

Fire Department Special Assignment Grant Agreement

This Fire Department Special Assignment Grant Agreement (this “Agreement”) is entered into this [redacted] day of [redacted], 201[redacted], by and between the City of Milwaukee, acting through its Chief of Fire Department (“Chief”) and Deer District LLC, a Delaware limited liability company (“ArenaCo”).

Witnesseth:

WHEREAS, pursuant to the terms of an Arena Development Agreement entered into by and between ArenaCo and Wisconsin Center District (“WCD”), ArenaCo has constructed and developed a new arena located in downtown Milwaukee, Wisconsin, serves as the home venue of the Milwaukee Bucks and host other sporting and entertainment events (currently named *Fiserv Forum*, hereinafter referred to as the “Arena”);

WHEREAS, pursuant to the terms of the Arena Lease, Management and Operations Agreement entered into by and between ArenaCo and WCD, ArenaCo has the obligation and right to manage and operate the Arena;

Whereas, ArenaCo has offered the Milwaukee Fire Department (“MFD”) a grant for assignment of on premise Milwaukee Fire Department officers at events; and

Whereas, The Chief has indicated a willingness to provide special assignment of fire department officers in accordance with the terms and conditions of this Agreement: and

Whereas, The Common Council has approved this Agreement via Common Council Resolution File No. [redacted], adopted on [redacted] and authorized the Chief to execute this Agreement on the City’s behalf; and

Whereas, ArenaCo has approved this Agreement and authorized the Arena General Manager to execute it on behalf of ArenaCo;

Now, Therefore, In consideration of the premises and for the other good and valuable consideration hereinafter set for the, the parties agree as follows:

1. MFD officers shall be provided for duty at the Arena for the selected events, as determined by ArenaCo and on the specified dates and times mutually agreed to by the Arena VP of Security and the Chief (the "MFD Officers"). The Arena VP of Security may request additional MFD Officers, and such additional MFD Officers may be provided with the consent of the Chief. At all times and under all circumstances under this Agreement, MFD Officers shall remain under the sole command of MFD supervisors, and shall remain the employees of the City for all purposes whatsoever. The action of the MFD Officers shall be governed by the policies and practices of the City and the MFD as exercised in the discretion of the City and Chief. ArenaCo shall provide a location for MFD Officers to secure their equipment and have access to telephones. The location shall be on Arena premises and shall be approved by the Chief.
2. The term of this Agreement shall be from August 1, 2018 to July 31, 2020 (the "Term").
3. The City shall be compensated for specially assigning MFD Officers in accordance with this Agreement **up to** the current overtime rate for top paid MFD Officers, currently **\$60.31** per hour at the 2018 rate, to be adjusted annually to reflect pay increases. Total payments to the City under this agreement shall not exceed **\$500,000** during the Term. The City shall submit bills to ArenaCo on a monthly basis. The monthly billings shall be based upon the MFD's bi-weekly pay periods for MFD Officers assigned to Arena events under this Agreement in the previous month. Bills should be sent to Deer District LLC, Attn: Accounts Payable, 1543 N. 2<sup>nd</sup> Street, 6<sup>th</sup> Floor, Milwaukee, WI 53212. Should the City submit the billing electronically to ArenaCo, billing statements should be sent to: [accountspayable@bucks.com](mailto:accountspayable@bucks.com). Payments shall be made within ten (10) days of billing receipt and shall be sent to: Milwaukee Fire

Department Administration Building, Budget & Finance Division, 711 W. Wells Street, Milwaukee, WI 53233. Payments under this Agreement shall be contingent upon the presence of MFD Officers assigned under this Agreement at the Arena as reported by ArenaCo. Should ArenaCo object to any portion of any billing statement, ArenaCo shall submit such objection to the City in writing within ten (10) days of receipt. Upon a good faith objection by ArenaCo, the parties shall meet and confer to resolve the alleged inaccuracy; provided however, that the decision of the Chief shall control.

