

**NOTICE  
REQUEST FOR PROPOSALS  
CONSTRUCTION MANAGER AT RISK  
FOR  
ROGER DEAN CHEVROLET STADIUM & SPORTS COMPLEX  
RENOVATION PROJECT**

Proposals, consisting of those documents and information described in the Request for Proposals (RFP), will be received by Jupiter Stadium, Ltd. (JSL) until **2:00 PM** on March 25, 2024, at the General Manager's office located at Roger Dean Chevrolet Stadium Office, 4751 Main St, Jupiter, FL 33458, with a copy by electronic mail to each of the following:

- Dan Good: dgood@cardinals.com
- Caroline O'Connor: coconnor@marlins.com
- Marc Taylor: mtaylor@marc-taylor.com

Proposers will be submitting proposals to provide Construction Management at Risk services consisting of pre-construction services, developing a Guaranteed Maximum Price (GMP), and performing all construction services at risk for the renovation and new construction at Roger Dean Chevrolet Stadium and Sports Complex located at 4751 Main St., Jupiter Florida (the "Project").

Preliminary construction cost is estimated at \$83,000,000 including the construction manager's fee for construction services, the cost of the work (including general conditions) and the construction contingency, but excluding the construction manager's fee for pre-construction services.

**This RFP is issued by JSL and any resulting contract will be between the successful firm and JSL and not with Palm Beach County.**

**All conditions and requirements for submittal of proposals are contained in the RFP. The RFP may be downloaded from <https://www.rogerdeanchevroletstadium.com/CMRFP2024>.**

***Mandatory Pre-Proposal Conference.** Proposers must attend a mandatory pre-proposal conference to be held at **2 PM eastern time on March 4, 2024**, via web conference call/video. Proposers and interested parties must complete a registration for the Mandatory Pre-Proposal Conference via the following Internet site <http://rogerdeanchevroletstadium.com/cmrfp2024> by the posted start time. The registration process requires a working email account. Proposers and interested parties who timely complete the registration will be provided with a meeting code and password and instructions to access to the Mandatory Pre- Proposal Conference via Internet or telephone. Registration is open now, and interested parties are encouraged to register as soon as possible. Allow at least 24 hours to resolve any technical issues with the registration. Proposers and interested parties attempting access more than 10 minutes after the posted start time may be denied access to the meeting. Attendees of the mandatory pre-proposal meeting will receive instructions during the meeting for logging their attendance and will be required to provide the name of the individual attending, the company represented, along with a mailing address and contact telephone and email addresses. The meeting may be recorded, along*

*with all data indicating those accessing the meeting via Internet or telephone. A Proposer's failure to attend the Pre-Proposal Conference via web conference and provide confirmation of attendance and all requested contact information will result in rejection of that Proposer's proposal. Neither JSL nor Palm Beach County will be responsible for a failure of Proposer's hardware, software, Internet connection or telephone connection that may result in a failure to attend the Mandatory Pre-Proposal Conference. Information about an optional site walk-through will be provided at the Mandatory Pre-Proposal Conference.*

**Equal Business Opportunity Program.** Pursuant to the Palm Beach County Code Section 2-80.20 – 2-80.40 (EBO Ordinance) which is applicable to this Project, contracting and subcontracting opportunities for S/M/WBEs are encouraged.

Proposals will be evaluated based on the selection criteria set out in the RFP including the Affirmative Procurement Initiatives (APIs) determined by the County's Goal Setting Committee. The APIs for the selection of the CM include the following evaluation preferences:

*SBE Evaluation Preference for Mentoring: 5 points for CM/SBE Partner*

*SBE Evaluation Preference for SBE Participation: up to 10 points for SBE Participation Plan*

Palm Beach County's Goal Setting Committee (GSC) has applied the following S/M/WBE mandatory subcontracting goals to the construction phase(s) of this Project:

**The SBE goal for the construction subcontracts is a mandatory minimum of twenty percent (20%) SBE participation of which five percent (5%) must be MBE participation by African American and/or Hispanic American firms.** GSC findings to support MBE goal: The County's disparity study showed a disparity in construction contracting for African American and Hispanic American firms.

See Section "C" of the RFP for more information on the County's Equal Business Opportunity Program as it applies to this Project.

At the time of proposal submission, proposer must be properly certified and licensed in the State of Florida and/or Palm Beach County, as applicable, for the purpose of performing the specified work.

JSL reserves the right to waive any proposal irregularities, informalities, or technical deficiencies and to reject any and all proposals.

**JUPITER STADIUM, LTD.**

**REQUEST FOR PROPOSALS (RFP)**  
**CONSTRUCTION MANAGER (CM)**  
**AT RISK SERVICES**  
**FOR**  
**ROGER DEAN CHEVROLET STADIUM & SPORTS COMPLEX**  
**RENOVATION PROJECT**

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**REQUEST FOR PROPOSALS  
CONSTRUCTION MANAGER AT RISK  
ROGER DEAN CHEVROLET STADIUM & SPORTS COMPLEX  
RENOVATION**

**INTRODUCTION**

Jupiter Stadium, Ltd. (“JSL”) is soliciting timely and complete proposals (“Proposals”) from qualified construction management firms interested in providing construction management services, including pre-construction consultation services, development of a guaranteed maximum price (“Guaranteed Maximum Price” or “GMP”), and performing all construction services at risk for the renovation and new construction at Roger Dean Chevrolet Stadium and Sports Complex located at 4751 Main Street, Jupiter, FL 33480 (collectively, the “Facility”) in accordance with this Request for Proposals (“RFP”).

JSL currently has a use agreement with Palm Beach County (the “County”) for the Facility (the “Use Agreement”). The Facility is utilized by two Major League Baseball (MLB) teams for Spring Training, two Florida State League (FSL) and two Florida Complex League (FCL) minor league teams, and year-round training. The Facility opened in 1998 and includes the following (i) Roger Dean Chevrolet Stadium (the “Stadium”) with a seating capacity of approximately 6,800, (ii) two team training facilities, (iii) twelve (12) practice fields, (iv) clubhouses and administration buildings, (v) dedicated on-site parking areas, and (vi) other appurtenances and improvements.

JSL and the County entered into the Developer Agreement between Palm Beach County, Florida and Jupiter Stadium, Ltd., dated May 17, 2022 (the “Developer Agreement”). A copy of the Developer Agreement is provided as RFP **Attachment G**. The Facility will be renovated in accordance with the Developer Agreement, as described in this RFP (the “Project”).

JSL is issuing this RFP for the purpose of soliciting Proposals from leading construction management firms interested in providing JSL with professional pre-construction consultation and delivering the Project as a construction manager at-risk in accordance with this RFP and the contract to be established between JSL and the selected Proposer (the “CMR Contract”). The form of CMR Contract is provided as **RFP Attachment H**.

**This RFP is issued by JSL and any resulting contract will be between the successful Proposer and JSL, not with the County.**

The selected Proposer will be required to provide JSL pre-construction services, including, without limitation, scheduling, sequencing, and other design review and consultation, and trade contractor qualification and publicly bidding the trade contracts. A general outline of the proposed work to complete the Project is described in the Project Summary, RFP **Attachment I**, along with a schedule and timeline, as described in the Preliminary Schedule, RFP **Attachment J**.

The selected Proposer will also be required to participate with JSL in a process to determine a

guaranteed maximum price (the “GMP”), which will be established under the CMR Contract in accordance with the procedures set out in the CMR Contract after the public bidding of the construction subcontracts and put in place by and between the parties by a written amendment to the CMR Contract (the “GMP Amendment”). During the construction phase of the Project, the selected Proposer will be responsible for all scheduling and coordination of the Project, and the successful, timely, and economical completion of the Project, subject to the GMP.

Preliminary construction cost is estimated at \$83,000,000, including the construction manager’s fee for construction services, the cost of the work (including general conditions) and the construction contingency, but excluding the construction manager’s fee for pre-construction services (the “Construction Budget Limitation”). JSL may adjust the Construction Budget Limitation based on additional value analysis and value engineering opportunities. As preliminary break-down of the Construction Budget Limitation is provided as “CMR Contract Exhibit C” of **RFP Attachment H**.

It is imperative that the Project be planned and carried out in such a manner that the selected Proposer does not occupy the Project site in a manner that hinders, delays, or interferes with any activity or event at the Facility during any Spring Training Period. The term “Spring Training Period” refers to the period each year after commencement of the Project beginning on the day before the date established by MLB as the first day MLB pitchers and catchers may voluntarily report for MLB Spring Training at the Facility and ending on the date following the day of the last Spring Training game scheduled by MLB to take place at the Stadium. This shall include a phased renovation approach to the major league clubhouses.

***Mandatory Pre-Proposal Conference.*** Proposers must attend a mandatory pre-proposal conference to be held at **2 PM eastern time on March 4, 2024**, via web conference call/video. Proposers and interested parties must complete a registration for the Mandatory Pre-Proposal Conference via the following Internet site <http://rogerdeanchevroletstadium.com/cmrfp2024> by the posted start time. The registration process requires a working email account. Proposers and interested parties who timely complete the registration will be provided with a meeting code and password and instructions to access to the Mandatory Pre- Proposal Conference via Internet or telephone. Registration is open now, and interested parties are encouraged to register as soon as possible. Allow at least 24 hours to resolve any technical issues with the registration. Proposers and interested parties attempting access more than 10 minutes after the posted start time may be denied access to the meeting. Attendees of the mandatory pre-proposal meeting will receive instructions during the meeting for logging their attendance and will be required to provide the name of the individual attending, the company represented, along with a mailing address and contact telephone and email addresses. The meeting may be recorded, along with all data indicating those accessing the meeting via Internet or telephone. A Proposer’s failure to attend the Pre-Proposal Conference via web conference and provide confirmation of attendance and all requested contact information will result in rejection of that Proposer’s proposal. Neither JSL nor Palm Beach County will be responsible for a failure of Proposer’s hardware, software, Internet connection or telephone connection that may result in a failure to attend the Mandatory Pre-Proposal Conference. Information about an optional site walk-through will be provided at the Mandatory Pre-Proposal Conference.

## **A. INSTRUCTIONS TO RESPONDENTS**

**1. Date and Time for Submission of Proposals.** Qualified construction management firms desiring to provide the services described herein (individually, a “Proposer”, or, generally, “Proposers”) shall submit a Proposal in a sealed envelope with one original (clearly marked), eight (8) copies (a total of 9 copies), and one copy on electronic media, at the General Manager’s office located at Roger Dean Chevrolet Stadium Office, 4751 Main St, Jupiter, FL 33458, with a copy by electronic mail to each of the following:

- Dan Good: dgood@cardinals.com
- Caroline O’Connor: coconnor@marlins.com
- Marc Taylor: mtaylor@marc-taylor.com

**Proposals must be received no later than 2:00 p.m., Eastern Time, March 25, 2024,** to the attention of:

Mike Bauer, General Manager Roger Dean Chevrolet Stadium 4751 Main St.  
Jupiter, FL 33458

**2. Identification of Proposals.** Each Proposer must indicate on its Proposal envelope the following:

- CM@ Risk for Roger Dean Chevrolet Stadium and Sports Complex Renovation
- Date of Submittal
- Name of the Proposer
- Return Address of the Proposer

**3. No Late Proposals.** The time and date for receipt of Proposals will be scrupulously observed. The Proposer shall assume full responsibility for timely delivery at the location designated for receipt of Proposals. JSL will log the time and date of receipt of each Proposal. JSL will be the official authority to determine timeliness and responsiveness of the Proposal. Proposals received after the specified time and date will not be opened or evaluated. All Proposals timely received will be opened and reviewed for responsiveness. Responsive proposals will be reviewed at a later date by JSL’s selection committees.

**4. Questions.** Questions concerning this RFP must be directed in writing no later than 4:00 P.M., March 15, 2024, to Marc Taylor, Marc Taylor Inc., at mtaylor@marc-taylor.com. Include “CM RFP Roger Dean Chevrolet Stadium and Sports Complex Renovation” in the subject line of the e-mail.

**5. Project Drawings.** JSL has developed a set of design drawings applicable to the Project (the “DD Drawings”). Proposers who request access to DD Drawings will first be required to sign a non-disclosure agreement. The process for requesting access to the DD Drawings will be discussed during the mandatory pre-proposal conference referenced above; the DD Drawings will not be provided to any party before such conference or after the deadline for questions above. However,

a party may request a copy of the non-disclosure agreement in the same manner required for questions set forth in Section A.4 hereof and may do so at any time before the deadline for questions established therein. JSL will not distribute copies or otherwise provide access to the DD Drawings to anyone who has not provided JSL a fully executed non-disclosure agreement in the form prescribed by JSL on or before the deadline for questions.

**6. Preliminary Break-Down of the Construction Budget Limitation.** JSL has prepared a preliminary breakdown of the Construction Budget Limitation. Proposers who request access to the preliminary breakdown of the Construction Budget Limitation will first be required to sign a non-disclosure agreement. The process for requesting access to the preliminary breakdown of the Construction Budget Limitation will be discussed during the mandatory pre-proposal conference referenced above and released in the same time and manner of the DD Drawing.

**7. Supplements to RFP.** No oral interpretation of this RFP shall be considered binding. JSL will be bound by information and statements only when such statements are written and included in the executed CMR Contract. Any interpretation, clarification, correction, or change to this RFP may be made only by written addendum, clarification and/or statement issued by JSL (individually, or collectively, as applicable. "Supplement"). As they are issued, all Supplements to this RFP will be provided to the Proposers who have timely expressed interest in this RFP. Interpretations, corrections or changes made in any other manner will not be binding, and Proposers shall not rely upon such interpretations, corrections or changes. It is the sole responsibility of each Proposer to incorporate into its Proposal any Supplements that may have been issued prior to the deadline for receipt of Proposals. JSL shall not be responsible for the completeness of any RFP package not provided directly by JSL in accordance with this RFP.

**8. Supplements Should Be Acknowledged.** Prior to submission of its Proposal, each Proposer shall ascertain that it has received all Supplements issued. The Proposer should acknowledge receipt of all Supplements by completing the acknowledgment space provided on the Proposal Certification Form (**RFP Attachment A**).

**9. Proposal Submittal Requirements.**

**a. Proposal Contents.** The data, calculations and other contents of the Proposal submitted by the successful Proposer may be incorporated into a subsequent CMR Contract with JSL; provided, however, in no event shall JSL be bound to any terms and conditions or proposed modifications to the form of CMR Contract included by Proposer with a Proposal except as agreed by JSL in writing and included in the CMR Contract or amendment thereto.

**b. Staffing.** It shall be understood that it is the intent of JSL to insist that those indicated as a part of the Proposer's team in its Proposal actually execute this Project and that the project manager for the Construction Manager identified in the Proposal be continually involved with this Project during the pre-construction and construction phases, unless agreed to the contrary in writing by JSL, or their employment with Proposer is terminated.

**c. Submittal Information.** **Proposals should be compiled and tabbed in the order listed below, should include a table of contents, and hard copies should be bound or placed in a three ring binder. A complete proposal should include the following information;**



**failure to submit the listed information or to completely fill out any of the forms may result in the rejection of the proposal or a reduction in points:**

**1) Table of Contents.**

**2) Letter of Intent from a surety** meeting the requirements of this RFP and the CMR Contract (the “Surety”) indicating the Proposer’s bondability for this Project under any subsequent CMR Contract. The Surety shall acknowledge that the Proposer can be bonded for the full amount of the Construction Budget Limitation. The surety must be currently listed with the United States Treasury for an amount greater than ten (10) times the Construction Budget Limitation.

**3) Proposal Certification Form (RFP Attachment A).**

**4) Addendum to Proposal Certification Form (RFP Attachment A-1)**

**5) Related Experience:** List projects which best illustrate the experience of Proposer and staff which will be assigned to this Project under a subsequent CMR Contract. The project list should emphasize the successful completion of projects comparable in design, type and scope to this Project. List no more than ten (10) projects, and do not list projects which were completed more than ten (10) years ago. Provide the following information for each project in this list:

- i.** Name and location of the project.
- ii.** The nature of Proposer's responsibility on the project including project delivery method.
- iii.** Provide the name, address, phone number, and e-mail address of an owner’s representative and architect’s representative who can be contacted to provide a reference.
- iv.** Size of project (square footage of project).
- v.** Construction cost.
- vi.** Present status of the project; date project was completed or is anticipated to be completed.
- vii.** Key professionals involved on the listed projects who would be assigned to this Project under any subsequent CMR Contract.
- viii.** Whether or not the project achieved LEED certification or other high-performance green building certification.
- ix.** Whether or not the project was level 2 renovation (or other major renovation of an existing structure).
- x.** Whether or not the project took place while the owner/tenant maintained partial occupancy.

Provide a secondary list of all projects in Florida which exceed \$5 Million in cost, started in the past 5 years with project owner (and primary contact), name, location, and construction cost.

**6) Claims and Litigation History:** List all claims, arbitrations, administrative hearings, lawsuits or criminal proceedings brought by or against the Proposer or its affiliates during the last ten (10) years. The list should include the name of the project over which the dispute arose, a description of the amount in dispute and the subject matter of the dispute. Do not list workers comp claims.

**7) Prior Terminations.** Provide a list of all projects with in the past (10) years in which the Proposer entered into any contract as a principal builder (general construction, construction manager, design-builder, etc.) and was terminated for cause or convenience, along with a narrative of the circumstances.

**8) Pre-Construction Services Staff:** Includes management, technical and support staff. Provide a project organizational chart that could be used for this Project. Give a brief resume of key persons to be assigned to this Project under any subsequent CMR Contract including, but not limited to:

- i. Name and title.
- ii. Current project assignments.
- iii. How many years with this Proposer? Other firms?
- iv. Experience: Types of projects, size of projects (dollar value & square footage of project), and job assignment.
- v. Education, Registrations (or equivalent project experience), include whether staff has LEED credentials or a certificate in sustainable construction from an accredited college or university.
- vi. Other experience and qualifications that are relevant to this Project.
- vii. Present office location.

**9) Construction Services Staff:** Provide an organizational chart and resumes of the key on-site staff which may be assigned to this Project under any subsequent CMR Contract including, but not limited to:

- i. Name and title.
- ii. Current project assignments and percentage of time for each.
- iii. How many years with the Proposer? Other firms?
- iv. Experience: Types of projects, size of projects (dollar value & square footage of project), and job assignment.
- v. Education and Registrations (or equivalent experience), include whether staff has LEED credentials or a certificate in sustainable construction from an accredited college or university.
- vi. Other experience and qualifications that are relevant to this Project.

**10) Project Management Services:** Describe the capabilities of the Proposer to provide the technical services required for: Design reviews, estimating, value engineering, constructability analysis, construction scheduling, quality control (design and construction), qualification of trade contractors and public bidding of trade contracts, establishing a Guaranteed Maximum Price, cost control, claims

management, reporting systems and project close-out. Also, describe Proposer's approach to resiliency principles and sustainable practices.

**11) Volume of Previous Work Form (RFP Attachment B)**

**12) Location of the Proposer's Offices:** Provide the address of each office from which the Proposer's staff may be assigned to this Project, and list total number of employees by job function in each office. Firms desiring to receive local office points must include:

- i. Certification of Business Location Form (RFP Attachment C)**
- ii. Business Tax Receipt from the Palm Beach County Tax Collector**

**13) CM Mentor Program:** State whether or not the Proposer will participate in the CM Mentor Program on this Project. **If the Proposer intends to participate in the CM Mentor Program on this Project, the Proposer must include in the Proposal a signed MOU between Proposer and the S/M/WBE firm; see CM Mentoring Guidelines, RFP Attachment D.**

**14) S/M/WBE Participation:**

**i. History of S/M/WBE Participation** - For each project listed in subparagraph 5 above "Related Experience", provide Proposer's history of S/M/WBE participation. Indicate what the original project goal was and what the Proposer achieved.

**ii. S/M/WBE Plan.** Provide the S/M/WBE Plan for this Project. Describe in detail how the Proposer will achieve the mandatory S/M/WBE subcontracting goals applied to the construction phase(s) of this Project, which are 20% SBE participation of which 5% must be MBE participation by African American and/or Hispanic American firms.

**iii. Proposer's Commitment to achieving any S/M/WBE subcontracting goal.** Each Proposer in its Proposal must specifically commit to achieving the mandatory S/M/WBE subcontracting goal applied to the construction phase(s) of this Project, which are 20% SBE participation of which 5% must be MBE participation by African American and/or Hispanic American firms

**15) Conflict of Interest Disclosure Form (RFP Attachment E)** completed and signed by the Proposer (and if CM is including an S/M/WBE partner under subparagraph 13 above, then the S/M/WBE partner must also complete and sign a Conflict of Interest Disclosure Form).

**16) Financial Proposal Form (RFP Attachment F)** completed and signed by the Proposer.

**17) Copies of S/M/WBE certificates for firms that are certified as S/M/WBEs.**

**18)** If Proposer elects to participate in the CM Mentor program (see #13 above), the Proposer should include **EBO Schedules 1 and 2** reflecting any S/M/WBE participation in the CM services and fees. OEBO Schedules 1 and 2 can be downloaded from <http://discover.pbcgov.org/oebo/Pages/Compliance-Programs.aspx>.

