

I-470 AND VIEW HIGH COMMUNITY IMPROVEMENT DISTRICT

Resolution 2021 – 04

A Resolution Authorizing the Management Agreement between the I-470 and View High Community Improvement District and Paragon Star, LLC

WHEREAS, having provided notice of a meeting of the Board of Directors of the I-470 and View High Community Improvement District (the “District”) in accordance with Section 610.020 of the Revised Statutes of Missouri, the Directors met on January 22, 2021; and

WHEREAS, pursuant to Section 67.1461.1(5), the District is authorized to contract for such managerial assistance as it deems advisable;

WHEREAS, the District desires to enter into a Management Agreement (the “Agreement”) with Paragon Star, LLC;

NOW THEREFORE, BE IT RESOLVED, by the Board of Directors of the I-470 and View High Community Improvement District, as follows:

THAT, the District hereby approves the Management Agreement with Paragon Star, LLC, attached hereto as **Exhibit A**.

AND FURTHER, THAT the Chairman of the District be, and hereby is, authorized and directed to enter into and execute such other documents as may be necessary and appropriate to carry out the above resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE I-470 AND VIEW HIGH COMMUNITY IMPROVEMENT DISTRICT AS FOLLOWS:

PASSED by the Board of Directors on this 22nd day of January, 2021.



William Brown, Executive Director

Exhibit A

Management Agreement

(attached hereto)

MANAGEMENT AGREEMENT

This Management Agreement (this "**Agreement**") dated this 22nd day of January, 2021 (the "**Effective Date**"), by and between the **I-470 and View High Community Improvement District**, a political subdivision of the State of Missouri (the "**CID**"), and **PARAGON STAR, LLC**, a Missouri limited liability company (the "**Manager**").

RECITALS

WHEREAS, the CID will own a Sports Complex to be constructed and opened to the public in 2021, and generally located at the northeast quadrant of Interstate 470 and View High Drive within the corporate limits of the City of Lee's Summit, Missouri (the "**City**"); and

WHEREAS, by Resolution No. 2017-01, the CID had selected Manager to perform the Management and Operation Services for the Sports Complex; and

WHEREAS, the CID desires to engage Manager to manage, promote, market, and operate the Sports Complex as provided herein, on behalf of the CID, and Manager desires to accept such engagement, pursuant to the terms and conditions contained herein; and

WHEREAS, the CID desires that the Sports Complex be operated in a professional manner with the objective of providing a venue for (i) sporting events and (ii) maximizing the utilization of the Sports Complex; and

WHEREAS, the CID has determined that it is in the best interest of the CID that the CID enter into this Agreement with the Manager to provide for the management, operation and marketing of the Sports Complex.

NOW THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Article I Definitions

Words and terms not defined elsewhere in this Agreement shall, except as the context otherwise requires, have the following meanings:

"**Capital Improvements**" shall mean improvements resulting in a substantial improvement, enlargement or betterment to the Sports Complex, including improvements which: (i) result in a material physical addition to the Sports Complex; (ii) are made to adapt the Sports Complex to a new or different use which maximizes the utilization of the Sports Complex; or (iii) materially increase the capacity, productivity (including extending the useful life of the asset), efficiency, strength, or quality of the Sports Complex.

"Maintenance Expenses" shall mean expenditures incurred for maintenance and equipment servicing, including expenditures for repairs (including the cost of replacement property required as part of the repair) incurred and arising as a result of the ordinary use of the Sports Complex which are necessary to keep the Sports Complex in its ordinary operating condition (as defined under Section 162 of the Internal Revenue Code of 1986, as amended and in effect at the time the Sports Complex opened). For this purpose, Maintenance Expenses include the repair and replacement of property in the Sports Complex with comparable and reasonable replacement property, but not for replacement property that results in a substantial improvement or addition to the original condition or capacity of the Sports Complex, unless a majority of the CID Board approve.

