-Existing Commercial Rights Agreements”). In the event any Pre-Existing Commercial Rights Agreement is renewed during the Term, Manager shall receive its 15% commission only on any incremental Revenue received under such contract (i.e., Revenue above the base amount paid by such sponsor in the year prior to the Effective Date). By way of example, if a sponsor under a Pre-Existing Commercial Rights Agreement paid fees of \$50,000 in the 12-months prior to the Effective Date, and upon renewal commits to pay \$60,000 per year, Manager’s 15% commission shall be assessed on the \$10,000 per year of incremental Revenue under such agreement. The City represents that facility naming rights are available for Spectra to market and sell hereunder, provided that the City retains the right to approve in advance any agreement for the same of naming rights.

For purposes of this Section 3.5, Revenue shall include any trade included in sales of Commercial Rights, with such trade being valued at its retail value in an arms-length transaction. Owner shall have the right to approve any and all trade. The Commercial Rights Fee shall be paid on all years of the underlying naming, sponsorship, advertising and premium seating agreements secured by Manager, notwithstanding that the term of this Agreement may expire or terminate earlier. The 15% commission due on Commercial Rights Revenue and trade that is due to be received by Owner after the end of the Term of this Agreement is referred to herein as “Trailing Commissions”. The Commercial Rights Fee shall be paid to Manager on a quarterly basis, on or about the last day of

March, June, September and December each year, and Manager shall be entitled to pay itself such amount from the Operating Account upon providing documentation of such fee to Owner. The parties shall also hold a settlement at the expiration or termination of this Agreement, at which time Owner shall pay to Manager, all commissions due prior to such date. Trailing Commissions shall be paid to Manager in installments after the expiration or termination hereof, within thirty (30) days of receipt by the City of the corresponding naming or sponsorship revenue. Owner acknowledges that Manager may employ one (1) sales representative at the Facility to sell Commercial Rights, the cost of which shall be an Operating Expense.

Notwithstanding the foregoing, Manager understands that a preexisting agreement (Casper Coyotes Hockey Games and Practice 2016, Lease #2140) exists between the City, Casper Events Center, and Casper Coyotes, and the commercial rights controlled by the Coyotes (the "Lessee") under such agreement are described on Exhibit F. All commercial rights fees are subject to the preexisting agreement, and manager shall not be entitled to any fees for items described in that agreement.

Section 3.6 Transition Costs. Promptly following the Effective Date (or prior to the Effective Date, as applicable), Manager shall do all things reasonably necessary to transition from the current management of the Facility to the commencement of its management services hereunder. The Owner shall reimburse Manager for the Transition Costs, in accordance with the Transition Budget. Manager shall invoice the Owner for such costs, and the Owner shall pay such costs within thirty (30) days of its receipt of each such invoice. Each invoice to be provided by Manager shall be accompanied by reasonable back-up documentation evidencing the incurrence of the Transition Costs. The transition budget is attached hereto as Exhibit G.

Section 3.7 Late Payments. Manager shall have the right to assess interest on any payments of the fees described in this Section that are not made when due. Such interest shall accrue at the rate of twelve percent (12%) per annum.

#### **ARTICLE 4 TERM; TERMINATION**

Section 4.1. Term. The term of this Agreement shall begin on the Effective Date, and, unless sooner terminated pursuant to the provisions of Section 4.2 below, shall expire at 11:59 p.m. on the day preceding the fifth (5<sup>th</sup>) anniversary of the Effective Date ("Term"). At the end of the initial five (5) year period, this Agreement shall renew automatically for additional one (1) year periods, unless and until either party terminates this Agreement effective at the end of any Operating Year by giving not less than 120 days' prior written notice to the other party. There is no limit to the number of one-year automatic renewals. Notwithstanding that the Effective Date shall not have occurred, this Agreement shall be binding upon execution and delivery by the parties hereto.

Section 4.2. Termination.

(a) This Agreement may be terminated (i) by the Owner upon sixty (60) days written notice to Manager in the event the Owner decides to close the Facility for business, and certifies such fact in writing to Manager, (ii) by either party upon thirty (30) days written notice, if the other party fails to perform or comply with any of the material terms, covenants, agreements or conditions hereof, and such failure is not cured during such thirty (30) day notification period, (iii) by either party immediately by written notice upon the other party being judged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of the other party shall be appointed and shall not be discharged within one hundred twenty (120) days after appointment, or if either party shall make an assignment of its property for the benefit of creditors or shall file a voluntary petition in bankruptcy or insolvency, or shall apply for bankruptcy under the bankruptcy or insolvency laws now in force or hereinafter enacted, Federal, State or otherwise, or if such petition shall be filed against either party and shall not be dismissed within one hundred twenty (120) days after such filing; or (iv) on at least sixty (60) days' prior written notice to Manager, which written notice the Owner may provide in the event the applicable Owner authority fails to budget or appropriate sufficient funds for this Agreement (in which case any sums properly committed by Manager hereunder prior to the termination date shall nevertheless be payable by Owner). Owner agrees to act in good faith and not fail to appropriate sufficient funds for the performance of this Agreement as a means of terminating Manager for performance reasons or in order to fulfill a desire to change managers of the Facility, or (v) by Owner if actual Net Operating Loss in each of two (2) consecutive Operating Years, beginning with the second (2<sup>nd</sup>) and third (3<sup>rd</sup>) Operating Years, is at least ten percent (10%) greater than the Net Operating Loss in the approved Operating Budgets for such years, so long as the reasons therefor are not due, in whole or in part, to the occurrence of an Event of Force Majeure. For Owner to terminate this Agreement under subpart (v) of this Subsection 4.2(a), Owner must provide sixty (60) days' advance written notice to Manager, which notice must be provided within the ninety (90) day period following the end of the second (2<sup>nd</sup>) consecutive Operating Year in which the Net Operating Loss is exceeded by at least ten percent (10%).

(b) In the event this Agreement is terminated prior to the end of the Term, the Owner shall promptly pay Manager all fees due Manager up to the date of termination, including without limitation the Fixed Management Fee and the Incentive Fee for the Operating Year in which this Agreement expires or is terminated, computed on a pro-rata basis (if applicable); provided that if this Agreement is terminated by the City as permitted in Section 4.2(a)(ii) due to breach by Manager, Owner may offset and deduct from such payments any actual, direct out-of-pocket damages suffered by Owner as a result of such breach. Owner shall provide to Manager reasonable documentation of such damages. Additionally, in the event this Agreement is terminated prior to the expiration of the Term by the City under Section 4.2(a)(i) or 4.2(a)(iv), the Owner shall reimburse Manager for any reasonable actual out of pocket expenses, if any, incurred by Manager in withdrawing from the provision of services hereunder in connection with such termination and related to either (i) severance pay for the General Manager and for the department heads, (ii) reasonable household relocation expenses for the General Manager and department heads if they have previously relocated to Casper, WY or its surrounding areas in connection with this Agreement, or (iii) costs to satisfy third party claims or demands related to the early termination and/or assignment of contracts or leases entered into by Manager pursuant to this Agreement, in an aggregate amount not to exceed an

aggregate of One Hundred Thousand Dollars (\$100,000) .

(c) Upon termination or expiration of this Agreement for any reason, (i) Owner shall promptly pay Manager all fees due Manager up to the date of termination or expiration, including without limitation all Trailing Commissions; (ii) Owner shall pay to Manager all Operating Expenses incurred by Manager through the end of the Term that have not previously been paid, including costs of accrued but unused vacation time and other end of employment payments due to Manager's employees whose employment is being terminated Manager, without any further action on part of Manager or Owner; (iii) Owner shall, or shall cause the successor Facility manager to, assume all obligations arising after the date of such termination or expiration, under any Service Contracts, Revenue Generating Contracts, booking commitments and any other Facility agreements entered into by Manager in furtherance of its duties hereunder; (iv) Manager shall promptly discontinue the performance of all services hereunder; (v) Manager and Owner shall take a final inventory of FF&E, and (vi) Manager shall, at no cost to the Owner, deliver or otherwise make available to the Owner all data, electronic files, documents, procedures, reports, estimates, summaries, and other such information and materials as may have been accumulated by Manager in performing its obligations hereunder, whether completed or in process, unless such information constitutes proprietary or confidential information of Manager, as determined by Manager in its reasonable discretion. With respect to any such proprietary or confidential information of Manager, Manager shall advise the Owner of the general nature of such information and shall provide the Owner with an explanation of why it reasonably considers the information to be proprietary. Notwithstanding the foregoing, all marketing plans and materials, lists of prospective users of the Facility, vendor lists and contracts, financial data (in electronic format or otherwise) regarding the Facility, books, records, correspondence with all prospective users of the Facility and schedules for the Facility shall not be considered to be the confidential information of Manager under any circumstances and all such items shall be considered the sole and exclusive property of the Owner. Such delivery shall occur as soon as practicable after termination or expiration and shall be in such form, including electronic form, as the Owner may reasonably require.

(e) The exercise by the Owner or Manager of any rights or remedies provided in this Section 4.2 shall in no way affect any other right or remedy available to the Owner or Manager.

## **ARTICLE 5 OWNERSHIP; USE OF THE FACILITY**

Section 5.1 Ownership of Facility, Data, Equipment and Materials. The Owner will at all times retain ownership of the Facility, including but not limited to real estate, technical equipment, furniture, displays, fixtures and similar property, including improvements made during the Term, at the Facility. Any data, equipment or materials furnished by the Owner to Manager or acquired by Manager as an Operating Expense shall remain the property of the Owner, and shall be returned to the Owner when no longer needed by Manager to perform under this Agreement.

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

Section 5.3 Observance of Agreements. The Owner agrees to pay, keep, observe and perform all payments, terms, covenants, conditions and obligations under any leases, bonds, debentures, loans and other financing and security agreements to which the Owner is bound in connection with its Ownership of the Facility.

