

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding, dated this ____ day of June, 2010 (“MOU”), regarding the AMULA referred to below, is entered into by and among Ice Edge Team, LLC, a Delaware limited liability company, Ice Edge Arena, LLC, a Delaware limited liability company (collectively, the “Buyer”), and the City of Glendale, an Arizona municipal corporation (the “City”).

Background

- A. In May 2009, the Coyotes Hockey, L.L.C. and its affiliated entity, Arena Management Group, L.L.C. (collectively referred to as the “Coyotes”) filed for federal bankruptcy protection.
- B. During the bankruptcy proceedings, the National Hockey League (the “NHL”) purchased the assets of the Coyotes but did not assume the Arena Management, Use and Lease Agreement (the “AMULA”).
- C. The NHL’s expressed intention is to sell the Coyotes’ assets as soon as practicable; either to new owners who will continue to play NHL hockey in Glendale, or if such a sale cannot be arranged, to new owners who may relocate the hockey team to another market.
- D. The purpose of this MOU is to document the understandings that the parties to this MOU have developed during their recent discussions regarding the purchase of the Coyotes’ assets from the NHL.
- E. Discussions have now reached a point where all parties desire to commit additional and significant resources and to take further actions to negotiate the more formal and detailed agreements that will be needed in order to undertake and complete the transactions contemplated by this MOU (collectively, the “Project Agreements”), and this MOU is intended to serve as the basis for each party to commit that additional time and those additional resources necessary for the negotiation of the detailed Project Agreements.

Understanding of the Parties

It is the understanding of the parties that:

- 1. Purchase of Coyotes’ Assets. Buyer is in the process of reaching an agreement with the NHL to purchase the assets of the Coyotes.
- 2. Parking Facilities.
 - 2.1 Buyer will assign to the City, who will reassign to the CFD, as defined in Section 3, the right to manage, operate and receive revenues of the Parking Improvements and the related parking facilities for the Arena.
 - 2.2 The CFD, as defined in paragraph 3, will pay Buyer an annual fee for granting the City the right to manage and operate the Parking Improvements (the “Parking Operations Fee”), which shall be payable in monthly installments equal to the amount of net parking fees collected, with any amount of the Parking Operations Fee not paid in monthly installments paid in full at year end.
 - 2.3 The City will, in consultation with Buyer, establish the amount of parking fees to be charged to visitors of the Arena for the Events (the “Parking Fees”), and Buyer will use commercially reasonable efforts to cooperate with the City in marketing the use of the Parking Facilities.

3. Creation of Community Facilities District. The City will create, or cause to be created, a community facilities district (“CFD”), or other similar and beneficial mechanism, within 120 days of signing the MOU.

3.1 Parking Operations.

- a. The CFD will have the right and obligation to operate the Parking Improvements.
- b. The CFD will manage these areas in a manner that benefits the operations of the Arena and is consistent with and beneficial to the operations of Westgate.
- c. So long as Buyer has outstanding debt incurred for the purchase of the Coyotes outstanding, the CFD will pay to Buyer a Parking Operations Fee equal to the lesser of \$7,500,000 or the amount due from Buyer on that debt (“CFD Payment”) in incremental monthly installments equal to $\frac{1}{12}$ of the CFD Payment.
- d. CFD will, with the assistance of the City, establish sufficient and available financial reserves, secure a credit enhancement, or both sufficient to assure that adequate funds are available for the CFD to pay the increment CFD Payments when due.
- e. Any amount of the parking revenues not paid by the CFD to Buyer will be paid to the City.
- f. Should the CFD Payment not be available during any of the first five years after and including the 2010-2011 season, at the conclusion of the fifth full season the following may occur:
 1. The CFD will secure additional funds through new revenue streams that are sufficient to pay to Buyer the amount of any CFD Payment shortfalls during the previous years and provide reasonable assurances that no further shortfalls will occur; or,
 2. In the event the CFD cannot pay the CFD Payment during the first five years after the 2010-2011 season, Buyer may provide the CFD and the City not less than 180 days notice of its intent to sell the Coyotes assets, and
 - i) During that notice period the City may secure a new buyer for an amount to be negotiated in the additional documents subject to negotiations that will not be greater than the outstanding amount of the initial debt plus any equity investment (“Minimum Sale Price”) and who will keep the Coyotes in Glendale, in which case Buyer will sell the Coyotes to the Glendale buyer or forego its recourse; or
 - ii) In the event the City has not secured a new buyer for the Minimum Sale Price during the notice period, Buyer may sell the Coyotes to a subsequent buyer who will honor the remaining term of the use and lease agreements that are anticipated by this MOU.
 - iii) In the event of either (i) or (ii) and upon conclusion of the sale to new owners, Buyers will be relieved of any obligation under the use and lease agreement for the Arena.

