

Memorandum



Date: February 21, 2008

To: Honorable Chairman Bruno A. Barreiro and Members,
Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Resolution Authorizing Execution of Baseball Stadium Agreement among Miami-Dade County, the City of Miami, and the Florida Marlins, L.P., Related to the Design, Development, and Construction of a New Baseball Stadium for the Florida Marlins at the Orange Bowl Site; and Approving the Assignment of the Inspector General as the Independent Private Sector Inspector General for the Ballpark Project

Amended
Special Item No. 1

R#188-08

RECOMMENDATION

It is recommended that the Board adopt the attached Resolution approving the terms of and authorizing the County Mayor or his designee to execute the accompanying Baseball Stadium Agreement (BSA) among the County, the City of Miami (City) and the Florida Marlins, L.P. (Team) formalizing the terms and conditions related to the design, development, and construction of a new baseball stadium (Stadium) at the Orange Bowl site. In addition, it is recommended that the Board approve the assignment of the Inspector General as the Independent Private Sector Inspector General for the Baseball Stadium project. This item also authorizes the County Mayor or his designee to retain necessary outside expertise, if necessary, to assist with the Project.

SCOPE

While the Stadium will be located in Commission District 5, its scope is countywide in nature.

FISCAL IMPACT / FUNDING SOURCE

The County's contribution to the Stadium construction cost totals \$347 million. This funding consists of \$297 million of County tourist tax revenues and \$50 million of Building Better Communities General Obligation Bond funds (approved via R-1371-07). Specifically, the tourist tax funding includes \$60 million of funding from the CDT, \$88 million of funding from the TDT, and \$149 million of funding from the PST. These tourist taxes are eligible funding sources pursuant to State Law for the purpose of funding a stadium. Furthermore, the \$149 million of PST funding can only be used to fund debt service on bonds issued to cover the capital costs of a professional sports franchise facility. The TDT funding will be secured by the 20 percent TDT revenues dedicated to be spent by County ordinance within the boundaries of the City of Miami. It is important to note that these tourist taxes cannot be used for general government funding purposes, such as social services, public safety, and public education. The City and Team's contributions are discussed below.

Other costs associated with this project include certain County-related public infrastructure improvements, permit fee waivers, Inspector General fees, assigned internal staff, and the use of any outside consulting services to assist the County with this project. Public infrastructure costs are being determined in conjunction with the City and Team and such costs are to be shared between the County and City. Fee waivers, Inspector General fees, staff and consultant costs, and the like, would be funded from interest earned on County-issued bonds. The County will contribute \$750,000 per year to the Capital Reserve Fund from CDT funds. Also, with any large complex project there are risks associated with this project, all of which have been, in our judgment, limited to the extent possible. Some managed risks include environmental liability beyond insurance coverage levels and the risk that the sales tax procurement program under this agreement is not approved by the State.

TRACK RECORD / MONITORING

The County Executive Office will be responsible for managing and monitoring this project.

BACKGROUND

Miami-Dade County has been actively pursuing and committed in its efforts to develop a new stadium for the Florida Marlins and residents of the County for several years. During this time we have evaluated numerous sites in multiple jurisdictions and have requested funding assistance from the state on several occasions. As you are aware, the University of Miami's decision to leave the Orange Bowl and move its football program to Dolphin Stadium beginning next season has made the Orange Bowl site available for the design, development, and construction of a professional baseball stadium. The County, City, Team and Major League Baseball (MLB) have been negotiating the proposed BSA (Attachment 1) for the construction of a professional baseball stadium at the Orange Bowl site for some time now. The Marlins lease at Dolphin Stadium expires after the 2010 season. A binding agreement will provide a firm commitment from all parties to expeditiously move the stadium project forward, in order to complete the stadium in time for the 2011 baseball season. It will also allow the County, City, and Team to proceed with the negotiation and development of the definitive stadium agreements referenced in the BSA, including the Non-Relocation Agreement, Assurance Agreement, Management Agreement and Construction Administration Agreement. All of these agreements will come back to the Board for approval before July 1, 2008.

BASEBALL STADIUM CONSTRUCTION BUDGET

The estimated cost for the design, development, and construction of the stadium at the Orange Bowl site for a 2011 opening is approximately \$515 million. This assumes an aggressive 29-month construction period (November 2008 estimated construction start date).

The funding contributions from each party towards the stadium construction cost of \$515 million is shown in Table 1 and discussed further below:

Table 1 – Funding Contributions Toward Stadium Development****

<u>Source</u>	<u>County</u>	<u>City</u>	<u>Team</u>	<u>Total</u>
Team Funding*			\$155,000,000	\$155,000,000
County Funding**	\$347,000,000			\$347,000,000
City Funding***		\$13,000,000		\$13,000,000
Total	\$347,000,000	\$13,000,000	\$155,000,000	\$515,000,000

*\$35 million of the \$155 million Team Funding Contribution is funded through annual rent payments of approximately \$2.3 million to the County through the term of the Management Agreement.

**County funding includes \$50 million of General Obligation Bond proceeds approved via R-1371-07 and \$297 million of bed tax revenues as described in this memorandum, to be deposited by the County no later than October 31, 2008. The County will also issue \$35 million of debt to be paid from Team Rent payments

***City funding does not include an estimated \$10 million for Orange Bowl demolition and site preparation that is outside the stadium construction budget. It also does not include the value of land provided for the baseball stadium and an estimated \$94 million for 6000 on-site garage and surface parking spaces

****The disbursement of funds from the Stadium Project Construction Fund to pay cost of the Baseball Stadium shall be made first from the County Account and the City Account ratably until such funds are exhausted, then from the Team Account.

COUNTY FUNDING

As mentioned previously, the County's contribution to the Baseball Stadium Cost totals \$347 million. This funding consists of \$297 million of County tourist tax revenues and \$50 million of Building Better Communities General Obligation Bond funds (approved via R-1371-07). The tourist tax funding includes \$60 million of funding from the CDT, \$88 million of funding from the TDT, and \$149 million of funding from the PST.

To ensure there is no confusion as to the level of County funding towards the Baseball Stadium Cost, it is important to point out that the amount the County will finance to support the new ballpark has changed from the draft BSA dated December 18, 2007. The draft BSA was deferred by the Board on December 18, 2007 and January 10, 2008, and withdrawn on January 22, 2008, subject to completion of Stadium negotiations. The draft BSA reflected a total of \$249 million in County funding and did not yet account for the adjustments approved as part of the Global Agreement on December 18, 2007. The Global Agreement provided that the County issue \$88 million of TDT debt utilizing the 20 percent share of the TDT that must be spent within the City of Miami and, that the County would issue an additional \$10 million in PST financing to fully fund the stadium construction budget and allow the City to free up a portion of CDT funding received by the City to be used for the parking garage. These changes also result in corresponding decreases to the City's stadium construction contribution.

Table 2 is provided below to reconcile the County funding amounts shown in the initial draft BSA to the proposed BSA:

Table 2 – Reconciliation of County's Funding Contribution for Stadium Development

Funding Source	Previous BSA	Current BSA	Difference
PST (addn'l \$10 million approved as part of Global Agreement)	\$139,000,000	\$149,000,000	\$10,000,000
TDT (originally reflected as City contribution, but County is retaining the TDT, thus moved to County's contribution)	\$0	\$88,000,000	\$88,000,000
CDT	\$60,000,000	\$60,000,000	\$0
GOB	\$50,000,000	\$50,000,000	\$0
Total	<u>\$249,000,000</u>	<u>\$347,000,000</u>	<u>\$98,000,000</u>

CITY FUNDING

The City's contribution to the stadium construction budget is \$13 million. The City will also contribute the land (estimated at approximately 13 acres of the Orange Bowl site for the new ballpark) and pay for all costs associated with the demolition and disposal of the existing Orange Bowl stadium debris (estimated at \$10 million). The City is also funding and constructing 6000 on-site parking spaces at an estimated cost of \$94 million.

Table 3 is provided below to reconcile the City funding amounts in the initial draft BSA to the proposed BSA:

Table 3 – Reconciliation of City’s Funding Contribution for Stadium Development*

Funding Source	Previous BSA	Current BSA	Difference
TDT	\$48,000,000	\$ 0	(\$48,000,000)
CDT (\$10 million remains for demolition)	\$60,000,000	\$10,000,000	(\$50,000,000)
CDT (City contribution to stadium construction)	<u>\$13,000,000</u>	<u>\$13,000,000</u>	<u>\$0</u>
Total	<u>\$121,000,000</u>	<u>\$23,000,000</u>	<u>(\$98,000,000)</u>

*Excludes \$94 million for 6,000 on-site parking spaces

TEAM FUNDING

The Team’s contribution to the stadium remains at \$155 million.

The draft BSA stated that the Team would privately finance the full \$155 million. During recent negotiations it was agreed that the Team would shift to a hybrid financing structure whereby the Team would privately finance \$120 million of the stadium construction costs and make annual rent payments to the County, upon stadium completion, of \$2.3 million per year. Based on current interest rates, estimated issuance costs, and estimated capitalized interest, this equates to a net present value of approximately \$35 million, bringing the Team’s stadium construction funding contribution to \$155 million. In exchange for allowing the Team to switch to the hybrid financing structure, the Team agreed to make annual payments of \$750,000 into the stadium Capital Reserve Fund that will total \$26.25 million through the 35-year term of the Management Agreement. Adequately funding the Capital Reserve Fund is a critical element in protecting the County’s ownership interest in the stadium in future years. It should be noted that in other recent baseball stadium agreements between MLB teams and government entities in Pittsburgh, Washington D.C., and Cincinnati, the government entity was fully responsible for funding similar Capital Reserve Funds, with no contribution from the team.

It should also be noted that as a result of the hybrid financing structure, the County will be required to issue an additional \$35 million of PST bonds to fully fund stadium construction costs. As mentioned above, the annual rent payments by the Team will be used to offset debt service payments associated with the additional \$35 million of debt.

BASEBALL STADIUM AGREEMENT

The BSA is the initial agreement of several agreements and bond-related documents relating to the baseball stadium that will come before this Board and the City Commission over the next several months. In addition to the Construction Administration Agreement, Management Agreement, Assurance Agreement, and Non-Relocation Agreement, the BSA also sets into motion several important site-related actions such as re-platting and road abandonment for the existing site, initial permitting and zoning, site survey, phase II environmental work, demolition and disposal of the existing Orange Bowl stadium debris, utility relocation, and planning for public infrastructure needs. As you will see in the BSA (Attachment 1), the timelines for all of these actions require close coordination between the City, County, and Team to allow for an April 1, 2011 completion date (targeted completion date). Some of the key issues of the BSA, other than the financial commitments of the County, City, and Team, are shown below:

1. **Team Name Change** – The Team will change its name to the Miami Marlins prior to the stadium completion date.

2. **Baseball Stadium** - The ballpark will be a first class Major League Baseball stadium at the Orange Bowl site owned by the County, having a retractable roof, a natural grass playing field, a capacity of approximately 37,000 seats, including approximately 3,000 club seats, approximately 60 private suites, 81,000 affordable seats throughout the regular season, and concession, entertainment and retail areas, fixtures, furnishings, equipment, features and amenities comparable with other recently constructed Major League Baseball ballparks, including but not limited to those in San Diego, St. Louis, Philadelphia, Pittsburgh, and Milwaukee.
3. **Baseball Stadium Site** - The Baseball Stadium Site, as defined in the BSA, consists of approximately 13 acres (Team estimate), inclusive of the stadium footprint, a perimeter of approximately 100 feet beyond the dripline of the stadium footprint, and such areas reasonably necessary to accommodate and provide support for the retractable roof. The Baseball Stadium Site is currently owned by the City but ownership will be conveyed to the County upon completion of the site development requirements detailed in Section 4.01 of the BSA.
4. **Non-Relocation Agreement** - The Team shall enter into a Non-Relocation Agreement that will unconditionally require the Team to maintain its Major League Baseball franchise in the City of Miami for the term of the Management Agreement. The Non-Relocation Agreement shall require the Team to operate and maintain a Major League Baseball franchise with the Baseball Stadium as its home stadium and to play all of its regular season and post-season home games at the Baseball Stadium.
5. **Site Development** – Some of the key provisions/deadlines related to development of the Baseball Stadium Site are as follows:
 - The City has previously delivered a Phase 1 Environmental Site Assessment Report to the County and the Team, and, prior to March 1, 2008, shall certify said Report to the County and Team, and, provide any appropriate updates to this report. By March 10, 2008, a Limited Phase II Environmental Site Assessment Report addressing the Filling Station Site identified within the Phase I Report shall be certified by the City to the County and Team. By March 15, 2008, an Expanded Phase II Environmental Site Assessment investigating soil and groundwater quality within that portion of the Entire Site not identified in the Limited Phase II Report mentioned above shall be certified by the City to the County and Team; the scope of the Expanded Phase II has previously been delivered to the County and Team.
 - The City will be responsible for remediation of any environmental contamination existing on or originating from the Filling Station Site and the Public Infrastructure sites within the Entire Site, but excluding environmental conditions within the Baseball Stadium Site.
 - Once the County accepts conveyance of the Baseball Stadium Site, the County, as owner, will be subject to liability for environmental conditions on the site. The cost for required remediation of identified environmental conditions on the Baseball Stadium Site is covered to the extent of coverage provided in the environmental insurance policy purchased by the City. The environmental insurance policy will have coverage limits of \$5 million per incident and limits of \$5 million in the aggregate, with an understanding that the City will increase the coverage limits as necessary provided the increase in coverage does not increase the premium for \$5 million of coverage by more than 50%. The policy will exclude remediation of known conditions disclosed in the Phase I, Limited Phase II, and Expanded Phase II Environmental Assessment Reports, but will cover remediation costs and liability for conditions not disclosed by those reports. The policy will go into effect as of the site Acceptance Date. The allocation of cost between the County and the Team for remediation of environmental

conditions within the Baseball Stadium Site that is not covered by the insurance policy or which exceeds the coverage limits and the terms of such environmental remediation, will be addressed in the Construction Administration Agreement. At least 15 days prior to the Acceptance of the Site, the City will deliver a binder for the environmental insurance policy to insure the City, County, and Team for the Baseball Stadium Site.

- The County and the Team, prior to Acceptance of the Baseball Stadium Site, shall have the right to undertake at their own expense, physical inspections or other investigations to determine the condition of the site in order to help select the best location for the Baseball Stadium Site and Public Infrastructure.
- Promptly following the Effective Date, the County and the Team shall perform their necessary roles in a prompt and diligent manner with respect to the City's applications for replat of the Entire Site and approval of a Major Use Special Permit.
- Within 10 days following the Effective Date of this Agreement, a title insurance commitment and opinions of title relating to the Entire Site shall be provided by the City committing to insure the County's acquisition of the Baseball Stadium Site; within 30 days of receipt of these documents, the County and Team shall examine all title documents and notify the City of any Title Defects. The County and Team, at their discretion, may also elect to purchase a title insurance policy if deemed necessary by the County and Team. If cost of said policy is less than or equal to \$10,000, the policy shall be paid for by the Team, if over \$10,000, shall be split equally between the County and the Team.
- Prior to March 14, 2008, a survey of the Entire Site shall be provided to the City, County, and the Team. A revised survey shall be delivered to the County and the Team updating the perimeter of the Baseball Stadium Site within 60 days after the selection of the Baseball Stadium Site.
- Prior to March 31, 2008, the County, City, and Team shall agree on the location and layout of the Baseball Stadium Site, and, to the extent feasible, the location of Public Infrastructure within the Entire Site. The County Mayor or his Designee shall have the authority to agree on the location of the Site and the location of Public Infrastructure.
- The City shall commence demolition of the Orange Bowl within 30 days of receipt of a binding letter of vested rights from the Florida Department of Community Affairs, or similar DRI-related preliminary agreement, and will complete demolition and debris disposal within 4 months thereafter.
- From the Effective Date of this Agreement through 45 days following completion of the demolition of the Orange Bowl (Acceptance Date), the County Mayor or his Designee and Team shall have the right to "Terminate for Site Condition" if not satisfied with the condition of the Entire Site. The County termination right shall only apply if the Team does not agree to pay cost of required remediation work in the case of identified environmental hazards or other site conditions. If the termination right is not exercised by the Acceptance Date, the County and the Team shall be deemed to have accepted the Baseball Stadium site in its condition as of that date and to have acknowledged that, except for the environmental conditions the City has agreed to remediate and certain title exceptions cured by the replat, the City specifically negates and disclaims any representations and warranties as of the Acceptance Date regarding the Entire Site, including specifically, but without limitation, environmental, soil and subsoil conditions and compliance with laws, rules and regulations.
- Following Acceptance of the Baseball Stadium Site by the County and approval of the replat, MUSP, and other necessary City permits, the City shall convey to the County by Warranty Deed, fee simple title to the Baseball Stadium Site. The Warranty Deed shall

- provide for reversion of title to or at the direction of the City if the Management Agreement is terminated or the County fails to secure a replacement professional sports franchise for the Baseball Stadium within three (3) years after such termination.
6. **Cost Overruns** - The Team or the appropriate Team Affiliate will be responsible for the hiring of the Design team, and the Construction Manager. The Stadium Developer will be responsible for cost overruns other than "governmentally caused overruns" which are defined in the BSA, Section 4.09. The Construction Administration Agreement would require the County and the City each to fund Governmentally Caused Overruns to the extent caused by it. The definition of Governmentally Caused Overruns includes costs for delays or increased costs to the Stadium project budget due to public infrastructure work, such as relocation of utilities, unless associated with environmental contamination within the Baseball Stadium Site, or any work by the County or City under the BSA; a delay caused by the failure of the County or the City to meet a deadline imposed under Article IV or Sections 8.03 or 8.04; and a change in law enacted by the County or the City, other than a change of general application mandated by State law.; at the time of execution of the Construction Administration Agreement the Stadium Developer shall provide the County and the City with evidence that is has in place a dedicated bank line of credit or other similar financial arrangement in the amount of at least \$20,000,000 that may be used to pay for cost overruns. The Assurance Agreement will provide that the Team will guarantee the payment and performance of all obligations of the Stadium Developer under the Construction Administration Agreement.
 7. **Architect** - The Team will retain HOK Sport, Inc., d/b/a HOK Sport+Venue+Event (HOK) as the lead architect for the Baseball Stadium. HOK must make reasonable good faith efforts to ensure compliance with the County's CBE-A/E program by the major design and construction professionals engaged by HOK.
 8. **Construction Manager** - The Stadium Developer is required to either competitively select a Florida licensed contractor to serve as Construction Manager or obtain an appropriate bid waiver for the selection of a Construction Manager in accordance with State and local law, as described in Section 4.05 of the BSA. The Construction Manager's contract requires compliance with State and local laws, including, but not limited to, the County's CSBE small business programs, responsible wages and benefits, Community Workforce, and Sustainable Buildings Program (subject to limitations described below). The Construction Manager and the Stadium Developer must deliver to the County a payment and performance bond for the total cost of construction of the Baseball Stadium in compliance with Florida Statutes. However, in lieu of the payment and performance bond, the Stadium Developer may file an alternative form of security equal to the cost of construction management services to be performed by the Construction Manager, as shown in the formula described in Section 4.05 of the BSA.
 9. **Plans and Specifications** - The Project Program Statement incorporates the general features of the Baseball Stadium. The Construction Administration Agreement shall provide the City and the County have 10 business days from receipt to confirm that submitted Plans and Specifications are generally consistent in all material respects with the Project Program Statement
 10. **Design Team** - Within 30 days of the Effective Date, the parties shall form a design review committee to meet with the Design and Construction Professionals and the Construction Manager to develop no more than three conceptual recommendations of design related to the exterior aesthetics of the Baseball Stadium. The Design Team shall consist of five members: two members appointed by the Team, one member appointed by Major League Baseball; one member appointed by the City and one member shall be appointed by the County Mayor or his Designee. The Design Team shall select a design with assistance

- from the Design and Construction Professionals and the Construction Manager within 10 business days following receipt of the conceptual recommendations.
11. **Sustainable Buildings Program** –From the outset of design, the Design and Construction Professionals must take into consideration efficient and cost effective approaches to achieve LEED certification. The BSA states that an analysis of any incremental costs associated with measures taken to achieve LEED certification will be provided to the County by June 30, 2008. If the County has not otherwise received an exemption from the County provisions of the Sustainable Buildings Program by May 30, 2008, the County will be responsible for such incremental costs. Accompanying this item is an Ordinance for First Reading requesting exemption from the Sustainable Buildings Program. This exemption is being requested to comply with the provisions of the BSA and as a preventative measure to ensure the County is not held liable for incremental costs associated with LEED certification. At the time the incremental cost analysis is provided, the County may still choose to incorporate the necessary LEED certification components, despite the waiver from the Sustainable Buildings Program.
 12. **Permits and Zoning** – The County and City shall expeditiously process all applications for consents, approvals, and permits necessary to allow for the timely construction of the Baseball Stadium, City Parking, and Public Infrastructure. The BSA includes a 10 business day deadline for the County Manager and City Manager to act on written requests to execute applications, forms, or petitions necessary to meet development requirements for the Baseball Stadium.
 13. **Building Permit Liaison** – Both the City and the County shall dedicate at least one member of its building permit staff, or other appropriate staff, to serve as a liaison for the Baseball Stadium Project and Public Infrastructure and expedite the permitting process and other City and County review and approval processes, at no cost to the Stadium Developer. The County's liaison shall be designated by the Mayor or his Designee.
 14. **Permit Fees** – City or County permit and other related fees applicable to the Baseball Stadium Project shall be customary and consistent with amounts charged for County or City-owned projects and shall be waived by the City or County, to the extent authorized as of the Effective Date by County or City code provision or administrative regulation. If waivable fees are advanced to the City or County by the Team Affiliate, such fees shall be promptly reimbursed to the Team Affiliate.
 15. **Project Coordination Team** – The Construction Administration Agreement shall require the Stadium Developer to form an administrative committee that includes representation from the County and the City for the following purposes: 1) receive reports from the Design and Construction Professionals pertaining to the construction schedule, 2) maintain clear lines of communication to facilitate a successful Baseball Stadium Project, 3) receive reports, 4) review change orders to ensure they are materially consistent with the Project Program Statement. The Project Coordination Team shall be required to meet at least on a monthly basis. The County's representative on the Project Coordination Team shall be designated by the Mayor or his Designee.
 16. **Sales Tax Procurement** – The County and the Team agree to use reasonable best efforts to develop a successful program to procure construction materials and equipment for the Baseball Stadium on a sales tax exempt basis under State law. This will be subject to the Team's receipt of a favorable opinion from the State of Florida Department of Revenue (DOR) indicating that purchases in accordance with such procurement program will be exempt from sales tax. DOR will issue a favorable opinion only if the County bears the risk of loss of all materials and equipment purchased under the program. Although insurance may be purchased to mitigate such risk, the County would be required to bear the risk of loss while those goods are in transit and some risk prior to the time the goods and

equipment are incorporated into the Baseball Stadium. This risk of loss may also be cause for a Governmentally Caused Overrun. If a favorable opinion is not issued, the County shall fund the increase to the Stadium Project Budget solely attributed to sales tax paid for construction materials and equipment for the Baseball Stadium that were expected to be exempt from tax under the materials procurement program in an amount not to exceed \$4.4 million.

17. **Office Space** – At no cost to the City or County, the City and the County shall assist the Team in identifying and locating at least 3,000 square feet of downtown office space within two miles of the Baseball Stadium Site that is suitable for marketing purposes.
18. **Other Development** – The City shall keep the County and Team informed of any plans it develops for Other Development, which may include a soccer stadium, commercial, and retail components. The BSA (Section 4.11) provides for agreement between the City and the Team on the restrictions related to Other Development. The County shall have the right to review the plans and specifications as well as leases in respect of any Other Development, and, shall be a party to an appropriate legal instrument between the City, County, and Team with respect to these restrictions running with the Entire Site.
19. **Public Infrastructure** - The County and City will be responsible for public infrastructure needs such as road improvements, utility relocations, and traffic signalization improvements, as determined by the project design, with estimated costs, as well as the allocation of these costs between the City and County to be detailed in the Construction Administration Agreement.
20. **Parking** - The City will be responsible for construction, operation, and maintenance of parking facilities on the site, sufficient to house at least 6,000 parking spaces. The Team and the County shall have the right to review, comment upon, and approve the program and design features of the City Parking. The City, County (Mayor or his Designee), and Team shall each have approval rights for the location of the City Parking on the Entire Site.
21. **State Funding** – The County and the City shall make reasonable efforts and work cooperatively, including reasonable assistance from the Team, to secure funding from the State in the form of a sales tax rebate or other available State funding to defray costs related to the Baseball Stadium Project or the Baseball Stadium. Unless otherwise required by the State, the amount of any such State funding shall be deposited into the Capital Reserve Fund as described in Item 26 below.
22. **Management Agreement** – The County, Stadium Manager, and, if necessary, the City, shall enter into a Management Agreement which shall set forth the terms for the exclusive right, authority, and responsibility for operation, management and use of the Baseball Stadium by the Stadium Manager. The term of the Management Agreement shall be 35 years with two five-year renewal periods.
23. **Labor Peace Agreement** – In consideration of a memorandum from Commissioner Seijas relating to inclusion of a Labor Peace Agreement relating to food and concessions workers at the stadium, the County is in discussions with the Team and will work with them as we develop the appropriate language for the Management Agreement which will best address such labor concerns.
24. **Community Events** – The County and the City shall each have the right to use the Baseball Stadium eight days per year for amateur athletic, public service, or other non-profit events, provided all costs associated with its use, are covered by the County or City, as appropriate.
25. **Maintenance and Repairs** – The Stadium Manager shall be required to undertake and pay the costs of all maintenance and repairs, including, but not limited to, game day operations, security on the Baseball Stadium Site, utilities, custodial services, premiums for insurance, and supplies and other consumable goods. The County shall use reasonable best efforts to

assist the Stadium Manager to secure utilities for the Baseball Stadium at rates comparable to the County's reduced bulk rates.

