

NEW BASEBALL STADIUM DEVELOPMENT AGREEMENT

between

JACKSON COUNTY SPORTS COMPLEX AUTHORITY

as Landlord

and

KANSAS CITY ROYALS BASEBALL CLUB, LLC

as Tenant

with

CONSENT AND AGREEMENT

By

JACKSON COUNTY, MISSOURI

as Owner

Dated as of March 27, 2024



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LIST OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A.	Preliminary Site Plan for New Baseball Stadium
B.	Preliminary Project Program
C.	Preliminary Project Budget
D.	Preliminary Project Schedule
E.	Minimum Requirement Project Elements
F.	Architect Insurance Requirements
G.	General Contractor Insurance Requirements
H.	Disbursement Procedures
I.	Public/Owner Representative Oversight Responsibilities/Services
J.	Sources and Uses Form



NEW BASEBALL STADIUM DEVELOPMENT AGREEMENT

THIS NEW BASEBALL STADIUM DEVELOPMENT AGREEMENT (this "**Agreement**"), is made and entered into as of March 27, 2024 (the "**Effective Date**"), by and between the **JACKSON COUNTY SPORTS COMPLEX AUTHORITY**, a body corporate and politic and political subdivision of the State of Missouri ("**Landlord**" or the "**Authority**"), and **KANSAS CITY ROYALS BASEBALL CLUB, LLC** ("**Tenant**" or "**Royals**").

RECITALS

A. Tenant is a member of the Central Division of the American League of Professional Baseball Clubs and owns the professional baseball team known as the Kansas City Royals, which presently has a franchise to conduct professional baseball games in the greater Kansas City area.

B. Jackson County (the "**County**") has previously constructed and owns the Harry S. Truman Sports Complex consisting of Arrowhead Stadium and Kauffman Stadium, the current home field facility for the Royals ("**Kauffman Stadium**"); along with an unenclosed stadium plaza, a parking area located between Kauffman Stadium and Arrowhead Stadium), certain facilities beneath the stadium plaza area, parking lots for vehicles and various other common areas of real estate owned by Jackson County and located in Kansas City, Jackson County, Missouri.

C. The County has leased the Harry S. Truman Sports Complex to Landlord, which has subleased parts thereof to Tenant and to the Kansas City Chiefs Football Club, Inc.

D. Tenant (as successor-by-conversion to Kansas City Royals Baseball Club, Inc., as successor-by-conversation to Kansas City Royals Baseball Corporation) and Landlord previously made and entered into that certain Lease Agreement dated January 19, 1990 (the "**1990 Lease**") for Kauffman Stadium, as modified by that certain Memorandum of Understanding dated January 19, 2005 (as so modified, hereinafter referred to as the "**Original Lease**"), pursuant to which Landlord leased to Tenant Kauffman Stadium, certain common areas and other facilities as therein described. The Original Lease was modified and amended by that certain 2006 Lease Amendment, between Landlord and Tenant dated January 24, 2006 (the "**2006 Lease Amendment**"), and that certain 2007 Amendment to 2006 Amended Lease dated June 19, 2007, between Landlord and Tenant (the "**2007 Lease Amendment**"); the Original Lease has been further modified and amended by that certain 2024 Lease Amended dated as of March __, 2024 (the "**2024 Lease Amendment**"). The Original Lease as amended is referred to herein as the "**Current Kauffman Lease**").

E. Special Obligation Bonds (Harry S. Truman Sports Complex Project) Series 2006 were originally issued by the County to finance the cost of renovations at the Sports Complex (the "**Series 2006 Bonds**"). In 2014 the County issued Special Obligation Refunding Bonds (Harry S. Truman Sports Complex Project) Series 2014 (the "**Series 2014 Bonds**") to refund the Series 2006 Bonds. The maturity date of the Series 2014 Bonds is December 1, 2031. The Series 2014 Bonds are subject to optional redemption rights of the County that may be exercised on or after December 1, 2024. As of March 1, 2024 the outstanding principal amount of the Series 2014 Bonds is \$173,595,000.



F. Landlord, Tenant and the County desire for Tenant to continue to operate its franchise and host professional baseball games in the greater Kansas City area on a long-term basis, but to relocate from Kauffman Stadium to a new first-class baseball stadium facility (the "**New Baseball Stadium**") that enables Tenant to compete at the highest level in Major League Baseball ("**MLB**") while growing the economy of the County and the State of Missouri by providing a world class experience for visitors that extends beyond game day by fostering connectivity with downtown Kansas City and the broader Kansas City region.

G. Tenant is in negotiations to acquire certain tracts of real estate located in Kansas City, Jackson County, Missouri (the "**Site**"), generally located within the area depicted on the site plan attached hereto and incorporated herein by reference as **Exhibit A** (the "**Site Plan**").

H. The Royals, as Tenant, have agreed to manage the design, development and construction of the New Baseball Stadium, along with the parking and other related facilities and amenities (the "**Project**") and to be responsible for any cost overruns for the Project as described herein.

I. Landlord, Tenant and the County intend for the Project to be designed, developed and constructed consistent with the Preliminary Project Program, on and subject to the terms and conditions set forth herein and in the New Stadium Lease (as defined below).

J. Landlord, Tenant and the County have, contemporaneously with the execution of this Agreement, entered into a new lease (the "**New Stadium Lease**").

K. Capitalized terms which are not otherwise operationally defined in the body of this Agreement or in **Article 14** below shall in all cases have the meanings ascribed to such terms in the New Stadium Lease.

L. The parties further recognize and agree that in order to protect and best serve the expenditure of Public funds for the Project, it is both desirable and necessary that Landlord, with the assistance of a professional Public/Owner Representative (as defined below), have review and oversight rights and responsibilities with respect to the design and construction of the Project and payments to contractors and service providers for the Project and that those certain Minimum Required Project Elements (as defined below) be included in the Project, all as set forth in, and subject to the terms and conditions of, the New Stadium Lease and this Agreement.

NOW, THEREFORE, in consideration of the above Recitals, the terms, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, the Parties hereby agree as follows:

ARTICLE 1

GENERAL: PARTIES, TERM, RECITALS AND DEFINITIONS

Section 1.01 Landlord/Authority. Landlord, the Jackson County Sports Complex Authority, is a body corporate and politic and political subdivision duly organized and existing under the Laws of the State.

Section 1.02 Tenant. Tenant – the Kansas City Royals Baseball Club, LLC - is a limited liability company organized under the Laws of the State of Delaware and qualified to do business in the State.

Section 1.03 County. Jackson County is a charter county political subdivision of the State.

Section 1.04 Development Term of this Agreement. The term of this Agreement shall commence on the Effective Date and continue until a Certificate of Completion (as defined below) for the Project has been issued or deemed issued in accordance with the terms of **Article 7**. On the date of such Certificate of Completion, this Agreement will terminate, except as to Deferred Items, if any, and those provisions which, by their terms, survive the termination of this Agreement. The period from the Effective Date until such termination shall herein be referred to as the "**Development Term.**"

Section 1.05 Definitions. Capitalized terms used in this Agreement are defined in **Article 14**, or have the meanings given them when first defined, or are defined in the New Stadium Lease.

Section 1.06 Recitals. The Recitals set forth above are true and correct and are incorporated herein by reference and made a part of this Agreement.

Section 1.07 Relationship of this Agreement to New Stadium Lease. In the event of any inconsistency between the terms of this Agreement and the New Stadium Lease, the terms of the New Stadium Lease shall control unless otherwise expressly stated herein. The fact that the New Stadium Lease does not address a topic or matter covered in this Agreement shall not be considered an inconsistency.

ARTICLE 2

CONDITIONS PRECEDENT

Section 2.01 Conditions Precedent. Landlord and Tenant hereby acknowledge that this Agreement and the Parties' obligations to commence and carry out the Project are contingent upon the satisfaction or waiver of the conditions precedent set forth in **Section 2.03** below.

Section 2.02 [Reserved].

Section 2.03 Parties Conditions Precedent. The Parties shall not be obligated to proceed with the Project unless and until all of the following conditions precedent have been satisfied (or waived by both Parties in their sole discretion) within the time period specified in each condition precedent or, if no time period is specified with respect to a particular condition precedent, within one-hundred eighty (180) days after the Effective Date:



(a) New County Sales Tax. The New Sales Tax for a 3/8¢ countywide park sales tax to provide funds for the Project must have been passed in Jackson County in the April 2, 2024 election.

(b) Imposition of the New Sales Tax. County has taken all actions necessary for the unconditional termination of the existing 3/8¢ countywide park sales tax and the imposition of the New Sales Tax. In no event will the existing 3/8¢ countywide park sales tax remain in force after the collection of the New Sales Tax has begun.

(c) Redemption of Existing Bonds and Issuance of New Bonds. Landlord and County shall have redeemed the Series 2014 Bonds. Such redemption structure and transaction shall be satisfactory to Tenant, the Landlord, the County and the underwriters of the New Bonds. Simultaneously with the redemption, the County shall issue one or more series of new bonds (the "**New Bonds**") having a principal balance that includes fifty percent (50%) of the existing principal balance of the Series 2014 Bonds plus the Landlord's Capped Contribution (which may not be used to redeem the Series 2014 Bonds) and such other amounts as provided for herein or in the New Stadium Lease, and such New Bonds shall be scheduled for maturity on or before December 1, 2065.

(d) Availability of Funds. Within one hundred eighty (180) days after the passage of the New Sales Tax and imposition of New Sales Tax by the County Legislature by ordinance, Landlord and County shall have made available for draw down by and/or distribution to Tenant as provided in this Agreement, Landlord's Capped Contribution (as defined in Section 3.02(C) of the New Stadium Lease) (which may not be used to redeem the Series 2014 Bonds), for disbursement to Tenant as needed to construct and complete the Project, on schedule as herein provided, including payment of the costs and expenses relating to the design, development and construction of the Project (including without limitation all hard and soft costs, including without limitation those costs and expenses referenced in **Section 6.01** below.

(e) Preliminary Project Program. Landlord and Tenant shall have approved a narrative description, general plan, program and criteria of the Project (the "**Preliminary Project Program**"). The Preliminary Project Program together with any such changes or revisions thereto, shall be hereinafter referred to as the "**Final Project Program**"; provided, however, that no Minimum Required Project Elements shall be removed from the Project and Tenant shall not cause any of the quality of materials and finishes to be incorporated into the Baseball Stadium (as defined in the New Stadium Lease) to be less than the quality of comparable materials and finishes in MLB Baseball Stadiums as of the date of this Agreement, except as permitted or approved pursuant to **Section 4.18** hereof.

(f) Preliminary Project Budget. Landlord and Tenant shall have approved a preliminary budget for the Project (the "**Preliminary Project Budget**").

(g) Preliminary Project Schedule. Landlord and Tenant have approved a preliminary schedule for completion of the Project (the "**Preliminary Project Schedule**").

(h) Approval of Minimum Required Project Elements. Landlord and Tenant have approved a description and itemization of the minimum components that must be included in the New Baseball Stadium as part of the Project (hereinafter the "**Minimum Required Project Elements**").

(i) City Contribution for the Project. On or before a date acceptable to Tenant, the City of Kansas City, Missouri (the "**City**") shall have approved and appropriated from unencumbered funds contributions by the City or statutory agencies enabled by the City toward the cost of the Project in an amount acceptable to Tenant in its sole discretion (the "**City Contribution**"), and the City Contribution shall have been made available to Tenant upon terms satisfactory to Tenant.

(j) City Contribution for Additional Development. On or before a date acceptable to Tenant, the City shall have approved contributions by the City, Port KC ("Port") or another statutory agencies enabled by the City toward the cost of the development of the ancillary development in the area surrounding the Project (the "**Additional Development**") in an amount acceptable to Tenant in its sole discretion, and the Additional City Contribution shall have been made available to Tenant upon terms satisfactory to Tenant.

(k) City Agreement. On or before a date acceptable to Tenant, Tenant and the City and/or Port, as determined by Tenant in its sole discretion, shall have approved and executed an agreement for the City's support and collaboration on the construction and ongoing operation of the Project, including without limitation, land use approvals, land acquisition, street closures, traffic control, the public financing commitments to the Project and the Additional Development by the City and the Port (including without limitation, the City Contribution described in subsection (e) and (f) above, formation of one or more special taxing district(s), provision for sales tax exemption for construction materials and ad valorem property tax abatements), which agreement must be satisfactory to Tenant in Tenant's sole discretion.

(l) State Contribution. On or before a date acceptable to Tenant, the State of Missouri shall have approved and appropriated from unencumbered funds contributions by the State or statutory agencies enabled by the State toward the cost of the Project in an amount acceptable to Tenant in its sole discretion (the "**State Contribution**"), and the State Contribution shall have been made available to Tenant upon terms satisfactory to Tenant.

(m) Tenant's Contribution. Tenant shall have provided, subject to a non-disclosure agreement between Landlord and Tenant, which non-disclosure agreement must be satisfactory to Tenant in Tenant's sole discretion, evidence and



documentation of Tenant's access to immediately available funds equal to or in excess of the currently projected amount of Tenant's Contribution (which Tenant Contribution amount must be in an amount acceptable to Landlord and Tenant). Landlord may review and reasonably approve such evidence of funding subject to the terms and conditions of the non-disclosure agreement.

(n) General Contractor/Construction Manager Agreement. (i) As provided in **Section 4.05**, the General Contractor (or Construction Manager) selected by Tenant as a result of the Competitive Bid Process (as defined below) for the construction of the Project must have been approved by the Landlord, and (ii) a General Contractor Agreement for the Project must have been executed by the General Contractor and Tenant.

(o) Community Benefits Agreement. Tenant and Landlord must have executed the Community Benefits Agreement as referred to in **Section 12.02**.

(p) Architect/Architect's Agreement. Pursuant to **Section 4.04**, an Architect for the Project has been selected by Tenant and an Architect's Agreement has been executed by Tenant and the Architect.

(q) Governmental Approvals. Prior to the execution of this Development Agreement by Tenant, the Jackson County Legislature and the Jackson County Sports Complex Authority governing bodies must have approved this Agreement, and copies of this Agreement fully executed by Landlord and County shall have been delivered to Tenant for simultaneous execution by Tenant.

(r) Appropriation. No later than December 31, 2024, the Jackson County Legislature and the Jackson County Sports Complex Authority shall have taken all necessary actions to allow unconditional availability to Tenant (except for the conditions to disbursement set forth herein) of the Landlord's Capped Contribution for the Project.

(s) MLB Approvals. On or before December 31, 2024, this Agreement shall have been approved by MLB; it being understood and agreed that such approval by MLB may be conditioned upon making changes to the Agreement to comply with MLB Rules and Regulations.

(t) Project Program. Landlord and Tenant shall have approved a preliminary program for the elements and components of the Project (the Preliminary Project Program, except for Material Changes permitted or approved pursuant to **Section 4.18**).

(u) Acquisition(s) of the Site. On or before June 1, 2025, (i) Tenant shall have acquired the Site; (ii) Tenant and the County shall have entered into a mutually acceptable purchase and sale agreement (the "**Purchase Agreement**") providing for, among other things, the conveyance of the Land to the County and requiring the County to enter an agreement with Landlord and Landlord to enter



into the New Stadium Lease with Tenant; and (iii) the closing(s) under the Purchase Agreement pursuant to its terms shall have occurred;

(v) Other New Stadium Lease Conditions. Satisfaction or waiver of all of the contingencies including those concerning the New Bonds, set forth in Section 28.02 of the New Stadium Lease.

Section 2.04 Cooperation of the Parties. Landlord, County and Tenant shall work together in good faith and act in a commercially reasonable manner to cause the conditions set forth in **Section 2.03** above to be satisfied. Each Party and the County shall promptly respond to a request from the other Party and the County for information or approval so as not to cause any delay in the design or construction of the Project or the satisfaction of the above conditions. If this Agreement designates that a certain Party or the County is responsible for a particular action or activity, such Party or the County shall diligently proceed to satisfy its obligations.

Section 2.05 Right to Terminate. In the event that the conditions set forth in **Section 2.03** above are not satisfied on or prior to the date specified therefore (if a date is specified) or otherwise in accordance with the terms of this Agreement, either Party, by written notice delivered to the other Party and the County at any time after any such missed date, may elect to terminate this Agreement, the 2024 Lease Amendment and the New Stadium Lease, in which event this Agreement, the 2024 Lease Amendment and the New Stadium Lease shall be null and void.

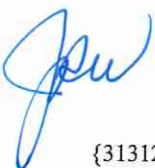
Section 2.06 Compliance with Laws.

(a) Compliance with Laws and Other Requirements. Tenant, to the extent required by any appropriate enforcing Governmental Authority (taking into account any variances or other deviations properly approved), and at all times throughout the Development Term, shall, in the construction of the Project, comply with: (i) all Laws applicable to the construction of the Project; and (ii) all requirements of MLB with respect to the design and construction of the Project. All costs and expenses of Tenant in connection with its obligations under this **Section 2.06(a)** may be paid as a Project Cost.

(b) Building Compliance Procedures. The Architect's Agreement shall require the Architect to comply with the reasonable and customary professional standards applicable to design of similar projects and structures in Jackson County, Missouri (the "**Building Compliance Procedures**").

Section 2.07 Condition of the Site and Approvals. Landlord hereby represents and warrants to Tenant as follows as of the Effective Date, and will renew all of the representations and warranties set forth below to Tenant upon closing of acquisition(s) of the Site:

(i) Regulatory Approvals. Landlord hereby warrants and represents that to the best of its knowledge and belief the Project is not subject to any legal requirements imposed by the City of Kansas City, Missouri, and that no Regulatory



Approvals must be obtained from, and no building permit or other fees must be paid to, the City of Kansas City, Missouri. Because the Project is owned by the County, no building permit fees, inspection fees, impact fees or other charges shall be made for any Regulatory Approvals required to be obtained from Landlord or the County, and County and Landlord hereby waive any such fees and charges, to the extent applicable.

(ii) Title. Provided the Tenant has first conveyed (at Tenant's sole cost) marketable fee simple title to the Leased Premises to the County, the County will hold marketable fee simple title to the Leased Premises, free and clear of any liens or encumbrances and free and clear of any covenants, restrictions, easements (excepting standard utility easements) or other rights or agreements that may impact, affect or interfere with the Project and the Parties' performance of their respective duties and obligations hereunder.

(iii) Environmental. Landlord has no knowledge of any environmental or soils condition of the Site and has made no inspection and is not required to make any inspection of the Site. Landlord has no knowledge of whether or not the Site does or does not comply with Applicable Law. Tenant, in its sole discretion, and its contractors, in their sole discretion, may conduct necessary environmental assessments, soil testing and other inspections at the Site in order to confirm such conditions and plan the construction of the Improvements.

(iv) Zoning. Landlord agrees and acknowledges that, because the Site will be owned by the County, City zoning and City requirements for Regulatory Approvals will not be applicable to the Site.

ARTICLE 3

INDEMNIFICATION

Section 3.01 Indemnification.

