

**AGREEMENT BETWEEN COLLIN COLLEGE,
THE CITY OF FRISCO, TEXAS AND
SUPERDROME MANAGEMENT GROUP, INC.
REGARDING THE FRISCO SUPERDROME**

This Agreement (“Agreement”) is made and entered into by and among **Collin County Community College District**, a political subdivision of the State of Texas (“Collin College”), the **City of Frisco, Texas**, a home- rule municipality (“City”), and the **Superdrome Management Group, Inc.**, a non-profit corporation having 501(c)(3) status with the Internal Revenue Service (“SMG”), to be effective as of January 1, 2015. Collin College, City and SMG are individually and collectively referred to herein, respectively, as “party” or “parties”.

WHEREAS, the parties entered into that certain agreement dated January 1, 2009 (“Contract”), which established the respective obligations of the parties in connection with the Frisco Superdrome at Collin College (“Superdrome”);

WHEREAS, the Contract expired on December 31, 2014; and

WHEREAS, Collin College and City are owners of the Superdrome; and

WHEREAS, SMG desires to continue maintaining and managing the Superdrome and scheduling and managing events there under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the following mutual agreements and covenants, it is understood and agreed by and among the parties as follows:

**ARTICLE 1
DEFINITIONS**

- 1.1 Athletic Building.** The Athletic Building (±675 sq. ft.) is located on the NW corner of Superdrome Premises, outside of the Track. The Athletic Building has public restrooms, office space and a storage/utility room.
- 1.2 Event Management Building.** The Event Management Building (±6,216 sq. ft.) is a two-story structure attached to the southern end of the Track.
- 1.3 Events and Programs.** Events and Programs are cycling-specific activities that take place at the Superdrome, including, but not limited to, youth/community cycling development programs, racing programs, local/regional/national/international cycling events, and cycling membership programs, to be organized by SMG.
- 1.4 Interest Income of the Superdrome Enterprise Fund.** The monthly interest payments generated from the current balance of the Superdrome Enterprise Fund, which are currently deposited into the Fund. The Superdrome Enterprise Fund is the City-managed cost center used for Superdrome budgeting.
- 1.5 Superdrome Premises.** The Superdrome Premises consists of approximately six (6) acres of land located on the Preston Ridge Campus of Collin College in City. The

Superdrome Premises consists of the Track, Athletic Building, Event Management Building, ticket booth and associated grounds and structures, as diagrammed in the original agreement between the parties.

- 1.6 Track.** The Track is the actual velodrome surface and the supporting steel frame structure. The term also encompasses the track infield.

ARTICLE 2 OBLIGATIONS OF THE PARTIES

- 2.1 Collin College Obligations.** Collin College shall be responsible for the following services and related costs for the Superdrome Premises:

- a. Parking for Superdrome participants within the Alumni Hall parking lot. If additional parking is needed for any event, SMG will coordinate with Collin College.
- b. Drive-by surveillance of all parking lots and buildings on the Superdrome Premises by the Collin College Police Department. Collin College will not provide security services for Superdrome Events and Programs. Security for Superdrome Events and Programs shall be coordinated through the Frisco Police Department at SMG's sole expense.

- 2.2 City Obligations.** City shall:

- a. Provide a one-time payment to SMG in the amount of One Hundred Fifty-Three Thousand Seven Hundred and 00/100 Dollars (\$153,700.00) from the Superdrome Enterprise Fund, within thirty (30) days of the City's execution of this Agreement, for the sole purpose of making capital repairs to the Track and Superdrome Premises ("Capital Repairs"). Capital repairs shall include:
 1. One Hundred Forty-Nine Thousand Three Hundred Ninety and 00/100 Dollars (\$149,390.00) for replacement of boards on the Track surface, including removal of existing boards, purchase and installation of new boards, required hardware, paint and caulk, and associated banner boards;
 2. Four Thousand Three Hundred Ten and 00/100 Dollars (\$4,310.00) for concrete work on track apron and related re-wiring.
- b. Provide monthly payments to SMG from the Interest Income of the Superdrome Enterprise Fund in an amount equal to Six Thousand Six Hundred and Sixty-Seven and 00/100 Dollars (\$6,667.00). In the event the Interest Income is either less than or greater than Six Thousand Six Hundred and Sixty-Seven and 00/100 Dollars (\$6,667.00), City shall add to or withhold from the Interest Income so that SMG only receives Six Thousand Six Hundred and Sixty-Seven and 00/100 Dollars (\$6,667.00) each month. Any amount that City withholds from the

Interest Income shall be placed in the Superdrome Capital Reserve Fund to be used for future capital projects for the Superdrome.

