

DRAFT PERFORMANCE PROVISIONS FOR GRANDSTAND AGREEMENT

1. The approval of the partial tax abatement by the Governing Body of the City was in reliance upon the Application submitted by Grandstand. Specifically, the Application and the approved partial tax abatement provided that Grandstand would: 1) purchase the land and building located at 3840 Greenway Circle, Lawrence, Kansas; 2) expend approximately \$ 4.8 million to purchase the land and building; 3) employ a total of one hundred twenty six (126) full-time employees (“employees”) as a result of the project.
2. **Performance Targets and Annual Compliance:** In connect with or related to the implementation of the project, and to receive the partial tax abatement annually, Grandstand will need to meet several annual performance targets in the areas of capital investment, job creation, wages and benefits. Each performance target will have its own “Compliance Percentage” reflecting compliance with the annual target. Each of the four “Compliance Percentages” shall be averaged together to create an overall “Blended Percentage” which will determine that year’s portion of the incentive to be received, as set forth in Section 3.d.
 - a. **Capital Investment:** In connection with or related to the implementation of the project, Grandstand shall, in order to receive the partial tax abatement annually, have: provided the City with a copy of a deed proving ownership in the building located at 3840 Greenway Circle, Lawrence, Kansas, no later than the first anniversary of this agreement.

The “Compliance Percentage” for this subsection 3.a. shall be calculated by dividing the accumulated actual expenditures, as of the end of each year by the applicable required expenditure. Grandstand shall notify the City of the Compliance Percentage for this subsection 3.a. by March 1 of each year of the Agreement.

Year	Cumulative Capital Investment Target
2012	\$ 4,820,000
2013	\$ 4,820,000
2014	\$ 4,840,000
2015	\$ 4,840,000
2016	\$ 4,890,000
2017	\$ 4,890,000
2018	\$ 4,915,000
2019	\$ 4,915,000
2020	\$ 4,940,000
2021	\$ 4,990,000

- b. ***Job Creation:*** In order to receive the Incentives, Grandstand is required to meet certain cumulative job creation targets, through the creation of full-time employees (“FTEs”), according to the table set forth in this subsection. An FTE is, either: i) an hourly employee, or combination of hourly employees, of Grandstand who have worked 2080 actual hours (inclusive of overtime hours) in furtherance of the Grandstand business, within the City of Lawrence, during the applicable year, or, ii) a salaried employee, or combination of salaried employees, that Grandstand certifies to the City are filling a full-time position with Grandstand, and the position is primarily related to the furtherance of the Grandstand and the primary location of the position is within the City of Lawrence. The number of FTEs employed in this category (i) shall be determined by dividing the total number of all hours, (inclusive of overtime hours) worked by all applicable hourly employees of Grandstand from January 1 through December 31 of each of the years, commencing with the 2012 year, by 2080. The 2012 year will be the basis for calculating the 2013 compliance. For the 2012 year, the period for measurement will be January 1, 2011 thorough December 31, 2011. The number of FTEs employed in category (ii) shall be determined by totaling the number of applicable full time positions that Grandstand certifies were filled; provided however, such full time position shall only be counted to the extent they have been so filled for the entire year, from January 1 through December 1, commencing with the year 2012. Such determination shall be made based upon the number of days the position was filled, as compared to 365. In other words, if Grandstand certifies that a full time position was filled for only 182 days during that year, that position shall only represent one-half (0.5) FTE. The total FTEs employed by Grandstand during any given year shall be the total of the FTEs from category (i) and category (iii). Each year’s cumulative job creation number will be verified as of January 1, beginning January 1, 2012 for the period including January 1, 2011 through December 31, 2011. Future job verification will be completed January 1 for that preceding calendar year. The Compliance Percentage for this subsection shall be calculated on each of the applicable years by dividing the number of actual cumulative FTEs employed by the corresponding number of cumulative FTEs required, as indicated for the applicable year in the following table, to wit:

Year	Cumulative Number of FTEs target
2012 (January 1, 2011- December 31, 2011)	51
2013	64
2014	75
2015	81
2016	88
2017	94
2018	102
2019	110
2020	118
2021	126