- 26. **Capital Improvements** – The Stadium Manager is permitted to make Necessary Improvements (defined in the BSA) on behalf of the County as it deems necessary or appropriate and provide that the cost of these improvements shall be paid or reimbursed to the Stadium Manager from funds in the Capital Reserve Fund. For Capital Improvements (other than Necessary Improvements), the Capital Reserve Fund cannot be used to reimburse the Team Affiliate. However, for capital improvements having a cost of \$400,000 or more, the Stadium Manager's authority to make such capital improvements is subject to written approval of the County.
- 27. **Capital Reserve Fund** – The Management Agreement shall provide for the creation of the Capital Reserve Fund, to be funded annually, as shown below. The BSA contemplates the creation of a Community Development District by the City, County, and Team for the purpose of developing, financing, operating, managing and maintaining certain basic infrastructure, public improvements and community facilities within the Entire Site. To the extent funding is available, the CDD would also, directly or indirectly, provide funding to the Capital Reserve Fund beginning in Year 11.

Capital Reserve Fund Payment Schedule – Without State Funding			
	Years 1 – 10	Years 11-20	Years 21-35
County	\$750,000	\$750,000	\$750,000
Team	\$750,000	\$750,000	\$750,000
City	\$250,000	\$250,000	\$250,000
City CDD	\$0	\$250,000	\$500,000
Total	<u>\$1,750,000</u>	<u>\$2,000,000</u>	<u>\$2,250,000</u>

Alternatively, and as discussed in Item 20, any State funding received shall be deposited into the Capital Reserve Fund. In such an event, the annual contributions to the Capital Reserve Fund by each party would be adjusted as shown below. This payment schedule assumes receipt of the \$2,000,000 annual sales tax rebate:

Capital Reserve Fund Payment Schedule with State Funding			
	Years 1 – 10	Years 11-20	Year 21-35
County	\$250,000	\$500,000	\$500,000
Team	\$250,000	\$500,000	\$500,000
City	\$0	\$0	\$0
City CDD	\$0	\$250,000	\$500,000
State	<u>\$2,000,000</u>	<u>\$2,000,000</u>	<u>\$2,000,000*</u>
Total	<u>\$2,500,000</u>	<u>\$3,250,000</u>	<u>\$3,500,000</u>

*State sales tax rebate is 30 years in duration

- 28. **Team Revenues and Promotional Rights** – The Management Agreement shall provide that all Team Revenues and Promotional Rights are owned by the Team and Team Affiliates. The Stadium Manager must obtain written approval for the name of the Baseball Stadium from the County. The name (including the commonly known name and the parent company name, but excluding any name associated with tobacco or adult entertainment) of any Fortune 1000 company or any of its subsidiaries or products, any bank, any cruise line,

any airline, or any nationally recognized beverage company (including alcohol) shall each be deemed to be an approved named.

29. **Intangible and Ad Valorem Taxes** – The Team's use of the Baseball Stadium is subject to the annual intangible tax imposed by the State. As a County-owned facility, the Baseball Stadium is immune from ad valorem real property taxes. If any ad valorem, real property taxes shall be levied on the Team or Team Affiliates in the Baseball Stadium during the term of the Management Agreement, to the extent permitted by then applicable law, the Team Affiliates will be permitted to reduce the amount of their payment obligations otherwise due to the County and the City, respectively, under the Stadium agreements, up to the amount of the ad valorem tax due to either the City or County.
30. **Targeted Taxes** – The Management Agreement shall provide that neither the County nor the City shall impose any Targeted Taxes during the term of the Management Agreement. If the Team affiliate believes that a tax imposed or enabled by the County or other City constitutes a Targeted Tax, then the Team Affiliate shall have the right to institute court proceedings to challenge the permissibility of the tax under this Agreement.
31. **Community Benefit Obligations** - The Team is required to develop a strong and substantial community benefits package that shall include promotional and charitable activities for South Florida's youth through its Team Foundation, its advertisers and sponsors, and players and other Team personnel; such a package shall include affordable seats, complimentary tickets to underprivileged youth through appropriate Miami-Dade County charities, educational, athletic, health, and social and community programs; the Team shall also participate in Major League Baseball's Diverse Business Partners Program designed to create opportunities for minority and women owned businesses to participate in the procurement activities of Major League Baseball organizations. Also, the Stadium Manager shall make available at no charge, one suite to each regular season home game for public and/or charity use. The County and the City shall each have the right to designate the public or charity use for the suite for 27 games each, and the Stadium Manager shall designate the charity or other use for the remaining games.
32. **Sale of Control Interest** – Upon either a sale to a third party of a "control interest" in the Team or a sale of the Team's franchise within the first 5 years after the execution of this Agreement, the Team shall cause seller to pay to the County and the City, to be split on a pro rata basis, an amount equal to a percentage of the net proceeds, as more precisely defined in Section 7.14 of the BSA.
33. **Stadium Agreements** – On or before March 30, 2008, the Team shall deliver to the County and City initial drafts of the Construction Administration Agreement, the Non-Relocation Agreement, the Assurance Agreement and the Management Agreement. Such agreements must be approved by all parties prior to July 1, 2008.
34. **Deposit of County Funding** – The County is required to make necessary deposits into the County Account of the Stadium Construction Fund by October 31, 2008.
35. **Termination Rights of County and City** – The County (Mayor or his Designee) or City may terminate this Agreement and be relieved of all liabilities under this Agreement (with the exception of breaches by the County or City prior to termination) if the parties cannot agree to the terms of any one or all of the Stadium Agreements by August 31, 2008. In such an event, each of the County, City, and Team shall be responsible for one-third of the total reasonable actual out-of-pocket costs expended by all three parties relating to the Baseball Stadium Project, from the Effective Date through the later of 1) the date of the notice of termination or 2) July 1, 2008, in the categories and approximate amounts detailed in the initial Draw Down Schedule in Exhibit E of the BSA).
36. **Termination Rights of Team** – The Team may by written notice to the County and the City terminate this Agreement and be relieved of all obligations and liabilities under this

Agreement if 1) the County or City breaches this Agreement in any material respect and has not cured that breach within 30 days after written notice from the Team specifying the breach and demanding that it be cured, 2) the County or City missed a deadline specified in Section 4.01 or Article VIII shall be missed or 3) all of the Stadium Agreements have not been executed and approved on or before July 1, 2008. The Team may also terminate the agreement due to site condition issues through 45 days following the completion of the Orange Bowl demolition, as provided in Section 4.01(e).

37. **Remedies** – The County, City and the Team agree that their respective remedies for any breach of or default under this Agreement shall include: 1) termination rights as previously discussed; 2) The right to seek an injunction or other equitable relief for violations of this Agreement; and 3) the right to recover damages from a party who breaches this Agreement, provided, however, that the damages shall be limited to each non-breaching parties' Reimbursable Interim Costs through the date this Agreement is terminated. All damages to be paid by the County or the City shall be payable from non-ad valorem revenue sources.
38. **Mediation and Arbitration** – The BSA provides specific procedures for mediation and arbitration proceedings, and provides that all parties shall bear their own expenses, with the exception of administrative expenses related directly to the arbitration or mediation proceedings, which shall be borne 1/3 each by the Team, County, and City.
39. **Amendments and Waivers** – The County Mayor or his Designee is authorized under this agreement to approve amendments and waivers to this Agreement that extend deadlines by up to 60 days, without requiring Board approval. All other amendments and waivers must be approved by the Board of County Commissioners.
40. **Local Labor** – We will work to ensure that the labor pool for construction of the stadium is fairly represented by the community.
41. **MLB Requirements** – The Team's obligations under the BSA shall in all respects be subordinate to the approval requirements and other Major League Baseball Rules and Regulations as they are applied generally to all Major League Baseball clubs. However, to the extent that the Team cannot fulfill its obligations to the County or City under this Agreement as a result of its compliance with MLB Rules and Regulations, the County and the City may enforce remedies as provided in the BSA and the subsequent Stadium Agreements.
42. **Independent Private Sector Inspector General (IPSIG)** - The County Inspector General will act as the Independent Private Sector Inspector General (IPSIG) to provide project-related oversight of the stadium development project, with all IPSIG fees to be paid by the County. We are working with the Inspector General to negotiate staffing levels, costs for their services, and will identify a funding source when the Construction Administration Agreement comes before the Board.
43. **Homestead Sports Complex** – Subject to approval of a Resolution proffered by Commissioner Moss and scheduled for the February 19, 2008, Board of County Commissioners meeting, the County Mayor or his designee shall consult with the City of Homestead, the Marlins and MLB to study the feasibility of renovating the Homestead Baseball Complex, as necessary, for use by Miami-Dade Big League Baseball, Inc., along with either a major league baseball spring training team or a minor-league baseball team.
44. **MLB Youth Baseball Academy** – MLB has committed to work with officials to develop a Youth Baseball Academy, contemplated to be located in the City of Hialeah.
45. **Public Safety Services** – The Management Agreement will address issues relating to staffing of Police and Fire services at the Baseball Stadium.
46. **Condition Subsequent** - The BSA contains all of the provisions required by Section 10 of the Global Agreement and Article VI of the First Amendment to the OMNI Interlocal

Agreement. The City and Team have acknowledged and agreed that the Condition Subsequent has been satisfied and waive any rights each may have to assert otherwise. As of this date the OMNI CRA and Southeast Overtown Park West CRA (CRAs) have not been asked to give the same written acknowledgment and waiver. While all conditions have been met, if the CRAs were to challenge whether the condition subsequent has been satisfied, and be successful in that challenge, the OMNI CRA would not be obligated to remit to the County the increased funding in support of the PAC. Such waiver and acknowledgment by the CRAs will be sought at a later date.

As directed by the Board in Resolution R-1173-07, approved on October 16, 2007, I have negotiated this BSA with MLB, the Florida Marlins, and the City of Miami. The construction of this stadium is, without a doubt, a significant commitment by the County, Team, and City. I am comfortable with the agreement that has been reached but understand there are many conflicting views as it relates to public funding/involvement in construction of professional sports facilities. With that in mind, I am comfortable with the County's ability to meet our requirements under the BSA to secure public funding for the project, to meet site development requirements of the BSA, and to comply with all of the deadlines and other requirements necessary to complete the construction of the stadium by April 2011. This BSA, in my view, represents the best possible agreement between the parties. Each party would like to see certain terms more favorable to them, but, if we are to see a new ballpark developed, the BSA before you represents a fair agreement that will finally achieve that objective. This agreement was not remotely easy to develop and required a great deal of time and dedication. It is the result of a collective effort among all parties involved.




MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: February 21, 2008

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Amended
Special Item No. 1

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Amended
Special Item No. 1
02-21-08

RESOLUTION NO. 188-08

RESOLUTION APPROVING TERMS OF AND AUTHORIZING COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE BASEBALL STADIUM AGREEMENT BY AND AMONG COUNTY, CITY OF MIAMI AND FLORIDA MARLINS, L.P., RELATED TO DEVELOPMENT OF NEW BALLPARK FOR FLORIDA MARLINS AND TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN; AND APPROVING ASSIGNMENT OF OFFICE OF INSPECTOR GENERAL AS INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL FOR BALLPARK PROJECT

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by this reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The matters contained in the foregoing recitals are incorporated in this resolution by reference.

Section 2. The Board hereby approves the terms of and authorizes the County Mayor or his designee to execute the Baseball Stadium Agreement by and among the County, the City, and Florida Marlins, L.P. in substantially the form attached to this resolution as Exhibit A and incorporated herein by this reference (the "BSA") and to exercise any and all other rights conferred therein.

Section 3. This Board hereby approves the assignment of the Office of the Inspector General as the Independent Private Sector Inspector General for purposes of the ballpark project.

Section 4. The Board hereby authorizes the retention of any consultants, outside expertise and outside counsel to assist with the ballpark project.

Section 5. This Board hereby directs the County Mayor or his designee to report back to this Board no later than thirty (30) days from February 21, 2008 the results of negotiations between the City and the County related to off-duty public safety services at the Baseball Stadium Site and the results of negotiations between the Team and the County related to a labor peace agreement for concession stand workers.

The foregoing resolution was sponsored by Chairman Bruno A. Barreiro, Commissioner Jose "Pepe" Diaz and Commissioner Rebeca Sosa and offered by Commissioner

, who moved its adoption. The motion was seconded by Commissioner

and upon being put to a vote, the vote was as follows:

Bruno A Barreiro, Chairman	
Barbara J. Jordan, Vice-Chairwoman	
Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

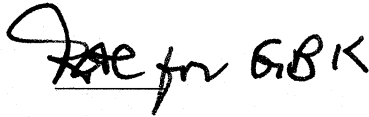
The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of February, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

 JAE for GBK

Geri Bonzon-Keenan

BASEBALL STADIUM AGREEMENT

(Orange Bowl)

MIAMI-DADE COUNTY, FLORIDA

CITY OF MIAMI, FLORIDA

FLORIDA MARLINS, L.P.

February __, 2008

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BASEBALL STADIUM AGREEMENT

This is an agreement, dated _____, 2008 (“Agreement”), among MIAMI-DADE COUNTY, FLORIDA, CITY OF MIAMI, FLORIDA and FLORIDA MARLINS, L.P.

Recitals:

The parties have agreed upon and wish to record their respective undertakings for the long-term commitment of the Florida Marlins Major League Baseball franchise to the City of Miami and Miami-Dade County.

ARTICLE I

DEFINITIONS

“**Affordable Seats**” means at least 81,000 regular season individual game tickets priced at no more than \$15 per ticket (in April 1, 2011 dollars to be thereafter reasonably adjusted as specified in the Management Agreement).

“**Assurance Agreement**” means an agreement to be entered into by and among the County, the City and the Team with respect to the Team’s obligation to guarantee the Stadium Developer’s obligations under the other Stadium Agreements.

“**Baseball Events**” means the Team’s home games, training, practices, exhibition games, and other Major League Baseball or Team sponsored baseball clinics, fan or sponsor theme events, press conferences or other Major League Baseball or Team sponsored, baseball or Team fan related events, activities, promotions or sales of baseball or Team fan related products, services, information or media content relating to such events, activities, or promotions held at or emanating from the Baseball Stadium.

“**Baseball Rules and Regulations**” means each of the following as amended from time to time: (i) any present or future agreements applicable to the Major League Baseball Clubs generally, entered into by or on behalf of Major League Baseball, including, without limitation, the Major League Constitution, the Professional Baseball Agreement, the Major League Rules, the Interactive Media Rights Agreement, the Basic Agreement between the Major League Baseball Clubs and the Major League Baseball Players Association, and each agency agreement and any operating guidelines among Major League Baseball clubs and a Major League Baseball; and (ii) any present and future mandates, rules, regulations, policies, interpretations, bulletins or directives issued or adopted by Major League Baseball applicable to Major League Baseball Clubs generally.

“**Baseball Stadium**” means a first class baseball stadium to be owned by the County and constructed on the Baseball Stadium Site, having a retractable roof, a natural grass playing field, a capacity of approximately 37,000 seats, including approximately 3,000 club seats,

approximately 60 private suites, and concession, entertainment and retail areas, fixtures, furnishings, equipment, features, systems and amenities comparable with other recently constructed Major League Baseball ballparks with similar capacity and amenities in San Diego, St. Louis, Houston, Philadelphia, Pittsburgh, and Milwaukee. The Baseball Stadium does not include City Parking, Public Infrastructure or Other Development.

“Baseball Stadium Project” means all undertakings and work, to be described in more detail in the Construction Administration Agreement, required for completion of the Baseball Stadium and to have it ready and available for the play of Major League Baseball. The Baseball Stadium Project does not include the City Parking, the Public Infrastructure, the Other Development, and the work to be performed by the City under Section 4.01 or any other work undertaken or commissioned by the City or the County under this Agreement, the Stadium Agreements or related to the Entire Project without the prior written agreement of a Team Affiliate, the County and the City that such work is part of the Baseball Stadium Project.

“Baseball Stadium Site” means all of the land within the Entire Site designated as the Baseball Stadium Site in accordance with Section 4.01.

“Capital Improvements” means improvements to the Baseball Stadium of a character required to be capitalized under generally accepted accounting principles as shall be further defined and detailed in the Management Agreement and which include Necessary Improvements and exclude Maintenance and Repairs.

“Capital Reserve Fund” means a segregated fund owned by the County and held by a Qualified Trustee as described in Section 7.07 solely for Capital Improvements.

“City” means the City of Miami, Florida.

“City Bonds” means the bonds described in Section 6.03.

“City Parking Agreement” means an agreement to be entered into by and among the City, the County and the Stadium Manager with respect to the parties’ obligations described in Section 5.02 for Event Parking.

“City Parking” means at least 6,000 spaces located on the Development Site, which will be available exclusively to the Team Affiliates and their patrons for Event Parking.

“Community Events” has the meaning given in Section 7.03.

“Completion Date” means the first date by which both of the following have occurred: (i) the lead architect among the Design and Construction Professionals has issued to the Stadium Developer and the County a certificate of substantial completion certifying that the Baseball Stadium has been “substantially completed” subject to the completion of minor punch list items which do not materially affect the use or occupancy of the Baseball Stadium, and (ii) a temporary or permanent certificate of occupancy has been issued in respect of the Baseball Stadium.

“Construction Administration Agreement” means an agreement to be entered into by and among the County, the City and the Stadium Developer with respect to the design, development and construction of the Baseball Stadium.

“Construction Manager” means the construction management firm hired by the Stadium Developer pursuant to Section 4.05 to manage the construction of the Baseball Stadium.

“Cost Overrun” shall have the meaning set forth in Section 4.09.

“County” means Miami-Dade County, Florida.

“County Bonds” means the bonds described in Section 6.02.

“Design and Construction Professionals” means the various design, engineering and construction consulting firms hired by the Stadium Developer to design and provide construction guidance for the design, development, construction and furnishing of the Baseball Stadium. “Design and Construction Professionals” do not include the Construction Manager or the Team’s owner’s representative.

“Design Team” shall have the meaning set forth in Section 4.06.

“Development Requirements” shall have the meaning set forth in Section 4.07.

“Development Site” means all land within the Entire Site (other than the Baseball Stadium Site), as may be amended from time to time by notice from the City, provided that the amendment shall not affect the Baseball Stadium Site after it has been selected.

“Draw Down Schedule” means the month by month schedule of timely payments estimated to be necessary for the timely completion of the Baseball Stadium Project to be provided by the Stadium Developer following its engagement of a Construction Manager as more fully described in the Construction Administration Agreement.

“Effective Date” means the date on which this Agreement becomes legally effective in accordance with Section 10.10.

“Entire Project” means all obligations, work and undertakings of the County, City and/or Team Affiliates relating to the Baseball Stadium, City Parking, Public Infrastructure, and Entire Site (excluding Other Development) under the terms and conditions of this Agreement.

“Entire Site” means the area of land described in Exhibit A.

“Event Parking” means parking during the period beginning two hours before and ending two hours after each Baseball Event and each Other Event for which parking will be reserved pursuant to Section 5.02.

“Governmentally Caused Overruns” shall have the meaning set forth in Section 4.09.

“Jewel Event” means the MLB All-Star Game (and related events), World Baseball Classic and other MLB-controlled events expected to have an attendance of more than 5,000 people.

“Maintenance and Repairs” means work, labor and materials reasonably required in the ordinary course of business to be performed and used to: (i) maintain the Baseball Stadium in good, clean working order; (ii) repair components of the Baseball Stadium as a result of ordinary wear and tear; and (iii) replace, at the end of their economic life cycle, those components of the Baseball Stadium whose reasonably expected economic life at the time of original installation was two years or less. Maintenance and Repairs do not include Necessary Improvements.

“Major League Baseball” means, individually and collectively, the Office of the Commissioner of Baseball, the Commissioner of Baseball, the Major League clubs, Major League Baseball Enterprises, Inc., Major League Baseball Properties, Inc., Major League Baseball Properties Canada, Inc., Major League Baseball Productions, MLB Advanced Media, Inc., MLB Advanced Media, L.P., MLB Media Holdings, L.P., MLB Media Holdings, Inc., MLB Online Services, Inc., each of their respective present and future affiliates, assigns and successors, and any other entity owned equally by the Major League Baseball clubs.

“Management Agreement” means an agreement to be entered into between the County and the Stadium Manager, and for certain purposes the City, with respect to the operation and maintenance of the Baseball Stadium.

“Necessary Improvements” means Capital Improvements, other than Maintenance and Repairs, that are required (i) by applicable governmental law, regulation or order; (ii) to obtain required insurance at commercially reasonable rates; (iii) to keep the playing field, lighting and safety features of the Baseball Stadium in compliance with Baseball Rules and Regulations; (iv) by the manufacturer, supplier or installer of any component, system or equipment to preserve warranty rights or for compliance with safety requirements; (v) to safeguard individuals or property in emergency situations; (vi) to repair or restore components of the Baseball Stadium that are damaged or destroyed by casualty, to the extent not covered by insurance; and (vii) to replace components of the Baseball Stadium at the end of their economic life cycle.

“Non-Relocation Agreement” means an agreement to be entered into among the Team, the County and the City with respect to the Team’s obligation to play its home games at the Baseball Stadium.

“Other Development” means the development set forth in Section 4.11.

“Other Events” means, other than Baseball Events and Community Events, any professional or amateur sporting events or exhibitions; concerts; and general audience, family or other targeted audience shows, performances or exhibitions held at the Baseball Stadium.

“Plans and Specifications” means the architectural drawings, plans and specifications for the Baseball Stadium.

“Project Coordination Team” has the meaning given in Section 4.08.

“Project Program Statement” means the document, as amended from time to time, that specifies, among other things: (i) the physical components of the Baseball Stadium; (ii) the location and approximate space requirements for those components; and (iii) the formulation of how those spaces will be used. The initial Project Program Statement is attached as Exhibit D and may be amended as provided in Section 4.03.

“Promotional Rights” means and includes any and all of the following rights as applied to, arising out of or connected in any way with Major League Baseball, the Team, the Proprietary Indicia, the Team’s Major League Baseball franchise, the Baseball Stadium, the Baseball Stadium Site, and Baseball Events and other permitted uses of the Baseball Stadium:

(a) rights of exploitation, in any format now known or later developed, through advertising, promotions, marketing, merchandising, licensing, food services, franchising, sponsorship, publications, hospitality events or through any other type of commercial or promotional means, including but not limited to advertising by interior, exterior or perimeter signage, through printed matter such as programs, posters, letterhead, press releases, newsletters, tickets, photographs, franchising, concessions, restaurants, party rooms, uniforms, schedules, displays, sampling, premiums and selling rights of any nature, the right to organize and conduct promotional competitions, to give prizes, awards, giveaways, and to conscript official music, video or other related data or information;

(b) media rights, in any format now known or later developed, including but not limited to the right to broadcast, transmit, display and record images and recordings, in any and all media now known or hereafter devised, including but not limited to radio, television, cable, satellite and internet;

(c) rights to name the Baseball Stadium and any portions of it;

(d) rights to create, use, promote and commercialize any representation of the Baseball Stadium, in whole or in part, or the name or contents thereof, for licensing, promotional, publicity, general advertising and other suitable purposes, including but not limited to the creation, use, promotion and commercialization of text, data, images, photographs, illustrations, animation and graphics, video or audio segments of any nature, in any media or embodiment, now known or later developed; and

(e) all other rights of marketing and advertising, exploitation, in any format, now known or later developed, and associated promotional opportunities.

“Proprietary Indicia” means all trademarks, service marks, trade names, trade dress, domain names, symbols, logos or brand names, together with any other copyrighted or copyrightable properties, in any format now known or later developed, that are or become owned or controlled by a Team Affiliate or Major League Baseball, which are or become commercially identified or associated with the Team Affiliate or Major League Baseball, or are now or hereafter licensed by or to a Team Affiliate or Major League Baseball.