(a) Indemnification Obligations of Landlord and County. Notwithstanding anything to the contrary in the New Stadium Lease, during the Development Term, Landlord and County, jointly and severally, shall, to the fullest extent permitted by Law, Indemnify Tenant and Tenant's related Indemnified Parties from and against any and all Losses incurred in connection with or arising directly or indirectly, in whole or in part, out of (i) the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to the property of any person which may occur on or adjacent to the Site to the extent caused by any negligent acts or omissions of Landlord or County or their Agents, or (ii) any default by Landlord or County in the observation or performance of any of the terms, covenants or conditions of this Agreement to be observed or performed on the part of the Landlord or County; provided, however, Landlord and County shall not be obligated under this **Section 3.01(a)** to Indemnify Tenant or Tenant's related Indemnified Parties from Losses caused by the negligence or willful misconduct of any of Tenant or Tenant's related Indemnified Parties. Landlord's and County's



total liability to Tenant and/or Tenant's related Indemnified Parties for any Losses caused in part by the fault of Landlord or County and in part by the fault of Tenant, any of Tenant's related Indemnified Parties, or any other entity or individual, shall not exceed the percentage share that Landlord's and County's fault bears to the total fault of the Landlord and County, Tenant, any of Tenant's related Indemnified Parties, and all other entities and individuals as determined on the basis of comparative fault principles.

(b) Indemnification Obligations of Tenant. Notwithstanding anything to the contrary in the New Stadium Lease, during the Development Term, Tenant shall, to the fullest extent permitted by Law, Indemnify Landlord, the County and their related Indemnified Parties from and against any and all Losses incurred in connection with or arising directly or indirectly, in whole or in part, out of (i) the death of any person or any injury, accident, loss or damage whatsoever caused to any person or to the property of any person which may occur on or adjacent to the Site and which may be caused by any negligent acts or omissions of Tenant or its Agents, or (ii) any default by Tenant in the observation or performance of any of the terms, covenants or conditions of this Agreement to be observed or performed on the part of Tenant; provided, however, that Tenant shall not be obligated under this **Section 3.01(b)** to Indemnify Landlord, County or their related Indemnified Parties from Losses caused by the negligence or willful misconduct of any of the Landlord or the County or their related Indemnified Parties. Tenant's total liability to Landlord, County and/or the related Indemnified Parties for any Losses caused in part by the fault of Tenant and in part by the fault of Landlord, County or any of their related Indemnified Parties or any other entity or individual shall not exceed the percentage share that Tenant's fault bears to the total fault of Tenant, Landlord, County, and of their related Indemnified Parties and all other entities and individuals as determined on the basis of comparative fault principles.

(c) Waiver of Subrogation. Anything in this Agreement or the New Stadium Lease to the contrary notwithstanding, it is agreed that each Party (the "**Releasing Party**") hereby releases the other Party (the "**Released Party**") from any liability or responsibility (to the Releasing Party or anyone claiming through or under the Releasing Party by way of subrogation or otherwise) which the Released Party would, but for this **Subsection 3.01(c)** have had to the Releasing Party during the Development Term resulting from the occurrence of any accident or occurrence or casualty (i) which is or would be covered by a fire and extended coverage policy (with a vandalism and malicious mischief endorsement attached) or by sprinkler leakage, boiler and machinery or water damage policy in the State of Missouri (irrespective of whether such coverage is being carried by the Releasing Party), or (ii) covered by any other casualty or property damages insurance being carried by the Releasing Party at the time of such occurrence, even if such casualty resulted in whole or in part from any act or neglect of the Released Party, its partners, officers, agents or employees; provided, however, that the releases herein contained shall not apply to any loss or damage occasioned by the willful, wanton or premeditated action or omission of the Released Party. Each Party hereto and the County shall, if reasonably possible, obtain a waiver from any insurance carrier with which it



carries insurance covering the Site, or the contents thereof, releasing subrogation rights against the other Party and the County. To the extent a Party or the County is unable to obtain such a waiver, such Party or the County shall promptly provide notice to all other Parties or the County (as applicable) and the provisions of this **Subsection 3.01(c)** shall be inapplicable if such circumstance prevents such Party or the County from obtaining insurance coverage.

(d) General Provisions Regarding Indemnities for Indemnified Parties. The foregoing indemnities shall include, without limitation, Attorneys Fees and Costs, as well as the Indemnified Party's reasonable out of pocket costs of investigating any Loss.

(e) Survival. The indemnification obligations of the Indemnifying Party set forth in this Agreement shall survive the termination of this Agreement as to any acts or omissions occurring prior to such date.

(f) Additional Obligations. The agreements to Indemnify set forth in this Agreement are in addition to, and in no way shall be construed to limit or replace, any other obligations or liabilities which an Indemnifying Party may have to an Indemnified Party in this Agreement, the New Stadium Lease or under Applicable Law.

(g) Defense. The Indemnifying Party shall, at its option, be entitled to control the defense, compromise, or settlement of any indemnified matter; provided, however, in all cases the Indemnified Party shall be entitled to participate in such defense, compromise, or settlement at its own expense. If the Indemnifying Party shall fail, however, within a reasonable time following notice from the Indemnified Parties alleging such failure, to take reasonable and appropriate action to defend such suit or claim, the Indemnified Parties shall have the right promptly to use counsel reasonably selected by the Indemnified Parties to carry out such defense, the expense of which shall be due and payable to the Indemnified Parties within thirty (30) days after receipt by Indemnifying Party of an invoice therefore. The Indemnified Party shall also be entitled to an award of its costs and expenses, including but not limited to Attorneys' Fees and Costs, in enforcing the obligations of the Indemnifying Party.

(h) Offset Remedy. Without limiting any other right or remedy that either Party may have hereunder or at Law or in equity, if and to the extent that any Indemnifying Party shall, for any reason (including without limitation, in the case of Landlord or County, any claim by Landlord or County or any judicial determination that Landlord or County is not permitted, in accordance with Law, to fully and completely perform each and all of its covenants and agreements set forth under this **Section 3.01**), fail to fully and completely perform each and all of its covenants and agreements set forth under this **Section 3.01**, then the Indemnified Parties shall have the right to offset against all amounts due to the Indemnifying Party from such Indemnified Parties, or any of them (including without limitation amounts due under this Agreement or under the New Stadium Lease), until such



Indemnified Parties have recovered from the Indemnifying Party an amount equal to all Losses incurred by such Indemnified Parties, together with interest thereon at the Premium Rate. In the case of Landlord and County, Tenant shall have the right to offset against amounts due to either such party upon any failure by either such party to fully and completely perform each and all of its covenants and agreements set forth under this **Section 3.01**.

(i) Sovereign Immunity. Notwithstanding the foregoing to the contrary, neither Landlord nor County is waiving its rights to assert its sovereign immunity to which each may be entitled as a governmental entity.

ARTICLE 4

PROJECT OWNERSHIP, DESIGN AND CONSTRUCTION DOCUMENTS

Section 4.01 Project. Subject to the terms and conditions set forth in this Agreement, (a) the County shall own the Project for public purposes as provided herein; (b) Tenant shall manage and oversee the planning, design, development, construction, completion and making operational of the Project in accordance with the Final Project Program (as hereinafter defined) and this Agreement and always with the Minimum Required Project Elements included as part of the Project except as expressly set forth in this Agreement; and (c) Landlord/County and Tenant shall fund their respective funding commitments as required in **Article 6** hereof. Notwithstanding the foregoing, to the extent permitted by applicable Law and the instruments governing the issuance of the Bonds (as defined below), certain materials, equipment, fixtures and, other elements of the Project that were paid for as Specific Expenses pursuant to **Section 6.06(e)** shall be deemed to be owned by Tenant, subject, however, to applicable provisions of the New Stadium Lease regarding the use, maintenance, repair, replacement, removal or encumbrance of such items and regarding the disposition and ownership of such items upon termination of the New Stadium Lease. In no event shall this **Section 4.01** be deemed to limit any rights of Tenant in and to any of Tenant's property under the New Stadium Lease.

Section 4.02 Ownership of Project Plans and Data. Tenant shall own all Project architectural drawings, renderings, designs, plans and specifications (the "Plans").

Section 4.03 Design and Construction of Project. Tenant shall have control over the development and construction of the Project, except (i) as set forth in **Section 4.07** below, (ii) to the extent this Agreement elsewhere expressly provides for the Landlord's participation in any portion of such process and (iii) in no case shall there be any unauthorized Material Change (as defined below) in the Project nor shall the Minimum Required Project Elements be removed from the Project except as expressly permitted in this Agreement. Tenant shall be responsible, except as otherwise specifically provided herein, for meeting, either directly, indirectly or through contractual or other arrangements, any and all requirements of Laws applicable to the construction of the Project, including without limitation, as applicable, (i) United States Occupational Safety and Health Administration requirements ("OSHA"), (ii)



Americans with Disabilities Act ("ADA") requirements, (iii) requirements under Title VII of the Civil Rights Act of 1964, as amended, (iv) Age Discrimination in Employment Act requirements; and (v) any other requirements set forth in this Agreement including the Building Compliance Procedures.

Section 4.04 Architect and Engineers; Insurance. The selection of an architect (the "**Architect**") for the Project shall be made by Tenant in its sole discretion to the extent not prohibited by Applicable Laws. Once Tenant selects the Architect, Tenant shall enter into the agreement (the "**Architect Agreement**") it reasonably approves for the Architect to design and oversee development and construction of the Project. Pursuant to and subject to the terms of the Architect Agreement, Tenant shall have the authority, control and rights in directing, supervising, terminating and replacing the Architect and any engineers for the Project. Tenant shall use its reasonable best efforts to require the Architect to be contractually obligated to indemnify Tenant, the County and Landlord and to maintain insurance (including errors and omissions coverage) for the benefit of Tenant, and the County and Landlord as additional insureds, as described on **Exhibit B** attached hereto. Each structural element of the Project shall be engineered in accordance with generally accepted engineering practices. The Project shall be designed to comply with all requirements of MLB in effect when such design is made.

Section 4.05 General Contractor. The Parties recognize and acknowledge that Tenant will accomplish the construction of the Project either through (in Tenant's sole discretion): (i) the engagement of a professional construction manager through the procedures set forth in R.S.Mo. §§ 8.675 through 8.687, inclusive, with various portions of the Project actually constructed by responsible trade contractors submitting the lowest and best bid for such work pursuant to the Competitive Bid Process and as established by Laws; (ii) the engagement of a construction manager-at-risk through the procedures set forth in R.S.Mo. §67.5050; (iii) a responsible general contractor submitting the lowest and best bid for the entire Project pursuant to the Competitive Bid Process (set out below) and as established by Laws; and/or (iv) another allowable project delivery method permitted by established Laws. In the event that Tenant utilizes the method of construction set forth in subsection (i), the term "General Contractor" in this Agreement shall mean the professional construction manager described in subsection (i). In the event that Tenant utilizes the method of construction set forth in subsection (ii), the term "General Contractor" in this Agreement shall mean the general contractor selected pursuant to the process described in subsection (ii). In the event Tenant utilizes the method of construction set forth in subsection (iii), the term "General Contractor" shall mean the entity responsible to Tenant for the construction of the Project. The selection of each General Contractor under this **Section 4.05** shall be made by Tenant, to the extent not prohibited by Applicable Laws, and subject to approval by Landlord (which approval shall not be unreasonably withheld, conditioned or delayed). Tenant shall, in its sole discretion, select the project delivery method, and utilize the form of contract it reasonably approves in entering into the contract(s) with the General Contractor entities described in this **Section 4.05** (the "**General Contractor Agreement**"). Pursuant to and subject to the terms of the General Contractor Agreement, Tenant shall have authority, control and rights in directing, supervising, terminating and replacing the



General Contractor (subject, however, with respect to the replacement of the General Contractor, to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed). Tenant shall require that the General Contractor bid out all construction packages and award such packages in accordance with the applicable terms of the General Contractor Agreement, the Competitive Bid Process and the CBA.

Section 4.06 Design Documents. The Preliminary Project Program will set forth a conceptual description of improvements, infrastructure, amenities and facilities to be constructed pursuant to this Agreement. Said conceptual descriptions shall form the basis for program and schematic designs, plans and specifications to be developed by Tenant and approved by Landlord (which approval shall not be unreasonably withheld, conditioned or delayed) as set forth in Section 4.10 below (hereinafter "**Program and Schematic Designs**") and for final designs, plans and specifications to be developed by Tenant and approved by Landlord as set forth in Section 4.11 below (which approval shall not be unreasonably withheld, conditioned or delayed) based upon such Program and Schematic Designs (hereinafter, "**Final Designs**"). Tenant shall submit the Program and Schematic Designs and the Final Designs to the Landlord's Representative (as defined below) in accordance with this Agreement for each stage of construction as determined by the Architect and the General Contractor in a logical manner in order to facilitate the preparation and solicitation of bid packages following the Competitive Bid Process by the General Contractor and/or Tenant, as Tenant determines to be appropriate or desirable; provided that for purposes of such submittals the Construction Documents (as defined below) may be organized in packages representing Program and Schematic Designs and Final Designs for each Construction Stage (each a "**Construction Stage**" and collectively the "**Stages of Construction**"). Tenant will submit to Landlord for its review and acceptance the Architect's definitions or descriptions of the Construction Stages as to which the Final Designs are to be based. Notwithstanding the organization of the Project and the design thereof into Stages of Construction, Tenant shall be obligated to construct and complete all Minimum Required Project Elements and in no event shall there be any reduction in or material adverse modification to the Minimum Required Project Elements except as expressly provided herein.

Section 4.07 Control of Construction Documents. Tenant shall have the sole right and responsibility to negotiate and enter into all contracts, including all Construction Documents, necessary for the design, engineering, construction and completion of the Project; provided, however, that Tenant shall not be required to be a party to subcontracts between the General Contractor and any subcontractor or any other contractor and any subcontractor. Tenant shall provide a copy of all Construction Documents to the Landlord's Representative and the M/WBE and Workforce Coordinator as set forth in the CBA.

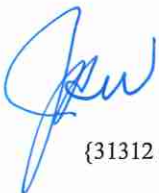
Section 4.08 Construction Bonds. Prior to or simultaneously with the execution of the Final Construction Documents (as defined below) for all work done in each Construction Stage, the contractor under such Final Construction Documents must obtain a construction payment and performance bond in the total aggregate amount of the cost of all such work to be undertaken pursuant to such Final Construction



Documents in such Construction Stage to secure the full payment and performance of the entire construction and completion of such work under such Final Construction Documents for such Construction Stage (a "**Construction Bond**"); provided, however, a single Construction Bond may cover the entire aggregate costs of construction and completion of the work to be done under Final Construction Documents for more than one Construction Stage or separate sets of Final Construction Documents for more than one Construction Stage. Each Construction Bond shall (i) be in form and substance reasonably acceptable to the Parties, and (ii) be from a bonding company named in the current Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as "Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. Each performance bond shall (i) be for the benefit of the Parties and the County and (ii) include a dual obligee rider acceptable to the Parties so that upon any failure of payment or performance by the contractor causing such Construction Bond to be issued, it is enforceable in accordance with its terms by the Landlord or County, without action by Tenant, in the event there exists a Tenant Event of Default. In addition, a copy of each Construction Bond shall be immediately delivered to the Landlord by either Tenant, the contractor or the issuer upon the execution of corresponding Construction Documents for the work to which such Construction Bond is applicable. Each Construction Bond shall be held by Tenant until a Certificate of Completion has been accepted by Landlord in accordance with the terms of **Article 7**; thereafter, each Construction Bond, if unused and not relating to any Deferred Items, shall, with the approval of Tenant, be returned to the contractor causing such Construction Bond to be issued. Any Construction Bond relating to Deferred Items shall, with the approval of Tenant, be returned to the contractor causing such Construction Bond to be issued following completion of all Deferred Items related thereto. Each Construction Bond shall be delivered to the Landlord's Representative for review, and the failure of the Landlord's Representative to give notice of rejection to such Construction Bond for such particular Construction Stage within fourteen (14) days of the Landlord's Representative's receipt of such Construction Bond for such particular Construction Stage shall be deemed to constitute Landlord acceptance thereof. All Construction Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act. The Construction Bond shall list Tenant, Landlord and County as obligees. All Construction Bonds shall be purchased and obtained from surety companies that are duly licensed and authorized in the State of Missouri to issue such bonds.

Section 4.09 Participation in Designing the Project and Approving the Construction Documents.

(a) In General. Landlord and the Tenant agree that they will reasonably and in good faith, expeditiously and jointly cooperate with the Architect and the General Contractor in the development of the Program and Schematic Designs and Final Designs pursuant to the terms of this Agreement. In order to provide a single point of communication with the Architect, to assure that the Landlord's comments with respect to design issues are fully communicated to the Architect, in recognition of the obligations of Tenant under **Section 6.04** with respect to cost overruns (and



the need, as a result of such responsibility, for Tenant to establish the principal direct communications link with the Architect) and in recognition of the expertise of Tenant with respect to use and design of professional sports team stadiums, Landlord hereby directs Tenant to communicate to the Architect all of Landlord's comments with respect to the Program and Schematic Designs and Final Designs. Landlord agrees that all directions and instructions to the Architect shall be given solely by Tenant, and Landlord shall give any comments to the Architect through Tenant or Tenant's Representative.

(b) Monthly Information Meetings. The Landlord's Representative and the M/WBE and Workforce Coordinator shall be given reasonable advance notice of, and shall be invited to attend, a monthly informational meeting during any period of substantial planning for or construction of the Project, to update and inform the Landlord's Representative and the M/WBE and Workforce Coordinator as to the development, planning, design and construction of the Project. Such meetings may be conducted in person, by telephone or other remote audio/visual meeting service (e.g., Zoom, Teams, Webex, etc.),

Section 4.10 Review Process for Program and Schematic Designs. Upon approval by Tenant of the Program and Schematic Designs for any Construction Stage, Tenant shall request that the Architect submit the foregoing to Landlord's Representative in one package marked clearly with the words "'Program and Schematic Designs for _____ [applicable stage]." Landlord shall have ten (10) business days following its receipt of the Program and Schematic Designs for the applicable Construction Stage, but in no event less than fourteen (14) days of its receipt of the applicable Program and Schematic Designs (hereinafter, "**Landlord's Review Period**"), to review such package, and reasonably approve or disapprove of the same. Landlord shall communicate its approval or disapproval of the Program and Schematic Designs for any Construction Stage in writing within the Landlord's Review Period as set forth in Section 4.14 below. Any disapproval shall be handled in accordance with the Expedited Dispute Resolution provisions of **Section 11.06** hereof. The failure of the Landlord's Representative to convey Landlord's approval or disapproval to the Tenant within the Landlord's Review Period shall be deemed to constitute the Landlord's approval of such Program and Schematic Designs as if the Landlord had given the Tenant its approval in writing as provided herein. All communications from Landlord concerning the Program and Schematic Designs from Landlord shall be directed to Tenant or Tenant's Representative, and Tenant shall have full responsibility and authority for all communications with Architect except as set forth above for the Landlord's Representative input to the Architect. The approval by Landlord's Representative as provided herein shall not be unreasonably withheld, conditioned or delayed.

