

# MEMORANDUM

Agenda Item No. 8(F)(2)

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**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

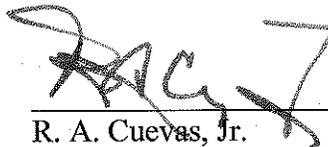
**DATE:** June 17, 2014

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

**SUBJECT:** Resolution authorizing the  
County Mayor to execute the  
Performance-Based Marquee  
Event Grant Agreement between  
the County and South Florida  
Stadium LLC D/B/A Sun Life  
Stadium ("Sun Life Stadium")

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The accompanying resolution was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.



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R. A. Cuevas, Jr.  
County Attorney

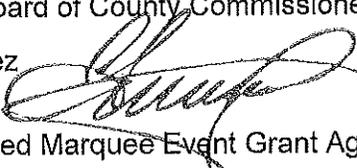
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# Memorandum



**Date:** June 17, 2014

**To:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Performance Based Marquee Event Grant Agreement with South Florida Stadium, LLC

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## **Recommendation**

The proposed Performance Based Marquee Event Grant Agreement incentivizes South Florida Stadium, LLC to take the necessary steps to host major tourist generating events at Sun Life Stadium which greatly benefits our local economy and enhances Miami-Dade County's brand throughout the nation and the world. To best protect the interest of Miami-Dade County, these incentives are performance based, in other words – no major event, no grant award. Additionally the grants are also capped to a maximum \$5 million per year and payable solely from certain Convention Development Tax (CDT) funds. In other words, no General Fund monies will ever be at risk.

Therefore, it is recommended that the Board of County Commissioners (Board) approve the attached resolution, which authorizes the Mayor or the Mayor's designee to execute a Performance Based Marquee Event Grant Agreement with Miami Dolphins, Ltd. (the Dolphins) and its affiliate, South Florida Stadium, LLC to: (1) incentivize, on a performance basis, the attraction of major tourist generating sporting events to Sun Life Stadium such as the Super Bowl, College Football Championships, etc., and (2) ensure that the Dolphins continue to play in Miami-Dade County for the next 30 years.

## **Scope**

Although Sun Life Stadium is in Commission District 1, represented by Commissioner Barbara J. Jordan, the impact of the Performance Based Marquee Event Grant Agreement is countywide.

## **Fiscal Impact/Funding Source**

The funding source for the Performance Based Marquee Event Grant Agreement is certain CDT revenues as detailed further below. There is no impact to the County's General Fund.

## **Monitoring**

The County has no record of negative performance issues with South Florida Stadium, LLC. Jose A. Galan, Real Estate Development Division, Internal Services Department, will be managing this Grant Agreement.

## **Background**

In April 2013 through Resolution R-279-13, the Board approved a Stadium Modification Agreement with the Dolphins organization for the construction of a minimum of \$350 million of capital improvements to Sun Life Stadium, which was to be funded by private monies, a State Sales Tax Rebate of up to \$3 million for 30 years, and 75 per cent of an annual levy of an additional 1 percent Tourist Development Tax over 30 years. This agreement was not executed as the latter two funding items required State legislative action and local referendum which were not achieved.

The Dolphins firmly believe that Sun Life Stadium needs major modernization in order to continue to attract major sporting events. The stadium is the largest, single-location venue for sporting events and other public gatherings within the County and serves a public purpose. Marquee events such as the Super Bowl or a College Championship Football game, if they are to be held in South Florida, can only be hosted at Sun Life Stadium. These large events spur significant tourist related economic activity, generate exceptional media exposure and help brand Miami-Dade County as a national and international hub for sports and entertainment.

In order to offer a measure of comparative value for the cost of the proposed incentive grants, according to Forbes magazine, this past year, a 30 second commercial aired during the Super Bowl cost the advertiser approximately \$4 million not including production costs. The 'air time' or 'ad equivalency' benefits of any of these events in our community exceed the proposed grant incentives and that is not including the money generated in our economy by visiting tourists.

**Major Aspects of the Performance Based Marquee Event Grant Agreement**

**Incentive Grant Payments**

The County will grant Stadium LLC certain payments for the attraction and occurrence of Qualifying Events, described in the table below, at Sun Life Stadium. Grant earnings and payments will be limited to:

- a) Grants earned for each contract/fiscal year during the Grant Term, which is a 20 year period starting at the Qualification Date (which is defined as the later of October 1, 2016 or the award of a certain Tier I Events namely a Super Bowl, World Cup or World Cup Semi-Final Game) ;
- b) An annual overall payment cap of \$5 million;
- c) An annual earnings cap of \$1.5 million for Tier II events;
- d) An overall cap of \$30 million for grants earned during the contract period from the Qualification Date through September 30, 2024 (the Initial Phase Earnings Cap);
- e) The availability of CDT revenues to make grant payments in any contract/fiscal year (Available Funding) after meeting all of the County's obligations payable from CDT.

The following chart describes the types of Qualifying Events and the potential of grant award for each type of event.

	Qualifying Event	Marquee Event Grant Base Amount
Tier One	Super Bowl	\$4,000,000.00
	World Cup Final	\$4,000,000.00
	College Football Championship Game (or equivalent college football championship game)	\$3,000,000.00
	World Cup Match (non-final)	\$3,000,000.00
	College Semi-Final Game (or equivalent college football non-championship game)	\$2,000,000.00
Tier Two	International soccer match or other sporting event which attract significant tourists to Miami-Dade County with at least 55,000 Paid Tickets distributed	\$750,000.00

During the Initial Phase (the period from the Qualification Date to September 30, 2024), the County may elect to defer grant payments from Available Funding. This option would allow the County to build up its Convention Development Tax shortfall reserve. The grants earned and payable for such contract/fiscal year during the initial phase may be paid up to nine years following the year in which the grant is earned subject to Available Funding. These payments are limited to (1) an overall cap of \$30 million for all grants earned during the Initial Phase; (2) the \$5 million annual overall payment cap; and (3) Available Funding. After the Initial Phase, grants earned and payable for contract/fiscal years during the remainder

of the Grant Term may be paid up to five years following the year in which the grant is earned and are limited to (1) the \$5 million annual payment cap; and (2) Available Funding. After the nine-year and five-year periods, any unpaid portion of the grant is longer due.

Available Funding

The County's commitment to make grants under this Grant Agreement is limited at all times to Available Funding, which means the amount in any contract/fiscal year equal to the County's CDT, less Senior CDT Obligations, and any funds on deposit in the County CDT shortfall reserve. Generally speaking, Senior CDT Obligations include payments on bonds supported by CDT revenues such as bonds issued to construct Marlins Stadium, the Performing Arts Center and other cultural facilities; payments under the AmericanAirlines Arena Management and other agreements; payments made to Miami Beach and the City of Miami pursuant to interlocal agreements; and payments in support of the operations of the Cultural Arts Council, Performing Arts Center, Perez Art Museum and other cultural facilities. The full description of what is senior to (i.e. what is provided before) grant payments to Stadium LLC, is shown in Exhibit A to the enclosed agreement under the definition of "Senior CDT Obligations."

Non-Relocation

As long as both parties are meeting their obligations under the Grant Agreement, the Dolphins cannot relocate outside of Miami-Dade County for the next 30 years.

Super Bowl

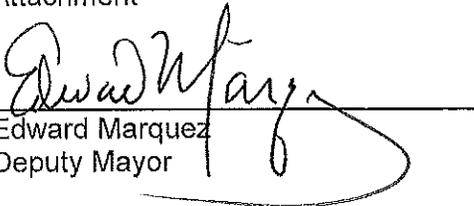
Stadium LLC shall ensure that any Super Bowl bids during the Grant Term are conditioned on the participating teams' headquarters, the NFL's primary operations center, the NFL media center and the NFL Experience (or future equivalent event) all being located in Miami-Dade County, subject to the County's ability to host such events.

Small Business Enterprise Goals

As a matter of policy, Stadium LLC has agreed to certain Small Business Enterprises (SBEs) goals as follows:

- a) Use of South Florida Workforce to recruit workers,
- b) Aspirational goals to have at least 70 percent of workers be Miami-Dade County residents, of which 20 percent are from Community Development Block Grant eligible areas, and 10 percent of which are to be Miami Gardens residents, and at least 35 percent of the firms hired as subcontractors be located in Miami-Dade County. If more than 50 percent of the workers hired are from Miami-Dade County, then the percentage of Miami Garden residents hired shall increase proportionally.
- c) Payment of certain County expenses incurred for construction measures and SBE monitoring (\$225,000), and a building permitting expeditor.

Attachment

  
Edward Marquez  
Deputy Mayor



# MEMORANDUM

(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** June 17, 2014

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

**SUBJECT:** Agenda Item No. 8(F)(2)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(F)(2)  
6-17-14

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE PERFORMANCE-BASED MARQUEE EVENT GRANT AGREEMENT BETWEEN THE COUNTY AND SOUTH FLORIDA STADIUM LLC D/B/A SUN LIFE STADIUM ("SUN LIFE STADIUM") IN SUBSTANTIALLY THE FORM ATTACHED AND TO EXERCISE THE PROVISIONS CONTAINED THEREIN

**WHEREAS**, Sun Life Stadium desires to invest more than \$350 million in funding to improve, remodel, upgrade and modernize Sun Life Stadium, a tourist-related facility, which modernization will include certain key components consisting of a rooftop shade canopy, new seating in the lower bowl of the Stadium, HD Lighting, technology updates and renovations to the concourses within the Stadium to enable it to attract and host marquee events that generate substantial tourism, such as National Football League Super Bowl games, World Cup matches, which, but for such an investment, may not come to Miami-Dade County; and

**WHEREAS**, Sun Life Stadium has also been home to other tourism-generating marquee events, including four BCS National Championship games, WrestleMania XXVIII, the 2010 Pro Bowl, world-class concerts, the International Champions Cup, and international soccer matches involving teams such as F.C. Barcelona, the Brazilian national soccer team, and the Spanish national soccer team; and

**WHEREAS**, the modernization of Sun Life Stadium serves a public purpose and would be in Miami-Dade County's best interest in promoting tourism, job creation and growing the

local economy through the attraction of tourist-oriented marquee events to Miami-Dade County;  
and

**WHEREAS**, other states and cities have also recognized the benefits of marquee events and created grant programs to help attract such events and take advantage of the job creation benefits, as well as the hundreds of millions of dollars in local economic and tourism-related benefits that such events are estimated to provide; and

**WHEREAS**, in order to capitalize on the economic and job creation benefits of hosting marquee events, other states and cities have supported the construction of new facilities and the modernization of existing facilities so as to attract these high-profile marquee events, such as the brand new \$1.3 billion Levi's Stadium, home to the San Francisco 49ers, which beat out Miami-Dade County for the award of the Fiftieth Anniversary Super Bowl game, which is scheduled to be played in 2016; and

**WHEREAS**, eight consecutive Super Bowl bid processes have excluded Sun Life Stadium as a host site due, in part, to the age and current condition of Sun Life Stadium,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that (a) the modernization of Sun Life Stadium and the attraction of Super Bowls and other economically impactful marquee events ("Marquee Events") to Miami-Dade County serves the public purpose of job creation, economic development and attracting out-of-town visitors to Miami-Dade County; and (b) the Performance-Based Marquee Event Grant Agreement by and between Miami-Dade County and South Florida Stadium LLC is hereby approved in substantially the form attached, and (c) the Board authorizes the Mayor or Mayor's designee to execute the attached Performance-Based Marquee Event Grant Agreement and to exercise the provisions contained therein.