“Public Infrastructure” means utilities, roadwork, walkways, street lighting, off-site improvements and transportation linkages that will provide ingress and egress to and support the Baseball Stadium, and other work all as to be more fully described in the Construction Administration Agreement.

“Public Infrastructure Costs” means all costs and expenses incurred by the County and the City pursuant to the Construction Administration Agreement for the development and completion of the Public Infrastructure.

“Qualified Trustee” means a financial institution qualified to act as a depository, jointly appointed by the County, the City and the Team for each of the purposes contemplated in this Agreement. The fees charged by the Qualified Trustee shall be funded from the interest earnings on deposit in the accounts managed by the Qualified Trustee.

“Stadium Agreements” shall mean the Construction Administration Agreement, the Management Agreement, the Non-Relocation Agreement, the City Parking Agreement, the Assurance Agreement and any other necessary agreements entered into by and among the County, the City, the Team, the Stadium Developer, the Stadium Manager, and/or other Team Affiliate with respect to the development, operation and management of the Baseball Stadium Project.

“Stadium Developer” means the Team Affiliate or successor entity designated by the Team to manage the construction and development of the Baseball Stadium in accordance with the terms of the Construction Administration Agreement.

“Stadium Developer Soft Costs” means the Stadium Project Costs to be paid directly by the Stadium Developer or other Team Affiliate outside of the Stadium Project Construction Fund to cover the fees relating to the Design and Construction Professionals and the Stadium Developer’s owner’s representative, legal fees (but excluding legal fees and costs related to pending or threatened litigation against the County and/or the City, including mediation and arbitration) and other consultants fees.

“Stadium Manager” means the Team Affiliate or successor entity designated by the Team to manage the Baseball Stadium in accordance with the terms of the Management Agreement.

“Stadium Project Budget” means the budget for the Baseball Stadium set forth in Exhibit B.

“Stadium Project Construction Fund” means an escrow fund held by a Qualified Trustee for the purposes described in Section 6.06. The Stadium Project Construction Fund shall be composed of three segregated accounts to be known respectively as the County Account, the City Account and the Team Account, and any necessary subaccounts within each account.

“Stadium Project Costs” means all hard costs, soft costs and other costs incurred by the Team Affiliates in accordance with this Agreement and the Construction Administration Agreement for the development and completion of the Baseball Stadium Project. The Construction Administration Agreement shall define “hard costs” and “soft costs” and provide which hard costs and soft costs, if any, are not eligible for payment or reimbursement from the Stadium Project Construction Fund.

“State” means the State of Florida.

“Targeted Completion Date” shall have the meaning set forth in Section 4.10.

“Targeted Taxes” means any taxes or government charges on: (i) receipts from purchasers, lessees or licensees of private suites in the Baseball Stadium of amounts in excess of the face value of the admission tickets for seats in the suites; (ii) the activities conducted by a Team Affiliate at the Baseball Stadium or the income from such activities unless the tax or governmental charge applies to the same or similar activities conducted by all or a broad range of

businesses or persons within the County or the City or the income from such activities; (iii) receipts from the sale of any tickets (including tickets in luxury suites) or other rights to admission to the Baseball Stadium unless the tax or governmental charge is one of general application levied against or imposed generally on receipts from the sale of tickets or other rights to admission to sports, amusement and entertainment facilities within the County or City; (iv) the gross receipts or incomes of players, coaches, enterprises, businesses, teams, or team owners who use the Baseball Stadium unless the tax or governmental charge is one of general application levied against or imposed on the gross receipts or incomes of people, enterprises, businesses, or owners of enterprises or businesses, as the case may be, within the jurisdiction of the County or City; (v) any capital gain on or appreciation in the investment in a Team Affiliate unless the tax or governmental charge is one of general application to investments in enterprises or businesses of any type within the jurisdiction of the County or City; or (vi) the sale of the Major League Baseball franchise or an ownership interest in a Team Affiliate unless the tax or governmental charge is one of general application to the sale of ownership interests in enterprises or businesses of any type within the jurisdiction of the County or City.

“**Team**” means Florida Marlins, L.P., its successors and its assigns as permitted under Section 10.07.

“**Team Affiliate**” means the Team and any entity controlled by or under common control with the Team.

“**Team Foundation**” shall have the meaning set forth in Section 7.14(a).

“**Team Funding**” means the funding to be provided by the Team or a Team Affiliate for the Baseball Stadium Project pursuant to the terms set forth in Sections 4.09 and 6.04.

“**Team Reserved Parking Spaces**” shall have the meaning set forth in Section 5.02.

“**Team Revenues**” means, all revenues generated from or by reason of Baseball Events and Other Events at the Baseball Stadium, including without limitation: the proceeds from the sale of tickets or other rights to admission; the proceeds from the sale or licensing of suites; the proceeds from the sale of seat licenses or other rights to purchase tickets or admission; all revenues derived from the sale or licensing of rights of any sort to televise, broadcast, transmit, record, advertise or promote in any manner the Baseball Events or Other Events or promotions at the Baseball Stadium or any description or account of the Baseball Events or Other Events or promotions at the Baseball Stadium; all proceeds from the sale at or from the Baseball Stadium of concessions, memorabilia, souvenirs, or other products and services; all marketing, advertising, promotional, naming and other revenues derived from or arising out of the Baseball Stadium or the Baseball Events or Other Events or promotions held there or products, services, information or media content sold from there; and all proceeds from assignments, leases or licenses of Baseball Stadium; provided, however, that Team Revenues do not include taxes or governmental charges or revenues from Community Events.

“**Total Baseball Stadium Cost**” shall have the meaning set forth in Exhibit B.

ARTICLE II

REPRESENTATIONS

Section 2.01 Representations of the County

As an inducement to the City and the Team to enter into this Agreement, the County represents as follows:

(a) The County is, under the laws of the State, a duly created and validly existing government constituted as a political subdivision of the State.

(b) The County has the power to contract and to be contracted with, to sue and to be sued, to plead and to be impleaded, to have a seal and to exercise all other powers of a political subdivision not inconsistent with the Constitution and laws of the State.

(c) The County has full right, power and authority to execute, deliver and perform its obligations under this Agreement.

(d) This Agreement has been duly executed and delivered by the County and, when duly executed and delivered by the Team and City, shall constitute a legal, valid and binding obligation of the County enforceable against the County in accordance with its terms, except that (i) enforceability may be limited by the application of bankruptcy, insolvency, or similar laws of general applicability relating to the enforcement of creditors' rights generally, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

(e) The execution, delivery and performance of this Agreement will not conflict with or constitute a breach of or default under any commitment, agreement or instrument to which the County is a party or by which it is bound.

(f) Other than Case No. 08-03787 CA 13, filed in the Circuit Court of the 11th Judicial Circuit of Miami Dade County, Florida, there is no litigation, administrative proceeding or investigation pending (nor, to the knowledge of the County, is any such action threatened) which in any way adversely affects, contests, questions or seeks to restrain or enjoin the County's enabling legislation or any of the proceedings or actions taken by the County leading up to the execution, delivery or performance of this Agreement.

(g) The County Bonds will not be issued in whole or in part under Parts II, III or V of Chapter 159 of the Florida Statutes.

Section 2.02 Representations of the City

As an inducement to the County and the Team to enter into this Agreement, the City represents as follows:

(a) The City is, under the laws of the State, a duly created and validly existing government constituted as a municipal corporation of the State.

(b) The City has the power to contract and to be contracted with, to sue and to be sued, to plead and to be impleaded, to have a seal and to exercise all other powers of a political subdivision not inconsistent with the Constitution and laws of the State.

(c) The City has full right, power and authority to execute, deliver and perform its obligations under this Agreement.

(d) This Agreement has been duly executed and delivered by the City and, when duly executed and delivered by the Team and County, shall constitute a legal, valid and binding obligation of the City enforceable against the City in accordance with its terms, except that (i) enforceability may be limited by the application of bankruptcy, insolvency, or similar laws of general applicability relating to the enforcement of creditors' rights generally, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

(e) The execution, delivery and performance of this Agreement will not conflict with or constitute a breach of or default under any commitment, agreement or instrument to which the City is a party or by which it is bound.

(f) Other than Case No. 08-03787 CA 13, filed in the Circuit Court of the 11th Judicial Circuit of Miami Dade County, Florida, there is no litigation, administrative proceeding or investigation pending (nor, to the knowledge of the City, is any such action threatened) which in any way adversely affects, contests, questions or seeks to restrain or enjoin the City's enabling legislation; or any of the proceedings or actions taken by the City leading up to the execution, delivery or performance of this Agreement.

(g) The City Bonds will not be issued in whole or in part under Parts II, III or V of Chapter 159 of the Florida Statutes.

Section 2.03 Representations of the Team

As an inducement to the County and the City to enter into this Agreement, the Team represents as follows:

(a) The Team is a limited partnership duly created and validly existing pursuant to the laws of Delaware and is qualified to do business in every jurisdiction where its ownership of property or its conduct of business operations gives rise to the need for such qualification, except to the extent that the failure so to qualify in any particular jurisdiction could not reasonably be expected to result in a material adverse effect on the business or financial condition of the Team or the ability of the Team to perform its obligations hereunder.

(b) The Team and the applicable Team Affiliate have full right, power and authority to execute, deliver and perform their respective obligations under this Agreement.

(c) This Agreement has been duly executed and delivered by the Team and, when duly executed and delivered by the City and the County, shall constitute a legal, valid and binding obligation of the Team enforceable against the Team in accordance with its terms, except that (i) enforceability may be limited by the application of bankruptcy, insolvency, or

similar laws of general applicability relating to the enforcement of creditors' rights generally, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

(d) The execution, delivery and performance of this Agreement will not conflict with or constitute a breach of or default under any commitment, agreement or instrument to which the Team or any Team Affiliate is a party or by which it is bound.

(e) The Team holds a valid Major League Baseball franchise and is in compliance in all material respects with all Baseball Rules and Regulations.

(f) Other than Case No. 08-03787 CA 13, filed in the Circuit Court of the 11th Judicial Circuit of Miami Dade County, Florida, there is no litigation, administrative proceeding or investigation pending (nor, to the knowledge of the Team, is any such action threatened) which in any way adversely affects, contests, questions or seeks to restrain or enjoin any of the following: (i) the Team's participation in the Baseball Stadium Project; (ii) any of the limited partnership proceedings or actions taken leading up to the execution, delivery or performance of this Agreement; or (iii) the Team's ownership of its Major League Baseball franchise.

(g) The Office of the Commissioner of Baseball, on behalf of Major League Baseball, has approved the terms of this Agreement and the Team's execution, delivery and performance of this Agreement.

Section 2.04 Continued Effectiveness

Each party agrees that each of its representations in Sections 2.01, 2.02 and 2.03, respectively, was true and accurate on the Effective Date of this Agreement and, except for the representations made in Sections 2.01(f), 2.02(f) and 2.03(f) as to which no continuing representations can be made, will continue to be true and accurate at all times thereafter while this Agreement is in effect. Each party agrees to notify the other parties of any pending litigation of a character described in Sections 2.01(f), 2.02(f) and 2.03(f), as applicable to it.

ARTICLE III

BASEBALL FRANCHISE

Section 3.01 Discontinuation of Relocation Discussions

Commencing with the execution and delivery of this Agreement and ending upon the earlier of (i) the date of the execution and delivery of the Non-Relocation Agreement and (ii) the termination or expiration of this Agreement, the Team and its agents shall discontinue all discussions, negotiations and efforts to relocate the Team's Major League Baseball franchise either temporarily or permanently to any location other than the Baseball Stadium Site.

Section 3.02 Non-Relocation Agreement

The Team shall enter into the Non-Relocation Agreement concurrently with the execution and delivery of the Management Agreement. The Non-Relocation Agreement shall unconditionally require the Team to maintain its Major League Baseball franchise in the City of Miami for the term of the Management Agreement. The Non-Relocation Agreement shall require the Team to operate and maintain a Major League Baseball franchise with the Baseball Stadium as its home stadium and to play all of its regular season and post-season home games at the Baseball Stadium; provided, however, that the Non-Relocation Agreement shall permit the Team: (i) to play its home games elsewhere if necessary for reasons of public safety or because of rescheduling due to weather or force majeure; (ii) to schedule and play up to three regular season home games in any consecutive five-year period in an international or other venue as permitted or requested by Major League Baseball; and (iii) play post-season games in any venue required by Major League Baseball.

ARTICLE IV

DEVELOPMENT

Section 4.01 Baseball Stadium Site

(a) Selection of Baseball Stadium Site; Environmental Insurance and Remediation.

(i) The Baseball Stadium Site shall consist of an area within a perimeter approximately 100 feet beyond the dripline of the Baseball Stadium footprint and such easements reasonably necessary to accommodate and provide for the support of the retractable roof; provided, however, if an easement is insufficient for issuance of the Replat, the Stadium and Parking MUSP, the building permits for the Baseball Stadium, or any other approvals required for the construction and operation of the Baseball Stadium, the City agrees to provide such interest in the parcels as necessary to accomplish the issuance of the foregoing. The parties shall take such necessary steps as are required to give proper effect to such easements and such easements shall remain in effect until the earlier of (i) the reversion of title to the City pursuant to Section 4.01(f)(vii); or (ii) the date the Baseball Stadium ceases to exist. Prior to March 31, 2008 (the "Site Selection Date") the County, the City and the Team shall agree on the location and layout of the Baseball Stadium Site and, to the extent feasible, the location of the Public Infrastructure within the Entire Site as well as the areas of the Entire Site proposed for construction staging, and include such details, description and depiction in the Construction Administration Agreement. In selecting the Baseball Stadium Site and, if feasible, the Public Infrastructure sites, the parties shall consider accessibility and visibility from beyond the Entire Site, the result of the investigations and inspections described hereunder, the location and possible accommodation of existing utilities in the Entire Site, and the feasibility of the development of the remainder of the Entire Site for the permitted uses described in Section 4.11. Notwithstanding Section 9.05 hereof, the parties' inability to reach agreement on the location and layout of the Baseball Stadium Site shall not be subject to arbitration.

(ii) The City agrees it shall not take any action after the Acceptance Date, that would impair the condition of the Baseball Stadium Site, or the portion of the Entire Site upon which the City Parking or Public Infrastructure will be constructed.

(iii) At least fifteen (15) days prior to the Acceptance Date, the City will deliver to the County and the Team a binder for an environmental liability insurance policy from a reputable insurance carrier selected by the City, to insure the City, the County and the Team for the Baseball Stadium Site as follows:

(A) remediation costs and third party liability with coverage limits of not less than \$5 million per incident and limits of not less than \$5 million in the aggregate. The City agrees to increase the coverage limits up to such amount as would not cause the premium to increase by more than 50% over the premium for \$5 million of coverage.

(B) a term of 18 months from commencement of construction of the Baseball Stadium, which may be extended by the Team at no cost (relating to the premium and deductible) to the City or County.

(C) deductible to be payable by the City.

(D) exclusions for known conditions disclosed in the Phase I Report, Limited Phase II Report and Expanded Phase II Report described below (but covering remediation costs and liability for conditions not disclosed by such reports).

The City shall provide, at its expense, a policy with coverage as of the Acceptance Date.

(iv) The City, at its own expense, will remediate in accordance with any option available under applicable environmental law, rules and regulations, including Chapter 24 of the Miami-Dade County Code, any environmental contamination located on, in or under or originating from the portion of the Entire Site located at 1600 Northwest 7th Street, which is described in the Phase I Report as having been used in the past as a petroleum filling station (the "Filling Station Site"), and any environmental contamination existing on, originating from, or affecting the Public Infrastructure sites which are located within the Entire Site, provided that the City shall not be required to remedy any environmental condition within the Baseball Stadium Site. Furthermore, notwithstanding the foregoing, the City shall have no obligation by virtue of this Agreement to conduct remediation of any environmental contamination originating anywhere within the Entire Site to the extent that such contamination does not impact the Baseball Stadium Site or the Public Infrastructure. Except as otherwise provided herein, if the costs of any environmental remediation encountered on the Baseball Stadium Site are excluded from coverage under the insurance policy provided in Section 4.01(a)(iii) or are in excess of the insurance proceeds payable under such insurance policy, the Construction Administration Agreement shall set forth the allocation of such environmental remediation costs and the terms of such environmental remediation.

(b) City's Deliverables. The City shall deliver to the County and the Team at the City's cost:

(i) Phase I Environmental Report. The City has previously delivered to the County and the Team the Phase I Environmental Site Assessment Report dated March 20, 2007, prepared by Bureau Veritas North America, Inc. as Project Number 144398 (the "Phase I Report"). The County and the Team acknowledge receipt of the Phase I Report. Prior to March 1, 2008, the Phase I Report shall also be certified to the County and the Team and appropriate updates to the report pursuant to the ASTM standard shall be provided.

(ii) Title Evidence. Within 10 days following the Effective Date, a title insurance commitment (the "City Title Commitment"), committing to insure the County's acquisition of the Baseball Stadium Site (the location of which is to be determined in accordance with subsection (a)) in the amount of \$30 million, prepared by Attorneys' Title Insurance Fund, and opinions of title (the "Opinions of Title") issued by Lyons and Smith P.A., each relating to the Entire Site and having an effective date no earlier than four weeks prior to the Effective Date, with hard copies of all "special exceptions" noted. The County and the Team shall not be obligated to purchase a title insurance policy from said title company, but shall be free to purchase a title policy from any title company or companies they select (it being understood that the City shall have no obligations with respect to such policy). The City shall execute such customary affidavits (gap, no-lien and possession) as may be reasonably required by the title company in order to delete the standard exceptions, but not to delete any exceptions shown in the Opinions of Title or in the surveys delivered pursuant to Section 4.01(b)(iii) (unless the exceptions are of the type cured by approval of the Replat including those specifically listed in Section 4.01(f)), from the title commitment and title policy, if the County and/or Team elect to obtain a title policy. If the Team and the County agree that title insurance for the land is required, the County shall procure such policy. If the cost of the title insurance policy is greater than \$10,000, the cost of the policy shall be borne equally between the Team and the County. If the cost of the title insurance policy is less than or equal to \$10,000, the Team shall bear the cost.

(iii) Survey. Prior to March 14, 2008, a survey of the Entire Site (the "Survey"), certified to the City, the County and the Team, dated no earlier than sixty (60) days prior to the Effective Date, prepared by a licensed Florida land surveyor, showing the boundaries of the Entire Site, all easements of record on the Entire Site, and all improvements (other than the Orange Bowl) and encroachments by neighboring improvements on the Entire Site. Within 60 days after the selection of the Baseball Stadium Site, the City shall deliver to the County and the Team a revision of the survey showing the perimeter of the Baseball Stadium Site. The Survey must also comply with the following requirements (except that the Survey need not show the location, dimensions or square footage of the Orange Bowl or related improvements which are to be demolished in accordance with this Agreement, the striping or type of any parking areas; or the location or type of any trees):

1. The City shall deliver at least ten (10) original signed and sealed survey prints.
2. The survey must be prepared in accordance with the 2005 Minimum Standard Detail Requirements established and adopted by the American Land Title Association ("ALTA"), American Congress on Surveying and Mapping ("ACSM") and National Society of Professional Surveyors ("NSPS") and shall include, without limitation, the following Table A items: 1 (denote existing monuments only), 2-4, 5, 6, 7(a), 7(b)(1), 7(c), 8-

11(b), and 13-18, and be made in accordance with the technical standards as set forth by the Florida Board of Professional Land Surveyors and all requirements for surveys established by Florida law including Florida Statutes Chapters 177 and 472 and related Florida Administrative Code Rules.

3. The survey must specify the acreage of the Entire Site.
4. The survey must show all setback lines affecting the Entire Site. The survey also shall show the location of all above and below ground utilities affecting the Entire Site.
5. The survey shall be satisfactory to the title insurance company, shall refer to the City Title Commitment by number and effective date, and shall list every recorded exception appearing in the title report, with a note stating whether the exception affects the Entire Site, and if so, whether the exception is plottable. All restrictions, easements, rights-of-way, covenants, etc. ("Encumbrances") which are excepted in the title report must be depicted and identified on the survey drawing with the appropriate deed book and/or map book reference, including page numbers. If an Encumbrance is blanket in nature and its location cannot be plotted, then the survey shall contain a notation identifying the Encumbrance as affecting the property in question and stating that same is blanket in nature and cannot be plotted. If an Encumbrance does not affect the property in question, then the survey shall contain a notation identifying the document and stating that same does not affect the property.
6. All appurtenant rights disclosed by the title report must be depicted and identified on the survey drawing with the appropriate deed book and/or map book reference, including page numbers. If the right is blanket in nature and its location cannot be plotted, then the survey shall contain a notation identifying the right in question as benefiting or burdening the Entire Site and that it cannot be plotted because it is blanket in nature.
7. The Survey shall contain a written legal description. The written legal description and the legal description depicted and identified on the Survey drawing shall both be identical with the legal description in the title report obtained by the City.
8. The survey must be certified in the following manner:

"The undersigned, being a duly licensed and qualified surveyor in and for the State of Florida, does hereby certify to the City of Miami, the County of Miami-Dade, Florida Marlins, L.P. and their respective successors and/or assigns, that, except for the location, dimensions or square footage of the Orange Bowl or related improvements which are to be demolished in accordance with the Agreement between the City of Miami, Miami

Dade County and the Florida Marlins, L.P., dated _____, or the striping or type of any parking areas, or any trees:

“(a) the survey represented herein is an accurate survey of all the real property legally described herein; (b) the within survey properly and accurately indicates the size, location, and type of improvements on the Entire Site as of the date of the survey; (c) the within survey was prepared under the direct supervision and control of the undersigned from an actual survey made of the real property legally described herein; (d) all monuments shown hereon actually exist, and the location, size, and type of material are correctly shown; (e) except as shown hereon, there are no encroachments either across property lines or zoning restriction lines in effect as of the date of the survey; (f) the within survey properly designates and locates all visible or recorded easements as of the date of the survey; (g) ingress and egress to the property is provided by [name of street or road] upon which the property abuts, the same being a paved and dedicated right-of-way maintained by [name of governmental authority]; (h) the Entire Site is [or is not] located in an area designated as a special flood hazardous area by the U.S. Department of Housing and Urban Development, and lies in a zone “...” of minimum flooding; (i) the Entire Site does not [or does] service any adjoining property for drainage, ingress, egress or any other purpose; (h) all recorded and plottable easements and other exceptions, as noted in the Title Company’s Report No. _____, dated _____, have been correctly platted hereon; (i) all parking areas have been accurately located hereon; and (j) the within survey was prepared in accordance the current minimum standards of requirement set forth by the Florida Board of Professional Land Surveyors and all requirements for surveys established by Florida law including Florida Statutes Chapters 177 and 472 and related Florida Administrative Code Rules, and were made in accordance with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys jointly established and adopted by the ALTA, ACSM, and NSPS in 2005, including, without limitation, those certain items 1 (denote existing monuments only), 2-4, 5, 6, 7(a), 7(b)(1), 7(c), 8-11(b), and 13-18 set forth on Table A. Pursuant to the Accuracy Standards adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion as a land surveyor registered in the State of Florida, the Relative Positional Accuracy of this survey does not exceed that which is specified herein [or: the maximum Relative Positional Accuracy is _____ feet].”

(iv) Phase II Environmental Reports.

(a) As promptly as practicable but not later than March 10, 2008, a Limited Phase II Environmental Site Assessment Report addressing the Filling Station Site identified within the Phase I Report as a Recognized Environmental Condition (the "Limited Phase II Report") certified to the County and the Team.

(b) As promptly as practicable but not later than March 15, 2008, an Expanded Phase II Environmental Site Assessment Report investigating soil and groundwater quality within that portion of the Entire Site not addressed by the Limited Phase II Report (the "Expanded Phase II Report"), certified to the County and the Team. The Scope of Work for the Expanded Phase II Report has been delivered to the County and the Team. The Team shall have until February 22, 2008 in which to request any changes to the Scope of Work for the Expanded Phase II Report. If the Team requests such changes, the City will cooperate but the Team will be responsible for any additional costs incurred and for any delay in the delivery of such report resulting from the Team's request.

(c) Inspections and Acceptance. (i) The County and the Team shall have the right to undertake, at no expense to the City, such physical inspections and other investigations of and concerning the Entire Site, including geotechnical, soil borings, percolation, engineering studies, additional environmental tests and studies and other tests as they consider necessary to review and evaluate the physical characteristics of the Entire Site and select the Baseball Stadium Site and the location of the Public Infrastructure, and to perform certain work or inspections in connection with such evaluation (these inspections and evaluations being referred to individually and collectively herein as the "Inspection(s)") after giving the City reasonable notice of twenty-four (24) hours prior to each test performed.