Section 5.4 Use by the Owner. Subject to availability, the Owner shall have the right to use the Facility or any part thereof rent-free for meetings, seminars, training classes or other non-commercial uses, provided that the Owner shall reimburse Manager in accordance with City approved payment processes, for deposit into the Operating Account, for any direct out-of-pocket expenses incurred by Manager (such as the cost of ushers, ticket-takers, set-up and take-down personnel, security expenses and other expenses) in connection with such use. Such non-commercial use of the Facility by the Owner shall (i) not compete with or conflict with the dates previously booked by Manager for paying events, (ii) not consist of normally touring attractions (such as concerts and family shows), and (iii) be booked in advance upon reasonable notice to Manager pursuant to the Facilities' approved booking policies. On a monthly basis Manager shall provide to the Owner a list of available dates for Owner use of the Facility. To the extent that Manager has an opportunity to book a revenue-producing event on a date which is otherwise reserved for use by the Owner, Manager may propose alternative dates for the Owner's event and the Owner shall use best efforts to reschedule its event to allow Manager to book the revenue-producing event. If Owner does not reschedule its event causing the Facility to have to forego the revenue-producing event, for purposes of calculating Manager's Incentive Fee, Manager shall receive a "paper" credit towards in an amount equal to the lost anticipated profit from the revenue-producing event, such amount to be approved by Owner, acting reasonably.

Section 5.5 Passes for the Owner's Designee. For every show and event held at the Facility, the Owner shall receive two passes for the City Manager or his designee, free of charge, for purposes of monitoring the services provided.

## **ARTICLE 6 PERSONNEL**

Section 6.1 Generally.

(a) All Facility staff and other personnel performing the duties of Manager hereunder shall be engaged or hired by Manager, and shall be employees, agents or independent contractors of Manager (or an Affiliate thereof), and not of the Owner. Manager shall select, in its sole discretion but subject to Owner's right to approve the Operating Budget, the number, function, qualifications, and compensation, including salary and benefits, of its employees and shall control the terms and conditions of employment (including without limitation termination thereof) relating to such employees. Manager agrees to use reasonable and prudent judgment in the selection and supervision of such personnel. The Owner specifically agrees that Manager shall be entitled to pay its employees, as an Operating Expense, budgeted and approved bonuses and benefits in accordance with Manager's then current employee manual. A copy of Manager's current employee manual shall be provided to the Owner within ninety (90) days of the Effective Date.

(b) The individuals employed by Manager at the Facility shall be Manager (and not Owner) employees in all respects, and shall not be entitled to any benefits offered by Owner to employees of Owner. The Owner shall have no liability for the acts or omissions of Manager's employees.

(c) With respect to any individuals who are employed by Owner on or immediately prior to the Effective Date and who transition to become employees of Manager hereunder ("Transitioning Employees"): (a) the Owner will pay all accrued but unused vacation time to such employees upon termination of their employment with Owner, (b) Manager agrees to credit their years of services with Owner when determining how much vacation time they are entitled to under Manager's policies once employed by Manager; and (c) Manager agrees to waive any wait period otherwise required under Manager's policies before such employees begin to accrue vacation time as Manager employees and before such employees are eligible for other fringe benefits such as health insurance and participation in Manager's 401(k) program. Further, all benefits provided by Owner to the Transitioning Employees shall terminate and cease to be provided upon termination of their employment with Owner. Upon employment by Manager such employees shall be under Manager's benefit plans and Manager shall have no obligation or liability, and the Transitioning Employees shall have no right or claim against Manager for any benefits, under Owner's benefit plans.

Section 6.2 General Manager. Personnel engaged by Manager will include an individual with managerial experience in similar facilities to serve as an on-site General Manager of the Facility. Hiring of the General Manager by Manager shall require the prior approval of the Owner. However, in the event of a vacancy in the General Manager position, Manager may, upon notice to the Owner, temporarily fill such position with an interim General Manager for up to ninety (90) days without the necessity of obtaining the Owner's approval. The General Manager will have general supervisory responsibility for Manager and will be responsible for day-to-day operations of the Facility, supervision of employees, and management and coordination of all activities associated with events taking place at the Facility. Manager will, at the request of the Owner, assist the Owner in obtaining criminal background reports and such other reports as the Owner may reasonably require prior to the hiring of the General Manager. Hiring of the General Manager requires the prior

approval of the Owner, and the General Manager shall be a dedicated, full-time employee at the Facility, and not engaged in managing another facility or performing other Spectra corporate projects for the Manager.

Section 6.3 Non-Solicitation. During the Term and for a period of one (1) year after the end of the Term, the Owner shall not, without Manager's prior written consent, solicit for employment by the Owner, or engage in any capacity, Manager's on-site General Manager, Assistant General Manager or Director of Finance. The parties agree that any breach by the Owner of the preceding sentence will result in irreparable injury to Manager for which money damages could not adequately compensate; therefore, in the event of a breach, Manager will be entitled (in addition to any other rights and remedies which Manager may have at law or in equity, including money damages) to equitable relief, including an injunction to enjoin and restrain the Owner from continuing such breach. It is further understood and agreed that no failure or delay by Manager in exercising any right, power or privilege hereunder shall operate as a waiver thereof. Notwithstanding the foregoing, if any of the General Manager, Assistant General Manager or Director of Finance were previously employed by the City immediately prior to the Effective Date, the restrictions described in this Section 6.3 shall not apply.

## **ARTICLE 7 INVENTORY**

Section 7.1. Generally. Promptly following the Effective Date, Manager and Owner shall jointly cause a written inventory to be taken of all furniture, fixtures, office equipment, supplies, tools and vehicles at the Facility. Manager shall deliver a written report of the foregoing to the Owner, and shall be responsible for the items listed therein, normal wear and tear excepted. Manager shall document all major damage to, or loss in, such inventory during the Term as soon as such damage or loss is discovered by Manager, and Manager shall promptly notify the Owner of such damage or loss.

Section 7.2 Annual Inventory. See Exhibit A, subsections (t) & (w).

Section 7.3 Final Inventory. At the termination of this Agreement, Manager shall take a final inventory; reconcile it against the latest, annual inventory; and notify the Owner of damage or loss to inventory. The obligations of the parties contained in this Article 7.3 shall survive the termination or expiration of this Agreement.

## **ARTICLE 8 OPERATING BUDGET**

Section 8.1 Establishment of Operating Budget. Attached hereto as Exhibit C is the Operating Budget for the first (1<sup>st</sup>) Operating Year. The parties acknowledge that such Operating Budget was set in place by the Owner without Manager's input and prior to Owner's engagement of

Manager hereunder. Thus, Owner agrees that (i) the Operating Budget shall be automatically deemed amended to include as an expense thereunder the Fixed Management Fee to be paid to Manager during the first (1<sup>st</sup>) Operating Year, and (ii) Manager may propose additional amendments to such Operating Budget which the Owner will act in a commercially reasonable way in considering. Manager agrees that at least ninety (90) days prior to the commencement of each subsequent Operating Year, it will prepare and submit to the Owner its proposed Operating Budget for such year. Each annual Operating Budget shall include Manager's good faith projection of Revenues, Operating Expenses, and Capital Expenditure requests, formatted to show monthly and annual projections, for the upcoming Operating Year. Subject to the Wyoming Public Records Act, W.S. § 16-4-201 *et seq.*, the Owner agrees to provide Manager with all information in its possession that is reasonably necessary to enable Manager to prepare each Operating Budget.

Section 8.2 Approval of Operating Budget. Each annual Operating Budget shall be subject to the review and approval of the Owner.. In order for the Owner to fully evaluate and analyze such budgets or any other request by Manager relating to income and expenses, Manager agrees to provide to the Owner such reasonable financial information relating to the Facility as may be requested by the Owner from time to time. If extraordinary events occur during any Operating Year that could not reasonably be contemplated at the time the corresponding Operating Budget was prepared, Manager may submit an amendment to such budget for review and approval by the Owner. If the Owner fails to approve any annual Operating Budget (or any proposed amendment thereto), the Owner shall promptly provide Manager the specific reasons therefor and its suggested modifications to Manager's proposed Operating Budget or amendment in order to make it acceptable. The parties shall then engage in good faith discussions and use reasonable commercial efforts to attempt to resolve the matter to the mutual satisfaction of the parties, including, if applicable, negotiation of a mutually acceptable modification to the economic terms of this Agreement.

Section 8.3 Adherence to Operating Budget. Manager shall use all reasonable efforts to manage and operate the Facility in accordance with the Operating Budget, but shall have no liability for failing to achieve such estimated amounts. Manager agrees to notify the Owner within 30 days of any significant change or variance in the bottom line number in the Operating Budget, and any material increase in total Facility expenses from that provided for in the Operating Budget. In either such case and if requested by Owner, Manager agrees to work with Owner to develop and implement a plan (or changes to the then current plan) to limit Operating Expense to be incurred in the remaining months of such Operating Year with the goal of achieving the Operating Budget. Without the prior consent of the Owner, Manager shall not exceed, commit or contract to expend any sums in excess of the aggregate fixed costs allowed in the Operating Budget or otherwise approved by Manager, except (i) for expenses for services provided to the Facility by third parties, the cost of which is not within the reasonable control of Manager, such as the costs of utilities and insurance; (ii) Emergency Repairs (as defined in Section 12.3 below); (iii) increased costs resulting from the scheduling by Manager of additional revenue producing events or activities at the Facility, so long as prior to the scheduling of such events or activities, Manager had a good faith belief that the projected net operating loss or profit for the Operating Year as set forth in the applicable Operating Budget would be improved as a result of such additional events or activities; and (iv) increased costs

resulting from events scheduled pursuant to Section 5.4. Notwithstanding the foregoing, in no event will Operating Expenses exceed one hundred five percent (105%) of the aggregate budgeted fixed expenses in the Operating Budget (including any amendments thereto, if any) without the prior written approval of the Owner. Manager shall immediately report in writing to the Owner any anticipated expenditures that may exceed the aggregate budgeted expenses in the Operating Budget. If Manager incurs any expenses in excess of an Operating Budget in violation of this Section, Manager shall be responsible for such excess expenditures from its own funds.

## **ARTICLE 9 PROCEDURE FOR HANDLING INCOME**

Section 9.1. Event Account. Manager shall deposit as soon as practicable following receipt, in the Event Account, all revenue received from ticket sales and similar event-related revenues which Manager receives in contemplation of, or arising from, an event, pending completion of the event. Such monies will be held in escrow for the protection of ticket purchasers, the Owner and Manager, to provide a source of funds as required for payments to performers and for payments of direct incidental expenses in connection with the presentation of events that must be paid prior to or contemporaneously with such events. Promptly following completion of such events, Manager shall transfer all funds in the Event Account into the Operating Account. Interest accrued on amounts in the Event Account shall be part of the Facility operating income and shall be transferred to the Operating Account, unless Manager is required to pay such interest to the promoter of an event pursuant to its respective license agreement with the promoter. Bank service charges, if any, on such account(s) shall be deducted from interest earned.