The foregoing resolution was 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:

Rebeca Sosa, Chairwoman  
Lynda Bell, Vice Chair

Bruno A. Barreiro  
Jose "Pepe" Diaz  
Sally A. Heyman  
Jean Monestime  
Sen. Javier D. Souto  
Juan C. Zapata

Esteban L. Bovo, Jr.  
Audrey M. Edmonson  
Barbara J. Jordan  
Dennis C. Moss  
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 17<sup>th</sup> day of June, 2014. 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.

Gerald T. Heffernan



## MARQUEE EVENT PERFORMANCE BASED GRANT AGREEMENT

This MARQUEE EVENT PERFORMANCE BASED GRANT AGREEMENT (the "**Agreement**") dated this \_\_\_ day of \_\_\_\_\_, 2014 (the "**Effective Date**"), is entered into by and among MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "**County**") and SOUTH FLORIDA STADIUM LLC, a Florida limited liability company ("**Stadium LLC**" and, together with the County, the "**Parties**"). This Agreement is joined by Miami Dolphins, Ltd. (the "**Team**") for the purposes set forth in **Section 6.3** of this Agreement (and, for such limited purposes, shall be considered to be a "Party" to this Agreement).

### RECITALS

**WHEREAS**, Stadium LLC owns and operates a multi-purpose sports, entertainment, and tourist-oriented venue located on County-owned land with an address of 347 Don Shula Drive, Miami Gardens, Florida 33056, currently known as Sun Life Stadium (the "**Stadium**"), which Stadium is used primarily for events that attract County residents and tourists, such as Team games, University of Miami college football games, Orange Bowl college football games, as well as other national and international athletic, entertainment and other types of events, exhibitions, concerts, performances and assemblages;

**WHEREAS**, the Stadium has also been home to other tourism-generating marquee events, including four BCS National Championship games, WrestleMania XXVIII, the 2010 Pro Bowl, world-class concerts, the International Champions Cup, and international soccer matches involving teams such as F.C. Barcelona, the Brazilian national soccer team, and the Spanish national soccer team;

**WHEREAS**, Stadium LLC's Affiliate, Miami Dolphins, Ltd. owns and operates the National Football League team known as the Miami Dolphins;

**WHEREAS**, Stadium LLC intends to modernize the Stadium at a cost of at least \$350,000,000.00, which modernization will include certain key components consisting of a rooftop shade canopy, new seating for fans / customers in the bowl of the Stadium, and renovations to the concourses within the Stadium (the "**Modernization Project**"), in order to attract certain events intended to increase tourism to Miami-Dade County;

**WHEREAS**, the modernization of the Stadium serves a public purpose and would be in Miami-Dade County's best interest in promoting tourism, job creation and growing the local economy through the attraction of tourist-oriented marquee events to Miami-Dade County; and

**WHEREAS**, the County views any public monies contributed in the form of Marquee Event Grants pursuant to this Agreement to be a grant for economic development and incentive that the County believes will result in a demonstrable economic return to the public, and will ensure that the Stadium will be operated and maintained in a manner which will continue to attract such marquee events in the future.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

## ARTICLE 1

### DEFINITIONS AND INTERPRETATION

1.1 Definitions and Usage. Unless the context requires otherwise, capitalized terms used in this Agreement shall have the meanings assigned to them in the Glossary of Defined Terms attached hereto as Exhibit A, which is incorporated into and forms a part of this Agreement.

1.2 Incorporation of Recitals. The recitals set forth above are true and correct and incorporated herein in their entirety.

## ARTICLE 2

### PERFORMANCE BASED MARQUEE EVENT GRANT PROGRAM

2.1 Performance Based Marquee Event Grant Program.

2.1.1 *Qualification.* Subject to the terms of this Agreement, including, but not limited to, the Earnings Limitations, a Marquee Event Grant shall be deemed earned for each Qualifying Event held at the Stadium during the Grant Term upon occurrence of the applicable Qualifying Event and receipt by the County of a Confirmation Notice from Stadium LLC no later than September 30<sup>th</sup> of the Contract Year in which the Qualifying Event was held (other than for Qualifying Events which take place in September of any Contract Year, for which written notice of the existence of the event will be provided prior to September 30<sup>th</sup>, with the understanding that the Confirmation Notice may be provided by the following October 31<sup>st</sup>). The Marquee Event Grant Base Amount applicable to each Qualifying Event is set forth in **Appendix 1.**

2.1.2. *Earnings Limitations.* The limitations set forth in **Sections 2.1.2(a), (b) and (c)** on the amount Stadium LLC is eligible to earn as the Marquee Event Grants are collectively referred to and defined as the “**Earnings Limitations.**”

(a) For the entire Initial Phase, the cumulative amount of Marquee Event Grants which can be earned by Stadium LLC is limited to the Initial Phase Earnings Cap. The Annual Earnings Cap applies to each Contract Year during the Initial Phase.

(b) For each Contract Year during the Grant Term, the maximum amount of Marquee Event Grants which can be earned (i.e., the Annual Earnings Cap) shall be Five Million Dollars (\$5,000,000.00).

(c) Notwithstanding anything to the contrary in this Agreement, in no event shall more than two (2) Tier Two Events qualify for Marquee Event

Grants in any single Contract Year during the Grant Term. In other words, the Tier Two Earnings Cap will apply at all times during the Grant Term and shall count towards the Annual Earnings Cap. Stadium LLC will not be deemed to have earned a Marquee Event Grant for any Tier Two Event in any Contract Year in excess of two (2) Tier Two Events.

(d) By way of example, if in a particular Contract Year the Stadium was the site of (X) a World Cup Final, (Y) a College Semi-Final Game, and (Z) three international soccer matches with (in each case) at least 55,000 Paid Tickets distributed, in the aggregate the Marquee Event Grant Base Amounts for such events would be \$8,250,000.00 [ $\$4,000,000.00 + \$2,000,000.00 + (\$750,000.00 \times 3) = \$8,250,000.00$ ]. Upon application of the Tier Two Earnings Cap, the maximum amount of Marquee Event Grants that Stadium LLC could earn for the Tier Two Events in such Contract Year is limited to One Million Five Hundred Thousand Dollars (\$1,500,000.00), thereby reducing the \$8,250,000.00 amount to \$7,500,000.00. Then, upon application of the Annual Earnings Cap to the \$7,500,000.00 amount, Stadium LLC would only be entitled (subject to the Payment Limitations set forth below) to payment of \$5,000,000.00 (the Annual Earnings Cap), and the excess over the Annual Earnings Cap (i.e., \$3,250,000.00) would not be eligible for a Marquee Event Grant pursuant to this Agreement.

In the example above, if the Contract Year was during the Initial Phase and Stadium LLC had previously earned during the Initial Phase \$28 million in Marquee Event Grants, after application of the Tier Two Earnings Cap and the Annual Earnings Cap, the Initial Phase Earnings Cap would be applied. By way of example, upon application of the Initial Phase Earnings Cap to the \$5,000,000.00 amount remaining after application of the Tier Two Earnings Cap and the Annual Cap, Stadium LLC would only be entitled (subject to the Payment Limitations set forth below) to payment of \$2,000,000.00, and the excess over the Initial Phase Earnings Cap (\$6,250,000.00) would not be eligible for a Marquee Event Grant pursuant to this Agreement.

*2.1.3 Payment Obligation and Due Date.* The Marquee Event Grants earned by Stadium LLC (subject to the Earnings Limitations) shall be paid by the County to Stadium LLC, solely from Available Funding, no later than the applicable Payment Due Date, subject to the limitations set forth in **Subsection 2.1.4** below.

*2.1.4 Payment Limitations.* The limitations set forth in **Sections 2.1.4(a)** through and including **2.1.4(f)** on the amounts the County shall be obligated to pay as the Marquee Event Grants are collectively referred to and defined as the "**Payment Limitations**."

(a) In no event shall County be obligated to pay Marquee Event Grants in excess of the Annual Payment Cap (i.e., \$5,000,000.00) in any given Contract Year during the Term and the Post-Expiration Period.

(b) Notwithstanding the existence of Available Funding to pay some or all of the Marquee Event Grants earned during the Initial Phase (the "**Initial Phase Earnings**") , County may (but shall not be obligated to) defer payment of all or any portion of such Initial Phase Earnings (the amount being deferred with respect to any single Contract Year, the "**Annual Initial Phase Deferment**" and the cumulative amount being deferred, the

**"Cumulative Initial Phase Deferral"**) until December 31, 2024 (the first Payment Due Date after the last day of the Initial Phase). The County's decision to defer payment of all or any portion of such Initial Phase Earnings for any Contract Year shall be made by the Board prior to the applicable Payment Due Date.

(c) Subject to the Payment Limitations, commencing on or before December 31, 2025, and on or before each Payment Due Date thereafter, County will pay the Annual Initial Phase Deferrals in the order in which they were earned (i.e., the oldest Annual Initial Phase Deferral will be paid first). Furthermore, subject to the Payment Limitations, the Cumulative Initial Phase Deferral (if any) will be paid before County commences making payments of Marquee Event Grants earned for Contract Years after the Initial Phase.

(d) Notwithstanding anything contained in **Subsection 2.1.4** to the contrary, in the event that the County is not obligated (as a result of a lack of Available Funding) to pay all or any portion of any Annual Initial Phase Deferral within nine (9) years of the Payment Due Date applicable to the Contract Year for which the Annual Initial Phase Deferral was earned (such portion, the **"Initial Phase Fall-Off Amount"**), Stadium LLC shall no longer be entitled to receive, and the County shall no longer be obligated to pay the Initial Phase Fall-Off Amount. By way of example, if (X) in the first Contract Year following the Qualification Date (which for purposes of this example shall be October 1, 2016) Stadium LLC earned Marquee Event Grants of \$5,000,000.00, (Y) County elected to defer payment of the entire \$5,000,000.00 until December 31, 2025, and (Z) on December 31, 2025 only \$3,000,000.00 of Available Funding existed, then County would pay \$3,000,000.00 to Stadium LLC and County would have no further obligation to pay the remaining \$2,000,000.00 (i.e., the Initial Phase Fall-Off Amount) with respect to that first Contract Year following the Qualification Date.