- c. Provide primary use of current track cycling equipment to SMG. City reserves the right to utilize this equipment for other purposes.
- d. Provide primary use of the Superdrome Premises to the SMG.
- e. Use the funds authorized to be withheld from payments to SMG hereunder and required to be designated as capital reserve for the primary purpose of making capital repairs such as replacing carpet, painting interior walls and water pipe repairs.

2.3 SMG Obligations. SMG shall:

- a. Maintain the track surface to ensure that it is constantly and consistently maintained in a safe manner at all times when riders are present and be responsible for the costs associated therewith.
 - 1. City and Collin College must pre-approve contract, work and/or cost prior to any major work being performed.
- b. Organize and execute Events and Programs at the Superdrome. At a minimum:
 - 1. City must pre-approve all dates and times for all SMG proposed Events and Programs and all sponsors for Events and Programs. Approval will not be unreasonably withheld.
 - 2. SMG will be responsible for all expenses related to Events and Programs and will collect and keep all revenues from Events and Programs.
 - 3. SMG shall make its books and records available to City or Collin College upon request for purposes of audit and reviewing financial information.
 - 4. City reserves the right to utilize the Superdrome Premises for its own events and programs at City's expense; these events and programs will not conflict with previously approved SMG events. SMG will not be responsible for expenses related to these events and programs.
- c. Maintain and perform upkeep of all Track cycling related equipment.
- d. Provide a monthly report to City and Collin College stating:
 - 1. Financial information reflecting all income, including its source, and expenses, including but not limited to, all income generated by SMG through sponsorships of events and programs at the Superdrome ("Sponsorship Income"); and

2. Monthly Superdrome Premises usage report reflecting SMG efforts and participation levels in Superdrome-related activities, including but not limited to, Events and Programs.
- e. Within ten (10) days of entering into a sponsorship or similar agreement, SMG shall provide a summary of the sponsorship agreement to City and Collin College stating the company/organization and its contact information, sponsorships details, financial arrangement details and sponsor's timeline for payment of the sponsorship amount.
- f. Maintain and provide general liability insurance in the amount of at least One Million and 00/100 Dollars (\$1,000,000.00) naming both City and Collin College as additional insureds under the policy, and provide evidence thereof within thirty (30) days of execution of this Agreement.
- g. Arrange for security services for Events and Programs occurring on the Superdrome Premises.
- h. Provide daily maintenance of the buildings including, but not limited to, repairs, cleaning, sound system maintenance, and computer replacement.
- i. Pay for all Superdrome Premises expenses.
- j. Provide City a detailed plan within thirty (30) days of the execution of this Agreement for the use of Interest Income of the Superdrome Enterprise Fund for City's pre-approval.

ARTICLE 3 TERM OF AGREEMENT

- 3.1 **Term.** This term of this Agreement shall begin on January 1, 2015 and expire on December 31, 2017 ("Term"), unless sooner terminated or renewed as set forth herein.
- 3.2 **Renewal.** This Agreement may be renewed for an additional three (3) year period if the parties agree in writing to the renewal and the terms and conditions thereof prior to the expiration of the Term.