**19) Demonstrated Experience Working in Palm Beach County with Local Subcontractors and Timely Payment of Local Subcontractors.** Provide a narrative describing Proposer's experience working in Palm Beach County with local subcontractors and Proposer's experience in timely payment of local subcontractors.

**20) Other information that may be appropriate.**

## **B. CRITERIA FOR SHORTLISTING AND FINAL SELECTION OF FIRMS**

**1. Responsiveness Review.** Staff will review each proposal to determine if the proposal is responsive to the RFP. Proposals determined to be non-responsive will be rejected without being evaluated by the Selection Committee(s). A responsive proposal is one which has been signed, has been submitted by the specified submission time, and has provided the information required to be submitted with the proposal. While poor formatting, poor documentation, and/or incomplete or unclear information may not be cause to reject a proposal without evaluation, such substandard submissions may adversely impact the evaluation of a proposal. Proposers who fail to comply with all of the required and/or desired elements of this RFP, do so at their own risk.

During the responsiveness review, staff will also calculate the points allocable to responsive firms for volume of previous work, location of firm's office, pricing and EBO program for consideration by the selection committees.

**2. Short List Committee.** A Short List Committee will review and evaluate each responsive Proposal based upon the criteria set forth below. At least three Proposers will be short listed. In the event of a tie score for the last available short list position, the tied firms will be included in the short list. JSL will notify the Proposers of the results of the Short List Committee and invite the shortlisted firms to present to the Final Selection Committee. For shortlisted firms, the points allocated to a firm for volume of previous work, location of firm's office, pricing and EBO program will roll over to Final Selection.

If less than 3 firms respond to the RFP or less than 3 firms are found responsive, JSL may readvertise; or if JSL determines that additional responses would not be received from a re-advertisement or because of time constraints, then JSL may submit the responsive proposals to the Final Selection Committee for evaluation without the need to call a Short List Committee.

**3. Final Selection Committee.** The short-listed Proposers will make presentations to and be interviewed by a Final Selection Committee. The final selection committee will evaluate each short-listed Proposer’s Proposal and presentation based on the criteria set forth below.

**4. Scoring.** Each of the criteria will be scored and then the scores awarded for all criteria will be added to achieve the total points awarded to each Proposer by each committee member. Using the total points awarded to each Proposer, each committee member will rank each firm, with the highest point total ranked 1, the next highest point total ranked 2, etc. The rankings for each Proposer will be combined from all the committee members to determine the total ranking score for Proposer, with the lowest point total ranked 1, the next lowest ranked 2, etc.

**5. Evaluation Criteria.** Proposals that are determined by JSL to be responsive to this RFP, will be evaluated by JSL’s selection committees based on the following criteria:

<b>SHORT-LIST SELECTION CRITERIA (Competitive Proposal Selection Process)</b>	<b>POINT VALUE</b>
<b>1. Related Building Experience</b> – Areas of Consideration: Successful completion of projects comparable in design, type and scope; Recommendation of previous owners and architects; Other similar factors including litigation history.	<b>25</b>
<b>2. Pre-Construction Services Staff</b> – Areas of Consideration: General and specific project related capability of Proposer’s pre-construction services staff including depth and abilities of the organization which it can draw upon as needed; includes management, technical and support staff.	<b>15</b>
<b>3. Construction Services Staff</b> – Areas of Consideration: Ability and experience of the proposed construction services staff with specific emphasis on project related experience.	<b>10</b>
<b>4. Volume of Previous Work</b> – amount of construction management work awarded or funded by the County in the past 6 years with the objective to distribute the work among qualified Proposers (i.e. the firm with the most work receives the lowest score).	<b>10</b>
<b>5. Location of Firm’s Offices</b> where work will be accomplished.	<b>5</b>
<b>6. Pricing</b> - The Proposer with the lowest overall price will receive the maximum number of points listed, and proposals with higher prices will receive fewer points based on how much higher they are than the lowest price.	<b>20</b>
<b>7. EBO Program - Evaluation Preferences as applied by the GSC</b> <i>SBE Evaluation Preference for Mentoring: 5 points for CM/SBE Partner</i> <i>SBE Evaluation Preference for SBE Participation: up to 10 points for SBE Participation Plan</i>	<b>15</b>

<b>FINAL SELECTION CRITERIA (Competitive Proposal Selection Process)</b>	<b>POINT VALUE</b>
<b>1. Qualifications of the Proposer</b> - Areas of Consideration: Successful completion of similar projects using the construction management process; recommendation of previous owners and Architects; Other similar factors including litigation history.	<b>20</b>
<b>2. Proposed Project Staff and Functions</b> – Areas of Consideration: The Project Management team’s experience with similar projects, with public projects, and overall construction management experience; Recommendations from previous owners and architects.	<b>25</b>
<b>3. Comprehensive Project Management Services</b> – Areas of Consideration: ability and history of the	<b>5</b>

Proposer and its staff to deliver projects using effective management tools and techniques; Proposer's scheduling system and cost control system including methods for assuring subcontractors' adherence to schedule; ability of Proposer to hold to original schedules and budgets; Proposer's approach to establishing a guaranteed maximum price including methods of cost control and reporting systems.

**4. Volume of Previous Work** – amount of construction management work awarded or funded by the County in the past 6 years with the objective to distribute the work among qualified Proposers (i.e. the firm with the most work receives the lowest score). **10**

**5. Location of Proposer's Offices** where work will be accomplished. **5**

**6. Pricing** - The Proposer with the lowest overall price will receive the maximum number of points listed, and proposals with higher prices will receive fewer points based on how much higher they are than the lowest price. **20**

**7. EBO Program - Evaluation Preferences as applied by the GSC** **15**  
*SBE Evaluation Preference for Mentoring: 5 points for CM/SBE Partner*  
*SBE Evaluation Preference for SBE Participation: up to 10 points for SBE Participation Plan*

### **C. EQUAL BUSINESS OPPORTUNITY (EBO) PROGRAM**

**1. Policy.** It is the policy of the Board of County Commissioners of Palm Beach County, Florida, (the "Board"), which policy is applicable to the Project, that all segments of its business population, including, but not limited to, small, local, minority and women owned businesses, have an equitable opportunity to participate in the County's procurement process, prime contract and subcontract opportunities. To that end, the Board adopted an Equal Business Opportunity Ordinance which is codified in Sections 2-80.20 through 2-80.30 (as may be amended) of the Palm Beach County Code, (the "EBO Ordinance"), which sets forth the County's requirements for the EBO program, and which is incorporated in this solicitation. A Proposer must comply with the requirements contained in this section for a Proposer to be deemed responsive to the solicitation requirements. The provisions of the EBO Ordinance are applicable to this solicitation and shall have precedence over other provisions of this solicitation in the event of a conflict.

**2. Affirmative Procurement Initiatives (APIs).** Proposals will be evaluated based on the selection criteria set out in this RFP in **Section B** which includes points for CM mentoring and for the Proposer's S/M/WBE participation plan. A Proposer is prohibited from making an agreement with any SBE where the SBE promises not to provide services to other firms submitting proposals. **For the construction phases of this Project, the County's Goal Setting Committee has applied the following mandatory subcontracting goals: 20% SBE participation of which 5% must be MBE participation by African American and/or Hispanic American firms.** GSC findings to support MBE goal: The County's disparity study showed a disparity in construction contracting for African American and Hispanic American firms. Proposers should reference section 2.1.13 of the form of CMR Contract attached hereto as **RFP Attachment H** for more information on the County's EBO Program as it applies to the construction phases of this Project.

**3. Proposal Submission Documentation.** If the Proposer is proposing S/M/WBE participation on the CM services and fees, such as CM mentoring, or if the Proposer is an S/M/WBE then completed EBO Schedules 1 and 2 must be submitted with the Proposal. For the construction phases of this Project, the successful Proposer will be required to submit completed Schedule 1 and 2s on all construction subcontractors prior to the GMP Amendment.

**4. Office of EBO Contact.** If a Proposer has questions about the County's EBO Program please contact the County's Office of EBO. The Office of EBO contact for the Project is Deirdre Kyle, Small Business Development Specialist III, phone 561-616-6854, email [DKyle@pbcgov.org](mailto:DKyle@pbcgov.org). The successful firm will be required to work closely with the staff of the County's Office of EBO during the procurement phases of the Project in order to identify certified S/M/WBEs in the required trades and to notify S/M/WBE firms of subcontracting bidding opportunities.

#### **D. TERMS AND CONDITIONS**

**1. Rejection of Proposals; Waiver of Irregularities.** JSL reserves the right to reject any and all Proposals, to cancel this RFP and/or to re-advertise, to waive any irregularities, informalities or technicalities therein, to negotiate alternative contract terms with the successful Proposer, to disregard all non-conforming, non-responsive, unbalanced or conditional Proposals, or to accept any Proposal which in JSL's sole judgment will best serve the interest of the Project.

**2. Withdrawal of Proposals; Clarifications.** Any Proposal may be withdrawn until the date and time set above for submission of the Proposals. Submission of a Proposal does not constitute a bid; therefore, JSL reserves the right to cancel, supplement or modify this RFP and/or request clarification or additional information from a Proposer after the deadline for receipt of Proposals.

**3. Costs of Preparation; Ownership of Documents.** Costs of preparation of a Proposal are solely those of the Proposer and JSL assumes no responsibility for any such costs incurred by the Proposer. All Proposals, including the data, information, calculations and all contents therein, shall become the property of JSL.

**4. Limitation.** The Proposer understands that the RFP does not constitute an agreement or contract with the Proposer, and no contract rights or remedies shall be deemed to have accrued to Proposer herewith.

**5. Disqualification.** Any Proposer who submits in its Proposal any information that is determined by JSL, in its sole opinion, to be substantially inaccurate, misleading, exaggerated, or incorrect may be disqualified from consideration.

**6. Due Diligence of Proposer; Non-responsive Proposals.** Due care and diligence has been exercised in the preparation of this RFP, and all information contained herein is believed to be substantially correct. However, the responsibility for determining the full extent of the services rests solely with Proposers. Failure of any Proposer to comply with this RFP may render the Proposal non-responsive and ineligible from further consideration.

**7. Contractor's Licenses Required.** The Proposer (and if selected as the construction manager, Proposer's subcontractors of any tier), as regulated by the Florida Construction Industry Licensing Board or the Construction Industry Licensing Board of Palm Beach County, shall be properly qualified and licensed/certified by the appropriate Board or Boards as required by Florida Statute Chapter 489, or Special Act, Laws of Florida Chapter 67-1876 prior to the issuance of the Notice to Proceed. The Proposer is required to have an active State Contractors Certification or an active Palm Beach County Certificate of Competency at time of Proposal submittal. Any Proposal that

is submitted by a Proposer that is not properly licensed/certified at the time the Proposal is submitted will be rejected as non-responsive.

**8. Occupational License.** The Proposer (and if selected as construction manager, for the Project, Proposer's subcontractors of any tier, and specialty contractors) must have a valid Palm Beach County occupational license, except where provisions of F.S. 205.065 apply.

**9. Reserved.**

**10. EEO.** The Proposer must be an equal employment opportunity employer. Each Proposer must complete, sign and furnish with its Proposal the statement titled "Statement of Participation in Contracts Subject to Nondiscrimination Clause", which is incorporated in the Proposal Certification Form attached hereto as **RFP Attachment A**. Failure to complete this statement will be cause for rejection of the Proposal.

**11. Affirmative Action.** Pursuant to Executive Order 11246, as amended, the County does have an Affirmative Action Program in connection with equal employment opportunities. It is recommended that those Proposers who have not initiated an Affirmative Action Program give consideration toward pursuing such programs.

**12. Proposer's Representations.** Each Proposer by making its Proposal represents that:

**a. Public Entities Crimes/Convicted Vendor List.** As provided in Florida Statutes 287.133(2)(a), a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a Proposal on a contract to provide any goods or services to a public entity, may not submit a Proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit Proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By submitting a Proposal or entering into a subsequent CMR Contract or performing any work in furtherance thereof, the Proposer certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform thereunder have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3) (a).

**b. No Contingent Fees.** The Proposer warrants that it has not employed or retained any company or person, to solicit or secure this CMR Contract where the Proposer has agreed to pay a fee, commission, percentage, gift or other consideration contingent upon or resulting from the award of this CMR Contract.

**c. No Collusion; No Conflicts.** The Proposer does hereby declare that its Proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; that the Proposer has not directly or indirectly



induced or solicited any other Proposer to submit a false or sham Proposal; that the Proposal is in all respects fair and without collusion, fraud, or mental reservations; that no official of the County or any person in the employ of the County is directly or indirectly interested in said Proposal or in the supplies or work to which it relates, or in any portion of the profits thereof; and that Proposer has not sought by collusion to obtain for itself any advantage over any other Proposer or over the County.

**d. Non-Discrimination.** JSL and the County are committed to assuring equal opportunity in the award of contracts and compliance with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, which is applicable to the Project, the Proposer warrants and represents that throughout the term of any resulting CMR Contract, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the CMR Contract.

### **13. Reserved**

### **14. Bond and Insurance Requirements**

**a. Public Construction Bond.** Within five (5) days of the final execution of the GMP Amendment in accordance with a subsequent CMR Contract, the Proposer selected as the construction manager for the Project shall furnish to JSL, on forms provided by JSL the following:

- 1) Public Construction Bond from a Surety in the amount equal to 100% of the GMP, and
- 2) Form of Guarantee.

The Surety issuing such Public Construction Bond must be authorized to issue bonds in the State of Florida and otherwise acceptable to JSL, in JSL's sole discretion shall incorporate by reference all of the terms and conditions of the CMR Contract, including, but not limited, to the Proposer and Surety's obligation for liquidated damages as well as Surety's acknowledgment regarding any and all provisions addressing or regarding "no damages for delay", as provided for in the general conditions of the CMR Contract (the "General Conditions").

**b. Insurance Requirements.** At the time of CMR Contract execution, the Construction Manager shall furnish to JSL certificates of insurance evidencing the existence of current, valid, and binding insurance policies for the limits and coverage in accordance with the requirements delineated in the General Conditions, together with a declaration of deductible amounts applicable to each type of insurance provided, acceptable to JSL.

**15. Living Wage Ordinance.** The Proposer will be required to comply with the County's Living Wage Ordinance found at the Palm Beach County Code Chapter 2, Article IV, Sections 2-147 to

2-150.1.

**16. Required Form of Contract.** The selected Proposer will be expected to promptly execute a form of CMR Contract, including General Conditions, in the form attached as **RFP Attachment H**. The sample contract is for informational purposes only at this time and is not to be returned with the Proposal.

**17. Inspector General.** Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General’s authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the contractor, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. The Proposer and all Proposer’s consultants, contractors and parties participating on the Project shall fully cooperate with the Inspector General including receiving access to records relating to this RFP or any resulting Contract.

**18. VSS Registration Required.** Each Proposer must register in the County’s Vendor Self Service (“VSS”) at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. If the Proposer intends to use subcontractors, the Proposer must also ensure that all subcontractors are registered as vendors in VSS. All subcontractor agreements must include a contractual provision requiring that the subcontractor register in VSS.

## **E. AWARD OF CONTRACT**

**1. Notification of Recommended Award.** Proposers will be notified of the recommended award within five (5) business days following any such selection.

**2. Reserved.**

**3. Debriefings.** After the Notification of Recommended Award has been posted, any unsuccessful Proposer may request a debriefing from JSL by calling Mike Bauer at (561) 630-1840 within five (5) days of the announcement of an award of the Contract. The debriefing may include discussion of scoring and identification of areas where the Proposer’s Proposal or presentation was not competitive, responsive or lacked clarity; so that the Proposer may improve its Proposals to future solicitations. Any audio recordings from the Selection Committee meetings are public records and can be made available upon request.

**4. Contract Preparation.** JSL will finalize a contract with the firm whose proposal was determined by the selection committee to be the most advantageous.

**5. Cancellation of RFP and/or Recommended Award.** JSL reserves the right to cancel this RFP and/or the recommended award of any Contract at any time before the execution of said Contract by all parties without any liability against JSL. The Proposer, by submitting its Proposal, expressly waives any claim to damages, of any kind whatsoever, in the event JSL exercises its rights provided for in this subsection.

## **F. TIME**

Time is of the essence in this RFP and the Contract. The successful Proposer shall enter into a Contract with JSL, shall commence the work to be performed under the Contract on the date set by JSL in the written notice(s) to proceed, shall continue the work with due diligence, and shall achieve timely substantial and final completion of the Project.

## **G. FORMS REQUIRED TO BE RETURNED WITH PROPOSAL**

Attachment A Proposal Certification Form

Attachment A-1 Addendum to Proposal Certification Form

Attachment B Volume of Previous Work Form

Attachment C Certification of Business Location Form – For firms desiring local office points

Attachment E Conflict of Interest Disclosure Form

Attachment F Financial Proposal Form

OEBO Schedules 1 & 2 for firms participating in the CM Mentor Program

**RFP ATTACHMENT A  
PROPOSAL CERTIFICATION FORM  
CM SERVICES FOR  
ROGER DEAN CHEVROLET STADIUM & SPORTS COMPLEX PROJECT  
(Proposer must complete, sign and return with proposal)**

I hereby certify that I am submitting my company's proposal and understand that by virtue of executing and returning with this proposal this Proposal Certification Form, I certify that all information is correct and I understand the contents and accept the conditions of the Request for Proposal and this Proposal Certification Form.

***Acknowledgment of Supplements:***

It is agreed that proposer has received and understands all supplements issued by JSL.

The Proposer acknowledges receipt of supplement(s) as follows:

Supplement # \_\_\_ dated \_\_\_\_\_ Supplement # \_\_\_ dated \_\_\_\_\_

***Statement of Participation in Contracts Subject to Nondiscrimination Clause:***

The Proposer shall complete the following statement by checking the appropriate boxes:

The Proposer has ( ) has not ( ) participated in a previous contract subject to the nondiscrimination clause prescribed by Executive Order 10925, or Executive Order 11114, or Executive Order 11246.

The Proposer has ( ) has not ( ) submitted all compliance reports in connection with any such contract, due under the applicable filing requirements; and that representations indicating submission of required compliance reports signed by proposed subcontractors will be obtained prior to award of subcontracts.

If the Proposer has participated previously in a contract subject to the nondiscrimination clause and has not submitted compliance reports due under applicable filing requirements, the Proposer shall submit a compliance report on Standard Form 100, "Employee Information Report, EEO-1" prior to the award of the Contract.

***EBO Commitment:***

During the construction phases of this Project, Proposer agrees to comply with the mandatory minimum S/M/WBE subcontracting goals of 20% SBE participation of which 5% must be MBE participation by African American and/or Hispanic American firms, if awarded the Contract, which shall be deemed material terms of any resulting contract.

***Commercial Non-Discrimination Certification:***

The undersigned Proposer hereby certifies and agrees that the following information is correct: In preparing its Proposal, the Proposer has considered all proposals submitted from qualified, potential subcontractors and has not engaged in "discrimination" as defined in the County's Commercial Nondiscrimination Policy as set forth in Resolution 2017-1770 as amended, to wit:

discrimination in the solicitation, selection or commercial treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the subcontractor's, vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the marketplace of Palm Beach County. Without limiting the foregoing, "discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination." Without limiting any other provision of the solicitation, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for JSL to reject the proposal submitted by the Proposer for this Solicitation, and to terminate any contract awarded based on the Proposal. As part of its proposal, the Proposer shall provide to JSL a list of all instances within the immediate past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Florida that the Proposer discriminated against its subcontractors, vendors, suppliers or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken. As a condition of submitting a proposal to JSL, the Proposer agrees to comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770 as amended.

PROPOSER (firm name): \_\_\_\_\_

FIRM ADDRESS: \_\_\_\_\_

PRINT NAME OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

EMAIL ADDRESS OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

PHONE NUMBER OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

**SIGNATURE OF AUTHORIZED REPRESENTATIVE:** \_\_\_\_\_

TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

**RFP ATTACHMENT A-1**  
**ADDENDUM TO PROPOSAL CERTIFICATION FORM**  
**(Proposer must complete, sign and return with proposal)**

As part of its proposal, the Proposer shall provide to JSL a list of all instances within the immediate past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Florida that the Proposer discriminated against its subcontractors, vendors, suppliers or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken.

**The Proposer shall select the appropriate box:**

\_\_\_\_\_ Proposer certifies that Proposer has had no final adjudications in Florida of discrimination against subcontractors, vendors, suppliers or commercial customers in the immediate past four (4) years.

\_\_\_\_\_ Proposer has attached to this form a list of all instances within the immediate past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Florida that the Proposer discriminated against its subcontractors, vendors, suppliers or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken.

PROPOSER (firm name): \_\_\_\_\_

PRINT NAME OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE OF AUTHORIZED REPRESENTATIVE:**

TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

**RFP ATTACHMENT B**  
**VOLUME OF PREVIOUS WORK FORM**  
**(Proposer must complete, sign and return with proposal)**

**Firm Name:**

**Date:**

<b>Year (list previous 6 years*)</b>	<b>Dollar Amount of CM Contracts Awarded or Funded by the County</b>
<b>Year 1: 20__</b>	<b>\$</b>
<b>Year 2: 20__</b>	<b>\$</b>
<b>Year 3: 20__</b>	<b>\$</b>
<b>Year 4: 20__</b>	<b>\$</b>
<b>Year 5: 20__</b>	<b>\$</b>
<b>Year 6: 20__</b>	<b>\$</b>
<b>TOTAL</b>	<b>\$</b>

**\* must include current year**

The Volume of Previous Work calculation shall be based only on CM contracts awarded or funded by the County to the Proposer as of the submittal date (hard bid awards are not included). CM work for which a firm has been selected but a contract has not yet been awarded shall not be included in the calculation.