(e) In the event that County is not obligated (as a result of a lack of Available Funding or as a result of County having reached the Annual Payment Cap) to (and does not) pay all or any portion of any Marquee Event Grant earned by Stadium LLC for any Contract Year after the Initial Phase, the excess of the Marquee Event Grant earned over the amount actually paid constitutes an Unfunded Rollover Amount (**"Unfunded Rollover Amount"**). Subject to Available Funding in subsequent Contract Years, Unfunded Rollover Amounts will be paid in the order in which they were earned; i.e., the oldest Unfunded Rollover Amount will be paid first). Stadium LLC shall not be entitled to receive, and the County shall not be obligated to pay any Unfunded Rollover Amount that remains unpaid (as a result of a lack of Available Funding or as a result of the Annual Payment Cap having been reached) on the fifth Payment Due Date succeeding the Payment Due Date for the Contract Year for which the applicable Marquee Event Grant was earned (such portion, the **"Unfunded Rollover Fall-Off Amount"**).

(f) If there are any Unfunded Rollover Amounts remaining unpaid on the last Payment Due Date of the Grant Term, after payment of any amounts due as of such Payment Due Date, such Unfunded Rollover Amounts shall remain payable each Contract Year (subject to the Payment Limitations) through the Payment Due Date after the last day of the

Post-Expiration Period (the "**Final Payment Due Date**"). The County shall have no obligation to pay any remaining Unfunded Rollover Amount after the Final Payment Due Date.

2.1.5 *Payment Obligation and Covenant Regarding Available Funding.* The County's obligation to pay any Marquee Event Grant with respect to any Contract Year is subject to the existence of Available Funding. In order to ensure the existence of Available Funding, the County covenants and agrees that, for each Contract Year after the Initial Phase, it will utilize CDT collections for such Contract Year first to pay Senior CDT Obligations, and then to pay Marquee Event Grants earned by Stadium LLC pursuant to this Agreement which are payable on the Payment Due Date following such Contract Year, and only after payment of Marquee Event Grants earned by Stadium LLC will it be permitted to utilize any remaining CDT to fund County's CDT Shortfall Reserve or for any other purpose permitted under the Convention Development Tax Act

2.2 Covenant Regarding CDT and Senior CDT Obligations. The County covenants and agrees that it will not at any time during the Grant Term and the Post-Expiration Period (so long as any Initial Phase Deferment or any Unfunded Rollover Amount remains due to Stadium LLC) (i) pledge or use any portion of the CDT to fund any obligation other than its obligations to Stadium LLC under this Agreement and the Senior CDT Obligations; provided, however, the County may pledge or use the CDT to fund other obligations if such pledge or use is subordinate to Stadium LLC's rights hereunder, or (ii) amend any Senior CDT Obligation in any way which would increase or extend any such Senior CDT Obligation to the to the extent such increased or extended Senior CDT Obligations would have priority or seniority over County's obligations to Stadium LLC. It is understood and agreed that for each Contract Year, so long as the County has made any payments that are payable to Stadium LLC on or before the Payment Due Date with respect to such Contract Year (including, but subject to the Annual Payment Cap, any Initial Phase Deferment or Unfunded Rollover Amounts), then the County may pledge or use all surplus Available Funding during such County fiscal year for any purpose permitted by law.

### ARTICLE 3

#### STADIUM LLC OBLIGATIONS

3.1 Super Bowl. Stadium LLC shall ensure that any bid to host a Super Bowl during the Grant Term is expressly conditioned upon the following Super Bowl activities being located within Miami-Dade County, subject to the County's ability to host such activities: (a) participating team hotel headquarters, (b) the NFL's primary operations center, (c) the NFL media center, and (d) the NFL Experience (or any such equivalent event that may exist in the future). Additionally, Stadium LLC shall encourage all Qualifying Event promoters and participants to hold Qualifying Event-related activities within County borders.

3.2 Use of Marquee Event Grants. Stadium LLC agrees to only use Marquee Event Grants received from County to operate and manage the Stadium ("**Permitted Uses**").

3.3 Hiring Goals; SBD; and Monitoring. Stadium LLC agrees that, as a matter of policy, it shall include, or cause to be included, in the agreement (the "**Construction**

**Management Agreement**”) with the Modernization Project construction manager (the **“Construction Manager”**), provisions consistent with the following, including, without limitation, the hiring goals set forth below:

3.3.1 The Construction Manager shall, at a minimum, utilize South Florida Workforce to recruit workers to fill needed positions for skilled laborers on the Modernization Project. In addition to submitting job order requests to South Florida Workforce, the Construction Manager may also submit job hiring requests to any available Workforce Development Organizations, Workforce Recruitment/Referral Organizations and other job hiring databases (including other union and non-union clearinghouses), with no cost to Stadium LLC for such services.

3.3.2 In addition, Stadium LLC shall cause the Construction Management Agreement to contain language that the Construction Manager will aspire to have as many local workers and local firms as reasonably practical and aspire to have at least 70% of the workers be residents of Miami-Dade County, 20% of which are from CDBG eligible areas and 10% of which are City of Miami Gardens residents, and aspire to have at least 35% of the firms hired as subcontractors be firms located within Miami-Dade County. If the Construction Manager hires more than 50% of the workers from within Miami-Dade County, Construction Manager shall aspire to ensure that the percentage of City of Miami Gardens residents hired shall also increase proportionally. Subject to Applicable Law and the availability of such information, Stadium LLC shall provide to the County semi-annual reports detailing the race and gender of all persons employed by Modernization Project prime contractors and first-tier subcontractors and the race and gender of the ownership of firms participating in the Modernization Project.

3.3.3 Stadium LLC shall submit to the Small Business Development (“SBD”) office first tier subcontract construction packages (the “Construction Packages”) to review for the application of the County’s Community Business Enterprise, (“CBE”)Community Small Business Enterprise (“CSBE”), and Small Business Enterprise (“SBE”) measures in accordance with Section 3.2.2 of this Agreement. The County SBD shall, promptly following a request from Stadium LLC, dedicate at least one member of its SBD staff who will be based at the Stadium (“the SBD Staff”). Stadium LLC shall submit the Construction Packages to the SBD Staff as soon as practical for all first tier subcontracts to be let more than ten (10) business days after the Effective Date. The SBD Staff shall have forty-eight (48) hours to provide Stadium LLC with such applicable CBE, CSBE, and SBE measures in accordance with Section 3.2.2 of this Agreement. Stadium LLC agrees to reimburse County for the actual reasonable salary of the SBD Staff prorated for the time that the SBD Staff has been requested to be based (and is based) at the Stadium, it being understood that the Stadium may request that the SBD Staff only be based at the Stadium for specific times from time to time.

3.3.4 Stadium LLC shall agree, and shall cause the Construction Manager to make available, to the County any and all information, documents and reports which may reasonably be required or requested by the County in connection with the hiring goals set

forth in this **Section 3.3**. The Construction Manager shall further agree to respond, through Stadium LLC, to inquiries from the County. Notwithstanding the foregoing, it is understood that all requests must be made through Stadium LLC.

3.3.5 The Construction Management Agreement shall include provisions providing for compliance with Applicable Laws and the aspirational hiring goals described above.

3.3.6 The County shall be given the opportunity to inspect the Stadium renovations in connection with the Modernization Project, and review any and all documents reasonably necessary to verify compliance with the hiring goals set forth in this **Section 3.3**. Until and including the Qualification Date, the County shall receive in writing from Stadium LLC, no less than semi-annually, information regarding the progress of the Modernization Project. During construction, the County shall have the right to inspect the Stadium at all reasonable times, subject to reasonable restrictions imposed by Stadium LLC and/or Construction Manager. Stadium LLC shall make itself reasonably available to the County throughout the duration of the Modernization Project in order to keep the County reasonably informed throughout the duration of the Modernization Project. Any rights that the County has under this Section shall not be the basis for liability to accrue to the County from Stadium LLC, or third parties for such monitoring or investigation or the failure to have conducted such monitoring or investigation.

3.3.7 Stadium LLC shall reimburse the County the reasonable and actual costs, not to exceed Two Hundred Twenty Five Thousand Dollars (\$225,000.00) in the aggregate, for the SBD Staff and monitoring contracts for the Modernization Project for compliance in accordance with this **Section 3.3**.

3.3.8 Stadium LLC agrees to hire at its own expense a consultant to assist Stadium LLC in accomplishing the goals set forth in this **Section 3.3**.

3.3.9 In accordance with Applicable Laws, the Parties shall not discriminate against any person or group of persons on the basis of race, sex, religion, national or ethnic origin, age or disability.

## ARTICLE 4

### REGULATORY APPROVAL AND PERMITS

4.1 Regulatory Approvals and Permits. The County, in consultation with Stadium LLC, shall expeditiously process all applications for Approvals necessary for the Modernization Project. The County Mayor or his designee, shall use good faith efforts to execute any applications, forms, or petitions (each a "**Required Form**") necessary to modify, renew or obtain any Approvals for the Modernization Project, as may be necessary from time to time (if written consent of the County is required for such application, form or petition), in all instances subject to the County's approval over the form and substance and terms of the Required Form in its sole

discretion, within ten (10) Business Days following receipt of a written request from Stadium LLC, and shall in any event execute any Required Form within twenty (20) Business Days following receipt of a written request from Stadium LLC. The County shall act reasonably to expedite any applications for actions or approvals requested or required of it in connection with the permitting and renovation of the Stadium to allow for the undelayed completion of the Stadium.

4.1.1 The County shall, promptly following a request from Stadium LLC, dedicate at least one member of its building permitting staff who shall be based at the Stadium (the "**Dedicated Staff Person**") at all times requested by Stadium LLC throughout the Modernization Project, and make available other appropriate staff, to serve as a liaison for the Stadium to expedite the permitting process and other County review and approval processes at no cost to Stadium LLC for such expediting and staffing. Among other things, such liaison shall be responsible for the expeditious processing of permits, if any, meeting with the Stadium LLC's designees and acting as a liaison to coordinate any necessary County inspections, and the coordination of meetings between the Stadium LLC's professional team and any County staff necessary to address questions associated with processing applications for Approvals. Stadium LLC shall reimburse County for the salary of the Dedicated Staff Person, prorated for the time that the Dedicated Staff Person has been requested by Stadium LLC to be based (and is based) at the Stadium, it being understood that Stadium LLC may request that the Dedicated Staff Person only be based at the Stadium for specific times and from time-to-time. By way of example, if the annual salary of the Dedicated Staff Person is \$60,000.00 (i.e., \$5,000.00 per month), and the Dedicated Staff Person is based at the Stadium (at Stadium LLC's request) for the month of August, 2015 and the first 15 days of November, 2015, Stadium LLC will reimburse the County a total of \$7,500.00 (\$5,000.00 for the month of August and \$2,500.00 for the month of November).