Section 4.11 Review of Final Designs for Construction Stages. Upon approval by Tenant of the Final Designs for any Construction Stage, Tenant shall request that the Architect submit the foregoing to Landlord's Representative in one package marked clearly with the words "Final Designs for _____ [applicable Construction Stage]." Landlord shall have seven (7) business days following its receipt of any applicable Final Designs, but in no event less than fourteen (14) days of its receipt of



the Final Designs for any Construction Stage ("**Landlord's Final Designs Review Period**") to review such package, and reasonably approve or disapprove of the same. Landlord shall communicate its approval or disapproval of the Final Designs to Tenant in writing within the Landlord's Final Design Review Period as set forth in Section 4.14 below. Any disapproval shall be handled in accordance with the Expedited Dispute Resolution provisions of **Section 11.06** hereof. The failure of Landlord's Representative to convey Landlord's approval or disapproval to the Tenant within the Landlord's Final Design Review Period shall be deemed to constitute the Landlord's approval of such Final Designs applicable to a Construction Stage as if Landlord had given Tenant its approval in writing as provided herein. All communications from Landlord concerning the Final Designs for a Construction Stage from Landlord shall be directed to Tenant, and Tenant shall have full responsibility and authority for all communications with Architect except as set forth above for the Landlord's Representative input to the Architect. The approval by Landlord's Representative as provided herein shall not be unreasonably withheld, conditioned or delayed.

Section 4.12 Commencement of Construction. Tenant may not begin any construction for any Construction Stage prior to the Landlord's Representative's receipt and review of the Final Construction Documents and Construction Bond for such Construction Stage. Tenant, or Tenant's Representative, in conjunction with the General Contractor, may prepare, submit or solicit bid packages (to be bid pursuant to the Competitive Bid Process) for a particular Construction Stage to third party contractors, in accordance with the terms of this Agreement, upon receipt of Landlord's Representative's approval of the Final Designs for such Construction Stage.

Section 4.13 Landlord's Scope of Review. The Landlord's participation in the design and development and construction of the Project and review and approval of the Program and Schematic Designs and Final Designs (the "**Landlord's Scope of Review**") shall be limited to the following:

(a) confirming that the Project is being constructed in compliance with the Final Designs for each Construction Stage;

(b) verifying that the Final Construction Documents package delivered for each Construction Stage contains, either alone or in conjunction with the Final Designs for such Construction Stage, all information necessary to review the Final Construction Documents package for such Construction Stage (and if the Landlord's Representative reasonably believe that in order to fully and properly review a particular Final Construction Documents package that additional information or documents from other Stages of Construction are needed, then the Landlord's Representative shall notify Tenant, within ten (10) days after receipt of such Final Construction Documents package for such Construction Stage, and Tenant shall deliver such documents to the Landlord's Representative, and the Final Construction Documents package will not be considered complete, ready for review and received by the Landlord's Representative for such purposes until such additional documents are received by the Landlord's Representative);



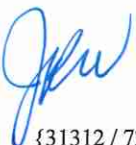
(c) confirming and assuring that: (i) there has not been any unapproved Material Change as defined in **Section 4.18**; and (ii) there has been no reduction in or material adverse modification to the Minimum Required Project;

(d) performing the Public/Owner Representative's responsibilities under the Disbursement Procedures for Requisitions (payment requests) as described in **Section 6.06** and **Exhibit D**; and

(e) performing the Public/Owner Representative's responsibilities and services described in **Section 12.01** and **Exhibit E**.

Section 4.14 Timing of Conditional Approval and Tenant Resubmission. If the Landlord's Representative shall reasonably disapprove of the Program and Schematic Designs or Final Designs for any Construction Stage, or reasonably object, within the applicable Landlord's Scope of Review, to the foregoing, in whole or in part, then the Landlord's Representative in the written disapproval or objection shall state the reason or reasons for such and may recommend changes that, if accepted by Tenant, would result in approval of the applicable Program and Schematic Designs or Final Designs or the release or waiver of the objection(s) to the Final Construction Documents. If the Landlord's Representative conditionally approves the Program and Schematic Designs or the Final Designs in whole or in part, the conditions shall be stated in writing and a reasonable time shall be stated for satisfying the conditions. With regard to disapproval or conditional approval or an objection by the Landlord's Representative, Tenant shall make a resubmittal as expeditiously as possible to address the stated concerns of the Landlord's Representative, and shall continue making such resubmittals until reasonable approval by the Landlord's Representative or the waiver or release of the objection(s) is obtained. Any resubmittal as set forth herein shall be governed by the same process and fourteen (14) day deadline as set forth in **Sections 4.10** and **4.11** above. At any time following a written disapproval or objection by the Landlord's Representative of any Program and Schematic Designs or Final Designs, Landlord and Tenant agree that either Party may immediately seek Expedited Dispute Resolution as provided in **Section 11.06** with respect to such disapproval. The approval(s) by the Landlord's Representative as provided herein shall not be unreasonably withheld, conditioned or delayed.

Section 4.15 Applicable Standard of Review. With respect to Landlord's right to approve the Program and Schematic Designs and the Final Designs for each Construction Stage, Landlord agrees that it (or Landlord's Representative) will not unreasonably withhold, condition or delay its consent to any plans and specifications and that, in determining whether to consent or reasonably withhold or condition its consent, Landlord acknowledges and agrees that the generation of additional revenue for Tenant, and the generation of additional activity in the vicinity of the New Baseball Stadium, particularly on weekdays, is of paramount importance to Tenant in maintaining its financial viability. Landlord shall not by the fact of approving or disapproving the Program and any Schematic Designs and any Final Designs for any Construction Stage incur any liability for or with respect to the quality, accuracy, compliance with Applicable Law or the terms of this Agreement or the New Stadium Lease as concern such approved



Program, Schematic Designs and any Final Designs for any Construction Stage of the Project.

Section 4.16 Cooperation. To ensure that neither the design nor the construction of the Project is delayed due to delays in the delivery of responses or delays in other required actions, Landlord and Tenant shall cause their respective Agents or other parties acting on their behalf to respond in an expeditious manner to all submissions and requests by the other Party, the Architect, the engineers or the General Contractor.

Section 4.17 Representatives' Authority and Obligations. Except for any requested modifications to the Minimum Required Project Elements or other Material Change which requires approval as set forth in **Section 4.18**, Landlord and Tenant hereby authorize the Landlord's Representative and the Tenant's Representative, respectively, to render the decisions and approvals set forth in this Agreement and Landlord and Tenant hereby agree that (i) they shall be bound by such decisions or approvals of their respective Representative, and (ii) each Party may rely on such approvals or decisions of the other Party's Representative. However, by performing the functions described in this Agreement, the Representatives shall not, and shall not be deemed to, assume the obligations or responsibilities of the Architect, or the General Contractor, whose respective obligations pursuant to their respective agreements with Tenant, shall not be affected by the Representative's exercise of the functions described in this Agreement.

Section 4.18 Scope and Value Engineering Changes. If so required by Tenant, to cause the Project to substantially match the funds available to Tenant for the implementation of the Project, Tenant may make, without the approval of Landlord (except as stated below), scope or "value engineering" changes in the Project; provided, however, that (A) such changes will not cause the Project to be constructed in a manner that would result in the quality of materials and finishes to be incorporated into the New Baseball Stadium to be less than the existing quality of comparable materials and finishes in MLB Stadiums, (B) the substitute materials are certified by the Architect as being substantially equivalent, as to the quality of materials and finishes, as not less than the existing quality of comparable materials and finishes in MLB Baseball Stadiums as of the date of this Agreement; and (C) none of such changes cause the scope of the Project to be less than the Minimum Required Project Elements (each such change prohibited being referred to hereinafter as a "**Material Change**"). Any Material Change described in (A) or (B) above must first be approved in writing by Landlord, which approval shall not be unreasonably withheld or delayed and, if Landlord does not deliver written notice of disapproval to Tenant (or other requesting party) (specifying in detail the reasons for such disapproval) within ten (10) business day after written notice to Landlord from Tenant's (or other requesting party's) action in question, such action shall be for all purposes deemed approved. Any Material Change described in (C) above must first be approved by Landlord, which approval shall not be unreasonably withheld or delayed.

Section 4.19 [Reserved]



Section 4.20 Scope of Tenant Submissions of Construction Documents.

Except as otherwise provided in **Section 4.18**, each of the Construction Documents relating to successive Stages of Construction is intended to constitute a further design evolution and refinement from the previous stage, and each shall be consistent with the prior stage and shall incorporate conditions, modifications and changes required for prior approvals by the Landlord's Representative, acting within the Landlord's Scope of Review, in connection with review of the Construction Documents. The "**Final Construction Documents**" shall include all drawings, specifications and documents necessary for the Project to be constructed and completed in accordance with this Agreement, together with a copy of the contract or contracts (including the General Contract Agreement, if available) between Tenant and any third party to provide services described in the Final Construction Documents for such particular Construction Stage.

Section 4.21 Changes in Final Construction Documents. Tenant shall have the right to issue construction changes to the General Contractor during the course of construction of the Project; provided, however, that construction changes that constitute a Material Change shall be subject to prior written approval as provided in **Section 4.18**.

Section 4.22 Process for Processing Changes in Final Construction Documents. Tenant shall provide to the Landlord's Representative copies of all executed and final change orders, change directives and similar documents of construction changes. In the event that a proposed construction change or series of construction changes would constitute a Material Change, the Tenant shall submit a written explanation of such change or series of changes to the Landlord's Representative (in one package marked clearly with the words "**Requested Material Change**") no less than ten (10) business days prior to the implementation of such change or changes, together with an explanation as to (i) the effect of such construction change or series of changes on the Project Costs in the event that such construction change or series of changes is implemented, and (ii) the impact of such proposed construction change on the overall design and/or operations of the Project. Any Requested Material Change shall be subject to prior written approval in accordance with **Section 4.18** hereof.

Section 4.23 Construction Change Disputes. In the event of a construction change or changes which are approved by Tenant pursuant to **Section 4.21** above without the consent of the Landlord that by itself or when viewed in total constitute a Material Change, Tenant shall take such corrective action or actions as are required to complete the Project as if such construction change or changes which were not approved by Landlord pursuant to **Section 4.22** above had not been made.

Section 4.24 As-Built Documents. Tenant shall furnish the Public/Owner Representative and Landlord a fully updated set of as-built plans, specifications and an ALTA as-built survey with respect to the Site within one hundred eighty (180) days after Completion of the Improvements. As used in this **Section 4.24**, the term "**as-built plans and specifications**" means a fully updated set of as-built record drawings prepared during the course of construction. If Tenant fails to provide such as-built plans and specifications to the Public/Owner Representative and Landlord within such period of



time, the Public/Owner Representative or the Landlord after giving notice to Tenant shall have the right, but not the obligation, upon prior written notice to Tenant and Tenant's failure to respond within thirty (30) days after such notice, to cause the preparation by an architect of such party's choice of such final as-built plans and specifications, and be reimbursed out of the Disbursement Account for such costs as a Project Cost.

Section 4.25 Permits and Inspections. Tenant shall use reasonable best efforts to ensure that its contracts with the Architect and the General Contractor require each of them to obtain (and contractually obligate their subcontractors to obtain) all necessary permits, licenses, inspections and approvals required by law, rule, regulation or ordinance in connection with the construction of the Project and all other permits or approvals (if any) issued by Governmental Agencies, to the extent required by Applicable Laws.

Section 4.26 General Contractor Assurances. Landlord may from time to time reasonably request in writing that Tenant require the General Contractor to furnish to the Landlord evidence of the performance and payment bonds, indemnification and insurance required to be provided by the General Contractor. Tenant may, in its sole discretion, elect to provide the insurance required hereunder but may not self-insure except as permitted pursuant to the New Stadium Lease.

Section 4.27 [Reserved].

Section 4.28 Procurement of Construction Materials. At Tenant's request, the County shall use its reasonable best efforts to provide to Tenant such documentation as may be necessary to permit Tenant to purchase goods and services for the Project without payment of any applicable sales and use taxes. The parties hereby acknowledge that there may be tax benefits to having the County or Landlord procure certain construction materials and supplies if Tenant does not otherwise receive such sales tax exemption in another fashion. Accordingly, from time-to-time, County and/or Landlord, upon the prior written request of Tenant, shall, in the name of the County or Landlord, place orders for certain construction materials and supplies as designated from time-to-time by Tenant (the "**Construction Materials**") in the amounts requested in such writing by Tenant. Tenant shall, as part of such written request, deliver to the County or Landlord all forms completely filled out and addressed (with appropriate cover letters and stamped envelopes) to the appropriate vendors. Tenant shall not make any such requests more than once in a calendar month and shall submit such written request so that the County or Landlord has no less than ten (10) business days to sign and send out such request to the appropriate vendors; provided, however, that if Tenant reasonably determines that, from time-to-time, it is necessary to submit more than one request in a calendar month, County or Landlord will attempt to reasonably cooperate with Tenant in processing such requests. If a deposit or other payment is required to be sent with such written request, Tenant shall include a check, drawn on Tenant, in the appropriate amount, and Tenant shall submit a reimbursement for such deposit or payment in the immediately next Payment Certificate submitted by Tenant to Landlord. Neither the County nor Landlord makes any warranty or representation as to the tax benefits or



burdens relating to the acquisition of any Construction Materials pursuant to the terms of this Section.

Section 4.29 Intellectual Property Rights. Except as set forth in the New Stadium Lease, the Parties agree that ownership of all names, trademarks, service marks, trade dress, logos and slogans used for or in association with the Project; all depictions, likenesses, images or other identifiers of the Project or areas in the Project; all merchandizing rights in association with the Project; as well as all trademark, copyright and other proprietary rights in the same and all rights to protect, enforce and license any or all of the foregoing (the "**Identity Rights**") shall be owned by Tenant. Further, to the extent required, Landlord/County further hereby grants to Tenant a royalty-free exclusive license, with the right of sublicense, during the Development Term, to use the Identity Rights for any and all purposes, including for commercialization and merchandizing purposes and to retain all proceeds therefrom, subject to the terms of the New Stadium Lease. Landlord/County shall have the limited right to use the Identity Rights for non-commercial purposes, subject to the prior written approval of Tenant, which Tenant may reasonably withhold or condition.

Section 4.30 Changes to Preliminary Project Schedule; Final Project Schedule. Tenant shall submit to Landlord's Representative for review in connection with each Construction Stage and during the course of construction, any material revisions or changes to the then-current Preliminary Project Schedule; provided, however, that in no event may Tenant change the outside completion date of Spring 2029 (subject to Force Majeure), without Landlord's prior approval, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Landlord's approval shall not be required for any changes to the Preliminary Project Schedule resulting from delays in site acquisition, events of Force Majeure or lack of availability of Landlord's Capped Contribution, the City Contribution, the State Contribution or other public financing. Prior to commencement of the final material Construction Stage, Tenant shall prepare and submit to the Landlord's Representative for review a final schedule for the Project (the "**Final Project Schedule**"), which shall consist of an update to and revision of then-current Preliminary Project Schedule.

ARTICLE 5

DEVELOPMENT OF THE SITE; TENANT AND LANDLORD OBLIGATIONS

Section 5.01 Tenant's Development Obligations.

(a) In General. Tenant may not perform, prior to the satisfaction of the conditions set forth in **Section 2.03** hereof, any excavation or construction work without the express written approval of Landlord, which Landlord shall not unreasonably withhold, condition or delay. If Landlord grants such approval, Landlord may require such insurance, bond, guaranty and indemnification requirements as Landlord reasonably determines are appropriate to protect County's and Landlord's interests, consistent with the terms set forth in this Agreement. Landlord agrees that Tenant may, in Tenant's sole discretion, satisfy



any or all of the insurance requirements set forth herein by procuring insurance from or through MLB.

(b) Management of Construction. Tenant shall manage the construction of the Improvements on the Site, all in the manner set forth in this **Article 5** and the Final Project Program, and shall use commercially reasonable efforts to construct or cause such construction to be completed on or prior to [Spring 2028], subject to timely satisfaction of the conditions described in Section 2.03 and subject to Force Majeure. Subject only to the express terms of this Agreement and the provisions of Applicable Laws and permitting requirements, Tenant and the General Contractor shall determine construction means, methods, techniques, sequences and procedures, and shall be responsible for coordinating all portions of the work on the Project. Tenant shall cause the General Contractor to provide and pay for all materials utilized in the work in compliance with any applicable provisions of the Competitive Bid Process (including Construction Materials if purchased pursuant to **Section 4.28** above) and the CBA.

(c) Demolition, Alteration and Additions – Hazardous Materials. With respect to any existing structures and improvements, or parts thereof, which are required to be demolished for the Project, Tenant shall cause all such existing structures and improvements to be inspected for lead, asbestos and other Hazardous Materials by a qualified inspector prior to such demolition. If any friable asbestos-containing materials are identified, Tenant shall give written notice thereof to Landlord and Tenant shall implement before demolition adequate abatement practices in accordance with all applicable Hazardous Materials Laws and Regulatory Approvals and otherwise perform any Remediation of any Hazardous Materials found above ground in such existing structures or improvements in connection with construction of the Project if such Remediation is legally required by the applicable Governmental Authority. In connection with construction of the Project, Tenant shall be solely responsible for removing and properly disposing of any and all asbestos containing materials, lead-based paint or lead-containing building materials, PCB-containing equipment or any other Hazardous Materials within such existing structures and improvements in accordance with all applicable Hazardous Materials Laws and Regulatory Approvals, subject to reimbursement as a Project Cost. Landlord shall have no responsibility for any Remediation of Hazardous Materials required by Applicable Laws at the Site.

Section 5.02 Landlord's Obligations. The parties hereby agree that the Landlord (or County), as appropriate, shall perform the following as a part of the following "**Landlord's Obligations**", each of which shall be completed in accordance with then-current Preliminary Project Schedule, and paid as Project Costs except as specifically stated below:

(a) Title to Site; Delivery of Possession. Pursuant to **Section 2.07(ii)** hereof, Landlord/County shall have taken any reasonably necessary actions to deliver possession of the Site to Tenant as a condition precedent upon the



satisfaction (or waiver, if applicable, under the terms of **Section 2.03**) of the other conditions precedent set forth in **Section 2.03**.

(b) Utilities. Landlord/County, without any cost responsibility, shall reasonably support and cooperate with Tenant (including the obtaining of Regulatory Approvals) with respect to relocating or constructing utilities located upon the Site or immediately adjacent thereto which are required to be relocated or constructed as a result of the Project or as necessary to provide utility service to the Project.

(c) Demolition of Existing Improvements. Landlord/County, without any cost responsibility, shall reasonably support and cooperate with Tenant (including the obtaining of Regulatory Approvals) with respect to Tenant's demolishing of existing structures and other improvements, or parts thereof that are required to be demolished for the Project.

(d) Traffic Improvements. Landlord/County, without any cost responsibility, shall reasonably support and cooperate with Tenant (including the obtaining of Regulatory Approvals) with respect to any improvements to the City's or State's streets and/or the highway system which are required to be completed and constructed as part of the Project.

(e) Infrastructure. Landlord/County, without any cost responsibility, shall reasonably support and cooperate with Tenant (including the obtaining of Regulatory Approvals) with respect to the completion and construction of the Infrastructure as part of the Project.