ARTICLE 4 TERMINATION OF AGREEMENT/REMEDIES

- 4.1 **Termination.** Each party may terminate this Agreement at any time and for any reason, and without prejudice to any other remedy such party may have, by providing thirty (30) days written notice to each of the other parties.
- 4.2 **Remedies.** The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by any party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

ARTICLE 5
PROHIBITED INTEREST/CITY PROPERTY/INDEMNITY

- 5.1 No Prohibited Interest; SMG Disclosure.** SMG acknowledges and agrees that it is aware of, and will abide by, the no prohibited interest requirement of the Frisco City Charter, which is repeated on the Affidavit of No Prohibited Interest, attached hereto as **Exhibit A** and incorporated herein for all purposes. Further, SMG shall execute the Affidavit of No Prohibited Interest attached hereto as **Exhibit A** upon its execution of this Agreement. SMG acknowledges and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable. SMG further acknowledges and agrees that it also is aware of, and will abide by, the vendor disclosure requirements set forth in Chapter 176 of the TEX. LOC. GOV'T CODE, as amended. In this connection, SMG shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as **Exhibit B** and incorporated herein for all purposes, no later than SMG's execution of this Agreement.
- 5.2 City/Collin College Property.** All property, materials, equipment and facilities provided to, used or maintained by SMG, including, but not limited to the Track, are and shall remain the sole and exclusive property of City and/or Collin College ("Owners"), as it was owned prior to entering into this Agreement, or as ownership may be transferred during the Term of this Agreement as determined by the Owners, and may not be shared with third parties or used by SMG for any purposes, except as set forth herein. Any property, whether personal or real, purchased or acquired by SMG using Interest Income of the Superdrome Enterprise Fund shall be owned by City and/or Collin College.
- 5.3 INDEMNITY. SMG SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS COLLIN COLLEGE, THE MEMBERS OF ITS BOARD OF TRUSTEES, AND ITS OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES AND CITY AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF SMG, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM SMG IS LEGALLY RESPONSIBLE (HEREINAFTER "CLAIMS"). SMG IS EXPRESSLY REQUIRED TO DEFEND COLLIN COLLEGE AND/OR CITY AGAINST ALL SUCH CLAIMS.**

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO SELECT OR TO APPROVE DEFENSE COUNSEL TO BE RETAINED BY SMG IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. IN THEIR SOLE DISCRETION, COLLIN COLLEGE AND/OR CITY RESERVE THE RIGHT TO PROVIDE A PORTION OR ALL OF THEIR INDIVIDUAL DEFENSES; HOWEVER, COLLIN COLLEGE AND/OR CITY ARE UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY COLLIN COLLEGE AND/OR CITY IS NOT TO BE CONSTRUED AS A WAIVER OF SMG'S OBLIGATION TO DEFEND COLLIN COLLEGE

AND/OR CITY OR AS A WAIVER OF SMG'S OBLIGATION TO INDEMNIFY COLLIN COLLEGE AND/OR CITY PURSUANT TO THIS AGREEMENT. SMG SHALL RETAIN COLLIN COLLEGE AND/OR CITY APPROVED DEFENSE COUNSEL FOR EACH PARTY WITHIN SEVEN (7) BUSINESS DAYS OF COLLIN COLLEGE'S AND/OR CITY'S WRITTEN NOTICE THAT COLLIN COLLEGE AND/OR CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF SMG FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, COLLIN COLLEGE AND/OR CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND SMG SHALL BE LIABLE FOR ALL COSTS INCURRED BY COLLIN COLLEGE AND/OR CITY.

THE RIGHTS AND OBLIGATIONS CREATED BY THIS SECTION 5.3 SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

ARTICLE 6 MISCELLANEOUS

- 6.1** **Notice.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested; by facsimile; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party a via hand-delivery service, or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to Collin College:

Collin College
Attn: Office of the District Vice
President of Administrative
Services and CFO
3452 Spur 399
McKinney, TX 75069
Telephone: (972) 758-3830
Facsimile: (972) 758-3841
Email: rhall@collin.edu

If to City:

City of Frisco, Texas
Attn: George Purefoy, City Manager
6601 Frisco Square Blvd.
Frisco, Texas 75034
Telephone: (972) 292-5000
Facsimile: (972) 377-4091
Email: gpurefoy@friscotexas.gov

With a copy to:

Abernathy, Roeder, Boyd & Hullett, P.C. Attn: Ryan D. Pittman
1700 Redbud Blvd., Suite 300