4.1.2 Stadium LLC agrees to use its reasonable best efforts to retain a design, engineering and construction team of professionals to prepare and process all applications for the Approvals in connection with the Modernization Project, which team of professionals shall be directed to use its reasonable best efforts to expeditiously respond to and address questions raised by County staff.

4.1.3 The Parties acknowledge that certain state, regional and local agencies or utilities may have jurisdiction over certain aspects of the Modernization Project. The Parties agree to coordinate efforts and work together to address any questions and encourage the issuance of any Approvals from said state, regional and local agencies.

4.1.4 Notwithstanding and prevailing over any contrary provision in this Agreement, any County covenant or obligation that may be contained in this Agreement, including but not limited to the following:

- (a) to cooperate with, or provide good faith, diligent, reasonable or other similar efforts to assist Stadium LLC or the Team, or both, regardless of the purpose required for such cooperation

(b) to execute documents or give approvals, regardless of the purpose required for such execution or approvals;

(c) to apply for or assist the Stadium LLC or the Team in applying for any County, municipal, or third party permit or needed approval; or

(d) to contest, defend against, or assist Stadium LLC or the Team in contesting or defending against any challenge or imposition of any nature;

shall not bind the Board, the Zoning Appeals Board, the Department of Regulatory and Economic Resources of Miami-Dade County, DERM, the Biscayne Bay Shoreline Development Review Committee or any other County, municipal, federal or state department, 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 other applicable governmental entities in the exercise of its police power; and the County shall be released and held harmless, by Stadium LLC from any liability, responsibility, claims, consequential or other damages, or losses to Stadium LLC or to any third parties resulting from denial, withholding, or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever.

4.1.5 Except where otherwise expressly set forth herein, in each instance in this Agreement where the approval, discretion or consent of the County may be sought or is required, such approval, discretion or consent shall be granted or denied on behalf of the County by the County Mayor or his designee, except for (a) consent required with respect to Transfers, or (b) approvals, discretion or consents specifically requiring Board approval or consent under this Agreement or pursuant to Applicable Laws as determined by the County Attorney's Office, which consents, discretions and approvals (a) and (b) may only be given by the Board.

## ARTICLE 5

### COVENANTS OF COUNTY AND STADIUM LLC

#### 5.1 Mutual Covenants.

5.1.1 The Parties, whenever and as often as each shall be reasonably requested to do so by another Party, shall execute or cause to be executed any further documents and take any further actions as may be reasonably necessary or expedient in order to consummate the transactions provided for in, and to carry out the purpose and intent of, this Agreement, except to the extent such actions by the County require approval by the Board.

5.1.2 In exercising its rights and fulfilling its obligations under this Agreement each of the Parties shall act in good faith. Notwithstanding the foregoing, each Party acknowledges that in each instance under this Agreement where a Party is obligated to exercise good faith or to use good faith, diligent or other similar efforts, such Party shall not be required to expend any funds, or grant any other consideration of any kind, in the performance of such

undertaking, and each Party further acknowledges that the obligation of any Party to act in good faith, or undertake good faith, diligent or other similar efforts does not constitute a warranty, representation, or other guaranty that the result the Parties are attempting to achieve will be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

5.1.3 Should any Party receive knowledge about any matter which may constitute a breach of any of its warranties or covenants set forth in this Section 5.1 which arises after the date of this Agreement, it shall promptly notify the other Parties of the same in writing.

## ARTICLE 6

### TERM

6.1 Term; Grant Term. The term of this Agreement (the "**Term**") shall commence at the Effective Date and shall continue until the earlier of: (a) September 30 of the year which is thirty (30) years from the Effective Date, and (b) the date of termination pursuant to **Section 8.3** (the last day of the Term, the "**Expiration Date**"). "Grant Term" shall have the meaning ascribed to it in **Appendix A**.

6.2 Payment Obligations to Survive. The County's payment obligations under this Agreement existing as of the Expiration Date shall survive for the duration of the Post-Expiration Period except as otherwise expressly set forth in this Agreement, including, but not limited to, (i) the Payment Limitations, (ii) the existence of Available Funding, and (iii) the termination provisions of this Agreement.

6.3 Early Termination Right. Anything contained in this Agreement to the contrary notwithstanding, in the event that the Team permanently relocates to another county and plays its NFL Home Games in a venue outside of Miami-Dade County, the County will have the right (the "**Early Termination Right**") to terminate this Agreement effective as of thirty (30) days from the date that the County has given written notice of its election (a "**Termination Notice**") to Stadium LLC (the "**Termination Date**").

6.3.1 -If the County exercises its Early Termination Right, as of the Termination Date, the County's obligation to pay any Unfunded Rollover Amounts, Cumulative Initial Phase Deferments, and any Marquee Event Grants earned during the Grant Term shall be extinguished as of the Termination Date and the County shall have no liability for payment of such amounts. This right shall be in addition to and not in lieu of the County's Early Termination Right.

6.3.2 By way of clarification, the Early Termination Right shall only arise in the event of a permanent relocation of the Team, and expressly shall not arise in the event that the Team temporarily relocates due to a Force Majeure Event.

6.3.3 For purposes of this **Section 6.3**, the Team joins in this Agreement to signify its agreement (subject to the provisions of **Section 6.3.3.1**) to continue to utilize the Stadium as the venue for the majority of its NFL Home Games each calendar year and not permanently to relocate to another county, for the duration of the Term.

6.3.3.1 Team's agreement set forth in **Section 6.3.3** is expressly conditioned upon Stadium LLC receiving all Marquee Event Grant payments (subject only to the Earnings Limitations) earned by Stadium LLC over the Grant Term prior to the expiration of such amounts as Initial Phase Fall-Off Amounts or Unfunded Rollover Fall-Off Amounts, without regard to Available Funding; i.e., in the event that County does not pay Stadium LLC any Marquee Event Grant earned by Stadium LLC prior to the date that such Marquee Event Grant becomes an Initial Phase Fall-Off Amount or an Unfunded Rollover Fall-Off Amount, whether as a result of a lack of Available Funding or otherwise, Team shall not be bound by this **Section 6.3**. Additionally, Team shall be relieved of its obligations under **Section 6.3.3** in the event of a County default pursuant to **Section 8.2**.

6.3.3.2 In the event that Team breaches its agreement not to relocate set forth in **Section 6.3.3**, County's sole remedy shall be to terminate this Agreement by providing no less than sixty (60) days' notice to Stadium LLC. In no event will either Stadium LLC or Team be liable to County for damages or subject to equitable relief in the event that Team permanently relocates to another county prior to the date which is thirty (30) years from the Effective Date.

6.4 Survival. The provisions of each and every Section and Subsection which by its terms is intended to survive any termination or expiration of this Agreement shall survive any such termination or expiration.

## ARTICLE 7

### REPRESENTATIONS AND WARRANTIES

#### 7.1 Representation and Warranties.

7.1.1 *Power and Authority*. Each individual executing and delivering this Agreement on behalf of a Party hereto hereby represents to the other Party hereto that such individual has all requisite power and authority to execute and deliver the same and to bind such Party hereunder.

7.1.2 *Stadium LLC's Representations*. Stadium LLC hereby represents and warrants to the County, as of the Effective Date, as follows:

(a) Stadium LLC represents and warrants that, no later than the Qualification Date, it will apply to be certified for a state distribution as a zero baseline facility pursuant to Lines 547-550 of the Enrolled 2 version of CS/HB 7095, as passed by the Florida Legislature during the 2014 Legislative Session, subsequent to the effective date of such legislation.

(b) Stadium LLC is a limited liability company duly formed, validly existing, and in good standing under the laws of the State of Florida and has all necessary limited liability company power and authority to carry on its present business, to enter into this Agreement and to consummate the transactions herein contemplated.

(c) Neither the execution and delivery of this Agreement by Stadium LLC, nor the performance by Stadium LLC of its obligations hereunder, will (i) violate any statute, regulation, rule, judgment, order, decree, stipulation, injunction, charge, or other restriction of any Governmental Authority or court to which Stadium LLC is subject or limited partnership agreement of Stadium LLC or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, or create in any party the right to accelerate, terminate, modify, or cancel any contract, lease, sublease, license, sublicense, franchise, permit, indenture, agreement or mortgage for borrowed money, instrument of indebtedness, security interest, or other agreement to which Stadium LLC is a party or by which Stadium LLC or its assets are bound, except where any of the foregoing could not reasonably be expected to have a material adverse effect on Stadium LLC's ability to perform its obligations under this Agreement.

(d) All limited liability company proceedings required to be taken by or on behalf of Stadium LLC to authorize Stadium LLC to execute and deliver this Agreement and to perform the covenants, obligations and agreements of Stadium LLC hereunder have been duly taken.

(e) This Agreement constitutes the valid and legally binding obligation of Stadium LLC, enforceable in accordance with its terms and conditions, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws presently or hereafter in effect, affecting the enforcement of creditors' rights generally and by general principles of equity whether applied in a proceeding at law or in equity.

(f) To the best knowledge of Stadium LLC, there is no action, suit, claim, proceeding or investigation pending or currently threatened against Stadium LLC that questions the validity of this Agreement or the transactions contemplated herein.

7.1.3 *County's Representations.* The County represents and warrants to Stadium LLC and Primary Owner, as of the Effective Date, as follows:

(a) The County is a political subdivision of the State of Florida duly formed and validly existing with all necessary power and authority to enter into this Agreement and to consummate the transactions herein contemplated.

(b) Neither the execution and delivery of this Agreement, nor the performance by County or of its obligations hereunder, will (i) violate any statute, regulation, rule, judgment, order, decree, stipulation, injunction, charge, or other restriction of any Governmental Authority or court to which the County is subject or any provision of any charter to which the County is subject or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, or create in any party the right to accelerate, terminate, modify or cancel, any contract, lease, sublease, license, sublicense, franchise, permit, indenture or agreement for borrowed money, instrument of indebtedness, security interest, or other agreement to which County is a party or by which County or its assets are bound, except where any of the foregoing could not reasonably be

expect to have a material adverse effect on the County's ability to perform its obligations under this Agreement.

(c) The County has caused all governmental proceedings required to be taken by or on behalf of the County to authorize the County to make and deliver this Agreement and to perform the covenants, obligations and agreements of the County hereunder.

(d) This Agreement constitutes the valid and legally binding obligation of the County, enforceable in accordance with its terms and conditions, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws presently or hereafter in effect, affecting the enforcement of creditors' rights generally and by general principles of equity whether applied in a proceeding at law or in equity.

(e) To the best knowledge of the County, there is no action, suit, claim, proceeding or investigation pending or currently threatened against the County that questions the validity of this Agreement or the transactions contemplated herein.