PROPOSER (firm name): \_\_\_\_\_

PRINT NAME OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

SIGNATURE OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

**RFP ATTACHMENT C**  
**CERTIFICATION OF BUSINESS LOCATION FORM**  
**(A Proposer desiring local office points must complete, sign and return with proposal)**

In accordance with the Palm Beach County Local Preference Ordinance, as amended, a preference may be given to: (1) respondents having a permanent place of business in Palm Beach County ("County") or (2) respondents having a permanent place of business in the Glades that are able to provide the goods and/or services to be utilized within the Glades. To receive a local preference, respondents must have a permanent place of business within the County or the Glades, as applicable, prior to the issuance of the solicitation. A Business Tax Receipt which is issued by the Palm Beach County Tax Collector, authorizes the respondent to provide the goods/services being solicited, and will be used to verify that the respondent had a permanent place of business prior to the issuance of the solicitation. The respondent must submit this Certification of Business Location ("Certification") along with the required Business Tax Receipt at the time of bid or quote or proposal submission. **The Business Tax Receipt and this Certification are the sole determinant of local preference eligibility.** Errors in the completion of this Certification or failure to submit this completed Certification will cause the respondent to not receive a local preference.

In instances where the respondent is exempt by law from the requirement of obtaining a Business Tax Receipt, the respondent must: (a) provide a citation to the specific statutory exemption; and (b) provide other documentation which clearly establishes that the respondent had a permanent place of business within the County or the Glades prior to the date of issuance of the solicitation. JSL may contact said respondent for additional information related to this requirement after the bid/quote/proposal due date.

**I. Respondent is a:**

\_\_\_\_\_ Local Business: A local business has a permanent place of business in Palm Beach County.

(Please indicate):

\_\_\_\_\_ Headquarters located in Palm Beach County

\_\_\_\_\_ Permanent office or other site located in Palm Beach County from which a vendor will produce a substantial portion of the goods or services.

\_\_\_\_\_ Glades Business: A Glades business has a permanent place of business in the Glades.

(Please indicate):

\_\_\_\_\_ Headquarters located in the Glades

\_\_\_\_\_ Permanent office or other site located in the Glades from which a vendor will produce a substantial portion of the goods or services.

**II. The attached copy of respondent's Palm Beach County Business Tax Receipt verifies respondent's permanent place of business in Palm Beach County.**

**THIS CERTIFICATION** is submitted by \_\_\_\_\_, as  
(Name of Individual)

\_\_\_\_\_, of \_\_\_\_\_  
(Title/Position) (Firm Name of Respondent)

who hereby certifies that the information stated above is true and correct and that the Palm Beach County Business Tax Receipt is a true and correct copy of the original.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)



**RFP ATTACHMENT D**  
**PALM BEACH COUNTY CM MENTORING GUIDELINES**  
**(For informational purposes do not return with proposal)**

**PALM BEACH COUNTY CM / SBE PARTNERING GUIDELINES**  
**(Revised March 11, 2019)**

**1. BACKGROUND**

When the Palm Beach County (“County”) Facilities Development and Operations Capital Improvements Division (“FDO / CID”) requests proposals from Construction Managers (“CM”) to provide services for particular projects, one of the Affirmative Procurement Initiatives (APIs) that may be applied to the solicitation under the County’s Equal Business Opportunity (EBO) Program is evaluation preference points for a CM/SBE partner. (See PPM# CW-O-043 Attachment 3)

**2. INTENT**

The intent of encouraging CM / SBE partnering on larger construction management projects is to: 1) enhance SBE performance capabilities on County contracts, 2) foster establishment of long-term business relationships between SBE and CM firms and capable subcontractors and suppliers, 3) increase the overall capability of SBE contractors that receive County contract awards, 4) increase SBE contractors’ experience in areas where they have not traditionally performed, 5) raise prime CM firms’ awareness and understanding of the challenges faced by SBE contractors, 6) expand the capabilities and resources available to CM firms by effectively utilizing the skills and experience of SBE contractors, and 7) facilitate the ability of SBE contractors to build capacity toward ultimately serving as CMs on County and other construction projects. These Guidelines are established to fulfill project requirements indicated in the CM solicitation and assist with monitoring and enhancing the CM / SBE partnering efforts and achieving the County’s EBO Program goals.

**3. DEFINITIONS**

**(a) Memorandum of Understanding (“MOU”)** is a written document between the CM and the Partnering SBE that meets the requirements of Section 10 hereof.

**(b) Prime Construction Manager or CM** is a construction management firm that meets the requirements of Section 5 hereof and elects to include in its proposal to the County a CM/SBE partnering arrangement that adheres to these Guidelines.

**(c) Partnering Monitor** means the employee of FDO designated to monitor the CM and SBE firms’ compliance with the proposal representations memorialized in the MOU.

**(d) Project Manager** is the County’s representative assigned by FDO / CID to manage the project for the County. The Project Manager will serve as a secondary Partnering Monitor and attend the meeting at the end of the project.

**(e) Partnering SBE** is a certified SBE contractor that meets the requirements of Section 6 hereof and is the intended recipient of developmental assistance pursuant to the partnering arrangement agreed between the parties on a specific County construction project.

#### **4. ELIGIBILITY TO PARTICIPATE**

**(a)** In order for a CM to be eligible for the incentives described in Section 7 below, the CM must meet the requirements of Section 5 hereof and must execute an MOU to provide appropriate developmental assistance to a Partnering SBE.

**(b)** A CM / SBE partnering arrangement requires the SBE to be a subconsultant under the CM's prime contract with the County for the subject project.

**(c)** A Partnering SBE's participation in the partnering arrangement described herein shall not affect the SBE firm's eligibility to seek other prime contracts or subcontracts.

#### **5. ELIGIBILITY OF CM FIRMS**

**(a)** A CM must be a construction management firm with annual gross revenue greater than \$9 million and otherwise meets the requirements of the County RFP/solicitation.

**(b)** Besides meeting all the requirements (capability, license, insurance, bonding, etc.) needed to adequately respond to an individual County project RFP, the CM must be able to provide developmental assistance (as described in the MOU) to the Partnering SBE.

**(c)** The CM must participate in any meetings with the Partnering SBE and the Partnering Monitor and complete a Final Report, which will include a "Lessons Learned" section.

#### **6. ELIGIBILITY OF PARTNERING SBE FIRMS**

**(a)** To participate, the Partnering SBE must be:

1. a certified general contractor or certified building contractor;
2. a Palm Beach County certified SBE; and
3. willing and able to meet the agreed upon requirements and goals established by the MOU, the subconsulting agreement to be entered into with the CM and any other applicable project requirements that may be included in CM's contract with the County.

**(b)** A CM will select an eligible Partnering SBE expressing its interest to participate as a Partnering SBE in accordance with the requirements of a County project's RFP and related CM contract. The Partnering SBE firm must be willing and able to perform as a subconsultant utilizing an agreement substantially similar to the CM's standard subconsultant agreement as it relates to the CM contract with the County.

**(c)** CM firms may have more than one Partnering SBE if the situation is determined to be beneficial

to the project.

## **7. INCENTIVES FOR THE CM**

**(a)** Under the EBO Program, the County's Goal Setting Committee (GSC) may apply an RFP evaluation preference of up to 5% of the evaluation points for a CM who proposes a CM/SBE partnering arrangement in its response.

**(b)** When applicable, the CM's proposal must comply with Sections 4 and 5 herein in order to receive the incentive(s) described in this section, and the CM must include with its RFP response an executed MOU that includes the information described in Section 10 below.

## **8. COMPLIANCE VERIFICATION / MEASUREMENT OF SUCCESS**

The CM / SBE partnering arrangement will be monitored by the Partnering Monitor. The Partnering Monitor will attend semi-annual meetings and a final meeting with the participating firms, where the participating firms will review the activities of the partnership and attempt to determine whether:

**(a)** the plan established by the initial MOU is still valid or whether adjustments should be made and if so, what adjustments should be made;

**(b)** that both the CM and Partnering SBE are actively participating and performing the duties in accordance with the MOU;

**(c)** that the individuals assigned to their project roles by the CM and Partnering SBE are still engaged and relevant to the MOU;

**(d)** that the CM and Partnering SBE are reasonably satisfied with the arrangement.

At the end of the project the CM and Partnering SBE shall complete a Final Report on the partnership that can be used to evaluate the success of the CM / SBE relationship. The Final Report should demonstrate that a reasonable effort was made by the CM and Partnering SBE to carry out the activities and expectations of the initial or adjusted MOU and the established goals were reasonably accomplished.

## **9. PROPOSAL PROCESS**

If the County's GSC applies an RFP evaluation preference of up to 5% of the evaluation points for a CM who proposes a CM/SBE partnering arrangement in its response, then a participating firm must include with its proposal an executed MOU that includes the minimum information described in Section 10 below.

The County's GSC may also apply an RFP evaluation preference of up to 10% of the evaluation points for the proposer's SBE participation plan. If such an evaluation preference is included in the RFP, then a proposer must include in its response 1) the firm's history of SBE participation on prior government or private sector projects; 2) the firm's SBE participation plan which explains

how the firm will achieve applicable subcontracting goals when construction subcontracts are let, and 3) the firm's commitment to achieving applicable subcontracting goals.

## **10. MEMORANDUM OF UNDERSTANDING (MOU) CONTENTS**

In an attempt to establish a minimum standard for its contents, the MOU must contain the following information:

**(a)** Name, mailing address and telephone number of the CM and Partnering SBE and the name, telephone number, e-mail address and position title within both firms of the person responsible for the firm's participation in accordance with the MOU.

**(b)** Appropriate documentation indicating that the Partnering SBE meets the requirements of Section 6 hereof.

**(c)** Based on the needs of the Partnering SBE and the requirements of the project and the CM's contract with the County, the firms must list the type of developmental assistance the Partnering SBE will be seeking and which the CM intends to provide.

**(d)** The names of the individuals from each firm that will be active participants on the project, their roles as it relates to the management staff for the project and the areas of practice or project activities that the partnership is seeking to address under the MOU.

**(e)** Indicate the duration of the individual's assignment if not planned for the entire duration of the project.

**(f)** The anticipated dollar value or percentage of the applicable portion of the CM firm's contract, its basis and the anticipated scope of services that will be performed by the Partnering SBE.

**(g)** The proposed frequency of meetings between the CM and Partnering SBE as well as the proposed topics of discussion and documents to be reviewed at those meetings.

## **11. LIMITATION**

The MOU and subconsultant agreement define the relationship between the CM and Partnering SBE only, the anticipated activities and roles relative to the project, and the developmental goals the arrangement is seeking to achieve. The MOU and subconsultant agreement do not create any privity of contract or contractual relationship between the CM and the County nor the Partnering SBE and the County.

## **12. DEVELOPMENTAL ASSISTANCE**

The forms of developmental assistance a CM can provide to a Partnering SBE may include, but are not limited to:

**(a)** Guidance on a company-to-company level relating to the construction management project delivery method, learning industry best practices and to fulfilling contractual requirements of the Project. Suggested items would be:

- (1)** Safety training, the importance of management commitment to safety, establishing safety culture and proper jobsite planning;
- (2)** Preconstruction activities such as verification of existing site conditions, early procurement for long lead items, estimating, value analysis, scheduling, document and constructability review, guaranteed maximum price development and the importance of their accuracy to the project;
- (3)** Project management best practices, logistics planning, document logs, efficiency and time management, meetings, reporting, change management process, keeping harmony and promoting teamwork, subcontractor management, keeping the client satisfied;
- (4)** Cost management, receivables and payables, cash flow, legalities of payment application process;
- (5)** Risk management including insurance and surety bonding requirements and legal matters;
- (6)** Marketing and business development, networking, advertising, contract negotiations, corporate responsibility and outreach;
- (7)** Human resource management, employee recruitment, retention, professional development and discipline.

**(b)** Guidance on a personal level by assignment of CM personnel for the purpose of training SBE Partnering personnel in similar positions on industry best practices and for activities beneficial to the success of the project.

### **13. REPORTS**

**(a)** A Final Report must be submitted to the Partnering Monitor by the CM and Partnering SBE at the conclusion of the project.

**(b)** The CM and Partnering SBE shall summarize the assistance provided and to indicate if the established goals in the initial or adjusted MOU were achieved.

**(c)** The CM and Partnering SBE shall submit a “Lessons Learned” evaluation to the Partnering Monitor at the conclusion of the project.

**(d)** At the conclusion of a project that contains a partnering arrangement, the CM and Partnering SBE shall meet with the Partnering Monitor and Project Manager regarding preparation of the Final Report. Failing to meet and discuss the experience may reflect unfavorably upon the CM or Partnering SBE on future selections for County CM projects.

**RFP ATTACHMENT E**  
**CONFLICT OF INTEREST DISCLOSURE FORM**  
**(Proposer must complete, sign and return with proposal)**

CONTRACTOR/SUBCONTRACTOR represents that it presently has no interest, either direct or indirect, which would or could conflict in any manner with the performance of services for the County, except as follows:

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(Attach additional sheets as needed.)

CONTRACTOR/SUBCONTRACTOR further represents that no person having any interest shall be employed for said performance. By signing below, CONTRACTOR/SUBCONTRACTOR certifies that the information contained herein is true and correct and constitutes all current potential conflicts of interest which may influence or appear to influence CONTRACTOR's/SUBCONTRACTOR's judgment or quality of services being provided to the County.

CONTRACTOR/SUBCONTRACTOR shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest that may arise in the future through any prospective business association, interest or other circumstance which may influence or appear to influence CONTRACTOR's/SUBCONTRACTOR's judgment or quality of services being provided to the County. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that CONTRACTOR/SUBCONTRACTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute an unacceptable conflict of interest if entered into by the CONTRACTOR/SUBCONTRACTOR.

If, in the sole opinion of the COUNTY, the prospective business association, interest or circumstance of CONTRACTOR/SUBCONTRACTOR would constitute an unacceptable conflict of interest to the COUNTY, the COUNTY shall so state in the notification and the CONTRACTOR/SUBCONTRACTOR shall not enter into said association, interest or circumstance.

This DISCLOSURE is submitted by (Name of Individual:) \_\_\_\_\_, as (Title/Position:) \_\_\_\_\_ of (Name of Firm:) \_\_\_\_\_ who hereby certifies that any misrepresentation by the CONTRACTOR/SUBCONTRACTOR on this Disclosure is considered an unethical business practice and is grounds for sanctions against future County business with the CONTRACTOR/SUBCONTRACTOR.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**RFP ATTACHMENT F  
FINANCIAL PROPOSAL FORM  
(Proposer must complete, sign and return with Proposal)**

**TO THOSE PROPOSERS:**

Jupiter Stadium, Ltd. (“JSL”), in accordance with a use agreement with the Board of County Commissioners of Palm Beach County, Florida (the “Board”), is requesting a Proposal from your company to provide the Work as specified in RFP for the Roger Dean Chevrolet Stadium and Sports Complex Renovation Project (the “Project”).

By submitting a Proposal, Proposer certifies to have examined the RFP and, in particular, the form of construction manager contract included as **RFP Attachment H** thereof (the “CMR Contract”). Being familiar with all of the conditions surrounding the construction of the proposed Project, including the availability of materials and labor, Proposer hereby proposes the below listed fees/costs associated with the furnishing of all necessary materials, equipment, machinery, tools, apparatus, means of transportation, and labor necessary to complete, within the time allotted as specified, the Project accordance with the requirements of the RFP.

*(All amounts shall be shown in both words and figures; in case of discrepancy, the amount shown in words shall govern.)*

**Preconstruction Services Fee:**

Proposer agrees to perform all Preconstruction Services required for the Project described in and pursuant to Section 7.1.1 of the CMR Contract for the amount set forth below:

Total:	\$                      Dollars (\$                      )
--------	--

**General Conditions Costs:**

Proposer agrees to be reimbursed for all General Conditions Costs (as defined in Section 6.4 of the CMR Contract) for the Project for the amount set forth below:

Total:	\$                      Dollars (\$                      )
--------	--

**Construction Services Fee:**

Proposer agrees to the Construction Manager’s Fee for the Project as described in and pursuant to Section 1.1.14 of the CMR Contract will be established as \_\_\_\_\_ percent (\_\_\_\_\_% of the Guaranteed Maximum Price (GMP).

Proposer: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_



**RFP ATTACHMENT G**

**DEVELOPER AGREEMENT BETWEEN PALM BEACH COUNTY, FLORIDA AND  
JUPITER STADIUM, LTD.**

**[ATTACHED]**

R2022 0520

MAY 17 2022

DEVELOPER AGREEMENT

BETWEEN

PALM BEACH COUNTY, FLORIDA

AND

JUPITER STADIUM, LTD.

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**R2022 0520**  
**DEVELOPER AGREEMENT**

**THIS DEVELOPER AGREEMENT** (“Agreement”) is made and entered into as of MAY 17 2022, 2022, by and between Palm Beach County, Florida, a political subdivision of the State of Florida, by and through its Board of County Commissioners (the “County”) and Jupiter Stadium, Ltd., a Florida limited partnership (the “Limited Partnership”). The Limited Partnership and the County are hereinafter sometimes referred to individually as a Party or collectively as the “Parties”.

**WITNESSETH:**

**WHEREAS**, On July 9, 1996, the County and Jupiter Stadium Development, Ltd., a Florida limited partnership, being a development affiliate of the Limited Partnership, entered into a Developer Agreement (R96-879D) to develop a Stadium (as hereinafter defined), including two-team training facilities, practice fields, clubhouses, dedicated on-Site parking areas, and other appurtenances and improvements, to be used by the St. Louis Cardinals and Montreal Expos (since replaced by the Miami Marlins) as their joint spring training facility to be located on certain real property more particularly described on **Exhibit A**, attached hereto and made a part hereof by this reference, within the Town of Jupiter, Palm Beach County, Florida; and

**WHEREAS**, said Developer Agreement was amended by the First Amendment to Developer Agreement on December 17, 1996 (R96-2117), and by the Second Amendment to Developer Agreement on November 25, 1997 (R97-2068) (the Developer Agreement, the First Amendment to Developer Agreement, and the Second Amendment to Developer Agreement are hereafter collectively referred to as the “Original Developer Agreement”); and

**WHEREAS**, the Original Developer Agreement has expired; and

**WHEREAS**, the Stadium is now in need of the Renovation Project (as hereinafter defined), and the Limited Partnership desires to act as the County’s development consultant and to render program manager services for the Renovation Project under the terms and conditions set forth herein; and

**WHEREAS**, the Renovation Project is to be designed and constructed to include the Scope of Work as set forth in **Exhibit B** attached hereto and made a part hereof; and

**WHEREAS**, Limited Partnership will coordinate and administer all aspects of the design, permitting, construction, development and delivery of the Renovation Project, including, without limitation, the obligations to coordinate, administer, and assume certain rights and obligations with respect to: (a) the Consultants under the Consultant Contracts (as hereinafter defined), and (b) the Contractor under the Construction Contract (as hereinafter defined) for the Renovation Project; and;

**WHEREAS**, the County and the Limited Partnership now desire to enter into this Agreement in order to undertake the Renovation Project.

**NOW THEREFORE**, in consideration of the premises and the mutual covenants and obligations herein contained, the Parties intending to be legally bound, hereby agree as follows:

**ARTICLE 1**  
**RECITALS**

The foregoing recitals are hereby incorporated herein, and made a part hereof, by this reference.

**ARTICLE 2**  
**DEFINITIONS**

The following terms shall have the meanings specified in this Article 2 when capitalized and used in this Agreement. Some terms provided herein are used only in the New Use Agreement (as hereinafter defined) and are included herein for clarity. Capitalized terms not defined in this Article 2 shall have the meanings ascribed to them in this Agreement or in any other Agreement referenced herein. The meanings specified are applicable to both the singular and plural.

**“Additional Funding Contributions”** shall have the meaning set forth in Section 5.7.2 herein.

**“Additional Off-Site Parking”** shall mean new parking spaces beyond those identified in the Amended and Restated Parking Agreement but not including the relocation of existing on-Site parking spaces to another area on the Site.

**“Affidavit of Disbursement of Previous Payments”** shall mean a form submitted by the Contractor certifying that it has paid all Subcontractors and suppliers for payments made by the Limited Partnership to the Contractor from the previous payment application.

**“Affiliate”** shall mean, with respect to the Limited Partnership or the Teams, a Person that, directly or indirectly, controls, is controlled by, or is under common control with, the Limited Partnership or Teams.

**“Agreement”** shall mean this Developer Agreement (including all Exhibits hereto), as it may be amended or supplemented from time to time.

**“Amended and Restated Parking Agreement”** shall mean that Amended and Restated Parking Agreement between the County, the Limited Partnership, and Aries Land Acquisition, LLC dated January 13, 2015 (County Resolution No. R2015-0058).