(f) Any Environmental Remediation of Site. Except as set out in **Section 5.01(c)** of this Agreement, Landlord/County shall be obligated to perform and observe all obligations set forth in the New Stadium Lease and the obligations set forth herein with respect to in-ground or below the surface contamination not caused by Tenant, and to otherwise reasonably support and cooperate with Tenant (including the obtaining of Regulatory Approvals) with respect to any required environmental Remediation of the Site.

Section 5.03 Construction Schedule. Tenant shall require the General Contractor to commence, prosecute and complete all construction and development of the Improvements and use commercially reasonable efforts to do so to complete the Project, subject to Force Majeure, in accordance with the Final Project Schedule, or within such extension of time as Landlord may reasonably grant in writing or as otherwise permitted by this Agreement, subject to Force Majeure.

Section 5.04 Insurance Requirements.

(a) In General. During the Development Term, Tenant shall require the Architect and General Contractor to maintain the insurance described on **Exhibit B** and **Exhibit C**, respectively.



(b) Landlord Self-Help Right to Obtain Insurance. In the event that Tenant, the Architect or the General Contractor fails to procure and maintain the insurance described in **Subsection 5.04(a)**, after fifteen (15) days' written notice to Tenant specifying the insurance requirement that has not been satisfied, Landlord has the right, but not the obligation, to obtain, and thereafter continuously to maintain, any such insurance required by this Agreement that Tenant, the Architect or the General Contractor fails to obtain or maintain, and to charge the cost of obtaining and maintaining that insurance to Tenant; provided, however, if Tenant reimburses Landlord for any premiums and subsequently provides such insurance satisfactory to Landlord, then Landlord agrees to cancel the insurance it obtained and to credit Tenant with any premium refund.

(c) Insurance as a Tenant Project Cost. Any insurance maintained by Tenant, the Architect or the General Contractor under this **Section 5.04**, or obtained by Landlord under **Section 5.04(b)**, shall be reimbursable as a Project Cost.

(d) Indemnity. Except as expressly stated herein or as provided by Applicable Laws, the indemnification requirements under this Agreement shall in no way be limited by any insurance requirements under any such agreements and the costs of satisfying such requirements shall not be a Project Cost.

Section 5.05 Landlord/County Rights of Access. Landlord/County shall have the following rights in connection with access to the Site:

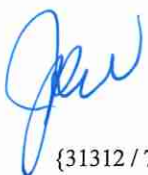
(a) Landlord and the County and their Agents, including the Landlord's Representative, will have the right of access to the Site (upon reasonable prior notice (which may be orally conveyed to Tenant's Representative) except in emergency situations or in situations in which, under applicable Law, Landlord or County is authorized generally to access construction sites without advance notice for the purpose of enforcing Applicable Laws) to the extent reasonably necessary to carry out Landlord/County's respective rights and responsibilities under this Agreement, and for Landlord to verify that Tenant is fulfilling its obligations under this Agreement, including, but not limited to, the inspection of the work being performed in constructing the Improvements. Additionally, from time to time, the Landlord's Representative shall have the right during the Development Term (upon reasonable prior notice (which may be oral) except in emergency situations or in situations in which, under Applicable Law, Landlord or the County is authorized generally to access construction sites without advance notice for the purpose of enforcing Applicable Laws) to enter onto the Site to review the Project and the status of construction of the Project and compare whether such construction is in substantial compliance with the Final Designs and the Construction Documents for the applicable Construction Stage and all Applicable Laws and Regulatory Approvals. In the event the Landlord's Representative discover any such noncompliance with any of the above which either (i) falls under or fell under the Landlord's Scope of Review or (ii) would cause a non-compliance with the terms of this Agreement, Landlord's Representative shall inform Tenant's Representative of such noncompliance. Upon Landlord's Representative's notification to Tenant's



Representative regarding such noncompliance, Landlord's Representative and Tenant's Representative shall jointly review the issue and if both parties reasonably agree that there is such a noncompliance with any of the above, Tenant shall immediately take all steps to cause the construction of the Project to comply with all of the above in accordance with this Agreement. In the event that the Landlord's Representative and the Tenant's Representative do not agree that the issue results in such a noncompliance with any of the above, then the Landlord's Representative may request a meeting with Tenant, the Tenant Representative, the Architect, the engineers, and/or the General Contractor, which parties must attend (in person, by a virtual platform (via Zoom, Teams, WebEx, etc.) or by telephone) at a mutually agreeable time to discuss the issue. In the event that the Landlord's Representative, after such consultations, still reasonably believe there is a noncompliance with respect to the issue, Tenant shall correct such matter or Tenant may seek to resolve the matter through Expedited Dispute Resolution under **Section 11.06**.

(b) All entries upon the Site pursuant to this Section shall be at the sole risk of the Landlord or County or their Agents, as appropriate, and shall comply with all reasonable safety and identification requirements (specifically including without limitation obtaining any identification or access badges in accordance with any access control program), it being recognized that construction sites present inherent risks of injury, particularly to visitors not familiar with conditions on the Site, and Landlord and County, jointly and severally, shall Indemnify the Indemnified Tenant Parties against any Loss resulting from any injury or property damage resulting from the actions of the Landlord or County or their Agents during such entry upon the Site pursuant to the provisions of this Section. Tenant may prohibit access to portions of the Site that are unsafe, but shall have no liability to the Landlord or County or any Agents for its failure to do so. Under no circumstances shall the Landlord or County or their Agents issue any instructions or directives to supervisors, laborers or other persons on the Site; all such instructions and directives shall be given solely to Tenant or Tenant's Representative; provided, however, nothing contained in this paragraph shall be construed to prohibit the Landlord's Representative from notifying Tenant or the Tenant's Representative of any breach of this Agreement by Tenant, its Architect or contractors; and provided further that nothing herein is intended to grant any independent right, not otherwise created pursuant to this Agreement or Applicable Laws, to issue any instructions or directives to Tenant or Tenant's Representative.

Section 5.06 Construction Signs and Barriers. Tenant shall contractually require General Contractor to provide appropriate construction barriers and construction signs and post the signs on the Site during the period of construction. The size, design and location of such signs and the composition and appearance of any non-moveable construction barriers shall be in compliance with all Applicable Laws. In addition, Landlord or the County shall have the right to direct the posting of the Landlord's or County's standard public improvement signage at locations reasonably acceptable to Landlord, the County and Tenant. Except as set forth in the prior sentence, Tenant shall have sole discretion to approve promotional, vendor and other marketing signage on the construction barriers and other marketing opportunities on or about the Site.



Section 5.07 Damage and Destruction. If at any time between the commencement of construction of the Project and the end of the Development Term, a fire or other casualty damages or destroys the Site or any Improvements, or any portion of the Site or Improvements, the applicable provisions of the New Stadium Lease shall control, but in any event Tenant shall be entitled to draw the proceeds of the insurance for such damage or destruction and the parties shall mutually agree to an extended completion date for the Project and any adjustments to the Project Costs which may be necessary due to insufficient insurance proceeds. Upon the Parties' mutual agreement on an extended completion date and adjustment to Project Costs (if applicable), which the parties agree to negotiate in good faith, Tenant shall remain obligated to complete construction of the Improvements as set forth herein.

Section 5.08 Construction Staging. If, at any time during the Development Term, Tenant needs staging areas on other Landlord or County property that Landlord or County reasonably determines is available for such purpose, Tenant shall obtain permission to enter from the Landlord or County on terms and conditions as are mutually and reasonably acceptable to the Parties, including such insurance, surety and indemnification requirements as Landlord or the County may determine are appropriate for such entry.

ARTICLE 6

FINANCING OF THE PROJECT

Section 6.01 Project Costs. All costs of the Project, whether or not such costs exceed the sum of the Landlord's Capped Contribution, plus the other funding sources set forth and defined in Section 3.02(C) of the New Stadium Lease and hereinafter collectively referred to as the "**Dedicated Project Funds**"), shall be paid by Tenant (the "**Project Costs**") pursuant to the terms of this **Article 6**, or as otherwise expressly set out in this Agreement. Neither Tenant nor any Affiliate of Tenant shall be paid any development fee, construction management fee, administrative fee or similar payment related to the Project and no such payment may be included in the Project Costs. Project Costs shall include all soft costs and hard construction costs related to the Project, including without limitation the following:

(a) land planning, design, architectural and engineering costs incurred by Tenant for preparation of plans, specifications and designs for the Project and for appropriate construction administration oversight and assessments by the Architect and engineers;

(b) costs incurred by Tenant to design, construct, equip and furnish the Project, including but not limited to the amounts due Architect under the Architect Agreement, including all changes and modifications thereunder, amounts due any Construction Manager under any contract between Tenant and Construction Manager, including all changes and modifications thereunder, amounts due trade contractors or a General Contractor providing actual construction work under contract with Tenant, including all changes and modifications thereunder;



(c) costs for site work, demolition, site utilities, utility relocations or other construction;

(d) costs of all premiums for all bonds and insurance that Tenant is required to maintain or cause to be maintained in connection with the construction of the Project, including but not limited to any insurance it is required to maintain or cause to be maintained under **Section 5.04**;

(e) water, sewer, power and other utility service fees, including tap fees and connection costs, relating to the construction of the Project;

(f) fees and expenses of accountants, attorneys and consultants of Tenant for services rendered in connection with the Project, including the fees and expenses for programming services rendered in connection with the Project, and fees and expenses in connection with the drafting and negotiation of the New Stadium Lease, the CBA, this Agreement and any related instruments, and agreements with any person providing labor, services, equipment, materials or supplies for the Project;

(g) costs and expenses to obtain and furnish information, surveys, title insurance and reports for the Project;

(h) costs and fees for appraisal and environmental services in connection with the Project;

(i) costs for soil testing and other testing undertaken or performed in connection with the design and/or the construction of the Project;

(j) any costs that are the responsibility of Tenant to abate and remediate any hazardous environmental condition in connection with the Project as required in this Agreement;

(k) any amounts paid to settle or satisfy Claims not attributable to the fault or negligence of Tenant;

(l) any losses, expenses or damages sustained by Tenant in connection with the design and construction of the Project or this Agreement, not covered by insurance to the extent such losses, expenses or damages are not attributable to the fault or negligence of Tenant;

(m) permit, license and inspection fees incurred by Tenant and the costs of applying for, obtaining, appealing or complying with such permits, licenses or inspections;

(n) fees and expenses of the General Contractor, subcontractors, consultants and similar persons incurred by Tenant, directly or indirectly in connection with the planning, design, engineering, construction, equipping and furnishing of the Project;

(o) costs incurred by Tenant in complying with obligations imposed upon Tenant, its consultants or General Contractor by this Agreement;

(p) costs incurred by Tenant in connection with removing, or providing security for, any material lien or encumbrance that arose in connection with the design, engineering, construction, equipping or furnishing of the Project;

(q) reasonable general and administrative expenses of Tenant allocable to the administration or oversight of the activities contemplated in clauses (a) through (p) above and incurred by Tenant in connection with the planning, design, engineering, construction, equipping and furnishing of the Project;

(r) the cost of insurance procured by or on behalf of Tenant pursuant to the terms of this Agreement;

(s) fines, penalties, cost of corrective actions, defense costs and fees, indemnified expenses, costs of pursuing remedies against third parties and similar expenses that are incurred by Tenant in pursuing its duties under this Agreement and which do not arise out of the gross negligence or willful misconduct of Tenant or its employees;

(t) fees and expenses of Tenant's Representative;

(u) Advance Costs (as defined in Section 3.03 of the New Stadium Lease); and

(v) other costs and expenses reasonably identified for payment or reimbursement as "**Project Costs**" in the CBA (in the amount specified in, and to be paid in accordance with and subject to the terms of the CBA), the Final Project Budget or on an approved Requisition.

Project Costs shall not include any costs incurred by Tenant in connection with Tenant's loans or other private financing for the Tenant Contribution (as defined below) nor any costs related to Public/Owner Representative except as provided in **Section 12.01**. The New Bonds may not be used to fund any Project Costs which use would, in the opinion of bond counsel, violate Applicable Laws (for example certain costs in the CBA may not qualify as Project Costs as not used for construction of the Project).

Section 6.02 Landlord/County Costs. The administrative type costs of the Landlord's Obligations (including the costs for Landlord's in-house engineer who will be one of the Landlord's Representative) are not Project Costs and will be paid by Landlord or County (collectively, the "**Landlord/County Costs**") outside of the Dedicated Project Funds.

Section 6.03 Preliminary Project Budget; Sources and Uses of Funds; Final Project Budget.



(a) Landlord and Tenant shall have previously agreed on and approved the Preliminary Project Budget setting forth the aggregate amount of the projected total Project Costs and identifying in reasonable detail each material cost item. The Preliminary Project Budget, and any subsequent amendments to the Preliminary Project Budget, shall include a line item for workforce training, M/WBE Compliance, development and apprenticeship as required by the CBA.

(b) Landlord and Tenant acknowledge that, as of the Effective Date, the Preliminary Project Budget represents the Parties' current expectations as to the Project Costs except for the cost for the Public/Owner Representative as set forth in **Section 12.01** and the costs in the CBA.

(c) Tenant shall provide Landlord a preliminary sources and uses of funds in the format attached as **Exhibit F**. In connection with the delivery of the Certificate of Completion, Tenant shall provide Landlord a final sources and uses of funds in the format attached as **Exhibit F**.

(d) With each Construction Stage, Tenant shall prepare and submit to the Landlord's Representative for review any updates and revisions to the Preliminary Project Budget, and, prior to commencement of the final material Construction Stage (as defined by the Architect), Tenant shall prepare and submit to the Landlord's Representative for review a final Project budget (the "**Final Project Budget**"), which shall consist of an update to and revision of then-current Preliminary Project Budget, for review.

(e) Following Landlord's review of the Final Project Budget, Tenant shall have the right, from time-to-time, to update and revise the Project Costs in then-current Final Project Budget and to submit to the Landlord's Representative such update and revision, and from and after such submission to the Landlord's Representative such update and revision shall be deemed to be the Final Project Budget and shall become a part of this Agreement as if originally attached hereto; provided, however, that no Final Project Budget shall be submitted by Tenant for Landlord's review that would result in a Material Change to the Final Project Program except to the extent such Material Change is approved pursuant to **Section 4.18**.

Section 6.04 Tenant Responsibility for Cost Overruns. If and to the extent that the actual Project Costs exceed the projected Project Costs as set forth in the Final Project Budget, as the same may be modified pursuant to **Section 6.03** above ("**Project Cost Overruns**"), and subject to Tenant's right to make scope and value engineering adjustments under **Section 4.18** (subject in all cases to no Material Changes or reduction of the Minimum Required Project Elements unless approved in accordance with **Section 4.18** hereof), Tenant shall be responsible for and pay for all such Project Cost Overruns as and when incurred and/or shall deposit sufficient funds in the Disbursement Account to pay for any such Project Cost Overruns on a timely basis when required; provided, however, that if and to the extent that there are funds remaining in the Disbursement Account, such remaining funds shall be used to fund any Project Cost Overruns.

Section 6.05 Disbursement Account.

(a) Disbursement Account. As soon as reasonably possible after the New Sales Tax election, if successful, Landlord shall establish an account designated as the "Special New Baseball Stadium Disbursement Trust Account" or similar name (the "**Disbursement Account**") at a depository institution that has one or more branches located in the City as reasonably agreed to by Landlord and Tenant. All earnings on funds held in the Disbursement Account shall be treated in the same manner as the principal deposited in such account, and such amounts will be available for disbursement in the same manner and upon the same terms and conditions as the principal deposited in such account.

(b) Landlord's Capped Contribution and Tenant's Contribution.

(i) Landlord's Capped Contribution. Landlord shall deposit or cause to be deposited the Landlord's Capped Contribution into the Disbursement Account. Landlord/County intends to provide the funds for the Landlord's Capped Contribution by issuing the New Royals Bonds as more particularly defined in the New Stadium Lease. The parties recognize and agree that to maximize available monies from the New Royals Bonds, Landlord or the County may, with the prior approval of Tenant, issue the New Royals Bonds in increments or in different series so long as sufficient monies are available to Tenant in Tenant's reasonable judgment, when required for completion of the Project and each Construction Stage in accordance with the Preliminary Project Schedule (as the same may be revised from time to time as provided in **Section 4.30** hereof) and in accordance with the Final Project Budget.

(ii) Tenant's Contribution. As and when funds are needed for Project Costs to be paid with Tenant funds or as needed for other Project Costs after use of the Landlord's Capped Contribution funds in the Distribution Account (and the other Dedicated Project Funds), Tenant shall provide immediately available funds equal to (i) cash in the amount of the Tenant contribution an amount acceptable to Landlord and Tenant as Tenant's contribution to the cost of the New Baseball Stadium (the "Tenant's Contribution"), and (ii) cash in the amount of any Project Cost Overruns. Prior to commencement of construction of the Project, and then as may be reasonably requested by Landlord from time to time, Tenant shall provide Landlord with evidence and documentation of Tenant's access to immediately available funds equal to or in excess of the currently projected amount of Tenant's Contribution. Landlord may review and reasonably approve such evidence of funding subject to the terms and conditions of the non-disclosure agreement described in Section 2.03(g).

(iii) Public/Private Ratio. Upon Landlord and Tenant approval of the Preliminary Project Budget, the parties will determine the Preliminary Project Budget, the "**Public/Private Ratio**". The Public Private Ratio is based on the "public" proportionate share that the sum of Landlord's Capped Contribution, the City Contribution and the State Contribution (the "**Public Share**") bears in relation

to the total Project Costs projected in the Preliminary Project Budget, and the "private" proportionate share that Tenant's Contribution bears in relation to the total Project Costs projected in the Preliminary Project Budget (the "**Private Share**"). The initial Public/Private Ratio will be only an estimate based upon the Preliminary Project Budget. The final Public/Private Ratio will ultimately and conclusively be determined in the same manner described in the prior sentence and agreed upon by the Parties along with approval of the Final Project Budget.

(c) Nature of the Disbursement Account. The Parties acknowledge and agree that the Disbursement Account is a trust account and shall be dedicated solely to the payment of Project Costs. The Disbursement Account shall not be commingled with any other County, Landlord or Tenant funds. The Disbursement Account shall be administered and controlled by Landlord in accordance with the terms of this Agreement as set forth below. Landlord shall provide a copy of all monthly statements received in connection with the Disbursement Account to Tenant and the County within a period of five (5) business days after receipt of such statements.

