

**AGREEMENT WITH SQH SPORTS & ENTERTAINMENT, INC. TO EXTEND  
PERFORMANCE MILESTONES**

**Whereas**, on October 18, 2016, the City of Corpus Christi (“the City”) and SQH Sports & Entertainment, Inc., (“SQH”) entered into a Ground Lease (the “Lease”) regarding an approximately 67.69 acre parcel of unimproved land located near State Highway 286 and FM 43 to be used by SQH for construction of a regional youth sports complex;

**Whereas**, the Effective Date of the Lease was defined to be the sixty-first day after final approval by the Corpus Christi City Council, or December 18, 2016;

**Whereas**, Section 8.1.2 of the Lease provided the following Performance Milestones:

**8.1.2. Performance Milestones** – Tenant (SQH) agrees to complete the following performance milestones by the dates shown below with all dates running from the Effective Date. The determination of tenant’s successful compliance with these Performance Milestones is within the sole determination and discretion of the Director of Parks and Recreation, whose approval shall not be unreasonably withheld. Tenant agrees to provide Director of Parks and Recreation with documentation of completion of each Performance Milestone, subject to review and approval of Director of Parks and Recreation. Failure to timely and successfully complete a Performance Milestones shall be considered an “Event of Default” and subject to further action under Article 15.

8.1.2.A. The Coastal Bend Community Foundation Tracts have been conveyed to SQH by third party owner within six (6) months from the Effective Date.

8.1.2.B. Within six months from the Effective Date, Tenant demonstrates to the satisfaction of the Director of Parks and Recreation that all utilities for the Premises have been approved in accordance with the Unified Development Code.

8.1.2.C. Tenant secures funding for construction of Improvements listed above within nine (9) months from the Effective Date.

8.1.2.D. Tenant completes final design of complex within 13 months from the Effective Date.

8.1.2.E. Tenant begins construction of complex within 14 months from the Effective Date.

8.1.2.F. Tenant substantially completes construction of complex within 27 months from the Effective Date.

8.1.2.G. Tenant begins operations of major components of complex within 29 months from the Effective Date.

Notwithstanding anything in this Lease to the contrary, the Parties agree and understand that failure to enter into a mutually agreeable utility line agreement to provide proper utilities to the Premises within six months from the Effective Date shall be grounds for either party to terminate this Lease upon written notice, and at no cost or liability to the other party.”

**Whereas,** Section 5.1 of the Lease provides the following regarding utilities:

**“5.1. Utilities.** During the Term Tenant will make all arrangements for obtaining service contracts and shall pay for all utilities (including without limitation electricity, water, gas, sewer and telephone service) and services furnished to, or to be used on, the Premises and/or in connection with the Improvements, and for all service commencement charges and meter reading fees. Such charges and expenses shall be paid by Tenant promptly and without delinquency directly to the utility companies or other entities to which such charges and fees are payable. Tenant shall comply with the Landlord’s water conservation measures which are enacted pursuant to City ordinance. All utilities installed by Tenant must be done in compliance with all applicable City Codes and regulations including but not limited to the requirement at Unified Development Code Sections 8.5.2.F which provides that when property requesting wastewater service is located outside the City limits, the property owner shall agree to annex or sign a contract to annex such property prior to wastewater service being made available. In addition, reimbursement for a lift station installed by Tenant or any other developer shall only be made upon compliance with the Unified Development Code, which requires prior City Council approval of a separate reimbursement agreement prior to start of construction. Finally, per the Unified Development Code, the Tenant’s or any other developer’s application for reimbursement may not be considered until an amendment to the applicable Master Plan has been approved by the City Council.

**Whereas,** the parties have been working towards accomplishing the performance milestones and now desire to amend the Lease to extend the Performance Milestones to allow the project to continue to successful completion by execution of this Agreement to Extend Performance Milestones, (the “Agreement”);

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. Section 8.1. of the Lease is amended to extend the performance milestones by up to an additional twelve months, as follows:

**“8.1.2. Performance Milestones** – Tenant agrees to complete the following performance milestones by the dates shown below with all dates running from the Effective Date. The determination of tenant’s successful compliance with these Performance Milestones is within the sole determination and discretion of the Director of Parks and Recreation, whose approval shall

not be unreasonably withheld. Tenant agrees to provide Director of Parks and Recreation with documentation of completion of each Performance Milestone, subject to review and approval of Director of Parks and Recreation. Failure to timely and successfully complete a Performance Milestones shall be considered an “Event of Default” and subject to further action under Article 15.

8.1.2.A. The Coastal Bend Community Foundation Tracts have been conveyed to SQH or an affiliate of SQH by third party owner within eighteen (18) months from the Effective Date. “Affiliate of SQH” means an entity who controls, is controlled by, or is under common control with SQH.

8.1.2.B. Within eighteen (18) months from the Effective Date, Tenant demonstrates to the satisfaction of the Director of Parks and Recreation that all utilities for the Premises have been approved in accordance with the Unified Development Code.

8.1.2.C. Tenant secures funding for construction of Improvements listed above within twenty-one (21) months from the Effective Date.

8.1.2.D. Tenant completes final design of complex within twenty-five (25) months from the Effective Date.

8.1.2.E. Tenant begins construction of complex within twenty-six (26) months from the Effective Date.

8.1.2.F. Tenant substantially completes construction of complex within thirty-nine (39) months from the Effective Date.

8.1.2.G. Tenant begins operations of major components of complex within forty-one (41) months from the Effective Date.

Notwithstanding anything in this Lease to the contrary, the Parties agree and understand that failure to enter into a mutually agreeable utility line agreement to provide proper utilities to the Premises within eighteen (18) months from the Effective Date shall be grounds for either party to terminate this Lease upon written notice, and at no cost or liability to the other party.”

**2. Cancellation of Coastal Bend Community Foundation Tracts Purchase.** If, within a reasonable time after the execution of this Agreement, before the Performance Milestone deadline of Section 8.1.2.A. of the Lease, SQH deems that the purchase of the Coastal Bend Community Foundation Tracts has become commercially unreasonable or impossible, SQH shall report such decision to the City in writing, and the Performance Milestone of Section 8.1.2.A of the Lease shall be automatically cancelled and removed from the Lease.

**3. Disclosure of Interests.** SQH agrees to comply with City of Corpus Christi Ordinance No. 17112 and complete the *Disclosure of Interests* form as part of this contract. SQH agrees to comply with Texas Government Code section 2252.908 and complete Form 1295 Certificate of Interested Parties as part of this contract. For more information, please review the information on the Texas

Ethics Commission website at <https://www.ethics.state.tx.us>. Lessee agrees to comply with Chapter 176 of the Texas Local Government Code and file Form CIQ with the City Secretary's Office, if required. For more information and to determine if you need to file a Form CIQ, please review the information on the City Secretary's website at <http://www.cctexas.com/government/city-secretary/conflict-disclosure/index>.

4. This Agreement to extend the Performance Milestones takes effect upon signature by the City Manager or designee, after City Council approval. All other terms and conditions of the Lease remain in effect except as modified by this Agreement.

**AGREED TO BY:**

**SQH**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF CORPUS CHRISTI**

By: \_\_\_\_\_

Margie C. Rose  
City Manager

Attest:

By: \_\_\_\_\_

Rebecca Huerta  
City Secretary

APPROVED AS TO FORM: This \_\_\_\_ day of \_\_\_\_\_, 2017.

By: \_\_\_\_\_

Lisa Aguilar, Assistant City Attorney  
For the City Attorney