**“Annual Debt Service”** the total principal and interest payments due each year pursuant to the terms of the County Bonds.

**“Art”** shall mean those improvements installed at the Site and Facility pursuant to the County’s “Art in Public Places” program.



**“Art in Public Places Administrator”** shall mean an employee within the Facilities Development and Operations Department designated by the County and indicated to the Limited Partnership as the individual with responsibility to implement the County’s “Art in Public Places” program.

**“Bond Sale Request”** shall have the meaning set forth in Section 5.7.1.1 herein.

**“Bond Resolution”** shall mean that resolution of the Palm Beach County Board of County Commissioners authorizing the sale of the County Bonds.

**“Business Day”** shall mean any day, except Saturday, Sunday or any national holiday or any other day recognized by the County as a holiday, or any other day during which the County governmental offices are closed.

**“Cash Contributions”** shall mean moneys that that are received by the County to increase the amount of funding available for the Renovation Project to accomplish a specific Tourism Improvement.

**“Change Order”** shall mean a written instruction to the Contractor or Consultant authorizing an addition, deletion, or revision to the Work in consideration of an adjustment in the contract sum, contract time, or both. Change Orders may also be necessary to document no cost revisions to specified products or materials.

**“Clerk”** shall mean the Clerk to the Board of County Commissioners, Palm Beach County.

**“Construction Change Directive”** or **“CCD”** shall mean a written order prepared by the architect/engineer of record and issued by the Limited Partnership, directing a change in the Work and stating a proposed basis for adjustment, if any, in the contract sum or contract time, or both.

**“Construction Change Proposal”** or **“CCP”** is used by the Contractor in response to a Field Bulletin itemizing proposed changes in the contract price or time. It also may be used by the Contractor to initiate proposed changes the Contractor deems necessary.

**“Construction Contract(s)”** shall mean the legally binding agreement(s) to be entered into by and between the Limited Partnership and the Contractor(s) for the construction of the Renovation Project, or any portion thereof, as such agreement(s) may be amended by the Limited Partnership, including through a Change Order authorized pursuant to Section 8.5 herein.

**“Construction Savings”** shall mean the amount, if any, remaining in the Project Contingency at the time of Final Completion if the Project Proceeds exceed the Eligible Costs.

**“Consult”** or **“Consultation”** shall mean that the Party required to consult with another Party on a matter shall provide such other Party with the opportunity to provide comments or suggestions on the matter and shall act in good faith in responding to and incorporating such comments or suggestions that are reasonably acceptable to the Party required to consult with such other Party, but such other Party shall not have the right to approve or disapprove such matter.

**“Consultant”** shall mean the Planning Consultant, Environmental Consultant, Architectural/Design Consultant, program manager, or other professional either individually or collectively as the context shall require, selected either in accordance with the terms of this Agreement, or otherwise as agreed to between the Parties, engaged by the Limited Partnership, responsible for planning, permitting, administering and/or designing the Renovation Project, or any portion thereof, pursuant to a Consultant Contract.

**“Consultant Contract(s)”** shall mean the agreement(s) to be entered into by and between the Limited Partnership and the Consultant(s) for the planning, design, construction administration and/or other professional services for the Renovation Project, or any portion thereof, as such Consultant Contract may be amended by the Limited Partnership through a Change Order authorized pursuant to Section 8.5 herein.

**“Contractor”** shall mean the Construction Manager, duly licensed pursuant to Chapter 489, Florida Statutes, selected in accordance with the terms of this Agreement, engaged by the Limited Partnership, responsible for constructing the Renovation Project, or any portion thereof, pursuant to the Construction Contract, and such replacement contractor(s) as may be selected in accordance with the County requirements from time to time.

**“Cost Overruns”** shall mean Eligible Costs in excess of the Project Proceeds.

**“County”** shall have the meaning set forth in the introductory paragraph of this Agreement.

**“County Bonds”** shall mean the County’s taxable and tax-exempt revenue bonds to be issued in connection with the Renovation Project in one or more series as more further detailed in Section 5.7 herein.

**“County Representative”** shall mean the Director of the County’s Facilities Development & Operations Department, or such other persons as may be designated in writing by the County as its representative or liaison during the Term of this Agreement.

**“County R/R Project”** shall have the meaning ascribed to such term in the New Use Agreement.

**“County R/R Project Reserve”** shall have the meaning in the New Use Agreement.

**“Day”** shall mean each 24-hour period beginning and ending at 12:00 midnight Eastern Standard Time and shall include Saturdays, Sundays and all holidays, except that in the event that an obligation to be performed under this Agreement falls on a day other than a Business Day, such obligation shall be deemed due on the next Day that the County offices are open for business thereafter.

**“Design Contract”** shall mean the agreement to be entered into by and between the Limited Partnership and the Design Professional selected by the Limited Partnership for the design of the Renovation Project, or any portion thereof, as such design contract may be amended or replaced from time to time.

**“Design Professional”** shall mean any design professional as may be selected in accordance with this Agreement.

**“Drawings”** shall have the meaning set forth in the Construction Contract.

**“Effective Date”** shall have the meaning set forth in Section 10.1 herein.

**“Effective Termination Date”** shall be seven (7) Days after the defaulting Party has received written notice of termination.

**“Eligible Costs”** shall mean costs incurred or encumbered towards the Renovation Project pursuant to and in accordance with the Laws (specifically including the laws associated with public procurement), and therefore, shall be eligible to be paid from the Project Proceeds.

**“Excluded Costs”** shall mean those direct or indirect costs, fees and/or expenses that are identified in the attached **Exhibit D**, which shall not be included in the Project Budget, and shall not be eligible for payment from the Project Proceeds.

**“Exclusive Parking Areas”** shall have the meaning ascribed to such term in the New Use Agreement.

**“Exclusive Use Areas”** shall mean the areas that are identified in **Exhibit D of the New Use Agreement** which are reserved for the exclusive use of the Teams, unless otherwise set forth therein.

**“Existing Use Agreement”** shall mean the First Restated Sports Facility Use Agreement dated May 3, 2011 (R-2011-0694) between the County and the Limited Partnership governing the use, occupancy and operation of the Facility as the same may be amended or supplemented from time to time.

**“Facility”** shall mean the professional sports franchise facility, commonly referred to as the Roger Dean Chevrolet Stadium, for joint spring training of two Major League Baseball teams as well as minor league affiliates, including a stadium, two-team training facilities, practice fields, clubhouses, dedicated on-Site parking areas, and other appurtenances and improvements, used by the Miami Marlins and the St. Louis Cardinals and for other tourism and community uses contemplated by the Operative Agreements, and shall also include, without limiting the foregoing, all improved and unimproved areas of the Site and any off-Site improvements required for regulatory approval.

**“Final Completion”** shall have the meaning ascribed to such term in the Construction Contract.

**“Field Bulletin”** or **“FB”** shall mean an instruction issued by the Consultant proposing a change in either the drawings or specifications and requesting a proposal from the Contractor. It is not a direction to proceed with the work.

**“GMP”** or **“Guaranteed Maximum Price”** shall mean the cost of the Work required to be performed pursuant to the Construction Contract and including, but not limited to, the Contractor’s fee as set forth in the Construction Contract.

**“Jupiter Funding Agreement”** shall mean that agreement to be negotiated among the County, Limited Partnership, and the Town of Jupiter in accordance with Article 4 of this Agreement.

**“Laws”** shall mean all applicable federal, state, County and local laws, codes, ordinances, rules, regulations, standards or orders of any public authority having jurisdiction over the Renovation Project, including building, health, labor, safety, licensing, environmental or zoning laws, codes, ordinances, rules, regulations, standards or orders of any such public authority including, without limitation:

- (i) the County Purchasing Code (Sections 2-51 to 2-58, Palm Beach County Code);
- (ii) the County Equal Business Opportunity Ordinance (Sections 2-80.20 to 2-80.30, Palm Beach County Code);
- (iii) the Palm Beach County Local Preference Code (Sections 2-80.41 to 2-80.48, Palm Beach County Code);
- (iv) with respect to the selection of any and all architects, engineers, landscape architects, surveyors, and mappers for the Renovation Project, the procedures set forth in F.S. 287.055, the Consultant’s Competitive Negotiation Act (CCNA) and the County’s policy, PPM CW-O-048 “Selection of Professional Engineers, Architects, Landscape Architects, Land Surveyors and Mappers”;
- (v) with respect to the selection of the Contractor, the requirements and selection criteria set forth in F.S. Sections 255.103 and 287.055 and in the County’s policy, PPM CW-O-092; and
- (vi) all applicable laws of the State of Florida set forth in the State Funding Agreement.

**“Limited Partnership”** shall have the meaning set forth in the introductory paragraph of this Agreement.

**“Limited Partnership Parties”** shall mean the Limited Partnership and the Teams and each of their respective members, officers, directors, employees, agents, servants and representatives, of any and all of the foregoing.

**“Limited Partnership Restoration Areas”** shall mean any and all improvements and land areas identified in **Exhibit E of the New Use Agreement**, all land areas and property identified as an Limited Partnership Restoration Area in **Exhibit F** hereto, and any personal property, equipment and/or any portion of the Facility damaged as a result of the deviations from the County standard design and construction policies identified in **Exhibit F** hereto. The Limited Partnership shall be financially responsible for all claims related to the Limited Partnership Restoration Areas,

including, but not limited to, damage to personal property, damage to the Facility, all property insurance claims and deductible costs and financial responsibility for repairs or restorations to property resulting from said deviations.

**“Limited Partnership R/R Project”** shall have the meaning set forth in the New Use Agreement.

**“Limited Partnership R/R Project Reserve”** shall mean the monies set aside pursuant to Section 8.4.7 of this Agreement for use for Limited Partnership R/R Projects as set forth in Article 10 of the New Use Agreement.

**“Major League Baseball”** or **“MLB”** shall have the meaning as set forth in the New Use Agreement.

**“More Favorable Interest Rates”** shall have the meaning set forth in Section 5.7.1.2 herein.

**“New Use Agreement”** shall mean the Second Restated Sports Facility Use Agreement dated May 17, 2022 (R-2022-\_\_\_\_\_) between the County and the Limited Partnership governing the use, occupancy and operation of the Facility as the same may be amended or supplemented from time to time.

**“Non-Eligible Costs”** shall mean all projected expenditures and costs, other than Excluded Costs, relating to the development of the Renovation Project that are; 1) Cost Overruns, 2) not Eligible Costs, 3) costs that exceed what the Limited Partnership and the County have agreed to be standard for Major League Baseball Spring Training Facilities in terms of quantity or quality, or 4) costs associated with insurance in amounts greater than County standard for Consultants, Contractors, and any other entities performing any portion of the respective Work at the site, unless such greater amounts are otherwise included in a form of contract with such Consultant, Contractor or other entity that has been included with an RFQ or RFP for such services and which form of contract and RFQ or RFP has been approved by the County’s staff. Non-Eligible Costs shall not be paid from the Project Proceeds, and, except for Cost Overruns attributable to the County pursuant to Section 8.3 hereof, Non-Eligible Costs shall be paid solely by the Limited Partnership.

**“Operative Agreements”** shall collectively refer to this Agreement, the New Use Agreement, and the Amended and Restated Parking Agreement.

**“Parking Areas”** shall mean any areas at the Facility that are not Exclusive Parking Areas and which are intended to be used for the parking of vehicles pursuant to the Restated and Amended Parking Agreements.

**“Person”** shall mean an individual, corporation, association, general partnership, limited partnership, limited liability company, trust, unincorporated organization, political subdivision or municipal corporation.

**“Program”** shall mean the Services required for the design, development and construction of the Renovation Project.

**“Project Budget”** shall mean the total costs associated with the Renovation Project, including all Eligible Costs and Non-Eligible Costs, but excluding the Excluded Costs.

**“Project Contingency”** shall mean a specified amount of money within the Project Cost Estimate that can be re-allocated by the Limited Partnership to an Eligible Cost line item within the Project Cost Estimate without further approval of the County. All funds remaining in the individual line items of the Project Budget for Eligible Costs after Final Completion shall be transferred to Project Contingency during the final accounting at the completion of the Renovation Project.

**“Project Cost Estimate”** shall mean the line item breakdown of all projected expenditures for Services in the Project Budget, including the Project Contingency.

**“Project Proceeds”** means the proceeds derived from the County Bonds (net of all transaction costs) plus any Cash Contributions.

**“Project Proceeds Increase”** shall have the meaning set forth in Section 5.7.1.2 herein.

**“Project Representative”** shall mean the person designated by the Limited Partnership to represent and act on behalf of the Limited Partnership in connection with the Renovation Project.

**“Project Schedule”** shall mean the schedule of events, dates and milestones for the timely completion of the Work prepared by the Contractor and accepted by the Limited Partnership in accordance with all requirements of the Construction Contract.

**“Public Use Improvements”** shall mean land areas along with all improvements, equipment, fixtures and furnishings that are the County’s Renewal/Replacement funding responsibility and that shall be identified during the design development phase of the Program and listed on **Exhibit B of the New Use Agreement**, except for any improvements listed on **Exhibit F** of this Agreement as not being the County’s Renewal/Replacement funding responsibility, even if they are located within Public Use Improvement areas.

**“Purchase Order”** shall mean the County document that is issued by the County to a vendor to contract for the purchase of a product.

**“Reallocated Amount”** means those funds, if any, which are allocated for Capital Improvements under Article 8 of the Existing Use Agreement but are not expended or encumbered prior to the Effective Date of the New Use Agreement. Any unexpended or unencumbered funds as of the Effective Date of the New Use Agreement will be reallocated and made available to the Limited Partnership until exhausted for construction of the Renovation Project. The Reallocated Amount shall not be considered part of the Project Proceeds but shall be included in the Scope of Work. The expenditure of the Reallocated Amount shall be in accordance with Section 8.6 hereto.

**“R/R Project”** or **“Renewal/Replacement Project”** shall have the meaning ascribed to such terms in the New Use Agreement.

**“R/R Project Reserve”** or **“Renewal/Replacement Project Reserve”** shall mean two lines in the Project Cost Estimate established pursuant to Section 8.4.7 herein which contain Construction Savings, if any, which upon Final Completion will be allocated to the R/R Project Reserve in order to fund the initial R/R Project obligations of the County and the Limited Partnership.

**“Renovation Project”** shall mean the upgrades, additions, replacements and/or alterations to the Facility being undertaken pursuant to this Agreement, as more fully set forth in the Scope of Work set forth in **Exhibit B** hereto.

**“Sales Tax Recovery PO”** shall mean a Purchase Order issued by the County pursuant to the provisions of the County’s Sales Tax Recovery Program outlined in the attached **Exhibit E**.

**“Sales Tax Recovery Program”** shall mean the County’s program for recovery of sales tax outlined in the attached **Exhibit E**.

**“Scope of Work”** shall mean the minimum programmatic requirements for the Renovation Project, as set forth in **Exhibit B** hereto.

**“Services”** shall mean all of the responsibilities of the Limited Partnership as set forth in this Agreement, including, but not limited to, the Work, whether performed by Limited Partnership employees, Contractor(s), or by Consultant(s). The County acknowledges the Limited Partnership’s responsibilities are limited as described in Section 3.6 herein and exclude those tasks or responsibilities specifically assigned to the County under this Agreement.

**“Site”** shall mean the real property legally described in **Exhibit A** attached hereto.

**“Stadium”** shall mean the improvement primarily designed and constructed for Major League Baseball within the Facility in which the Teams conduct Major League Spring Training Home Games, and shall not include any of the Exclusive Use Areas.

**“State Annual Contribution”** shall mean that amount that the State annually contributes to the payment of the Annual Debt Service associated with the County Bonds. The State Annual Contribution is limited to the amounts in the contribution schedule set forth in **Exhibit I to the New Use Agreement**.

**“State Funding Agreement”** shall mean that Agreement to be entered into between the State of Florida, Department of Economic Opportunity and the County for funding of the Renovation Project in accordance with Section 288.11361, Florida Statutes. The County shall provide the Limited Partnership with a copy of the State Funding Agreement for the Limited Partnership’s review and approval prior to execution. Upon its full execution and effectiveness, the State Funding Agreement will be attached as **Exhibit K** hereto.

**“Subcontractor”** shall mean any contractor in privity with any Consultant, Contractor, or any other contractor at any tier.

**“Substantial Completion”** shall have the meaning ascribed to such term in the Construction Contract.

**“Tax-Exempt Bonds”** shall have the meaning set forth in Section 8.4.7.

**“Team(s)”** shall collectively mean the St. Louis Cardinals, LLC, a Missouri Limited Liability Company and Marlins Teamco LLC, a Delaware limited liability company, and their successors and assigns as authorized in this Agreement, and in the singular may refer to either entity individually.

**“Term”** shall have the meaning set forth in Article 10 herein.

**“Tourism Improvements”** means those improvements categorized by the County’s Tourist Development Council and the Limited Partnership as beneficial to visitors during the Spring Training Season or benefitting events which occur outside of the Spring Training Season (e.g.: improvements to the entrance plaza including signage, hardscape, landscape and gathering areas, 1<sup>st</sup> base group area, elevated seating decks in the outfield open to the general public, and a 360 degree concourse) and are not included in the Scope of Work for the Renovation Project identified in **Exhibit B**. The Tourism Improvements shall be included in the Scope of Work for the Renovation Project as a result of a Project Proceeds Increase.

**“Town”** shall mean the Town of Jupiter, a Florida municipal corporation.

**“Video Scoreboard Improvements”** shall have the meaning set forth in item 1 of **Exhibit B** hereto.

**“Work”** shall mean all obligations, duties and responsibilities assigned to, or undertaken by, any Contractor(s) required to complete the Renovation Project (or applicable portion thereof) pursuant to the Construction Contract(s).

### ARTICLE 3

#### **SERVICES TO BE PROVIDED BY LIMITED PARTNERSHIP**

**3.1 Permit Approvals.** All applications for governmental/regulatory permits and approvals shall require advance review and approval of the County Representative or other duly authorized County employee prior to submittal.

**3.2 Diligence.** The Limited Partnership covenants to diligently perform the Services outlined below in a commercially reasonable manner consistent with the terms of the Operative Agreements.

**3.3 Development Services.** The Limited Partnership shall, either itself, or through the Project Representative:



- A. act as the County's Program manager for the Renovation Project (or, for those portions of the construction of the Renovation Project which the Limited Partnership deems it necessary, hire a Program manager) and shall be responsible for the delivery of the Renovation Project in accordance to the requirements of this Agreement. Such services shall include, but not be limited to, the following in constant coordination with an appropriate County Representative:
- i. Develop, monitor and administer Project Cost Estimate and Project Budget.
  - ii. Develop, monitor and administer Project Schedule.
  - iii. Oversee the development of the architectural program and act as primary contact with the Teams and all other sponsors, agencies and users of the Facility.
  - iv. Assist in the development and negotiations of Consultant Contracts.
  - v. Coordinate the activities of Consultants.
  - vi. Review value engineering efforts of design professionals and make recommendations to the Teams.
  - vii. Assist in the permitting and approval process in conjunction with legal counsel and other Consultants.
  - viii. Provide technical support for land acquisition and/or encumbrance efforts, as required to support the Renovation Project.
  - ix. Make recommendations to the Teams on the most appropriate delivery method and assist with pre-qualifying and selecting the Contractor.
  - x. ensure that the GMP for the Renovation Project is based upon a 90% design package.
  - xi. Administer the Construction Contract and Consultant Contracts.
  - xii. Evaluate and negotiate change orders and claims on behalf of the Teams.
  - xiii. Coordinate the procurement of all furniture, fixtures & equipment, including baseball specific items.
  - xiv. Plan and implement transition, occupancy and commissioning of all improvements.
  - xv. Act as an extension of the Teams' staff on any matter related to the Renovation Project that is assigned by the Teams.
  - xvi. Assist with selection of Design Professional.
  - xvii. Coordinate the design and construction of all sponsorship and revenue related aspects of the Renovation Project including concessions and other third-party involvement.
  - xviii. Coordinate vendor review and comment on Program-specific elements including but not limited to food service, concessions, AV/IT, and broadcast facilities.
  - xix. Coordinate the introduction and integration of Team operational, food service, and maintenance staffs during the start-up and pre-opening phases.
  - xx. Coordinate the close-out of all contracts and the establishment of organized reference and as-built files.
  - xxi. Any other responsibilities generally consistent with those listed above in the managing of the Renovation Project.