(d) Bond Indenture Disbursement Account. In lieu of and/or as supplemental to the establishment of a Disbursement Account as provided in **Section 6.05(a)** above, the Disbursement Account may be established pursuant to a bond indenture (the "**Bond Indenture**") between the Landlord/County and its designated trustee (the "**Bond Trustee**"). In such event, the provisions of the Bond Indenture governing draws and disbursements shall be in form and substance reasonably acceptable to Tenant. Landlord/County hereby covenants that: (i) Tenant shall be a third party beneficiary of the provisions of such Bond Indenture relating to the draw and disbursement of funds, including without limitation the procedures relating to Requisitions (as defined below), which provisions shall be as set forth herein, (ii) subject to Tenant's obligation to also contribute the Private Share, Tenant shall have direct and irrevocable access to the proceeds from the Landlord Capped Contribution, provided that the only condition for Tenant drawing upon such Distribution Account is Tenant not being in material default under this Agreement (which shall mean that all applicable notices shall have been given and all applicable cure periods shall have expired) and the proper submittal of Requisitions in accordance with the Disbursement Procedures set forth in **Section 6.06** below, (iii) the provisions of such Bond Indenture relating to the draw and disbursement of funds, including without limitation the procedures relating to Requisitions, shall not be amended or modified without the prior written reasonable consent and approval of Tenant, and (iv) the Landlord's Capped Contribution may only be used for the Project Costs pursuant to this Agreement in accordance with the Final Project Budget (or as otherwise expressly set forth herein or as otherwise agreed by Landlord and Tenant), and not for any other purposes, and in no event shall the Landlord's Capped Contribution in the Disbursement Account be subject to offset, application for mandatory or optional redemption of the New Bonds (including as a result of default by Landlord/County or otherwise) or application for any purpose other than disbursement to fund the Project Costs hereunder.

(e) City Contribution Disbursement Account and State Contribution Disbursement Account. The City Contribution and the State Contribution will be disbursed separately from one or more disbursement accounts established for the Project by the City and State, respectively, in accordance with the terms of the respective agreements with the City and State, respectively. Tenant shall use commercially reasonable efforts to obtain agreement from the City and State, respectively, to deposit the City Contribution and the State Contribution with the Bond Trustee. Tenant will be entitled to draw funds from these other accounts established for the Project by the City and State to pay Project Costs from time to time in accordance with the disbursement procedures and requirements established and agreed to with the City and the State, respectively, and in no event will Landlord have approval rights with respect to the disbursement of the City Contribution and the State Contribution.

Section 6.06 Disbursements to Pay Project Costs; Requisitions. Funds shall be periodically disbursed from the Disbursement Account for payment of Project Costs in accordance with the following provisions:

(a) Notwithstanding the following, the procedures set out herein may be reasonably modified by agreement of the Parties from time-to-time to improve the disbursement of funds for Project Costs.

(b) After the satisfaction of the conditions precedent set forth in **Section 2.03** hereof (or waiver, if applicable, and as provided in **Section 2.03** hereof), then within a period of days acceptable to Landlord and Tenant, Landlord must have deposited the sum equal to Landlord's Capped Contribution in the Disbursement Account (sometimes referred to herein as the "**Project Funding Date**") for the Project. Tenant shall have direct and irrevocable access to the Disbursement Account. The only condition for Tenant drawing upon such funds in the Disbursement Account is Tenant not being in material default under this Agreement (which shall mean that all applicable notices shall have been given and all applicable cure periods shall have expired) and the proper submittal of Requisitions in accordance with the procedures set forth in (c) below. Notwithstanding anything set forth herein to the contrary, the Public/Private Ratio shall be applied to each Requisition submitted by Tenant, and Tenant's ability to draw on the Disbursement Account shall be limited by the Public Private Ratio – no draw may be more than the Public Share of the Public/Private Ratio for the Project Costs associated with each such Requisition. The proceeds in the Disbursement Account may only be used by Tenant for Project Costs, and not for any other purposes. Subject to the limited rights of Landlord to pay the Public/Owner Representative as provided in **Section 12.01**, only Tenant shall be permitted to expend funds in the Disbursement Account. Following the deposit of the Landlord's Capped Contribution, neither Landlord nor the County shall have any further obligation to fund additional Project Costs amounts, subject to Landlord's Obligations under **Section 5.02** hereof.

(c) On and after the Project Funding Date, Tenant shall have the right, from time to time, to submit to Landlord a draw request requesting that Landlord

(or the Bond Trustee) make a distribution of the proceeds of the Disbursement Account to Tenant to reimburse or pay Tenant the Public Share of Project Costs incurred or due and payable by Tenant in connection with the development and construction of the Project (each, a "**Requisition**"). In order to draw the Public Share of Project Costs from the Disbursement Account for each Requisition, Tenant must provide evidence of Project Costs equal to the Private Share of the Public/Private Ratio which are or will be paid with Tenant's Contribution for each such Requisition. Tenant must also provide to Landlord any reports and supporting documentation reasonably required by Landlord to evidence Tenant's payment of Prevailing Wages for and in connection with each Requisition. Each Requisition shall be accompanied by copies of invoices, cancelled checks or such other backup documentation substantiating such costs incurred or due and payable by Tenant. Upon receipt of a Requisition from Tenant, the Bond Trustee shall act on such Requisition pursuant to the procedures and within the time frames (the "**Disbursement Procedures**") set forth in Exhibit D attached hereto.

(d) Landlord agrees that Requisitions submitted by Tenant for reimbursement of Project Costs may include the Advance Costs for the Project as defined in Section 3.03 of the New Stadium Lease.

(e) Landlord shall not be obligated to approve a Requisition unless Tenant has demonstrated the availability of the amount of Tenant's Contribution required to fund the Private Share of the amount of such Requisition.

(f) From time-to-time, Tenant may give notice to Landlord of specific materials; equipment, fixtures or other elements of the Project for which Tenant desires to make payment ("**Specific Expenses**") solely from Tenant's Contribution. Tenant shall have the right to exercise its rights under this **Section 6.06(e)** if and to the extent that Landlord shall reasonably determine, upon advice of bond counsel, that Tenant's exercise of its rights hereunder shall not adversely affect the tax-exempt status of the New Bonds. If Tenant elects to make payment of Specific Expenses as provided herein, Tenant shall pay such Specific Expenses directly to the vendor to which the identified Specific Expenses are due and payable. Tenant's payment of Specific Expenses will be deemed an advance of Tenant's Contribution by Tenant, and the amounts so paid shall be subject to "true-up," to maintain the Public/Private Ratio, upon the submission of the next Requisition.

Section 6.07 Savings on Project Costs; Handling of Disbursement Account Balance. The parties hereby agree that the following shall apply to any savings upon Completion of the Project. If and to the extent that, upon completion of the Project (including all Deferred Items, if any) and final payment of all Project Costs, there remains any balance in the Disbursement Account, then (a) the Public Share of the balance in the Disbursement Account shall be disbursed to Landlord/County, and (b) the Private Share of such balance shall be disbursed to Tenant, all on the basis of the Public/Private Ratio are as set forth in **Section 6.05(b)(iii)**. Landlord's part of any such



savings shall be placed in the Baseball Stadium RMMO Fund (as defined in the New Stadium Lease).

Section 6.08 Landlord Audit Rights. Landlord and the County shall have the right to audit, upon reasonable notice and, at their own expense, the Disbursement Account and all expenditures paid from the Disbursement Account. Provided that such procedure is permitted under the Bond Indenture, upon reasonable prior notice and written request by Landlord to the Bond Trustee, the Bond Trustee shall provide access to all records controlled by, or in the possession or control of the Bond Trustee (other than records subject to legitimate claims of attorney-client privilege) directly relating to the Requisitions and the Disbursement Account, to permit review of such records in connection with conducting a reasonable audit of such draw requests. Tenant shall reasonably cooperate with the assigned independent auditors (internal or external) in this regard. Audits under this Section shall not occur more frequently than once every six (6) months; provided, however, that if a Material Error (as defined below) has been detected, the Disbursement Account shall be subject to audit at more frequent intervals (not more frequently than monthly), as deemed appropriate by the auditing entity. The party conducting an audit shall provide a complete copy of the audit report to the Tenant promptly following receipt of such report. Each party or entity shall bear the costs incurred by it in connection with the audit rights in this Section, which shall not be recoverable as Project Costs.

ARTICLE 7 COMPLETION

Section 7.01 Substantial Completion. The Project shall be considered "Substantially Complete" (or "Substantial Completion" has occurred) if all material aspects of the Improvements (excluding "punch list" type items, landscaping or exterior finishes (to the extent that such finishes cannot be applied due to weather conditions or would be damaged during the course of subsequent construction) and hereinafter referred to as "Deferred Items") have been completed in accordance with the approved Final Construction Documents. Substantial Completion, subject to Force Majeure or other delays, is presently planned to be accomplished not later than Spring 2029.

Section 7.02 Hosting of Sporting Events Prior to Substantial Completion. Notwithstanding the provisions of **Section 7.01** above, upon the Improvements in question meeting all applicable fire and safety codes, Tenant may, pursuant to and under the provisions of the New Stadium Lease, commence hosting sporting events, concerts and other events at the Project (together with concession sales at the Project) prior to the occurrence of Substantial Completion.

Section 7.03 Effect of Substantial Completion; Certificate of Completion. Upon Substantial Completion of the Project, this Agreement will terminate, except for completion and payment provisions of this Agreement regarding any Deferred Items and other provisions to survive such terminations and except for provisions which otherwise expressly survive the termination of this Agreement. Upon completion of all Deferred Items, Landlord and Tenant will execute an instrument (the "Certificate of



Completion") confirming the termination of this Agreement upon the written request of either Party or the County.

ARTICLE 8

ENCUMBRANCES AND LIENS

Section 8.01 No Mortgage, Etc.

(a) No Mortgage of Fee. Tenant may not under any circumstance engage in any financing or other transaction creating any mortgage, lien or other encumbrance on the County's fee interest, or Landlord's leasehold interest, in the Site, the Improvements or any other physical portion of the Project, except as set forth in the New Stadium Lease.

(b) Security Interest in this Agreement. Except as permitted in this Agreement, Tenant may not engage in any financing or other transaction creating any mortgage or deed of trust, lien (including a mechanic's lien) or other encumbrance on Tenant's interest in this Agreement. Notwithstanding the foregoing, it is understood that Tenant may mortgage, assign, grant a security interest in, pledge or otherwise encumber its interest in revenues derived from or related to the Project as security for a loan or financing obtained by Tenant or an Affiliate of Tenant or otherwise as permitted under the New Stadium Lease. Landlord/County agrees to execute and deliver such documents and to provide such assurances as may reasonably be requested by Tenant or its lender in connection with any such financing.

(c) Effect of Unpermitted Mortgage. Any mortgage, encumbrance or lien not permitted by this Article is a violation of this covenant on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

(d) Contests. Tenant will be permitted to contest the validity or amount of any tax, assessment, encumbrance or lien and to pursue any remedies associated with such contest; provided, however, such contest and pursuit of remedies does not subject the Site or any portion thereof to forfeiture or foreclosure type sale.

ARTICLE 9

FURTHER ACTIONS; REASONABLENESS AND COOPERATION BY PARTIES;

TIME FOR CERTAIN ACTIONS

Section 9.01 Further Actions. Each Party, and the County, agrees to take such further actions and to execute such additional documents or instruments as may be reasonably requested by the other Party, or the County, to carry out the provisions of this Agreement.

Section 9.02 Reasonableness and Cooperation by Parties. Except where expressly stated to be in a Party's, or the County's, sole discretion, or where it is stated that a Party, or the County, has the ability to act in its sole judgment or for its own uses

or purposes, wherever it is provided or contemplated in this Agreement that a Party, or the County, must give its consent or approval to actions or inactions by the other Party or the County or a third person in connection with this Agreement, unless otherwise required by Applicable Laws, such consent or approval will not be unreasonably withheld, conditioned or delayed nor will any other determinations which must be made by a Party, or the County, in the course of performing and administering this Agreement be unreasonably made. Except as otherwise stated in this Section, the Parties, and the County, each also agree to cooperate with and reasonably assist each other in good faith in carrying out the provisions of this Agreement.

Section 9.03 Time for Certain Actions. If no time period is set hereunder for a Party, or the County, to approve or consent to an action or inaction by the other Party, or the County, or a third person, such approval shall be given or affirmatively withheld in writing within ten (10) days after it is requested in writing or it shall be deemed given.

ARTICLE 10

ASSIGNMENT AND TRANSFER

Section 10.01 Prohibition Against Transfer of the Agreement. Except as allowed in **Section 8.01**, Tenant may not sell, convey, assign, transfer, alienate or otherwise dispose of all or any of its interest or rights in this Agreement, including any right to develop the Site or otherwise do any of the above or make any contract or agreement to do any of the same ("**Transfer**"), without in each instance obtaining the prior written approval of Landlord; provided, however, that assignments, transfers and conveyance as described in Section 29.02 of the New Stadium Lease shall not constitute a Transfer.

Section 10.02 Effect of Violation.

(a) Event of Default. Any Transfer made in violation of **Section 10.01** shall be void, and shall constitute an Event of Default if such Transfer is not rescinded upon notice by the Landlord pursuant to **Section 11.01(h)**.

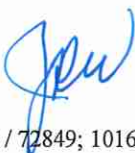
(b) No Release of Obligation. Except as expressly provided in the New Stadium Lease or by the specific written approval of Landlord and the County, which Landlord and the County may give or withhold in their sole discretion, no Transfer will relieve Tenant from any obligations under this Agreement.

(c) Transfer by Landlord. Landlord may only transfer its interest in and to its interests or rights under this Agreement to any Person to whom Landlord may assign its rights under the New Stadium Lease as provided for in the New Stadium Lease.

ARTICLE 11

DEFAULTS, REMEDIES AND TERMINATION

Section 11.01 Tenant Default.



The following constitute a "**Tenant Default**":

(a) subject to Force Majeure: (i) Tenant fails to use reasonable commercial efforts to cause the General Contractor to complete the Project in accordance with the Final Project Schedule (subject to Tenant's right to revise the same in accordance with **Section 4.30** hereof) and the Final Project Program; or (ii) Tenant abandons or substantially suspends construction of the Project for more than sixty (60) consecutive days and any such failure, abandonment or suspension continues for a period of thirty (30) days from the date of written notice from Landlord as to failure to pursue construction, abandonment, suspension, or failure of completion.

(b) Tenant fails to (i) pay any amount or amounts (including, but not limited to, payment for Project Cost Overruns) required to be paid under this Agreement at any time when due, and any such failure continues for fifteen (15) business days following written notice from Landlord to Tenant, provided; however, that Tenant shall have the right to contest the amount or propriety of any amounts due to Landlord hereunder in accordance with **Section 11.06** hereof, or to contest the amount or propriety of any amounts due to any third party so long as Tenant shall provide to Landlord assurances reasonably acceptable to Landlord for the payment of such amounts upon the completion of such contest.

(c) Tenant files a petition for relief, or an order for relief is entered against Tenant, in any case under applicable bankruptcy or insolvency law, or any comparable law that is now or hereafter may be in effect, whether for liquidation or reorganization, which proceedings are not dismissed or stayed within sixty (60) days;

(d) a writ of execution is levied on Tenant's interest in this Agreement which is not released within sixty (60) days, or a receiver, trustee or custodian is appointed to take custody of all or any material part of the property of Tenant, which appointment is not dismissed within sixty (60) days;

(e) Tenant makes a general assignment for the benefit of its creditors;

(f) Tenant fails to maintain or to cause its Architect or General Contractor to maintain insurance required pursuant to **Section 5.04**, or fails to deliver certificates as required pursuant to that Section, and such failure continues for thirty (30) days following written notice from Landlord to Tenant;

(g) without limiting any other provisions of this Section, Tenant violates in a material respect any other covenant, or fails to perform any other obligation to be performed by Tenant under this Agreement (excluding, however, any obligations under the CBA that are incorporated herein by reference) at the time such performance is due, and such violation or failures continues without cure for more than thirty (30) days after written notice from Landlord specifying the nature of such violation or failure, or, if such cure cannot reasonably be completed within



such thirty (30) day period, if Tenant does not within such thirty (30) day period commence such cure, or having so commenced, does not prosecute such cure with diligence and dispatch to completion within a reasonable time thereafter; or

(h) there shall occur a Transfer in contravention of **Article 10** that is not terminated or rescinded within thirty (30) days of notice by Landlord to Tenant.

Section 11.02 Special Cure Rights of Tenant and Remedies of Landlord.

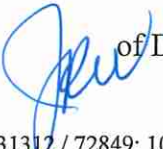
(a) Subsection 11.02(a) Notice and Cure. If a Tenant Default shall occur under **Subsections 11.01(a), (b), (c), (f), (g) or (h)** (collectively, a "**Subsection 11.02(a) Tenant Default**"), then Landlord shall, after delivery of written notice and expiration of the applicable cure period provided under the applicable subsection of **Section 11.01**, send written notice (a "**Subsection 11.02(a) Landlord Notice**") to Tenant and any Leasehold Mortgagee that such Subsection 11.02(a) Default has occurred and Tenant shall have ten (10) business days from and after such Subsection 11.02(a) Landlord Notice to cure such default (the "**Subsection 11.02(a) Ten Day Tenant Cure Period**").

(b) Tenant Event of Default. If a Subsection 11.02(a) Tenant Default shall have occurred and not been cured by either Tenant or any Leasehold Mortgagee within the Subsection 11.02(a) Ten Day Cure Period, then such failure to cure a Subsection 11.02(a) Tenant Default shall constitute a "**Subsection 11.02(b) Tenant Default**". The occurrence of a Subsection 11.02(b) Tenant Default or a Tenant Default under any of the **Subsections 11.01(c), (d) or (e)** shall constitute a "**Tenant Event of Default**."

(c) Landlord's Remedies Generally. Subject to the specific requirements of **Subsection 11.02(e)** below, upon the occurrence and during the continuance of a Tenant Event of Default under this Agreement, Landlord shall have all rights and remedies provided in this Agreement. All of Landlord's rights and remedies under this Agreement shall be cumulative, and except as may be otherwise provided by Applicable Law, the exercise of any one or more rights shall not preclude the exercise of any others (provided that in no event shall Landlord have the right to terminate this Agreement).

(d) Specific Performance and Injunctive Relief. Landlord may institute an action for specific performance and/or injunctive relief to the extent allowed by Applicable Laws.

(e) Damages. Tenant shall be liable to Landlord/County for actual damages provided, however, that: (i) Tenant shall not be liable for any consequential or incidental damages or for exemplary damages, whether Landlord's action sounds in contract, tort or other legal theory; and (ii) Landlord and County shall make reasonable efforts to mitigate damages.

 **Section 11.03 Events of Default – Landlord.** The following constitute Events of Default by Landlord (a "**Section 11.03 Landlord Event of Default**"):

(a) Landlord fails to authorize a Requisition disbursement from the Disbursement Account in accordance with **Section 6.06** and **Exhibit D** of this Agreement; or

(b) Landlord fails to commence promptly, or after commencement fails to prosecute diligently, the performance, of any of the Landlord's Obligations.