7.1.4 *Affirmation of Representations as of Effective Date.* County and Stadium LLC agree to affirm their respective representations and warranties set forth in this Article 7 of this Agreement and to provide an appropriate bring down of those representations and warranties, in each case, as of the Effective Date.

## ARTICLE 8

### DEFAULTS AND REMEDIES

8.1 Stadium LLC Default. Stadium LLC shall be considered in default under this Agreement, excluding Section 3.3 (for which no remedies will be available) if (a) Stadium LLC fails to comply with any material term, covenant or agreement contained in this Agreement to be kept, performed or observed by Stadium LLC, if such failure continues for more than sixty (60) days after County gives Stadium LLC written notice of such failure, or (b) if a receiver is appointed for Stadium LLC's interest in the Stadium in any final judicial proceeding and said receiver is not removed or discharged within sixty (60) days of appointment. In the event of any default hereunder by Stadium LLC, unless an additional or other remedy is expressly provided for in this Agreement, the County's sole remedy shall be, following thirty (30) days advance written notice to Stadium LLC, to institute any and all proceedings or claims permitted by law or equity to enforce Stadium LLC's obligations hereunder and recover any and all amounts necessary to compensate the County for actual damages proximately caused by Stadium LLC's failure to perform its obligations under this Agreement.. Any damages to which the County may be entitled shall be offset by any Marquee Event Grants earned by Stadium LLC which remain unpaid.

8.2 County Default. The County shall be considered in default under this Agreement if (a) the County fails to pay any amount it is obligated to pay under this Agreement as and when due and payable under this Agreement (including, without limitation, the failure to pay any amounts due in connection with the Marquee Event Grants) if such failure continues for more than sixty (60) days after Stadium LLC gives written notice to the County that such amount was not paid when due, or (b) the County fails to comply with any material term, covenant or agreement contained in this Agreement to be kept, performed or observed by the County, if such failure continues for more than sixty (60) days after Stadium LLC gives the County written notice of such failure. In the event of any default hereunder by the County, unless an additional other remedy is expressly provided for in this Agreement, Stadium LLC's sole remedy shall be, following thirty (30) days advance written notice to County, to institute any and all proceedings or claims permitted by law or equity to enforce the County's obligations hereunder and to recover all unpaid sums and amounts then due and payable by the County under this Agreement and any and all amounts necessary to compensate Stadium LLC for actual damages proximately caused by the County's breach of or failure to perform its obligations under this Agreement. Stadium LLC agrees that it shall collect damages solely from CDT revenues not pledged to the Senior CDT Obligations.

8.3 Limited Termination Rights. Except as otherwise expressly set forth in this Agreement, in no event shall any Party have the unilateral right to terminate this Agreement (upon default or otherwise). This Agreement shall only terminate upon (a) expiration of the Term or upon the mutual written agreement of the Parties, or (b) following written Termination Notice from the County to Stadium LLC pursuant to the provisions of **Section 6.3**.

8.4 No Liability for Individual County Personnel. Notwithstanding and prevailing over any contrary provision or implication in this Agreement and subject to Section 10.20, no elected or appointed official, employee, agent, independent contractor, or consultant of the County shall be liable to Stadium LLC, or any successor in interest to Stadium LLC, in the event of any default or breach by the County for any amount which may become due to Stadium LLC or any successor in interest to Stadium LLC, or on any other obligation under the terms of this Agreement, except for their criminal acts (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts).

8.5 Mediation/Arbitration. In the event of any dispute relating or arising out of this Agreement (a "**Dispute**"), the Parties shall comply with the procedures set forth in this **Section 8.5**.

8.5.1 Within fifteen (15) calendar days after a written request for dispute resolution is delivered by one Party to the other (a "**Request**"), the Parties promptly shall hold an initial meeting to attempt in good faith to negotiate a settlement of the Dispute. No Request concerning a Dispute may be made after the time allowed by any statute of limitations applicable to such Dispute.

8.5.2 If within thirty (30) calendar days after the Request, the Parties have not negotiated a settlement of the Dispute (as evidenced by a written, executed settlement agreement approved by the Board), the Parties jointly shall appoint a neutral dispute resolution expert (the "**Neutral**"). If the Parties are unable to agree upon the appointment of the Neutral within thirty

(30) calendar days after the Parties reach an impasse, either Party may request that Judicial Arbitration & Mediation Services ("**JAMS**") select the Neutral pursuant to any procedures established by JAMS for the selection of the Neutral, in JAMS' sole discretion, including without limitation, the selection of a JAMS representative as the Neutral.

8.5.3 In order to resolve the Dispute, the Parties shall develop a mediation procedure for the resolution of the dispute with the assistance of the Neutral. The Neutral shall make the decision as to how, when and where the mediation will be conducted if the Parties have been unable to agree on such matter. The fees and costs of the Neutral shall be borne equally by the Parties.

8.5.4 The Parties shall participate in good faith in the mediation to its conclusion. If the Parties resolve their Dispute through their own negotiations or in the mediation, the resolution shall be reduced to the form of a written settlement agreement which shall, when approved by the Board and executed by the Parties, be binding upon both Parties and shall, if and to the extent provided in such settlement agreement, preclude any litigation with respect to such Dispute. If the Parties have not resolved the Dispute through the mediation pursuant to **Section 8.5.1** through this **Section 8.5.4**, then the Parties shall submit the Dispute to arbitration as provided in **Section 8.5.6**.

8.5.5 At any time during the process described in **Section 8.5.1** through **Section 8.5.4**, either Party may give written notice to the other that it believes it is appropriate to move immediately to arbitration of the Dispute, and in such event, both Parties shall submit the Dispute to arbitration as provided in **Section 8.5.6**.

8.5.6 If any Dispute is not resolved by the mediation process described in **Section 8.5.1** through **Section 8.5.4**, then such dispute shall be resolved exclusively by arbitration in Miami, Florida, before a panel of three (3) JAMS arbitrators (with each Party to select one arbitrator from a list of available arbitrators as provided by JAMS and the third arbitrator to be mutually selected by the Party-selected arbitrators). Any arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures or by any other set of commercial arbitration rules mutually agreed-upon by the Parties, with any and all Party depositions to be taken in Miami, Florida and any and all discovery to be produced in Miami, Florida. The Parties agree that judgment on the arbitration award shall be final and conclusive and may be entered in the state and federal courts located in Miami-Dade County, Florida or any other court having jurisdiction over the Parties. This clause shall not preclude Parties from seeking provisional remedies in aid of arbitration from a court. The arbitrators shall, in the award, allocate all or part of the costs of the arbitration, including the fees of the arbitrators and the reasonable attorneys' fees of the prevailing Party.

## ARTICLE 9

### ASSIGNMENT AND TRANSFER

9.1 Stadium LLC Assignment. Except and as permitted by this **Article 9**, Stadium LLC may not sell, assign, transfer, pledge, mortgage or encumber (each, a "**Transfer**") this Agreement without first obtaining the written consent of the County, which consent shall not be unreasonably withheld, conditioned, or delayed.

9.2 Permitted Transfers. The following Transfers ("**Permitted Transfers**", and each transferee, a "**Permitted Transferee**") shall be permitted without the consent of the County, notwithstanding the prohibitions on Transfers set forth in **Section 9.1** or any other provision of this Agreement:

(a) Stadium LLC may freely Transfer, in whole or in part, any or all of its rights and obligations under this Agreement to one or more of its Affiliates, *provided, however* that such Affiliate shall agree to be bound by all of the terms and conditions hereof;

(b) Stadium LLC may pledge, collaterally assign or grant a security interest in, or otherwise encumber, this Agreement or any or all of Stadium LLC's rights under this Agreement, in whole or in part, including any or all revenues, rights to revenues and accounts receivables of Stadium LLC arising out of this Agreement as security for any bonds, notes, other evidences of indebtedness, credit facility or other financial obligation or guarantee of Stadium LLC or any of its Affiliates solely to fund Permitted Uses, in each case without diminishing Stadium LLC's obligations under this Agreement; and

(c) Stadium LLC may Transfer all of its right, title and interest in and to this Agreement to any Person that acquires the Team's NFL membership with the approval of the NFL (or an Affiliate of such Person), provided such assignee (or one or more Affiliates of such assignee) unconditionally and expressly assumes, as applicable, all of the obligations of the Stadium LLC under this Agreement.

9.3 Transactions that are not Transfers. For the avoidance of doubt, notwithstanding anything contained in this Agreement to the contrary, the Parties confirm that Stadium LLC shall have the right, subject to the terms and provisions of this Agreement, without the consent of the County and without such action being considered a Transfer, in connection with the operation of the Stadium in the ordinary course of its business, to sell or grant to Persons (whether on a long-term or short-term, or continuing or periodic basis), licenses, usage or similar rights and otherwise grant other Persons rights to use, enjoy, service or maintain certain parts of the Stadium, including the suites, premium seats, other seating areas, restaurant areas, the team store(s) and other retail areas.

9.4 Assignment by the County. The County shall not Transfer this Agreement or any of the County's rights, or delegate any of the County's duties under this Agreement.

## ARTICLE 10

### MISCELLANEOUS

#### 10.1 General Interpretative Provisions.

(a) The terms defined on Exhibit A or elsewhere in this Agreement shall have such meanings for all purposes. Such meanings shall be applicable to both the singular and plural forms of the terms defined. The Parties shall only look to this Agreement for the meanings of defined terms and shall not make reference to any term defined in another agreement, instrument or Applicable Law unless such agreement, instrument or Applicable Law is expressly incorporated by reference into this Agreement.

(b) The words “include,” “includes” and “including” shall be deemed to be followed by “without limitation” whether or not they are in fact followed by such words or words of like import and no inference shall be drawn from the presence or absence of the words “without limitation” or any words of similar meaning.

(c) The words “writing,” “written” and comparable terms refer to printing, typing and other documentary forms of communication, but does not include email or other electronic media.

(d) Any agreement, instrument or Applicable Law defined or referred to in this Agreement means such agreement or instrument or Applicable Law as from time to time amended, modified, supplemented, renewed or extended, including (in the case of agreements or instruments) by waiver or consent and, in the case of Applicable Law, by passage of comparable successor Applicable Law and includes, in the case of agreements or instruments, references to all attachments thereto and instruments incorporated therein.

(e) Any term defined in this Agreement by reference to any agreement, instrument, or Applicable Law shall continue to have such meaning as in effect on the date of this Agreement whether or not such agreement, instrument, or Applicable Law remains in effect or is amended, modified, waived or rescinded.

(f) References to a Person are also to its permitted successors and assigns.

(g) The words “hereof,” “herein,” “hereunder” and comparable terms refer, unless otherwise expressly indicated, to this entire Agreement and not to any particular Article, Section, Subsection or other subdivision thereof or attachment thereto. References in an instrument to “Article,” “Section,” “Subsection” or another subdivision or to an attachment are, unless the context otherwise requires, to an article, section, subsection or subdivision of or an attachment to this Agreement. All references to exhibits or appendices are to exhibits or appendices attached to this Agreement.