- xxii. To the extent the Limited Partnership hires a program manager to oversee certain portions of the construction of the Renovation Project, the duties listed in subsections i-xxi may be the responsibility of such program manager.
- B. select Consultant(s), Contractor(s) and Design Professional(s) receiving any payment of Eligible Costs in accordance with the applicable procurement requirements contained in the Laws, and select Consultant(s), Contractor(s) and Design Professional(s) receiving any payment of Non-Eligible Costs in accordance with a competitive solicitation process. The County shall have two (2) of the six (6) voting members on each and every selection committee, and the Limited Partnership shall have four (4) of the six (6) voting members on each and every selection committee;
  - C. select all other vendors, not otherwise subject to the CCNA, and receiving any payment of Eligible or Non-Eligible Costs, in accordance with a competitive solicitation process;
  - D. subject to Article 7 herein, engage (prepare, negotiate and enter into contracts with) and manage qualified Consultants and Contractor(s) to perform due diligence, testing, planning, design, and construction services as may be required in the Limited Partnership's discretion;
  - E. subject to Article 7 herein, engage (prepare, negotiate and enter into contracts with) and manage the Contractor(s), Consultant(s) and vendors;
  - F. take all actions necessary and/or required to effectively manage and coordinate all tasks and activities associated with the execution of multiple design and construction teams required to complete the Services;
  - G. comply with all applicable requirements of any and all of the County Bond resolutions, documents and covenants consistent with the terms of the Operative Agreements;
  - H. require each Contractor to construct the Renovation Project in accordance with the County's standard design and construction policies except as otherwise approved in writing by the County and specifically included in the attached **Exhibit F**;
  - I. monitor, review and approve the development of drawings and the specifications prepared by the Consultant(s), conduct progress reviews of the drawings and specifications and coordinate such reviews with the Teams;
  - J. observe the Work in progress to ensure that the Work is compliant with the terms of the respective Construction Contract and/or Purchase Orders;
  - K. determine the acceptability of each Consultant's performance under the respective

Consulting Contract(s) and each Contractor's performance under the respective Construction Contract(s), and as required take all necessary enforcement action to compel compliance with the terms of each Consultant Contract and each Construction Contract;

- L. conduct progress meetings and prepare reports (including an executive summary every other month), identifying the percentage of Work completed, the amount paid to each Consultant and Contractor and the remaining balance of each Consultant Contract and each Construction Contract;
- M. identify and coordinate activities required for Site access and due diligence that must be performed in order for the Project Schedule, Project Cost Estimate, development approval(s) and permitting assumptions to be satisfied;
- N. identify requirements and confirm assumptions for the Program related to infrastructure and permitting requirements;
- O. prepare a Project Schedule based on analysis of existing schedules, programs, goals and objectives;
- P. develop and maintain a list of dates which are critical for the success of the overall schedule of the Services identified in this Agreement;
- Q. prepare the line items within the Project Cost Estimate and at appropriate intervals and where necessary, review and assist in preparing revised line items within the Project Cost Estimate;
- R. update the Project Cost Estimate to specifically coincide with the timing of the GMP and the sale of the County Bonds;
- S. review preliminary designs for the Renovation Project in order to confirm Project Cost Estimate assumptions;
- T. review detailed schedules and cash requirement projections;
- U. provide specific guidance about the proposed Program and uses for the Facility, and ensure that the Program meets or exceeds the Scope of Work;
- V. conduct all activities necessary to prepare applications for governmental/regulatory permits and approvals and secure such permits and approvals subject to the advance County review and/or approval requirements of Section 3.1 of this Agreement;
- W. prepare a list of required governmental/regulatory reviews and permits/approvals, and engage Consultant(s) to prepare, submit and secure any permits or approvals that are required for the construction of the Renovation Project;

- X.** review and approve the design for the Renovation Project pursuant to the requirements of this Agreement;
- Y.** conduct design progress meetings with the Consultant(s) and Contractor(s), and invite the County to each, as a forum for exchange of information and resolution of design decisions;
- Z.** incorporate the County's design and construction standards and approved plans into each Construction Contract as required by the terms of this Agreement and enforce compliance with these design and construction requirements in each Construction Contract;
- AA.** incorporate and enforce requirements in each Construction Contract that, when specified as part of the approved design, each Contractor utilizes new materials and/or equipment (or newly manufactured materials and/or equipment using recycled components), including when such materials and/or equipment are incorporated into the Work, unless otherwise approved by the County; and where materials and/or equipment are not specified as part of the approved design, require each Contractor utilize a high grade of quality for its intended use;
- BB.** review, negotiate and approve the design and pricing of all Renovation Project which will become Public Use Improvements and submit to the County for compliance with building standards where comparable standards exist;
- CC.** identify the Parking Areas, Exclusive Parking Areas, Public Use Improvements and the Limited Partnership Restoration Areas no later than the conclusion of design development;
- DD.** contractually require and enforce the requirement that the Consultant(s) and Contractor(s) design and construct the Renovation Project to be compliant with the applicable building codes and American Red Cross ARC Standard 4496, including a diesel powered generator(s) (with a fuel supply of no less than three (3) days runtime under full load) for the Clubhouses, particularly the Visitor's Clubhouse and Stadium concourse areas for use of the Facility as a shelter site for the homeless during any periods of declared federal, state, or local emergency;
- EE.** require the Design Professional to select a public artist, meeting minimum requirements set by the County, for the Art in Public Places component of the Renovation Project, which artist will be integrated with the design team and work cooperatively with the County's Art in Public Places Administrator during all phases of design and construction; require the Design Professional to present a concept plan to the County's Public Art Committee for review and comment no later than by completion of the Schematic Design Phase; require the Design Professional to incorporate the comments of the Public Art Committee and the Art in Public Places Administrator into the design of the Art; to the extent that design comments from the Public Art Committee or Art in Public Places Administrator

would delay the Limited Partnership from meeting its Substantial Completion Date, the County agrees that the integration of the Art into the Renovation Project may be completed after the Substantial Completion Date by an alternative date agreed to by the Parties; the total value of the integrated Art (including, but not limited to, honoraria, materials, fees, and any other costs associated with the design, fabrication, and installation) being no less than Six Hundred Fifty Thousand and No/100 Dollars (\$650,000.00);

- FF.** conduct good faith comprehensive constructability reviews and value analysis to reduce the cost of the Program;
- GG.** coordinate with utility service providers for off and on-Site water, sewer, gas, electric and telecommunications service, and other service, as appropriate;
- HH.** prepare all documentation and then submit to the County for review, processing and approval of all required easements for the Program, including required utility easements for water, reclaimed water, sewer, electric, cable, telephone and other services and obtaining required insurance and indemnification from each Contractor and each Consultant performing Work on easements as set forth in Article 7 hereto;
- II.** conduct meetings with Town, regulatory agencies and the community, as may be required to accomplish all Services contemplated in this Agreement;
- JJ.** handle public relations activities related to the Program, including but not limited to, responding to public inquiries, attending public meetings and presenting at community meetings;
- KK.** conduct coordination meetings with Town, government/regulatory agencies and the community, as may be required for the purposes of planning and submitting development and permits/approvals applications;
- LL.** prepare a list of required governmental/regulatory reviews and permits/approvals, and engage Consultant(s) to secure same for any off or on-Site activities that are required for the construction of the Renovation Project;
- MM. Reserved.**
- NN.** implement the Sales Tax Recovery Program including reviewing and certifying each request for payment submitted by contractors and vendors under any Sales Tax Recovery POs for payment, in accordance with the applicable Sales Tax Recovery POs;
- OO.** evaluate phasing options and implications and determine an efficient and economical design and construction option consistent with the Scope of Work;

- PP. monitor each Contractor's request for Change Orders and notify the County and the Teams of any changes that may affect the operations or maintenance of the Facility;
- QQ. provide funding for Non-Eligible Costs, unless same are attributable to the County pursuant to Section 8.3 hereof, and the payment of such Non-Eligible Costs shall be guaranteed by the Guaranties attached to this Agreement as **Exhibits I-1 and I-2**;
- RR. ensure that all Public Use Improvements and non-Public Use Improvements are reported, inventoried, tagged and recorded in accordance with the requirements of the Construction Contract;
- SS. cause the filing by others of all required reports, certifications and similar documents;
- TT. **Reserved.**
- UU. **Reserved.**
- VV. upon request of the Contractor(s) and Consultant(s), the Limited Partnership shall review the request, and if approved, execute a certificate of Substantial Completion accepting the Renovation Project, or portion thereof, as sufficiently complete for the Limited Partnership to use the Renovation Project, or portions thereof, for their intended purposes; and thereafter, when the Limited Partnership is satisfied that all Work under the Construction Contract is complete and in accordance to the requirements of the Construction Contract, the Limited Partnership will make final payment and accept the Program as complete as set forth in the Construction Contract.
- WW. **Reserved.**
- XX. Upon its full execution and effectiveness, the State Funding Agreement between the County and the State of Florida shall be attached hereto and incorporated herein as **Exhibit "K"**. The Parties shall comply with all of the applicable terms of the State Funding Agreement. In addition, the Parties shall cooperate reasonably and in good faith to assist with their respective efforts to ensure timely compliance with all of the terms of the State Funding Agreement.

**3.4 Additional Services.** During the Term of this Agreement, the County may, from time to time, request in writing that the Limited Partnership perform certain services for the Program in addition to those Services set forth in Article 3 of this Agreement (the "Additional Services"). The scope of, and compensation to the Limited Partnership for, any such Additional Services shall be mutually acceptable to the County and the Limited Partnership, shall be set forth in a written amendment to this Agreement executed by both Parties and shall be governed by the terms and conditions of this Agreement, unless otherwise provided in such amendment.

**3.5 No Obligation.** The Limited Partnership shall have no obligation or responsibility to fund or provide the work outlined in this Section 3.5, but may participate with the County, in regard to the following:

- A. **Reserved.**
- B. providing legal services to the County; or
- C. arranging for, or providing for, financing for any portion of the County Bonds.

**3.6 Contract Administration.** The County acknowledges that Limited Partnership is providing the Services described in this Article 3 as a development consultant and program manager and not as a licensed general contractor, architect or other licensed professional. However, the Limited Partnership will engage and contractually require licensed professionals to complete the Work in accordance with the requirements of this Agreement and will enforce such contracts and administer any claims process associated with such contracts as set forth herein. Limited Partnership shall require each Contractor and each design Consultant to provide customary warranties, will enforce said warranties and will name the County as a third-party beneficiary of all such warranties. The foregoing notwithstanding, the Limited Partnership shall be obligated to enforce the provisions of each Consultant Contract and each Construction Contract as set forth herein.

**3.7 LIMITED PARTNERSHIP DISCLAIMER.** THE LIMITED PARTNERSHIP SHALL PERFORM THE DUTIES AND OBLIGATIONS AS CONTAINED IN SECTIONS 3.3 AND 3.6 HEREIN. THE LIMITED PARTNERSHIP DISCLAIMS ANY AND ALL WARRANTIES RELATED TO THE WORK, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, WORKMANSHIP, CONSTRUCTION OR PHYSICAL CONDITION OF THE IMPROVEMENTS AND ALL FIXTURES OR ITEMS OF PERSONAL PROPERTY CONTAINED THEREIN, REGARDLESS OF WHETHER THE WARRANTIES ARISE FROM CUSTOM, USAGE, COURSE OF TRADE, CASE LAW, STATUTORY LAW OR OTHERWISE.

**ARTICLE 4**  
**LIMITED PARTNERSHIP SERVICES RELATED TO JUPITER FUNDING**  
**AGREEMENT/JUPITER FIELDS AGREEMENT**

**4.1 General.** The Limited Partnership, the County, and the Town of Jupiter may negotiate a Jupiter Funding Agreement to provide for funding from the Town of Jupiter for the Renovation Project or other related matters. The Jupiter Funding Agreement will be submitted to the Board of County Commissioners for approval when negotiated.

**4.1.1 Reserved.**

**4.1.2 Reserved.**

**4.1.2.1 Reserved.**

**4.1.2.2 Reserved.**

**4.2 Reserved.**

**4.3 Reserved.**

**4.4 Reserved.**

**4.5 Limitation.** Nothing herein shall be construed to terminate or otherwise modify the Amended and Restated Parking Agreement nor the Fifth Amendment to Declaration of Easements for Off-Site Parking dated January 13, 2015 (County Resolution No. 2015-0057) and recorded at Official Record Book 27289, Page 1248 of the Public Records for Palm Beach County.

**4.6 Jupiter Fields Agreement.** The Limited Partnership shall have the right to negotiate, to approve, and to execute in its name, a new license agreement with the Town consistent with Section 5.3 of the New Use Agreement for the use of no more than four (4) fields on a routine basis, subject to the scheduling requirements of Section 5 of the New Use Agreement. Said use shall be considered a Community Event and shall be subordinate to the rights of the County under the New Use Agreement. Any such new license shall require the County's review and consent prior to becoming effective; provided that the County may withhold said consent until the Jupiter Funding Agreement is executed by the Town, the Limited Partnership and the County, or if the new license agreement is inconsistent with Article 5 of the New Use Agreement.

**ARTICLE 5  
COUNTY RESPONSIBILITIES**

**5.1 Permit and Development Approval Applications.**

All applications for governmental/regulatory permits and approvals shall require advance review and approval of the County Representative or other duly authorized County employee prior to submittal.

**5.2 Conditions of Approval/Expenses not in Project Cost Estimate.**

All conditions of governmental/regulatory permits or approvals which run with the land and/or require an expense not covered by the Project Cost Estimate require the written approval and/or execution by the same individual as in Section 5.1 herein.

**5.3 Peer Review.**

Notwithstanding any of its responsibilities identified in this Agreement and without assuming any responsibility for the design and/or performance of the Consultants, the County reserves the right, but not the obligation, to contract for its own consultant or contractor to review the in-progress design documents for general compliance with the terms of this Agreement, design efficiency, cost effectiveness, and compliance with the County building standards. Unless the Limited Partnership requests in writing that the County contract with a consultant or contractor to perform a portion of its responsibilities pursuant to this Agreement, the cost of any peer review conducted by the County as provided in this Section 5.3, will be an Excluded Cost and paid by the County. If requested by



the Limited Partnership, the cost of the peer review conducted by the County will be paid from the Project Proceeds. The decision to contract with a consultant or contractor to perform a portion of the County's responsibilities pursuant to this Agreement is in the County's sole discretion.

**5.4 Reserved.**

**5.5 Meetings.**

The County, at its option, may attend any meeting scheduled by the Limited Partnership relating to the Program, except those between the Limited Partnership and/or its representatives and legal counsel that may be considered attorney-client privileged.

**5.6 Make Payments.**

The County shall pay all Eligible Costs from the Project Proceeds in accordance with the payment and requisition procedures set forth in Section 9.3 and **Exhibit G** of this Agreement, including any and all compensation requested by the Limited Partnership for the Consultants and Contractor to be paid by the County pursuant to the terms of this Agreement. Such payments shall not exceed the Project Proceeds, shall be disbursed by the Clerk, and shall be payable in accordance with the requirements of the Clerk's Office and the requisition procedures. The Limited Partnership may request reimbursement of any eligible design or pre-construction expenses (including soft costs) of the Renovation Project that are compliant with the terms of this Agreement (as modified pursuant to Section 7.2 (I)) and paid directly by the Limited Partnership which were incurred after the Effective Date of this Agreement, the execution date of the New Use Agreement, and the Board's approval of a bond reimbursement resolution authorizing such reimbursement. To the extent that any such expenditures are expected to be reimbursed from tax-exempt bonds, the County will only reimburse the Limited Partnership for such expenditures if such expenditures qualify for reimbursement from proceeds of tax-exempt bonds in accordance with the requirements of Treasury Regulation Section 1.150-2.

**5.7 Sale of County Bonds.**

**5.7.1 Bond Financing.** The County's obligations to issue the County Bonds are set forth in Article 17 of this Agreement, which include: (i) the approval of the Bond Resolution upon the satisfaction of the conditions precedent set forth in Section 17.1.1 hereof; and (ii) the sale of the County Bonds upon the satisfaction or waiver of the conditions precedent set forth in Section 17.1.2 hereof. The sale of the County Bonds will eliminate the Limited Partnership's rights to terminate for any reason pursuant to Section 10.2 of this Agreement and obligate the Limited Partnership to make all Use Fee payments in accordance with Article 6 of the New Use Agreement.

**5.7.1.1 Bond Sale Request.** One of the conditions precedent to the sale of the County Bonds, as described in Section 17.1.2(C) hereof, is the County's receipt of a written request from the Limited Partnership to issue the County Bonds (the "Bond Sale Request"). The Bond Sale Request shall include: (i) the requested amount of Project Proceeds, which shall not exceed One Hundred Eight Million Dollars (\$108,000,000), unless such amount is increased pursuant to Section 5.7.1.2 hereof; and (ii) such other documents and information required to be provided by the Limited Partnership to the County pursuant to Section 5.7.1.2 hereof if the requested amount of Project Proceeds includes any Project Proceeds Increase (as hereinafter defined). The County

shall issue the County Bonds as soon as reasonably practical following the Bond Sale Request, and, except in cases of bond market disruption or other Force Majeure, such sale shall occur no later than (90) days following the County's receipt of the Bond Sale Request.

**5.7.1.2 Project Proceeds Increase.** Notwithstanding anything herein to the contrary, the Limited Partnership may, in the Bond Sale Request, elect to increase the amount of the Project Proceeds, in excess of \$108,000,000 (the "Project Proceeds Increase"), to the extent that:

- (a) (i) applicable market interest rates for the sale of the County Bonds are, at the time of the Bond Sale Request, more favorable than the 3.98% interest rate assumption used by the parties to calculate the Project Proceeds as of the Effective Date hereof ("More Favorable Interest Rates"), in the sole estimation of the County after Consultation with the Limited Partnership; and (ii) the Project Proceeds Increase is utilized to fund Tourism Improvements; and/or
- (b) (i) the Limited Partnership has secured Additional Funding Contributions received as a lump-sum prior to the date of sale of the County Bonds or to be received over time pursuant to an agreement executed and effective prior to the sale of the County Bonds and (ii) where any improvements to be paid for by the Project Proceeds Increase are within the overall Scope of Work for the Renovation Project as set forth in **Exhibit B** hereto or otherwise for an improvement with a use that is not contrary to the terms of this Agreement.

Provided, however, that such Project Proceeds Increase shall not exceed Eighteen Million Dollars (\$18,000,000), and the total amount of the Project Proceeds, including such Project Proceeds Increase, shall not exceed One Hundred Twenty-Six Million Dollars (\$126,000,000). Without creating any obligation to monitor or liability upon the County, the County will monitor the bond markets and periodically provide market updates to the Limited Partnership. If the requested amount of Project Proceeds in the Bond Sale Request includes a Project Proceeds Increase, the Limited Partnership shall also provide to the County, with such Bond Sale Request, (1) an updated Project Budget, (2) a list of any additional Tourism Improvements to be included as part of the Renovations Project and the estimated costs thereof, if applicable (3) the source of the Additional Funding Contributions, if applicable, and (4) an explanation how the improvements to be paid for by the Project Proceeds Increase are within the overall Scope of Work for the Renovation Project as set forth in **Exhibit B** hereto, if applicable, or will otherwise be used in a manner that is not contrary to the terms of this Agreement.

**5.7.1.3 Use of Taxable and Tax-Exempt Bonds.** The County Bonds will be issued as taxable and tax-exempt bonds. While retaining the sole right to determine the value of tax-exempt bonds to be issued, the County will work with the Limited Partnership to maximize the Project Proceeds. Subject to the terms hereof, the County, after Consultation with its bond counsel and the Limited Partnership, shall have the sole right to determine the amount of tax exempt bonds to be sold. The Project Proceeds derived from the sale of tax-exempt bonds should be between 80% and 90% of the total estimated cost of the tax-exempt improvements. The terms, conditions and restrictions set forth in the bond documents for the County Bonds shall be consistent with the terms

of the Operative Agreements, and the County shall regularly Consult with the Limited Partnership regarding the terms, conditions, and restrictions set forth in the bond documents as such documents are completed and finalized.

**5.7.2 Additional Funding Contributions.** The Limited Partnership may seek and use funding for all or a portion of the Non-Eligible Costs in the Project Budget through any of the following (collectively, “Additional Funding Contributions”): (i) additional private contributions; and/or (ii) additional public contributions or incentives from sources other than the County or the State.

Additional Funding Contributions received after the date of the County Bond sale (unless contained within a Project Proceeds Increase set forth in Section 5.7.1.2 above) are considered private contributions to the Project Budget and will be considered part of the Limited Partnership’s equity contribution to the Renovation Project. The County shall use reasonable efforts and cooperate with the Limited Partnership regarding its pursuit of any Additional Funding Contributions. Notwithstanding anything herein to the contrary, any and all Non-Eligible Costs within the Project Budget shall not be eligible for reimbursement from the Project Proceeds and shall only be funded by any Additional Funding Contributions or by the Reallocated Amount (as described below in Section 8.6).

**5.7.3 Reserved.**

**5.7.4 Reserved.**

**5.7.5 Reserved.**

**5.8 Other Responsibilities.**

**5.8.1** The County shall have the following additional responsibilities:

- A. Use good faith efforts to negotiate and execute the State Funding Agreement pursuant to Florida Statute § 288.11631.
- B. Provide funding for peer reviews initiated by the County pursuant to Section 5.3 and Cost Overruns attributable to the County as set forth in Section 8.3 hereof.
- C. Cooperate with the Limited Partnership in coordinating the procurement and placement of off-Site directional signage, along Palm Beach County roadways and along I-95, with the Florida Department of Transportation and other authorities.
- D. Reasonably expedite any actions or approvals requested or required of the County in connection with the Renovation Project, and except as otherwise provided in this Agreement, all such actions or approvals shall not be unreasonably withheld, conditioned or delayed. The County shall not act,

or fail to act, in a manner that would cause, or would reasonably be expected to cause, the completion of the Renovation Project to be delayed. The County shall provide assistance to and use reasonable efforts to cooperate with the Limited Partnership in the performance of this Agreement. Nothing in this Section shall be construed to require either Party to violate any valid and enforceable Laws.