(v) The City hereby grants to the County and the Team rights of entry upon the Entire Site to conduct the Inspections. The right of access herein granted shall be exercised in such a manner as not to cause any unreasonable damage or destruction to, or unreasonable interruption or interference with, the rights of the City or others to enter upon or use the Entire Site. The County and the Team, as applicable, agree to immediately pay or cause to be removed any liens or encumbrances filed against the Entire Site as a result of any actions taken by them or on their behalf in connection with the Inspections and to repair such damages to the Entire Site caused by said Inspections as the City shall reasonably require, giving due weight to the expected demolition of the improvements on the Entire Site. The County and the Team acknowledge that the City has made available to them the Phase I Report and will make available to them the Limited and Expanded Phase II Reports procured by the City (all three reports collectively referred to hereinafter as the "Environmental Reports") without any representations or warranties by the City as to the accuracy or completeness of the information contained therein. The County and the Team further acknowledge that while they are relying upon the Environmental Reports, they have the full and sufficient right and opportunity to conduct their own thorough and complete investigations of the Entire Site in selecting the Baseball Stadium Site.

(d) Examination of Title Evidence. Within thirty (30) days following its receipt of the City Title Commitment and Opinions of Title described in Section (b)(ii), the County and the Team shall have the right to obtain and examine all documents it requires and notify the City, in writing, of any condition which would render the title for the Baseball Stadium Site unmarketable or to have diminished marketability, or impair the use of the Baseball Stadium Site for the purpose intended. Such conditions are herein called "Title Defects." The City shall use reasonable commercial efforts to cure any Title Defects so noticed by the County and the Team within thirty (30) days (the "City Cure Period"), provided that (i) the City shall not be required to institute any litigation or eminent domain proceedings, and (ii) the City shall not be required to expend funds for such purpose, other than the fees of its legal counsel ("Commercial Cure Efforts"). In the event that title examination reveals a Title Defect not cured by the City, the

County or the Team may, within five (5) business days following the end of the City Cure Period: (i) elect to accept such title that the City may be able to convey; or (ii) terminate this Agreement by notice to the other parties, in which case this Agreement shall be terminated and no party shall have any further obligation to the other parties (except for liability for other breaches). For any title defects that arise between the date of submission of City Title Commitment and Opinions of Title described in Section (b)(ii) and the date of conveyance under Section 4.01(f)(vii) ("Additional Defects"), the City shall use Commercial Cure Efforts to cure any such Additional Defects, and the Team and the County each shall have the termination rights set forth in Section 4.01(e).

(e) Termination for Site Condition. From the Effective Date through 45 days following the completion of the demolition of the Orange Bowl ("Acceptance Date"), each of the County and the Team shall have the right to terminate this Agreement if it is not satisfied with the condition of the Entire Site. The County's termination right only shall apply in the event that the Team does not agree to pay the cost of the required remediation work in the case of identified environmental hazards or other site conditions. If this Agreement is not terminated by the Acceptance Date, the County and the Team shall be deemed to have accepted the Baseball Stadium Site in the condition existing as of the Acceptance Date and to have acknowledged that, except for environmental conditions as provided in Section 4.01(a)(iv), which the City has agreed herein to remediate, and the exceptions of the type cured by approval of the Replat including those specifically listed in Section 4.01(f), the City does not make and specifically negates and disclaims any representations and warranties as of that date regarding the Entire Site including specifically, but without limitation, environmental, soil and subsoil conditions and compliance with laws, rules and regulations, except as otherwise specifically provided in this Agreement. For any termination under this Section 4.01(e), the Team or the County shall give notice to the other parties, in which case this Agreement shall be terminated and no party shall have any further obligation to the other parties each of the parties shall be relieved of their obligations under this Agreement and the Stadium Agreements with no further liability to each other (except for liability for other breaches).

(f) Replating; Abandonment of Easements and Right of Way; Conveyance of Baseball Stadium Site. (i) Promptly following the Effective Date, the City shall commence and shall diligently pursue the approval of a replat (the "Replat") of the Entire Site for the purpose of:

(A) abandoning and/or relocating those easements located within the Entire Site which would interfere with the construction or location of the Baseball Stadium or the Public Infrastructure (the "Encroaching Easements").

(B) abandoning the rights of way currently located within the existing Entire Site.

Except as otherwise provided herein, the City shall pay all the expenses incurred in connection with the approval and recordation of the Replat.

(ii) Promptly following the Effective Date, the Team and the City jointly shall diligently pursue the approval of a Major Use Special Permit for the purpose of enabling the County, the Team or the City, as appropriate, to procure a building permit for the construction of the Baseball Stadium and the City Parking (the "Stadium and Parking MUSP"). The Team, as it

relates to the Stadium portion of the MUSP, and the City, as it relates to the Parking portion of the MUSP, each shall pay for their respective studies, plans and other submissions which are required for the Stadium and Parking MUSP.

(iii) The City and the Team shall work cooperatively in seeking all other needed permits and approvals for the Baseball Stadium, including utility plans, paving and grading, building permits, etc. The applications for the Replat, the Stadium and Parking MUSP, and the other approvals sought hereunder for the Baseball Stadium, the Public Infrastructure and the City Parking are collectively referred to herein as the "Applications." The Team and the County shall not be responsible for any additional MUSP, application or other approval-related costs relating to the Other Development.

(iv) The County, the City and the Team shall reasonably cooperate with one another in connection with the applications for the Replat and any amendments and supplements thereto and shall promptly and diligently, and as often as may be required join in the execution of applications, submissions and other documents and appear at meetings, staff conferences, public hearings and such other events of the City, the County, the State and the United States, and their respective agencies, departments, boards and commissions, as required.

(v) The County, the City and the Team shall reasonably cooperate with one another in connection with the application for the Stadium and Parking MUSP, and shall promptly and diligently, and as often as may be required, join in the execution of applications, submissions and other documents and appear at meetings, staff conferences, public hearings and such other events of the City, the County, the State and the United States, and their respective agencies, departments, boards and commissions, as required.

(vi) [NOT USED]

(vii) Promptly following the approvals of the Applications and the recordation of the Replat, the City shall convey to the County, and the County shall accept from the City, fee simple title to the Baseball Stadium Site. The conveyance shall be by special warranty deed (the "Warranty Deed"), free and clear of all liens, encumbrances, restrictions, leasehold or other possessory interests except for those matters shown in the Opinions of Title and for the Replat, together with easements, as needed for ingress and egress to the Baseball Stadium Site, in accordance with the more detailed requirements to be set forth in the Construction Administration Agreement. The City shall convey to the County by appropriate instrument such air rights and easements as may be reasonably necessary to accommodate and provide for the retractable roof. The City shall also grant easements to the County for any land underlying any of the Public Infrastructure as shall be reasonably requested by the County in order for the County to improve such land in accordance with the requirements of the Construction Administration Agreement. The Warranty Deed shall provide for reversion of title to or at the direction of the City if (i) the Management Agreement is terminated and (ii) the County fails to secure a replacement professional sports franchise to use the Baseball Stadium within three years after such termination.

(g) City's Obligations.

(i) The City and the Team shall use reasonable best efforts to obtain, prior to

March 31, 2008, a binding letter of vested rights ("BLIVR") from the Florida Department of Community Affairs (the "DCA") which authorizes the construction, operation and use of the Baseball Stadium and City Parking without the need to undergo a development of regional impact ("DRI") review process. If the City and the Team are unable to obtain a BLIVR by March 31, 2008, the City and the Team shall seek to obtain a preliminary development agreement or similar DRI-related preliminary agreement under Section 380.032, Fla. Stat. as soon as is reasonably possible in addition to any other steps required to obtain DRI approval.

(ii) The City agrees to commence the demolition of the Orange Bowl within 30 days of receipt of the BLIVR (or express indication from DCA that the demolition of the Orange Bowl will not jeopardize the BLIVR application) or the written request of the County and the Team, and to complete the demolition and the removal of all Orange Bowl and demolition debris from the Baseball Stadium Site within 4 months thereafter. The County and the Team have received a copy of the Demolition Services Agreement dated January 7, 2008 (the "Demolition Agreement") between the City and Decommissioning & Environmental Management Company, Inc. Representatives of the County and the Team also shall be permitted to observe such demolition in order to assure compliance with the demolition specifications and the proper and safe removal of all debris from the Baseball Stadium Site.

(iii) Prior to July 1, 2008, the City shall provide a construction easement in favor of the County and the relevant Team Affiliates to use portions of the Entire Site as needed for staging for construction of the Baseball Stadium and for construction of the County's portion of the Public Infrastructure, with further details to be set forth in the Construction Administration Agreement. The target dates by which the Replat of the Baseball Stadium Site and necessary abandonment of roads, abandonment and relocation of utilities, and abandonment or relocation of Encroaching Easements will be completed shall be set forth in the Construction Administration Agreement.

(h) Other Easements. The County shall have the right to grant utility, access and other similar easements affecting the Baseball Stadium Site and to construct and install utility lines and other improvements in accordance with such easements so long as they do not interfere with the construction (costs or timing) of the Baseball Stadium or its operation. The City shall join in such grants of easement as reasonably necessary to give effect thereto. The City shall grant such utility, access and other similar easements on the Development Site as the County and Team may reasonably request to facilitate the development, construction and operation of the Baseball Stadium and Public Infrastructure, provided that such easements do not unreasonably interfere with the development or use of the Other Development.

Section 4.02 Stadium Project Budget

The Stadium Project Budget, including the Total Baseball Stadium Cost, is set forth in Exhibit B. The Team has determined that the Baseball Stadium Project can be completed within the Stadium Project Budget. The sources of funds for the Stadium Project Budget are shown in Exhibit C.

Section 4.03 Project Program Statement

The initial Project Program Statement is attached as Exhibit G and incorporates the general features that, given budget realities, the parties want the Baseball Stadium to have. The Construction Administration Agreement shall provide as an Exhibit, a more detailed Project Program Statement that has a complete facility program depicted by room data sheets at a schematic development stage, designed to keep the Baseball Stadium costs within the Stadium Project Budget. The revised Project Program Statement shall also provide additional detail of the Baseball Stadium including general descriptions of the following stadium systems: food services, concessions, sound, HVAC, security, scoreboard, electrical and emergency generation, lighting and telecommunications and data. The Construction Administration Agreement shall provide that the Team may amend the Project Program Statement from time to time; provided, however, that the amendment shall not be effective without the prior written consent of the City and the County if the effect of the amendment is to: (i) cause the Targeted Completion Date to be missed; (ii) cause the projected total Stadium Project Costs to exceed or further exceed the Stadium Project Budget (assuming that the budgeted contingency identified in Exhibit B would not be available) unless the Stadium Developer has made arrangements reasonably satisfactory to the County and the City to fund the excess cost; (iii) pose a material risk to public safety; (iv) eliminate a materially important programmatic element from the Project Program Statement; (v) cause the projected total Public Infrastructure Costs to exceed or further exceed the reasonably determined Public Infrastructure budget furnished to the Team pursuant to Section 5.01, including any increased costs caused by delays in completing the Public Infrastructure; or (vi) result in a Governmentally Caused Overrun unless the Stadium Developer and the Team waive, in writing, any claims it may have against the County and the City for Governmentally Caused Overruns resulting from the change. Each time the Project Program Statement is amended under one of the above permitted exceptions, no later than 10 business days from the date of the amendment, the Team shall provide the City and the County an updated Project Program Statement. In any instance in which County and City approval of a Project Program Statement is required, the County and City shall provide their response within 10 business days following receipt of the amended Project Program Statement and its approval shall not be unreasonably withheld or delayed. Failure by the County and City to respond on a timely basis shall be deemed an approval.

Section 4.04 Construction Administration Agreement

The County, the City and the Stadium Developer shall enter into the Construction Administration Agreement and the Construction Administration Agreement shall contain the contractual provisions regarding each party's obligations and responsibilities relating to the Entire Project including those obligations that are expressly set forth in Article IV, Article V, Article VI and Article VIII of this Agreement. The Assurance Agreement shall provide that the Team will guarantee the payment and performance of all obligations of the Stadium Developer under the Construction Administration Agreement.

Section 4.05 Design and Construction Professionals

The Construction Administration Agreement shall require the Stadium Developer to engage the Design and Construction Professionals and the Construction Manager for the design of the Baseball Stadium. The Team has advised the County and the City that it will retain HOK

Sport, Inc., doing business as HOK Sport+Venue+Event (“HOK”), as the lead architect for the Baseball Stadium, and Walter P. Moore, Bliss & Nitray, Inc., Uni-Systems and M/E Engineers as some of the consultants to HOK. HOK will utilize the County’s Small Business Department to ensure compliance with the CBE-A/E Program. The fees of the Design and Construction Professionals and Construction Manager shall be included in the Stadium Project Budget. The Construction Administration Agreement shall provide that no Team Affiliate shall be paid or compensated a developer fee for its services as Stadium Developer. All fees and sums paid to the Design and Construction Professionals shall be paid directly by the Stadium Developer and not from the County Account or the City Account in the Stadium Project Construction Fund, with such fees and sums paid to be credited against the Team Funding requirement set forth in Section 6.04. The County and/or the City shall not be obligated in any way to pay or reimburse the Team and/or the Stadium Developer for any Design and Construction Professionals’ fees, except in the case of damages to be paid by the County or City under Article IX hereof. Although the Stadium Developer is paying all architectural and design fees of the Baseball Stadium, the Team agrees to provide in the Stadium Developer’s contract with HOK a provision requiring HOK to make reasonable good faith efforts to ensure that HOK and the major Design and Construction Professionals engaged by HOK comply with the County’s CBE-A/E program with respect to the services to be performed in the same manner as if the design was County rather than privately funded and to enforce such provisions. In addition, the Team Affiliate shall comply and agree to provide in the Team Affiliate contracts with HOK, and any other Design and Construction Professionals with whom the Team Affiliate contracts, provisions requiring HOK and any other Design and Construction Professionals to comply with any applicable State and local laws. The Team shall provide a copy of any and all contracts between the Team and the Design and Construction Professionals to the County for its review within 30 days after their execution to confirm compliance with the requirements above. The Stadium Developer either shall (i) competitively select a Florida licensed contractor to serve as the Construction Manager in accordance with State law, including the competitive selection procedures provided in Section 255.20, Florida Statutes, and applicable local laws and requirements or (ii) obtain an appropriate bid waiver for the selection of a Construction Manager in accordance with State and local law. The Stadium Developer shall include in its contract with the Construction Manager provisions requiring compliance with State and local laws, including but not limited to, the County’s CSBE small business programs, responsible wages and benefits, Community Workforce, Sustainable Building Program (subject to the limitations set forth in Section 4.06), requisite bonding from the Stadium Developer and the Construction Manager as further provided in this Section, and the insurance requirements as are customary according to sports facility construction industry insurance standards, all as more fully described in the Construction Administration Agreement. The Construction Administration Agreement shall provide that, before the Construction Manager commences its services related to the Baseball Stadium Project, the Construction Manager shall execute, deliver to the County (with copies to the City and the Stadium Developer), and record in the public records of the County, a payment and performance bond for the total cost of construction of the Baseball Stadium in compliance with the terms of Section 255.05, Florida Statutes, specifically in the form of and in accordance with the requirements of Section 255.05(1)(a) and (c), 255.05(3), and 255.05(6), naming the County, the City and the Team Affiliate beneficiaries thereof, as joint obligees. In addition, the Construction Administration Agreement and any other necessary agreements shall provide that each payment made to the Construction Manager for its performance of construction management services (i.e., management fee, profit, office overhead, general conditions performed or provided by the Construction Manager as part of its construction management services, cost of work that is self-

performed by the Construction Manager), shall be made by a dual party check (or other dual party payment method) in the name of the Stadium Developer and the Construction Manager. Furthermore, the Construction Administration Agreement shall provide that: (i) before the Construction Manager commences its services related to the Baseball Stadium Project, the Stadium Developer shall execute, deliver to the County (with a copy to the City), and record in the public records of the County, a payment and performance bond for the total cost of construction of the Baseball Stadium in compliance with the terms of Section 255.05, Florida Statutes, naming the County, the City and the Team Affiliate beneficiaries thereof, as obligees; or (ii) in lieu of such bond, the Stadium Developer shall file with the County an alternative form of security in the form of cash, irrevocable letter of credit, or other security of the type listed in Section 255.05(7) or Part II of chapter 625, Florida Statutes ("CM Services Security"), in an amount equal to the total cost of the construction management services to be performed by the Construction Manager (i.e., management fee, profit, office overhead, general conditions, and cost of work that is self-performed by the Construction Manager if the payment and performance of such self-performed work is not covered by the payment and performance bond provided by the Construction Manager to the County and the City as provided herein), as depicted in the initial Schedule of Values divided by the total number of months that comprise the performance period of the construction management services, all in accordance with the provisions of Section 255.05(7), Florida Statutes. The amount of the CM Services Security shall be adjusted in accordance with such formula as the total cost of the construction management services and performance period are adjusted by change order. By way of example, if the aggregate cost of the construction management services equals \$35,000,000 and such services are required for a period of 35 months, the amount of the required CM Services Security would be equal to \$1,000,000. The amount of the credit facility or other financial arrangement required to be maintained by the Stadium Developer under Section 4.09 shall be reduced by an amount equal to the CM Services Security. In addition, the Construction Administration Agreement shall provide that the Stadium Developer shall be permitted to use the CM Services Security to make its final payment to the Construction Manager. The Construction Administration Agreement shall provide that prior to award to the Construction Manager, the Stadium Developer shall submit the proposed final form of contract to the County for its review to confirm compliance with the above-referenced legal requirements. The County shall complete its review of the final form of the Construction Manager Agreement within 10 business days. Failure by the County to respond on a timely basis will be deemed an approval.

Section 4.06 Plans and Specifications

The Construction Administration Agreement shall require the Stadium Developer to direct the Design and Construction Professionals to prepare Plans and Specifications for the Baseball Stadium that are consistent in all material respects with the Project Program Statement and all applicable federal, state and municipal building codes. The Construction Administration Agreement shall provide that the County and the City shall have rights of review and approval for general conformance with the Project Program Statement, as amended, each series of architectural plans (schematic design, design development if applicable, and construction documents), provided that such approval shall not be unreasonably withheld, conditioned or delayed. The Construction Administration Agreement shall provide the County and the City 10 business days to confirm that the submitted Plans and Specifications are generally consistent in all material respects with the Project Program Statement and shall set forth a process to address the nonconformance of the final Plans and Specifications with the Project Program Statement.

Failure by the County and City to respond on a timely basis will be deemed an approval. The County shall present to the Board of County Commissioners a proposed ordinance exempting the Baseball Stadium Project from application of the provisions of the Sustainable Building Program. Notwithstanding such exemption, the Construction Administration Agreement shall require the Stadium Developer, the County and the City to work in good faith to comply with the County's Sustainable Building Program so long as this does not cause an increase to the Stadium Project Budget or negatively impact the Baseball Stadium Project construction schedule. Further, the parties shall make reasonable efforts to achieve a LEED or comparable certification for the Baseball Stadium to the extent that can be accomplished without increasing the total cost of the Baseball Stadium or delaying its completion. The Stadium Developer shall from the outset instruct the Design and Construction Professionals to take into consideration efficient and cost effective approaches to achieve LEED certification and to consult with the local chapter of the U.S. Green Building Council. On or before June 30, 2008, the Stadium Developer shall provide the County and the City with Design and Construction Professionals' analysis and the Construction Manager's estimated incremental costs necessary to achieve the various levels of LEED certification. The County and the City shall have 20 business days to inform the Stadium Developer which level of LEED certification, if any, the County and the City desire for the Baseball Stadium Project. Such incremental costs shall be borne by the requesting party and not by the Team or Team Affiliates. In no event shall any LEED certification measures be added to the Baseball Stadium Project if such will cause a delay in the Baseball Stadium construction schedule. If the ordinance exempting the Baseball Stadium Project from application of the Sustainable Building Program is not enacted by July 31, 2008, the County shall be responsible for the incremental costs directly associated with compliance with the Sustainable Building Program. The parties shall form a design review committee within 30 business days of the Effective Date (the "Design Team"), which shall consist of five members: two selected by the Team, one selected by the County Mayor or his designee, one selected by the City Mayor or designee, and one selected by Major League Baseball. The Design Team shall meet with the Design and Construction Professionals and the Construction Manager (if selected by such date) to develop no more than three conceptual recommendations of design related to the exterior aesthetics of the Baseball Stadium that do not require an increase in the Stadium Project Budget or a delay in the construction schedule. Within 10 business days following receipt of the conceptual recommendations, the Design Team shall select a design with assistance from the Design and Construction Professionals and the Construction Manager (if selected by such date). The City shall use reasonable and diligent efforts to issue and facilitate permits necessary for the timely construction and occupancy of the Baseball Stadium and completion of the Public Infrastructure and City Parking pursuant to the initial project schedule to be included in the Construction Administration Agreement.

Section 4.07 Permits and Zoning

The Construction Administration Agreement shall require the City or the County, as appropriate and in consultation with the Stadium Developer, to expeditiously process all applications for consents, approvals and permits necessary to allow for the timely construction of the Baseball Stadium, the City Parking and the Public Infrastructure, which may include, if applicable, without limitation: (i) the BLIVR and other approvals described in Section 4.01(b), (ii) major use special permit or other special exception, or special permit applications, (iii) road/alley closure and relocation petitions, (iv) re-platting petitions, (v) re-zoning or zoning variance applications, (vi) DERM and WASD approvals, and (vii) petitions to relocate all public

and private utilities, including, without limitation, electric, gas, cable, telecommunication, water, sewer, and storm drainage facilities, located within the Baseball Stadium Site to areas to be located outside the boundary of the Baseball Stadium Site (collectively (i) – (vii), the “Development Requirements”). The City has confirmed via separate letter from its Zoning Administrator and Director of Planning, respectively, that the proposed uses of the Entire Site for the Baseball Stadium and the City Parking are consistent with the current zoning and the City’s Comprehensive Land Use Plan for the Entire Site. The City or the County staff, as appropriate, shall serve as the applicant or co-applicant for any government approval processes relating to the Baseball Stadium. The County Manager and City Manager, or their respective designees, shall, within 10 business days following receipt of a written request from Stadium Developer, execute any applications, forms or petitions necessary to modify, renew, or obtain any Development Requirements for the Baseball Stadium, as may be necessary from time to time, if written consent of the property owner is required for such application, form or petition. The City and the County each shall act reasonably to expedite any applications for actions or approvals requested or required of them in connection with the permitting and construction of the Baseball Stadium and the Public Infrastructure to allow for the undelayed completion of the Baseball Stadium Project and the Public Infrastructure, and each shall dedicate at least one member of its building permit staff or other appropriate staff to serve as a liaison for the Baseball Stadium Project and the Public Infrastructure to expedite the permitting process and other City and County review and approval processes at no cost to the Stadium Developer for such expediting and staffing. Further, the City and the County each agrees not to act unreasonably, or fail to act, in a manner that would substantially delay or place in jeopardy, or would reasonably be expected to jeopardize, the completion of the Baseball Stadium by the Completion Date and the Public Infrastructure by the respective dates set forth in the Construction Administration Agreement. The City agrees to review building permits relating to the Baseball Stadium in accordance with the schedule set forth below, but the Package Review Times shall not commence until the City shall have received a completed application form for the relevant permit and all plans, reports, information, exhibits or other documents required to be submitted with such application. Within five (5) business days of receiving any such permit application, the City shall cause its building department to provide to the Stadium Developer in writing a specific list of any documents or other requirements that are missing or otherwise required to complete the application.

<u>Permit Review Packages</u>	<u>Package Review Time</u>
Permit Package 1 – Foundations	20 business days
Permit Package 2 – Superstructure, Roof	20 business days
Permit Package 3 – Enclosures, Interiors, Finishes	30 business days

Any City or County permit fees and other City or County government development approval filing and processing fees (including but not limited to fees for MUSP, DERM, WASD, platting and building permit applications) applicable to the Baseball Stadium Project shall be customary and consistent with amounts charged for County or City-owned projects and shall be waived by the City or County, respectively, to the extent authorized as of the Effective Date by County or City code provision or administrative regulation. To the extent such waivable fees are advanced by the Team Affiliate, the City or the County, as the case may be, shall promptly reimburse the

Team Affiliate for such fees. City impact fees, if any, shall be imposed on the Baseball Stadium only to the extent the impacts of the Baseball Stadium exceed the impacts of the existing development on the property. Because the IPSIG for the Baseball Stadium Project has been assigned at the time that this Agreement was approved by the Board, the Inspector General contract fee shall not apply to this Agreement or the Stadium Agreements. Any fees payable with respect to the IPSIG assigned to the Baseball Stadium Project shall be paid by the County.