(h) The table of contents and headings of the various Articles, Sections, Subsections and other subdivisions of this Agreement are for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

(i) Pronouns of whatever gender shall include Persons of every kind and character. References to any gender include, unless the context otherwise requires, references to all genders.

(j) The words "shall" and "will" have equal force and effect.

(k) Unless otherwise specified, all references to a specific time of day shall be based upon Eastern Standard Time or Eastern Daylight Savings Time, as applicable on the date in question in Miami Gardens, Florida.

(l) References to "\$" or to "dollars" shall mean the lawful currency of the United States of America.

(m) All amounts required to be paid by any Party to the other Party under this Agreement shall be paid in U.S. dollars by wire transfer or other acceptable method of payment of immediately available federal funds. If any payment under this Agreement is required to be made on a day other than a Business Day, the date of payment shall be extended to the next Business Day.

(n) Unless specified to the contrary, any reference to a Party having a "right" shall not create an obligation on the part of such Party to exploit the right.

10.2 No Waiver. No failure or delay by any Party to insist upon the strict performance of any term, covenant, agreement, provision, condition or limitation of this Agreement or to exercise any right or remedy available upon a breach thereof, and no acceptance by any Party of full or partial payment due under this Agreement during the continuance of any such breach (with or without knowledge of the breach), shall constitute or be construed to constitute a waiver of any such breach or of such term, covenant, agreement, provision, condition or limitation. No term, covenant, agreement, provision, condition or limitation of this Agreement to be kept, observed, or performed by any Party, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by the Party to be bound. Any waiver of any breach shall be limited to the breach so waived, and shall not affect or alter this Agreement, and each and every term, covenant, agreement, provision, condition and limitation of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

10.3 Cumulative Remedies. Except as otherwise provided in this Agreement, each right or remedy of a Party provided for in this Agreement shall be cumulative of and shall be in addition to every other right or remedy of that Party provided for in this Agreement. The exercise of any one or more of the rights or remedies provided for in this Agreement shall not preclude the simultaneous or later exercise of any or all other rights or remedies provided for in this Agreement.

10.4 No Broker's Fees or Commissions. Each Party hereby represents and warrants to the other Party that it has not incurred or created any liabilities or claims for broker's commissions or finder's fees in connection with the negotiation, execution or delivery of this Agreement and that it has not dealt with, nor sought or accepted the assistance of and has no knowledge of, any broker, agent, finder or salesperson in connection with this Agreement.

10.5 Relationship of the Parties. The relationship of the Parties under this Agreement is that of independent parties, each acting in its own best interests. Notwithstanding anything in this Agreement to the contrary, no partnership, joint venture or relationship of principal and agent is established or intended hereby between or among the Parties. Neither the County nor Stadium LLC shall be liable for any acts, omissions, or negligence on the part of the other Party or the other Party's employees, agents, independent contractors, licensees and invitees.

10.6 Intentionally Left Blank.

10.7 Expenses. Unless otherwise provided in this Agreement, each Party shall bear its own expenses in connection with the negotiation and preparation of this Agreement, and the performance of all of its obligations under this Agreement.

10.8 Notices. All notices, consents, directions, approvals, instructions, requests and other communications, as applicable, to be given to a Party under this Agreement shall be given in writing to such Party at the address set forth below or at any other address as such Party designates by written notice to the other Party in accordance with this section and may be (a) sent by registered or certified U.S. mail, return receipt requested, or by reputable national overnight courier, (b) delivered personally (including delivery by private courier services), or (c) sent by telecopy (with electronic confirmation of such notice) or by electronic mail, in each case under this clause (c) with a copy by one of the methods set forth in clause (a) or (b). Any notice shall be deemed to be duly given or made (i) one Business Day after being sent by reputable national overnight courier, (ii) three (3) Business Days after posting if mailed in accordance with clause (a), (iii) the day delivered if sent by hand unless such day is not a Business Day, in which case such delivery shall be deemed to be made as of the next succeeding Business Day, or (iv) in the case of telecopy (with electronic confirmation of such notice) or electronic mail, when received, except that if it was received after 5:00 p.m. delivery shall be deemed to be made as of the next succeeding Business Day. Each Party hereto shall have the right at any time and from time to time to specify additional parties to whom notice must be given, by delivering to the other Party five (5) days' notice thereof setting forth a single address for each such additional party. The notice addresses for the Parties shall initially be as follows:

For Stadium LLC:

South Florida Stadium LLC  
347 Don Shula Drive  
Miami Gardens, FL 33056  
Attn: Chief Executive Officer  
General Counsel  
Fax: (305) 943-8153

For the County:

County Mayor  
111 N.W. 1st Street, Suite 2900  
Miami, Florida 33128  
Attn: Carlos A. Gimenez and Edward Marquez  
Cgimenez@miamidade.gov  
Marquez@miamidade.gov  
Fax: (305) 375-1262

With copy to:

County Attorney  
111 N.W. 1st Street, Suite 2810  
Miami, Florida 33128  
Attn: Robert A. Cuevas, Jr.  
and Geri Keenan  
RAC1@miamidade.gov  
GBK@miamidade.gov  
Fax: (305) 375-5634

10.9 Severability. If any term or provision of this Agreement, or the application thereof to any Person or circumstance, shall to any extent be held invalid or unenforceable in any jurisdiction, then as to such jurisdiction, the remainder of this Agreement, or the application of such term or provision to Persons or circumstances other than those as to which such term or provision is held invalid or unenforceable in such jurisdiction, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law. Any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.10 Entire Agreement, Amendment and Waiver. This Agreement and its Schedules, Exhibits and Appendices constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior written and oral agreements and understandings with respect to such subject matter. Neither this Agreement nor any of the terms hereof may be amended, supplemented, waived or modified orally. All such amendments, supplements, waivers and modifications must be in writing signed by the Party against which the enforcement of the amendment, supplement, waiver or modification shall be sought.

10.11 Parties in Interest; Limitation on Rights of Others. The terms of this Agreement shall be binding upon, inure to the benefit of and be enforceable solely by the Parties and their permitted successors and assigns and nothing in this Agreement or by virtue of the transactions contemplated hereby, whether express or implied, shall be construed to constitute, create or confer rights, remedies or claims in or upon any Person (as third-party beneficiary or otherwise) not a Party hereto, or to create obligations or responsibilities of the Parties to such Persons, or to permit any Person other than the Parties and their respective successors and assigns to rely upon or enforce the covenants, conditions and agreements contained herein.

10.12 Counterparts. This Agreement may not be executed by the Parties in separate counterparts. All signatures must appear on the same signature page.

10.13 Governing Law; Jurisdiction. THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY IN FLORIDA. For the purposes of this Agreement, the federal or state courts of the State of Florida, in each case, located in Miami-Dade County (together, the "Designated Courts") shall have exclusive jurisdiction with respect to any action that may be conducted in a court in connection with this Agreement and which is not required to be resolved pursuant to the procedures set forth in **Section 8.5**. For purposes of such proceedings not required to be resolved pursuant to the procedures set forth in **Section 8.5**, each of the County and Stadium LLC submits to the exclusive jurisdiction of the Designated Courts, including the *in personam* jurisdiction of the Designated Courts, waives any objection to such jurisdiction on the grounds of venue or *forum non conveniens* or the absence of *in personam* jurisdiction and any similar grounds, consents to service of process by mail (in accordance with **Section 10.8** or any other manner permitted by Applicable Law), and irrevocably agrees to be bound by any judgment rendered thereby, subject to all applicable rights of appeal.

10.14 Effect of Expiration. The expiration of this Agreement shall not alter the claims, if any, of either Party for breaches of this Agreement occurring prior to such expiration of this Agreement or the obligations of the parties surviving the expiration of the Term, and the obligations of the Parties with respect to such breaches of this Agreement shall survive expiration (including those giving rise to such expiration).

10.15 Further Assurances. Each of the Parties shall execute and deliver or procure execution and delivery of such additional documents and instruments as may be necessary or appropriate to carry out the terms of this Agreement.

10.16 Interpretation and Reliance. No presumption will apply in favor of any Party in the interpretation of this Agreement or in the resolution of any ambiguity of any provisions hereof.

10.17 No Personal Liability. All costs, obligations and liabilities under this Agreement on the part of the County and Stadium LLC are solely the responsibility of the respective Party, and no partner, stockholder, member, director, officer, official, employee, agent or elected or appointed official of any Party to this Agreement shall be personally or individually liable for any costs, obligations or liabilities of such Party under this Agreement and each such Person may raise this section as a defense to any action brought seeking to impose such costs, obligations or liabilities on it. Except as to any Party to this Agreement may otherwise agree in writing with regard to its liability, all Persons extending credit to, contracting with or having any claim against any Party to this Agreement, may look only to the funds and property of such Party for payment of any such suit, contract or claim to the extent such Party is liable therefor, or for the payment of any costs that may become due or payable to them from any Party to this Agreement.

10.18 Amendment. No amendment or modification of this Agreement shall be valid unless in writing and duly executed by the Party affected by the amendment or modification, and

as to the County, to the extent required by Applicable Law, unless such amendment or modification is approved by the Board.

10.19. Other Documents. The Parties shall take all such actions and execute all such documents which may be reasonably necessary to carry out the purposes of this Agreement, whether or not specifically provided for in this Agreement; provided that the parties acknowledge that certain additional actions by the County may require Board approval, and to the extent such approval is required by Applicable Law, obtaining the approval shall be a condition to the County's obligations under this Section.

10.20 Non-Recourse Obligations of County. Notwithstanding and prevailing over any contrary provision or implication of this Agreement, any and all duties, liabilities and obligations of the County to pay Marquee Event Grant payment obligations during any fiscal year shall be required to be paid or performed by the County only to the extent that there is Available Funding during such fiscal year of the County, and no duties, liabilities, or obligations of the County with respect to the County's payment obligations shall be required to be satisfied from the County's General Fund or any other non-County CDT funds, revenues or reserves of the County.

## ARTICLE 11

### SOVEREIGN RIGHTS AND AUDIT RIGHTS

11.1 Sovereign Rights. The County retains all of its sovereign prerogatives and rights as a county under State law with respect to the planning, design, construction, development and operation of the Stadium. It is expressly understood that notwithstanding any provisions of this Agreement and the County's status thereunder:

11.1.1 The County retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county under State law 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 of whatever nature applicable to the planning, design, construction and development of the Stadium, or the operation thereof, or be liable for the same; and

11.1.2 The County shall not by virtue of this Agreement be obligated to grant Stadium LLC or their Affiliates, 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 Stadium.