**E. Reserved.**

**5.8.2** Throughout the Term, the Limited Partnership shall be granted, for the Limited Partnership and their invitees, uninterrupted access to and egress from the Site and the Facility (including access to and egress from all areas of the Site and the Facility) and the right to enter the Site and/or the Facility to the extent reasonably necessary for the Limited Partnership to exercise its rights and perform its obligations under this Agreement.

**ARTICLE 6**  
**PROGRAM MANAGEMENT**

**6.1 Project Representative.** The Limited Partnership shall inform the County in writing, of the name, email address and telephone number(s) of its Project Representative, together with a clear definition of the scope of his/her authority to represent and act for the Limited Partnership and shall specify any and all limitations of such authority. The Limited Partnership shall keep the County informed of any subsequent changes in the foregoing.

**6.2 Authority.** The Project Representative is responsible for administering all required work at the Site and a representative of the Project Representative shall be at the Site when the construction of the Renovation Project is in progress. All notices, determinations, instructions and other communications made or given by the Project Representative shall be binding upon the Limited Partnership; provided however, notwithstanding the foregoing, only the partners of the Limited Partnership shall have the authority to bind the Limited Partnership with respect to; (a) modifications or amendments pertaining to this Agreement, (b) modifications or amendments pertaining to the Consultant Contract(s), and (c) modifications, amendments, or Change Orders pertaining to the Construction Contract(s).

**6.3 Replacement.** If, at any time during the Term of this Agreement, the County determines that it is not in the best interests of the Renovation Project for the Project Representative to remain in that role, then upon notice from the County, the Limited Partnership shall replace the unacceptable Project Representative with a Project Representative acceptable to the County. This provision shall not apply if the Project Representative is an employee of the Limited Partnership or the Teams.

**6.4 Meetings.** The Project Representative shall invite the County Representative to each and every required or requested/appropriate meeting scheduled with the Town or other governmental/regulatory/approving agency, including, but not limited to, all meetings relating to permitting or approvals. The Limited Partnership shall provide the County with advance notice of

any required or requested/appropriate regularly scheduled Renovation Project meetings. The Project Representative shall invite the County Representative to each and every required or requested/appropriate meeting scheduled with every Consultant and the Contractor or any Subcontractor.

**6.5 Limitation.** The Limited Partnership shall not self-perform any physical construction at the Site pursuant to this Agreement. Furthermore, the Limited Partnership shall not perform, and nothing contained in this Agreement shall be construed to require the Limited Partnership to perform, any activity or service which would require a license, a certificate of authorization, certification or registration under Chapters 471, 481, or 489, Florida Statutes.

**6.6 Decision Making.** Except as otherwise specifically provided in this Agreement, the County agrees that the Limited Partnership shall make all decisions relating to the design, construction, development and delivery of the Renovation Project and Program.

**6.7 Approvals.** The Limited Partnership shall reasonably expedite any actions or approvals requested or required of the Limited Partnership in connection with the Renovation Project, and except as otherwise provided in this Agreement, all such actions or approvals shall not be unreasonably withheld, conditioned or delayed. The Limited Partnership shall not act, or fail to act, in a manner that would cause, or would reasonably be expected to cause, the completion of the Renovation Project to be delayed. The Limited Partnership shall provide assistance to and use reasonable efforts to cooperate with the County in the performance of this Agreement. Nothing in this Section shall be construed to require either Party to violate any valid and enforceable Laws.

## **ARTICLE 7** **CONTRACTS**

**7.1 EBO Program and Local Preference.** The Limited Partnership agrees to abide by the County's Equal Business Opportunity Ordinance ("EBO Ordinance") and Local Preference Code as set forth in Palm Beach County Code Sections 2-80.20 through 2-80.30 and Sections 2-80.41 through 2-80.48 respectively, as either may be amended, along with all applicable policies and procedures related thereto. In order to meet the established goals and comply with the requirements of the policies, the Limited Partnership will use the selection processes and forms described in this Article 7 and the Laws.

**7.2 Contract Authority.** The Limited Partnership shall have the right to negotiate, to approve and to execute in its name, all contracts and agreements for the Renovation Project, including, without limitation, the Consultant Contracts and the Construction Contract provided that the Limited Partnership:

- A. Selects the Consultant(s), Contractor and vendors as required under this Agreement, including but not limited to the requirements of the Laws and as set forth in Section 3.3(B) and (C), as applicable;
- B. Uses a form Consultant and/or Contractor Agreement that is substantially similar to the County's standard contract for the applicable service, and specifically

including the requirements of the County's EBO Ordinance and Local Preference Code, applicable policies and procedures, and any other specific language required by any Laws;

- C. Reserved;
- D. Requires all types of insurance in amounts equal or greater than the County standard for all Consultants, Contractors, and any other entities performing any portion of their respective Work at the Site;
- E. Requires a payment and performance bond, where required by Florida Statutes §255.05 on the County's form and from a surety meeting the County's requirements;
- F. Names the County as additional insured and/or third-party beneficiaries to all insurance policies and co-obligees on all bonds;
- G. Indemnifies and holds harmless the County using standard indemnity provisions found within the contracts identified in Section 7.2(B) and 7.2(C) above;
- H. For the sole purposes of determining compliance with the requirements of the Agreement and to allow the County to set up the necessary payment accounts, Limited Partnership shall secure the approval of the County Representative on every Consultant Contract and Construction Contract. Such approval shall be proof that the requirements of this Section 7.2 are met or are otherwise not applicable; and
- I. The Limited Partnership, at its option, may elect to use Additional Funding Contributions for design and/or construction management services without using the County's procurement practices required by the Laws or set forth in Section 3.3(B) and (C), and Section 7.2 (A) and (B); however, the provisions of Section 7.2 (D)-(H) and any procurement requirements contained in agreements providing the Additional Funding Contributions shall apply to such services.

**7.3 Program Documents.** The Limited Partnership shall ensure that each Consultant Contract and Construction Contract has the requirement that the Consultant and Contractor deliver to the County Representative, such documents and materials received by, and in the possession of, the Limited Partnership, prepared by the Consultant and the Contractor pursuant to the Consultant Contract or the Construction Contract, as the case may be, or pursuant to any other agreement related to the Program, as the County may reasonably request. All drawings, maps, sketches, programs, data bases, reports and other data developed, or purchased, under this Agreement or any agreement related to the Program, by or from the Consultant or the Contractor, and received by the Limited Partnership, shall be and remain the County's property.

**7.4 Subcontracts.** The Limited Partnership represents that all sub-consultant agreements entered into shall incorporate the requirements set forth in Section 7.2 above, and further warrants

that the County is an intended express third party beneficiary of any such subcontract.

**7.5 Bidding.** The Limited Partnership shall require all Contractors to conduct Subcontractor bids based on 90% completion of the Drawings associated with the Renovation Project.

**ARTICLE 8**  
**PROJECT COST ESTIMATE and PROJECT BUDGET**

**8.1 Creation of a Project Budget.**

**8.1.1** The Limited Partnership shall create a Project Budget. Prior to the sale of the County Bonds, the Limited Partnership shall submit the form and structure of the Project Budget for approval by the County. The County's approval shall be for compliance with the requirements of this Agreement as well as the form and practicality of monitoring and implementation throughout the term of the development of the Renovation Project.

**8.1.2** The Project Budget shall specifically identify the line items reflecting the anticipated Eligible Costs, Project Contingency lines, and anticipated Non-Eligible Costs, in accordance to the County's specific requirements.

**8.1.3** The Limited Partnership shall designate which Consultant will be responsible for the management of the Project Budget.

**8.2 Reserved.**

**8.3 Cost Overruns.** The Limited Partnership will be responsible for Cost Overruns, except to the extent: (a) the County imposes a Program requirement in excess of the Scope of Work that results in a Cost Overrun; or (b) that the County breaches any of the Operative Agreements or any agreements relating to bond financing for the Program, which breach results in a Cost Overrun. In such event, the County shall pay a proportionate share of any such Cost Overrun, which proportion shall be equal to the extent to which the Cost Overrun was caused by the County. Any payment by the Limited Partnership for Cost Overruns shall not be deemed a payment for use of any portion of the Facility, but rather an equity contribution.

**8.4 Construction Savings.**

**8.4.1** The County and the Limited Partnership shall use good faith efforts to achieve Construction Savings through the various stages of the Program and shall allocate the Construction Savings as set forth herein.

**8.4.1.1** The Limited Partnership shall invite the County to participate in any and all meetings it believes appropriate to facilitate the identification of Construction Savings. The County shall be allowed to participate in any meetings and/or discussions that the County believes appropriate to facilitate Construction Savings.

**8.4.1.2** In order to track Construction Savings, the Limited Partnership shall establish, in the Project Budget, a separate line within the Project Cost Estimate entitled; “Project Contingency - All.” The Limited Partnership shall be allowed unrestricted use of the monies in the “Project Contingency – All” line.

**8.4.2** The County and the Limited Partnership will work together throughout the design of the Renovation Project to ensure; 1) the design and specifications reflect the materials typically installed in professional sports stadium facilities, 2) that quantities of Exclusive Use and Public Use amenities are generally comparable to other professional stadium facilities, 3) that Public Use Improvements are designed to the County standards where comparable standards exist, 4) that recycled and/or re-used materials are considered, when appropriate, and that 5) specified building equipment and materials are of types and installation details typical to South Florida. The County shall conduct design reviews to ensure consistency with the above listed requirements and to identify opportunities for Construction Savings as follows:

- A. Reserved.**
- B.** The Limited Partnership will, concurrent with its own receipt, provide the County with electronic access to design submittals (schematic design, design development, construction documents and corresponding cost estimates) and provide the County with copies of the design submittals as requested by the County. The Limited Partnership shall work with the County, including meeting with the County and inviting the County to design review meetings, in order to facilitate the County’s review of design submittals, including plans, specifications and schedules. The Limited Partnership shall provide the County with written reports and responses detailing all comments resulting from such interim submittal reviews. The County shall review and provide comments to the Limited Partnership upon receipt of the estimates of probable construction cost as prepared by the Contractor.
- C.** The Limited Partnership shall review and acknowledge in writing all written comments of the County as it relates to the design submittals and probable construction costs to ensure the Limited Partnership addresses each comment and incorporate changes approved by the Limited Partnership, if any, into the Project Budget.
- D. Reserved.**

**8.4.3 Reserved.**

**8.4.4** The Limited Partnership shall implement the Sales Tax Recovery Program pursuant to the policies and procedures set forth in **Exhibit E** attached hereto. It shall be the responsibility of the Project Representative to seek the advance approval of the County Representative on whether a commodity is eligible for purchase pursuant to the Sales Tax Recovery Program. The Project Representative will be responsible for processing all Sales Tax Recovery Change Orders



and Sales Tax Recovery PO's. The County will respond within ten (10) business Days of receipt of properly completed Sales Tax Recovery PO's. To the extent that the County receives any proceeds in accordance with Section 2.1.13 of **Exhibit E** hereto, the County agrees that said proceeds shall be utilized to replace any commodity purchased under the Sales Tax Recovery Program, unless otherwise agreed to by the County and the Limited Partnership.

**8.4.5** All savings resulting from participation in the Sales Tax Recovery Program will be credited to the Project Contingency – All line.

**8.4.6** The Parties acknowledge that the costs of any particular line item for Services will vary from the number identified in the Project Cost Estimate. If the contracted cost of the particular Service is less than that identified in the Project Cost Estimate, then the Limited Partnership shall credit the difference to the Project Contingency – All line (“Buy-Out Savings”). If the contracted cost of the particular Service is more than identified in the Project Cost Estimate, then the Limited Partnership shall first debit the Project Contingency – All line, and once the Project Contingency is exhausted, the difference will be considered a Cost Overrun.

**8.4.7** Construction Savings shall be deposited into the R/R Project Reserve and allocated one-third (1/3) to the County R/R Project Reserve and two-thirds (2/3) to the Limited Partnership's R/R Project Reserve. Construction Savings shall be utilized to fund R/R Projects as set forth in Article 10 of the New Use Agreement. To the extent the savings relate to improvements financed with the proceeds of the County Bonds the interest on which is excluded from gross income of the holders thereof for federal income tax purposes (the “Tax-Exempt Bonds”), the County will seek an opinion of Bond Counsel to the effect that such application of the proceeds of such Tax-Exempt Bonds shall not, in and of itself, cause interest on the Tax-Exempt Bonds to be included in the gross income of the holders thereof for federal income tax purposes.

## **8.5 Change Orders.**

**8.5.1** On or before the tenth (10<sup>th</sup>) Day of each month, the Limited Partnership shall provide the County with a monthly report listing of all FBs, CCPs, Contingency Use, CCDs, and Change Orders with sufficient details to enable the County's review of each of the above, for consistency with the terms of this Agreement.

**8.5.2** Changes to the Consultant(s) and Contractor Scope of Work shall be authorized by the Project Representative pursuant to its standard practice and copies of such Change Orders shall be provided to the County with each pay application.

**8.5.3** The Limited Partnership is required to obtain in advance the County approval on any Change Order that: 1) significantly changes the general scope, extent or character of the Program or its design including, but not limited to, changes in size or character of construction; 2) modifies specified equipment and/or substitutes materials in Public Use Improvements; and/or 3) changes the Art component, which Change Orders may be granted or denied in the County's discretion. The County may review other Program changes as deemed appropriate in the County's discretion.

**8.6 Use of Reallocated Amount.** Prior to the sale of the County Bonds, the Limited Partnership may access and use all or any portion of the Reallocated Amount for the construction of Capital Improvements (as defined in the Existing Use Agreement). The conduct and performance of any such Capital Improvements approved by the County prior to the sale of the County Bonds shall be governed by the terms of Article 9 of the Existing Use Agreement (which shall survive the termination of the Existing Use Agreement). Any expenditures from the Reallocated Amount which were approved prior to the Effective Date of the New Use Agreement may continue to be paid from the Reallocated Amount in accordance with this Section 8.6. For avoidance of doubt, the Video Scoreboard Improvements were paid from the Reallocated Amount prior to the Effective Date of the New Use Agreement and shall be included in the Scope of Work.

## **ARTICLE 9**

### **COMPENSATION FOR SERVICES**

**9.1 Payment of Eligible Costs.** The County shall timely pay any and all Eligible Costs required to be paid by it to the Limited Partnership pursuant to the terms of this Agreement, which payments shall be made in accordance with the provisions of this Agreement.

**9.2 Limitation.** The County shall only be required to pay for Eligible Costs from the Project Proceeds. Except as otherwise provided in Section 8.3 for Cost Overruns attributable to the County, and as provided for in Section 5.3 for the County-initiated peer review, under no circumstance shall the County be required to pay for any other costs of the Renovation Project.

**9.3 Requisition Process.**

**9.3.1** On or before the fifth (5<sup>th</sup>) Day of each month, the Limited Partnership shall be entitled to submit to the County a payment certification and requisition for Eligible Costs incurred, which shall include a copy of the Consultants or Contractor application for payment, certified by the Limited Partnership and the applicable Consultant or Contractor in accordance with the requirements of **Exhibit G** attached hereto. The Limited Partnership agrees to deliver to the County such back-up materials as the County may reasonably require, and which the Limited Partnership has reasonable access to obtain. Unless the County disputes all or a portion of any charge set forth in said payment certification and requisition, the County shall make payments to the Limited Partnership in the amounts due to: (a) the Consultant, pursuant to each Consultant Contract; and (b) the Contractor, pursuant to each Construction Contract; within 30 Days from the date of receipt of a complete payment certification and requisition from the Limited Partnership. The Contractor's application for payment must also be accompanied by the Affidavit set forth in Section 9.3.2 below. To the extent that the County disputes all or part of the payment requested by the payment certification and requisition, the County shall make partial payment of the non-disputed amount and provide notice of the disputed amount and reason for the dispute to the Limited Partnership within ten (10) Days of receipt of the payment certification and requisition. Said notice shall be considered the initial notice of the dispute resolution procedure set forth in Section 14.1 hereof, and the Parties agree to follow the dispute resolution procedure to resolve any such payment disputes.

**9.3.2** With each payment certification and requisition submitted to the County, the Limited Partnership shall deliver to the County from each Contractor or Consultant for which payment is requested, as the case may be, fully executed Affidavit of Disbursement of Previous Payments in the amount of the immediately prior payment for the applicable Contractor or Consultant, as the case may be, excepting any claims that remain in dispute. The County shall not release payment for any portion of the Services performed by the Consultant(s) or the Contractor(s), as the case may be, unless the payment certification and requisition submitted to the County is accompanied by the Affidavit of Disbursement of Previous Payments for the Consultant(s) or the Contractor. However, the County may, but shall not be required to, make payments on account of the respective Construction Contract or Consultant's Contract without such affidavit, if the Contractor or Consultant presents to the Limited Partnership, and the Limited Partnership presents to the County, a consent of surety to such payment, from the Contractor's or Consultant's surety, in form acceptable to the County.

**9.4 Payment of Contractors/Consultants.** The receipt of such payment by the Limited Partnership is hereby deemed to be a condition precedent to the Limited Partnership's obligation to transmit payments to the Consultant(s) or the Contractor(s). In the event that the County fails to make payment to the Limited Partnership in the entire amount of any payment certification and requisition submitted by the Limited Partnership, the Limited Partnership shall only be obligated to transmit payment to the Consultant(s) or the Contractor(s) in the amount actually received from the County. Notwithstanding the above, the receipt of payment from the County is not a condition precedent to the extent the payment request represents payment to a Consultant(s) or Contractor(s) attributable to a Cost Overrun payable by the Limited Partnership pursuant to Section 8.3 herein.

**9.5 Time for Payment.** Upon receipt of payment from the County with respect to any payment certification and requisition, the Limited Partnership shall transmit payment to the Consultant or the Contractor, in the exact amount received from the County, within five (5) Business Days from the date of the Limited Partnership's receipt of such payment from the County.

**9.6 Payment Disputes.** The Parties agree that timely payment of Limited Partnership's Contractors and Subcontractors for undisputed work is not only required under Florida law but is also good public policy and business practice. It is the Limited Partnership's obligation to resolve payment disputes among its Contractors and Subcontractors. If a Contractor of the Limited Partnership disputes a portion of a Subcontractor's payment request, the Limited Partnership must ensure that the Contractor submits the undisputed portion of the request for payment in a timely manner. The Limited Partnership must put in place a payment dispute resolution procedure with its Contractors whereby all payment disputes between Contractors and Subcontractors that cannot be resolved between the Contractor and the Subcontractor must finally be determined by the Limited Partnership. Such procedure must provide that proceedings to resolve the dispute are commenced within forty-five (45) Days of the date that the claim/undisputed payment request was received by the Limited Partnership and concluded by the Limited Partnership within sixty (60) Days of the date the claim/undisputed payment request was received by the Limited Partnership. The Limited Partnership must put in place procedures for making payment directly to Subcontractors for undisputed work in the event a Contractor refuses to process a Subcontractor's claim for payment for undisputed work.

**9.7 Final Payment and Closeout of the Renovation Project.** In order to close out the County's payment obligations under this Article, the Limited Partnership must clearly state "Final" on the Limited Partnership's final/last billing to the County. Prior to final payment under this Agreement and closeout of the Renovation Project, Limited Partnership must provide to County:

1. Copy of Certificate of Occupancy or Certificate of Completion, as applicable;
2. Copies of all permits and permit log demonstrating closure of all permits and approvals;
3. Copies of all operations and maintenance manuals for all equipment;
4. Copies of all manufacturer's certifications and warranties;
5. Complete set of as-built drawings/record drawings;
6. FFE log with corresponding unique tag identification;
7. Updated Exhibit F – Deviations Log;
8. Copy of Final Waiver and Release of Claim signed by construction manager;
9. Final pay application and certification including reconciliation of all S/M/WBE participation on the Consultant and Construction Contracts demonstrating achievement of the mandatory S/M/WBE participation goals;
10. Final Project Budget identifying all Eligible Costs and Non-Eligible Costs.

## **ARTICLE 10**

### **TERM AND TERMINATION**

**10.1 Effective Date and Term.** This Agreement is expressly contingent upon execution by all Parties and shall be effective and binding from the date of approval by the last Party to execute this Agreement (the "Effective Date"), and continue until the earlier of; (a) full completion of all Services and payments contemplated under this Agreement, which the Parties shall memorialize in a letter agreement executed by the Project Representative and the County Representative; (b) the date of any termination of the New Use Agreement; or (c) the date of any termination of this Agreement, pursuant to the terms hereof (the "Term").

**10.2 Limited Partnership Termination Rights.** The Limited Partnership shall have the right to terminate this Agreement:

- A. For any reason prior to the sale of the County Bonds; provided, however, that any such termination shall be subject to repayment by the Limited Partnership of: 1) One Hundred Percent (100%) of any State Annual Contribution payments received

by the Limited Partnership from the County through the date of such termination; and 2) Eligible Costs previously reimbursed by the County, if any, paid by the County after the Effective Date hereof and through the date of such termination of this Agreement.