Section 4.08 Construction

The Construction Administration Agreement shall require the Stadium Developer to construct and complete the Baseball Stadium in accordance with the Plans and Specifications. The Construction Administration Agreement shall require the Stadium Developer to form an administrative committee that includes representation from the County, including a representative appointed by the Chairperson of the County Commission, and the City (the "Project Coordination Team") to perform the following functions: (i) receive reports from the Design and Construction Professionals pertaining to the construction schedule (including any updates) for completion of Baseball Stadium, the Stadium Project Budget and any other aspects of the Baseball Stadium Project; (ii) maintain clear lines of communication to facilitate a successful Baseball Stadium Project; (iii) receive reports; and (iv) review change orders to confirm that they are generally consistent in all material respects with the Project Program Statement. Change orders by the Stadium Developer shall be permissible provided that: (i) the change order does not delay or further delay the Completion Date beyond the Targeted Completion Date; (ii) either the cost of the change order does not cause the projected total Stadium Project Costs to exceed or further exceed the Stadium Project Budget or the Stadium Developer shall have made arrangements reasonably satisfactory to the County and the City for the funding by the Stadium Developer of any increase in the Stadium Project Costs resulting from such change orders; (iii) the change order does not pose a material risk to public safety; (iv) the change order does not eliminate a materially important programmatic element from the Project Program Statement; (v) the change order does not cause a Governmentally Caused Overrun unless the Stadium Developer and the Team waive, in writing, any claims they may have against the County and the City for Governmentally Caused Overruns resulting from such change order; and (vi) the cost of the change order does not cause the projected total Public Infrastructure Costs to exceed or further exceed the Public Infrastructure budget furnished to the Team pursuant to Section 5.01, including any increased costs caused by delays in completing the Public Infrastructure. The Construction Administration Agreement shall provide that any change order that is not permissible as provided in the preceding sentence shall be subject to the written approval of the County and the City pursuant to the approval process detailed in the Construction Administration Agreement. The Construction Administration Agreement shall provide for periodic (at least monthly) regular meetings of the Project Coordination Team and for special meetings upon reasonable prior notice. The County and the City shall be given an opportunity to inspect the construction work and materials and to review construction documents as reasonably necessary to verify that the work and materials are in conformity with the Project Program Statement, all as more fully set forth in the Construction Administration Agreement. The Construction Administration Agreement shall require the Stadium Developer to carry, or require others to carry, construction period insurance, naming the County and the City as additional named insureds, with such coverages and in such amounts as are customary for sports facility projects of similar size and scope. The Stadium Developer shall provide the County and the City following the execution of the Construction Administration Agreement with a construction

schedule, a schedule of values and a Draw Down Schedule each in the form approved in the Construction Administration Agreement. The Construction Administration Agreement shall require the Stadium Developer to provide to the County and the City monthly updates to the Baseball Stadium construction schedule, the schedule of values and the Draw Down Schedule. The Draw Down Schedule should reconcile with the most updated construction schedule and the Construction Manager's schedule of values for the Baseball Stadium. The Construction Administration Agreement shall include a detailed plan by which the County shall procure construction materials and equipment for the Baseball Stadium on a sales tax exempt basis pursuant to State law and in a manner that protects the reasonable financial interests of each party. The County and the Team each agree to use reasonable best efforts to develop a successful program to procure construction materials and equipment for the Baseball Stadium on a sales tax exempt basis under State law. The Construction Administration Agreement shall provide as an exhibit a construction materials procurement plan agreed to by the County and the Team. The County's obligation to implement a sales tax exempt procurement program in accordance with the terms of the Construction Administration Agreement shall be subject to the Team's receipt of a favorable opinion provided by the State of Florida Department of Revenue indicating that purchases in accordance with such procurement program will be exempt from sales tax. The Construction Administration Agreement shall provide that if a favorable opinion is not issued, the County shall fund the increase to the Stadium Project Budget solely attributed to sales taxes paid for construction materials and equipment for the Baseball Stadium that were expected to be exempt from tax under the materials procurement program in an amount not to exceed \$4,400,000. The City and the County shall assist the Team in identifying and locating at least 3,000 square feet of downtown office space within two miles of the Baseball Stadium Site that is suitable for marketing purposes, at no cost to the County or the City.

Section 4.09 Cost Overruns

The Construction Administration Agreement shall require the Stadium Developer to fund and bear the cost of all Cost Overruns other than Governmentally Caused Overruns. "Cost Overrun" means all Stadium Project Costs (including, without limitation, all such costs of planning, designing, constructing, and equipping the Baseball Stadium and all related indemnity and damage obligations to, and claims due and owing to contractors, subcontractors, suppliers, architects, engineers and other vendors (as further defined in the Construction Administration Agreement) in excess of the amounts provided for in Stadium Project Budget. "Governmentally Caused Overrun" means a Cost Overrun that delays or further delays the Completion Date beyond the Targeted Completion Date or causes the actual total Stadium Project Costs to exceed or further exceed the Stadium Project Budget and results from (i) any breach by the County or City, as the case may be, of, or failure of a representation made in, this Agreement or one of the Stadium Agreements; (ii) any change in law enacted by the County or City after the date of this Agreement, other than a change of general application mandated by State law; (iii) changes in the design or construction of the Baseball Stadium imposed by the County or City pursuant to Section 10.08 other than changes necessary to bring the Baseball Stadium Project into compliance with generally applicable building, fire or other municipal codes; (iv) the Other Development, the Public Infrastructure (unless associated with environmental contamination within the Baseball Stadium Site), the City Parking, the City's obligations under Section 4.01, or any other work to be conducted by the County or the City under this Agreement; (v) the City's remediation of environmental conditions as provided in Section 4.01(a)(iv), the Limited Phase II Report and the demolition of the Orange Bowl and related debris removal to the extent either

affects the Baseball Stadium Site or the Public Infrastructure located within the Entire Site; (vi) a delay caused by the failure of the County or the City, as the case may be, to meet a deadline imposed on it in Article IV or Sections 8.03 or 8.04; (vii) or relating to the portions of the Replat and road abandonment and utility relocation or abandonment processes that are within the County's or City's reasonable control in accordance with the timetables agreed to by the parties in the Construction Administration Agreement, except to the extent any one of the foregoing delays were caused by a Team Affiliate or its Design and Construction Professionals, the Construction Manager or other contractors or consultants engaged by the Team Affiliate. The Construction Administration Agreement shall require the County and the City each to fund and bear the cost of Governmentally Caused Overruns to the extent caused by it. The Construction Administration Agreement shall provide a means by which the applicable parties will share in the funding of Cost Overruns and cost overruns related to the Public Infrastructure for which the Team, the County and/or the City are responsible, including the cost of concurrently caused delays. At the time of execution of the Construction Administration Agreement, the Stadium Developer shall provide the County and the City with evidence that it has in place a dedicated bank line of credit or other similar financial arrangement in the amount of at least \$20,000,000 that may be used only to pay Cost Overruns. The Construction Administration Agreement shall require that, except to the extent actually applied to pay Cost Overruns, such credit facility or a replacement credit facility shall be maintained in place until the Completion Date; provided that, prior to the Completion Date the parties shall agree on the terms of such credit facility or a replacement credit facility to be maintained by the Team Affiliate after the Completion Date. The credit facility obligation shall be included with the obligations guaranteed by the Team under the Assurance Agreement.

Section 4.10 Stadium Project Completion Date

The Construction Administration Agreement shall require the parties to use their reasonable best efforts to achieve the Completion Date by April 1, 2011 ("Targeted Completion Date"). The Construction Administration Agreement shall set forth a detailed development and construction timeline for the Baseball Stadium Project.

Section 4.11 Other Development

Following the Effective Date, the City, or an agency or instrumentality of the City, either by itself or with third party joint venture partners, intends to develop commercial, retail and other development on the Development Site, which site shall include, at a minimum, the Entire Site, but excluding the Baseball Stadium Site ("Other Development"). Other Development may include a soccer stadium (the "Soccer Stadium"). The City shall use its best efforts to cause Major League Soccer to award an ownership group the rights to a soccer team whose home territory shall be the City of Miami (the "Soccer Team") on or before June 1, 2008. The City shall keep the County and the Team informed of any plans it develops for Other Development. The City may, subject to the provisions of this Section, (i) pursue the Other Development on such terms and conditions as it may determine, (ii) transfer the right to pursue Other Development to a third party for such consideration as it determines, or (iii) joint venture with the Team, or cause a third party to joint venture with the Team, to pursue Other Development. The City acknowledges that the success of the Entire Site will depend on, among other things, the proper coordination of all of the proposed uses on the Entire Site. As such, the Team (as

applicable) shall agree to, and the City shall require all users of the Other Development to comply with the following restrictions:

(a) Baseball and soccer games will not be scheduled on the Entire Site to take place during the same time, whether or not the games do not commence at the same time. They may, however, be scheduled on the same day so long as the game time does not interfere with the restrictions for exclusive use of the City Parking provided in the City Parking Agreement.

(b) The scheduling of baseball games and Jewel Events shall have priority over the scheduling of the Soccer Team's soccer games, provided that (i) the Stadium Manager shall provide the Soccer Team up to thirteen (13) Saturday nights during each soccer season for soccer games at the soccer stadium, (ii) the Team shall make reasonable effort to accommodate any post-season soccer games that would otherwise conflict with regular season baseball games, and (iii) post-season baseball games and Jewel Events shall have priority over all soccer games and other events at the soccer stadium.

(c) The scheduling of soccer games shall have priority over the scheduling of non-game Baseball Events and Other Events, and the Stadium Manager and the City shall coordinate, for purposes of the use of City Parking pursuant to Section 5.02, the scheduling of such events so as to avoid any conflicts. Otherwise, as between non-game and non-Jewel Event Baseball Events and Other Events on the one hand, and other events on the Entire Site (other than soccer games) on the other hand, priority in the use of the City Parking will be determined on the basis of which event is booked first in accordance with the procedures to be set forth in the applicable Stadium Agreements. The parties covenant and agree to reasonably cooperate with the goal of maximizing the use of the Entire Site for its intended purposes.

(d) Other Development shall be architecturally harmonious with the Baseball Stadium and the façade features of the Other Development shall have no highly reflective materials facing the Baseball Stadium.

(e) During the construction period for the Baseball Stadium and City Parking, the Baseball Stadium, City Parking and Public Infrastructure contractors shall have job site priority within the limits of the construction easements required by Section 4.01(g) and as detailed in the Construction Administration Agreement. The City will require that any work to be performed in respect of the Other Development be done without causing a delay in the completion of the Baseball Stadium by the Targeted Completion Date and the Public Infrastructure by the deadlines specified in the Construction Administration Agreement. In addition, the City will not, following the Completion Date, allow any substantial or noisy construction activity in respect of the Other Development that materially interferes with the use of the Baseball Stadium for baseball games, or Baseball Events or Other Events with an expected attendance of 5,000 or more people.

(f) Subject to the remaining terms of this paragraph, Ambush Advertising shall be prohibited during Baseball games, soccer games and Other Events expecting to have attendance of at least 5,000 people. "Ambush Advertising" is defined as any promotions, contests or other sponsorship activation activities conducted during a Baseball Event, Other Event or event at the soccer stadium directed at undercutting the value or impact of a competitor's advertising signage or sponsorship within the Entire Site. Exterior advertising

placed on a soccer stadium or a City Parking structure may not conflict with any "Major Sponsor." A Major Sponsor is defined as a Team or Baseball Stadium sponsor that spends at least \$500,000 annually with a Team Affiliate for its sponsorship of the Team and/or the Baseball Stadium. No advertiser in the exterior of the soccer stadium or a City Parking structure that competes with a new Major Sponsor (i.e., a Major Sponsor that enters into a sponsorship agreement with a Team Affiliate or Baseball Stadium following the Team's first year in the Baseball Stadium) shall be required to terminate its agreement early or to remove its competing advertising until the expiration of the term of its agreement. The Major Sponsor restrictions in this paragraph relating to exterior signage on the Soccer Stadium shall not apply to the naming rights sponsor of the Soccer Stadium, except that the Soccer Stadium shall not be permitted to enter into or renew any naming rights agreement that would conflict with the naming rights of the Baseball Stadium. The Team represents to the City that it has not entered into an agreement to sell the naming rights to the Baseball Stadium. The City represents to the Team that it has not entered into any agreement with respect to any Other Development, including a soccer stadium. Further details covering the operation of the terms of this section (f) shall be set forth in the relevant Stadium Agreements.

(g) The following uses shall not be permitted within the Other Development: (i) ticket brokerage businesses (other than brokerage services provided by the Team for MLB games and by the Soccer Team for soccer games), (ii) retail businesses whose primary business directly competes with the naming rights sponsors of the Baseball Stadium at the time the retail business is established, except for business located in any hotel developed within the Development Site (iii) fast food restaurants, except in a soccer stadium operating during soccer stadium events, (iv) the give-away of food or beverage within three hours before or one hour after baseball games, or Baseball Events and Other Events expected to have attendance of at least 5,000 people, (v) the sale of beer in an outdoor bar (beer garden) within one hour before baseball games, or Baseball Events or Other Events expected to have attendance of at least 5,000 people, except in any bar located in any hotel developed within the Development Site, (vi) the promotion and sale of baseball branded or themed memorabilia and merchandise by persons other than the Team, and (vii) the promotion and sale of soccer branded or themed memorabilia and merchandise by persons other than the Soccer Team.

(h) If an MLS soccer franchise is not granted by June 1, 2008, or if construction of the soccer stadium cannot reasonably be expected to be completed by 60 days following the first baseball game at the Baseball Stadium, the City shall not permit the construction of the soccer stadium to commence until after the second anniversary of the Completion Date.

(i) The City shall not permit the use of Other Development that in any material respect interferes with the operation of the Baseball Stadium or the City Parking for baseball games, or Baseball Events or Other Events expected to have attendance of at least 5,000 people.

(j) The Team or any Team Affiliate and the County shall have the right to review the plans and specifications as well as leases in respect of any Other Development.

(k) The City and the Team agree that the foregoing restrictions shall run with the Development Site land from the Effective Date through the term of the Management

Agreement. The City, the County and the Team (if appropriate) shall record an appropriate legal instrument in the Public Records of Miami-Dade County evidencing the continuing applicability of these restrictions.

ARTICLE V

INFRASTRUCTURE AND PARKING

Section 5.01 Public Infrastructure

The County and the City shall be responsible for all Public Infrastructure work and Public Infrastructure Costs. Public Infrastructure work to be completed by the County or the City shall include (a) street closures, relocations and improvements, (b) relocation of existing utilities, including water, sewer, electrical and telecommunication to support the Baseball Stadium under, on or near the Baseball Stadium Site that is required, and (c) required new traffic flow signalization, as determined by the County after consultation with the City and the Team Affiliate. The Construction Administration Agreement shall provide that, in order to further define the necessary Public Infrastructure, the County and the City shall review and consider certain studies and consulting reports, including, but not limited to, the December 2007 transportation and parking study conducted by HNTB. In addition, the Construction Administration Agreement may provide that the Public Infrastructure may include relocation of existing utilities to support the City Parking if it is agreed that coordination of construction of such utilities is economically beneficial to the City and the County. The Construction Administration Agreement shall, consistent with this Agreement, provide the deadline dates by which the location and layout of all Public Infrastructure, to the extent the location and layout are not agreed to prior to such time, and the areas of the Entire Site proposed for construction staging for the Public Infrastructure work, and shall set forth further detail as to the Public Infrastructure work, the terms covering the completion of such work and the allocation of such work and related costs between the County and the City. In addition, the Construction Administration Agreement shall require the County and the City to furnish the Team with a written budget for the Public Infrastructure Costs. The Construction Administration Agreement shall require the City and the County to design, construct, install and pay for the Public Infrastructure in accordance with the applicable deadlines set forth in the Construction Administration Agreement. The Design and Construction Professionals shall work with and cooperate with the County and City and provide input needed so that the Public Infrastructure work can be completed effectively, expeditiously and cost effectively and so as not to miss the targeted completion date for the Public Infrastructure as set forth in the Construction Administration Agreement. The Team shall be given opportunity to review and comment upon program and design features and to inspect plans and specifications and construction work of the Public Infrastructure to verify that they are in conformity with the terms of the Construction Administration Agreement.

Section 5.02 Parking

The City and the Stadium Manager shall enter into a City Parking Agreement. The City Parking Agreement shall terminate vis-à-vis the Stadium Manager upon termination of the Management Agreement, upon which time the County shall become a party to the City Parking Agreement. The City Parking Agreement shall terminate vis-à-vis the County no earlier than

reversion of title to the Baseball Stadium Site under Section 4.01(f)(ii). The City Parking Agreement shall require that the City construct, or cause to be constructed, parking facilities on the Development Site (structured and/or surface parking facilities) to house at least 6,000 parking spaces (the "City Parking"). The City Parking Agreement shall give employees of the Team, the Team Affiliates and patrons of the Baseball Stadium exclusive use of the City Parking for all baseball games or MLB organized events (including any MLB Jewel Events and any Team or MLB organized exhibition games). Employees of the Team, the Team Affiliates and patrons of the Baseball Stadium also shall have exclusive use of as many spaces in the City Parking as are projected to be needed and reserved for all other Baseball Events and Other Events. All parking made available hereunder shall be made available from two hours prior through at least two hours following each such event. The layout and general configuration of the City Parking shall be agreed to by the parties as soon as practicable but in no event later than June 30, 2008, and shall be set forth in the City Parking Agreement. The location of the City Parking shall take into consideration the location and possible accommodation of existing utilities and the result of the investigations and inspections performed under this Agreement. Prior to the filing of the re-plat application covered in Section 4.01, the City shall have the right to make changes to the location of the City Parking as it deems necessary provided that any material change shall be subject to the prior written consent of the Team and the County. The City Parking Agreement shall include the following provisions:

(a) The Team and the County shall each have the right to review, comment upon and approve the program and design features of the City Parking to assure that they are in conformity with the terms of this Agreement and the Stadium Agreements and the functional requirements of the Baseball Stadium as contemplated in this Agreement and the Stadium Agreements. The Team and the County shall not unreasonably withhold or delay their approval. The City Parking shall be designed to assure a 40-minute maximum empty time.

(b) City Parking must be completed at least 30 days prior to the Completion Date. The Entire Site and the City Parking shall be developed and constructed in a manner that will not delay or would reasonably be expected to jeopardize the completion of the Baseball Stadium Project by the Targeted Completion Date referenced in Section 4.10.

(c) Unless terminated in accordance with its terms, the initial term of the City Parking Agreement shall continue through the twentieth annual anniversary of the Completion Date. The City Parking Agreement shall have two renewal terms exercisable at the option of the Team Affiliates. The first renewal term will be for ten years and the second renewal term will be for five years; provided however that the term of the City Parking Agreement shall in no event extend beyond the term of the Management Agreement.

(d) The City shall operate and maintain the City Parking, or engage third parties to do so.

(e) The City Parking shall include 250 parking spaces that will be reserved at all times for the Team's employees and guests (the "Team Reserved Parking Spaces") at no cost in a location determined by the Stadium Manager. The Team Reserved Parking Spaces shall be separately secured. The Team will be responsible for paying the incremental costs of separately securing the Team Reserved Parking Spaces.

(f) During the initial term and any applicable renewal terms under the City Parking Agreement, the Team or the Stadium Manager shall purchase the remaining 5,750 spaces of City Parking for each regular season baseball game at the following prices per space per year payable semi-annually on or before May 31 and November 30th of such year:

<u>Years</u>	<u>Price</u>
1 – 5	\$10.03
6 – 10	\$10.10
11 – 15	\$10.20
16 – 20	\$10.86
21 – 25	\$11.56
26 – 30	\$12.29
31 – 35	\$12.53

The above prices assume the City is required to maintain a one year debt service reserve for the contemplated City Parking bond financing and that it satisfies such reserve with a surety. The City shall use best efforts to utilize such a surety, or to otherwise utilize a letter of credit or similar financial instrument. If the City is nevertheless required to maintain a cash reserve, the above prices shall be increased by the net incremental cost of maintaining such cash reserve on a \$44 million portion of the City Parking bonds (i.e., interest on any additional borrowings to fund the reserve, less earnings on the reserves and the assumed surety rate). The City shall use best efforts to minimize such incremental cost, including by maximizing the earnings on the reserves, provided that such earnings may not exceed the interest rate on the City Parking bonds.

The Team Affiliates shall have the right to resell all City Parking spaces purchased in accordance with the above schedule in its own discretion and retain all revenues derived therefrom, except that the Team Affiliates shall remit to the applicable taxing authority all generally applicable surcharges and taxes.

(g) In addition to the Team Affiliates right to resell all City Parking spaces purchased in accordance with the above schedule, the Team Affiliates shall have the right to sell all spaces in the City Parking for other Baseball Events and Other Events, including post-season baseball games and Jewel Events (subject to the space reservation requirement set forth in the first paragraph of this Section 5.02), and to retain all revenues derived therefrom net of incremental event labor costs and all generally applicable surcharges and taxes. Except as provided herein, the Team Affiliates shall not be required to pay for their use of the City Parking for other Baseball Events or Other Events.

(h) The City shall not provide City Parking to any Soccer Team or Soccer Stadium operator at a lower price or on otherwise more favorable terms (except with respect to minimum space purchase requirements) than in the provisions of the City Parking Agreement without the prior written consent of the Team Affiliates.

(i) The Team Affiliates shall have the exclusive right to sell all signage and advertising rights with respect to City Parking, and all net revenues derived from such sales shall be split evenly between the City and Team Affiliate; provided that this paragraph shall not apply

to reasonable and customary signage placed in the City Parking by retail tenants in the Other Development with respect to themselves.

(j) The County and the City shall identify all County or City owned or controlled parking spaces within five-eighths of one mile from the Baseball Stadium other than on the Entire Site that may potentially be available for Event Parking (“Off-Site Parking”). To the extent Off-Site Parking is available, the County and the City agree to make it available to the Team Affiliate and patrons of the Baseball Stadium by separate agreement from two hours prior to through at least two hours following each such event. The City and the County shall study and consider the implementation of a shuttle service for Event Parking between the Baseball Stadium and the Off-Site Parking and shall consult with the Team regarding the establishment of market-based pricing for Baseball Event or Other Event parking for Off-Site Parking.

ARTICLE VI

FUNDING

Section 6.01 Sources of Funds

The sources of funds for the Baseball Stadium Project are depicted in Exhibit C.

Section 6.02 County Funding

The Construction Administration Agreement shall provide that the County shall issue and sell one or more series of taxable or tax-exempt revenue bonds and a series of general obligation bonds in the amount of \$50,000,000 from the Building Better Communities General Obligation Bond Program (collectively the “County Bonds”) in an aggregate amount sufficient (taking into account issuance costs, required reserves and capitalized interest cost during construction) to deposit: (i) \$347,000,000 of net proceeds into the County Account of the Stadium Project Construction Fund and (ii) \$35,000,000 of net proceeds into the County Account of the Stadium Project Construction Fund as referenced in Sections 6.04(ii) and 7.04. The Construction Administration Agreement shall provide that the County, in its sole discretion, shall determine the details of the issuance of the County Bonds, including the use of capitalized interest.

Section 6.03 City Funding

The Construction Administration Agreement shall provide that the City shall issue and sell one or more series of taxable or tax-exempt revenue bonds backed by the convention development tax (“City Bonds”), and shall remit such other funds, in an aggregate amount sufficient (taking into account issuance costs, required reserves and capitalized interest during construction) to deposit \$13,000,000 of net proceeds into the City Account of the Stadium Project Construction Fund. The Construction Administration Agreement shall provide that the City, in its sole discretion, shall determine the details of the issuance of the City Bonds, including the use of capitalized interest.

Section 6.04 Team Funding

The Construction Administration Agreement shall provide that the Team Affiliates shall fund \$155,000,000 of the Stadium Project Budget by (i) directly paying Stadium Developer Soft Costs that are included within the Stadium Project Budget and related to the Baseball Stadium; (ii) a deposit of \$35,000,000 into the Construction Fund as provided in Sections 6.02 and 7.04, and (iii) following the exhaustion of the City Account and the County Account, including the funds set forth in Section 6.04(ii), depositing the balance of the \$155,000,000 amount as and when needed, less any earnings projected to be realized from the investment of the funds, if any, and less any future projected Stadium Developer Soft Costs, into the Team Account of the Stadium Project Construction Fund; provided that such funds may be maintained in a third party account if required by the terms of the Team Affiliates' financing. The County and City shall cooperate with the Team Affiliates in their efforts to obtain financing including, if requested by the Team, by allowing the Team Affiliates to obtain any such financing through an industrial development agency or other governmental body provided that such financing is non-recourse to the County and City.