"Operating Expenses" shall mean the actual costs incurred by the Manager for the operation of the Sports Complex including without limitation (i) employee payroll, benefits, relocation costs, bonuses and related costs; (ii) costs of operating supplies (including general office supplies); (iii) advertising, marketing, group sales, public relations costs, sponsorship brochures, promotional materials development, promotional sales meetings, mailing costs, website development, advertisement costs (radio, television, cable, print and other advertising mediums); (iv) cleaning expenses, (v) data processing costs; (vi) dues, subscriptions and membership costs; (vii) service contracts, including without limitation contracts for engineering services, electricity, steam, gas, fuel, maintenance, staffing personnel, and other services which are deemed by Manager to be either necessary or useful in operating the Sports Complex; (viii) printing and stationery costs, (ix) postage and freight costs, (x) equipment rental costs; (xi) Maintenance Expenses; (xii) security expenses; (xiii) telephone and communication charges, (xiv) travel and entertainment expenses of Manager or subcontractor employees; (xv) cost of employee uniforms and identification, (xvi) exterminator, snow and trash removal costs, (xvii) computer, software, hardware and training costs, (xviii) parking expenses; (xix) utility expenses, (xx) office expenses; (xxi) audit, accounting and legal fees; (xxii) bond and insurance costs, including, but not limited to personal property, liability, and workers' compensation insurance; and (xxiii) vendor and concessions agreements, user/rental agreements, booking commitments, licenses, and all other contracts or agreements required in the ordinary course of business in operating the Sports Complex.

"Revenues" shall mean all revenues generated from the operation of the Sports Complex, including but not limited to event ticket proceeds income, rental income, merchandise income, concessionaire income, income from any naming rights agreement, advertising sales income, equipment rental fees, box office income, miscellaneous operating income, parking income, leasing income, food sales income, and the fair market value of the use of the Sports Complex by the CID as provided in Section 4.4 below, but shall not include monies collected and deposited into the Event Operating Account in accordance with the Operating Policies & Procedures Manual for the benefit of and to be paid to third parties (for example, event promoters), and generally applicable excise, sales, occupancy and use taxes, or similar government taxes, duties, levies or charges collected directly from patrons or guests, or as a part of the sales price of any goods, services, or displays, such as gross receipts, admission, or similar or equivalent taxes to the extent amounts are imposed and collected in multiple venues in addition to the Sports Complex.

“Sports Complex” means not less than ten (10) artificial turf multi-sport fields and the appurtenant facilities including, but not limited to, artificial turf, lighting, bleachers, irrigation systems, walkways, signage, warm-up areas, concessions facilities and satellite restrooms.

Article II

Term; Termination; Transferability

2.1 **Term.** The term of this Agreement shall begin on the Effective Date and continue for a term of thirty (30) years and will be automatically renewed for five (5) year increments unless terminated for cause by notice as provided in Section 2.2 (the "Term").

2.2 **Termination.** Either party hereto may terminate this Agreement at any time for Cause. Notice shall be delivered as described in Section 11.8 herein. "Cause", as used herein, shall mean and refer to:

2.2.1 Manager's or CID's failure to perform or comply with any of its material obligations hereunder at the time or times and in the manner required under this Agreement without attempting to diligently and continuously commence curing such failure within thirty (30) days of receipt by the non-defaulting party of notice of such default;

2.2.2 Manager's or CID's gross negligence in the performance of its obligations under this Agreement or its intentional or willful default under this Agreement;

2.2.3 Manager or CID becomes insolvent or admits in writing its inability to pay its debts as they mature, is generally not paying its debts as they mature, or makes an assignment for the benefit of creditors; or

2.2.4 the adjudication of Manager or CID as bankrupt or insolvent;

2.2.5 CID sells, transfers, or otherwise conveys its interest in the Sports Complex; and

2.2.6 Neither party, by exercising its right to terminate this Agreement in accordance with the terms hereof, shall relinquish any remedy available to it at law or in equity.