**B. Reserved.**

**C.** In the event any of the conditions precedent set forth in Section 17.1 are not satisfied or waived by April 30, 2024. The provisions of Sections 17.3 and 17.4 shall control this right of termination.

**D.** In the event of termination pursuant to this Section 10.2, payment by the Limited Partnership to the County shall be made to the County within thirty (30) Days of receipt of substantiated bills from the County and/or the State of Florida. In addition, in the event that the Limited Partnership desires to terminate this Agreement pursuant to this Section 10.2, the Limited Partnership shall deliver to the County a written notice of termination, which shall be effective on the Effective Termination Date.

**10.3 County Termination Rights.** The County shall have the right to terminate this Agreement:

**A.** For any reason: 1) prior to the approval of the Bond Resolution by the County or 2) if the County has not received the Bond Sale Request from the Limited Partnership by April 30, 2024, subject to the County making payment to the Limited Partnership for Eligible Costs accrued to the date of termination of this Agreement. The County shall only be obligated to pay the Limited Partnership, and the Limited Partnership shall only be entitled to receive from the County, all Eligible Costs accrued to the date of the termination of this Agreement. For the purposes of this Section 10.3 A. only, the County shall be solely responsible for the payment to the State of any monies received and expended by the Limited Partnership prior to the termination.

**B.** In the event any of the conditions precedent set forth in Section 17.1 are not satisfied or waived by April 30, 2024. The provisions of Sections 17.3 and 17.4 shall control this right of termination.

**10.4 Survival.** The following provisions shall survive termination of this Agreement: Articles 11, 13 and 15, and Sections, 12.3, 19.3, 19.4, 19.7, 19.8, and 19.16, and **Exhibit F**.

**10.5 New Use Agreement Termination.** The New Use Agreement, if effective, shall terminate simultaneously with the termination of this Agreement pursuant to Sections 10.2 or 10.3 hereof, subject to the survival of any provisions which either specifically survive termination or which, by

their nature, are intended to survive. Termination shall be effective on the Effective Termination Date.

**ARTICLE 11**  
**GUARANTY**

The Teams shall individually guaranty all of the Limited Partnership's obligations under this Agreement pursuant to the attached **Exhibits I-1 and I-2**.

**ARTICLE 12**  
**INSURANCE AND INDEMNIFICATION**

**12.1 Teams Insurance.**

12.1.1 The Limited Partnership shall cause the Teams to secure and maintain during the Term, at no cost to the County, the following coverages covering its operations hereunder, provided however, that if the obligations are met by an Umbrella Policy, such policy shall be as broad as the primary:

- A. Worker's Compensation. Insurance covering all Team employees (including coaching staff and players) meeting statutory limits in compliance with the applicable state and federal laws.
- B. Commercial General Liability. Coverage shall have minimum limits of \$5,000,000 per occurrence and \$10,000,000 in the aggregate for Bodily Injury Liability and Property Damage Liability, which limit can be evidenced by any combination of primary and excess coverage. This shall include Premises and Operations; Personal and Advertising Injury; Independent Contractors; Products and Completed Operations; Contractual Liability; Liquor Liability; and Athletic Participation coverage.
- C. Automobile Liability. Coverage will include all licensed, over-the-road vehicles owned or used by the Team with minimum limits of no less than \$1,000,000.00 per accident.

**12.2 Limited Partnership Insurance.**

12.2.1 In addition to the requirements of Section 7.2(D) hereof, the Limited Partnership shall secure and maintain, or shall cause to be secured and maintained, during the Term, at no cost to the County, the following coverages covering its operations hereunder, provided however, that if the obligations are met by an Umbrella Policy, such policy shall be as broad as the primary:

- A. Workers' Compensation. Insurance covering all Limited Partnership employees meeting statutory limits in compliance with the applicable state and federal laws

- B. Commercial General Liability. Coverage shall have minimum limits of \$5,000,000 per occurrence and \$10,000,000 in the aggregate for Bodily Injury Liability and Property Damage Liability, which limit can be evidenced by any combination of primary and excess coverage. This shall include Premises and Operations; Personal and Advertising Injury; Independent Contractors; Products and Completed Operations; Contractual Liability; Liquor Liability; and Athletic Participation coverage.
- C. Automobile Liability. Coverage will include all licensed, over-the-road vehicles owned or used by the Limited Partnership with minimum limits of no less than \$1,000,000.00 per accident.

**12.2.2** All insurance policies must be issued by an insurance carrier with an A.M. Best rating of A- and Class VII or better.

**12.2.3** The County shall be specifically listed as an additional insured (and not as a named insured) for all claims arising in connection with the Limited Partnership's operations on the Commercial General Liability Insurance policy and any umbrella policies which may be applicable to the Program (using ISO Form CG2010 10 01 or its equivalent) and the Automobile Policy. The Additional Insureds shall include "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents", c/o Property & Real Estate Management Division, 2633 Vista Parkway, West Palm Beach, FL 33411-5605. All liability insurance policies must provide Cross Liability coverage (separation of insureds or severability of interest provisions). Coverage for the County as an additional insured shall apply on a primary basis irrespective of any other insurance, whether collectible or not, in connection with the operations of the Limited Partnership. No policy shall contain a self-insured retention, but may have a deductible.

**12.2.4** All of the foregoing insurance provided by the Limited Partnership shall: (i) be primary to any and all of the insurance carried by the County, and the County's insurance, if any, shall be in excess of, and not contribute with, the insurance provided by the Limited Partnership; and (ii) contain provisions entitling the County to waive its rights of recovery against any person or entity before loss.

**12.2.5** The Limited Partnership shall require the Consultant(s) and the Contractor, and any other entities performing any portion of their respective Work at the Site, to maintain insurance and bonds as required in the Consultant Contract(s) and the Construction Contract, respectively. If the Limited Partnership elects in its Construction Contract with the Contractor to maintain the Builder's Risk policy in its name, then the Limited Partnership and the County will both be named as loss payees; and the Limited Partnership will provide in the Construction Contract that the Contractor will be responsible for \$25,000.00 per claim deductible under the Builder's Risk policy for any claim by Contractor, a Subcontractor, or other for whose acts Contractor may be liable or if the loss is due to vandalism, malicious mischief or theft or the negligence or willful misconduct of Contractor, a Subcontractor or other for whose acts Contractor may be liable; otherwise the Limited Partnership will be responsible for the deductible.

**12.2.6** It shall be the responsibility of the Limited Partnership to provide initial evidence of the minimum amounts of insurance coverage at the time of Agreement execution to:

Palm Beach County  
c/o Capital Improvements Division, Facilities Development & Operations  
2633 Vista Parkway  
West Palm Beach, FL 33411-5604.

**12.2.7** Subsequently, the Limited Partnership shall, during the term of the Agreement, and prior to each renewal thereof, provide such evidence to the County prior to the expiration date of each and every insurance required herein.

**12.2.8** Within five (5) Business Days of the County's written request to do so, the Limited Partnership shall deliver to the County via the Insurance Company/Agent a signed Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect.

**12.2.9** The County's Risk Management Department, shall have the right, but not the obligation, to review, reject or accept insurance policies, limits, coverages and endorsements for compliance with the terms of this Article 12 throughout the Term of this Agreement. The County reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition (it being understood and agreed that an A.M. Best rating of A- and Class VII or better is acceptable) or by way of illegal operation, in the County's reasonable discretion. The County shall provide the Limited Partnership written notice of such action and the Limited Partnership shall agree to cure or comply with such action within thirty (30) Days receipt thereof.

### **12.3 Indemnification.**

**12.3.1 Definition.** For purposes of this Section 12.3 only, the "County Indemnified Parties" means the County, including each of its respective agents, employees and elected officials.

#### **12.3.2 Indemnification by Limited Partnership.**

**12.3.2.1** The Limited Partnership agrees to protect, defend, reimburse, indemnify and hold the County Indemnified Parties free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages (including attorney's fees at trial and appellate levels) and causes of action of every kind and character against, or in which the County is named or joined, for any damage to property or the environment, economic losses, or bodily injury (including death) incurred or sustained by any Person, arising out of, or in incident to, or in connection with; (i) the Services performed pursuant to this Agreement, (ii) the use of the Site, including but not limited to, the driveways, sidewalks, walkways, entrances and exits from the Site, (iii) any act or omission of the Limited Partnership Parties, and/or (iv) the Limited Partnership's performance, non-performance or purported performance under this Agreement.

**12.3.2.2** The Limited Partnership further agrees to hold harmless and indemnify



the County for fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from Limited Partnership Parties' activities pursuant to this Agreement, whether or not Limited Partnership was negligent or even knowledgeable of any events precipitating a claim or arising as a result of any situation involving the Limited Partnership Parties' activities.

**12.3.2.3** In case the County shall be made a party to any litigation commenced against the Limited Partnership Parties or by the Limited Partnership Parties against any third party related to the Limited Partnership Parties' activities or obligations pursuant to this Agreement, then Limited Partnership shall protect and hold harmless and pay all costs and attorney's fees incurred by the County in connection with such litigation, and any appeals thereof.

**12.3.2.4** The foregoing indemnification shall not apply to the extent any claims, liability, expenses, losses, fines and damages arises from the negligent or willful acts of the County Indemnified Parties.

### **ARTICLE 13** **LIMITATION OF REMEDIES**

**13.1 County Limited Waiver.** The County knowingly, voluntarily and intentionally waives any right or recourse to seek recovery from the Limited Partnership, its Affiliates, members, officers, directors, employees, agents, servants and representatives of any and all of the foregoing, for any damages attributable to any Consultant, Contractor, or Subcontractor, respectively, as set forth in Section 13.1.1 and Section 13.1.2, provided the Limited Partnership fulfills its obligations in good faith and seeks recovery on behalf of the County as set forth herein, provided, however, the foregoing shall not limit the Limited Partnership's obligations to pay for Cost Overruns as provided in Section 8.3 hereof. Notwithstanding the prior sentence, and for the avoidance of confusion, nothing herein shall be interpreted as precluding the County from exercising any rights it may have under the Guaranties set forth in **Exhibits I-1 and I-2** hereto.

**13.1.1** In the event that the Limited Partnership requires the Contractor to perform any obligation under the Construction Contract, and the Contractor fails to do so, or performs in a deficient or nonconforming manner, the Limited Partnership shall issue notice to the Contractor, requiring the Contractor to perform, correct or replace the Work, or the applicable portion thereof, in accordance with the Construction Contract. In the event that the Limited Partnership requires a Consultant to perform any obligation under a Consultant Contract and the Consultant fails to do so, or prepares instruments of service in a deficient manner, the Limited Partnership shall issue notice to such Consultant, requiring such Consultant to perform in accordance with the Consultant Contract, or to correct the deficiencies in its instruments of service, whichever is appropriate.

**13.1.2** Notwithstanding any other provision of this Agreement to the contrary, the Limited Partnership hereby agrees to seek recovery: (i) directly from a Consultant, its surety or insurers, for any damages that the Limited Partnership, Teams and/or the County may incur as a result of such Consultant's failure to perform in accordance with the Consultant Contract, or the Consultant's deficient or nonconforming performance under the Consultant Contract, as the case may be, or as a result of such Consultant's negligence; or (ii) directly from the Contractor, its surety and insurers, for any damages that the County, Teams and/or the Limited Partnership may

incur as a result of the Contractor's failure to perform in accordance with the Construction Contract, or the Contractor's deficient or nonconforming performance under the Construction Contract, as the case may be, or as a result of such Contractor's negligence.

**13.1.3** In performing its obligations under Sections 13.1.1 and 13.1.2 hereof, the Limited Partnership shall have the right to Consult with the County to seek a waiver of the obligation to bring an action, which may be granted or denied in the County's sole discretion, and to the extent the County provides a written waiver of such requirement, the Limited Partnership is not required to bring such action.

**13.2 Limited Partnership Waiver.** The Limited Partnership knowingly, voluntarily and intentionally waives any right or recourse to seek recovery from the County for any damages attributable to any Consultant, Contractor, or Subcontractor, respectively, as set forth in Section 13.1.1 and Section 13.1.2 herein.

**13.3 Limited Partnership Further Waiver.** The Limited Partnership knowingly, voluntarily and intentionally waives any right or recourse to seek recovery from the County for any damages caused by, or resulting from, delays in the Program unless such delays are directly attributable to the County's negligent or willful nonperformance of a material term of this Agreement; provided, however, the foregoing shall not limit the County's obligations to pay for Cost Overruns as provided in Section 8.3 hereof.

**13.4 County Rights.** Notwithstanding anything contained herein, the County may, at its sole option, pursue recovery against a Consultant and/or Contractor as set forth in Section 13.1.1 or 13.1.2 for the County damages, in collaboration with, or in place of, the Limited Partnership. Additionally, in the event that the Limited Partnership is in default of any of its obligations under this Agreement, the County may pursue any and all remedies that it may have against the Limited Partnership, available at law and in equity, subject to the requirements of Article 14 of this Agreement. Notwithstanding the above, it is acknowledged by the County, however, that except for those provisions intended to survive the termination of this Agreement as set forth in Section 10.4 hereof, such liability to the County shall cease at the same time as the Contractor's liability to the Limited Partnership ceases pursuant to the Construction Contract.

**13.5 Limited Partners.** All Parties hereto recognize that the Limited Partnership is a limited partnership whose sole general partner as of the Effective Date is JS Stadium, Inc., a Florida corporation, and the Limited Partnership is a limited partnership formed under the laws of the State of Florida and validly authorized to do business as a limited partnership under Florida law. All parties hereto agree that no limited partner of this Limited Partnership shall have any liability or obligation whatsoever directly or indirectly, personal or otherwise, under this Agreement (other than pursuant to the Guaranties attached hereto as **Exhibits I-1 and I-2**) under any legal or equitable theory. All parties further agree that no limited partner shall directly or indirectly have any liability or obligation under any related agreement or agreement entered into in connection herewith, nor under any related understanding or undertaking, except if and to the extent such limited partner shall have executed an agreement expressly agreeing to such liability. No Party to this Agreement shall name or serve any limited partner in any proceeding, suit or claim in violation of this paragraph. This paragraph shall not preclude any claim against the Limited Partnership as

a limited partnership, nor against the general partner of the Limited Partnership as so denominated in the Articles of Limited Partnership of this Limited Partnership, nor shall this paragraph preclude any claim brought to enforce the provision of the Guaranties.

**ARTICLE 14**  
**DISPUTE RESOLUTION; DEFAULT**

**14.1 Dispute Resolution.** The Limited Partnership and the County agree to make every reasonable effort to resolve any dispute under this Agreement prior to either Party's proceeding to file suit due to a default by the other Party. Accordingly, in the event of a dispute related to the performance of either the Limited Partnership or the County under this Agreement, the Limited Partnership and the County agree not to file a lawsuit until they have engaged in an expedited dispute resolution process including mediation, the parameters of which are to be agreed upon by the Parties. The process is initiated by delivery of written notice to the other Party, setting forth the subject of the dispute, claim or controversy and the relief requested. Within ten (10) Days after the receipt of the foregoing notice, the other Party shall deliver a written response to the initiating Party's notice. The initial mediation sessions shall be within thirty (30) Days from the initiating notice. The Parties agree to share equally in the costs and expenses of the mediation and to each bear their own attorneys' fees and costs. This Section 14.1 shall not apply to the termination of this Agreement by a Party for a reason other than a default by the other Party.

**14.2 Limited Partnership's Default.**

**14.2.1** The Limited Partnership shall be in default upon:

- A.** The filing by the Limited Partnership of a petition commencing a voluntary proceeding under the Federal Bankruptcy Code or any other federal, state or local law or statute pertaining to bankruptcy or insolvency; a general assignment by the Limited Partnership for the benefit of creditors; an admission in writing by the Limited Partnership of its inability to pay debts as they become due; the filing by the Limited Partnership of any petition or answer in any proceeding seeking for itself, or consenting to, or acquiescing in any insolvency, receivership or similar relief under any laws pertaining to bankruptcy or insolvency, or the filing by the Limited Partnership of an answer or other pleading admitting or failing to deny, or to contest, the material allegations of a petition filed against it in any such proceeding; the seeking or consenting to, or acquiescence by the Limited Partnership in the appointment of any custodian, trustee, receiver or liquidator of it, or any part of its property; and the commencement against the Limited Partnership of any involuntary proceeding under the Federal Bankruptcy Code, or a proceeding under any law or statute pertaining to insolvency, which case or proceeding is not dismissed or vacated within Ninety (90) Days; or
- B.** The failure of the Limited Partnership to transmit amounts due to any Contractor or any Consultant under any Consultant Contract or any Construction Contract, after receipt of Eligible Costs from the County,

unless the monies due represent a Cost Overrun attributable to the Limited Partnership as provided in Section 8.3, as and when due under this Agreement, provided that the County has provided to the Limited Partnership written notice of such failure, and such failure continues for fifteen (15) Days after the receipt by the Limited Partnership of such written notice; or

- C. The failure of the Limited Partnership in the performance of any material obligations under this Agreement, provided that the County has provided the Limited Partnership with written notice of such failure, specifying with detail, the nature of such failure, and such failure is not cured within thirty (30) Days following the receipt by the Limited Partnership of such written notice from the County, or, provided that such failure cannot be cured within such thirty (30)-Day period, if the Limited Partnership does not commence to cure such failure within such thirty (30)-Day period and thereafter diligently pursue the cure of such failure.

### **14.3 County's Default.**

**14.3.1** The County shall be in default upon:

- A. The failure of the County to pay the Limited Partnership amounts due to the Limited Partnership under this Agreement, as and when due, provided that the Limited Partnership has provided to the County written notice of such failure, and such failure continues for fifteen (15) Days after the receipt by the County of such written notice; or
- B. The failure of the County in the performance of any material obligations under this Agreement, provided that the Limited Partnership has provided the County with written notice of such failure, specifying with detail, the nature of such failure, and such failure is not cured within thirty (30) Days, following the receipt by the County of such written notice from the Limited Partnership, or, provided that such failure cannot be cured within such thirty (30)-Day period, if the County does not commence to cure such failure within such thirty (30)-Day period and thereafter diligently pursue the cure of such failure.

**14.4 Limited Partnership Remedies.** Upon a default by the County, the Limited Partnership shall have the right to: (1) grant the County a reasonable period of time within which to cure such default during which time the County shall utilize the County's best efforts, including bringing suit, to remedy such default; and/or (2) seek dispute resolution pursuant to Section 14.1 herein to resolve said dispute; and/or (3) subject to the requirements of Section 14.1, seek specific performance of the terms of this Agreement. In the event the Limited Partnership is unable to obtain specific performance of this Agreement for any reason, the Limited Partnership shall have such other remedies as available by law or in equity as a result of such default.

**14.5 County Remedies.** Upon a default by Limited Partnership, the County shall have the right to: (1) grant the Limited Partnership a reasonable period of time within which to cure such default during which time the Limited Partnership shall utilize the Limited Partnership's best efforts, including bringing suit, to remedy such default; and/or (2) seek dispute resolution pursuant to Section 14.1 herein to resolve said dispute; and/or (3) subject to the requirements of Section 14.1, seek specific performance of the terms of this Agreement. In the event the County is unable to obtain specific performance of this Agreement for any reason, the County shall have the rights to terminate this Agreement and the New Use Agreement and to seek recovery pursuant to the Guaranty of each Team as provided in Article 11 and shall have such other remedies as available by law or in equity as a result of such default.

**14.6 Reserved.**

## **ARTICLE 15 LIMITATIONS OF LIABILITY**

### **15.1 Consequential Damages.**

- A.** The County knowingly, voluntarily and intentionally waives any claims against the Limited Partnership Parties for any incidental, special, punitive, indirect, or consequential loss or damage, under contract, or in tort (including negligence, fault and strict liability), warranty, or any other theory of law or equity of any nature arising, at any time, however the same may be caused, including the fault or negligence of the Limited Partnership Parties.
  
- B.** The Limited Partnership knowingly, voluntarily and intentionally waives, and will cause the Limited Partnership Parties to waive, any claims against the County for any incidental, special, punitive, indirect, or consequential loss or damage, under contract, or in tort (including negligence, fault and strict liability), warranty, or any other theory of law or equity of any nature arising, at any time, however the same may be caused, including the fault or negligence of the County. In the event the Limited Partnership Parties do not waive any claims against the County as required in this paragraph, the Limited Partnership agrees to indemnify, defend, and save harmless the County from all such claims made by the Limited Partnership Parties against the County, including reasonable attorneys' fees and costs.

## **ARTICLE 16 COUNTY'S AND LIMITED PARTNERSHIP'S REPRESENTATIONS**

**16.1 Limited Partnership Representations.** The Limited Partnership represents and warrants to the County that, as of the date of this Agreement:

- A. Corporate Standing.** The Limited Partnership is a duly organized limited

partnership, validly existing and in good standing under the laws of the State of Florida, is qualified to do business in the State of Florida and that the execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action and will not violate any material provision of any Laws, or violate any material provisions of the Limited Partnership's Partnership Agreement or any other agreement or instrument to which it is a party or by which it or its property may be bound or affected.