3.2 Operating Loss Reserve Account.

- a. Operating Loss Reserve. The CFD will establish assessments upon and collect revenues from the landowners within the district that is, with other CFD revenue, sufficient to assure that the CFD will have available by June 30th (“Fiscal Year End”) not less than \$5 million (“Operating Loss Reserve Account”).

- b. Draws. Draws on the Operating Loss Reserve Account for actual cash losses incurred by Coyotes operations excluding debt payments as reflected in an annual audited financial statement prepared in accordance with GAAP.
 - 1. Except as provided in 3.2(b)(2), an annual draw may be made by Coyotes upon approval of the CFD of up to \$5 million per year during the term of the Operating Loss Reserve Account (“Team Draw”).
 - 2. If the Operating Loss Reserve Account balance in a year after use of the funds in accordance with 3.2(d) is greater than \$5 million, the Team Draw may be up to \$10 million per year (“Supplemental Team Draw”).
 - 3. Team Draws upon the Operating Loss Reserve Account may not exceed a total of \$50 million during the term (“Maximum Team Draw”) and Supplemental Team Draws may not exceed \$25 million.
- c. Term.
 - 1. Team Draws may be made during the first ten years after Buyer purchases the Coyotes assets from the NHL (“Term Limit”) or until the Maximum Team Draw, whichever occurs first.
 - 2. The availability of Supplemental Team Draws will terminate upon Buyer reaching the Term Limit or the Maximum Team Draw.
 - 3. Notwithstanding the above paragraph, Buyer’s right to draw upon the Operating Loss Reserve Account will terminate when the total Maximum Team Draw has been reached.
- d. Secondary Use. Any balance of Operating Loss Reserve Account at Fiscal Year End that is greater than the Surcharge Payment, as defined below, will be used by the CFD to pay any difference between the Parking Operation Fee and net parking revenue.

3.3 Ticket Surcharge.

- a. Buyer will immediately implement ticket surcharges, which may vary between Hockey Events and non-Hockey Events, in an amount the parties mutually agree upon, for all Arena events in order to support operating and funding requirements of the CFD (“Ticket Surcharge.”)
 - 1. The CFD will pay to the Buyers for the period of the AMULA or any subsequent lease agreement, the proceeds of the ticket surcharge up to a monthly amount of $\frac{1}{12}$ of \$2,000,000 (“Surcharge Payment.”)
 - 2. Any balance of the revenues generated by the Ticket Surcharge and not allocated to the Surcharge Payment will be incorporated into the Operating Loss Reserve Account.
- b. In formulating their mutual agreement, the parties will evaluate the prices of other similar venues and events in comparable markets and reasonably base their decision upon that information, factoring in the funding requirements served by these revenues and in no event shall the ticket surcharges be less than necessary to assure that the CFD revenue is sufficient by the end of the fiscal year to satisfy the Operating Loss Reserve Account requirement and the CFD Payment amount.

