

WHEN RECORDED, RETURN TO:
Thomas G. Stack, Esq.
City of Phoenix
200 West Washington Street
Suite 1300
Phoenix, Arizona 85003

**SEVENTH AMENDMENT TO
FIRST RESTATED OPERATING AGREEMENT**

City Contract No. 53440- 7

This Seventh Amendment to First Restated Operating Agreement (this “Seventh Amendment”) is entered into as of and shall be effective as of this 6th day of March, 2017, between the **CITY OF PHOENIX, ARIZONA**, an Arizona municipal corporation acting by and through its City Manager (the “City”), and **PHOENIX ARENA DEVELOPMENT LIMITED PARTNERSHIP**, a Delaware limited partnership (the “Operator”), and amends that certain First Restated Operating Agreement dated July 19, 1989 between the City and the Operator, as amended by that certain First Amendment to First Restated Operating Agreement dated December 4, 1994, as amended by that certain Second Amendment to First Restated Operating Agreement dated July 31, 2002, as amended by that certain Third Amendment to First Restated Operating Agreement dated June 21, 2004, as amended by that certain Fourth Amendment to First Restated Operating Agreement dated July 28, 2005, as amended by that certain Fifth Amendment to First Restated Operating Agreement dated July 9, 2012, and as amended by that certain Sixth Amendment to First Restated Operating Agreement dated February 29, 2016 (collectively referred to herein as, the “Operating Agreement”). All capitalized terms used in this Seventh Amendment that are not defined herein shall have the meanings assigned to them in the Operating Agreement.

RECITALS

- A. The City is the owner of the land and improvements commonly known as Talking Stick Resort Arena (the “Arena”).
- B. The Operator operates the Arena and surrounding Site pursuant to the Operating Agreement.
- C. On the Site, there is a pedestrian bridge that goes over 3rd Street and connects the Arena to the Jefferson Street Garage, more fully defined in paragraph 2 to this Seventh Amendment below (the “Pedestrian Bridge”).
- D. The Parties now desire to amend the Operating Agreement to clarify that the Pedestrian Bridge is included in the Site, and that all operational and maintenance responsibilities of the Pedestrian Bridge belong to the Operator.

AGREEMENT

NOW, THEREFORE, the City and the Operator agree to amend the Operating Agreement as follows:

1. **Incorporation; Capitalized Terms.** The recitals set forth in this Seventh Amendment to Operating Agreement above are incorporated herein and made a part hereof. Capitalized terms used herein and not otherwise defined will have the meanings given to such terms in the Operating Agreement.

2. **Exhibit 1.1 “Definitions” Amended.** The definition of “Site” in Exhibit 1.1 as item number 144 is amended in its entirety to read as follows:

“144. Site means that portion of the Redevelopment Area described as Blocks 37 and 38 and portions of Blocks 33 and 34, Original Townsite of Phoenix and such other real property as described in the DDA, including the pedestrian bridge that goes over 3rd Street and connects the Arena to Lot 1, Jefferson Street Parking Structure, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 348 of Maps at page 47 (the “Pedestrian Bridge”). The Site is legally described in Exhibit D-82(b) attached to the DDA.”

3. **Operation and Maintenance of Pedestrian Bridge.** The Operator agrees that, as a part of the Site and the Facility, Operator is responsible for operating and maintaining the Pedestrian Bridge pursuant to the Operating Agreement. Nothing in this Operating Agreement or the Seventh Amendment shall grant Operator any operation or control over the right-of-way below the Pedestrian Bridge, or the airspace above the Pedestrian Bridge.

4. **Indemnification and Insurance.**

4.1 The City and Operator agree that the indemnification provided in Article 8 of the Operating Agreement shall encompass any and all actions or inactions related to the Pedestrian Bridge, as part of the Site and Facility.

4.2 The City and Operator further agree that the insurance provided in Article 9 of the Operating Agreement shall cover the Pedestrian Bridge, as part of the Site and Facility.

5. **Removal of City Signage.** Within sixty (60) days after execution of this Seventh Amendment, the City shall remove all City signage on the Pedestrian Bridge.

6. **Governing Law.** This Seventh Amendment shall be governed by and construed in accordance with the laws of the State of Arizona.

7. **Counterparts.** This Seventh Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which combined shall constitute on and the same instrument.

8. **Successors and Assigns.** This Seventh Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

9. **Cancellation.** The parties hereto acknowledge that this Seventh Amendment to Operating Agreement is subject to cancellation pursuant to the provisions of Arizona Revised Statutes § 38-511.

10. **Amendments Limited.** Except as expressly amended by the provisions of this Seventh Amendment, the Operating Agreement shall remain in effect without amendment or modification.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Amendment as of the date first above written.

OPERATOR:

Phoenix Arena Development Limited Partnership,
a Delaware limited partnership

By: Legacy GP, L.L.C., a Delaware limited liability
company, General Partner

By: [Signature]

Name: Jason Rowley

Title: President

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CITY:

CITY OF PHOENIX, a municipal corporation
ED ZUERCHER, City Manager

By: [Signature]
John M. Chan, Director
Phoenix Convention Center Department

ATTEST:

[Signature]
City Clerk

APPROVED AS TO FORM

[Signature]
Acting City Attorney TGS