Section 9.2. Operating Account. Except as provided in Section 9.1, all Revenue derived from operation of the Facility shall be deposited by Manager into the Operating Account as soon as practicable upon receipt (but not less often than once each business day, and in any event within one (1) business day of receipt). As provided in Section 10.1, Manager shall have the right to withdraw and use the funds in the Operating Account to cover the operation of the Facility, including payment of Operating Expenses

### Section 9.3. Authorized Signatories.

(a) The Event Account shall be in the Owner's name and have two authorized Owner signatories. The Operating Account shall be in Manager's name. Manager shall designate up to four (4) Manager employees to be authorized signatories on such accounts. All Manager employees with signature authority must be covered by crime insurance in accordance Article 16 and Exhibit D of this Agreement. If the Owner notifies Manager in writing that it desires, for good cause, the revocation of any particular Manager employee's signature authority, Manager shall promptly revoke the employee's signature authority.

(b) Manager may make disbursements from such accounts to perform its duties

under this Agreement solely upon the Manager's signature authorization granted herein; joint Owner and Manager signatures shall not be required on any disbursement. Manager may establish additional accounts as needed for Facility operations upon the express written approval of the Owner.

Section 9.4. Bank Statements. Manager shall submit to the Owner, or shall cause the applicable public depository utilized by Manager to submit to the Owner, on a monthly basis, copies of all bank statements concerning the Event Account and the Operating Account.

Section 9.5. Cash Control. As will be further described in the Operations Manual, it is the intent of the parties to employ strict cash control methods with respect to Facility operations through a combination of rigid accounting procedures and internal audit tests, as well as an annual audit by an independent public accounting firm, and as set forth in Section 11.3 below. Payrolls shall be processed through a separate bank account in the name of Manager or its payroll provider, reconciled monthly and tested via internal audit procedures. Each event at the Facility shall be accounted for using an event accounting system, with budgets and final reports prepared for each event, and reimbursable expenses for each event coded for accurate accumulation to ensure all applicable costs are paid by the users of the Facility. Except with respect to national promoters when in Manager's reasonable business judgment a deposit is not necessary to require, users of the Facility shall be required to make advance deposits to cover rentals and estimated costs, in an effort to minimize collection efforts. Manager shall check credit references of any new or questionable users of the Facility.

## ARTICLE 10 FUNDING

Section 10.1 Source of Funding. Manager shall pay in accordance with City approved payment processes, all items of expense for the operation, maintenance, supervision and management of the Facility from the funds in the Operating Account, which Manager may access periodically for this purpose. The Operating Account shall be funded with amounts generated by operation of the Facility (as described in Article 8 above), or otherwise made available by the Owner. To ensure sufficient funds are available in the Operating Account, Owner will deposit in the Operating Account, on or before the Effective Date, the budgeted or otherwise approved expenses for the month beginning on the Effective Date. The Owner shall thereafter, on or before the 1<sup>st</sup> day of each succeeding month following the Effective Date, deposit (or allow to remain) in the Operating Account the budgeted or otherwise approved expenses for each such month. Manager shall have no liability to the Owner or any third party in the event Manager is unable to perform its obligations hereunder, or under any third party contract entered into pursuant to the terms hereof, due to the fact that sufficient funds are not made available to Manager to pay such expenses in a timely manner.

Section 10.2 Advancement of Funds. Under no circumstances shall Manager be required to pay for or advance any of its own funds to pay for any Operating Expenses. In the event that,

notwithstanding the foregoing, Manager agrees to advance its own funds to pay Operating Expenses, Owner shall promptly reimburse Manager for the full amount of such advanced funds.

## **ARTICLE 11 FISCAL RESPONSIBILITY; REPORTING**

Section 11.1. Records. Manager agrees to keep and maintain, at its office in the Facility, separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its operations in connection with its management of the Facility. Such records (including books, ledgers, journals, and accounts) shall contain all entries reflecting the business operations of Manager under this Agreement. The Owner or its authorized agent shall have the right, at its sole cost, to audit and inspect such records from time to time during the Term, upon reasonable notice to Manager and during Manager's ordinary business hours.

Section 11.2. Monthly Financial Reports. Manager agrees to provide to the Owner, within thirty (30) days after the end of each month during the Term, financial reports for the Facility including a balance sheet, aging report on accounts receivable, and statement of revenues and expenditures (budget to actual) for such month and year to date in accordance with generally accepted accounting principles. In addition, Manager agrees to provide to the Owner a summary of bookings for each such month, and separate cash receipts and disbursements reports for each event held at the Facility during such month. Manager agrees to meet with Owner personnel from time to time to answer the Owner's questions, if any, relating to the operation of the Facility and the financial reports provided by Manager. Furthermore, Manager will promptly upon request by the Owner provide information on the Event Account, Operating Account and any other accounts maintained in connection with this Agreement.

Section 11.3. Audit. Manager agrees to provide to the Owner, within one hundred twenty (120) days following the end of each Operating Year, a certified audit report on the accounts and records as kept by Manager for the Facility. Costs associated with obtaining such certified audit report shall be an Operating Expense of the Facility. In the event such audit reveals any underpayment to the Owner, Manager shall promptly pay to the Owner the amount of such deficiency. If such audit reveals any overpayment to the Owner, the Owner shall promptly pay to Manager the amount of such overpayment. Manager shall utilize an external auditor of national or regional recognition approved by the Owner to conduct such audit, which shall be conducted in accordance with generally accepted auditing standards. A letter from such accounting firm expressing its opinion as to the effectiveness of internal controls and a management letter will accompany the audit report. At the option of the Owner and at its expense, additional audits may be performed from time to time.

Section 11.4. Additional Statements and Reports. In the event the Owner reasonably requests from time to time additional financial or statistical reports with respect to the Facility, Manager agrees to use reasonable efforts to promptly provide such reports. Any costs of Manager associated with the preparation or provision of such reports shall be included as an Operating Expense of the Facility, payable by the Owner.

**ARTICLE 12  
CAPITAL IMPROVEMENTS**

Section 12.1 Schedule of Capital Expenditures. Manager shall annually, at the time of submission of the annual Operating Budget to the Owner, provide to the Owner a schedule of proposed capital improvements to be made at the Facility, for the purpose of allowing the Owner to consider such projects and to prepare and update a long-range Capital Expenditure budget.

Section 12.2 Responsibility for Capital Expenditures. The Owner shall be solely responsible for all Capital Expenditures at the Facility; provided, however, the Owner shall be under no obligation to make any Capital Expenditures proposed by Manager, and provided further that Manager shall have no liability for any claims, costs or damages arising out of a failure by the Owner to make any Capital Expenditures. Notwithstanding the foregoing, Manager shall have the right, upon approval by the Owner, to make Capital Expenditures at the Facility for Emergency Repairs. In such event, the Owner shall promptly reimburse Manager for the cost of such Capital Expenditure.

**ARTICLE 13  
FACILITY CONTRACTS; TRANSACTIONS WITH AFFILIATES**

Section 13.1 Existing Contracts. The Owner shall provide to Manager, on or before the Effective Date, copies of all Existing Contracts. Manager shall administer and assure compliance with such Existing Contracts.

Section 13.2 Execution of Contracts. Manager shall have the right to enter into Service Contracts, Revenue Generating Contracts and other contracts related to the operation of the Facility, on behalf of the Owner, consistent with the terms of this Agreement and subject to the remainder of this paragraph. Any material agreements shall contain standard indemnification and insurance obligations on the part of each vendor, licensee or service provider, as is customary for the type of services or obligations being provided or performed by such parties. Manager shall obtain the prior approval of the Owner (which approval shall not be unreasonably withheld or delayed) before entering into any such Material Agreement.

Section 13.3 Transactions with Affiliates. In connection with its obligations hereunder relating to the purchase or procurement of necessary services for the Facility (including without limitation food and beverage services, ticketing services, Commercial Rights sales, web design services and graphic design services), Manager may purchase or procure such services, or otherwise transact business with, an Affiliate of Manager, provided that the prices charged and services rendered by such Affiliate are competitive with those obtainable from any unrelated parties rendering comparable services. Manager shall provide reasonable evidence establishing the competitive nature of such prices and services, including, if appropriate, competitive bids from other persons seeking to render such services at the Facility.

**ARTICLE 14**  
**AGREEMENT MONITORING AND GENERAL MANAGER**

Section 14.1 Contract Administrator. Each party shall appoint a contract administrator who shall monitor such party's compliance with the terms of this Agreement and be the day-to-day liaison between the parties on all matters relating to this Agreement. Manager's contract administrator shall be its General Manager at the Facility, unless Manager notifies Owner of a substitute contract administrator in writing. Owner shall notify Manager of the name of its contract administrator within thirty (30) days of execution hereof. Any and all references in this Agreement requiring Manager or Owner participation or approval shall mean the participation or approval of such party's contract administrator. Owner's contract administrator, or his designee, shall have the right to access the Facility at any time to inspect the Facility, including any property and equipment.

**ARTICLE 15**  
**INDEMNIFICATION**

Section 15.1 Indemnification by Manager. Manager agrees to defend, indemnify and hold harmless the Owner and its officials, directors, officers, employees, agents, successors and assigns against any claims, causes of action, costs, expenses (including reasonable attorneys' fees) liabilities, or damages (collectively, "**Losses**") suffered by such parties, arising out of or in connection with any (a) negligent act or omission, or intentional misconduct, on the part of Manager or any of its employees or agents in the performance of its obligations under this Agreement, or (b) breach by Manager of any of its representations, covenants or agreements made herein.

Section 15.2 Indemnification by Owner. Owner hereby agrees to indemnify and hold the Manager, its employees and agents harmless from any and all liability for personal injury, death, or property damage arising or resulting from the City of Casper's or its employees' or agents' negligence related to its activities with respect to the Facility for which the City is not otherwise immune from liability pursuant to the Wyoming Governmental Claims Act.