(c) Landlord files a petition for relief, or an order for relief is entered against Landlord, in any case under applicable bankruptcy or insolvency law, or any comparable law that is now or hereafter may be in effect, whether for liquidation or reorganization, which proceedings if filed against Landlord are not dismissed or stayed within sixty (60) days;

(d) a writ of execution is levied on Landlord's interest in this Agreement which is not released within sixty (60) days, or a receiver, trustee or custodian is appointed to take custody of all or any material part of the property of Landlord, which appointment is not dismissed within sixty (60) days;

(e) Landlord makes a general assignment for the benefit of its creditors;

(f) without limiting any other provisions of this Section, Landlord or County violates in a material respect any other covenant, or fails to perform any other obligation to be performed by Landlord or County under this Agreement at the time such performance is due, and such violation or failure continues without cure for more than thirty (30) days after written notice from the Tenant to Landlord and County specifying the nature of such violation or failure, or, if such cure cannot reasonably be completed within such thirty (30) day period, if Landlord or County does not within such thirty (30) day period commence such cure, or having so commenced, does not prosecute such cure with diligence and dispatch to completion within a reasonable time thereafter.

For purposes of this **Article 11**, a default or failure by the County under this Agreement shall be considered a default or failure by Landlord under this Agreement.

Section 11.04 Remedies of Tenant. Upon the occurrence of a Section 11.03 Landlord Event of Default, Tenant has the rights and remedies set forth below:

(a) Suspension of Performance. Tenant, in its sole discretion, shall have the right to slow down or suspend its performance under this Agreement until such Event of Default has been cured by Landlord or County.

(b) Termination. In the event that (i) a Section 11.03 Landlord Event of Default occurs under **Section 11.03(a), (b) or (f)** which has not been cured within the thirty (30) days of the date of Tenant's notice of default pursuant to **Section 11.03(a)** (a "**Subsection 11.03(a) Landlord Event of Default**"), or (ii) an Event of Default under **Sections 11.03(c) through (e)** has occurred (a "**Subsection 11.03(c) through (e) Landlord Event of Default**"), Tenant may terminate this Agreement by giving written notice to Landlord and County of such termination



(the "**Landlord Termination Notice**"). Termination of this Agreement shall thereafter occur (x) on the date which is ten (10) business days after the date of the Landlord Termination Notice with respect to a Subsection 11.03(a) Landlord Event of Default, and (y) on the date which is thirty (30) days after the date of the Landlord Termination Notice with respect to a Subsection 11.03(c) through (e) Landlord Event of Default; provided, however, such termination of this Agreement will be (A) cancelled if the Landlord or County cures such Event of Default by the Landlord prior to the expiration of the applicable grace period after the date of the Landlord Termination Notice, or (B) suspended, pending the outcome of the expedited dispute resolution procedure set forth in **Section 11.06** below, if Landlord provides written notice to Tenant prior to the expiration of the applicable grace period after the date of Landlord Termination Notice that such party disputes whether an Event of Default by Landlord actually exists. If the Landlord should lose the dispute resolution set forth in **Section 11.06**, then the above suspension in this **Section 11.04(b)** shall be terminated and the Landlord shall have ten (10) business days from the date the Landlord receives notice of the determination of the resolution of the dispute in order to cure such Event of Default. If Landlord fails to cure such default within such ten (10) business days after Landlord receives notice of such dispute determination under **Section 11.06** below, then this Agreement shall terminate at the end of such ten (10) day period. If Landlord should win such dispute resolution, then the termination under Landlord Termination Notice shall be cancelled. No act by Tenant other than giving notice of termination to Landlord in writing shall terminate this Agreement. On termination of this Agreement under this **Section 11.04(b)**, all rights of Landlord under this Agreement shall cease. In such event, the New Stadium Lease shall terminate simultaneously upon any termination by Tenant of this Agreement.

(c) Specific Performance or Injunctive Relief. Tenant may institute an action for specific performance and/or injunctive relief to the extent allowed by Applicable Laws.

(d) Damages. Landlord will be liable for actual damages, provided that: (i) Landlord shall not be liable for any consequential or incidental damages (including, but not limited to, lost profits); and (ii) Tenant shall make reasonable efforts to mitigate damages.

(e) Other Remedies. Subject to the limitations in **Section 11.04(d)**, Tenant is entitled to all other remedies permitted by law or at equity; provided, however, that a limitation upon the circumstances under which a remedy may be exercised under this **Section 11.04** shall similarly limit the exercise of the same or a similar right under any other law or at equity.

Section 11.05 General.

(a) Institution of Legal Actions. Subject to the limitations contained in this Agreement, either Party may institute legal action to cure, correct or remedy any default, to recover damages for any default or to obtain any other remedy



consistent with the terms of this Agreement. Such legal actions shall be instituted in the Circuit Court of Jackson County, Missouri, or, if appropriate, in the Federal District Court in Kansas City, Missouri.

(b) Acceptance of Service of Process. In the event that any legal action is commenced by Tenant against Landlord, service of process shall be made by personal service upon the Executive Director of the Landlord, or in such other manner as may be provided by law. In the event that any legal action is commenced by the Landlord (or the County) against Tenant, service of process on Tenant shall be made by personal service upon Tenant at the address provided for notices or such other address as shall have been given to Landlord by Tenant under **Section 13.02**, or in such other manner as may be provided by law, and will be valid whether made within or outside of the State of Missouri.

(c) Rights and Remedies Are Cumulative. Except with respect to any rights and remedies expressly declared to be exclusive in this Agreement, and subject to other express limitations upon the amount or kind of damages or the circumstances under which remedies may be exercised, the rights and remedies of the Parties to this Agreement, whether provided by law, in equity or by this Agreement, are cumulative. The exercise by either Party of any one or more of such remedies provided for in this Agreement will not preclude the exercise by it, at the same or a different time, of any other such remedies provided for in this Agreement for the same default or breach or of any of its remedies for any other default or breach by the other Party provided for in this Agreement. No waiver made by either Party with respect to the performance, or manner or time of performance, or any obligation of the other Party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived to the extent of such waiver, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

Section 11.06 Expedited Dispute Resolution.

(a) Application of This Section. This **Section 11.06** shall apply to any disputes between Landlord (and/or the County) and Tenant concerning the declaration of a Subsection 11.02(b) Tenant Default or a Section 11.03 Landlord Event of Default or as otherwise provided in this Agreement. In the event that any dispute is of such a nature that the aggrieved party believes it will suffer immediate irreparable injury unless immediate injunctive relief or specific performance is granted, the aggrieved Party may proceed immediately to seek appropriate judicial resolution of such dispute (including, but not limited to, specific performance and/or injunctive relief) without first exhausting such party's remedies under this **Section 11.06**.

(b) Dispute Resolution Process. In the event that any declaration of a Subsection 11.02(b) Tenant Default or a Section 11.03 Landlord Event of Default



arises under this Agreement or as otherwise provided in this Agreement, the following procedure shall apply:

(i) The aggrieved Party (the "**Initiating Party**") shall give written notice to the other Party (the "**Responding Party**") outlining in reasonable detail the subject and nature of the declaration of an Event of Default or such other dispute, along with any supporting documentation (the "**Dispute Notice**").

(ii) Within three (3) business days after the date of the Dispute Notice, the Executive Director of Landlord and the President or a Senior Vice-President of Tenant, or such representative of Landlord or Tenant as their respective Executive Director and President/Senior Vice President shall so designate, shall meet in person within five (5) business days of the date of the Dispute Notice and negotiate in good faith to resolve the dispute (the "**Initial Meeting**").

(iii) In the event that the Initial Meeting is unsuccessful in resolving the dispute within five (5) business days of the Initial Meeting, then the dispute shall be submitted to a committee consisting of three (3) people (the "**Dispute Committee**"), one of whom shall be appointed by Landlord, one of whom shall be appointed by Tenant, and one of whom shall be appointed by the first two members of the Dispute Committee or, if such two members cannot mutually agree upon a third member of the Dispute Committee, then the two members will request the appointment of a third member by the American Arbitration Association or similar organization selected by the two initial members of the Dispute Committee. The members of the Dispute Committee shall be unaffiliated with either Party, and each member shall be an attorney with at least ten (10) years of practice in construction law in the states of Missouri or Kansas. Each of the Initiating Party and Responding Party shall have the opportunity to present written evidence to the Dispute Committee concerning the dispute, and shall be available to answer questions if requested by the Dispute Committee. The Dispute Committee shall meet within ten (10) days after its Initial Meeting and shall attempt to resolve the dispute. A decision of a majority of the Dispute Committee shall be binding and not subject to appeal.

(iv) In the event that the Dispute Committee is unsuccessful in resolving the dispute within thirty (30) days after the Initial Meeting, then the Dispute Committee shall appoint a retired judge with significant expertise in the area(s) of the law at issue in the dispute to resolve the dispute (the "**Retired Judge**"). In the event that the Dispute Committee cannot, by majority rule, agree to the appointment of the Retired Judge, then the Retired Judge shall be appointed by the Presiding Judge of the Circuit Court of Jackson County, Missouri. The Retired Judge shall review the Dispute Notice, any documentation submitted by the Initiating Party and the Responding Party to the Dispute Committee, and any other documentation prepared by the Dispute Committee, and shall make a determination based on such evidence within fifteen (15) days after such Retired Judge's appointment. The Retired Judge shall have the authority to order specific performance or mandamus



relief if the circumstances so warrant. The determination of the Retired Judge shall be binding and not subject to appeal.

(v) The Dispute Notice, any information provided to the Dispute Committee, the findings of the Dispute Committee, and all other information concerning the dispute resolution process shall be kept confidential to the fullest extent permitted by Applicable Laws.

(vi) The costs and expenses, including Attorneys' Fees and Costs, of the expedited dispute resolution process provided for in this **Section 11.06** shall be borne equally by the Parties and shall not be considered a Project Cost; provided, however, that the Dispute Committee or the Retired Judge shall have the right to award, in connection with its decision, costs and expenses of the expedited dispute resolution process to a Party.

(c) Possible Revision/Alternative Dispute Resolution Board. If requested by Tenant during the Development Term, Landlord agrees to reasonably consider and cooperate with Tenant in possibly revising the dispute resolution provisions of this **Section 11.06** to improve the handling and/or timeliness of resolving disputes. This cooperation by Landlord shall include, upon request by Tenant, consideration of a dispute resolution board composed of persons with construction experience and expertise to decide any technical type disputes as they may arise between Landlord and Tenant concerning the Project. Such dispute resolution board (if requested by Tenant) may also be used to decide disputes by Tenant with its Architect, General Contractor and trade contractors of a technical nature if agreeable to such other Persons in their sole discretion.

ARTICLE 12

SPECIAL PROVISIONS

Section 12.01 Public/Owner Representative. The Parties recognize and agree that substantial public funds are to be invested in the Project. Therefore, the Parties agree that it is proper and desirable that the public have an independent professional and expert consultant to assist Landlord in monitoring and overseeing the design, development, construction and financial aspects of the Project to assist in protecting the public's interest. For this purpose, as soon as reasonably possible after the Effective Date, and pursuant to a RFQ Process, and subject to required reasonable confirmation by Landlord, Landlord will select the lowest and best bid and retain the appropriate person(s) or firm(s) to act as the "**Public/Owner Representative**" to perform such functions as more fully described in Exhibit E attached hereto. The total costs and expenses of the Public/Owner Representative, which shall not exceed the aggregate amount of \$1,200,000 per twelve (12) month period during the Development Term hereunder (with the first 12-month period to commence two (2) weeks prior to submission by Tenant of any Program and Schematic Designs for approval under **Article 4** hereof) shall be paid by Landlord from time to time as Project Costs from the proceeds of the New Bonds, pursuant to Requisitions filed by Landlord. The cost for the Public/Owner Representative shall be paid from the Disbursement Account as a



Project Cost. The cost of an MRE/WBE coordinator and a Workforce Coordinator (Prevailing Wage) if required under any CBA shall be paid from the Disbursement Agreement as a Project Cost.

Section 12.02 Community Benefit Agreement. If the County and the Tenant have not already done so, and subject to the Project moving forward, the County and Tenant will separately execute and carry out a Community Benefit Agreement (the "CBA").

Section 12.03 Prevailing Wages. Tenant shall cause the General Contractor and its subcontractors in constructing the Project to pay wages as required under Missouri's Prevailing Wage Law - RSMo Sections 290.210 — 290.340, inclusive ("Prevailing Wages"). Tenant shall provide reports and documentation to Landlord to evidence its payment of Prevailing Wages with each of its Requisitions as set forth in **Section 6.06(c)** above. Prevailing Wages shall also be applicable (i) to all batch and/or fabrication work on the Leased Premises or performed offsite at a plant dedicated in a substantial degree to the performance of the Project by Tenant of the General Contractor for use at the Leased Premises and (ii) to all transportation of materials and fabricated items produced by Tenant or the General Contractor to and from an offside batch plant or fabrication site dedicated in a substantial degree to the performance of the Project to the Leased Premises.

Section 12.04 Protections Against Work Stoppages. Tenant agrees to use its reasonable best efforts to prevent any slow-downs or work stoppages at the Project as a result of any of its contractors, tradesmen, delivery services or materials suppliers for the Project. Such actions shall include, without limitation, requiring any such contractors, tradesmen, delivery services or materials suppliers to use particular gates or entrances to the Site (with necessary signage), negotiating reasonably and in good faith to resolve any such work slow-down or work stoppage issues and, if necessary to prevent a material adverse effect on the Project, including material delays, the replacement of any such contractors, tradesmen, delivery services or materials suppliers.

Section 12.05 No Tenant Liability for Bonds. Landlord and Tenant hereby understand and agree that Tenant shall have no responsibility or liability for the negotiation, issuance or repayment of the New Bonds. Landlord and Tenant hereby agree that Tenant shall not be required to provide any guaranty to the holders of the New Bonds or any other form of credit enhancement for the New Bonds.

ARTICLE 13

GENERAL PROVISIONS

Section 13.01 Force Majeure — Extension of Time of Performance.

(a) Effect of Force Majeure. For the purpose of any of the provisions of this Agreement, including, without limitation, the Preliminary Project Schedule and Final Project Schedule (as the same may be revised from time to time in accordance with **Section 4.30** hereof), neither Tenant, Landlord nor any successor



in interest (the "**Delayed Party**," as applicable) will be considered in breach of or default in any obligation or satisfaction of a condition to an obligation of the other Party), in the event of Force Majeure.

(b) Definition of Force Majeure. "**Force Majeure**" means events that cause delays in the Delayed Party's performance of its obligations under this Agreement, or in the satisfaction of a condition to the other Party's performance under this Agreement, due primarily to causes beyond the Delayed Party's control, including, but not restricted to: acts of God or of the public enemy, terrorist acts, malicious mischief acts of the government (including any delay in the issuance of permits applicable to the Site or the Improvements) fires, floods, tidal waves, epidemics, pandemics, quarantine restrictions, freight embargoes, earthquakes, unusually severe or adverse weather, delays of architects, design professionals, contractors or subcontractors that are not caused by the fault of Tenant, the unanticipated presence of Hazardous Materials or other concealed conditions on the Site that would materially and adversely impair Tenant's ability to construct the Project, archeological finds on the Site, strikes, lack of availability of labor and substantial interruption of work because of labor disputes, failure by Landlord without lawful excuse to timely grant approvals hereunder, inability to obtain materials or services or reasonably acceptable substitute materials or services (provided that Tenant has ordered such materials or services on a timely basis and Tenant is not otherwise at fault for such inability to obtain materials or services), any event entitling the Architect, General Contractor or any trade contractor to an extension of time under its contract with Tenant, unlawful detainer actions or other administrative appeals, litigation or arbitration relating to the relocation of tenants, licensees, or others from the Site, or any Litigation Force Majeure or Regulatory Force Majeure (defined below) or other administrative appeals, litigation and arbitration relating to the construction of the Project (provided that the Delayed Party proceeds with due diligence to defend such action or proceeding or take other appropriate measures to resolve any dispute that is the subject of such action or proceeding). In the event of the occurrence of any Force Majeure, the time or times for performance of the obligations of Tenant or Landlord will be extended for the period of the delay. Notwithstanding anything to the contrary in this Section, the lack of credit or financing for Tenant's Contribution or responsibility for Project Cost Overruns under this Agreement shall not be considered to be a matter beyond Tenant's control and therefore no event caused by a lack of such financing in and of itself shall be considered to be an event of Force Majeure for purposes of this Agreement.

(c) Definition of Litigation Force Majeure. "**Litigation Force Majeure**" means any action or proceeding before any court, tribunal, or other judicial, adjudicative or legislative decision-making body, including any administrative appeal, brought by a third party, (i) which seeks to challenge the validity of any action taken by Landlord or County in connection with the Project, including execution, and delivery of this Agreement, the New Stadium Lease or the Amended Lease and its performance hereunder, the County's approval, execution and delivery of any resolution of, or other action by, Landlord or County approving



the Landlord's execution and delivery of this Agreement, the performance of any action required or permitted to be performed by the Landlord or County hereunder or any findings upon which any of the foregoing are predicated or (ii) which seeks to challenge the validity of any other Regulatory Approval. Performance by a party hereunder shall be deemed delayed or made impossible by virtue of Litigation Force Majeure during the pendency thereof, and until a judgment, order, or other decision resolving such matter in favor of the party whose performance is delayed has become final and nonappealable. Under no circumstances shall the delay attributable to an event of Litigation Force Majeure extend beyond three (3) years unless such limitation is expressly waived by both Parties. The Parties shall each proceed with due diligence and shall cooperate with one another to defend the action or proceeding or take other measures to resolve the dispute that is the subject of such action or proceeding.

(d) Permits. If Tenant is diligently proceeding to obtain any necessary Building Permits or other Regulatory Approvals for the Improvements, Force Majeure includes Tenant's inability to obtain Building Permits or other Regulatory Approvals ("**Regulatory Force Majeure**"). Tenant shall not be required to proceed (but shall, at its sole option, have the right to proceed) with any construction or other development activities pursuant to any so-called "at-risk" Building Permit or any other Regulatory Approvals pursuant to which a subsequent failure to obtain a full building permit or permanent Regulatory Approval can result in any obligation to remove work completed or improvements made pursuant to such "at-risk" permit or Regulatory Approvals.

(e) Regulatory Force Majeure. If any necessary Regulatory Approval contains a requirement or condition of approval that requires the construction of improvements upon real property other than the Site, the construction of which improvements: (i) is not expressly specified in the Final Project Program, and (ii) either: (A) in the reasonable opinion of Tenant, is likely to contribute to Tenant Project Cost Overruns, or (B) requires entry upon property owned by third parties whose consent cannot be obtained after using commercially reasonable efforts, then Regulatory Force Majeure includes Tenant's appeal of such Regulatory Approval and other efforts by or on behalf of Tenant to obtain the removal of the objectionable requirement as a condition of approval, and the removal of such requirement is a condition precedent upon Tenant's obligations hereunder.

Section 13.02 Requests for Approval; Notices.

(a) Requests for Approval. In order for a request for any approval required under the terms of this Agreement to be effective, it shall state (or be accompanied by a cover letter stating) substantially the following:

(i) the section of this Agreement under which the request is made and the action or response required;



(ii) if applicable, the period of time within which the recipient of the notice shall respond; and

(iii) if applicable, that the failure to object to the notice within the stated time period will be deemed to be the equivalent of the recipient's approval of or consent to the request for approval which is the subject matter of the notice.

In no event shall a recipient's approval of or consent to the subject matter of a notice be deemed to have been given by its failure to object to such notice if such notice (or the accompanying cover letter) does not comply with the requirements of this Section.