McKinney, Texas 75069

Telephone: (214) 544-4000

Facsimile: (214) 544-4054

Email: rpittman@abernathy-law.com

If to SMG:

Superdrome Management Group

c/o Tim Goodwin

3909 Merriman Drive

Plano, TX 75074

Mobile: (972) 523-9452

- 6.2 Complete Agreement.** This Agreement constitutes the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented, and/or modified except by written agreement duly executed by all parties. However, this Agreement shall not, and is intended not to, supercede any prior written agreements directly executed between the City and Collin College relating to the Superdrome. Said agreements between the City and Collin College shall remain in full force and effect.
- 6.3 Assignment and Subletting.** SMG agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of City and Collin College. SMG further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve SMG of its full obligations to City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through SMG, and there shall be no third party billing.
- 6.4 Successors and Assigns.** City, Collin College and SMG, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.
- 6.5 Savings/Severability.** In the event a term, condition, or provision of this Agreement is determined to be invalid, illegal, void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained herein.
- 6.6 Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflict of law principles. The exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Collin County, Texas.
- 6.7 Execution/Consideration.** This Agreement is executed by the parties hereto without coercion or duress any for substantial consideration, the sufficiency of which is forever

confessed.

- 6.8 Authority.** The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date thereof.
- 6.9 Waiver.** Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance.
- 6.10 Headings.** The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
- 6.11 Multiple Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other parties.
- 6.12 Immunity.** The parties acknowledge and agree that, in executing and performing this Agreement, neither City nor Collin College have waived, nor shall be deemed to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to them against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.
- 6.13 Representatives.** Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.
- 6.14 Indemnity.** The parties agree that the Indemnity provision set forth in Section 5.3 herein is conspicuous and the parties have read and understood the same.
- 6.15 Miscellaneous Drafting Provisions.** This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.
- 6.16 Reference to Collin College.** When referring to "Collin College," this Agreement shall refer to and be binding on Collin College, and Collin College's Board members, officers, agents, representatives, employees and/or any other authorized third parties for whom Collin College is legally responsible.

6.17 Reference to City. When referring to “City,” this Agreement shall refer to and be binding on City, its Council members, officers, agents, representatives, employees and/or any other authorized third parties for whom City is legally responsible.

6.18 Reference to SMG. When referring to “SMG,” this Agreement shall refer to and be binding on SMG, and SMG’s officers, directors, partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and/or any other third parties for whom SMG is legally responsible.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective as of January 1, 2015.

Collin College,
a political subdivision of the State of Texas

By: _____

Name: _____

Title: _____

City of Frisco, Texas,
a home-rule municipality

By: _____

George Purefoy, City Manager

Superdrome Management Group, Inc.,
a non-profit corporation

By: _____

Name: _____

Title: _____

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he/she acknowledged to me that he/she is the _____ and duly authorized representative for **Collin College** and that he/she executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2015.

Notary Public in and for the State of Texas
My Commission Expires: _____

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared **George Purefoy**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the City Manager and duly authorized representative for the **City of Frisco, Texas** and that he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2015.

Notary Public in and for the State of Texas
My Commission Expires: _____

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he/she acknowledged to me that he/she is the _____ and duly authorized representative for the **Superdrome Management Group, Inc.** and that he/she executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2015.

Notary Public in and for the State of Texas
My Commission Expires: _____

**Exhibit B
(CONFLICT OF INTEREST QUESTIONNAIRE)**

CONFLICT OF INTEREST QUESTIONNAIRE		FORM CIQ
For vendor or other person doing business with local governmental entity		
<p>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>		OFFICE USE ONLY
		Date Received
1	Name of person who has a business relationship with local governmental entity.	
2	<input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)	
3	Name of local government officer with whom filer has employment or business relationship. <div style="text-align: center;">_____</div> Name of Officer This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary. A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire? <div style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </div> B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity? <div style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </div> C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more? <div style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </div> D. Describe each employment or business relationship with the local government officer named in this section.	
4	<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; text-align: center;"> _____ Signature of person doing business with the governmental entity </div> <div style="width: 45%; text-align: center;"> _____ Date </div> </div>	

Adopted 06/29/2007