Meeting Date: **1/20/2015**

Report Type: Consent

Report ID: 2015-00043

City of SACRAMENTO 02

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: Amendments to the Agreement for Interim Parking Operations Management and the Arena Parking Management Agreement: Entertainment and Sports Center Project

Location: Downtown Plaza, District 4

Recommendation: Pass a Motion authorizing the City Manager or his designee to 1) execute the First Amendment to the Agreement for Interim Parking Operations Management (IPMA) to extend the agreement until no later than September 30, 2016 as well as make other minor changes; and 2) to execute the Second Amendment to Arena Parking Management Agreement (APMA) to extend the time for Sacramento Downtown Arena LLC to elect to implement either a PARCS integrated or matching system for the Downtown Plaza garages.

Contact: Desmond Parrington, ESC Project Manager, (916) 808-5044, Office of the City Manager

Presenter: None

Department: City Manager

Division: Executive Office

Dept ID:

Attachments:

1-Description/Analysis

2-IPMA 1st Amendment

3-APMA 2nd Amendment

City Attorney Review

Approved as to Form
Matthew Ruyak
1/15/2015 8:29:14 AM

Approvals/Acknowledgements

Department Director or Designee: John Dangberg - 1/14/2015 6:19:48 PM

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Description/Analysis

Issue Detail: Staff is seeking authorization to amend the Agreement for Interim Parking Operations Management (IPMA) to extend the agreement until no later than September 30, 2016. The current term of the IPMA ends on January 30, 2015. This amendment would authorize the City's continued operation of the City-owned Downtown Plaza garages under a fee contract with Sacramento Downtown Arena LLC (ArenaCo).

Under the terms of the Arena Parking Management Agreement (APMA), ArenaCo is responsible for operating and maintaining the Downtown Plaza garages (also known as Lot K, Lot U, and Lot G) for a 35-year period. Since ArenaCo is not yet ready to put in place its own operation, maintenance, and management team for the garages, it has asked if the City would continue to do this on its behalf for a fee. All City costs associated with this work, including operations and maintenance, would be paid for by ArenaCo. In addition, the City would receive a monthly management fee.

Other changes to the IPMA in this amendment include: 1) a provision that the IPMA may terminate at any time after December 31, 2015 with at least 60 days advance notice to the City; 2) a requirement that any future private parking operator carry the same level of insurance as set forth in the APMA; 3) a provision that either ArenaCo or its parking operator must maintain the insurance as required in the APMA throughout the term of the IPMA; and 4) a reduction in the City management fee from $2,000 to $1,650 per month due to the reduction in the number of parking spaces in the Downtown Plaza as a result of the demolition.

Council approved the First Amendment to the APMA on October 28, 2014. This amendment adjusted the employer's liability insurance requirement from $3 million to $1 million to make it consistent with standard city practice. The Second Amendment would extend the time for ArenaCo to elect to implement either a Parking Access Revenue Control System (PARCS) integrated or matching system for the Downtown Plaza garages. The requirement would go into effect upon expiration or termination of the IPMA. This requirement ensures operational compatibility between the control systems for the City's other downtown garages and the Downtown Plaza garages operated by ArenaCo. Since ArenaCo is not yet prepared to take over operational control of the garages, it needs more time before implementing this requirement.

Policy Considerations: The change to the IPMA is considered a major amendment since it increases the duration of the IMPA from six months to almost two years. Therefore, the amendment requires City Council approval.

The change to the APMA, albeit minor, is related to the IPMA amendment and so both amendments have been brought forward to Council for consideration.

Economic Impact: None.

Environmental Considerations: The actions in this report do not have any potential for significant effect on the environment and are exempt under CEQA Guidelines section 15061(b)(3).

Sustainability: Not applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: In order to ensure seamless maintenance and operation of the Downtown Plaza garages, staff is recommending approval of the amendments so that the City will continue to handle the day-to-day operations and maintenance while ArenaCo prepares to assume control.

Financial Considerations: Since ArenaCo is responsible and will continue to pay for the operations and maintenance of the Downtown Plaza garages under the IPMA and APMA, there is no cost to the City. The City Parking Division will receive a management fee of $1,650 per month for the term of the IPMA.

Local Business Enterprise (LBE): Not applicable.

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FIRST AMENDMENT TO THE AGREEMENT FOR INTERIM PARKING OPERATIONS MANAGEMENT

THIS FIRST AMENDMENT TO THE AGREEMENT FOR INTERIM PARKING OPERATIONS MANAGEMENT (this "**Amendment**") is made and entered into as of January ____, 2015, by and between the CITY OF SACRAMENTO, a municipal corporation (the "**City**"), and SACRAMENTO DOWNTOWN ARENA LLC, a Delaware limited liability company ("**ArenaCo**").

BACKGROUND

The City and ArenaCo entered into that certain Agreement for Interim Parking Operations Management Arena Management, dated as of May 20, 2014 (the "**Agreement**") in connection with that certain Arena Parking Management Agreement dated as of the same date as the Agreement and amended by that certain First Amendment to the Arena Parking Management Agreement (collectively, the "**APMA**");

ArenaCo and the City desire to extend the term of the Agreement and modify certain terms and conditions thereof;

With these background facts in mind, the Parties agree as follows:

1. **Section 1**. Section 1 of the Agreement is hereby modified such that the expiration date of the Agreement shall be September 30, 2016; provided that ArenaCo may, in its sole and absolute discretion, terminate the Agreement on any date after December 31, 2015 by providing the City with at least 60 days prior written notice of such election. Any such notice by ArenaCo will identify the date selected by ArenaCo for such early termination.

