

STATE OF NORTH CAROLINA

ARENA PROJECT TRI-PARTY AGREEMENT

COUNTY OF WAKE

THIS AGREEMENT, entered into on this 20th day of June, 1997 (the "Agreement"), between the COUNTY OF WAKE, a political subdivision of the State of North Carolina (the "County"), acting by and through its Board of County Commissioners (the "County Board"), the CITY OF RALEIGH, a municipal corporation of the State of North Carolina (the "City"), acting by and through its City Council (the "City Council") and the CENTENNIAL AUTHORITY, a public agency of the State of North Carolina created pursuant to North Carolina General Statute 160A-480.1, et seq., (the "Authority"), acting by and through its appointed membership;

WITNESSETH:

Whereas, the Authority intends to construct and operate multi-purpose regional sports, entertainment and convocation arena complex ("Arena Project"), in Wake County, North Carolina, pursuant to authority and direction of the North Carolina General Assembly; and,

Whereas, the County has levied room occupancy and prepared food and beverage taxes as allowed by law; and,

Whereas, the County and the City are required by the Enabling Acts to provide through an interlocal agreement, for the use of the funds collected under the authority of the Enabling Acts; and,

Whereas, as required by law, the County and the City have entered into agreements setting out the projects to receive funding from these taxes and, have further agreed on a schedule of funding setting out the amount of money to be received by each project and a schedule upon which the money will be disbursed; and,

Whereas, funding for the projects previously agreed upon by the County and by the City will be completed by June 30, 1999; and,

Whereas, the Authority has requested that the County and the City allocate funds to be received from the taxes beginning in the fiscal year 2001-01 for sufficient funds to provide debt service required for construction of the Arena Project and related roadway, water and sewer improvements to be constructed adjacent to

roadway, water and sewer improvements to be constructed adjacent to the Carter-Finley Stadium, or at such alternate location as may be approved by the City and County; and

Whereas, the County and the City have, upon conditions hereinafter set forth, agreed to the Authority's request for assistance.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, THE COUNTY, THE CITY AND THE AUTHORITY AGREE AS FOLLOWS:

SECTION 1. Net Construction Funds.

a. In addition to the funds transferred to the Centennial Authority under the provisions of the Enabling Acts, it is agreed that the City and County will make available to the Centennial Authority, from the previously uncommitted proceeds of the Room Occupancy and Prepared Food and Beverage Taxes to be collected beginning in Fiscal Year 2000-01, sufficient funds to provide for the debt service required to retire the balance of a borrowing sufficient to have yielded Forty-Eight Million Dollars (\$48,000,000) in net construction funds. The terms and contingencies of the commitment are set forth in the "Second Amendment To The Revised Interlocal Agreement Between Wake County And The City Of Raleigh Relating To Room Occupancy And Prepared Food And Beverage Tax Revenues," dated May 1, 1997.

b. The process and schedule by which the funds are paid to the Authority shall be determined jointly by the chief financial officers of the County and of the City, who shall also approve any loan, bond or related agreement, however termed, entered into by the Centennial Authority to obtain the construction funds. Any loan or bond shall include a "call" provision allowing the prepayment of indebtedness. It is anticipated such borrowing will take the form of an interim bank loan, evidenced by a note of the Authority, from one or more banks, and a bond issue of the Authority, the proceeds of which will be used to prepay and refund the bank loan. Provision of debt service includes the funding of a debt service reserve fund to be used, unless required for debt service payments prior thereto, for the last payments of debt service on such borrowing.

c. The allocation of funds to the Authority shall be wired or otherwise transferred to the Authority or to a Trustee designated by it, if a part of an approved loan or bond agreement, at such times and at such locations as may be specified by the Authority in writing to the City and County, but not more often than once per month.

SECTION 3. Annexation And Ad Valorem Property Taxes.

a. The Authority shall, within ninety days of the date of this agreement, cause to be executed a voluntary annexation petition for inclusion of all real property upon which the Arena Project is developed within the corporate limits of the City of Raleigh. In the event the Authority should engage in ancillary development in the future, funded in whole or in part through the Interlocal Agreement between the County and City, the Authority shall also cause to be executed for such ancillary development an annexation petition.

b. In addition, following the commencement of Arena Project operations, the Authority shall make an annual payment in lieu of property taxes to the County, and upon annexation to the City, for any property under the Authority's control which is otherwise exempt under the General Statutes from ad valorem property taxes. The amount of the payment in lieu of taxes shall be based on city and county property tax rates in effect at the time the payment is due and payable. The valuation of any property subject to the payment in lieu of taxes shall be determined by the Wake County tax assessor in the same manner used to determine the valuation of non-tax-exempt properties.

c. Notwithstanding possible annexation of the Arena Project to the corporate limits of the City of Raleigh, the Authority shall remain responsible for the expense of providing on site security and traffic control for associated events. On site traffic control shall include site entrances and exits to the public roadways serving the Arena Project.

SECTION 4. Accounting.

Thirty days prior to adoption of its annual budget, the Authority shall report to the County and City concerning its operations for the past year and its anticipated budget for the upcoming year. The County and City shall each have the right to review at all times all records of the Authority including, but not limited to, those related to computation of revenues, expenses and projections of appropriate capital reserves.

SECTION 5. Ongoing Consultation.