2.3 **Transition of Management.** If this Agreement is terminated for "Cause" the CID and Manager will use reasonable best efforts to provide for an orderly transition of the operation and management of the Sports Complex. The CID and Manager will cooperate in the selection of a new management entity to whom all third-party contracts related to the management and operation of the Sports Complex will be assigned; provided that, any such contracts which involve the collection of outstanding balances, those balances shall be paid to the Manager, and such contracts shall then be terminated. Once the new management entity has entered into a management agreement with the CID, the Manager shall deliver or otherwise make available to the new management entity all then current fiscal year data.

2.4 **Transferability.** Manager may transfer any or all of its rights and obligations under this Agreement to any lawful successor, transferee, or assignee with prior written consent of the CID, which consent shall not be unreasonably withheld. Any such transfer made by the Manager shall relieve Manager of its obligations to the CID to perform transferred duties and responsibilities. As long as any tax-exempt bond financing is outstanding, no transfer of this Agreement by the Manager may be made without first obtaining a written opinion from the City's bond counsel to the effect that such transfer will not adversely impact the tax-exempt status of the bond financing.

Article III Scope of Management Services

3.1 **Grant of Authority.** Subject to the terms and conditions of this Agreement, and procurement policies established by the CID Board, and the written procedures for the operation, maintenance, marketing and ticketing of the Sports Complex as may from time to time be developed by the Manager (the "**Operating Policies & Procedures Manual**"), the CID hereby engages Manager during the Term to act as the provider of the management services described herein. The Manager agrees to accept such engagement and provide the management services to the CID as provided herein.

3.2 **Subcontracts.** Manager agrees to perform or furnish or cause to be performed or furnished, all of the management services described herein. Manager may subcontract any or all of the management services to be provided under this Agreement to any one or more qualified subcontractors; provided however, that any such subcontract shall not relieve Manager of its obligations to the CID to perform all of the duties and responsibilities imposed on the Manager under this Agreement. The Manager shall be responsible for all subcontracted management services, and in all instances such subcontracts shall be subject to, and in compliance with this Agreement and the Operating Policies & Procedures Manual. All subcontracts shall provide that the CID, in the event the CID terminates this Agreement, may assume at the CID's option, the Manager's rights and obligations under such subcontract by written notice to such subcontractor.

3.3 **Duties and Responsibilities.** Subject to the terms and conditions of this Agreement and the Operating Policies & Procedures Manual, the Manager shall perform, or cause to be performed, during the Term of this Agreement all aspects of the management and operation of the Sports Complex necessary to operate and maintain the Sports Complex in a first class manner such that the Sports Complex is maintained and operated in a manner consistent with the standards and operation of a first class Sports Complex in the United States of America. In the performance of its duties hereunder, the Manager shall cause such other acts and things to be done in and about the Sports Complex as determined by Manager in its reasonable discretion to be necessary for the operation, control, supervision, direction and maintenance of the Sports Complex. Manager shall also be responsible for all security, traffic control and EMS personnel for the Sports Complex in accordance with the Operating Policies & Procedures Manual.

3.4 **Ticketing.** As applicable, the Manager shall provide ticketing services to the Sports Complex in accordance with the Operating Policies & Procedures Manual. The Manager

may charge facility fees, capital reserve fees, parking fees, and per ticket convenience and handling charges, and other similar per order charges and fees which shall be approved by the Manager and added to the base ticket price. The point of sale for tickets sold for Sports Complex events shall be the Sports Complex, whether or not such sales occur via internet sale, remote outlet sale, box office sale, or any other method of sale. Manager will collect or shall cause to be collected all state and local sales and use taxes payable for events at the Sports Complex. Sales tax may be included in the stated ticket price and will be deducted from the gross for settlement and shall be remitted to the Missouri Department of Revenue or other applicable taxing jurisdiction using the retail sales tax number and site code for the Sports Complex.

Article IV

Ownership and Use of the Sports Complex

4.1 **Ownership of Sports Complex, Data, Equipment and Materials.** The CID will at all times retain ownership of the Sports Complex, including but not limited to technical equipment, furniture, displays, fixtures and similar property, including improvements made during the Term, at the Sports Complex.