Section 15.3 Conditions to Indemnification. With respect to each separate matter brought by any third party against which a party hereto ("Indemnitee") is indemnified by the other party ("Indemnitor") under this Article 15, the Indemnitor shall be responsible, at its sole cost and expense, for controlling, litigating, defending and/or otherwise attempting to resolve, through counsel of its choice, any proceeding, claim, or cause of action underlying such matter, except that (a) the Indemnitee may, at its option, participate in such defense or resolution at its expense and through counsel of its choice; (b) the Indemnitee may, at its option, assume control of such defense or resolution if the Indemnitor does not promptly and diligently pursue such defense or resolution, provided that the Indemnitor shall continue to be obligated to indemnify the Indemnitee hereunder in connection therewith; and (c) neither Indemnitor nor Indemnitee shall agree to any settlement without the other's prior written consent (which shall not be unreasonably withheld or delayed). In any event, Indemnitor and Indemnitee shall in good faith cooperate with each other and their

respective counsel with respect to all such actions or proceedings, at the Indemnitor's expense. With respect to each and every matter with respect to which any indemnification may be sought hereunder, upon receiving notice pertaining to such matter, Indemnitee shall promptly (and in no event more than twenty (20) days after any third party litigation is commenced asserting such claim) give reasonably detailed written notice to the Indemnitor of the nature of such matter and the amount demanded or claimed in connection therewith.

Section 15.4 Survival. The obligations of the parties contained in this Article 15 shall survive the termination or expiration of this Agreement.

## **ARTICLE 16 INSURANCE; BONDS**

Section 16.1. Types and Amount of Coverage. Manager agrees to obtain insurance coverage in the manner and amounts as set forth in Exhibit D, attached hereto, and shall provide to the Owner promptly following the Effective Date a certificate of certificates of insurance evidencing such coverage. Manager shall maintain such referenced insurance coverage at all times during the Term, and will not make any material modification or change from these specifications without the prior approval of the Owner. Each insurance policy shall include a requirement that the insurer provide Manager and the Owner at least thirty (30) days written notice of cancellation or material change in the terms and provisions of the applicable policy. The cost of all such insurance shall be an Operating Expense of the Facility, payable by the Owner. For any claims related to this Agreement, the Manager's insurance coverage shall be primary insurance as to the Owner, its officers, elected and appointed officials, employees, agents and volunteers.

Section 16.2. Rating: Additional Insureds. All insurance policies shall be issued by an insurer or insurers licensed to sell insurance in the State of Wyoming with an A.M. Best rating of A:VIII or better or other equivalent rating from another agency acceptable to the Owner, and shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved. The commercial general liability policy, automobile liability insurance policy and umbrella or excess liability policy to be obtained by Manager hereunder shall name Owner and its officers, elected and appointed officials, agents, volunteers and employees as additional insureds with respect to the operations and obligations contemplated by this Agreement. The amount of any deductible under any insurance policy must be reasonably acceptable to the Owner. The workers compensation policy to be obtained by Manager hereunder shall contain a waiver of all rights of subrogation against the Owner. Manager shall require that all users of the Facility, including without limitation licensees, ushers, security personnel and concessionaires, provide to Manager certificates of insurance evidencing insurance appropriate for the types of activities such user is engaged in. If Manager subcontracts any of its obligations under this Agreement, Manager shall either: (a) cover all subcontractors under its policies of insurance, or (b) require each subcontractor not so covered to secure insurance that will protect against applicable hazards or risks of loss as and in the minimum amounts designated herein, and name Manager and the Owner as additional insureds.

Section 16.3. Crime Insurance. Those employees of Manager who have access to or are responsible for the funds generated under this Agreement shall be covered by crime insurance covering the activities of such employees in form and amount as set forth on Exhibit D.

Section 16.4. Insurance Obligations of the Owner. The Owner shall provide property insurance covering the Facility and Owner's property in the Facility, as well as liability insurance, in amounts deemed by the Owner to be sufficient.

## ARTICLE 17 REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 17.1 Manager Representations and Warranties. Manager hereby represents, warrants and covenants to Owner as follows:

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

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

(c) that Manager will comply with all Laws applicable to its management of the Facility, provided that Manager shall not be required to undertake any compliance activity, nor shall Manager have any liability under this Agreement therefor, if such activity requires any Capital Expenditure.

Section 17.2 Owner Representations, Warranties and Covenants. Owner represents, warrants and covenants to Manager as follows:

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

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

## ARTICLE 18 MISCELLANEOUS

Section 18.1 PCI Compliance and IT Support. Manager agrees to comply with all current Payment Card Industry Data Security Standards (“PCI Standards”) and guidelines that may be published from time to time by Visa, MasterCard or other associations as they relate to the physical storage of credit card data. For PCI Standards compliance purposes, Owner will provide on a segmented network or other P2/PE compliant access point , an appropriate number of wired data connections to the Internet for point of sale devices to be used by Manager and any contractors at the Facility. Owner shall be responsible for the security of its network, including, without limitation, applicable PCI-DSS compliance, and for procuring and installing point of sale (POS) payment systems that are compliant with the latest PCI-DSS requirements. If at any time either party determines that card account number or other information has been compromised, such party will notify the other immediately and assist in providing notification to the proper parties as deemed necessary. The Owner will also continue its current level of IT support of the Facility computer network, including administrative control and support of the network, computers, wireless point connections, fiber connections and the phone system. The Owner will repair any issues regarding network access configurations and the Manager shall follow all Owner network policies and rules regarding such access, as they may be amended from time to time. Manager agrees that its staff will use non-City email domains and addresses. Owner IT support for the items listed above is generally limited to Monday through Friday from 8 a.m. to 5 p.m., with emergency callout available through the Owner’s police dispatch center. However, Manager understands and agrees that there is no guaranteed response time, as the Owner has no designated “on call” employees in its IT Department.

Section 18.2 No Discrimination. Manager agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age, and will take affirmative steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age.

Section 18.3 Use of Facility Names and Logos. Manager shall have the right to use throughout the Term (and permit others to use in furtherance of Manager’s obligations hereunder), for no charge, the name and all logos of the Facility, on Manager’s stationary, in its advertising of the Facility, and whenever conducting business of the Facility; provided, that Manager shall take all prudent and appropriate measures to protect the intellectual property rights of the Owner relating to such logos. All intellectual property rights in any Facility logos developed by the Manager or the Owner shall be and at all times remain the sole and exclusive property of the Owner. Manager agrees to execute any documentation requested by the Owner from time to time to establish, protect or convey any such intellectual property rights.

Section 18.4 Facility Advertisements. Manager agrees that any advertisements placed by the Manager locally for the facility, whether such advertisements are in print, on radio, television, the internet or otherwise, shall bear only the Facility name approved by the Owner. Advertisements placed in trade publications may also say that the Facility is managed by Spectra.

Section 18.5 Force Majeure; Casualty Loss.

(a) Neither party shall be liable or responsible to the other party for any delay, loss, damage, failure or inability to perform under this Agreement due to an Event of Force Majeure, provided that the party claiming failure or inability to perform provides written notice to the other party within thirty (30) days of the date on which such party gains actual knowledge of such Event of Force Majeure.

(b) In the event of damage or destruction to a material portion of the Facility by reason of fire, storm or other casualty loss that renders the Facility (or a material portion thereof) untenable, the Owner shall use reasonable efforts to remedy such situation. If notwithstanding such efforts, such damage or destruction is expected to render the Facility (or a material portion thereof) untenable for a period estimated by an architect selected by the Owner at Manager's request, of at least one hundred eighty (180) days from the date of such fire, storm or other casualty loss, either party may terminate this Agreement upon written notice to the other, provided that the Owner shall pay to Manager its costs of withdrawing from services hereunder, as described in Section 4.2(b) above.

Section 18.6 Assignment. Neither party may assign this Agreement without the prior written consent of the other.

Section 18.7 Notices. All notices required or permitted to be given pursuant to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, or by generally recognized, prepaid, overnight air courier services, to the address and individual set forth below.

If to the Owner:

City of Casper, Wyoming  
200 N. David St.  
Casper, WY 82601  
Attn: CEC Contract Administrator,  
City Manager's Office

With a copy to:

City of Casper, Wyoming  
200 N. David St.  
Casper, WY 82601  
Attn: City Attorney's Office

If to Manager:

Spectra Venue Management  
3601 S. Broad Street  
Philadelphia, PA 19148  
Attn: Chief Operating Officer

With a copy to:

Comcast Spectacor, L.P.  
3601 South Broad Street  
Philadelphia, Pennsylvania 19148-5290  
Attn: General Counsel

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

Section 18.8 Severability. If a court of competent jurisdiction determines that any term of this Agreement is invalid or unenforceable to any extent under applicable law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

Section 18.9 Entire Agreement. This Agreement (including the exhibits attached hereto) contains the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior negotiations, correspondence, conversations, agreements, and understandings concerning the subject matter hereof. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations, agreements or understandings, whether oral or written.

Section 18.10 Governing Law. The Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Wyoming, without regard to its conflict of laws principles.

Section 18.11 Amendments. Neither this Agreement nor any of its terms may be changed or modified, waived, or terminated (unless as otherwise provided hereunder) except by an instrument in writing signed by an authorized representative of each party.

Section 18.12 Waiver; Remedies. No failure or delay by a party hereto to insist on the strict performance of any term of this Agreement, or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Agreement, but each and every term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. The remedies provided in this Agreement are cumulative and not exclusive of the remedies provided by law or in equity.

Section 18.13 Relationship of Parties. Manager and Owner acknowledge and agree that they are not joint venturers, partners, or joint owners with respect to the Facility, and nothing contained in this Agreement shall be construed as creating a partnership, joint venture or similar relationship between Owner and Manager. In operating the Facility, entering into contracts, accepting reservations for use of the Facility, and conducting financial transactions for the Facility, Manager acts on behalf of and as agent for Owner (but subject to the limitations on Manager's authority as set out in this Agreement), with the fiduciary duties required by law of a party acting in such capacity.

Section 18.14 No Third Party Beneficiaries. Other than the indemnitees listed in Article 15 hereof (who are third party beneficiaries solely with respect to the indemnification provisions in such sections), there are no intended third party beneficiaries under this Agreement, and no third party shall have any rights or make any claims hereunder, it being intended that solely the parties hereto (and the aforementioned indemnitees with respect to the indemnification provisions hereof) shall have rights and may make claims hereunder.

Section 18.15 Limitation on Damages. In no event shall either party be liable or responsible for any consequential, indirect, incidental, punitive, or special damages (including, without limitation, lost profits) whether based upon breach of contract or warranty, negligence, strict tort liability or otherwise, and each party's liability for damages or losses hereunder shall be strictly limited to direct damages that are actually incurred by the other party, provided that the foregoing shall not limit or restrict any claim by Manager for the management fees described herein upon a breach or default of this Agreement by Owner.