11.1.3 Notwithstanding and prevailing over any contrary provision in this Agreement, any County covenant or obligation that may be contained in this Agreement shall not bind the Board, the County's Regulatory and Economic Resources Department, DERM, or any other County, 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 other applicable governmental agencies in the exercise of its police power

## 11.2 Inspector General Reviews.

11.2.1 Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter “**IPSIG**”), whenever the County deems it appropriate to do so. Upon written notice from the County, Stadium LLC shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services. The terms of this provision apply to Stadium LLC, its officers, agents, employees, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of Stadium LLC in connection with this Agreement. The terms of this Article shall not impose any liability on the County by Stadium LLC or any third party.

11.2.2 According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to, project design, specifications, proposal submittals, activities of Stadium LLC and its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

11.2.3 Upon written notice to Stadium LLC from the Inspector General or IPSIG retained by the Inspector General, Stadium LLC shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in Stadium LLC’s possession, custody or control which, in the Inspector General’s or IPSIG’s sole judgment, pertain to performance of this Agreement.

## 11.3 Records and Audits.

11.3.1 *Records.* For a period of seven years after the end of the Contract Year to which they pertain or such longer period as may be required by law, Stadium LLC shall keep and maintain complete and accurate records and documentation related to this Agreement that can be separated and identifiable from its other records.

11.3.2 *County Inspection and Audit.* The County (including accountants, attorneys and consultants designated by the County) shall be entitled at its cost to inspect, review and audit any

and all records and documentation necessary to verify that Stadium LLC has complied with the terms of this Agreement (e.g., documents which indicate the number of Paid Tickets for any Tier Two Event, during the term of this Agreement and for a period of seven years thereafter).

*[The remainder of this page has been intentionally left blank.]*

IN WITNESS WHEREOF, this Agreement has been executed by the Parties as of the date first above written.

MIAMI-DADE COUNTY

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

By: \_\_\_\_\_  
Name: Carlos A. Gimenez  
Title: County Mayor

\_\_\_\_\_  
County Attorney

ATTEST:

\_\_\_\_\_  
By: Clerk of the Board

SOUTH FLORIDA STADIUM LLC

By: \_\_\_\_\_  
Stephen M. Ross  
Manager

## EXHIBIT A

### Glossary of Defined Terms

**"Affiliate(s)"** of a specified Person or Party shall mean a Person who (a) is directly or indirectly controlling, controlled by, or under common control with, the specified Person; (b) owns directly or indirectly more than fifty percent (50%) of the equity interests of the specified Person; or (c) is a general partner of the specified Person or of any Person described in (a) or (b) above.

**"Agreement"** shall mean this Marquee Event Performance Based Grant Agreement dated June \_\_, 2014 by and among the Parties, together with all schedules, exhibits and appendices thereto, as the same may be amended, supplemented, modified, renewed or extended from time to time.

**"Annual Earnings Cap"** shall mean Five Million Dollars (\$5,000,000.00) in each Contract Year.

**"Annual Payment Cap"** shall mean Five Million Dollars (\$5,000,000.00) in any Contract Year and in each of the five (5) years of the Post-Expiration Period.

**"Annual Initial Phase Deferment"** shall have the meaning given to it in Section 2.1.4(b).

**"Applicable Law"** means any applicable law, statute, code, ordinance, administrative order, implementing order, charter, resolution, order, rule, regulation, judgment, decree, writ, injunction, franchise, permit or license, of any Governmental Authority, now existing or hereafter enacted, adopted, promulgated, entered or issued.

**"Approvals"** shall mean all permits, certificates (including Certificates of Occupancy), licenses, authorizations, variances, consents and approvals required by any Governmental Authority having jurisdiction.

**"Arena Agreements"** shall mean collectively, the Amended and Restated Development Agreement by and between the County and Basketball Properties, Ltd., the Amended and Restated Management Agreement by and between the County and Basketball Properties, Ltd., the Amended and Restated License Agreement by and among the County, the Miami Heat Limited Partnership, and Basketball Properties, Ltd., the Amended and Restated Assurance Agreement by and among the County, the Miami Heat Limited Partnership, and Basketball Properties, Ltd., the Amended and Restated Development Agreement Guaranty by Miami Heat Limited Partnership for the benefit of the County, and the Amended and Restated Management and Assurance Agreement Guaranty by Miami Heat Limited Partnership for the benefit of the County, all dated as of and effective as of July 1, 2013.

**“Available Funding”** shall mean, with respect to each fiscal year of the County, an amount equal to County CDT less the Senior CDT Obligations and less any funds which may have been deposited in the County’s CDT Shortfall Reserve in any prior Contract Year. For the avoidance of doubt, funds deposited in County’s CDT Shortfall Reserve shall not be considered Available Funding except to the extent the Board opts to make such funds available for Available Funding.

**“Board”** means the Board of County Commissioners of Miami-Dade County.

**“Business Day”** shall mean a day of the year that is not a Saturday, Sunday, Legal Holiday or a day on which national banks are not generally required or authorized to close in Miami, Florida.

**“Confirmation Notice”** shall mean written notice to be provided by Stadium LLC to County certifying that a Tier One Event or Tier Two Event has taken place at the Stadium.

**“Contract Year”** shall mean each twelve (12) month period during the Term (and, as applicable, during the Post-Expiration Period) from October 1 through the following September 30; provided, however, the first Contract Year shall mean the period between the Effective Date and September 30, 2015.

**“Convention Development Tax”** or **“CDT”** shall mean the tax imposed by the County on the exercise within its boundaries (other than the cities of Bal Harbour and Surfside) of the taxable privilege of leasing or letting transient rental accommodations (currently at the rate of three percent (3%) of the total consideration charged for such accommodations) authorized pursuant to §212.0305(4)(b), Florida Statutes, as amended from time to time, which has been imposed, as of the Effective Date, by Section 29-60 of the Code of the County and Ordinance No. 83-91 enacted by the Board on October 4, 1983, as supplemented and amended, without limitation, by Ordinance No. 84-43 enacted by the Board on June 5, 1984.

**“Convention Development Tax Act”** means Section 212.0305, Florida Statutes, as same may be supplemented and amended.

**“County”** shall mean Miami-Dade County, Florida.

**“County CDT”** shall mean 2/3 of the proceeds (net of collections for administrative costs as permitted by the Convention Development Tax Act) of the Convention Development Tax.

**“County Code”** shall mean the Code of Ordinances of Miami-Dade County.

**“County Mayor”** shall mean the Mayor of the County or his designee.

**“County’s CDT Shortfall Reserve”** shall mean the discretionary fund established by the County as a shortfall reserve funded from CDT (among other sources) revenues in a Contract

Year from Available Funding after the County has met all of its payment obligations pursuant to this Agreement in such Contract Year.

**“Cumulative Initial Phase Deferment”** shall have the meaning given to it in Section 2.1.4(b).

**“DERM”** means the County’s Regulatory and Economic Resources Department’s Division of Environmental Resources Management.

**“Dedicated Staff Person”** shall have the meaning given to it in Section 4.1.1.

**“Designated Courts”** shall have the meaning given to it in Section 10.13 of this Agreement.

**“Earnings Limitations”** shall have the meaning given to it in Section 2.1.2.

**“Effective Date”** shall mean the date set forth in the first paragraph of this Agreement.

**“Expiration Date”** shall have the meaning given to it in Section 6.1.

**“Force Majeure Event”** shall mean the occurrence of any of the following: acts of God; acts of the public enemy; the confiscation or seizure by any government authority; insurrections; wars or war-like action (whether actual or threatened); arrests or other restraints of government (civil or military); strikes, labor unrest or disputes (in each case without regard to the reasonableness of any Party's demands or ability to satisfy such demands); unavailability of or delays in obtaining labor or materials; epidemics; landslides, lightning, earthquakes, fires, hurricanes, storms, floods or other severe weather; explosions; civil disturbance or disobedience; riot, sabotage, terrorism or threats of sabotage or terrorism; injunctions; any condemnation action or casualty; other governmental action or change in law; or power failure, whether of the kind herein enumerated or otherwise, that is not within the reasonable control of the Party claiming the right to delay or excuse performance on account of such occurrence. Notwithstanding the foregoing, for purposes of this Agreement, **“Force Majeure Event”** shall not include an inability to pay debts or other monetary obligations in a timely manner.

**“General Fund”** means that fund which accounts for all revenues which are budgeted in the County’s General Fund, such as property taxes, and are used to provide a broad, general benefit to the public, such as police services, health care, jails, local judicial system, operation and maintenance of roads and mass transit, and social service, cultural and park programs.

**“Governmental Authorities”** shall mean any and all jurisdictions, entities, courts, boards, agencies, commissions, authorities, offices, divisions, subdivisions, departments or bodies of any nature whatsoever of any governmental units (federal, state, county, municipality or otherwise) whether now or hereafter in existence. Notwithstanding the foregoing, for purposes of this Agreement, the County (i) is considered a Governmental Authority only in its capacity as a governmental body exercising its regulatory powers without regard to its rights

under this Agreement and (ii) is not considered a Governmental Authority in its capacity as a party to this Agreement exercising its rights or powers under this Agreement.

**“Grant Term”** shall mean the twenty (20) Contract Years commencing on the Qualifying Date and ending on September 30 of the 20<sup>th</sup> Contract Year following the Qualifying Date.

**“Initial Phase”** shall mean the period of time commencing on the Qualification Date and ending on September 30, 2024.

**“Initial Phase Earnings”** shall mean Marquee Event Grants which have been earned by Stadium LLC, subject to reduction by application of the Tier Two Earnings Cap and the Annual Earnings Cap.

**“Initial Phase Earnings Cap”** shall mean Thirty Million (\$30,000,000.00) Dollars.

**“Initial Phase Fall Off Amount”** shall have the meaning given to it in Section 2.1.4(d).

**“IPSIG”** shall have the meaning given to it in **Section 11.2.1** of this Agreement.

**“Legal Holiday”** shall mean any day, other than a Saturday or Sunday, on which the County’s administrative offices are closed for business.

**“Marquee Event Grant”** shall mean each grant due from County to Stadium LLC in connection with Qualifying Events pursuant to this Agreement.

**“Marquee Event Grant Base Amount”** shall mean the amounts specified in the attached **Appendix 1** to this Agreement.

**“Modernization Project”** shall have the meaning given to it in the recitals.

**“NFL”** shall mean the National Football League or a comparable successor professional football league.

**“NFL Home Game”** shall mean any pre-season, regular season or playoff game between the Team and any other NFL member team that is scheduled by the NFL to be played at the Stadium. NFL Home Games shall not include any neutral site game, even if the Team is designated as the “home” team.

**“NFL Rules and Regulations”** shall mean the NFL Constitution, the NFL Bylaws, each of the rules, regulations, memoranda, resolutions, policies, procedures, interpretations and directives of the NFL, any governing body thereof or the NFL Commissioner generally applicable to all NFL member teams, any agreements and arrangements to which the NFL or the NFL member teams generally are (or after the date of this Agreement may become) subject, including, without limitation, all current and future television, radio and other agreements involving the telecast of NFL games and all current and future collective bargaining agreements

between the NFL and the National Football League Players' Association, in each case, as they may be amended, modified, extended or supplemented from time to time.

