

**AMENDMENT NUMBER ONE TO
PRE-OPENING CONSULTING, OPERATING AND MANAGEMENT,
AND SUBLEASE AGREEMENT
BETWEEN
THE CITY OF OKLAHOMA CITY,
THE OKLAHOMA CITY PUBLIC PROPERTY AUTHORITY AND
SMG**

This Amendment No. 1 to the November 8, 2016 Pre-Opening Consulting, Operating and Management, and Sublease Agreement ("Agreement") is made on this 9TH day of APRIL 2024, between the City of Oklahoma City ("City"), the Oklahoma City Public Property Authority ("OCPPA") and SMG, a Pennsylvania general Partnership ("SMG"), collectively the "Parties."

WHEREAS, on November 8, 2016, the Parties entered into the Agreement whereby SMG would provide certain specified services to the City and OCPPA regarding the pre-construction consultation and operation/management of a new convention center the City intended to build in downtown Oklahoma City; and

WHEREAS, at that time, the convention center had not yet been built so the first tier of services provided by SMG were pre-opening consulting services regarding design of the new convention center; hiring and training staff; grand opening event planning; recommendations for catering offerings, menus and pricing; etc.; and

WHEREAS, pre-opening services ceased after completion of the City-owned convention center. The parties agree that the Commencement Date for the operation, management and sublease portion of the Agreement began on September 1, 2020. The initial term of the Agreement is for five years from the Commencement Date with two additional three-year renewals allowed upon mutual written agreement of the parties. The parties agree that the initial term will expire on September 1, 2025. However, at this time, the parties desire to renew the Agreement for the first three-year renewal period; and

WHEREAS, SMG is working to secure naming rights for the convention center Facility as a whole and desires to use a subcontractor's services to assist in that endeavor. The Parties would like to amend the Agreement to ensure that SMG has the contractual right to subcontract for said work and to set forth the terms and conditions by which a subcontractor and SMG would be compensated if the services were performed by an SMG subcontractor. Additionally, the parties desire to designate into what fund proceeds from naming rights of the Facility as a whole shall be placed and for what purposes they may be used; and

WHEREAS, for the reasons stated herein, the parties wish to amend the Agreement.

NOW THEREFORE, it is mutually agreed by the Parties to amend the Agreement. All provisions of the November 8, 2016 Pre-Opening Consulting, Operating and Management, and Sublease Agreement shall remain the same and in full force and effect except for the following

amendments indicated by underlining and strike-throughs. The Whereas clauses above are incorporated herein as part of the Agreement and not mere recitals.

Section 2. TERM.

* * *

B. Management and Operations Services. The initial Term of this Agreement exclusively for Management and Operations Services shall commence upon conclusion of the term of Pre-Opening Consultation Services and said commencement date ("Commencement Date") shall be agreed to in writing by the OCPPA General Manager or designee and SMG and shall be in effect, unless terminated in the manner provided herein, for an initial period of five (5) years from said date. The term of the Management and Operations Services Agreement may be extended for two (2) additional Renewal Terms each consisting of a period of three (3) years, but only upon the mutual written agreement of the parties hereto. The parties hereby agree that the Commencement Date shall be September 1, 2020. The initial five-year term of the Agreement shall expire on September 1, 2025. The parties hereby agree, pursuant to this Amendment No. 1, to renew the Agreement beyond the initial term and hereby agree to exercise their right to renew the Agreement for the first three-year Renewal Term. Therefore, the Agreement shall terminate on September 1, 2028, unless later renewed for the final three-year Renewal Term or unless otherwise terminated pursuant to the provisions of Section 18 of this Agreement.

The parties agree and understand that nothing in this Agreement shall be construed as preventing the City or OCPPA from entering the Facility and Optional Facilities at any time during the term of this Agreement for the purpose of satisfying the obligations of the City or OCPPA. The parties further agree that the contractual rights expressly granted to SMG under this Agreement shall at all times be subject to all rights and obligations of the public, the City and OCPPA in the Facility and Optional Facilities, regardless of whether those rights are expressly identified or retained in this Agreement. The OCPPA, as lessor, shall hold and possess all rights of access and inspection of the Leased Premises. The parties further agree and understand that the terms of this Agreement shall not deprive the City and OCPPA of the right, authority and duty to make and enforce such regulations for protection of the rights of the public as they may deem necessary.