2. **Subsection 3.1**. Subsection 3.1 is hereby modified as of the date hereof by adding the following to the end of the subsection:

   City acknowledges that ArenaCo will enter into a subsequent contract for services with a parking operator ("Subsequent Parking Operator Contract") on or before April 1, 2015, which shall replace City's contract with Parking Operator described above. ArenaCo will provide written notice to City prior to entering into its contract with Subsequent Parking Operator. Any future Parking Operator, including Subsequent Parking Operator, hired by City or ArenaCo shall be required to maintain: (a) at least equivalent insurance coverage and policies as currently carried by Parking Operator; and (b) provide property insurance coverages for equipment located in the Parking Facilities consistent with the requirements of the APMA.

3. **Subsection 8.1.** Subsection 8.1(G) is hereby deleted and replaced with the following:

"**Monthly Management Fee**" is a fixed fee paid to the City of $1,650 per month, which fee is in addition to any fees for any Additional Services and any costs or expenses incurred by the City in connection with providing the Services and Additional Services as contemplated hereunder. The provisions of this Section shall survive the expiration or termination of this Agreement.

4. **Section 12.** Sections 12.1 and 12.2 are hereby deleted and replaced with the following:

"12.1 City Insurance Requirements. ArenaCo acknowledges that the City is a self-insured public entity and agrees that the City's program of self-insurance fulfills any and all insurance requirements. The City shall provide a letter of self-insurance stating that the City's self-insurance program adequately protects against liabilities and claims arising out of the performance of this Agreement and provides property insurance for the garage equipment.

12.2 ArenaCo Insurance Requirements. During the Term, ArenaCo shall maintain the insurance coverage required by the APMA, provided that any such coverages may be provided via the Parking Operator (including any Subsequent Parking Operator), as applicable. It is understood and agreed by ArenaCo that its liability to the City shall not in any way be limited to or affected by the amount of insurance coverage required or carried by ArenaCo in connection with this Agreement."

5. Except as provided above, all provisions of the Agreement are unchanged and remain in full force and effect.

[***Remainder of page intentionally left blank; signature page follows***]

IN WITNESS WHEREOF, the City and ArenaCo have entered into this Amendment as of the day and year first above written.

City of Sacramento By:_____ John F. Shirey City Manager Date:_____, 2015	SACRAMENTO DOWNTOWN ARENA LLC, a Delaware limited liability company By: Sacramento Basketball Holdings LLC, a Delaware limited liability company, its Sole Member By: _____ Name: _____ Its: _____ Date:_____, 2015
Approved as to Form Sacramento City Attorney By:_____ Matthew D. Ruyak Assistant City Attorney	Approved as to Legal Form Pioneer Law Group, LLP By:_____ Jeffrey K. Dorso Attorneys for ArenaCo

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SECOND AMENDMENT TO THE ARENA PARKING AND MANAGEMENT AGREEMENT

This **SECOND AMENDMENT TO THE ARENA PARKING AND MANAGEMENT AGREEMENT** (this "**Amendment**") is made and entered into as of January ____,, 2015, by and between the CITY OF SACRAMENTO, a municipal corporation of the State of California (the "**City**"), and SACRAMENTO DOWNTOWN ARENA LLC, a Delaware limited liability company ("**ArenaCo**"). The City and ArenaCo are sometimes referred to in this Amendment as the "**Parties**."

BACKGROUND

The Parties entered into that certain Arena Parking Management Agreement, dated as of May 20, 2014 (City Agreement No. 2014-0513) and that certain First Amendment to the Arena Parking and Management Agreement as of October 28, 2014 (collectively, the "**Agreement**"). In connection with the Agreement, the Parties entered into that certain Agreement for Interim Parking Operations Management Arena Management, dated as of May 20, 2014 (the "**IPMA**").

The Parties have agreed to extend the term of the IPMA simultaneously herewith (the "IPMA Amendment"), and therefore have agreed to amend the Agreement to ensure consistency with the IPMA as amended, subject to the terms and conditions set forth in this Amendment.

With these background facts in mind, the Parties agree as follows:

1. **Subsection 3.3(I).** Notwithstanding the extension of the IPMA beyond its original six-month term, the City and ArenaCo hereby agree that the IPMA Amendment shall not be deemed to be an election of PARCS Integrated pursuant to and as defined in Section 3.3(I) of the Agreement, the fifth sentence of Subsection 3.3(I) is hereby deleted, and the second sentence of Subsection 3.3(I) is hereby deleted and replaced with the following: "During any period after the expiration or termination following the term (including any renewal or extension term) of the Interim Agreement that the City is subcontracted to manage day-to-day operations of the Parking Facilities, ArenaCo shall implement either PARCS Integrated or PARCS Matching, at its sole cost and expense."

2. Except as provided in Section 1, above, all provisions of the Agreement are unchanged and remain in full force and effect.

[***Remainder of page intentionally left blank; signature page follows***]

IN WITNESS WHEREOF, the Parties have entered into this Amendment as of the day and year first above written.

City of Sacramento By:_____ John F. Shirey City Manager Date:_____, 2015	SACRAMENTO DOWNTOWN ARENA LLC, a Delaware limited liability company By: Sacramento Basketball Holdings LLC, a Delaware limited liability company, its Sole Member By: _____ Name: _____ Its: _____ Date:_____, 2015
Approved as to Form Sacramento City Attorney By:_____ Matthew D. Ruyak Assistant City Attorney	Approved as to Legal Form Pioneer Law Group, LLP By:_____ Jeffrey K. Dorso Attorneys for ArenaCo