Section 6.05 [NOT USED]

Section 6.06 Construction Fund Disbursement Procedure

The Construction Administration Agreement shall provide a disbursement procedure, including payment requisition requirements, by which the Stadium Developer may draw upon the Stadium Project Construction Fund to pay costs of the Baseball Stadium or by which the County and/or the City may draw upon the Stadium Project Construction Fund to reimburse the City and County for advances made in accordance with the terms of the Construction Administration Agreement. Disbursements from the Stadium Project Construction Fund for advances made by the City and/or the County to meet any deadlines set forth in the Construction Administration Agreement shall be from the Account into which the advance had been deposited. The disbursement procedure set forth in the Construction Administration Agreement shall incorporate sound and customary practices for the disbursement of funds to pay costs of a large commercial project. Notwithstanding the foregoing, neither the Team nor the Stadium Developer shall be reimbursed from the County Account or the City Account in the Stadium Project Construction Fund for any costs associated with design, architecture or engineering services described in Section 287.055, Florida Statutes, except in the case of damages payable under Article IX hereof. The disbursement of funds from the Stadium Project Construction Fund to pay costs of the Baseball Stadium shall be made first from the County Account and the City Account ratably until such funds are exhausted, then from the Team Account. Earnings from the investment of the County Account and the City Account shall be distributed when realized to the County and the City, respectively, for their respective uses to pay any additional costs, including soft costs, related to the Baseball Stadium with any remainder to be used for any other lawful purpose. Earnings from the investment of the Team Account shall be retained in the Team Account for the authorized uses thereof. Monthly statements of all activity in the Stadium Project Construction Fund shall be furnished to the County, the City and the Stadium Developer, and the parties shall have the right to audit those statements. The Construction Administration Agreement shall provide that any balance in the Team Account of the Stadium Project Construction Fund remaining after completion of the Baseball Stadium Project (other than from earnings on the investment of monies deposited in the Stadium Project

Construction Fund, as covered above, and any funding by the Team Affiliates in excess of \$155,000,000, which amounts shall be returned to the Team Affiliates) shall be transferred to the Capital Reserve Fund.

Section 6.07 Stadium Developer to Keep Funding in Balance

The Construction Administration Agreement shall require the Stadium Developer to maintain a true, accurate, complete and up-to-date record that reconciles each line item of the Stadium Project Budget against (i) the total amount of the Stadium Project Costs for that line item that are covered by contracts in force, including adjustments due to amendments and/or change orders; (ii) the amount of Stadium Project Costs for that line item disbursed to date; (iii) the estimated amount of Stadium Project Costs for that line item necessary to be disbursed in the future to complete (in accordance with the Plans and Specifications) the design services, the construction work, materials and other services covered by that line item; (iv) any reductions due to sales tax savings achieved, if any; and (v) the variance between the sum of items (ii), (iii) and (iv) for that line item versus the Stadium Project Budget for that line item. The Stadium Developer shall be entitled to adjust the Stadium Project Budget by reallocating amounts between line items. A copy of the record shall be furnished at least quarterly to the County and the City. The Construction Administration Agreement also shall permit the Stadium Developer to use reasonable efforts to apply value engineering techniques to limit or prevent Cost Overruns where practical. The funding of the Baseball Stadium Project shall be deemed to be "in balance" at a particular time of determination if the sum of the following equals or exceeds the amount necessary to pay when due the total of the estimated remaining amounts necessary to complete the Baseball Stadium in accordance with the Plans and Specifications and Project Program Statement, namely the sum of (i) the then current balance (including any bank letters of credit which may include the CM Services Security) in the Stadium Project Construction Fund, plus (ii) prior to the issuance thereof, the projected net proceeds of the County Bonds and the City Bonds, respectively, plus (iii) the projected investment earnings on the Team Account, plus (iv) the amount of any Team Funding referenced in Section 6.04 or otherwise arranged by the Stadium Developer and contractually committed solely for the purpose of funding the Baseball Stadium, plus the remaining amount the Team Affiliates are required to fund, less (v) any interest earnings from the investment of any funds on deposit in the County Account and the City Account. Notwithstanding and prevailing over the preceding sentence, the Construction Administration Agreement shall provide that the County shall have the right to review all leases and related documents associated with the leasing of material equipment and system components of the Baseball Stadium. In addition, the Construction Administration Agreement shall provide that the County shall have the right to approve any change in project scope or budget due to the leasing of material equipment or system components of the Baseball Stadium if such lease is for a line item in the Stadium Project Budget equal to or in excess of \$7.5 million, which approval shall not be unreasonably withheld or delayed. The Construction Administration Agreement shall provide that if and whenever the Stadium Project Budget is not in balance with the Stadium Project Costs as provided in this section and the Construction Administration Agreement, the Stadium Developer shall report the details to the County and the City and, upon the written demand by the County or the City, shall be obligated to bring funding of the Baseball Stadium in balance within three months following the demand except as to any Governmentally Caused Overruns described in Section 4.09 and any additional limitations set forth in the Construction Administration Agreement.

Section 6.08 Public Infrastructure Funding

Except as otherwise provided in this Agreement, the Construction Administration Agreement shall describe the sources, amounts of funding and the disbursement procedures by which the County or the City, as the case may be, shall fund the costs of the Public Infrastructure. The disbursement procedures shall incorporate sound and customary practices for disbursement of public funds to pay costs of large public projects. Monthly progress reports related to the Public Infrastructure shall be furnished to the County, the City and the Stadium Developer.

Section 6.09 State Funding

The County and the City shall use reasonable best efforts and work cooperatively, including any reasonable assistance needed from the Team, to secure funding from the State in the form of a sales tax rebate or other available State funding to defray costs related to the Baseball Stadium Project or the Baseball Stadium. Unless otherwise required by the State, the amount of any such State funding shall be deposited into the Capital Reserve Fund.

ARTICLE VII

MANAGEMENT OF BASEBALL STADIUM

Section 7.01 Management Agreement

The County, the Stadium Manager and, if necessary, the City shall enter into the Management Agreement which shall set forth the terms for the operation, management and use of the Baseball Stadium. The Management Agreement shall grant the Stadium Manager the exclusive right, authority and responsibility to manage the Baseball Stadium on behalf of the County. The Management Agreement shall provide that the Stadium Manager's rights and responsibilities include (i) arranging for the Team's use of the Baseball Stadium for Baseball Events; (ii) arranging for Other Events and any other lawful uses of the Baseball Stadium; (iii) entering into agreements pursuant to which third parties conduct events or otherwise use the Baseball Stadium for revenue producing purposes; and (iv) managing all operations of the Baseball Stadium and retaining the revenues therefrom, following payment of the costs thereof, including the reasonable cost of public safety services consistent with the customary operation for other professional sports facilities to protect the Baseball Stadium and its patrons in accordance with staffing procedures to be set forth in the Management Agreement, during all Baseball Events and Other Events at the Baseball Stadium. The Management Agreement shall provide that, except for Community Events, the Stadium Manager has the exclusive right (i) to establish all prices and other terms and conditions for the uses of the Baseball Stadium and (ii) to enter into contracts generating stadium revenues.

Section 7.02 Term

The initial term of the Management Agreement shall commence upon its execution and delivery and, unless terminated in accordance with its terms, shall continue until

the 35th annual anniversary of the Completion Date. The Management Agreement shall have two five-year renewal terms exercisable at the option of the Stadium Manager.

Section 7.03 Community Events

The Management Agreement shall provide that the County and the City shall each have the right to use the Baseball Stadium 8 days per year (a total of 16 days per year), for amateur athletic, public service, or other non-profit events not including professional baseball games ("Community Events"), subject to the following: (i) the Team shall have scheduling priority for Baseball Events and the Stadium Manager shall have scheduling priority for Other Events; (ii) written notice to the Stadium Manager of dates to be selected given not less than 10 days prior to contractual commitment and not less than 30 days prior to the Community Event; (iii) no more than six of the Community Events shall be during the baseball season and none of the events shall be within five days preceding a scheduled or previously rescheduled Baseball Event or Other Events; (iv) the County or the City, as applicable, will bear all costs and expenses of the Community Event, including the cost of appropriate liability insurance naming the Stadium Manager as an additional insured and the cost of personnel and services provided by the Team Affiliates; (v) the County or the City, as applicable, will provide and pay for proper security and police protection during the Community Event; (vi) the County or the City, as applicable, will hold the Stadium Manager and the Team harmless from liabilities and damage arising out of such usage; (vii) the proposed usage will not include the infield unless the usage is for a baseball game; (viii) the County or the City, as applicable, will return the Baseball Stadium and the Baseball Stadium Site to the same or better condition than existed prior to the usage; (ix) the Community Events shall be subject to all third party agreements of the Team Affiliates relating to the Baseball Stadium (e.g., concession and ticketing agreements); and (x) if requested by the Team Affiliates, the County and City shall use personnel and services designated by the Team Affiliates for Community Events (e.g., ticket takers). The Stadium Manager may reject any proposed Community Event if: (i) the Stadium Manager reasonably believes the usage presents an unacceptable risk of damage to the playing field that cannot be repaired before the next scheduled or previously rescheduled home baseball game; (ii) the usage would violate Baseball Rules and Regulations relating to the public image of a Major League Baseball team or the Baseball Stadium; or (iii) the promotional sponsorship connected with the usage, in the opinion of the Stadium Manager, is incompatible with any major sponsorships or other exclusive advertising or promotional arrangements connected with a Team Affiliate or the Baseball Stadium.

Section 7.04 Team Rent

One of the Stadium Agreements shall provide that the Team shall pay, or cause to be paid, rent of \$2,300,000 per year from the Completion Date through the expiration of the Management Agreement. In consideration of such rent payments, the County shall deposit into the County Account on behalf of the Team the \$35,000,000 referenced in Section 6.04(ii). Rent shall be payable in monthly or semi-annual installments each year.

Section 7.05 Maintenance and Repairs; Operating Expenses

The Management Agreement shall require the Stadium Manager to undertake and pay the costs of all Maintenance and Repairs. The Management Agreement shall also require the

Stadium Manager to pay all expenses associated with the operation of the Baseball Stadium and the Baseball Stadium Site, including, but not limited to, game day operations, security on the Baseball Stadium Site, utilities, custodial services, premiums for the insurance described in Section 7.12, and supplies and other consumable goods. The Stadium Manager shall be responsible for the payment of any shortfalls. The County shall use reasonable best efforts to assist the Stadium Manager to secure utilities for the Baseball Stadium at rates comparable to the County's reduced bulk rates.

Section 7.06 Capital Improvements

The Management Agreement shall permit the Stadium Manager to make Necessary Improvements on behalf of the County as it deems necessary or appropriate and provide that the cost of Necessary Improvements shall be paid or reimbursed to the Stadium Manager from funds in the Capital Reserve Fund. In addition, the Management Agreement shall permit the Stadium Manager to make such Capital Improvements (other than Necessary Improvements) as it deems necessary or appropriate, and the cost of such Capital Improvements shall be borne by the Team Affiliate and shall not be deemed an expense eligible for reimbursement from the Capital Reserve Fund; provided, however, in the case of Capital Improvements (other than Necessary Improvements) having a cost of \$400,000 (in April 1, 2011, dollars to be thereafter adjusted by a mutually agreed upon price index) or more, the Stadium Manager's authority to make such Capital Improvements is subject to the prior written approval of the County which shall not be unreasonably withheld or delayed.

Section 7.07 Capital Reserve Fund

The Management Agreement shall provide for the creation of the Capital Reserve Fund and, commencing with the year of the opening of the Baseball Stadium and continuing for the term of the Management Agreement, shall require annual contributions into the Capital Reserve Fund of \$250,000 by the City and \$750,000 by each of the County and the Team Affiliate. If State funding contemplated under Section 6.09 is obtained that provides for deposits into the Capital Reserve Fund of at least \$2,000,000 per year, the City shall not be required to contribute to the Capital Reserve Fund in any such year, and the County's and the Team Affiliate's respective contribution obligations shall be reduced to \$250,000 for the first ten years and \$500,000 for each subsequent year during the term of the Management Agreement. If State funding is obtained in any amount less than \$2,000,000 per year, the parties' respective Capital Reserve Fund contributions shall be reduced pro-rata. In addition, the County and the City shall deposit or cause to be deposited into the Capital Reserve Fund annual amounts of \$250,000 for years 11-20 and \$500,000 for all subsequent years during the term of the Management Agreement to the extent the CDD contemplated under Section 10.14 directly or indirectly generates those amounts. In the event the CDD does not directly or indirectly generate those amounts, the City and the County shall meet with the Team to discuss alternative sources of funding, but the County and the City shall have no obligation to provide that alternative funding. All earnings and profits from the investment of the Capital Reserve Fund shall be for the account of the Capital Reserve Fund. The County, the City and the Team intend that the Capital Reserve Fund is an asset of the County designed to protect its ownership interest in the Baseball Stadium and shall not be an asset of the Team, any Team Affiliate or the City. The Management Agreement shall provide that in the event of a named storm or a terrorist act that damages the Baseball Stadium, the County and the City shall work in good faith with the Stadium Manager to

apply for all appropriate disaster and Homeland Security relief from Federal, State and local agencies.

Section 7.08 Ownership of Team Revenues

The Management Agreement shall provide that all Team Revenues belong to the Team Affiliates.

Section 7.09 Ownership of Promotional Rights

The Management Agreement shall provide that, as between the County and the City on the one hand and the Team and Team Affiliates on the other hand, the Team or Team Affiliates own all Promotional Rights exclusively and on a worldwide basis, including but not limited to the right to exercise and exploit the Promotional Rights in any and all media, now known or hereafter invented, and for any and all purposes, products and services throughout and for all countries and territories of the world. Neither the County nor the City shall use, sell, assign, commercialize or otherwise exploit the Promotional Rights without the written permission of the Team which may be given or withheld in the Team's absolute discretion. As between the County and the City on the one hand and the Team, the Team Affiliates or Major League Baseball on the other hand, all Propriety Indicia are solely and exclusively the property of the Team, the Team Affiliates, Major League Baseball or their respective assigns. As between the County and the City on the one hand and the Team, Team Affiliates or Major League Baseball on the other hand, the creation, use, compilation, collection, arrangement, assembly, display, promotion, licensing or other promotion or exploitation of Proprietary Indicia are rights exclusively belonging to the Team, Team Affiliates, the Major League Baseball or their respective assigns, as the case may be. Use of the Proprietary Indicia by the County or City is strictly prohibited without the prior written permission of the Team which may be given or withheld in the Team's absolute discretion. The Management Agreement shall provide that the Team and/or the Team Affiliate shall provide written notice to the City and/or the County of any violations by the City or the County of use of Proprietary Indicia at any time during the term of the Management Agreement and shall provide the City or the County an opportunity to cure. The Management Agreement shall provide that the Stadium Manager shall have, subject to compliance with applicable law, the exclusive right to sell, license or otherwise grant the naming rights to the Baseball Stadium for the term of the Management Agreement. Specifically, the Management Agreement shall provide that the Stadium Manager must obtain the written approval of the name(s) of the Baseball Stadium from the County, subject to the conditions set forth below, which approval shall not be unreasonably withheld or delayed. The Management Agreement shall provide that the County may disapprove any name that is in conflict with standards of public decency, including, without limitation, association with tobacco or adult entertainment. The name (including the commonly known name and the parent company name, but excluding any name associated with tobacco or adult entertainment) of any Fortune 1000 company or any of its subsidiaries or products, any bank, any cruise line, any airline, or any nationally recognized beverage company (including alcohol) shall each be deemed to be an approved name.

Section 7.10 Intangible and Ad Valorem Taxes

The Team's use of the Baseball Stadium is subject, under existing law, to the annual intangible tax imposed by Chapter 199 of the Florida Statutes. As a County-owned facility, the Baseball Stadium is immune from ad valorem real property taxes. Without limiting the foregoing, if any ad valorem, real property taxes shall be levied in respect of the interest of the Team or any Team Affiliate in the Baseball Stadium during the term of the Management Agreement, to the extent permitted by then applicable law, the Team Affiliates shall (i) be permitted to reduce the amount of their payment obligations otherwise due to the County under the Stadium Agreements up to the amount of the ad valorem tax due to the County and (ii) be permitted to reduce the amount of their payment obligations otherwise due to the City under the Stadium Agreements up to the amount of the ad valorem tax due to the City.

Section 7.11 Assignments and Liens

The Management Agreement shall grant the Stadium Manager rights on behalf of the County to assign or lease the portions of the Baseball Stadium for uses permitted under the Management Agreement, and to sell or grant sponsorships, licenses, or similar rights in and to the Baseball Stadium or any portion of it for uses permitted under the Management Agreement. The Management Agreement shall not permit the County to transfer or assign the Baseball Stadium or the Baseball Stadium Site or the Management Agreement or to grant or allow any liens or encumbrances on the Baseball Stadium Site, the Baseball Stadium or the Management Agreement other than those granted by the Team Affiliates.

Section 7.12 Targeted Taxes

The Management Agreement shall provide that neither the County nor the City shall impose any Targeted Taxes during the term of the Management Agreement. The Management Agreement also shall provide that, if at any time during the term of the Management Agreement, any Team Affiliate believes that a tax imposed or enabled by the County or the City constitutes a Targeted Tax, then the Team Affiliate shall have the right to institute court proceedings to challenge the permissibility of the tax under this Agreement. Each party shall be responsible for its own legal and court-related expenses incurred in connection with the court proceedings. The County and City further covenant not to support any State legislation or other efforts that would reasonably lead to or result in a Targeted Tax from which the County or the City (including any County or City agency) shall derive revenues. The Management Agreement shall further provide that, without limiting the foregoing obligations, if a Targeted Tax is imposed by the County or the City, or by the State from which the County or the City (including any County or City agency) would derive revenues, the Team Affiliates, to the extent permitted under then applicable law, shall have the right to reduce amounts due to the County and the City, respectively, under this Agreement and the Stadium Agreements (including any amounts payable with respect to Capital Improvements).

Section 7.13 Insurance

The Management Agreement shall require the Stadium Manager, on behalf of the County, to carry and maintain insurance from financially sound carriers, at levels customarily maintained by other Major League Baseball clubs:

(a) Commercial general liability insurance against claims for bodily injury, death or property damage arising out of the operations of the Baseball Stadium and the Baseball Stadium Site under the Management Agreement;

(b) Property insurance on an all risk basis for the Baseball Stadium and all improvements at any time situated upon or forming part of the Baseball Stadium with overall coverage limits on a replacement cost basis and sub-limits in amounts customarily maintained by other Major League Baseball Clubs and reasonably available in the insurance marketplace, as established using an appropriate industry standard probable maximum loss analysis (as long as the sub-limits are within amounts that are reasonably available in the insurance marketplace);

(c) Workers' compensation insurance coverage or a qualified self insured program complying with the statutory limits of the State and including employers liability coverage;

(d) Umbrella liability coverage as necessary to obtain customary limits for the commercial general liability and employers liability limits as described above; and

(e) Automobile liability coverage, if applicable, covering owned, non-owned, leased or hired automobile.

(f) Each year during the term of the Management Agreement, the Stadium Manager shall provide the County with certificates of insurance covering the above-described insurance policies and providing the limits and sub-limits of each such policy. The Management Agreement shall require the Stadium Manager to provide the County notice of any material changes to the Team's or Stadium Manager's insurance policies covered hereunder. The Management Agreement shall further provide that, upon reasonable advance notice, the County may request the right to inspect at the Stadium Manager's offices any of the above-referenced insurance policies.

The general and excess liability policies shall include the County, and the Team and applicable Team Affiliates as additional insureds.

Section 7.14 Community Benefit Obligations

The Team acknowledges a civic responsibility to promote and contribute to charitable, educational and community organizations and other public works in South Florida. The Management Agreement shall require the Team to develop and deliver a strong and substantial community benefits package that shall include the following:

(a) The Team shall maintain, fund, and vigorously promote its not-for-profit Florida Marlins Community Foundation (the "Team Foundation") as well as the Team's own internal community relations efforts, which collectively are focused on promoting educational, athletic, health, social and community service programs with a particular focus on Miami-Dade County and the City of Miami in addition to other activities for South Florida's youth.

(b) The Team shall endeavor to maximize benefits for (i) youth and other residents of South Florida, with a particular focus on Miami-Dade County and the City of

Miami, and (ii) rebuilding youth baseball infrastructure through Major League Baseball's various affiliated charitable organizations and programs, such as: Major League Baseball Charities, Reviving Baseball in Inner Cities, Baseball Tomorrow Fund, Join the Major Leagues @ Your Library, Breaking Barriers, Baseball Assistance Team, Jackie Robinson Foundation, and Commissioner's Initiative for Kids. In addition to the Team's efforts to reach the youth and other residents of Miami-Dade County and the City of Miami through its Team Foundation the Team shall develop along with the City and County aggressive youth programs that are oriented towards infrastructure, maintenance and assisting sports-based programs and such programs shall establish goals and benchmarks.

(c) The Team shall request and encourage its advertisers and sponsors to contribute to and support the Team Foundation.

(d) The Team shall request and encourage its players and other Team personnel to support and participate in community activities through personal appearances and other means, such as financial or other contributions to the Team Foundation or to other organizations that benefit youth and other residents of Miami-Dade County and the City of Miami as well as other organizations and youth in South Florida. The Team will work with its players, coaches and senior management to make at least 25 personal public appearances (counting no more than three appearances per event) per year in South Florida in support of education, youth sports, or other public service activities.

(e) The Team shall provide attractive and meaningful programs designed to keep Major League Baseball games affordable for youth and the elderly in South Florida. During each year the Team shall (i) provide Affordable Seats, and (ii) distribute at least 5,000 regular season individual tickets on a complimentary basis each year to appropriate Miami-Dade County charities that will make such tickets available to underprivileged youth accompanied by adult mentors.

(f) Each season, the Stadium Manager shall make available at no charge one standard luxury suite to each regular season home game for public and/or charity use. Each season, the County and the City each shall have the right to designate the public or charity use for the suite for 27 games, and the Stadium Manager shall designate the charity or other use for the remaining games. In the case of any post season baseball game or other MLB Jewel Event, the City and County will have the right to purchase tickets for the suite on the same basis as any other suite owner is permitted to purchase suite tickets.

(g) In addition to the Team participating in Major League Baseball's Diverse Business Partners Program, the Team shall develop along with the City and the County an aggressive small business outreach program that will increase participation during the operation and construction of the Baseball Stadium; and such program shall establish goals and benchmarks. The Team will take affirmative steps to: (i) promote the employment of residents of Miami-Dade County and the City of Miami in the Team's operations, and (ii) afford local, small and disadvantaged businesses in Miami-Dade County and the City of Miami an equal opportunity to compete for business for the supply of goods and services to the Team.

(h) Upon either a sale to a third party of a "control interest" (as defined in the Major League Baseball Constitution in Baseball Rules and Regulations) in the Team or a sale of

the Team's Major League Baseball franchise in either case within the first five years after the execution of this Agreement (other than following the death of the controlling owner), the Team shall or shall cause seller to pay to the County and the City, to be split on a pro-rata basis (including the value of the City's contribution of the Baseball Stadium Site, the amount of the City's and the County's expenditures as required by Section 4.01, and the value of the City and the County's respective expenditures associated with the Public Infrastructure) determined by each respective parties' contribution to the Baseball Stadium, an amount equal to the following percentage of the net proceeds (as such term is defined in the Management Agreement), after any applicable taxes, of sale that are attributable to any increase in value of the franchise from the date of this Agreement (pro-rated in the case of a sale of the control interest):

<u>If the sale occurs in:</u>	<u>Percentage</u>
Year 1	10%
Year 2	9%
Year 3	7%
Year 4	6%
Year 5	5%

The increase in value shall be based on an assumed value of the franchise of \$250,000,000 as of the date of this Agreement, which assumed value shall be increased to give effect to any additional capital funding to the Team Affiliates (net of distributions) and an imputed increase in value of 8% per annum from the date of this Agreement.

(i) The Team shall change its name to the Miami Marlins prior to the Completion Date.

Section 7.15 Annual Reports

The Management Agreement shall require the Stadium Manager to provide the County and the City with an annual report on Maintenance and Repairs and Capital Improvements paid in the preceding year and budgeted for the following year.

ARTICLE VIII

DEADLINE DATES

Section 8.01 Impact of Deadline Dates

The Construction Administration Agreement shall provide an appropriate mechanism for adjusting any deadline dates that are affected by another party's failure to meet a prior and related deadline date.

Section 8.02 Execution and Delivery of Stadium Agreements

Prior to July 1, 2008, the County, the City and the Team (with all requisite approvals from Major League Baseball) shall, as applicable, execute, deliver and approve the Construction Administration Agreement, the Non-Relocation Agreement, the Assurance Agreement and the Management Agreement. The Team shall deliver to the County and the City comprehensive initial drafts of each of the Stadium Agreements on or before March 30, 2008 and each party agrees to provide comments and response drafts in a timely fashion. The Team may cause one or more Team Affiliates to execute and deliver the Construction Administration Agreement and the Management Agreement in place of the Team as the Stadium Developer and the Stadium Manager, respectively. With the exception of terms and provisions expressly agreed to in this Agreement, if the parties are unable to reasonably agree to the terms and conditions to be set forth in the Stadium Agreements and as a result any document is not approved, executed and delivered by the date set forth herein, the parties' failure to approve, execute and deliver such document by such date shall not be deemed a breach under this Agreement and the parties shall not be liable to each other, except as specified in Section 9.03. The parties acknowledge that the Board of County Commissioners of Miami-Dade County (the "Board") may approve the Construction Administration Agreement and certain of the other Stadium Agreements, only upon the written recommendation of the County Manager, and a resolution adopted by two-thirds vote of the members present, that a waiver of competitive bidding to select the Stadium Developer and the Stadium Manager is in the best interest of the County, and such approval will occur following the Effective Date. The parties hereby agree that the Board's failure to approve such waiver shall not in itself constitute an Event of Default hereunder and shall solely be subject to the Stadium Agreements' Termination provision set forth in Section 9.03.