In carrying out its obligations under the terms of this Agreement, SMG shall enter into agreements in its own name with third parties, with respect to the Facility and Optional Facilities, in accordance with the Policies and Procedures to be submitted by SMG and approved by the OCPPA General Manager or designee ("Approved Policies and Procedures"). The Approved Policies and Procedures shall thereafter be subject to periodic review (at the request of the General Manager) and, in the event of amendment, the approval by the OCPPA General Manager or designee. In the event of a termination of this Agreement, the OCPPA will perform or cause to be performed those agreements entered into by SMG with third parties with respect to the Facility and Optional Facilities which are to take place or be in effect at a time beyond the period of effectiveness of this Initial Term and any subsequent Renewal Term(s) of this Agreement so long as such agreements are in accordance with the Approved Policies and Procedures.

Section 17. COMPENSATION.

* * *

B.4. Service Commissions. For purposes of this Section 17, the following terms shall be defined as provided below:

“Rights” shall mean (i) Advertising, Sponsorships, Product and Service Rights; (ii) Facility Naming Rights.

“Net Revenues” shall be defined as gross revenues for the sale of Rights for the Facility as a whole and/or for individual components of the Facility, including the mutually agreed fair market value of any approved “trade” or “in-kind” transactions that involve any such Rights, less any and all SG&A incurred in connection with the sale of such Rights. Notwithstanding anything contained herein to the contrary, it is agreed and understood that “trade” or “in-kind” transaction involving Facility Naming Rights shall not be approved.

“SG&A” shall mean any and all sales, general and administrative expenses incurred in connection with the sale of Facilities’ and Optional Facilities’ Rights, including, but not limited to, salaries, bonuses and commissions paid to sales personnel, taxes, and fringe benefits, travel, entertainment and auto expenses incurred in connection with the sale of such Rights, the costs of an office and office equipment for sales personnel and any related, ordinary and necessary office expenses, the cost of development and production of sales and marketing materials and printed sales materials, the costs of development of a request for proposals or sales presentation for the sale of naming rights and the associated research and research materials to support such proposal or presentation, and any other reasonable and necessary out-of-pocket expenses incurred in connection with and related to the sale of such Rights. Allocation of SG&A between sales of the various rights for the Facility and Optional Facilities shall be supported with reasonable documentation acceptable to the OCPPA General Manager.

Pursuant to Exhibit B, Section 3, SMG shall have the exclusive right and authority to enter into naming rights agreements associated with individual elements of Facility, such as the ballroom, meeting rooms and exhibit halls, in its own name. Any agreement for the naming of the entire Facility shall be subject to the approval of the City Council and Trustees of the OCPPA. All net proceeds Net Revenue from the sale of any such naming rights agreement for individual elements of the Facility, with the exception of fees the service commission earned by SMG in accordance with this Agreement, shall be deposited in accordance with the terms of this Agreement and shall be used exclusively to fund management and operations of the Facility. All revenue from the sale of naming rights of the Facility as a whole, after deduction of any subcontractor’s commission, deduction of SG&A, and deduction of SMG’s service commission shall be remitted to the City, within 30 days of receipt by SMG, and placed into a City-managed capital improvements account specifically earmarked for Capital Improvements/Equipment at the Facility.

In addition to the compensation set forth in Section 17.B. above, SMG shall be entitled to receive, as a component of its compensation, the sum of each of the following service commissions earned in connection with the sale of the following Rights, to-wit:

- i. Advertising, Sponsorship, Product and Service Rights. With respect to Advertising, Sponsorship, Product and Service Rights, fifteen (15%) of Net Revenues resulting from the sale thereof, exemplified as follows:

Example: If gross revenues from the sale of Advertising Rights total \$300,000 and the associated SG&A totals \$50,000, then the commissions payable to SMG on such sales would be \$37,500; and

- ii. Facility Naming Rights. With respect to Facility Naming Rights seven percent (7%) of Net Revenues from the sale thereof for revenues collected in the first year and five percent (5%) of Net Revenues collected for each year thereafter, exemplified as follows:

Example: If a Facility Naming Rights sale is made for a total of \$600,000 in each of the first five years, and the associated SG&A is \$150,000 in the first year and \$10,000 in each subsequent year, then the SMG commissions would be \$31,500 in the first year and \$29,500 for each of the next four years.