4.2 **Right of Possession.** The CID hereby gives Manager the right to be in possession of the Sports Complex, and Manager accepts such right of possession, for the purpose of performing the management services described herein, including the operation and maintenance of all physical and mechanical facilities necessary for, and related to, the operation, maintenance and management of the Sports Complex.

4.3 **Use by the CID.** Subject to availability, the CID shall have the right to use the Sports Complex or any part thereof without the payment of any rental or use fee, provided that the CID shall promptly reimburse Manager for any direct out-of-pocket expenses incurred by Manager in connection with such use. The CID and the Manager shall coordinate the dates on which the CID will use the Sports Complex so that the CID's use of the Sports Complex does not conflict with events previously scheduled for the Sports Complex.

4.4 **CID Reserved Right of Entry.** Representatives of the CID presenting official CID identification shall have the right to enter all portions of the Sports Complex, owned by the CID, at any time, to inspect the same, to observe the performance of Manager of its obligations under this Agreement or to do any act or thing which CID may be obligated to do or have the right to do under this Agreement or otherwise; provided, however, representatives of the CID shall not be allowed to enter into performers' or teams' restricted areas unless such right of entry is a matter of law enforcement or public safety.

Article V

Personnel

5.1 **Manager Personnel.** The Manager is authorized to engage, employ, supervise and direct all personnel at the Sports Complex that Manager deems necessary for the operation and maintenance of the Sports Complex. All personnel engaged or hired by Manager at the Sports Complex shall be employees, agents or independent contractors of Manager, or a subcontractor, and not of the CID. Manager, or a subcontractor, shall select the number, function,

qualifications, and compensation, including salary and benefits, of its employees and shall control the terms and conditions of employment relating to such employees.

5.2 **General Manager.** Personnel supplied by Manager will include the General Manager who shall be an individual with managerial experience in similar facilities to serve as a full-time on-site general manager of the Sports Complex. The General Manager, or designee, shall be on site during normal business hours and shall be reasonably available to the CID at all times. The General Manager shall be responsible for day-to-day operations of the Sports Complex, supervision of employees, and management and coordination of all activities associated with events taking place at the Sports Complex.

5.3 **Legal Counsel.** The Manager is authorized to engage qualified legal counsel to provide legal services to the Manager with respect to its operations.

Article VI Cash Control

6.1 **Creation of Bank Accounts.** The Manager shall establish one or more bank accounts to receive Revenues, pay Operating Expenses, Maintenance Expenses and fund Capital Improvements.

6.2 **Cash Control.** The Manager shall comply with the Operating Policies & Procedures Manual established by the Manager in the collection of Revenue and payment of Operating Expenses, Maintenance Expenses and Capital Improvements for the Sports Complex.

6.3 **Payment.** It is hereby specifically acknowledged and understood that Manager shall retain all Revenue from the management, promotion, marketing, and all operations of the Sports Complex, and shall make no payments to the CID. It is further acknowledged and understood that the Manager is responsible for the cost of Operating Expenses, Maintenance Expenses and Capital Improvements for the Sports Complex.

Article VII Financial Documents

7.1 **Records.** Manager agrees to keep and maintain separate and independent records, in accordance with generally accepted accounting principles and the Operating Policies & Procedures Manual, devoted exclusively to its operations in connection with its management of the Sports Complex. Such records (including books, ledgers, journals, and accounts) shall contain all entries reflecting the business operations of Manager under this Agreement. The CID or its authorized agent shall have the right to audit and inspect such records from time to time during the Term upon reasonable notice to Manager and during Manager's ordinary business hours.

7.2 **Operations Report and Budget.** The Manager shall on an annual basis prepare an Operations Report for the CID Board which presents information related to the Operating Expenses Maintenance Expenses and Capital Improvements, including a five-year capital

improvement plan that demonstrates the status of elements of the capital asset that is the Sports Complex. The Operations Report shall be presented to the CID Board as part of the CID annual budget preparation. The Manager will be available to assist the CID in the preparation of the CID annual fiscal year budget.