(b) Notices Generally. Where any provision is made in this Agreement for the giving of a notice or the making of a demand, such notice or demand (hereinafter in this **Section 13.02(b)** collectively called a "**notice**") shall be in writing and shall be served as provided in this **Section 13.02(b)** (except that if any express provision for the giving of any notice set forth elsewhere in this Agreement conflicts with any provision of this **Section 13.02(b)**, such other express provision shall govern). Notices sent by a party's counsel, or the County's special counsel, shall be deemed notices sent by such party or the County, as the case may be.

(c) Notices to Landlord. All notices to Landlord under this Lease shall be either delivered personally in hand or sent by U.S. certified mail, return receipt requested, postage prepaid, or sent by a recognized overnight delivery service, addressed to Landlord as follows:

Jackson County Sports Complex Authority
8501 Stadium Drive, Four Arrowhead Drive
Kansas City, Missouri 64129
Attn: Chairperson and Executive Director

and with a copy to its Counsel:

Rouse Frets White Goss Gentile Rhodes, P.C.
4510 Belleview Avenue, Suite 300
Kansas City, Missouri 64111-3538
Attn: Mike T. White, Esq.
Attn: John R Weisenfels, Esq.

and with a copy to:

Jackson County, Missouri
415 East 12th Street
Kansas City, Missouri 64106
Attn: Office of the County Counselor

or at such other address or addresses as may from time to time hereafter be designated by Landlord (or by Landlord's Counsel or by the County or by County's Special Counsel for its address) to Tenant by notice.

(d) Notices to Tenant. All notices to Tenant under this Agreement shall be either personally delivered in hand or sent by U.S. certified mail, return receipt requested, postage prepaid, or sent by a recognized overnight delivery service, addressed to Tenant as follows:

Kansas City Royals Baseball Club, LLC
1 Royal Way
Kansas City, MO 64129
Attn: Chief Legal Officer
Attn: Chief Operating Officer

and with a copy to its Counsel:

Bryan Cave Leighton Paisner LLP
1200 Main Street, Suite 3800
Kansas City, MO 64105
Attn: Wesley Fields, Esq.

and with a copy to its Counsel:

Stinson LLP
1201 Walnut, Suite 2600
Kansas City, Missouri 64106
Attn: David W. Frantze, Esq.
Attn: Todd A. LaSala, Esq.

or at such other address or addresses as may from time to time hereafter be designated by Tenant (or by Tenant's Counsel for its address) to Landlord by notice.

(e) Effective Time of Notices. All notices delivered personally, or sent by a recognized overnight delivery service, shall, for all purposes, be deemed to have been given and served when so delivered. All mailed notices shall be deemed to have been given and served three (3) days after being deposited in the United States mail in the manner prescribed in the Sections set out above.

Section 13.03 Conflict of Interest. No member, official or employee of the County or the Landlord may have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to this Agreement which affects her or his personal interest or the interests of any corporation, partnership, company, association or other entity in which she or he is interested directly or indirectly.



Section 13.04 Estoppel Certificates. Within ten (10) business days after notice from another Party hereto, the other Party will execute and deliver to the requesting Party an estoppel certificate certified by the non-requesting Party executing it and containing the following information as to the Site and any Improvements, to the best of the certifying Party's knowledge and belief:

(a) whether or not this Agreement is unmodified and in full force and effect (if there has been a modification of this Agreement the certificate shall state that this Agreement is in full force and effect as modified and shall identify the modification or, if this Agreement is not in full force and effect, the certificate shall so state);

(b) attach to the certificate a copy of this Agreement and any modification thereof and the certifying party will certify that such copies are true, correct and complete copies thereof;

(c) whether or not the certifying Party contends that the other Party is in default under this Agreement in any respect;

(d) whether or not there are then existing set-offs or defenses against the enforcement of any right or remedy of any Party, or any duty or obligation of the certifying Party; and

(e) any other matter directly related to this Agreement and reasonably requested by the requesting Party.

Section 13.05 Time of Performance.

(a) Expiration. All performance dates (including cure dates) expire at 5:00 p.m., Central Standard Time, on the performance or cure date.

(b) Weekends and Holidays. A performance date which falls on a Saturday, Sunday or Jackson County Government holiday is deemed extended to the next business day.

(c) Days for Performance. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

(d) Time of the Essence. Time is of the essence with respect to each required completion date in the Final Project Schedule, subject to the provisions of **Section 13.01** relating to Force Majeure.

Section 13.06 Interpretation of Agreement.

(a) Recitals, Exhibits and Schedules. Whenever an "Exhibit" is referenced, it means an Exhibit to this Agreement unless otherwise specifically identified. All such Exhibits are incorporated into this Agreement by reference.



Recitals found at the beginning of this Agreement and its Exhibits (including any attachments or schedules thereto) and any properly adopted amendments, supplements or replacements thereto are incorporated herein by reference and are important and material parts of this Agreement. If any of the Exhibits required hereunder are not available or completed upon the execution of this Agreement, the validity of this Agreement shall not be affected thereby and the Parties agree to use their reasonable best efforts to obtain or complete and reasonably agree to such Exhibits as soon as possible after the execution of this Agreement and attach the same to their respective copies of this Agreement.

(b) Captions. Whenever a section, article or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the articles, sections and subsections of this Agreement and in the Table of Contents have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

(c) Words of Inclusion. The use of the term "including," "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(d) No Presumption Against Drafter. This Agreement has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party (and the County) has been represented by experienced and knowledgeable legal counsel. Accordingly, this Agreement shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party (or the County) responsible for drafting any part of this Agreement.

(e) Costs and Expenses. The Party on which any obligation is imposed in this Agreement shall be solely responsible for paying all costs and expenses incurred in the performance of such obligation, except as otherwise provided in this Agreement.

(f) Agreement References. Wherever reference is made to any provision, term or matter "in this Agreement", "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered Article, section or paragraph of this Agreement or any specific subdivision of this Agreement.

Section 13.07 Successors and Assigns. This Agreement is binding upon and will inure to the benefit of the successors and permitted assigns of the Landlord and Tenant, subject to the limitations on assignment set forth in **Article 10**. Where the term



"Tenant" or "Landlord" is used in this Agreement, it means and includes their respective successors and assigns.

Section 13.08 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other Person shall have or acquire any right or action based upon any provisions of this Agreement except the County as otherwise specifically provided herein and except for any third parties that are specifically identified in the CBA as third party beneficiaries of this Agreement.

Section 13.09 Real Estate Commissions. Tenant and Landlord/County each represents to the other parties hereto that the representations engaged no broker, agent or finder in connection with this transaction. In the event any broker, agent or finder makes a claim, the Party through whom such claim is made agrees to Indemnify the other Parties from any Losses arising out of such claim.

Section 13.10 Counterparts. This Agreement may be executed at different times and in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the Party against whom enforcement is sought.

Section 13.11 Entire Agreement. This Agreement, the New Stadium Lease and other contemporaneously executed agreements between the Parties or an Affiliate constitute the entire agreement between the Parties with respect to the subject matter of this Agreement and supersede all negotiations or previous agreements between the Parties with respect to all or any part of the terms and conditions mentioned in or incidental to this Agreement. No parole evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement.

Section 13.12 Amendment. Neither this Agreement nor any of its terms may be terminated, amended or modified except by a written instrument executed by the Parties.

Section 13.13 Governing Law. The laws of the State of Missouri shall govern the interpretation and enforcement of this Agreement except those pertaining the conflicts of law.

Section 13.14 Extensions by Landlord. Upon the request of Tenant, Landlord, acting through the Landlord's Representative, may, by written instrument, extend the time for Tenant's performance of any term, covenant or condition of this Agreement or permit the curing of any default upon such terms and conditions as it determines appropriate, including but not limited to, the time within which Tenant shall agree to such terms or conditions; provided, however, any such extension or permissive curing of any particular default will not operate to release any of Tenant's obligations nor constitute a waiver of the Landlord's rights with respect to any other term, covenant or condition of this Agreement or any other default in, or breach of, this Agreement or



otherwise affect the time of the essence provisions with respect to the extended date or the other dates for performance under this Agreement. Tenant shall have the right to rely upon any extension of time executed by the Landlord's Representative in writing without inquiring whether Landlord has taken any necessary action to authorize such action.

Section 13.15 Authority of Certain Persons. The Executive Director of Landlord or his designee is authorized to execute on behalf of Landlord any closing or similar documents and any contracts, agreements, memoranda or similar documents with the State, regional or local entities or other Persons that are necessary or proper to achieve the purposes and objectives of this Agreement and do not materially increase the obligations of Landlord or County under this Agreement, if the Executive Director determines, in consultation with Landlord's counsel, that the document is necessary or proper. The Landlord's Executive Director's signature on any such document shall conclusively evidence such a determination by him or her.

Section 13.16 Attorneys' Fees. If either Party fails to perform any of its obligations under this Agreement or if any dispute arises between the Parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other Party on account of such default or in enforcing or establishing its rights under this Agreement, including, without limitation, court costs and reasonable Attorneys' Fees and Costs; provided, however, notwithstanding any other provision of this Agreement to the contrary, and except as otherwise provided in **Section 11.06**, each Party will be responsible for one-half of the costs and expenses incurred in connection with any expedited dispute resolution process pursuant to **Section 11.06** hereof. Any such Attorneys' Fees and Costs incurred by either Party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment.

Section 13.17 Relationship of Parties. None of the provisions in this Agreement shall be deemed to render Landlord or the County a partner in Tenant's business, or a joint venturer or member in any joint enterprise with Tenant.

Section 13.18 Severability. If any provision of this Agreement, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other Person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Agreement.



Section 13.19 Representations and Warranties of Tenant. Tenant represents and warrants as follows, as of the Effective Date and as of the date of Delivery:

(a) Valid Existence: Good Standing. Tenant is a corporation duly organized and validly existing under the laws of the State of Missouri. Tenant has all requisite power and authority to own its property and conduct its business as presently conducted. Tenant has made all filings and is in good standing in the State of Missouri.

(b) Authority. Tenant has all requisite power and authority to execute and deliver this Agreement and the agreements contemplated by this Agreement and to carry out and perform all of the terms and covenants of this Agreement and the agreements contemplated by this Agreement.

(c) No Limitation on Ability to Perform. Neither Tenant's articles of organization or bylaws, nor any other agreement or Law in any way prohibits, limits or otherwise affects the right or power of Tenant to enter into and perform all of the terms and covenants of this Agreement. Tenant is not a party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument which could prohibit, limit or otherwise affect the same. No consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other Person is required for the due execution, delivery and performance by Tenant of this Agreement or any of the terms and covenants contained in this Agreement. There are no pending or threatened suits or proceedings or undischarged judgments affecting Tenant before any court, administrative body, or arbitrator which might materially adversely affect the enforceability of this Agreement or the business, operations, assets or condition of Tenant.

(d) Valid Execution. The execution and delivery of this Agreement and the agreements contemplated hereby by Tenant has been duly and validly authorized by all necessary action. Upon full execution of this Agreement, this Agreement will be a legal, valid and binding obligation of Tenant, enforceable against Tenant in accordance with its terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally. Tenant has provided to Landlord a written resolution of Tenant authorizing the execution of this Agreement and the agreements contemplated by this Agreement.

(e) Default. The execution, delivery and performance of this Agreement (i) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (A) any agreement, document or instrument to which Tenant or any member is a party or by which Tenant's assets may be bound or affected, (B) any law, statute, ordinance, regulation, or (C) the articles of organization or bylaws of Tenant, and (ii) do not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of Tenant.



The representations and warranties in this Section shall survive any termination of this Agreement.

Section 13.20 Representations and Warranties of Landlord. Landlord represents and warrants as follows, as of the Effective Date and as of the date of Delivery:

(a) Valid Existence. Landlord is a political subdivision, duly organized, validly existing and in good standing under the laws of the State of Missouri, with full power and authority to conduct its business as presently conducted and to execute, deliver and perform its obligations under this Agreement.

(b) Valid Execution. Landlord has taken all necessary action to authorize its execution, delivery and, subject to any conditions set forth in this Agreement, performance of this Agreement. Upon the full execution of this Agreement, this Agreement shall constitute a legal, valid and binding obligation of Landlord, enforceable against it in accordance with its terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally.

(c) No Conflict. The execution, delivery and performance of this Agreement by Landlord does not and will not conflict with, or constitute a violation or breach of, or constitute a default under (i) the organizational documents of Landlord, (ii) any applicable law, rule or regulation binding upon or applicable to Landlord, or (iii) any material agreements to which Landlord is a party.

(d) No Litigation. There is no existing or, to Landlord's knowledge, pending or threatened litigation, suit, action or proceeding before any court or administrative body affecting Landlord or the Site that would, if adversely determined, adversely affect Landlord's ability to perform its obligations under this Agreement.

The representations and warranties in this Section shall survive any termination of this Agreement.

Section 13.21 Effective Date. This Agreement shall become effective on the date the Parties duly execute and deliver this Agreement following approval by the County. Where used in this Agreement or in any of its attachments, references to "the date of this Agreement," the "reference date of this Agreement," "Agreement date" or "**Effective Date**" will mean the Effective Date determined as set forth above and shown on the cover page and on Page 1 of this Agreement.

Section 13.22 Survival. In addition to these provisions especially stated to so survive, all provisions of this Agreement which by their terms provide for or contemplate obligations or duties of a Party which are to extend beyond the expiration or termination of this Agreement (and the corresponding rights of the other Party to enforce or receive the benefit of such obligations or duties), shall survive such expiration or termination.



ARTICLE 14

DEFINITIONS

For purposes of this Agreement, initially capitalized terms shall have the meanings ascribed to them in this Article:

"1990 Lease" as defined in **Recital D**.

"2006 Lease Amendment" is as defined in **Recital D**.

"2007 Lease Amendment" is as defined in **Recital D**.

"2024 Lease Amendment" is as defined in **Recital D**.

"Additional City Contribution" is as defined in Section 2.03(j).

"Additional Development" is as defined in Section 2.03(j). None of the terms of this Agreement are applicable to the Additional Development.

"Affiliate" means, when used with reference to either Party to this Agreement, any person or entity that controls a Party, that a Party controls or that is under common control with a Party, whether by contract, ownership of stock or other means. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person.

"Agents" means, when used with reference to either Party to this Agreement or any other Person, the members, officers, directors, commissioners, employees, agents and contractors of such Party or other Person and their respective heirs, legal representatives, successors and assigns.

"Agreement" means this New Baseball Stadium Development Agreement, as it may be amended in accordance with its terms, including all Exhibits attached hereto.

"Applicable Laws" as defined in Section 10.03 of the New Stadium Lease.

"Approved Plans" shall mean and refer to the Schematic Drawings, final Design Development Documents, Final Project Program, construction phase drawings and specifications and such other documents as the Architect and other professionals may prepare, setting forth in detail the requirement for the development and construction of the Project as the same are approved by Landlord and Tenant (if and to the extent as herein provided), as the same may be amended from time to time as provided for herein.

"Architect" as defined in **Section 4.04**.

"Architect's Agreement" as defined in **Section 4.04**.

"Attorneys' Fees and Costs" means any and all reasonable attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit

preparation, courier, postage, court costs and the costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, fees and costs associated with execution upon any judgment or order, and costs on appeal.

"Bond Indenture" as defined in **Section 6.05(d)**.

"Bond Proceeds" means the net proceeds of the New Bonds distributed into the Disbursement Account.

"Bond Trustee" as defined in **Section 6.05(d)**.

"Building Compliance Procedures" as defined in **Section 2.06(b)**.

"Business Day" or **"business day"** means a day which is not a Saturday, Sunday or Jackson County government holiday.

"CBA" as defined in **Section 12.02**.

"Certificate of Completion" as defined in **Section 7.03**.

"City" means the City of Kansas City, Missouri.

"City Contribution" as defined in **Section 2.03(i)**.

"Competitive Bid Process" shall mean those processes and procedures applicable to the County in procuring goods and services under Missouri State bidding laws and applicable County Ordinances (Chapter 10) and, if applicable, County Executive Order #94-24 (Formal Procedures for the Procurement of Architectural, Engineering and Land Surveying Services) and as required by the CBA. In obtaining bids under current County bid procedures and approving contracts and change orders for the Project reasonable best efforts will be taken to mitigate construction risks and costs, including using or requiring guaranteed maximum price ("**GMP**") contracts, payments and performance bonds in an amount equal to the entire contracted amount of the respective part of the work and builder's all risk insurance.

"Construction Bond" as defined in **Section 4.08**.

"Construction Documents" shall mean the architectural drawings, specifications, construction drawings, Approved Plans and other documents, as may be amended from time to time pursuant to this Agreement, setting forth the design of the Project and the requirements for its construction in sufficient detail for establishing the costs for construction and the permitting and construction of the Project, but excluding any contracts between the General Contractor and any contractor, subcontractor, architect, engineer or consultant.

"Construction Materials" as defined in **Section 4.28**.

"Current Kauffman Lease" as defined in **Recital D**.

"Deferred Items" as defined in **Section 7.01**.



"Delayed Party" as defined in **Section 13.01(a)**.

"Design Development Documents" means such documents that (i) are a further advancement of the Schematic Drawings, (ii) indicate in substantially greater detail than the Schematic Drawings (but not as detailed as the Final Construction Documents) the spaces within the Improvements, (iii) indicate the elements and functions that affect the site work for the Project, (iv) indicate in substantially greater detail than the Schematic Drawings (but not as detailed as the Final Construction Documents) the sections and interior and exterior elevations, and (v) include more detailed outlined specifications and systems narratives than those in the Schematic Drawings (but not as detailed as the Final Construction Documents), all as contemplated by the Final Project Program and as approved by Landlord and Tenant as herein provided. Any architectural plans or drawings shall bear the seal of an architect registered in Missouri, if so required by Applicable Laws.

"Development Term" as defined in **Section 1.04**.

"Disbursement Account" as defined in **Section 6.05(a)**.

"Disbursement Procedures" as defined in **Section 6.06(c)**.

"Dispute Committee" as defined in **Section 11.06(b)(iii)**.

"Dispute Notice" as defined in **Section 11.06(b)(i)**.

"Effective Date" as defined on the first page of this Agreement and in **Section 13.21**.

"Final Designs" as defined in **Section 4.06**.

"Final Construction Documents" as defined in **Section 4.20**. Architectural plans or drawings shall bear the seal of an architect registered in Missouri, if so required by Applicable Law.

"Final Project Program" as defined in **Section 2.03(e)**.

"Final Project Schedule" as defined in **Section 4.30**.

"Force Majeure" as defined in **Section 13.01(b)**.

"General Contractor" as defined in **Section 4.05** and which term includes a Construction Manager at risk or other entity described in **Section 4.05**.

"General Contractor Agreement" as defined in **Section 4.05**.

"Governmental Authority" shall mean any federal, state or local governmental body, or political subdivision or agency thereof, having jurisdiction over the Site.

"Hazardous Material Laws" means federal, state or local Laws or policies in effect during the Term relating to Hazardous Material (including, without limitation, its Handling, transportation or Release) or to human health and safety, industrial hygiene or environmental conditions in, on,

under or about the Site (including the Improvements) and any other property including without limitation, soil, air, air quality, water, water quality and groundwater conditions.