Section 8.03 County Funding

The Stadium Agreements shall provide that prior to October 31, 2008, the County shall make the deposits described in Sections 6.02, except that the \$35,000,000 amount funded on behalf of the Team shall not be required to be deposited in the County Account until the later of (i) 3 months prior to the Team Affiliates' initial deposit of the amounts specified in Section 6.04(iii); and (ii) 12 months prior to the projected Completion Date; and so long as in the interim the County advances by deposit into the County Account such amounts as are required to make timely disbursements from the County Account in accordance with the Draw Down Schedule.

Section 8.04 City Funding

The Stadium Agreements shall provide that prior to March 1, 2009, the City shall make the deposit described in Section 6.03; so long as in the interim the City advances by deposit into the City Account such amounts as are required to make timely disbursements from the City Account in accordance with the Draw Down Schedule.

ARTICLE IX

REMEDIES

Section 9.01 Termination Rights in General

The County, the City and the Team entered into this Agreement to set forth their respective undertakings to assure the retention of a Major League Baseball franchise in the City of Miami. Each understands that a successful result is dependent upon their mutual cooperation and adherence to the dates set forth in this Agreement. Accordingly, each is willing to proceed under this Agreement knowing that, as a practical matter, proceeding under this Agreement forecloses or alters the timing of other possible desirable courses of action.

Section 9.02 Termination Rights of County and City

By written notice to the City and the Team, the County may terminate this Agreement and be relieved of all obligations and liabilities under this Agreement (except with respect to any breaches by the County prior to termination) if (i) the Team or the City breaches this Agreement in any material respect and has not cured such breach within 30 days after written notice from the County specifying the breach and demanding that it be cured; or (ii) as provided in Section 4.01(e). By written notice to the County and the Team, the City may terminate this Agreement and be relieved of all obligations and liabilities under this Agreement (except with respect to any breaches by the City prior to termination) if the Team or the County breaches this Agreement in any material respect and has not cured such breach within 30 days after written notice from the City specifying the breach and demanding that it be cured.

The County or the City may, by written notice to the other parties, terminate this Agreement and be relieved of all liabilities under this Agreement (except with respect to any breaches by the County or the City prior to termination, as the case may be) if the parties cannot agree to the terms of any one or all of the Stadium Agreements by August 31, 2008. In such event, each of the County, City and Team shall be responsible for one-third of the total reasonable actual out-of-pocket costs expended by all three parties relating to the Baseball Stadium Project, from the Effective Date through the earlier of (i) the date of the notice of termination and (ii) July 1, 2008, in the categories and the approximate amounts detailed in the initial Draw Down Schedule provided in Exhibit E, which shall not include any costs expended by the City relating to the demolition of the existing Orange Bowl stadium or any other costs that would have been incurred by the City if there were no Baseball Stadium Project or that can be used towards a separate City development project or that otherwise can be used to provide value to the City unless such costs were expressly set forth in Exhibit E ("Reimbursable Interim Costs"). In the event, any of the three parties has expended more than one-third the amount of the total Reimbursable Interim Costs, the party or parties, as the case may be, having spent less than one-third the total amount of Reimbursable Interim Costs shall reimburse such party all amounts necessary to reduce that party's total portion of the Reimbursable Interim Costs to one-third of the total amount expended by the parties from the Effective Date. (By way of example, if through the date of termination, the County had spent \$100,000, the City had spent \$250,000, and the Team had spent \$250,000 in reimbursable costs, the County would reimburse the City \$50,000 and reimburse the Team \$50,000, such that all parties would end up with a final contribution of \$200,000 to the project upon termination).

Section 9.03 Termination Rights of the Team

The Team may, by written notice to the County and the City, terminate this Agreement and be relieved of all obligations and liabilities under this Agreement (except with respect to any breaches by the Team prior to termination) if (i) the County or the City breaches this Agreement in any material respect and has not cured that breach within 30 days after written notice from the Team specifying the breach and demanding that it be cured; or (ii) a deadline specified in Section 4.01 or Article VIII shall be missed; or (iii) all of the Stadium Agreements have not been executed and approved on or before July 1, 2008; or (iv) as provided in Section 4.01(e). In the event of a termination under clause (iii), each of the County, City and Team shall be responsible for one-third of the total Reimbursable Interim Costs as provided in the reimbursement calculation set forth in Section 9.02.

Section 9.04 Remedies

The County, the City and the Team agree that their respective remedies for any breach of or default under this Agreement shall be as set forth below:

(a) The County, the City or the Team, as the case may be, shall have the right to terminate this Agreement as set forth in Section 9.02 or Section 9.03, as applicable.

(b) The County, the City or the Team, as applicable, shall have the right to seek an injunction, mandamus, or other equitable relief in the nature of an injunction or mandamus, for violations of this Agreement, including particularly, but without limitation, a violation of Section 3.01 by the Team.

(c) The County, the City and the Team shall each be entitled to recover damages from a party who breaches its representations or obligations under this Agreement; provided, however, that the damages shall be limited to each non-breaching parties' Reimbursable Interim Costs through the date this Agreement is terminated due to such breach. Damages shall not include punitive damages or consequential damages such as, for example, lost profits, lost tax collections, lost opportunities, and the like.

(d) The County, the City or the Team agree that the remedies set forth in paragraphs (a) through (c) shall be the sole and exclusive remedies for any breach of or default under this Agreement and hereby waive any and all other remedies, including, without limitation, any form of equitable relief and any and all claims to any form of compensatory damages, consequential damages, incidental damages and punitive damages other than the remedies allowed in paragraphs (a) through (c). The remedies in paragraphs (a) through (c) are cumulative.

(e) [NOT USED]

(f) Nothing contained herein is intended to waive any right or remedy available to the County, the City or the Team under any of the other agreements contemplated under this Agreement, including, without limitation, the Construction Administration Agreement, the City Parking Agreement, the Management Agreement, the Assurance Agreement and the Non-Relocation Agreement.

(g) All damages to be paid by the County or the City under this Section 9.04 shall be payable from non-ad valorem revenue sources. The County, the City, and the Team each hereby represent that the remedies set forth in this Section 9.04 are legally enforceable as described in this Section 9.04.

Section 9.05 Mediation and Arbitration

(a) If the parties are unable to reach mutual agreement with respect to any matter requiring the parties' mutual agreement under this Agreement within 10 days following the unmet deadline prescribed herein for such agreement, the parties shall submit such matter to mediation under the Mediation Procedures of the American Arbitration Association. Real estate development or construction matters shall be subject to the Construction Industry Mediation Procedures and other matters shall be subject to the Commercial Mediation Procedures. Once commenced, no such mediation shall be permitted to proceed for more than 15 days. Each party shall bear its own expenses, and the costs and expenses of the mediator and any administrative expenses of the mediation shall be borne one-third each by the Team, the County and the City.

(b) Disputes arising under the following provisions of this Agreement shall be resolved exclusively by arbitration in accordance with this paragraph (b): Sections 4.01 (excluding any disputes relating to the selection of the Baseball Stadium Site), 4.11, 9.02, 9.03, 9.04(a), 9.04(c), 9.04(d), and 10.12. Disputes relating to any impasse reached in negotiating any Stadium Agreement shall not be eligible for resolution by arbitration under this Section 9.05. Disputes to be resolved by arbitration shall be resolved by binding arbitration in the City of Miami before a panel of three independent arbitrators under the auspices and pursuant to the rules of the American Arbitration Association. Any dispute regarding real estate development or construction matters shall be governed by the Complex Construction Arbitration Rules then in effect, and any dispute regarding other matters shall be governed by the Commercial Arbitration Rules then in effect. Unless otherwise provided in this Agreement, the arbitration hearing will be scheduled so that it is concluded within 60 days from the date of the filing of the arbitration and the panel shall render its decision within one month after the closing of the hearing. Arbitrators will be chosen under the usual procedures and from the usual panels of the American Arbitration Association except that none of the arbitrators shall have performed, directly or indirectly, a material amount of work for the County, the City or the Team within the five-year period immediately preceding the date of their selection or intend or desire to perform work for the County, the City or the Team within one year following the date of their selection. Issues determined by arbitration pursuant to this Section 9.05 shall be given preclusive or collateral estoppel effect. Each party shall bear its own attorneys' fees and costs relating to the arbitration (and such fees and costs are specifically excluded from Stadium Project Soft Costs), but the costs and fees of the panel, the fees to the American Arbitration Association, and any other costs of such arbitration shall be borne one-third each by the Team, the County and the City.

(c) The Stadium Agreements shall provide for resolution of certain disputes by arbitration as specifically set forth in the Stadium Agreements, which shall, at a minimum, contain expedited arbitration resolution processes for disputes involving design and construction matters. Notwithstanding the foregoing, the arbitrator(s) shall not have the authority to amend or insert any provisions in the Stadium Agreements.

ARTICLE X

MISCELLANEOUS

Section 10.01 Parties and Interests

This Agreement sets forth the entire agreement of the County, the City or the Team with respect to the subject matters covered by this Agreement. Any prior understandings or agreements, whether oral or written, with respect to subject matters covered by this Agreement are terminated and replaced by this Agreement. This Agreement is solely for the benefit of the County, the City or the Team, and no other person shall have any rights under or by virtue of this Agreement.

Section 10.02 Notices

All notices, demands, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when hand delivered or when delivered by commercial same day or overnight courier, with proper address as follows:

If to the County:

To the attention of: 111 NW 1st Street, Suite 2900

Miami, Florida 33128

Attn: County Manager

With a copy to: County Attorney

111 NW 1st Street, Suite 2810

Miami, Florida 33128

Attn: Robert A. Cuevas, Jr.

If to the City:

To the attention of:

With a copy to: [City Attorney]

If to the Team:

To the attention of: 2267 Dan Marino Boulevard

Miami, Florida 33056

Attn: David Samson and Derek Jackson

With a copy to: Proskauer Rose LLP

1585 Broadway

New York, New York 10036

Attn: Wayne Katz

Any party, by written notice to the others, may change its address for purposes of this Agreement or the person to whose attention deliveries should be made. Any time period for action following a delivery of notice or materials under this Agreement shall not begin to run unless and until the delivery is to the attention of the proper person as provided above.

Section 10.03 Amendments and Waivers

No amendment to this Agreement shall be binding upon the County, the City or the Team until the amendment is reduced to writing, approved by the Board and by the City Commission of the City of Miami (the "Commission"), and executed by the County, the City and the Team. No waiver of any terms of this Agreement shall be binding on the party granting the waiver until the waiver is reduced to writing, approved by the Board, and the Commission, and

executed by the party granting the waiver. Contemporaneously with the approval of this Agreement, the Board and the Commission are adopting resolutions authorizing the County Manager and the City Manager, respectively, to approve amendments and waivers to this Agreement that extend deadlines by up to 60 days, without requiring Board or Commission approval.

Section 10.04 Governing Law

The internal laws of the State shall govern this Agreement excluding the conflicts of laws principles thereof. All references in this Agreement to "applicable law" and similar terms, and the County's and the City's exercise of their governmental and regulatory authorities, shall mean and be in accordance with all laws as generally applied to all businesses in the County or City as applicable.

Section 10.05 Captions

The captions and headings in this Agreement are only for convenience and do not define, limit or describe the scope or intent of any of the provisions of this Agreement.

Section 10.06 Counterparts

This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 10.07 Assignment

The Team shall not have any right to assign its rights or delegate its obligations under this Agreement, other than to an affiliate of the Team or a purchaser of the Team's Major League Baseball franchise in a transaction approved in accordance with Baseball Rules and Regulations, without the prior written consent of the County and the City, which consent shall not be unreasonably withheld or delayed. Without limiting the generality of the foregoing, the Team shall have the right to substitute a Team Affiliate in place of the Team as the party to any one or more of the Construction Administration Agreement, the City Parking Agreement and the Management Agreement, provided such substitution does not affect, either directly or indirectly, the Team's obligations to guarantee, give assurance of or otherwise secure the Team Affiliate's obligations as required by this Agreement. The County and the City shall not have any right to assign their respective rights or delegate their respective obligations under this Agreement, other than to another entity of the County or the City, as applicable, without the prior written consent of the Team, which consent shall not be unreasonably withheld or delayed.

Section 10.08 Sovereign Rights

The County and City retain all of their respective sovereign prerogatives and rights under State law with respect to the planning, design, construction, development and operation of the Baseball Stadium. It is expressly understood that notwithstanding any provisions of this Agreement and the Stadium Agreements and the County's and the City's status thereunder:

(a) The County and the City retain all of their sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county or city under Florida laws and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations whatever nature applicable to the planning, design, construction and development of the Baseball Stadium, the Baseball Stadium Site, the Public Infrastructure, the Other Development or the City Parking, or the operation thereof, or be liable for the same; and

(b) The County and the City shall not by virtue of this Agreement or the Stadium Agreements be obligated to grant the other, or the Team, any Team Affiliate, or the Stadium Developer any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Baseball Stadium, the Baseball Stadium Site, the Public Infrastructure, the Other Development or the City Parking.

Notwithstanding and prevailing over any contrary provision in this Agreement, any County or City covenant or obligation that may be contained in this Agreement shall not bind the Board of County Commissioners, the County's Planning and Zoning Department, DERM the City Commission or any other County, City, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or City or other applicable governmental agencies in the exercise of its police power.

Section 10.09 MLB Requirements

Notwithstanding any other provision of this Agreement, except for the last sentence in this section, the obligations of the Team under this Agreement shall in all respects be subordinate to the approval requirements and other Baseball Rules and Regulations as they are applied generally to all Major League Baseball clubs. The County and the City agree not to seek an injunction or similar relief against MLB to enjoin its implementation of the Baseball Rules and Regulations. In the event that any act or omission taken by the Team to comply with Baseball Rules and Regulations materially affects the rights of the County or City under this Agreement or deprives the County or City of the essential benefits of this Agreement, the parties will work in good faith, with the assistance, if necessary, of mediation under Section 9.04(a) to amend the terms of this Agreement to neutralize the effect. The Team agrees in any event that if compliance by it with Baseball Rules and Regulations results in a failure of the Team to fulfill its obligations under this Agreement, the County and the City may enforce remedies for the Team's failure to fulfill its obligations as provided in this Agreement and the Stadium Agreements, including specifically the right to seek an injunction or similar relief against the Team to enforce the provisions of Section 3.01 and the Non-Relocation Agreement.

Section 10.10 Legal Effectiveness

This Agreement is signed on behalf of the parties by appropriate officers and officials to evidence their agreement on behalf of the County, the City and the Team, respectively, but subject in each case to the authorization and approval of the City Commission and the Board. This Agreement shall become binding and legally effective upon approval by the

City Commission and the Board, unless vetoed by either Mayor within ten (10) days, and if vetoed, shall become effective only upon an override by the City Commission or the Board, as applicable. The City, the County and the Team agree that in the event this Agreement is not approved by the City Commission and the Board, this Agreement shall be null and void and of no further force and legal effect and the parties shall have no rights or obligations under this Agreement. This Agreement shall be binding upon the respective successors and authorized assigns of the parties. If the Management Agreement is terminated prior to the expiration of its term, the County shall have the right to succeed to all of the Stadium Manager's rights and obligations under, and which accrue after the termination of, the Management Agreement and any other agreements to be identified in the Management Agreement, including the City Parking Agreement. If any provision or provisions of this Agreement are determined to be invalid or unenforceable for any reason, such determination shall not affect the validity or enforceability of the remaining provisions of this Agreement, unless such invalid provision affects a major business component of this Agreement.

By the execution of this Baseball Stadium Agreement, the County, the City and the Team acknowledge and agree that the condition subsequent set forth in (i) Paragraph 10 of the Interlocal Agreement by and among the County, the City, the Southeast Overtown Park West Community Redevelopment Agency and the Omni Community Redevelopment Agency (the "Interlocal") dated December 31, 2007 and (ii) the First Amendment to Interlocal Cooperation Agreement dated December 31, 2007 by and among the County, the City and the Community Redevelopment Agency for the OMNI district (the "First Amendment") have been satisfied and hereby waive all rights they may have to challenge the satisfaction of such conditions subsequent and to seek to void such (i) Interlocal pursuant to Paragraph 10 thereof and (ii) First Amendment pursuant to Article VI thereof.

Section 10.11 Relationship of County and Team

No partnership, joint venture or other business relationship is established between the County and the Team under this Agreement other than the relationship of the County as the owner of the Baseball Stadium and the Baseball Stadium Site and the Team as an independent contractor. Except as expressly provided in this Agreement or in the Stadium Agreements, the Team and its employees, agents, independent contractors and consultants shall not be considered employees or agents of the County or to have been authorized to incur any expense on behalf of the County or to act for or to bind the County. The County and its elected and appointed officials, officers, employees, agents independent contractors and consultants shall not be considered employees or agents of the Team or to have been authorized to incur any expense on behalf of the Team or to act for or to bind the Team. Neither the County nor the Team shall be liable for any acts, omissions or negligence on the part of the other party or its employees, agents, independent contractors, licensees and invitees. The relationship created hereby is solely that of owner-independent contractor.

Section 10.12 Force Majeure

If any party shall be delayed in the performance of any obligation hereunder as a result of a Force Majeure, then the performance of such obligation shall be excused for the period of such delay and the period for the performance of such obligation shall be extended by the length of such delay. In response to and during any delay caused by a Force Majeure, the

parties shall at all times act diligently and in good faith to bring about the termination or removal of the Force Majeure as promptly as reasonably possible and any party seeking an excuse of performance due to such Force Majeure shall work diligently and in good faith to reduce or eliminate any damage, cost or delay caused by such Force Majeure.

“Force Majeure” shall mean a war, insurrection, strike or lockout, riot, hurricane, flood, earthquake, fire, casualty, act of God, act of the public enemy, epidemic, quarantine restriction, freight embargoes, lack of transportation, governmental restriction, court order, unusually severe weather, act or the failure to act of any public governmental agency or entity, terrorism, or any other cause in each case (including the events specified above) beyond the reasonable control and without the fault of the party claiming an excuse from performance; provided, however, that any Force Majeure involving or relating to County or City governmental restrictions or acts or failures to act of any County or City agency or entity shall not relieve the County or City, as the case may be, of their obligations under this Agreement unless the failure to act is as a result of another Force Majeure event beyond the reasonable control and without the fault of the party claiming an excuse from performance.

Section 10.13 Inspector General and Independent Private Sector Inspector General

(a) Office of Inspector General. The attention of the City and the Stadium Developer are hereby directed to Section 2-1076 of the Code of Miami-Dade County establishing the Miami-Dade County Office of the Inspector General (the “OIG”), which has the authority and power to investigate County affairs and review past, present and proposed County programs, accounts, projects, contracts and transactions.

(b) Independent Private Sector Inspector General. Pursuant to Board Resolution No. R-516-96 and Administrative Order 3-20, the County may authorize, retain and coordinate the services of an independent private sector inspector general (“IPSIG”) for construction, capital development, procurement, retail, concession, lease and management agreements and/or contracts and other agreements exceeding \$1 million. The County has at its expense, appointed the Inspector General as its independent private sector inspector general (“IPSIG”) for the Baseball Stadium Project. The IPSIG may audit, investigate, monitor, oversee, inspect and review the operations, activities and performance of the Stadium Developer, the City and the County in connection with project design and construction matters under this Agreement. The scope of services performed by the IPSIG may include, but are not limited to, monitoring and investigating compliance with contract specifications; project costs; and investigating and preventing corruption and fraud.

The IPSIG may perform its services at all levels of the construction contracting and procurement process under this Agreement, including but not limited to, project design, establishment of bid specifications, bid submittals, activities of the City, the Stadium Developer and their officers, agents and employees, lobbyists, City and County staff and elected officials. Upon fifteen days’ written notice to the City or the Stadium Developer from the IPSIG, the City or the Stadium Developer shall make all requested non-proprietary project-related records and documents available to the IPSIG for inspection and copying.

The IPSIG shall have the right to examine all documents and records in the City’s or Stadium Developer’s possession, custody or control which, in the IPSIG’s reasonable

judgment, pertain to the project design and performance of construction matters under this Agreement, including but not limited to, original estimate files; change order estimate files; worksheets; proposals and agreements from and with subcontractors and suppliers; all project-related correspondence, memoranda, instructions, financial documents, construction documents, bid and contract documents; back-charge documents; documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received; payroll and personnel records; and supporting documentation for the aforesaid documents and records.

The provisions in this section shall apply to the City, the Stadium Developer and their officers, agents and employees. The City and the Stadium Developer shall incorporate the provisions in this section in all subcontracts executed by the City or Stadium Developer in connection with the performance of this Agreement.

Nothing in this section shall impair any independent right the Stadium Developer may grant to the County to conduct audit or investigative activities. The provisions in this section are neither intended nor shall they be construed to impose any liability on the County by the City, the Stadium Developer or third parties.

Section 10.14 Community Development District

The City, the County and the Team shall take such steps as necessary pursuant to and in accordance with Chapter 190, Florida Statutes, (the "Act"), to establish a Community Development District ("CDD") for the purpose of developing, financing, operating, managing and maintaining certain basic infrastructure, public improvements and community facilities (collectively, "CDD Improvements") for the Entire Site. The City, the County and the Team agree that the approval of this Agreement by the parties does not constitute approval of those matters set forth in Chapter 190, Florida Statutes, which require approval by the Commission and the Board. Therefore, the City, the County and the Team agree that as a matter of their sovereign power and legislative authority if the City Commission and the Board, as the case may be, do not approve the matters set forth in Chapter 190, Florida Statutes, the failure to approve such matters shall not be deemed an event of default under this Agreement and the parties shall not be liable to each other. Subject to Section 7.07, the types and extent of the CDD Improvements shall be as determined by the City as part of the implementation of the development plan for the Entire Site and as permitted by the Act, provided that in no event shall the Team Affiliate be responsible for the repayment of any bonds issued for the CDD Improvements or otherwise be responsible for the funding of the CDD, without its express consent. To the extent permitted by the Act the Team shall be permitted to have one member on the Board of Supervisors of the CDD.

[End of Agreement. Signatures are on the following page.]

The County, the City, and the Team have executed this Agreement as of _____, 2008.

MIAMI-DADE COUNTY, FLORIDA

By _____
Name: _____
Title: _____

Attest: _____
Name: _____
Title: _____

CITY OF MIAMI, FLORIDA

By _____
Name: _____
Title: _____

Attest: _____
Name: _____
Title: _____

FLORIDA MARLINS, L.P.