4. Either party may terminate this Agreement without cause upon delivery of a written notice to the other party specifying that this Agreement shall be terminated no sooner than thirty (30) days after the delivery of the notice of termination. The City shall be compensated for all special assignments provided prior to the date of termination.
5. Subject to the provisions of this Agreement, the City shall have control of the means, manner and method by which MFD Officers will perform the services contracted for herein. The City agrees that the Chief and the MFD Officers will perform the services for which it has been contracted in a timely, legal, ethical and professional manner at the highest level of industry standards and that the performance of such services will not give rise to a cause of action by any other party against the City or ArenaCo. The City agrees that the MFD Officers shall represent ArenaCo in private and public forums in a positive and respectful manner.
6. The City agrees that the Chief and the MFD Officers will comply with all governmental laws, regulations and requirements applicable to the duties conducted hereunder. The parties represent and warrant that they shall have in effect at all times during the Term of this Agreement all licenses, permits, and authorizations from all federal, state, and local authorities necessary to the performance of their obligations under this Agreement. In addition, the City further agrees that the Chief and MFD Officers will comply with any rules,

policies and regulations which are adopted by ArenaCo for its employees or contractors and consented to by the Chief in writing. Such consent by the Chief shall not be unreasonably withheld.

7. ArenaCo agrees to defend, indemnify and hold harmless MFD, the City, the Chief, the MFD officers, well as all employees and affiliates of the same, from any and all claims, demands, costs, expenses or liabilities, including reasonable attorney's fees, brought or imposed upon MFD, the City, the Chief, the MFD Officers, as well as all employees and affiliates of the same, relating to or arising out of ArenaCo's breach of obligations herein or negligence, gross negligence, or willful or intentional acts related to this Agreement.
8. If either party fails to fulfill any of its obligations under this Agreement in a timely and proper manner or violates any provisions of this Agreement, the non-breaching party shall thereafter have the right to terminate this Agreement by written notification delivered to the breaching party specifying the alleged violation and the effective date of termination. The breaching party shall thereafter have five (5) days to remedy the alleged violation. If the alleged violation is not remedied to the satisfaction of non-breaching party after the five (5) day period, the non-breaching party may terminate this Agreement for cause. As a complete alternative to termination, the non-breaching party retains the right to cancel the termination notice or delay the effective date of the notice of termination beyond the initial 5-day cure period, or otherwise establish appropriate procedures to avoid future violations. In the event of termination by either party, ArenaCo will be liable for special MFD assignments completed through the date of termination.
9. Nothing in the Agreement is intended to reduce or eliminate the fire department jurisdiction which the City, Chief and MFD would have in the absence of this Agreement.

10. This Agreement, and all questions arising in connection herewith shall be governed by and construed in accordance with the internal laws of Wisconsin, without regard to its conflict of laws provisions. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in the City of Milwaukee for matters arising under state law and in federal district court in the eastern district of Wisconsin for matters arising under federal jurisdiction.

11. Insurance Requirements for ArenaCo

a. General Requirements: A certificate of insurance acceptable to City evidencing the insurance requirements is to be provided. The certificate shall state that the issued insurance policies meet the requirements as outlined below. All certificates are to be provided within 30 days of final execution of this Agreement. If such certificate is not received, the City has the authority to declare this Agreement terminated. All policies shall state that the City shall be afforded a thirty (30) day written notice of cancellation, non-renewal or material change by any insurers providing the coverage required by City for the duration of this Agreement. Insurance companies must be acceptable to City and must have a current A.M. Best rating of A- VIII or better. All policies shall be written on an occurrence form as noted below. If subcontractors are used, each must meet all requirements in sections a and b.