"Hazardous Material" means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," "pollutant" or "contaminant" under the Comprehensive Environmental Response; Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.), any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing Improvements on the Site, any Improvements to be constructed on the Site by or on behalf of Tenant, or are naturally occurring substances in, on, under or about the Site; and petroleum, including crude oil or any fraction, natural gas or natural gas liquids and any harmful mold or mold like organisms.

"Identity Rights" as defined in **Section 4.29**.

"Improvements" mean all physical construction of the Project, and the various components thereof, as described in the Final Project Program and approved by Landlord as provided for in this Agreement.

"Indemnified Landlord Parties" means Landlord and the County, including, but not limited to, (i) all of the boards, commissions, departments, agencies and other subdivisions of each such entity, (ii) all of the Agents of the Landlord and the County, and (iii) successors and assigns of the Landlord and the County.

"Indemnified Tenant Parties" means Tenant, including, but not limited to, (i) all of the Agents of Tenant, and (ii) permitted successors and assigns of Tenant.

"Indemnified Parties" means the Indemnified Landlord Parties or the Indemnified Tenant Parties; as applicable.

"Indemnify" means indemnify, protect, defend and hold harmless.

"Indemnifying Party" means the respective Party or Parties providing indemnification under pursuant to the terms of this Agreement.

"Infrastructure" means on-site and off-site sewer and utility improvements.

"Initial Meeting" as defined in **Section 11.06(b)(ii)**.

"Initiating Party" as defined in **Section 11.06(b)(i)**.

"Invitees" means any Person invited onto the Site by Landlord, County, Tenant, the Landlord's Representative or the Tenant's Representative but excluding fans, employees or agents for game day or other events at the Project.



"Landlord's Representative" means an engineer employee of the Authority selected by Landlord for the Project. Landlord shall provide Tenant and the Public/Owner Representative notice of the selected Landlord's Representative. Landlord may replace the then-acting Landlord's Representative from time-to-time upon not less than five (5) business days' prior written notice to Tenant.

"Landlord's Capped Contribution" as defined in Section 3.02(C) of the New Stadium Lease.

"Landlord's Final Designs Review Period" as defined in Section 4.11.

"Landlord's Obligations" as defined in Section 5.02.

"Landlord's Review Period" as defined in Section 4.10.

"Landlord's Scope of Review" as defined in Section 4.13.

"Landlord/County" shall refer to a joint obligation or joint right of, or determination to be made by, or with respect to, both Landlord and the County, as the context indicates.

"Law(s)" shall mean all present and future applicable laws, ordinances, rules, regulations, permits, authorizations, orders and requirements, whether or not in the contemplation of the Parties, which may affect or be applicable to the Site or any part of the Site (including, without limitation, any subsurface area, use of the Site and the buildings and Improvements on or affixed to the Site), including, without limitation, all consents or approvals required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of the Site, and similarly the phrase "Law" shall be construed to mean the same as the above in the singular as well as the plural.

"Leasehold Mortgagee" as defined in Section 29.02(A) of the New Stadium Lease.

"Litigation Force Majeure" as defined in Section 13.01(c).

"Loss" or "Losses" when used with reference to arty indemnity means any and all claims, demands, losses, liabilities, damages (including foreseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses (including, without limitation, reasonable Attorneys' Fees and Costs, and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise.

"MLB" shall mean Major League Baseball, or any successor or similar association or organization which engages in professional baseball.

"M/WBE and Workforce Coordinator" as defined in the CBA.

"Material Change" as defined in Section 4.18.



"Minimum Required Elements" as defined in **Section 2.03(h)**.

"New Bonds" are defined in **Section 2.03(c)**.

"New Sales Tax" as referenced in **Section 2.03(b)** and defined in Section 3.02(C) of the New Stadium Lease.

"New Stadium Lease" is defined in **Recital I**.

"Original Lease" as defined in **Recital D**.

"Public/Owner Representative" means that professional person or entity described in **Section 12.01** to assist Landlord in exercising its rights of review and oversight of the Project as expressly set forth in this Agreement to protect the Public and such governmental bodies with respect to the design and construction of the Project and payments to contractors and service providers of public monies.

"Prevailing Wages" as defined in **Section 12.03**.

"Party" or "Parties" means Landlord and the Tenant, as a party to this Agreement; and where so-indicated in this Agreement, the County as the owner of the Site, as parties to this Agreement.

"Person" means any individual, partnership, corporation (including, but not limited to, any business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or any other entity or association, the United States, or a federal, state or political subdivision thereof.

"Plans" as defined in **Section 4.02**.

"Port" as defined in **Section 2.03(f)**.

"Preliminary Project Program" as defined in **Section 2.03(e)**.

"Preliminary Project Schedule" as defined in **Section 2.03(g)**.

"Preliminary Project Budget" as defined in **Section 2.03(f)**.

"Premium Rate" means a per annum rate of interest equal to 2% in excess of the Prime Rate.

"Prime Rate" means the rate of interest indicated from time to time as the "prime rate," as published in *The Wall Street Journal* or its successor, or, in the absence of such published rate therein, as published in such other reputable source as Landlord and Tenant may reasonably select.

"Private Share" as defined in **Section 6.04(b)(iii)**.

"Program and Schematic Designs" as defined in **Section 4.06**.



"Project" as defined in **Recital G**.

"Project Costs" as defined in **Section 6.01**.

"Project Cost Overrun(s)" as defined in **Section 6.04**.

"Public/Private Ratio" as defined in **Section 6.05(b)(iii)**.

"Public Share" as defined in **Section 6.04(b)(iii)**.

"Regulatory Approval" means any authorization, approval or permit required by any Governmental Authority having jurisdiction over the Site, including but not limited to approvals by the City.

"Regulatory Force Majeure" as defined in **Section 13.01(d)**.

"Remediate" or **"Remediation"** when used with reference to Hazardous Materials means any activities undertaken to clean up, remove, contain, treat, stabilize, monitor or otherwise control Hazardous Materials located in, on, under or about the Site or which have been, are being, or threaten to be Released into the environment.

"Representative" means the Landlord's Representative or the Tenant's Representative, as appropriate.

"Requested Material Change" as defined in **Section 4.22**.

"Requisition" as defined in **Section 6.06(c)**.

"Responding Party" as defined in **Section 11.06(b)(i)**.

"Retired Judge" as defined in **Section 11.06(b)(iv)**.

"RFQ Process" shall mean a "request for qualifications" procedure to select a particular type of services provider for the Project under such notices and procedures as may be formulated by the entity selecting such provider and in all cases in accordance with Applicable Laws.

"Schematic Drawings" shall mean plans identifying spaces, elevations, site plans, plot plans, topographical plans, and plans showing the location of the proposed project in relationship to other properties and as defined in the Final Project Program and as referred to in **Article 4**. Said plans and drawings shall bear the seal of an architect registered in Missouri, if so required by Applicable Law.

"Section 11.03 Landlord Event of Default" as defined in **Section 11.03**.

"Site" as defined in Recital F.

"Site Plan" as defined in Recital F.

"Specific Expenses" as defined in **Section 6.06(e)**.



"Stage(s) of Construction" as defined in **Section 4.06(a)**.

"State" means the State of Missouri.

"State Contribution" as defined in **Section 2.03(f)**. **"Subsection 11.02(a) Tenant Default"** as defined in **Section 11.02(a)**.

"Subsection 11.02(a) Landlord Notice" as defined in **Section 11.02(a)**.

"Subsection 11.02(a) Ten Day Tenant Cure Period" as defined in **Section 11.02(a)**.

"Subsection 11.02(b) Tenant Default" as defined in **Subsection 11.02(b)**.

"Subsection 11.03(a) Landlord Event of Default" as defined in **Section 11.04(b)**.

"Subsection 11.03(c) through (e) Landlord Event of Default" as defined in **Section 11.04(b)**.

"Substantially Complete" or "Substantial Completion" as defined in **Section 7.01**.

"Tenant Default" as defined in **Section 11.01**.

"Tenant Event of Default" as defined in **Section 11.02(b)**.

"Tenant's Contribution" as defined in **Section 6.05(b)**.

"Tenant's Representative" shall mean that person of which Tenant will notify Landlord in writing. Tenant may replace then-acting Tenant's Representative from time to time upon not less than five (5) business days' prior written notice to Landlord.

"Transfer" as defined in **Section 10.01**.



IN WITNESS WHEREOF, Landlord and Tenant have caused this Amendment to be executed in their respective corporate names and attested by their duly authorized officers and their respective corporate seals to be hereunto affixed, as of the date first written above.

**JACKSON COUNTY SPORTS COMPLEX
AUTHORITY**

(Seal)


By: Shawn Foster
Printed Name: Shawn Foster
Title: Chairman

ATTEST:

By: Michael T. White
Printed Name: Michael T. White
Title: Secretary Gen Counsel

Shawn Foster

**KANSAS CITY ROYALS BASEBALL
CLUB, LLC**

By: 
Name: Brooks Sherman
Title: VP + COO



COUNTY CONSENT AND AGREEMENT

In order to induce the Tenant named above and signing below to enter into the foregoing New Baseball Stadium Development Agreement to which this instrument is annexed (the "**Development Agreement**"), and in consideration therefor, **JACKSON COUNTY, MISSOURI** (the "**County**") as of _____, 2024 consents, represents, warrants and agrees as follows:

1. The County hereby consents to and approves of the foregoing Development Agreement referred to therein and agrees that:

A. Landlord has the right to enter into the Development Agreement upon the terms, covenants, provisions and conditions therein contained and for the duration thereof with respect to the development and construction rights and interests in the premises granted to Tenant therein and to grant to Tenant such rights and interests.

B. Capitalized terms which are used but not otherwise defined herein shall have the meanings assigned to them in the Development Agreement.

C. No act which Landlord or Tenant is required or permitted to do under the terms of the Development Agreement shall constitute a default under the County's agreements or leases with Landlord, including any master lease of the Site.

D. The County accepts the obligations imposed upon it in the Development Agreement and the New Stadium Lease and agrees to fulfill such obligations as an inducement to Tenant to enter into the Development Agreement, and the County recognizes that Tenant shall only be required to perform the obligations imposed upon it by the Development Agreement when all conditions under the Development Agreement are satisfied.

E. The County hereby adopts all representations and warranties made by Landlord to Tenant under the New Stadium Lease and the Development Agreement as its own representations and warranties to Tenant. The County further adopts all obligations of Landlord to Tenant under the New Stadium Lease and the Development Agreement as its own obligations to Tenant.

E. Tenant shall have all rights and remedies against County that Tenant has against Landlord under the Development Agreement and the New Stadium Lease.

2. The foregoing provisions of this County Consent and Agreement shall be deemed to be covenants running with the land described in the New Stadium Lease of which Tenant's leasehold estate is a part and shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors in interest and permitted assigns as the case may be.



IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed and sealed the day and year first above written.

JACKSON COUNTY, MISSOURI

(Seal)

By: _____

Title:

ATTEST:

By: _____

Printed Name: _____

Title: Clerk of the County Legislature

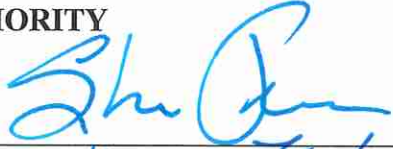
APPROVED AS TO FORM:

County Counselor




(Seal)

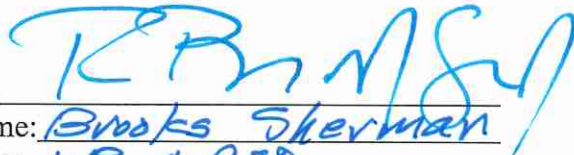
**JACKSON COUNTY SPORTS COMPLEX
AUTHORITY**

By: 
Title: Shawn Foster
Chairman

ATTEST:

By: 
Printed Name: Michael T. White
Title: Secretary - Gen Counsel

**KANSAS CITY ROYALS BASEBALL
CLUB, LLC**

By: 
Name: Brooks Sherman
Title: VP & COO



SITE PLAN



EXHIBIT B

ARCHITECT'S INSURANCE REQUIREMENTS

The Architect shall be required to carry insurance, and to cause insurance to be carried in accordance with the provisions of the Architect's Agreement; provided, however, that Landlord and the County shall be named as "additional insureds" as is appropriate on all such Architect's insurance coverages and provided further that Tenant shall submit to Landlord the policy limits to be required of Architect for review (and Landlord shall approve if such policy limits are reasonable and customary for the nature and scope of the Project).



EXHIBIT C

GENERAL CONTRACTOR/CONSTRUCTION MANAGER
INSURANCE REQUIREMENTS

Coverage	Limit
Worker's Compensation	Statutory
Employer's Liability	\$2,000,000
General Liability	\$2,000,000 per occurrence/\$4,000,000 aggregate
Excess Liability	\$50,000,000
Automobile	\$1,000,000
Builder's Risk	\$500,000,000*
Errors Omissions	\$10,000,000

* Subject to changed based on construction pricing



EXHIBIT D

DISBURSEMENT PROCEDURES

As costs are incurred by Tenant and Requisitions are submitted to the Bond Trustee (the "Bond Trustee") for a draw from the Disbursement Account, those costs shall be subject to the following certification and payment process, time being of the essence with respect to all of the times, dates and time periods specified herein:

1. On or before the 1st business day of each month, the Tenant or Tenant's Contractors shall submit to Landlord, with a copy to the Landlord's Representative and the Public/Owner Representative) a copy of each such Requisition (along with the documentation required by **Section 6.06** of the Development Agreement);

2. On or before the 1st business day following the 15th day of such month, the Landlord shall cause the Landlord's Representative to countersign and submit the Requisition to the Bond Trustee and cause the Bond Trustee to disburse such funds on or before the 20th day of such month;

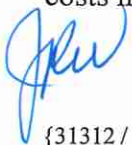
3. Notwithstanding anything to the contrary herein, if, within thirty (30) days after submission of the Requisition by Tenant as provided in (1) above, the Landlord's Representative delivers to the Tenant written notice that any portion of the costs specified in the Requisition is not recommended for payment or reimbursement and the reasons therefore, the Landlord and Tenant hereby agree to submit to Expedited Dispute Resolution, in accordance with **Section 11.06** of the Development Agreement, whether such costs specified in the Requisition constitute Project Costs to be paid from the Disbursement Account; provided, however, in no event shall Landlord have the right to withhold disbursement pending the initiation of, or any proceedings under, any Expedited Dispute Resolution;

4. If the result of any Expedited Dispute Resolution is that any of the costs specified in the Requisition did not constitute Project Costs paid from the Disbursement Account, then Tenant shall be obligated to repay such amounts disbursed that were expended for costs specified in the Requisition that did not constitute Project Costs paid from the Disbursement Account; and

5. If and to the extent that any costs included in a Requisition have been incurred by Tenant but not paid to the contractor, supplier or other payee, Tenant shall identify such costs and the Landlord shall have the right to direct the Bond Trustee to pay such costs directly to such contractor, supplier or other payee.

The form of Requisitions shall be substantially similar to AIA G702-1992 Document Form unless otherwise reasonably agreed to by Landlord and Tenant.

Requisitions shall be submitted, and the certification of costs shall be completed, based on actual costs incurred in lieu of a percentage of work completed.



NOTE: This form is subject to reasonably agreed-to modifications by Tenant and Landlord to improve the Disbursement Procedures and/or to conform to the Bond Indenture.

A handwritten signature in blue ink, appearing to be 'Jen', is located in the bottom left corner of the page.

EXHIBIT E

PUBLIC/OWNER REPRESENTATIVE OVERSIGHT RESPONSIBILITIES AND SERVICES

In General - Protect the public interest by reviewing and reporting on the overall quality, budget and schedule of the Project.

Design and Preconstruction Phase Responsibilities/Services

- Review Schematic Documents as such documents are developed and report and advise on their inclusion of all the Minimum Required Project Elements.
- Review the Teams' budgets and cost estimates throughout design, report and advise on their completeness and accuracy and inclusion of all the Minimum Required Project Elements.
- Review the Teams' design development and construction documents, report and advise on their consistency with the approved facility program and preliminary design and inclusion of all the Minimum Required Project Elements.
- Review the Teams' procedures for the selection of General Contractor, Construction Managers and Special Consultants, review and report on their consistency with Jackson County and Sports Authority policy.
- Review any proposed Project scope changes or value engineering recommendations, report and advise on their relationship to the Budget and Schedule, as well as, ongoing operational and maintenance costs and make certain no unauthorized Materials Changes or deletion or material adverse effects on Minimum Required Project Elements.
- Review any alternate systems proposed by the Teams, report and advise on their relationship to the Budget and Schedule.
- Review Project labor agreements and labor relations, report and advise on their impact on Jackson County and Sports Authority policy.

Procurement Phase Responsibilities/Services

- Review Project trades contract bidding policy and procedures, report and advise on its consistency with Jackson County and Sports Authority policy, as well as the Competitive Bidding Process requirements of the Development Agreement and the requirements of the CBA.
- Review the Bidding Documents to ensure that the Minimum Required Project Elements are included.

Construction Phase Responsibilities/Services

- Make at least monthly (or as requested) oral and/or written reports to the Sports Authority and Jackson County Legislature on the progress of the Project and any concerns or issues.
- Review Construction Documents and Construction Bonds for compliance with the Development Agreement.



- Consult and work with the M/WBE and Workforce Coordinator to ensure compliance by all necessary parties with the CBA.
- Review Requisition payment requests from Disbursement Account(s) by Teams/Contractors pursuant to Disbursement Procedures of **Article 6** and **Exhibit D** of the Development Agreement and report any material problems or concerns to Sports Authority, including any non-compliance with the construction-related provisions of the CBA.
- Monitor the progress of the work for potential claims, and any potential impact on the Sports Authority and Jackson County. Report on exposure and advise on appropriate actions to mitigate those exposures.
- Review any Owner-Tenant Controlled Insurance Program, including the development and implementation of the Project construction safety program.
- Review any proposed changes in Project scope/value engineering in relation to the original design, budget and schedule, evaluate, report and advise on their necessity and accuracy and any possible impact on unapproved Material Changes or Minimum Required Project Elements.
- Monitor construction progress (and obtain reports from Architect and General Contractor/Construction Manager) in relation to the construction Schedule, report and advise on the progress of the work.
- Assist in the close-out of the Project (and verification of "Completion") by the Teams and coordinate the transfer of required close-out documents to the Sports Authority.



• EXHIBIT F
• SOURCES AND USES FORM

BASEBALL STADIUM DEVELOPMENT AGREEMENT

Preliminary Sources & Uses for Preliminary Project Budget

To be completed upon Landlord and Tenant approval of the Preliminary Project Budget

Net Sources to Project Fund	(\$000s)	
State Funding		
Team Contribution		
County/Authority Bond Issue		
City Funds		
Other [identify]		
Other [identify]		
Total Sources		
Uses of Funds	(\$000s)	
Cost of Land Acquisition		
Stadium Infrastructure		
Seating Bowl		
Miscellaneous		
Total Uses		