By **DOUBLE PLAY COMPANY**
Its General Partner

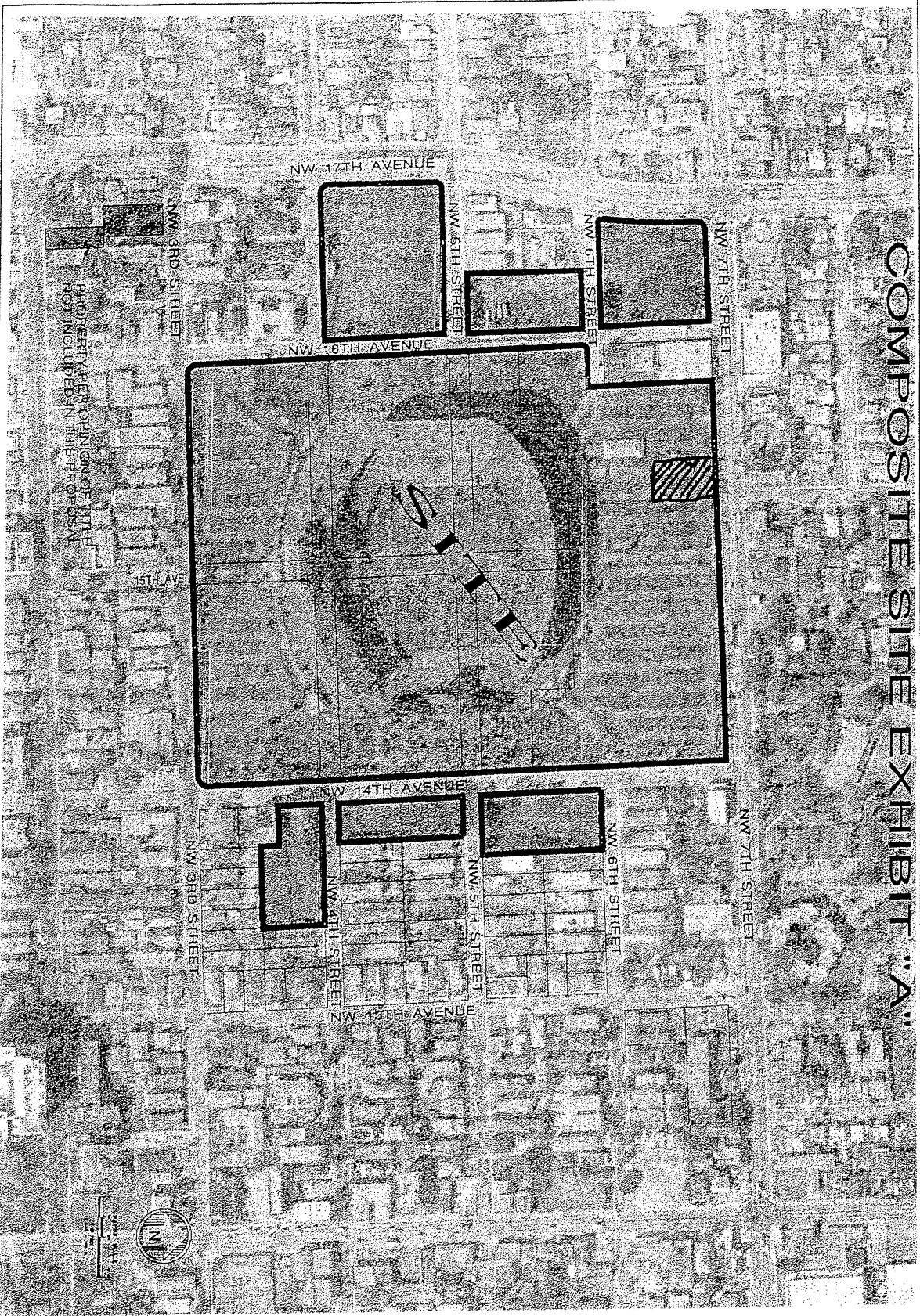
By: _____
Name: _____
Title: _____

EXHIBIT A

Entire Site

Exhibit A – Site Map

COMPOSITE SITE EXHIBIT "A"



PROPERTY ORIGIN OF TITLE NOT INCLUDED IN THIS PHOTO



BOUNDARY SURVEY AREA
ORANGE BOWL SITE
CITY OF MIAMI, MIAMI-DADE COUNTY, FLORIDA

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
1800 North Bay Street, Suite 1000, Miami, Florida 33132
Phone: 305.427.1200 Fax: 305.427.1242 Email: info@fls-inc.com

DATE	NO.	BY

Scale: 1" = 100'

80

EXHIBIT B

Stadium Project Budget

(millions)

Direct Costs	\$ 389.4
Furniture, Fixtures and Equipment	4.2
Indirect and Soft Costs ⁽¹⁾	<u>100.4</u>
Total Baseball Stadium Cost	\$494.0
Owner's Scope Contingency	9.0
Site Work ⁽²⁾	<u>12.0</u>
Total Stadium Project Budget ⁽³⁾	\$ 515.0

(1) Includes construction management fee and design fees. County and City soft costs are to be paid from interest earnings as provided in Section 6.02 and Section 6.03, respectively. Assumes reimbursement of permitting costs and the impact fee treatment set forth in Section 4.07 hereunder.

(2) Includes allowances for site furnishing, grading, paving, fencing, signage, site lighting, site security system, and upgrades of existing on-site utilities directly required to support the Baseball Stadium.

(3) All costs related to the Public Infrastructure, City Parking, City's obligations under Section 4.01, and Other Development shall be borne by the County and the City outside of the Stadium Project Budget. Assumes April 1, 2011 completion and a sales tax exempt procurement program for construction materials.

EXHIBIT C

Sources of Funds

(\$ millions)

<u>Source</u>	<u>County</u>	<u>City</u>	<u>Team</u>	<u>Total</u>
Team Funding			155,000,000*	155,000,000
County Funding	347,000,000			347,000,000
City Funding		13,000,000		13,000,000
Total	347,000,000	13,000,000	155,000,000	515,000,000

*Included is \$35 million deposited by the County as consideration for an annual payment by the Team to the County in the amount of \$2.3 million throughout the 35-year term of the Management Agreement.



EXHIBIT D

Florida Marlins Ballpark
Room Data Sheet Program



SPORT+VENUE+EVENT

Square Footage Summary by Level:

Service Level	207,485
Main Concourse	266,025
Suite Level	100,855
Club Level	108,350
Upper Concourse Level	171,940
Mechanical Mezzanine	5,150
Press Level	<u>8,095</u>
Total Net Area – Programmed	867,900
Total Gross Area	963,147

Net to Gross Factor of 11%

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Level	Classification	Room Name	Program S.F.
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January 24, 2007

Service Level

Spectator Facilities

Turnstiles			
	<i>Turnstiles</i>	0	
Field Club Lounge			9,160
	<i>Field Club Reception</i>	800	
	<i>Field Club Lounge</i>	5,000	
	<i>Field Club Auxiliary Bar</i>	850	
	<i>Field Club Lounge Kitchen</i>	1,500	
	<i>Field Club Wait Station</i>	400	
	<i>Field Club Toilet Room-Men's</i>	300	
	<i>Field Club Toilet Rm.-Women's</i>	300	
	<i>Janitor's Closet</i>	10	
Club Lounges			8,000
	<i>Dugout Club Lounges (2)</i>	8,000	
Public Toilets			2,400
	<i>Dugout Club Toilet Room- Men's (4)</i>	1,200	
	<i>Dugout Club Toilet Rm.- Women's (4)</i>	1,200	
Ticket Facilities			1,700
	<i>Ticket Windows/Remote Windows (14)</i>	1,700	
Group Sales Facilities			3,100
	<i>Party Room @ Field Level</i>	3,100	
Team Management			900
	<i>Owner's Dugout Suite</i>	900	
Entertainment			775
	<i>Marlins Feature Support Space</i>	650	
	<i>Aquarium Filtration System Room</i>	125	

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Level	Classification	Room Name	Program S.F.
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Clubhouse Facilities

Home Clubhouse 17,980

<i>Player Locker Room</i>	3,000
<i>Player Grooming Area</i>	1,200
<i>Player Lounge/ Kitchen</i>	1,100
<i>Manager's Office/Dressing Room</i>	450
<i>Coaches' Locker/Grooming Area</i>	850
<i>Coaches' Conference Room</i>	300
<i>Training Room</i>	1,425
<i>Training Staff Offices (2)</i>	300
<i>Hydrotherapy Area</i>	1,275
<i>Training Storage Room</i>	675
<i>Doctor's Office/ Exam Room</i>	100
<i>X-ray Room</i>	180
<i>Weight Training Area</i>	2,500
<i>Equipment Manager's Office</i>	175
<i>Equipment Storage Room</i>	1,000
<i>Laundry Room</i>	400
<i>Video Coaching Room</i>	450
<i>Circulation Corridor (10%)</i>	1,400
<i>Home Family Lounge & Nursery</i>	1,200

Home Dugout Tunnel 4,605

<i>Home Dugout</i>	850
<i>Dugout Tunnel/ Field Toilet</i>	925
<i>Dugout Equipment Room</i>	180
<i>Batting/Pitching Tunnel</i>	2,650

Visitor Clubhouse 7,330

<i>Clubhouse Manager's Office</i>	185
<i>Player Locker Room</i>	1,900
<i>Player Grooming Area</i>	875
<i>Player Lounge</i>	700
<i>Manager's Office/Dressing Room</i>	250
<i>Coaches' Locker/Grooming Area</i>	600
<i>Training Room</i>	600
<i>Weight/ Exercise Room</i>	950

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Level	Classification	Room Name	Program S.F.
		<i>Equipment Room</i>	200
		<i>Laundry Room</i>	400
		<i>Circulation Corridor (10%)</i>	670
	Visitor Dugout Tunnel		3,375
		<i>Visitors' Dugout</i>	850
		<i>Dugout Tunnel/ Field Toilet</i>	1,125
		<i>Batting/Pitching Tunnel</i>	1,400
	Auxiliary Clubhouse		1,740
		<i>Auxiliary Locker Room</i>	1,500
		<i>Mascot Dressing Room</i>	240
	Umpires Locker Room		1,475
		<i>Umpires' Locker Room</i>	500
		<i>Umpires' Lounge/ Kitchen</i>	775
		<i>Star Dressing/Female Umpires' Room</i>	200
	Food Service/Retail		
	Food Service		3,400
		<i>Wait Stations (2)</i>	400
		<i>Concessionaire Offices</i>	3,000
	Commissary		19,000
		<i>Main Commissary</i>	19,000
	Retail Facilities		11,765
		<i>Main Retail Store</i>	6,000
		<i>Coffee Shop</i>	750
		<i>Hat Shop</i>	650
		<i>Cigar Shop</i>	775
		<i>Specialty Retail</i>	590
		<i>Retail Warehouse</i>	3,000
	Staff Facilities		3,220
		<i>Employee Entry/Check-in Area</i>	500
		<i>Food Service Staff Laundry/Wardrobe Room</i>	500
		<i>Food Service Staff Locker Rm.-Women</i>	860
		<i>Food Service Staff Locker Rm.-Men</i>	900
		<i>Food Service Cashier Room</i>	460
	Administration Facilities		
	Ticket Operations Office		3,000
		<i>Ticket Offices</i>	3,000

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Level	Classification	Room Name	Program S.F.
Media Facilities			
Broadcasting Facilities			7,715
		<i>TV Truck Parking (4)</i>	6,600
		<i>ENG/ Satellite Truck Parking</i>	0
		<i>AV ENTRY HUB</i>	525
		<i>Production Crew Area</i>	400
		<i>Storage Room</i>	130
		<i>Crew Toilet Room</i>	60
Media Facilities			2,195
		<i>Media Storage</i>	625
		<i>Press Room</i>	1,450
		<i>Press Men's Toilet Room</i>	60
		<i>Press Women's Toilet Room</i>	60
Stadium Service Facilities			
Promotion Storage			4,500
		<i>Game Promo Storage</i>	3,000
		<i>Game Promo Holding Room (5)</i>	1,500
Security Office			1,220
		<i>Reception</i>	460
		<i>Meeting/ Interview Room</i>	300
		<i>Holding Cells (4)</i>	100
		<i>Storage/ Radio Room</i>	50
		<i>Lockers/ Kitchenette</i>	100
		<i>Toilet Rooms (2)</i>	110
		<i>Circulation</i>	100
Stadium Maintenance			465
		<i>Cleaning Crew Check-in/ Office</i>	465
Stadium Operations			8,100
		<i>Building Command Center</i>	1,100
		<i>General Storage</i>	4,500
		<i>Archive Storage</i>	1,500
		<i>Event Vehicles Storage</i>	1,000
Stadium Operations Offices			5,000
		<i>Ballpark Operations Offices</i>	5,000

Level	Classification	Room Name	Program S.F.
	Staff Facilities		3,980
		<i>Employee Check-in/Uniform Distribution</i>	540
		<i>Event Staff Locker Room -Men</i>	730
		<i>Event Staff Locker Rm.-Women</i>	730
		<i>Event Staff Toilet Room -Men</i>	400
		<i>Event Staff Toilet Rm.-Women</i>	330
		<i>Day-of-Game Staff Break Room</i>	650
		<i>Supervisors' Office</i>	600
	Maintenance Shops		5,550
		<i>Carpenters' Shop</i>	1,500
		<i>Electricians' Shop</i>	1,000
		<i>Plumbers' Shop</i>	625
		<i>Work Shop</i>	1,000
		<i>Shop Locker Room- Men</i>	375
		<i>Shop Locker Room- Women</i>	375
		<i>Shop Staff Break Room</i>	675
	Groundskeeper Facilities		6,820
		<i>Equipment & Bin Storage Area</i>	4,000
		<i>Infield Maintenance Area</i>	120
		<i>Head Groundskeeper Office</i>	270
		<i>Grounds Crew Locker Rm.- Men</i>	700
		<i>Grounds Crew Locker Rm.-Women</i>	380
		<i>Grounds Crew Lounge</i>	600
		<i>Batting Cage Storage</i>	500
		<i>Fertilizer Storage Room</i>	250
		<i>Fuel Storage Room</i>	0
	Loading Docks		7,375
		<i>Receiving Dock Office</i>	460
		<i>Loading Dock (4)</i>	3,780
		<i>Trash/Recycling Dock</i>	2,500
		<i>Toilet Room</i>	60
		<i>Visitor Trunk/Luggage Storage</i>	275
		<i>Home Trunk/Luggage Storage</i>	300

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Level	Classification	Room Name	Program S.F.
	Mech./Elec./Plumg. Systems		16,150
		Main Electrical Room	6,000
		Main Telecomm Room	675
		Main Chiller Room	3,550
		Electrical Rooms	560
		Emergency Generator Room	200
		Mechanical Air Handling Equipment Rooms	2,500
		Sub-Telephone Rooms	130
		Boiler Room	660
		Fire Pump Room	450
		Booster Pump Room	510
		FPL Room	915
	Playing Field Facilities		
	Bullpens		5,610
		Home Team Bullpen	2,850
		Visiting Team Bullpen	2,760
	Circulation		
	Circulation		20,300
		Service Tunnel	20,300
		Field Entry Tunnel	0
	Lobbies		2,400
		Entry/ Elevator Lobby	2,400
	Vertical Circulation		5,020
		Stairs	3,620
		Elevators	0
		Ramps	1,400
	Parking		
	Team Management		2,160
		Player Parking	0
		Executive Parking	2,160
	Stadium Operations		0
		Bus Parking	0

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Level	Classification	Room Name	Program S.F.
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Service Level Totals

Programmed Net Square Footage 207,485

Main Concourse

Spectator Facilities

Spectator Seating		103,965
	<i>Field Club Seats (302)</i>	2,880
	<i>Owner's Box Seats (12)</i>	90
	<i>Home Plate Reserved (3688)</i>	20,400
	<i>Field Boxes (1755)</i>	11,650
	<i>Scouts Bay Seats (36)</i>	250
	<i>Premium "Scouts Bay" Seats (87)</i>	470
	<i>1st and 3rd Dugout Seats (281)</i>	2,625
	<i>1st and 3rd Base Reserved (9736)</i>	53,000
	<i>Outfield Reserved Seats (2026)</i>	12,600
Public Toilets		15,055
	<i>Public Toilet Rooms- Men</i>	7,350
	<i>Public Toilet Rooms- Women</i>	7,425
	<i>Family Toilet Rooms (4)</i>	280
Fan Accommodations		460
	<i>Guest Relations Center</i>	460
First Aid		720
	<i>Primary First Aid Station</i>	720
Family Facilities		2,500
	<i>Kids' Zone</i>	2,500
Entertainment		0
	<i>Marlin Feature</i>	0
Food Service/Retail		
Concessions		22,450
	<i>Concession Stands</i>	11,200
	<i>Taste of Miami Food Court</i>	9,250
	<i>Portable Food Carts (8)</i>	0
	<i>Bars (2)</i>	2,000

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Level	Classification	Room Name	Program S.F.
	Commissary		3,000
		<i>Vendor Commissaries (2)</i>	3,000
	Retail Facilities		3,650
		<i>Satellite Retail Store</i>	3,050
		<i>Novelty Stands (2)</i>	600
		<i>[Sponsors' Kiosks (6)] VERIFY</i>	0
	Media Facilities		
	Camera		925
		<i>Still Photo/ Camera Wells</i>	925
		<i>Camera Positions</i>	0
	Stadium Service Facilities		
	Stadium Maintenance		1,440
		<i>Trash Room/Trash Chute</i>	300
		<i>Janitor's Closets [6]</i>	140
		<i>Stadium Maintenance Room</i>	1,000
	Mech./Elec./Plumg. Systems		1,850
		<i>Electrical Rooms</i>	1,500
		<i>Telephone/Video Rooms</i>	350
	Circulation		
	Circulation		91,780
		<i>(Main) Concourse</i>	86,000
		<i>Outdoor Terrace</i>	5,780
	Lobbies		3,400
		<i>Suite/Club Elevator Lobby</i>	3,400
	Vertical Circulation		14,830
		<i>Stairs</i>	5,730
		<i>Elevators</i>	0
		<i>Escalators</i>	0
		<i>Ramps</i>	9,100
Main Concourse Totals			
	Programmed Net Square Footage		266,025

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Level	Classification	Room Name	Program S.F.
Suite Level			
Spectator Facilities			
	Spectator Seating		11,250
		<i>Fiesta Deck Seats (2,036)</i>	11,250
	Luxury Suites		22,230
		<i>Luxury Suites-Seating 16 (16)</i>	7,930
		<i>Party Suites (7)</i>	5,000
		<i>Owner's Suite</i>	1,500
		<i>Founder's Suites – Seating 20 (10)</i>	7,800
	Premium Toilets		1,750
		<i>Common Toilet Room @Suites-M</i>	850
		<i>Common Toilet Room @ Suites-W</i>	900
Food Service/Retail			
	Food Service		2,900
		<i>Kitchen</i>	1,900
		<i>Catering Pantries (2)</i>	1,000
	Retail Facilities		1,600
		<i>High End Retail</i>	1,600
Administration Facilities			
	Team Management		30,000
		<i>Team Administration Offices</i>	30,000
Stadium Service Facilities			
	Stadium Maintenance		1,140
		<i>Housekeeping Room</i>	750
		<i>Trash Room/Trash Chute</i>	380
		<i>Janitor's Closet</i>	10
	Mech./Elec./Plumg. Systems		5,800
		<i>Electrical Rooms</i>	900
		<i>Mechanical Room</i>	4,550
		<i>Telephone/Video Rooms</i>	350
Circulation			
	Circulation		14,245
		<i>Suite Corridor</i>	9,225
		<i>Suite Corridor@ Party Suites</i>	2,400
		<i>Outdoor Terrace</i>	2,620
	Lobbies		1,150
		<i>Suite/Club Elevator Lobby</i>	1,150

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Level	Classification	Room Name	Program S.F.
	Vertical Circulation		8,790
		<i>Stairs</i>	3,540
		<i>Elevators</i>	0
		<i>Ramp</i>	5,250
Suite Level Totals			
		Programmed Net Square Footage	100,855
Club Level			
Spectator Facilities			
	Spectator Seating		22,900
		<i>Club Seating (3,349)</i>	22,900
	Lobbies		1,100
		<i>Suite/Club Elevator Lobby</i>	1,100
	Club Lounges		28,900
		<i>Club Lounge (Concourse)</i>	28,900
	Luxury Suites		19,900
		<i>Luxury Suites- Seating 16 (22)</i>	10,900
		<i>Founders' Suites -seating 20 (12)</i>	9,000
	Public Toilets		70
		<i>Family Toilet Room</i>	70
	Premium Toilets		5,350
		<i>Common Toilet Room @ Suites - M</i>	1,000
		<i>Common Toilet Rooms @Suites - W</i>	1,000
		<i>Club Level Toilet Rooms- Men</i>	1,650
		<i>Club Lounge Toilet Rooms- Women</i>	1,700
	Food Service/Retail		
	Concession		3,075
		<i>Club Lounge Concession Stands</i>	3,075
	Food Service		5,000
		<i>Catering Pantry</i>	1,000
		<i>In-seat Kitchen</i>	1,000
		<i>Catering Commissary/ Kitchen</i>	3,000

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Level	Classification	Room Name	Program S.F.
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Stadium Service Facilities

Stadium Maintenance		1,300
	<i>Janitor's Closets (3)</i>	150
	<i>Housekeeping Room</i>	750
	<i>Trash Room/Trash Chute</i>	400
Mech./Elec./Plumg. Systems		2,640
	<i>Electrical Rooms</i>	1,300
	<i>Mechanical Room</i>	800
	<i>Telecom Room</i>	60
	<i>Sound Equipment Room</i>	480
Circulation		
Circulation		
	<i>Suite Corridor</i>	10,000
Vertical Circulation		8,115
	<i>Stairs</i>	3,565
	<i>Elevators</i>	0
	<i>Escalators</i>	0
	<i>Ramps</i>	4,550

Club Level Totals

Programmed Net Square Footage 108,350

Upper Concourse Level

Spectator Facilities

Spectator Seating		72,000
	<i>View Level Box Seats (3,431)</i>	22,000
	<i>View Level Reserved Seats (9,032)</i>	50,000
Public Toilets		9,055
	<i>Public Toilet Rooms – Men</i>	4,345
	<i>Public Toilet Rooms – Women</i>	4,510
	<i>Family Toilet Rooms (2)</i>	200
First Aid		350
	<i>Satellite First Aid Station</i>	350

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Level	Classification	Room Name	Program S.F.
Food Service/Retail			
	Concessions		7,450
		<i>Concession Stands</i>	7,450
		<i>Portable Food Carts (6)</i>	0
	Commissary		2,100
		<i>Vendor Commissaries (2)</i>	2,100
	Retail Facilities		600
		<i>Novelty Stands (2)</i>	600
		<i>Portable Novelty Stands (2)</i>	0
Media Facilities			
	Broadcasting Facilities		6,750
		<i>Radio Broadcast Booths (4)</i>	600
		<i>TV Broadcast Booths (2)</i>	600
		<i>Fox Broadcast Booth</i>	750
		<i>Network/Aux. Broadcast Booths (2)</i>	400
		<i>Scoreboard Room/PA/Music Booth</i>	1,250
		<i>Production Group Office Suite</i>	650
		<i>Tape Vault</i>	750
		<i>Snack Counter</i>	500
		<i>Men's Toilet Room</i>	250
		<i>Women's Toilet Room</i>	200
		<i>Circulation</i>	800
	Media Facilities		0
		<i>Media Overflow (Post-season)</i>	0
	Camera		100
		<i>Camera Positions</i>	100
Stadium Service Facilities			
	Stadium Maintenance		1,435
		<i>Trash Room/Trash Chute</i>	375
		<i>Janitor's Closets [6]</i>	60
		<i>Stadium Maintenance Room</i>	1,000
	Mech./Elec./Plumg. Systems		1,500
		<i>Electrical Rooms</i>	1,000
		<i>Telephone/Video Rooms</i>	500

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Level	Classification	Room Name	Program S.F.
Circulation			
	Circulation		58,700
		<i>Upper Concourse</i>	56,000
		<i>Outdoor Terrace</i>	2,700
Lobbies			
		<i>Elevator Lobbies (3)</i>	2,150
Vertical Circulation			
		<i>Stairs</i>	3,550
		<i>Elevators</i>	0
		<i>Ramps</i>	6,200

Upper Concourse Level Totals

Programmed Net Square Footage 171,940

Mechanical Mezzanine

Stadium Service Facilities

	Mech./Elec./Plumg. Systems		3,000
		<i>Mechanical AHU Rooms (Rooftop Units)</i>	0
		<i>Elevator Machine Rooms (4)</i>	3,000
Circulation			
Vertical Circulation			
		<i>Stairs</i>	2,150

Mechanical Mezzanine Totals

Programmed Net Square Footage 5,150

Press Level

Media Facilities

Lobbies			
		<i>Press Box Lobby/ Lounge</i>	1,500
Private Boxes			
		<i>Home GM's Box</i>	300
		<i>Visiting GM's Box</i>	150

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Level	Classification	Room Name	Program S.F.
	Press Box Facilities		5,555
		<i>Writing Press Area</i>	4,380
		<i>Media Relations Work Area</i>	300
		<i>Men's Toilet Room</i>	300
		<i>Women's Toilet Room</i>	275
		<i>Circulation</i>	300
	Stadium Service Facilities		
	Security		250
		<i>Security Command Post/ Roof Control</i>	250
	Circulation		
	Vertical Circulation		340
		<i>Elevators</i>	0
		<i>Stairs</i>	340

Press Level Totals

Programmed Net Square Footage 8,095

Total Net Area - Programmed	867,900
Total Gross Area	963,147

Net to Gross Factor of 11%

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EXHIBIT E
 INITIAL DRAW-DOWN SCHEDULE
 PERIOD: MARCH 1, 2008 TO AUGUST 31, 2008

TEAM INITIAL DRAW-DOWN SCHEDULE

Design Team	\$ 4,500,000
Construction Manager	517,000
ADA Consultant	100,000
Food Services Consultant	150,000
Owners Representative	180,000
Legal Fees	935,000
Permits	750,000
CSBE Consultant	45,000
Testing	450,000
Other Fees and costs	<u>373,000</u>
 Total expenses	 \$ <u><u>8,000,000</u></u>

COUNTY INITIAL DRAW-DOWN SCHEDULE

	AMOUNT
CONSULTANT ASSISTANCE	\$ 50,000
TITLE INSURANCE	30,000
MISCELLANEOUS FEES	20,000
SITE DEVELOPMENT COSTS PER SECTION 4.01*	150,000
OUTSIDE LEGAL COUNSEL	<u>150,000</u>
	\$ <u><u>400,000</u></u>

CITY INITIAL DRAW-DOWN SCHEDULE

	AMOUNT
SURVEYS	\$ 35,000
PLATTING	40,000
EXTENDED PHASE II ENVIRONMENTAL	54,000
MUSP (COST OF STUDIES)	54,000
LEGAL SERVICES	150,000
TITLE OPINIONS	8,500
ENVIRONMENTAL INSURANCE PREMIUM	<u>125,000</u>
	\$ <u><u>466,500</u></u>

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