Section 18.16 Counterparts; Facsimile and Electronic Signatures. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document. This Agreement may be executed by the parties and transmitted by facsimile or electronic transmission, and if so executed and transmitted, shall be effective as if the parties had delivered an executed original of this Agreement.

Section 18.17 Governmental Claims. The Owner does not waive any right or rights it may have pursuant to the Wyoming Governmental Claims Act, Wyoming Statutes Section 1-39-101 *et seq*, and the Owner specifically reserves the right to assert any and all rights, immunities, and defenses it may have pursuant to the Wyoming Governmental Claims Act.

Section 18.18 Event Cancellations. In the event of an event cancellation, a performer who is a no-show or unable to perform, or other substantially similar occurrence in which ticket refunds are due, Manager shall be responsible for issuing such ticket refunds to the extent the ticket revenue is in its possession, or otherwise directing that refunds are provided at the point of purchase, or otherwise handling the matter in accordance with good industry practice, consistent with applicable law.

[Intentionally Left Blank]

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

APPROVED AS TO FORM

Walke Trembo  
Assistant City Attorney

ATTEST

CITY OF CASPER, WYOMING  
A Municipal Corporation

\_\_\_\_\_  
Tracey L. Belser  
City Clerk

\_\_\_\_\_  
Daniel Sandoval  
Mayor

WITNESS

By: Joshua A. Pizzuca

Printed Name: JOSHUA A. PIZZUCA

Title: OFFICE MANAGER, LEGAL

GLOBAL SPECTRUM, L.P.,  
d/b/a Spectra Venue Management  
By: Global Spectrum, Inc. its general partner

Philip I. Weinberg

Title: President/Secretary

## **EXHIBIT A MANAGER DUTIES**

Manager's obligations under the Agreement shall consist of the following obligations, all of which are subject to the terms hereof.

Manager shall develop an Operations Manual within ninety (90) days of the Effective Date. Such Operations Manual is subject to the review and prior approval of the Owner.

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

(b) Manage and perform all food and beverage concession and catering service at the Facility. Manager may engage subcontractors with Owner's approval to sell food and beverages at the Facility. Owner, at its cost, shall provide to Manager all necessary or desirable small wares and equipment to enable Manager to perform the food and beverage service. Any new small wares and equipment reasonably necessary to provide food and beverages at the Facility shall be treated as an Operating Expense or Capital Expenditures, as applicable and approved by the Owner. All Revenue to the Facility from operation of the food and beverage service shall be deemed to be Revenue, and shall be deposited by Manager into the Operating Account. All expenses incurred by Manager in connection with the provision by Manager of the food and beverage service shall be Operating Expenses, payable by Manager with funds from the Operating Account.

(c) Manage and market the sale of Commercial Rights at or in connection with the Facility.

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

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

(f) Require that all material vendors and licensees of the Facility execute vendor/license agreements containing standard indemnification and insurance obligations on the part of each such vendor/licensee. The standard indemnification and insurance language shall be approved by the Owner in advance and no material alteration of such language shall be made without the written approval of the Owner. Manager shall provide the Owner with access to a copy of all such agreements within seven business days of their date of execution. All agreements and licenses for bookings shall be on license agreement forms approved by the Owner in its reasonable discretion.

(g) Operate and maintain the Facility, including the equipment utilized in connection with its operation and any improvements made during the term of this Agreement, in the condition received, normal wear and tear excepted.

(h) Arrange for and otherwise book events at the Facility in accordance with a booking schedule, and Exhibit E, to be developed by Manager.

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

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

(k) Submit to the Owner in a timely manner financial and other reports detailing Manager's activities in connection with the Facility, as set forth in Article 11 of the Agreement.

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

(m) Pay all Operating Expenses and other expenses incurred in connection with the operation, maintenance, supervision and management of the Facility from the Operating Account or with funds otherwise made available by the Owner.

(n) Make application to secure all licenses and permits necessary for the sale of alcoholic beverages at the Facility. Owner shall cooperate and assist Manager in this process. All costs associated with this process shall be Operating Expenses. The terms on Exhibit I (Liquor License Terms) are incorporated herein and made a part hereof.

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

(p) Collect in a timely manner and deposit in the Operating Account all Revenue, as more fully described in Article 9 of the Agreement.

(q) Subject to the Owner making available sufficient funds in a timely manner, pay all Taxes.

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

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

(t) On an annual basis, cause a written inventory to be taken of all furniture, fixtures, office equipment, supplies, tools and vehicles at the Facility, and deliver a written report of the foregoing to Owner. Manager shall document all major damage to, or loss in, such inventory during the Term as soon as such damage or loss is discovered by Manager, and Manager shall promptly notify Owner of any such damage or loss.

(u) Purchase, on behalf of the Owner and with Owner funds, and maintain during the Term, all materials, tools, machinery, equipment and supplies necessary for the operation of the Facility.

(v) As agent for the Owner, manage risk management and Facility operation insurance needs, as more fully described in Article 16 of the Agreement, and indemnify the Owner as further described in Article 15 of the Agreement.

(w) Make and be responsible for all routine and minor repairs, maintenance, preventative maintenance, and equipment servicing. Manager shall be responsible for ensuring that all repairs, replacements, and maintenance shall be of a quality and class at least equal to that of the item being repaired, replaced or maintained. Any replacement of an item in inventory, or any new item added to the inventory, which is paid for by the Owner, shall be deemed the property of the Owner.

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

**EXHIBIT B**  
**LIST OF EXISTING CONTRACTS**

Type of Agreement	Agreement Title/Company
Advertising/Portal	Atlantic Electric
Advertising/Portal	CINCH
Advertising/Portal	Wyoming Veterans Commission
Advertising/Portal	JJM - Candlewood Suites
Advertising/Portal	Re/Max
Advertising/Portal	Denny's
Advertising/Scoreboard	WY Beverage/Pepsi
Advertising/Scoreboard	Casper Beverage/Budweiser
Advertising/Scoreboard	Ricoh, USA
Advertising/Scoreboard	Loaf 'n Jug
Advertising/Scoreboard	Wyoming Medical Center
Advertising/Scoreboard	Fremont Motors
Advertising/Hotel	JJM Hotel Groups
Concessions	Carruth's Concessions
Miscellaneous	CEC Communication Tower
Miscellaneous	Ice Naming Rights - Wold
Concessions	Mini Donuts Concessions
Concessions	Pizza Hut Concessions
Miscellaneous	Nate's Flowers
Miscellaneous	Qwest VoiceData Lines
Concessions	Styria Bakery
Miscellaneous	City/NC School District MOU
Multi-Year	Wyoming High School Activities Association
Multi-Year	College National Finals Rodeo
Multi-Year	Casper Coyotes Hockey
Service	ATM Sponsorship
Service	Carbonhouse
Service	Kone Elevator Maintenance
Service	Long Building Technologies
Service	Paciolan
Service	Ricoh (Copier Lease)
Service	TV Eyes
Rental	BB Brooks Meeting
Rental	Special Olympics Wyoming Banquet
Rental	Country for Cancer Concert (Craig Morgan)
Rental	Wyoming Medical Center Foundation Gala
Rental	Rockin' Road to Dublin
Rental	State High School Marching Band Competition
Rental	Dancing with the Stars of Casper
Rental	Craft Fair
Rental	WSBA Tradeshow Services - Off Site
Rental	Moscow Ballet's Great Russian Nutcracker
Rental	UR-Energy Holiday Party
Rental	Casper Figure Skating Club Holiday Show
Rental	Toughest Monster Truck Tour

Rental	Jeff Dunham
Rental	Casper Wrestling Club Tournament
Rental	Eric Church
Rental	High School Art Symposium
Rental	Joe Expo
Rental	Rotary International Conference
Rental	Broadway in Casper 2016/2017 Season

<b>Expiration Date</b>	<b>Notes</b>
October 31, 2016	
June 29, 2017	
February 28, 2017	
February 28, 2017	
February 28, 2017	
March 31, 2017	
January 31, 2018	
May 31, 2017	
January 31, 2017	
January 31, 2017	
February 28, 2017	
July 6, 2017	
January 31, 2017	
Renewed Annually for CNFR in June	
Perpetual	City Negotiated Agreement
Perpetual	City Negotiated Agreement
June 1, 2017	
June 1, 2017	
Renewed Annually for Commencements	
January 1, 2018	City Negotiated Agreement
June 1, 2017	
June 30, 2017	City Negotiated Agreement
2018	
2022	
2020	City Negotiated Agreement
May 7, 2018	
July 15, 2016	
January 12, 2017	
June 30, 2017	
2021	
September 2016	Currently Negotiating 1-Year Exention
June 1, 2017	
October 5, 2016	Annual Meeting
October 7, 2016	Annual Banquet
October 8, 2016	Annual Concert
October 9, 2016	Annual Banquet
October 15, 2016	
October 16, 2016	Annual
October 23, 2016	Annual Banquet
November 13, 2016	Annual Tradeshow
November 17, 2016	Annual Tradeshow
December 8, 2016	
December 10, 2016	
December 18, 2016	
February 12, 2017	Potential New Annual Event

February 23, 2017

February 27, 2017

April 5, 2017

April 23, 2017

April 30, 2017

June 4, 2017

May 2017

Annual Sporting Event

Annual Event

Contract Out but not signed; they want to re-negotiate terms

**EXHIBIT C**  
**OPERATING BUDGET - 1<sup>ST</sup> OPERATING YEAR (through June 30, 2017)**

**CASPER EVENTS CENTER**

**FY17 Budget**

**CHARGES FOR SERVICES**

49-551554-43510000000000	Catering	(\$330,000.00)
49-551554-43520000000000	Gratuities - Service Fee	(\$36,000.00)
49-551001-44270000000000	Building Rent	(\$250,000.00)
49-551001-44350000000000	Facility Fee	(\$130,000.00)
49-551001-44430000000000	Lease Fees	(\$49,600.00)
49-551001-44830000000000	Administrative Fees	(\$117,486.00)
49-551050-44290000000000	Equipment Fees	(\$55,000.00)
49-551050-44360000000000	Exhibitor Services	(\$33,000.00)
49-551050-44380000000000	Reimbursable Wages	(\$350,000.00)
49-551551-44370000000000	Service Fees	(\$150,000.00)
49-551551-44380000000000	Reimbursable Wages	(\$60,000.00)
49-551554-44310000000000	Concessions	(\$422,000.00)
49-551554-44340000000000	Alcohol Sales	(\$250,000.00)
49-551554-44370000000000	Service Fees - Novelties	(\$15,000.00)