7.3 **Audit.** The Manager will arrange for an annual certified audit report on the accounts and records as kept by Manager for the Sports Complex (the "Audit").

Article VIII Expenditures

8.1 **Operating Expenses.** The Manager shall be responsible for the payment of Operating Expenses from Revenues.

8.2 **Maintenance Expenses.** The Manager shall be responsible for all Maintenance Expenses in order to maintain the status of the Sports Complex as a first-class venue. The Manager shall insure that all expenditures for maintenance and equipment servicing for the Sports Complex shall qualify as Maintenance Expenses. Maintenance Expenses shall be considered Operating Expenses, but shall not include the costs of Capital Improvements.

8.3 **Capital Improvements.** The Manager shall be responsible for making, or arranging for, scheduled Capital Improvements at the Sports Complex. Expenditures for Capital Improvements shall not be considered Maintenance Expenses. Manager shall prepare and update a long-range schedule of projected expenditures for Capital Improvements. Additionally, the CID shall have the right to recommend Capital Improvements for the benefit of the Sports Complex at its discretion.

Article IX Tax Compliance

9.1 **Tax Compliance Agreements.** The obligations issued to fund construction of the Sports Complex and related infrastructure improvements are tax-exempt obligations (the "Bonds"). In order to maintain the status of the Bonds as tax-exempt obligations, the CID and the Manager shall comply with any Tax Compliance Agreements arising out of the City of Lee's Summit, Missouri, Tax Increment Revenue Bonds (Paragon Star Redevelopment Project) Series 2021 (the "Tax Compliance Agreements") or any other financing providing funds for the construction or improvement of the Sports Complex.

Article X Insurance

10.1 **Insurance.** The Manager and CID shall arrange for, carry and maintain insurance coverage for Commercial General Liability and All Risk Property Insurance for the Sports Complex. The CID will need to obtain the property insurance and provide the manager as an additional insured and the Manager will need to provide the liability insurance and name the CID

as an additional insured. The Manager and CID will come to agreement on further definition as to character and limits of these insurance products and any additional insurance.

Article XI Miscellaneous

11.1 **Binding Agreement.** The terms and conditions of this Agreement are binding upon the successors and permitted assigns of all parties hereto.

11.2 **Entire Agreement.** This Agreement constitutes the entire agreement between the contracting parties concerning the subject matter hereof. There are no warranties, representations, covenants or agreements, expressed or implied, between the parties except those expressly set forth in this agreement. Any amendments or modifications of this agreement shall be in writing and executed by the contracting parties.

11.3 **Governing Law.** This Agreement shall be governed by the laws of the State of Missouri.

11.4 **Amendment.** This Agreement may only be amended by the mutual written agreement of the parties. No amendment of this Agreement that changes the Term, compensation or financial obligations of the CID or the Manager shall be made without first obtaining a written opinion from the City's bond counsel to the effect that such change will not adversely impact the tax-exempt status of the Bonds.

11.5 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

11.6 **Assignment.** Neither party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. Any purported assignment in contravention of this Section shall be void.

11.7 **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

11.8 **Notices.** All notices required or permitted to be given pursuant to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, or by generally recognized, prepaid, overnight air courier services, to the address and individual set forth below. All such notices to either party shall be deemed to have been provided when delivered, if delivered personally, three (3) days after mailed, if sent by registered or

certified mail, or the next business day, if sent by generally recognized, prepaid, overnight air courier services.

If intended for CID, to:

I-470 and View High CID
ATTN: William Brown, Chairman
315 SE Main Street
Lee's Summit, MO 64063

If intended for Manager, to:

Paragon Star, LLC
Attn: Phillip Short
801 NW Commerce Drive
Lee's Summit, MO 64086

(Signature Page to Follow)

I-470 and View High Community Improvement District

By:



William Brown, Chairman

PARAGON STAR, LLC

By:



Phillip Short, Owner