4. AMULA Amendment. The Parties will use commercially reasonable efforts to enter into the AMULA Amendment within 60 days from the date of this Agreement.
 - 4.1 No such amendment will cause the City to provide additional funds or to commit any existing revenue streams as a result of the AMULA Amendment, including any payments with respect to: (i) Arena improvements; (ii) the funding of the Operating Account for expected maintenance and capital expenditures necessary to meet the Arena Maintenance Standard and operate the Arena as a world-class multi-purpose arena consistent with the terms of the AMULA; and (iii) the conduct of no more than five alternate site regular season home games, subject to approval of the NHL, with terms and conditions consistent with this MOU and that are reasonably satisfactory to each party.
 - 4.2 Notwithstanding the foregoing, no such AMULA Amendment will result in any increase of the amounts of rent or payment payable by Buyer, or any waiver of any distribution payable to Buyer as successors to Debtors under the AMULA, without the consent of Buyer in their sole discretion.
5. Other Agreements. The Parties will use commercially reasonable efforts to enter into, and assume the following Arena-related agreements, including, but not limited to: (i) Agreement for Replacement of Temporary Parking, as amended herein; (ii) Collateral and Subordination Agreement; (iii) Construction Disbursement Escrow Agreement; (iv) Team Guaranty; (v) Safety and Security Agreement; (vi) Arena Performance Standards; and (vii) such other agreements as necessary to consummate the transactions contemplated in this MOU.
6. Arena Purchase. Buyer will have a right of first refusal to match any offer entered into by the City for the sale of the Arena during the first five years after the effective date of this MOU, and within five years following the execution of the AMULA Amendment, Buyer, if it is interested in purchasing the Arena, will enter into good faith negotiations with the City for the potential purchase of the Arena by Buyer.
7. Team Name. Following the purchase of the Coyotes, Buyer will use commercially reasonable efforts to apply to the NHL for such approvals necessary to cause the name of the Coyotes to be changed to the to the “Arizona Coyotes” and subject to such approvals, Buyer will use their commercially reasonable efforts to effect such name change.
8. Further Negotiations. Recognizing the benefit of all parties to have Buyer begin operating the Coyotes and the arena at the earliest possible date, it is the intention of both parties to proceed with negotiations of the necessary agreements without delay with the desire to have agreements completed for approval within 60 days; therefore:
 - 8.1 Because at this point in the negotiation process Buyer may forego other opportunities and incur significant costs, the City will disengage from further discussions with any other party seeking to negotiate the terms of a new use and lease agreement of Jobing.com Arena by the Coyotes and will deal exclusively with Buyer for a period of 60 days, except that:
 - a. Buyer will present to City within 10 days of the signing of this MOU a term sheet from a lender that is acceptable to the City and which demonstrates Buyers financial capacity to purchase of the Coyotes’ asset from the NHL, and if such term sheet is not presented within this 10 day period, Buyer’s right to exclusive discussions will terminate; or
 - b. Another potential buyer submits a \$25 million deposit with the NHL to purchase the assets of the Coyotes, in which case the period of exclusivity will terminate.
 - 8.2 City will indemnify Buyer from any tort claims directly related to the agreement for the exclusivity period;

- 8.3 The City will not unreasonably delay completion of arena management, use, and lease agreements and if both parties agree in good faith that consummation of that agreement is imminent, the period of exclusivity will be extended for a reasonable time to assure completion.
- 8.4 If the City does not proceed to consummate the transaction in good faith deal and exclusive with Buyers as stated in § 8.1 and, the City will pay an agreed amount for Buyers reasonable attorney's fees and expenses.
9. Further Documents. The parties acknowledge and agree that this MOU contains recitals of the initial discussions and intentions of the parties with respect to certain, but not all, of the terms of the Project Agreements.
- 9.1 The parties further acknowledge and agree that material terms and conditions remain to be negotiated and agreed upon prior to the execution of any of the Project Agreements.
- 9.2 The parties will proceed in good faith to negotiate the complete terms and conditions of the Project Agreements.
- 9.3 A failure by the parties or any of them to successfully negotiate and execute any of the Project Agreements will not be deemed a breach of this MOU, or any other agreement, by, between, or among the parties and will not subject any party to any form of liability as a result.
10. Terms. Each capitalized term not defined herein has the same meaning assigned to them in the AMULA.
11. Council Approval. This MOU serves merely to memorialize the parties' discussions and is not intended to be a binding commitment in form or manner; the parties fully understand that any commitment by the City other than the administrative resources necessary to formulate binding Project Agreements requires formal approval of the Glendale City Council.

ICE EDGE TEAM, LLC

By: ICE EDGE HOLDINGS, LLC,
its Managing Member

Anthony LeBlanc
Chief Executive Officer

Date: _____

ICE EDGE ARENA, LLC

By: ICE EDGE HOLDINGS, LLC,
its Managing Member

Anthony LeBlanc
Chief Executive Officer

Date: _____

CITY OF GLENDALE

Ed Beasley
City Manager

Date: _____