- c. **Wages:** In order for Grandstand to receive the Incentives, Grandstand shall maintain a wage structure for its employee who are deemed to be FTEs, as set forth above, from the date of this Agreement until its expiration, such that 100% of its regular full-time employees are paid above the annual wage floor. Wages for employees who are serving their initial training period of 90 days will not be included in this calculation. The wage floor for 2011 is \$11.58 hourly. The wage floor hourly wage will be adjusted annually beginning January 1, 2012 based upon an annual wage “equal to one hundred thirty percent (130%) of the federal poverty threshold for a family of three (3), as established by the United States Department of Health and Human Services.” An example of the 2011 calculation is as follows: The 2011 HHS Poverty Guidelines, published on January 20, 2011 in the Federal Register, establish the poverty level for a family of three at \$18,530. Therefore, the wage floor hourly wage for 2011 is \$11.58. ($\$18,530 \times 1.3 = \$24,089 / 2080 \text{ hours in one year} = \$11.58/\text{hour}$). In addition, Grandstand will be required to maintain an average wage of \$14 per hour. This average wage amount shall be increase by 2% annually on each January 1, commencing January 1, 2013. Grandstand shall provide a report to the City, on or before March 1 of each year this Agreement is in effect, which certifies compliance with this subsection. Such certification shall be executed, under oath, by at least two officers of Grandstand. Upon delivery of such certification, the Compliance Percentage for this subsection shall be deemed to be 100%.
- d. **Health Benefits:** For the purposes of determining compliance with Ordinance No. 8384, Grandstand shall provide a minimum of seventy percent (70%) of the premiums for an employer-sponsored health insurance policy for covered employees (or provide covered employees with a wage which is \$1.50 per hour above the wage floor as set forth in Section 3.c. On or before March 1 of each year from 2012 to the expiration of this Agreement, Grandstand shall provide the City with a written statement, under oath, setting forth the percentage of health insurance premium paid by the company during the prior

year, or setting forth that it pays a wage \$1.50 above the wage floor as set forth in Section 3.c., and certifying compliance with this subsection. Such certification shall be executed, under oath, by at least two officers of Grandstand. Upon delivery of such certification, the Compliance percentage for this subsection shall be deemed to be 100%.

- e. ***Calculation of Overall Annual Performance:*** After the Compliance Percentage for each of the subsections a, b, c and d is determined for any applicable year, the “Blended Percentage”, which is the average of all 4 of said Compliance Percentages rounded to the nearest whole percentage point, shall be established for that year. The Blended Percentage for that year shall then be applied to the incentives for the following year. Grandstand shall, for any given year, receive that portion of partial tax abatement corresponding to the Blended Percentage Range, established in the prior year, in the range indicated below.

Blended Percentage Range	Amount of incentive to be received
90-100%	100%
80-89%	85%
70-79%	75%
Below 70%	No incentive

Should the total compliance result in a reduction in the amount of incentive to be received, the City shall notify Grandstand prior to the reduction taking place. Should Grandstand so chose, it can appeal the reduction to the City Commission. The City Commission can override the incentive reduction for that year by majority vote.

3. **Annual Report, Recordkeeping and Access to Grandstand Information and City Review:** Grandstand shall be required to complete an annual report by March 1. The information in the report will cover the time period of January 1 through December 31 of the previous year. The annual report will be reviewed by the Public Incentives Review Committee and presented to the City Commission by May 1. The failure of Grandstand to provide accurate and timely information to the City in the preparation of the annual report shall be grounds for the modification or repeal of the tax abatement. The City may retain a qualified third party consultant to assist the preparation of any report and to maintain the confidentiality of the personnel and wage records of the business, if needed.

Grandstand shall maintain payroll records for employee and shall preserve them for a period of two ((2) years. The records shall contain:

- a) The name and address of each employee;
- b) The job title and classification;
- c) The number of hours worked each day;
- d) The gross wages earned and deductions made;

- e) A record of health insurance premium payments made by the employee and Grandstand

Grandstand shall calculate, in good faith, all Compliance Percentages and prepare a reasonably detailed description of the calculations utilized by them for determining all of the Compliance Percentages. Such description shall be provided to the City together with the Annual Report and notification to the City of the Compliance Percentages accompanied by a statement from Grandstand that the same have been prepared in accordance with this Agreement and that to the knowledge of the Chief Financial Officer of Grandstand, the same do not, as a result of gross negligence or intentional act or omission, misstate or omit any material fact, the misstatement or omission of which would be misleading to the City. Grandstand shall reasonably cooperate with the City to understand the basis for the determination of Grandstand of any or all of the Compliance Percentages. All books and records kept by Grandstand in the ordinary course of business and based upon which the entity calculates any of the Compliance Percentages shall be maintained and preserved by the entity until two years after the last of the Compliance Dates provided for in this Agreement. The City, or any third-party designated by the City, shall, upon request, be given reasonable opportunity to review and inspect, at the business location of Grandstand, or such other mutually acceptable place, such books and records so long as the same exist. The forgoing to the contrary notwithstanding, the City shall not be permitted to review or inspect any books or records which contain: proprietary or protected information; information which as a matter of law or contract, the entity is obligated to maintain in confidence and not disclose to any person; information protected by a recognized legal principle permitting the non-disclosure thereof in any legal proceeding; or, information which is relevant to any pending or contemplated legal or administrative hearing.