**TOTAL (\$2,248,086.00)**

**INTEREST**

49-551001-46000000000000	Interest On Investments	\$0.00
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**TOTAL \$0.00**

**MISCELLANEOUS**

49-551001-47350000000000	Miscellaneous Revenue	(\$9,500.00)
49-551554-47350000000000	Miscellaneous Revenue	(\$4,000.00)
49-551001-43500000000000	ATM Fees	(\$9,000.00)

**TOTAL (\$22,500.00)**

**OPERATING TRANSFERS**

49-551001-48000000000000	Transfers In	(\$744,594.00)
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**TOTAL (\$744,594.00)**

**TOTAL REVENUE (\$3,015,180.00)**

**ADMINISTRATION**

**PERSONNEL SERVICES**

49-551001-50100155000000	Leisure Services Director	\$81,821.00
49-551001-50100251000000	Marketing Promotion Specialist	\$60,549.00
49-551001-50100555000000	Administrative Assistant II	\$47,466.00
49-551001-50100620000000	Administrative Support Technician	\$49,837.00

49-551001-502076900000000	Administrative Assistant I	\$23,500.00
49-551001-503200000000000	Overtime	\$0.00
49-551001-504100000000000	Supplemental Pay	\$16,120.00
49-551001-511100000000000	Health Insurance	\$31,253.00
49-551001-511300000000000	Other Insurance - Benefits	\$2,122.00
49-551001-512000000000000	Social Security Contributions	\$23,814.00
49-551001-513000000000000	Retirement Contributions	\$26,708.00
49-551001-516000000000000	Workers' Compensation	\$4,139.00
49-551001-517000000000000	Disability Buyback	\$3,500.00
49-551001-517100000000000	Accrued Leave	\$17,046.00
49-551001-517500000000000	Allowances - Other	\$10,980.00

**TOTAL \$398,855.00**

**CONTRACTUAL**

49-551001-527600000000000	Maintenance Agreements	\$20,600.00
49-551001-532000000000000	Insurance & Bonds	\$57,416.00
49-551001-533000000000000	Telecommunications	\$15,500.00
49-551001-533300000000000	Postage/Shipping	\$1,500.00
49-551001-534000000000000	Advertising	\$10,000.00
49-551001-535000000000000	Printing/Reproduction	\$10,000.00
49-551001-537000000000000	Travel & Training	\$1,461.00
49-551001-538000000000000	Interdepartmental Svcs Fixed	\$32,770.00
49-551001-539100000000000	Other Contractual	\$11,500.00

**TOTAL \$160,747.00**

**MATERIALS AND SUPPLIES**

49-551001-540000000000000	Office Supplies	\$3,115.00
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**TOTAL \$3,115.00**

**OTHER**

**TOTAL \$0.00**

**CAPITAL OUTLAYS NEW**

49-551001-558000000000000	Technologies	\$3,600.00
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**TOTAL \$3,600.00**

**CAPITAL OUTLAYS REPLACEMENT**

**TOTAL \$0.00**

**TOTAL ADMINISTRATION \$566,317.00**

**OPERATIONS****PERSONNEL SERVICES**

49-551050-50100329000000	Audio Visual Technician	\$49,381.00
49-551050-50100550000000	Event Specialist	\$60,754.00
49-551050-50100761000000	Operations Supervisor II	\$77,739.00
49-551050-50100762000000	Maintenance & Technical Specialist	\$63,209.00
49-551050-50100809000000	Maintenance Crew Leader	\$46,677.00
49-551050-50206540000000	Medical Service Lead	\$4,000.00
49-551050-50206550000000	Events Leader	\$7,175.00
49-551050-50206863000000	Security Worker	\$72,000.00
49-551050-50206864000000	Security Lead	\$17,145.00
49-551050-50206869000000	Medical Service Worker	\$7,100.00
49-551050-50206871000000	Usher	\$29,200.00
49-551050-50206873000000	Lead Usher	\$4,700.00
49-551050-50206878000000	Stagehand	\$48,000.00
49-551050-50206889000000	Rigger	\$14,673.00
49-551050-50207816000000	Municipal Worker II	\$50,000.00
49-551050-50207817000000	Municipal Worker II	\$53,025.00
49-551050-50207879000000	Lead Stagehand	\$5,829.00
49-551050-50208810000000	Custodial Maintenance Worker I	\$223,000.00
49-551050-50208879000000	Stagehand Electrician	\$5,829.00
49-551050-50320000000000	Overtime	\$24,524.00
49-551050-51110000000000	Health Insurance	\$24,052.00
49-551050-51130000000000	Other Insurance - Benefits	\$2,301.00
49-551050-51200000000000	Social Security Contributions	\$66,441.00
49-551050-51300000000000	Retirement Contributions	\$25,359.00
49-551050-51500000000000	Unemployment Compensation	\$4,500.00
49-551050-51600000000000	Workers' Compensation	\$15,807.00
49-551050-51700000000000	Disability Buyback	\$3,085.00
49-551050-51710000000000	Accrued Leave	\$0.00
49-551050-51750000000000	Allowances - Other	\$1,920.00
	<b>TOTAL</b>	<b>\$1,007,425.00</b>

**CONTRACTUAL**

49-551050-52500000000000	Water	\$22,660.00
49-551050-52520000000000	Refuse Collection	\$4,550.00
49-551050-52530000000000	Energy - Electricity	\$208,060.00
49-551050-52540000000000	Energy - Natural Gas	\$45,400.00
49-551050-52700000000000	Equipment Repairs	\$9,500.00
49-551050-52760000000000	Maintenance Agreements	\$61,300.00
49-551050-53700000000000	Travel & Training	\$1,252.00
49-551050-53910000000000	Other Contractual	\$68,000.00
49-551050-53920000000000	Association Dues	\$900.00
	<b>TOTAL</b>	<b>\$421,622.00</b>

**MATERIALS AND SUPPLIES**

49-551050-5405000000000	Uniforms	\$1,500.00
49-551050-5411000000000	Safety Equipment/Supplies	\$2,800.00
49-551050-5433000000000	Building Supplies	\$30,000.00
49-551050-5482000000000	Bulk Fuel	\$2,200.00
	<b>TOTAL</b>	<b>\$36,500.00</b>

**OTHER**

	<b>TOTAL</b>	<b>\$0.00</b>
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**CAPITAL OUTLAYS NEW**

49-551050-5580000000000	Technologies	\$5,000.00
	<b>TOTAL</b>	<b>\$5,000.00</b>

**CAPITAL OUTLAYS REPLACEMENT**

	<b>TOTAL</b>	<b>\$0.00</b>
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	<b>TOTAL OPERATIONS</b>	<b>\$1,470,547.00</b>
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**BOX OFFICE**

**PERSONNEL SERVICES**

49-551551-5010065000000	Box Office Supervisor II	\$63,800.00
49-551551-5020687400000	Ticket Seller	\$21,500.00
49-551551-5020765100000	Assistant Box Office Manager	\$25,800.00
49-551551-5032000000000	Overtime	\$771.00
49-551551-5111000000000	Health Insurance	\$11,374.00
49-551551-5113000000000	Other Insurance - Benefits	\$483.00
49-551551-5120000000000	Social Security Contributions	\$8,626.00
49-551551-5130000000000	Retirement Contributions	\$5,396.00
49-551551-5150000000000	Unemployment Compensation	\$400.00
49-551551-5160000000000	Workers' Compensation	\$2,052.00
49-551551-5170000000000	Disability Buyback	\$400.00
49-551551-5175000000000	Allowances - Other	\$480.00

	<b>TOTAL</b>	<b>\$141,082.00</b>
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**CONTRACTUAL**

49-551551-5276000000000	Maintenance Agreements	\$37,000.00
49-551551-5370000000000	Travel & Training	\$1,252.00
49-551551-5391000000000	Other Contractual - Copyright Fees	\$3,000.00
49-551551-5397000000000	Credit Card Service Charges	\$80,000.00

	<b>TOTAL</b>	<b>\$121,252.00</b>
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**MATERIALS AND SUPPLIES**

49-551551-5400000000000 Office Supplies \$3,115.00

**TOTAL \$3,115.00**

**CAPITAL OUTLAYS NEW**

49-551551-5580000000000 Technologies \$6,000.00

**TOTAL \$6,000.00**

**TOTAL BOX OFFICE \$271,449.00**

**FOOD SERVICES**

**PERSONNEL SERVICES**

49-551554-50100552000000 Food & Beverage Superintendent \$73,702.00

49-551554-50100554000000 Assistant Food & Beverage Superintendent \$59,301.00

49-551554-50207855000000 Food Service Worker I \$513.00

49-551554-50207856000000 Food Service Lead \$25,750.00

49-551554-50207862000000 Food Service Worker II \$86,394.00

49-551554-50320000000000 Overtime \$809.00

49-551554-50410000000000 Supplemental Pay \$16,300.00

49-551554-51110000000000 Health Insurance \$15,370.00

49-551554-51130000000000 Other Insurance - Benefits \$987.00

49-551554-51200000000000 Social Security Contributions \$20,245.00

49-551554-51300000000000 Retirement Contributions \$12,660.00

49-551554-51500000000000 Unemployment Compensation \$2,500.00

49-551554-51600000000000 Workers' Compensation \$4,815.00

49-551554-51700000000000 Disability Buyback \$894.00

49-551554-51750000000000 Allowances - Other \$960.00

**TOTAL \$321,200.00**

**CONTRACTUAL**

49-551554-52700000000000 Equipment Repairs \$5,000.00

49-551554-52760000000000 Maintenance Agreements \$7,500.00

49-551554-53400000000000 Advertising \$350.00

49-551554-53700000000000 Travel & Training \$835.00

49-551554-53910000000000 Other Contractual \$49,500.00

49-551554-53970000000000 Credit Card Service Charges \$7,500.00

**TOTAL \$70,685.00**

**MATERIALS AND SUPPLIES**

49-551554-54000000000000 Office Supplies \$370.00

49-551554-54010000000000 Operating Supplies - Catering \$130,000.00

49-551554-54040000000000 Other Materials & Supplies \$800.00

49-551554-54050000000000	Uniforms	\$1,000.00
49-551554-54160000000000	Alcohol	\$62,812.00
49-551554-54420000000000	Concession Supplies	\$117,000.00
	<b>TOTAL</b>	<b>\$311,982.00</b>
	<b>OTHER</b>	
	<b>TOTAL</b>	<b>\$0.00</b>
	<b>CAPITAL OUTLAYS NEW</b>	
49-551554-55800000000000	Technologies	\$3,000.00
	<b>TOTAL</b>	<b>\$3,000.00</b>
	<b>TOTAL FOOD SERVICES</b>	<b>\$706,867.00</b>
	<b>TOTAL FUND EXPENDITURES</b>	<b>\$3,015,180.00</b>
	<b>TOTAL CASPER EVENTS CENTER</b>	<b>\$0.00</b>
	<b>FUND TOTAL CHECK</b>	<b>\$0.00</b>

## **EXHIBIT D INSURANCE**

At all times during this Agreement, Manager shall maintain the insurance coverage specified below.