**"Paid Tickets"** shall mean tickets providing admission to Qualifying Events for which Stadium LLC or the applicable event promoter receives value in the form of fair market cash consideration or in-kind value, for any tickets distributed to Qualifying Event media partners, advertisers, participating teams, performers or sponsors.. In no event shall Paid Tickets include any tickets distributed by Stadium LLC or any affiliate or related party of Stadium LLC to any person, other than Qualifying Event media partners, advertisers, participating teams, performers or sponsors, for less than fair market cash value.

**"Parties"** and **"Party"** shall have the meanings given to them in the first paragraph of this Agreement.

**"Payment Due Date"** shall mean the December 31<sup>st</sup> immediately following each Contract Year. By way of example, the Payment Due Date for the Contract Year ending September 30, 2020 shall be December 31, 2020.

**"Payment Limitations"** shall have the meaning given to it in **Section 2.1.4** of this Agreement.

**"Permitted Uses"** shall have the meaning given to it in **Section 3.2** of this Agreement.

**"Permitted Transfer"** shall have the meaning given to it in **Section 9.2** of this Agreement.

**"Permitted Transferee"** shall have the meaning given to it in **Section 9.2** of this Agreement.

**"Person"** shall mean any natural person, firm, partnership, association, corporation, limited liability company, trust, entity, public body, authority, governmental unit or other entity, as applicable.

**"Post-Expiration Period"** shall mean the five (5) years following the last day of the Grant Term.

**"Qualification Date"** means the date which is the later of (i) October 1, 2016, and (ii) the date of the award of a Tier One Event to be hosted at the Stadium, other than a College Football Championship or Semi-Final Game or their equivalent. .

**"Qualifying Event"** shall mean each of the events identified as such in **Appendix 1** of the Agreement. Notwithstanding anything to the contrary herein, in no event shall events Stadium LLC has contracted for prior to the Effective Date be considered Qualifying Events.

**"Senior CDT Obligations"** means, the following obligations: (a) with respect to each fiscal year of the County commencing upon the Effective Date and ending September 30, 2030:

(1) the bond service requirements (as determined in Ordinance No. 96-85 enacted by the Board on June 4, 1996, as same may be supplemented and amended) for the Miami-Dade County, Florida Special Obligations and Refunding Bonds, Series 1996A and Series 1996B and any bonds issued to refund any portion of such bonds;

(2) operational and capital replacement subsidies (ranging between \$1,500,000 and \$4,500,000 per County fiscal year) to the Miami Beach Convention Center Complex, pursuant to the Interlocal Cooperation Agreement between the County and the City of Miami Beach as approved by the Board on June 18, 1996;

(3) \$1,000,000 payable annually to the Cultural Affairs Council and operational subsidies of \$2,000,000 for each County fiscal year for PAC Projects (as such term is defined in Ordinance No. 97-210);

(4) payment of \$6,400,000 through June 30, 2029 and \$1,500,000 in the period commencing July 1, 2029 and ending June 30, 2030, to Basketball Properties, Ltd. or its successors and assigns pursuant to the Arena Agreements;

(5) the bond service requirements (as determined in Ordinance No. 97-210 enacted by the Board on November 18, 1997, as amended by Ordinance No. 05-00 enacted by the Board on May 17, 2005, and as same may be amended and supplemented) for (i) the Miami-Dade County, Florida Subordinate Special Obligation and Refunding Bonds, Series 1997A; (ii) the Miami-Dade County, Florida Subordinate Special Obligation Bonds, Series 1997B, Series 1997C, Series 2005A, Series 2005B and Series 2009; and (iii) any bonds issued to refund any portion of each such Series of Bonds;

(6) payment of any Hedge Obligations (as such term is defined in Ordinance No. 97-210), including any extension of their maturities;

(7) payments to the City of Miami pursuant to the Interlocal Cooperation Agreement between the County and the City of Miami dated as of July 1, 2009, as amended by the First Amendment to the Interlocal Cooperation Agreement dated October 22, 2012;

(8) payments to Basketball Properties, Ltd. or its successors and assigns, pursuant to the Arena Agreements of the Naming Rights Payments, the Shortfall Naming Rights Payment, if any, the funding and replenishment or the Reserve, and any Shortfall payments plus accrued interest, if any, on such payments (as such capitalized terms are defined in the Arena Agreements); and

(9) other subordinate contractual commitments and ongoing disbursements to eligible activities not to exceed the annual amounts set forth below for the County's fiscal years ending September 30 listed below:

FY 2017:	\$29,225,581
FY 2018:	\$29,655,071
FY 2019:	\$30,087,798
FY 2020:	\$30,623,842
FY 2021:	\$31,113,289
FY 2022:	\$31,506,221
FY2023:	\$32,052,726
FY 2024:	\$32,502,894
FY 2025:	\$32,956,817
FY 2026:	\$33,314,587
FY 2027:	\$34,276,302
FY 2028:	\$34,542,059

(b) with respect to each fiscal year of the County for the period from and after October 1, 2030 through the expiration of this Agreement:

(1) the bond service requirements (as determined in Ordinance No. 96-85 enacted by the Board on June 4, 1996, as same may be supplemented and amended) for the Miami-Dade County, Florida Special Obligations and Refunding Bonds, Series 1996A and Series 1996B and any bonds issued to refund any portion of such bonds;

(2) operational and capital replacement subsidies to the Miami Beach Convention Center Complex, pursuant to the Interlocal Cooperation Agreement between the County and the City of Miami Beach as approved by the Board on June 18, 1996, as amended by Amendment One to the Interlocal Cooperation Agreement dated April 24, 2001, the First Addendum to Amendment One dated May 22, 2001, and the Second Amendment to the Interlocal Cooperation Agreement dated March 23, 2004;

(3) \$1,000,000 payable annually to the Cultural Affairs Council and (operational subsidies of \$2,000,000 for each County fiscal year for PAC Projects as such term is defined in Ordinance No. 97-210);

(4) the bond service requirements (as determined in Ordinance No. 97-210 enacted by the Board on November 18, 1997, as amended by Ordinance No. 05-00 enacted by the Board on May 17, 2005, and as same may be amended and supplemented) for (i) the Miami-Dade County, Florida Subordinate Special Obligation and Refunding Bonds, Series 1997A; (ii) the Miami-Dade County, Florida Subordinate Special Obligation Bonds, Series 1997B, Series 1997C, Series 2005A, Series 2005B and Series 2009; and (iii) any bonds issued to refund any portion of each such Series of Bonds;

(5) payment of any Hedge Obligations (as such term is defined in Ordinance No. 97-210);

(6) payments to the City of Miami pursuant to the Interlocal Cooperation Agreement between the County and the City of Miami dated as of July 1, 2009, as amended by the First Amendment to the Interlocal Cooperation Agreement dated October 22, 2012;

(7) other subordinate contractual commitments and ongoing disbursements to eligible activities not to exceed the annual amounts set forth below for the County's fiscal years ending September 30 listed below:

FY 2029:	\$35,211,961
FY 2030:	\$35,836,110
FY 2031:	\$30,164,613
FY 2032:	\$30,347,578
FY 2033:	\$30,535,117
FY 2034:	\$30,727,345
FY 2035:	\$30,924,379
FY 2036:	\$31,126,339
FY 2037:	\$31,333,347
FY 2038:	\$31,545,531
FY 2039:	\$31,763,019
FY 2040:	\$31,985,944; and

(8) payments to Basketball Properties, Ltd. or its successors and assigns pursuant to the Arena Agreements of the Building Owner's Contribution, the Naming Rights Payment, the Shortfall Naming Rights Payment, if any, the funding and replenishment or the Reserve, and any Shortfall payments plus accrued interest, if any, on such payments (as such capitalized terms are defined in the Arena Agreements).

Notwithstanding and prevailing over anything to the contrary contained in this definition of "Senior CDT Obligations," the parties hereby acknowledge and agree that to the extent there is a conflict with the provisions of Ordinance No. 97-210, as amended as of the Effective Date, the provisions of Ordinance No. 97-210 shall supersede the definition contained in this Agreement.

**"Stadium"** shall have the meaning given to it in the Recitals and shall also include the Modernization Project.

**"State"** means the State of Florida.

**"Team"** shall have the meaning given to it in Recitals of this Agreement.

**"Term"** shall have the meaning given to it in **Section 6.1** of this Agreement.

**"Tier One Event"** shall mean those Qualifying Events designated as Tier One in Appendix 1 of the Agreement.

**“Tier Two Earnings Cap”** shall mean One Million Five Hundred Thousand Dollars (\$1,500,000.00) in any Contract Year during the Term.

**“Tier Two Event”** shall mean those Qualifying Events designated as Tier Two in **Appendix 1** of the Agreement.

**“Transfer”** shall have the meaning given to it in **Section 9.1** of this Agreement.

**“Unfunded Rollover Amount”** shall have the meaning given to it in Section 2.1.4(e).

**“Unfunded Rollover Fall Off Amount”** shall have the meaning given to it in Section 2.1.4(e).

## APPENDIX 1

From and after the Qualification Date, the “Marquee Event Grant Base Amount” shall equal the following amounts for any Contract Year:

	<b>Qualifying Event</b>	<b>Marquee Event Grant Base Amount</b>
Tier One	Super Bowl	\$4,000,000.00
	World Cup Final	\$4,000,000.00
	College Football Championship Game (or equivalent college football championship game)	\$3,000,000.00
	World Cup Match (non-final)	\$3,000,000.00
	College Semi-Final Game (or equivalent college football non-championship game)	\$2,000,000.00
Tier Two	International soccer match or other sporting event which attract significant tourists to Miami-Dade County with at least 55,000 Paid Tickets distributed	\$750,000.00

“**Qualifying Event**” shall mean each of the events specified above and such other events that the Board confirms, in its sole and absolute discretion, would be anticipated to have or actually had an economic impact substantially equivalent to an event described above. In each case, the amount of the Marquee Event Grant shall be determined based on the type of Qualifying Event deemed comparable by the Board; i.e., any Qualifying Event which is comparable to a Tier One Event shall be considered to be a Tier One Event, and any Qualifying Event which is comparable to a Tier Two Event shall be considered to be a Tier Two Event. By way of example, and not limitation, if the Board confirms that a Pan-Am Games event is equivalent to a College Championship Game, the Marquee Event Grant for such Pan-Am Games event shall equal the amount designated above for a College Championship Game. Stadium LLC may request that the Board consider confirmation of an event as a Qualifying Event either prior to or following the holding of the prospective Qualifying Event, but in no event later than December 31 following the Contract Year in which the prospective Qualifying Event took place.