Exception: Should SMG retain a subcontractor to sell naming rights for the Facility as a whole, SMG shall not pay said subcontractor a commission exceeding twenty percent (20%) of the gross revenues obtained from said sale. After payment of commission to the subcontractor and deduction of SG&A, SMG shall be entitled to five percent (5%) of the remaining revenue as SMG's service commission. The amount of revenue remaining after payment of the subcontractor's commission, payment of SG&A, and payment of a service commission to SMG, shall be remitted, within 30 days of receipt by SMG, to the City and placed into a City-managed capital improvements account specifically earmarked for Capital Improvements/Equipment at the Facility.

Payment for the above service commissions shall be a monthly Facility Operating Expense and not a direct payment of OCPPA unless otherwise agreed to by the parties.

EXHIBIT "B"

MANAGEMENT AND OPERATIONS SERVICES

* * *

3. MARKETING, ADVERTISING AND RELATED SERVICES

SMG may engage subcontractors to provide the following services relating to marketing, advertising and related services during the term of this Agreement ~~to provide the following services relating to~~ (i) naming rights consultation and valuation for the Facility as a whole (ii) advertising inventory packaging, pricing and design for the Facility and Optional Facilities:

- A. Naming Rights. SMG shall have the exclusive right and authority to enter into naming rights agreements associated with individual elements of Facility, such as the ballroom, meeting rooms and exhibit halls, in its own name. Any agreement for the naming of the entire Facility shall be subject to the approval of the City Council and Trustees of the OCPPA. All net proceeds from the sale of any such naming rights agreement shall be deposited in accordance with the terms of this Agreement ~~and shall be used exclusively to fund management and operations of the Facility.~~

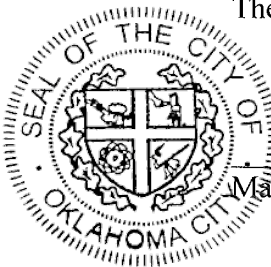
SMG shall have the option of performing the following using its own staff and personnel or SMG can contract with subcontractors to perform any one or more of the following tasks related to selling naming rights for the Facility as a whole.

- i. Research and analyze industry naming rights agreements.
- ii. Evaluate potential values in consideration of local market conditions.
- iii. Create comprehensive proposal detailing timelines and all naming rights benefits.
- iv. Develop financial analysis related to revenue and expenses for naming rights agreement(s).
- v. Coordinate and plan the development and creation of all presentation materials, as appropriate or, in the alternative, develop requests for proposals ("RFP") and assist in negotiation of contract documents with potential naming rights sponsors.
- vi. Create local and national target account list to be reviewed with the OCPPA General Manager or designee.
- vi. Solicit and develop local and national accounts or review RFP responses.
- vii. Assist and consult in negotiation of final transaction, including review and analysis of proposals and development of contract for execution or consideration by the City Council and OCPPA Trustees as may be required.
- viii. Advise and consult with respect to ongoing servicing of naming rights sponsors.
- ix. Provide contractual fulfillment services as may be required with any naming rights sponsor.

APPROVED BY the Mayor and City Council of the City of Oklahoma City this 9TH day of APRIL, 2024.

ATTEST

Amy K. Simpson
City Clerk



The City of Oklahoma City

David Holt
Mayor

APPROVED BY the Oklahoma City Public Property Authority this 9TH day of APRIL, 2023--24

ATTEST

Amy K. Simpson
Secretary



Oklahoma City Public Property Authority

David Holt
Chairman

Reviewed as to form and legality.

Dustin L. Patten
Assistant Municipal Counselor

SMG, a Pennsylvania general partnership

By: Mark Rozells
Mark Rozells, CFO

Pennsylvania
State of ~~Oklahoma~~)
Montgomery) SS.
County of ~~Oklahoma~~)

This instrument was acknowledged before me on the 7th day of March, 2024, by
Mack Rozell as CFO of SMG.

Nancy McNelis

Notary Public

Commission No.: 1246052

My Commission expires: November 19, 2024

Commonwealth of Pennsylvania - Notary Seal
Nancy McNelis, Notary Public
Montgomery County
My commission expires November 19, 2024
Commission number 1246052
Member, Pennsylvania Association of Notaries