(a) Commercial General Liability insurance (CGL), including products and completed operations, bodily injury and property damage liability, contractual liability, liquor liability, independent contractors' liability and personal and advertising injury liability against claims occurring on, in, or about the Facility, or otherwise arising under this Agreement. If a general aggregate limit applies, the general aggregate limit shall apply separately to this project/location. The CGL policy shall be endorsed to contain Employers Liability/Stop Gap Coverage.

(b) Intentionally Omitted.

(c) Umbrella or excess liability insurance.

(d) Commercial automobile liability insurance, including coverage for the operation of owned, leased, hired and non-owned vehicles.

(e) Workers compensation and employer's liability insurance as shall be required by and be in conformance with the laws of the State of Wyoming, and Manager shall carry stop gap endorsement to meet employer's liability that is not covered under Wyoming Workers' Compensation.

(f) Professional liability insurance.

(g) Employment practices liability insurance.

(h) Pollution liability.

(i) Crime coverage. Owner shall be named as a loss payee on the policy with respect to the Facility.

Such liability insurance shall be maintained in the following minimum amounts throughout the Term:

### Commercial General Liability

\$2,000,000 per occurrence  
\$2,000,000 personal and advertising injury  
\$2,000,000 products-completed operations aggregate

Umbrella or Excess Liability

\$20,000,000 per occurrence and aggregate

Automobile Liability

\$1,000,000 per accident (PI and PD combined single limit)  
\$1,000,000 uninsured/underinsured motorist

Workers Compensation

Workers Compensation: Statutory

Employer's Liability: \$100,000 each accident-bodily injury by accident

\$500,000 policy limit-bodily injury by disease  
\$100,000 each employee-bodily injury by disease

Professional Liability/Errors & Omissions (Claims Made basis)

\$5,000,000 each occurrence/aggregate

Employment Practices Liability Insurance (Claims Made basis)

\$1,000,000

Pollution Liability (Claims Made basis)

\$1,000,000

Crime Insurance

Coverage on all on-site Manager employees. Limit: \$1,000,000 per loss  
City shall be named as a loss payee on the policy.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

- a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- b. Insurance must be maintained and evidence of insurance must be provided *for at least three (3) years after completion of the contract of work*. However, consultant's liabilities under this Contract shall not be deemed limited in any way by the insurance coverage required.

c. If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, the Consultant must purchase “extended reporting” coverage for a minimum of *three (3)* years after completion of contract work and at all times thereafter until the applicable statute of limitations runs.

**EXHIBIT E**  
**CATEGORIES REQUIRING OWNER APPROVAL**

I. Event categories requiring prior Owner approval:

1. Any co-promoted or in-house promoted events that place the Owner at financial risk.
2. Any event which, in the professional opinion of the Manager, possesses a clear security risk to the Owner and/or its property, personnel and/or immediate neighbors, as well as other Facility ticket buyers.
3. Events whereby Manager is serving as the co-promoter or independently as the third party promoter.

The Owner agrees to provide Manager with its written approval or rejection within two (2) business days of any request for approval by Manager. In the event the Owner fails to provide a written response within such two (2) day period, the request shall be deemed to be approved.

II. For clarification purposes, the parties agree that Manager may book events in the following event categories without first obtaining the approval of the Owner:

1. Family Shows
2. Other sports such as high school basketball, boxing, volleyball and in-line skating.
3. Concerts
4. Theatrical Events
5. Meetings and Seminars
6. Conventions, Tradeshows and Consumer Shows
7. Banquets and other food functions.
8. Professional Wrestling
9. City events in conjunction with other City departments.
10. Equestrian/livestock/rodeo events.
11. Any of the above categories that the Manager agrees to co-promote by risking guaranteed rent only (percentage rent will still be charged).
12. Any other events, except those specifically listed above as requiring Owner approval.

**EXHIBIT F**  
**COYOTES COMMERCIAL RIGHTS**

Electronic Fascia Usage: LESSEE has 100% use of the north and south fascia boards during ice hockey games, on game days only. Provided, however, the CITY may use the fascia during the event to broadcast messages of a bona-fide emergency or necessary public service announcement. For example, if a child is lost, the CITY may use the ribbon to relay a message requesting the parents of the child to report to a specific area. The City has 100% use of the west fascia board.

Dasher Boards and Ice Sponsorships:

All (100%) of dasher board and LESSEEE'S ice sponsorship revenue will go to the LESSEE. LESSEE will bc responsible for costs associated with installation and creation of all sponsorship materials. Provided, however, all dasher board content, locations, installation methods and sponsorship materials are subject to the approval by the CENTER MANAGER.

Center Ice Logo: The Wold Family Arena logo will permanently remain as the main, center ice artwork.

EXHIBIT G  
TRANSITION BUDGET



**Spectra  
Casper Events Center  
Management Transition Expenses**

Personnel Related Expenses		
<b>Relocation</b>		<b>30,000</b>
	General Manager	15,000
	Other Director Level Positions (3 x \$5,000)	15,000
<b>Travel</b>		<b>\$4,845</b>
	GM/Director Candidates Interview Trips	3
	Cost Per Trip (2 days/1 night)	\$1,615
<b>Recruitment Cost</b>		<b>\$16,500</b>
	Cost per Background Check	\$50
	Number of Checks	300
	Recruitment Ad Placements	\$1,500
<b>Total Personnel Expenses</b>		<b>\$51,345</b>

Corporate/Regional Travel Expenses				
Corporate Travel Expenses per Trip (based upon 2 nights/3 days):				
		<u>Air</u>		<u>Car</u>
Airfare		\$1,000		\$0
Transportation (\$30 per day)		\$90		\$150
Hotel (\$150 per night)		\$300		\$300
Expenses (\$75 per day)		<u>\$225</u>		<u>\$225</u>
		<b>\$1,615</b>		<b>\$675</b>
<b>Estimated # of Trips</b>	<b>#</b>	<b>Air</b>	<b>#</b>	<b>Car</b>
Regional VP/Operations	2	\$3,230	2	\$1,350
Box Office	2	\$3,230	2	\$1,350
Finance/Accounting	3	\$4,845	1	\$675
Human Resources	3	\$4,845	2	\$1,350
Event Services	0	\$0	2	\$1,350
Sales & Marketing	<u>2</u>	<u>\$3,230</u>	<u>2</u>	<u>\$1,350</u>
<b>Total Trips</b>	<b>12</b>	<b>\$19,380</b>	<b>11</b>	<b>\$7,425</b>
<b>Total Travel Expenses</b>				<b>\$26,805</b>
<b>TOTAL TRANSITION EXPENSES</b>				<b>\$78,150</b>

EXHIBIT H  
LEGAL DESCRIPTION



**CITY OF CASPER  
EVENTS CENTER BOUNDARY**

A parcel of land situate within a portion of the North Platte River Park Subdivision, City of Casper, Wyoming, being a portion of the NE¼SE¼ of Section 32 and the SW¼, S¼NW¼ of Section 33, T.34N., R.79W., 6th P.M., Natrona County, Wyoming, as shown on Exhibit B, attached hereto and by this reference made a part hereof and being more particularly described as follows:

Commencing at the N1/16 corner common to Sections 32 and 33, monumented by a brass cap;

Thence S07°07'28"W, a distance of 1947.16 feet to the northwest corner of the parcel, monumented by an aluminum cap and being the Point of Beginning;

Thence in a northeasterly direction along the south side of Events Drive and a curve to the left having a radius of 1560.00 feet, through a central angle of 13°45'06", a distance of 374.42 feet, with a chord bearing of N56°19'25"E, a distance of 373.52 feet to the end of curve, monumented by an aluminum cap;

Thence N43°17'40"E, along the south side of Events Drive, a distance of 188.64 feet to a point monumented by an aluminum cap;

Thence N44°43'10"E, along the south side of Events Drive, a distance of 246.87 feet to a point of curvature, monumented by an aluminum cap;

Thence along the south side of Events Drive and a curve to the right having a radius of 1000.00 feet, through a central angle of 52°45'05", a distance of 920.88 feet, with a chord bearing of N71°05'43"E, a distance of 888.51 feet to the end of curve, monumented by an aluminum cap;

Thence S82°31'45"E, along the south side of Events Drive, a distance of 903.68 feet to the northeast corner of the parcel, monumented by an aluminum cap;

Thence S12°33'35"W, a distance of 486.11 feet to a point of curvature, monumented by an aluminum cap;

Thence along a curve to the right having a radius of 1100.00 feet, through a central angle of 29°07'47", a distance of 559.25 feet, with a chord bearing of S27°07'29"W, a distance of 553.25 feet to the end of curve, monumented by an aluminum cap;

Thence S41°41'22"W, a distance of 880.78 feet to the southwest corner of the parcel, monumented by an aluminum cap;

Thence N50°28'08"W, a distance of 528.11 feet to a point monumented by an aluminum cap;

Thence N86°01'42"W, a distance of 155.87 feet to a point monumented by an aluminum cap;

Thence N52°18'33"W, a distance of 139.06 feet to a point monumented by an aluminum cap;

Thence S57°45'09"W, a distance of 467.87 feet to a point monumented by an aluminum cap;

Thence N18°40'19"W, a distance of 391.65 feet to a point monumented by an aluminum cap;

Thence N31°50'34"W, a distance of 432.22 feet to the Point of Beginning.

The above described parcel contains 58.63 acres, more or less, and is subject to any rights-of-way and/or easements, reservations, and encumbrances which have been legally acquired.

I hereby certify that this description was prepared by me following an actual survey of said parcel of land in June, 2016, and that on the basis of my information, knowledge and belief as a Professional Land Surveyor this description is true and correct.