b. The minimum insurance requirements are as follows:

i. Worker's Compensation and Employer's Liability

1. Coverage Type; Required Amount of Coverage

- a. Workers' Compensation; Statutory Coverage
- b. Bodily Injury by Accident; \$100,000 each accident
- c. Bodily Injury by Disease; \$500,000 policy limit
- d. Bodily Injury by Disease; \$100,000 each employee

2. Employer's Liability at limits noted above or higher limits if needed to meet Umbrella underlying insurance requirements.
3. Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.

ii. Commercial General Liability

1. Coverage Type; Required Amount of Coverage
  - a. Commercial General Liability; \$1,000,000 each occurrence
  - b. General Aggregate; \$2,000,000 aggregate
  - c. Personal & Advertising Injury Limit; \$1,000,000 each occurrence
  - d. Products - Completed Operations Aggregate; \$2,000,000 aggregate
  - e. Medical Expense; \$5,000 each person
2. Coverage must be equivalent to ISO form CG0001 or better.
3. Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.
4. The policy shall include independent contractors (owners/contractors protective) and contractual liability.
5. Coverage will apply on a primary and non-contributory basis. We suggest the following wording: "If you have agreed in a written contract that this policy will be primary and without right of contribution from any insurance in force for an Additional Insured for

liability arising out of your operations, and the contract was executed prior to the bodily injury, property damage, personal injury or advertising injury, then this insurance will be primary over, and we will not seek contribution from, such insurance.”

iii. Auto Liability

1. Coverage Type; Required Amount of Coverage

- a. Combined Single Limit; \$1,000,000 each accident
- b. Medical Expense; \$10,000 each person

2. If the ArenaCo owns or has any long term leased vehicles, coverage must be for Any Auto (Symbol 1). If there are no owned or long term leased vehicles, then coverage must be for Hired and Non-Owned Auto Liability (Symbols 8 and 9).

3. Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.

4. If Federal or State government(s) require a Motor Carrier filing, such filing shall be made available to City upon request.

iv. Umbrella (Excess) Liability

1. Umbrella (excess) Liability coverage of \$5,000,000 per occurrence and \$5,000,000 aggregate

2. The Umbrella Liability insurance shall provide coverage excess of the Employer’s Liability, Commercial General Liability and Auto Liability Coverages, including the amendments stated above.

v. Liquor Liability

1. Combined Single Limit coverage of \$1,000,000 each accident.
2. Coverage shall be modified to include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.
3. The Umbrella (Excess) should list this policy on the schedule of underlying insurance.

12. Both parties understand that the City is bound by the Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. §§ 19.21-.39. ArenaCo acknowledges that it is obligated to assist the City in retaining and producing records that are subject to the Public Records Law, including but not limited to those records produced or collected by ArenaCo under this Agreement pursuant to Wis. Stat. sec. 19.36(3), that the failure to do so shall constitute a material breach of this Agreement, and that ArenaCo must defend and hold harmless the City from liability under that law. Except as otherwise authorized, those records shall be maintained for seven years after receipt of the Funds under this Agreement.

13. DISCRIMINATION PROHIBITED

- a. In all hiring or employment made possible by or resulting from this Agreement there (1) will not be any discrimination against any employee or applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, or familial status, and (2) affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their



sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status. This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required or to be provided by federal or state agencies involved setting forth the provisions of the clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status.

- b. No person in the United States shall, on the ground of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement. ArenaCo and the City will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964.
- c. ArenaCo agrees that it will comply with all applicable requirements of the Americans with Disability Act of 1990, 42 U.S.C. 12101, et seq.

14. This Agreement shall become effective upon the execution by each of the parties hereto.

without regard to In Witness Whereof, The parties have executed this Agreement on the day and year first above written.

IN THE PRESENCE OF:

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CITY OF MILWAUKEE

\_\_\_\_\_  
Milwaukee Fire Chief Mark Rohlfig

COUNTERSIGNED:

\_\_\_\_\_  
Comptroller

DEER DISTRICT LLC

\_\_\_\_\_  
President