The parties shall consult regularly concerning Arena Project operations and plans, and to formulate strategies as to how to best serve the citizens of the region by providing the widest possible array of cultural, athletic, entertainment and recreational events in the facility, and in any extensions or expansions thereof. Notwithstanding the foregoing, consultation will not alter the

SECTION 2. Return of Excess Operating Funds.

a. Until or unless the City and County agree otherwise, the Authority will within thirty (30) days of filing of its annual audit with the North Carolina Local Government Commission as required by State law, transfer to the City and County excess operating funds generated by Regional Facility. Excess operating funds, as termed herein, shall include Authority revenue from all sources (except for Occupancy tax allocations from the County and City to retire construction debt service and earnings on the Capital Reserve Fund described hereafter), less reasonable expenses, capital reserves and one month operating expense (in an amount to be agreed by the City and County) to be maintained in an operating reserve.

b. Expenses shall be directly attributable to construction and associated debt service for the Arena Project and related roadway, water and sewer improvements to be constructed adjacent to the Carter-Finley Stadium, pursuant to City of Raleigh Site Plan #P.A. 10-93, as the same may be from time to time amended. Expenses shall specifically include costs associated with Authority staffing and operations, facility and grounds repair and maintenance of the Arena Project, and the promotion and management of events held at the Arena Project. Expenses shall also include any and all ad valorem property tax payments or payments in lieu thereof made to the City and County. Expense deductions from revenues shall not exceed the amounts customarily paid or charged for like items or services in the market area. The market area shall consist of North Carolina and contiguous and nearby states. When determining reasonable expenses for operation, management and promotion, the fees or expenditures for like services associated with similarly organized and operated entertainment and sport complexes including, but not limited to those in Atlanta, Charlotte, Greensboro, Nashville and Washington, D.C. shall be considered.

c. The amount of capital reserves shall not exceed the amounts reasonably necessary to provide for long-term improvements to the arena complex necessary to maintain its competitive position and amounts reasonably necessary to provide for major repairs and replacements to the building and complex. Until or unless the County and City agree otherwise, deposit into the Authority's Capital Reserve Fund shall not exceed Six Hundred Fifty Thousand (\$650,000) Dollars per year. Investment earnings of the Capital Reserve Fund shall accrue in the fund and shall not be considered "revenue" for the purpose of calculating "excess operating funds" pursuant to subparagraph a. of this Section. The Authority when making its annual report to the City and County shall set forth a description of expenditures, if any, made from the capital reserve fund over the preceding twelve (12) months.

rights and obligations of the parties established under this and prior written agreements unless such agreements are formally amended.

SECTION 6. Authority Best Efforts.

a. Consistent with its obligations as a public agency set forth in its enabling legislation by the North Carolina General Assembly, the Authority shall use its best effort to operate the Arena Project so as to return "excess operating funds" to the County and City within the expectations of the parties as of the date of this agreement.

b. A majority of any executive committee, or other committee, however termed, having supervisory or management authority over the arena to be constructed by the Authority shall consist of Authority members appointed by the City, County, and the Mayors of the Cities within the County.

SECTION 7. Amendment of Enabling Act.

Consistent with their obligations as public agencies under North Carolina law, neither the County nor City shall take any action to repeal, discontinue or decrease the Room Occupancy tax, a portion of the proceeds of which are being allocated by the County and City to the Authority to provide for the Arena Project construction debt service, to become effective until the debt for the Arena Project construction has been retired.

SECTION 8. Duration.

This Agreement shall remain in effect until all Arena debt service in connection with the Forty-Eight Million Dollars (\$48,000,000) net construction borrowing provided for in the Revised Interlocal Agreement Between Wake County and the City of Raleigh is retired and satisfied, at which time the City, County and Authority shall renegotiate the terms of their continuing relationship.

SECTION 9. Supplement to Interlocal Agreement.

This agreement is not intended to amend the "Revised Interlocal Agreement Between Wake County and the City of Raleigh", but to supplement the same, and to evidence the acceptance by the Authority of the terms and conditions thereof. In the event of any conflict between the terms of this agreement and the terms of the aforesaid Interlocal Agreement, the terms of the Interlocal Agreement shall control.

SECTION 10. Notices.

Any notice or other communication required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested, postage prepaid or by hand delivery to the parties at:

If to the County

Wake County, North Carolina
Wake County Office Building
P.O. Box 550
Raleigh, N.C. 27602-0550
Attn: County Manager

If to the City

City of Raleigh
Municipal Building
P.O. Box 590
Raleigh, N.C. 27602
Attn: City Manager

If to the Authority

Centennial Authority
1520 Blue Ridge Road
Suite 201
Raleigh, N.C. 27607

SECTION 11. Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute a single instrument.

SECTION 12. Governing Law.

This Agreement shall be construed in accordance with the laws of the State of North Carolina and the venue for any litigation related hereto shall be Wake County.

SECTION 13. Binding Agreement.

This Agreement shall be binding upon the successors or assigns of the parties hereto; provided no assignment hereof by any party is permitted without the consent of all parties. The City and the County acknowledge the Authority intends to assign its rights hereunder to its creditors, or a corporate trustee therefor, for the borrowing(s) described in Section 1. The City and County consent to such assignment and agree to accept such assignee(s) as

parties hereto for the purpose of receiving and enforcing their rights hereunder.

Section 14. Non Discrimination

The parties to this Agreement, for themselves, their officials, agents and employees, warrant that they shall not in the performance of their obligations hereunder, discriminate against any person on account of race, color, creed, religion, national origin, gender, age or sexual orientation.

IN WITNESS WHEREOF, the Agreement is executed the day and year first above written pursuant to resolutions adopting by the governing boards of the County, the City and of the Authority.

City of Raleigh

County of Wake

[Signature]
Mayor

[Signature]

Attest: [Signature]

Attest: [Signature]

Approval as to Form
[Signature]
City Attorney

Approval
[Signature]
County Attorney

Centennial Authority

[Signature]
Chairman

Attest: [Signature]
Secretary

Approval as to Form
[Signature]
Authority General Counsel