MODIFICATION IN ANY WAY OF THE FOREGOING DESCRIPTION IS STRICTLY PROHIBITED. I HAVE CAREFULLY REVIEWED THIS INFORMATION AND CERTIFY TO BE ACCURATE ON THE BASIS OF MY KNOWLEDGE AND BELIEF. ANY CHANGE, ADDITION OR DELETION OF ANY PART OF THIS DESCRIPTION WILL ACT TO VOID ANY WARRANTY OR RESPONSIBILITY, EXPRESSED OR IMPLIED, THAT I HAVE TOWARD THE SUBJECT PROPERTY.

Casper Events Center  
W.O. #16-154

Civil Engineering Professionals, Inc.  
6080 Enterprise Dr. • Casper, WY 82609  
Phone 307.266.4346 • Fax 307.266.0103  
www.cepi-casper.com



EXHIBIT I  
LIQUOR LICENSE TERMS

Retail Liquor License No. 35 (the "Liquor License") is owned by the Owner which is used by the Owner at the Facility for purposes of the sale and distribution of alcohol and malt beverages as part of its operation. The Parties agree as follows in order to enable the Manager to perform its services and to sell and distribute alcoholic and malt beverages as part of its contract operation of the Facility. Upon execution of this Agreement by the Parties hereto, the Manager shall apply to the Owner for the transfer of the Liquor License to the Manager, the transfer and use of which shall be subject to the following restrictions and requirements:

1. The Owner shall bear the cost of the initial application for the transfer of the Liquor License to the Manager.
2. The Manager shall be solely responsible for the all annual renewals of the Liquor License during the term of this Agreement, as required by law, and shall pay all applicable fees therefor as an Operating Expense.
3. The location for the use of the Liquor License shall remain at the Facility during the term of the Agreement for the operation of the Facility as provide by Section 12-5-201(d) of the Wyoming State Statute, and shall not, under any circumstance be transferred to another location or facility. FURTHER, the Manger shall not cater or sell alcoholic or malt beverages off of the Facility premises, except for the catering of alcohol and malt beverages at or on other facilities owned or otherwise sponsored by the Owner, subject to the issuance of a permit therefor as provided by the Casper Municipal Code. All revenue derived from the catering of alcohol and/or malt beverages as provided herein shall be deposited and accounted for by the Manager in the Operating Account.
4. The Liquor License is only being transferred to the Manager for its use in operating the Facility under this Agreement for and on behalf of the Owner. At the time of the termination of this Agreement, the ownership of this Liquor License **SHALL AUTOMATICALLY REVERT (subject to the liquor license transfer requirements of the Casper Municipal Code)** to the Owner as the Owner's sole and separate property, free and clear of any claim by the Manager, or its successors, assigns or creditors. Manager agrees to, at the time of executing this Agreement, to execute a letter (in the form attached hereto) consenting to the transfer of the Liquor License to the Owner upon the termination of this Agreement.

5. The Liquor License cannot, at any time or for any reason, be assigned, sold, or transferred, in whole or in part, by the Manager to any other party other than to the Owner. Manager shall have no right to encumber this Liquor License or otherwise pledge it as security for any debt or charge, and it, as provided under Wyoming Law, is not subject to attachment, garnishment, or execution for the payment of any debt and shall not become, or be considered property of the Manager for the purposes of any bankruptcy proceeding.
  
6. At the time of the termination of this Agreement, the Contactor agrees to surrender the Liquor License to the Owner, for which the Owner then may act, in all capacities as the agent of the Manager, to execute on behalf of Manager all necessary documents to memorialize the reversion and transfer of this Liquor License to the Owner.

(This letter to be put on Global Spectrum L.P. Letterhead)

(Current Date)

City of Casper, Wyoming  
Attn: City Clerk  
200 N. David  
Casper, WY 82601

Re: Consent to the Transfer of Retail Liquor License No. 35 to the City of Casper, Wyoming.

To: The City Clerk of the City of Casper, Wyoming:

Global Spectrum, L.P., a Delaware Limited Partnership (“Global Spectrum”), d/b/a Spectra Venue Management entered into a Management Agreement (the “Agreement”) with the City of Casper, Wyoming (the “City”) for the management of the Casper Events Center (the “Facility”).

The Agreement provides that the City would transfer Retail Liquor License No. 35 to Global Spectrum for its use in operating the Facility on behalf of the City, and the Agreement provides that Global Spectrum shall consent to the transfer of this Liquor License back to the City upon the termination of the Agreement.

Global Spectrum hereby consents to the transfer of Retail Liquor License No. 35 back to the City upon the termination of the Agreement.

The undersigned hereby states that I have the requisite power and authority to execute this consent on behalf of Global Spectrum, d/b/a Spectra Venue Management.

Sincerely:

Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

Title: \_\_\_\_\_, for Global Spectrum, Inc., the General Partner  
of Global Spectrum, L.P.



**EXHIBIT J**  
**NET OPERATING LOSS BENCHMARK**

Spectra	FY16	FY15	FY14	Benchmark
Transfer from GF	1,000,042	765,560	962,391	
NOL		347,741		
<b>Total for Baseline per Spectra</b>	<b>1,000,042</b>	<b>1,113,301</b>	<b>962,391</b>	<b>1,025,245</b>
<b>City of Casper</b>				
Transfer from GF	1,043,883	765,560	962,391	
NOL	104,354	212,808	-	
Remove CEC portion of Doug Follick salary	(35,347)	(13,344)	(12,097)	
Voluntary Retirement Incentive Program	(43,451)			
<b>Total for Baseline per City of Casper</b>	<b>1,069,439</b>	<b>965,024</b>	<b>950,294</b>	<b>994,919</b>
<b>Difference</b>	<b>(69,397)</b>	<b>148,277</b>	<b>12,097</b>	<b>30,326</b>
<b>Reasons for Difference</b>				
Spectra using Budget, City using Actuals	(148,195)			Will go with Actuals (City)
Remove CEC portion of Doug Follick salary	35,347	13,344	12,097	
Voluntary Retirement Incentive Program	43,451			
Spectra did not include admin fee 153,999 or capital spending (19,103)		134,933		
<b>Difference</b>	<b>(69,397)</b>	<b>148,277</b>	<b>12,097</b>	<b>30,326</b>

RESOLUTION NO. 16-233

A RESOLUTION AUTHORIZING A MANAGEMENT AGREEMENT BETWEEN THE CITY OF CASPER, WYOMING, AND GLOBAL SPECTRUM L.P. D/B/A SPECTRA VENUE MANAGEMENT FOR THE CASPER EVENTS CENTER

WHEREAS, staff was directed to pursue the possibility of privatizing the management of the Casper Events Center in anticipation of reducing the net operating loss and subsidy needed; and,

WHEREAS, after research and presentation of information to City Council, staff was directed to negotiate an agreement with Spectra for the private management of the CEC; and,

WHEREAS, the parties have negotiated a mutually acceptable management agreement for the Casper Events Center.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING: That the Mayor is hereby authorized and directed to execute, and the City Clerk to attest, the Management Agreement between The City of Casper, Wyoming, and Global Spectrum L.P. D/B/A Spectra Venue Management for the Casper Events Center.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016.

APPROVED AS TO FORM:



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ATTEST:

CITY OF CASPER, WYOMING  
A Municipal Corporation

---

Tracey L. Belser  
City Clerk

---

Daniel Sandoval  
Mayor

September 27, 2016

MEMO TO: V.H. McDonald, City Manager

FROM: Kirk Gunderson, Accountant **KS**

SUBJECT: FY 2017 Budget Adjustment –Casper Events Center

Recommendation:

That Council, by Resolution, authorize adjustment of the Fiscal Year 2017 Budget.

Summary:

The Municipal Budget Act, Section 16-4-108, prohibits the expenditure or encumbrance of any money in excess of the amounts provided in the budget for each department. To comply with this requirement, City Council may authorize an adjustment of budgets.

Typically, twice each fiscal year, Department Heads evaluate the budgets of the operations in their departments for consideration of presenting budget adjustment requests to the City Council. However, a contract is before Council to transfer the management of the Casper Events Center from the City to an outside firm. Given the significance of this contract, Council agreed to consider a budget adjustment outside the normal review schedule.

The adjustments submitted are summarized as follows:

General Fund – Increase \$120,045 for the following:

- Increase subsidy to Casper Events Center by \$120,045. This will be funded from General Fund reserves.

Casper Events Center Fund – Increase \$120,045 for the following:

- Provide \$97,500 to fund the pro-rated share of the annual management fee for the management of the Casper Events Center. It is assumed this arrangement will begin on October 1, 2016 and the typical fixed fee for an entire year will be \$130,000.
- Provide funding of \$22,545 for anticipated management fees of an anticipated 3% fee paid on all food and beverage to a professional management firm. This will be funded from unanticipated revenues.

A benefit of this arrangement is to decrease the annual subsidy the City General Fund pays to the Casper Events Center. In the previous three years, the subsidy has averaged \$924,000 per year. However, no decrease is guaranteed. Staff believes this budget amendment represents a worst case scenario.

A resolution is provided for Council consideration.

RESOLUTION NO. 16-234

A RESOLUTION AMENDING THE FISCAL YEAR 2017 BUDGET OF THE CITY OF CASPER, AND AUTHORIZING THE ADJUSTMENT OF FUNDS THEREUNDER.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING:

SECTION 1.

Pursuant to published notice and a hearing conducted as provided by law, the Council of the City of Casper, Natrona County, Wyoming, hereby amends the budget of the City of Casper for Fiscal Year 2017 by adjusting the following funds for additional funding sources and increased appropriations:

Additional Funding Sources:

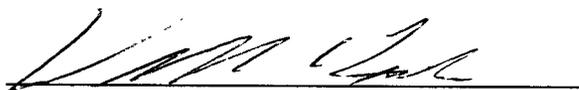
Reserves		
General Fund	\$	<u>120,045</u>
Total	\$	120,045
Increased Appropriations		
Casper Events Center Fund	\$	<u>120,045</u>
Total	\$	120,045

SECTION 2.

Should any of the funds hereby adjusted under this amended budget not be completely expended or encumbered they shall revert to the year-end fund balance.

PASSED, APPROVED, AND ADOPTED this 27th day of September, 2016.

APPROVED AS TO FORM:



ATTEST

CITY OF CASPER, WYOMING  
A Municipal Corporation

\_\_\_\_\_  
Tracey L. Belser  
City Clerk

\_\_\_\_\_  
Daniel Sandoval  
Mayor