- B. No Violation of Law. The Limited Partnership is not in violation of any applicable Laws, which violations, individually or in the aggregate, could adversely affect its ability to perform its obligations under this Agreement.
- C. Consents. To its knowledge and except as provided in Article 17 of this Agreement, neither the execution and delivery by the Limited Partnership of this Agreement nor the consummation of any of the transactions by the Limited Partnership that may be contemplated hereby requires the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any regulatory authority or agency.
- D. Execution and Delivery. This Agreement has been duly executed and delivered by the Limited Partnership and constitutes the legal, valid and binding obligation of the Limited Partnership enforceable in accordance with the terms hereof.
- E. Litigation. The Limited Partnership is not a party to any legal, administrative, arbitration, investigative (to the best of its knowledge) or other proceeding or controversy pending or, to the best of its knowledge, threatened, which could have a material adverse effect on its business, operations, condition (financial or otherwise) or its ability to perform under this Agreement.

**16.2 Notice of Change in Position.** The Limited Partnership further agrees that it will notify the County immediately if at any time prior to completion of the Services under this Agreement any of the foregoing representations ceases to be accurate and complete in any material respect.

**16.3 County Representations.** The County represents and warrants to the Limited Partnership that, as of the date of this Agreement, the County is a duly organized and validly existing political subdivision of the State of Florida; that this Agreement has been authorized by all necessary bodies and Parties required for its execution, is validly executed by the County, and is binding upon and enforceable against the County in accordance with its terms.

## ARTICLE 17

### CONDITIONS PRECEDENT TO APPROVAL OF COUNTY BOND RESOLUTION AND SALE OF COUNTY BONDS

**17.1 Conditions.** The obligation of the County to (a) approve the Bond Resolution and (b) to issue the County Bonds is expressly subject to each of the following conditions precedent having

been satisfied or waived:

**17.1.1 Conditions Precedent for Approval of the County Bond Resolution**

- A. The effectiveness of this Agreement, including: (i) HW Spring Training, LLC’s written approval that the terms of the New Use Agreement are not more favorable than those contained in the First Restated Sports Facility Use Agreement between the County and HW Spring Training, LLC dated October 20, 2015 (R2015-1523); and (ii) the written approval of this Agreement by the Office of the Commissioner of Baseball; and
- B. The full execution and effectiveness of the State Funding Agreement providing for 25 annual payments of Two Million Dollars (\$2,000,000.00) for a total amount of Fifty Million Dollars (\$50,000,000.00) for the Renovation Project, or a lesser amount if approved in writing by the Limited Partnership.

**17.1.2 Conditions Precedent for Sale of the County Bonds**

- A. The effectiveness of this Agreement;
- B. Approval of the Bond Resolution; and
- C. Receipt by the County of the Bond Sale Request from the Limited Partnership, as more fully described in Section 5.7 herein.

**17.2 Reserved.**

**17.3 Termination Rights – 17.1.1(A) and 17.1.2.** In the event that the condition precedents of Section 17.1.1 (A) and 17.1.2 are not either satisfied or waived by April 30, 2024, then either Party may terminate this Agreement by written notice to the other Party.

**17.4 Termination Rights – 17.1.1(B).** In the event the condition precedent of Section 17.1.1 (B) is not satisfied or waived by April 30, 2024, then either Party may terminate this Agreement by written notice to the other Party, provided that such failure of condition precedent is not the result of the terminating Party’s failure to act consistently with the Operative Agreements.

**17.5 Additional Time.** The Parties may agree to an additional amount of time for compliance with the conditions precedent.

**17.6 Cooperation.** Neither Party may terminate pursuant to this Article 17 without first discussing with the other Party the option of extending the time to allow for the full execution and effectiveness of the Agreements or satisfaction of the other applicable conditions set forth herein.

**ARTICLE 18**  
**ASSIGNMENT**

This Agreement is for the professional services of the Limited Partnership and may not be assigned by the Limited Partnership without the prior written consent of the County, which consent may not be unreasonably withheld, conditioned or delayed, unless the proposed assignee cannot reasonably demonstrate to the County that it can perform the obligations of the Limited Partnership under this Agreement, in which case the consent of the County may be withheld in the County's sole discretion; provided however, the Limited Partnership shall have the right to assign this Agreement to an Affiliate of the Limited Partnership upon prior written notice to the County, provided that such assignment shall be subject to all of the terms and conditions of this Agreement. Notwithstanding the foregoing or anything to the contrary herein, the County agrees that the Limited Partnership may, in its sole discretion, convert from a limited partnership to a limited liability company, merge, or otherwise reorganize its legal structure ("Reorganization") without the necessity of any approval of the County; provided, however, that: (a) following such Reorganization, the Teams are the sole owners of all interests in the converted, merged or otherwise reorganized entity (the "Reorganized Company"); (b) upon any such Reorganization, the Reorganized Company shall assume all rights and obligations of the Limited Partnership under this Agreement and shall provide the County with written evidence of the same; and (c) the Guaranties remain in full force and effect. The County shall not be entitled to assign this Agreement without the consent of the Limited Partnership. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their respective successors and assigns.

**ARTICLE 19**  
**MISCELLANEOUS PROVISIONS**

**19.1 Public Entity Crimes.** As provided in Sections 287.132 and 287.133, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, the Limited Partnership certifies that it, and to the best of its knowledge, information and belief, its Affiliates, suppliers, Subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by Subsection 287.133(3)(a), Florida Statutes. The Limited Partnership will contractually obligate the Contractor to submit to the Limited Partnership, and to cause its Subcontractors and consultants to submit to the Limited Partnership, the certification set forth in this Section 19.1, with respect to such Subcontractors and Consultants.

**19.2 Contingent Fees.** The Limited Partnership warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Limited Partnership, to solicit or secure this Agreement and that it has not paid or agreed to pay any Person other than a bona fide employee working solely for the Limited Partnership, any fee commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.



### **19.3 Access and Audits/Public Records.**

**19.3.1** The Limited Partnership shall maintain adequate records to justify all charges, expenses and costs incurred in estimating and performing the Services for at least three (3) years after completion of this Agreement. The County shall have access to such books, records, and documents in Palm Beach County as required in this Section for the purpose of inspection or audit during normal business hours, at the Limited Partnership's place of business, provided that (a) the County notifies the Limited Partnership no less than thirty (30) Days prior to the date of such inspection or audit, and (b) the number of such inspections or audit shall be limited to One (1) per calendar year. The Limited Partnership agrees to make available to the County, at the County's request, and at the County's sole cost and expense, all documents and materials pertaining to the Program as required by this Section 19.3.1, if after three (3) years, then still in the possession of the Limited Partnership.

**19.3.2** Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the Limited Partnership: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2), F.S., the Limited Partnership shall comply with the requirements of Section 119.0701, F.S., as it may be amended from time to time. The Limited Partnership is specifically required to:

- A.** Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the service;
- B.** Upon request from the County's Custodian of Public Records ("County's Custodian") or the County's representative/liaison, on behalf of the County's Custodian, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The Limited Partnership further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time;
- C.** Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Term and following completion of the Agreement, if the Limited Partnership does not transfer the records to the public agency. Nothing contained herein shall prevent the disclosure of or the provision of records to the County;
- D.** Upon completion of the Agreement, the Limited Partnership shall transfer, at no cost to the County, all public records in possession of the Limited Partnership unless notified by the County's representative/liaison, on behalf of the County's Custodian, to keep and maintain public records required by the County to perform the service. If the Limited Partnership transfers all public records to the County upon completion of the Agreement, the Limited Partnership shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Limited Partnership keeps and maintains public records upon completion of the

Agreement, the Limited Partnership shall meet all applicable requirements for retaining public records. All records stored electronically by the Limited Partnership must be provided to the County, upon request of the County's Custodian or the County's representative/liaison, on behalf of the County's Custodian, in a format that is compatible with the information technology systems of the County, at no cost to the County.

Limited Partnership acknowledges that it has familiarized itself with the requirements of Chapter 119, F. S., and other requirements of state law applicable to public records not specifically set forth herein. Failure of the Limited Partnership to comply with the requirements of this Section, Chapter 119, F.S. and other applicable requirements of state law, shall be a material breach of this Agreement. The County shall have the right to exercise any and all remedies available to it for breach of Agreement as provided for hereunder, including but not limited to, the right to terminate for cause.

**IF THE LIMITED PARTNERSHIP HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROPERTY OWNER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.**

**19.3.3 Breach of Agreement.** Failure of the Limited Partnership to comply with the requirements of Section 19.3.2 herein shall be a material breach of this Agreement.

**19.4 Inspector General.** Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421–2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Limited Partnership, its officers, agents, employees, and lobbyists in order to ensure compliance with Agreement requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421–2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**19.5 Indebtedness.** The Limited Partnership shall not pledge the County's credit or make it a guarantor of payment or a surety for any contract, debt, obligation, judgment, lien or any form of indebtedness; provided however, this provision shall not be deemed or construed to abrogate or diminish the County's obligations under the Operative Agreements. The Limited Partnership further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

**19.6 Notice.** All notices and elections (collectively, “Notices”) to be given or delivered by or to any Party hereunder shall be in writing and shall be (as elected by the Party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any Notice shall be the date of delivery of the Notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The Parties hereby designate the following addresses as the addresses to which Notices may be delivered, and delivery to such addresses shall constitute binding notice given to such Party:

For notice to the Limited Partnership:

Dan Good  
Vice President Business Development  
St. Louis Cardinals  
700 Clark Street  
St. Louis, MO 63102

And

Caroline O’Connor  
Chief Operating Officer  
Miami Marlins  
501 Marlins Way  
Miami, FL 33125

And

Mike Bauer  
General Manager  
Roger Dean Chevrolet Stadium  
4751 Main Street  
Jupiter, FL 33458

With copies to:

Mike Whittle, Esq.  
General Counsel  
St. Louis Cardinals  
700 Clark Street  
St. Louis, MO 63102

And

Ashwin Krishnan, Esq.  
General Counsel  
Miami Marlins  
501 Marlins Way  
Miami, FL 33125

And

Gregory D. Lee, Esq.  
Baker Hostetler, LLP  
200 S. Orange Ave.  
Ste 2300  
Orlando, FL 32801

For notice to the County:

County Administrator  
301 North Olive Avenue, 11<sup>th</sup> Floor  
West Palm Beach, FL 33401

With Copies to:

County Attorney  
301 North Olive Avenue, 6<sup>th</sup> Floor  
West Palm Beach, FL 33401

And

Director of Office of Financial Management  
301 North Olive Avenue, 7<sup>th</sup> Floor  
West Palm Beach, FL 33401

And

Director, Facilities Development & Operations  
2633 Vista Parkway  
West Palm Beach, FL 33411

Either Party hereto may change the address for service of Notices required or permitted hereunder upon ten (10) Days' prior written notice. Notices may be given, on behalf of a Party, by the attorney for such Party in accordance with the terms of this Section 19.6.

**19.7 Governing Law and Venue.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. The Parties acknowledge that

personal jurisdiction upon proper service will be valid in the State of Florida, and that venue of all actions arising out of or related to this Agreement shall be proper only in a state court of competent jurisdiction in Palm Beach County, Florida.

**19.8 WAIVER OF JURY TRIAL.** THE PARTIES HERETO EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE COUNTY AND THE LIMITED PARTNERSHIP TO ENTER INTO THIS AGREEMENT.

**19.9 Construction.** In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

**19.10 Binding Effect.** The covenants, terms, conditions, provisions and undertakings in this Agreement, or in any renewals thereof, shall extend to and be binding upon the legal representatives, successors and assigns of the respective Parties hereto as if there were in every case named and expressed and wherever reference is made to any of the Parties hereto, it shall be held to include and apply also to the legal representatives, successors and assigns of such Party as if in each and every case so expressed.

**19.11 Further Instruments.** The Parties agree to execute and deliver any instruments in writing necessary to carry out any agreement, term, condition or assurance in this Agreement whenever the occasion shall arise and request for such instrument shall be made.

**19.12 Integration and Merger.** This Agreement shall constitute the full and complete understanding between the Parties as to the matters addressed herein. There are no oral understandings, terms or conditions and no Party has relied on any representation, express or implied, not contained in this Agreement. All prior understandings, terms or conditions, whether with a Party to this Agreement or any partner of a Party, are deemed to merge in this Agreement, and this Agreement cannot be changed or supplemented except by an agreement in writing and signed by the Parties to this Agreement.

**19.13 Severability.** If any provisions of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

**19.14 Compliance with Laws.** None of the Parties hereto shall in any manner, directly or indirectly, violate the laws, ordinances, rules or regulations of any federal, state, county, city or other governmental authority or agency in connection with the development, construction, use, operation and occupancy of the Renovation Project under the terms of this Agreement.

**19.15 Exhibits.** All exhibits referenced in this Agreement are incorporated into this Agreement by such reference and shall be deemed to an integral part of this Agreement.

**19.16 Attorney's Fees.** In the event of litigation or arbitration arising under, or in connection with, this Agreement, each Party shall bear and be responsible for their own attorneys' fees and costs at the pre-trial, trial and appellate levels. This provision shall survive the termination of this Agreement for any reason.

**19.17 Survival.** The warranties and indemnities provided under this Developer Agreement shall survive for a period of One Year after Substantial Completion of the Renovation Project; however, the rights and obligations under Article 13 and Section 10.4 shall survive during the entire term of the New Use Agreement.

**19.18 Amendments.** No change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment, or modification shall be in writing and duly executed by both Parties hereto. No change, amendment or modification of this Agreement shall be deemed to be made by either Party on the basis of any action or failure to act by either Party or by the course of performance, course of dealing, or course of conduct of either Party.

**19.19 Captions.** The captions contained in this Agreement are for convenience of reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained herein.

**19.20 No Waiver.** Any waiver by either Party of a breach of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any other breach of such provision or of any breach of any other provision of this Agreement. The failure of a Party to insist upon strict adherence to any term of this Agreement on one or more occasions shall neither be considered a waiver nor deprive that Party any right thereafter to insist upon strict adherence to that term or any other term of this Agreement. Any waiver must be in writing and signed by the Party to be charged therewith.

**19.21 Force Majeure.** Except as otherwise provided herein and Section 6.5.2 of the New Use Agreement, neither Party shall be in default under, or breach of, this Agreement to the extent it is unable to perform due to an event of Force Majeure. For the purpose of this Agreement, "Force Majeure" shall mean and include any act of God, accident, fire, riot or civil commotion, act of public enemy, failure of transportation facilities, enactment, rule, order or act of government or governmental instrumentality (whether domestic or international and whether federal, state or local (except in the case of a rule, order or act by the County), or the international equivalent thereof), failure of technical facilities, or any other cause of any nature whatsoever beyond the control of the Parties which was not avoidable in the exercise of reasonable care and foresight. The Party claiming the occurrence of a Force Majeure event shall promptly notify the other Party of such occurrence, and the likely duration and termination thereof.

**19.22 Counterparts.** Provided that all Parties hereto execute an original of this Agreement, this Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

**19.23 No Agency.** The Limited Partnership is, and shall be, in the performance of all Services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the County. All persons engaged in any of the Work or Services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Limited Partnership's sole direction, supervision, and control, except for those persons engaged in a peer review pursuant to Section 5.3 hereof. The Limited Partnership shall exercise control over the means and manner in which it and its employees, sub-consultants and suppliers perform the Services, and in all respects the Limited Partnership's relationship and the relationship of its employees to the County shall be that of an Independent Contractor and not as employees or agents of the County.

The Limited Partnership does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

**19.24 Non-Discrimination.** The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Limited Partnership warrants and represents that throughout the term of this Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of this Agreement. As a condition of entering into this Agreement, the Limited Partnership represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the Limited Partnership shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Limited Partnership retaliate against any person for reporting instances of such discrimination. The Limited Partnership shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The Limited Partnership understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification or debarment of the company from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. Limited Partnership shall include this language in its subcontracts.

**19.25 Third Party Beneficiary.** The Teams are intended third party beneficiaries of this Agreement. Except for the Teams, no provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a Party to this Agreement, including but not limited to any citizen or employees of the County and/or the Limited Partnership. The County is an intended third party beneficiary of all Construction Contracts and Consultant Contracts, and all subcontracts thereto. The Limited Partnership shall provide copies of this Agreement to the Consultants and the Contractor.

**19.26 Nature of the Parties Obligations.**

**19.26.1** It is understood and agreed that the Limited Partnership is acting as an independent contractor in the performance of its services and responsibilities hereunder, and nothing herein shall be deemed to create a joint venture, agency or partnership relationship between the County and the Limited Partnership.

**19.26.2** The obligation of the County to pay any amounts required under this Agreement shall constitute a revenue obligation of the County payable solely from the Project Proceeds and, where applicable, legally available non-ad valorem revenues of the County and shall not in any way be construed to be a debt of the County in contravention of applicable constitutional, statutory or charter limitations or requirements concerning the creation of indebtedness of the County. Neither the County, the State of Florida, nor any political subdivision or agency thereof shall be obligated to pay any sums due under this Agreement from compelled levy of ad valorem or other taxes, and neither the full faith and credit nor the taxing power of the County, the State of Florida or any political subdivision or agency thereof are pledged for payment of such sums due under this Agreement.

**19.27 Annual Appropriations.** The County's performance and obligation to pay under this Agreement is contingent upon annual appropriations for its purpose by the Board of County Commissioners.

**19.28 Construction.** No Party shall be considered the author of this Agreement since the Parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Agreement shall not be strictly construed against one Party as opposed to the other Party based upon who drafted it. In the event that any article, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

**19.29 Scrutinized Companies.**

- A. As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the Limited Partnership certifies that it, its affiliates, suppliers, subcontractors and Limited Partnerships who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(b), if Limited Partnership is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Agreement may be terminated at the option of the County.
  
- B. **When contract value is greater than \$1 million:** As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the Limited Partnership certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized



Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

If the County determines, using credible information available to the public, that a false certification has been submitted by the Limited Partnership, this Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Agreement renewal, if applicable.

**19.30 E-Verify.** The parties hereto agree to comply with Section 448.095, Florida Statutes, when applicable.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in several counterparts, each of which shall constitute an original and all of which, taken together, shall constitute a single instrument, as the Day first written above.

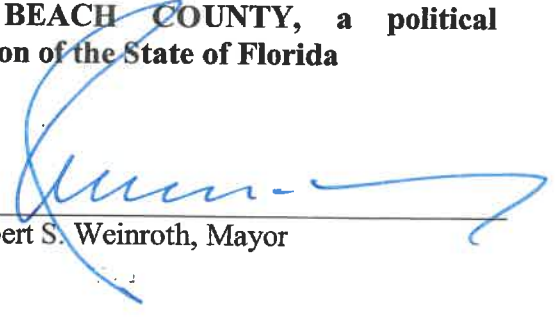
R2022 0520

MAY 17 2022

ATTEST:  
JOSEPH ABRUZZO  
CLERK & COMPTROLLER

PALM BEACH COUNTY, a political  
subdivision of the State of Florida

By:   
Deputy Clerk

By:   
Robert S. Weinroth, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED AS TO TERMS AND  
CONDITIONS

By:   
County Attorney

By:   
Isami C. Ayala-Collazo, Director  
Facilities Development & Operations

**WITNESSES:**

**Jupiter Stadium, Ltd., a Florida Limited Partnership, by its General Partner JS Stadium, Inc.**

By:   
Witness Signature

MIKE WHITTLE  
Print Witness Name

By: 

Name Printed: Bradford S Wood

Title: CFO

By:   
Witness Signature

Michelle Liotta  
Print Witness Name

**WITNESSES:**

**Jupiter Stadium, Ltd., a Florida Limited Partnership**

By:   
Witness Signature

Ashwin Krishna  
Print Witness Name

By:   
Witness Signature

Tony Basile  
Print Witness Name

By: Caroline O'Connor

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**Tract SF1 of Abacoa Plat 1 as recorded in Official Record Book 9590, Page 1293, Public Records of Palm Beach County, Florida.**

**EXHIBIT B**  
**SCOPE OF WORK REQUIREMENTS**

The following are the minimum requirements for the Renovation Project:

**Tourism Improvements:**

1. Replace existing video scoreboard with two larger scoreboards with higher resolution and updated technology (the “Video Scoreboard Improvements”);
2. Upgrade existing sound system;
3. Incorporate Wi-Fi/Distributed Antenna System (DAS) availability to the general public throughout the seating bowl, concourse and practice fields;
4. New group area on the third base line with a second level deck that is interactive (food and beverage, games, and entertainment), which would also include an upgrade and replacement of existing bleacher seats with fixed seating;
5. Upgrade concession stands including front and back of house as well as commissary and install drink rails for fan usage on the concourse;
6. Expansion of the Team store to create a better experience and more space for general public;
7. Expansion of storage, specifically including the addition of storage areas on first and third base side of the Stadium and increasing the size of the maintenance building so that it can accommodate storage and equipment for the Teams and the County for tournament use;
8. Expansion of visiting clubhouse for the Stadium;
9. Relocation of bullpens;
10. Install new security system, including video surveillance system, access control system and install an upgraded telephone system throughout the Facility;
11. Renovation and expansion of office space available for Stadium operations staff (including the ticket office);
12. Improvements to the press box areas of both Teams for public use;
13. Art will be incorporated, as agreed upon by the Parties, consistent with the mission of the Tourist Development Council and County policy;
14. Upgrade and install new batting cages and agility fields (available for use by the County and public per agreed upon terms of the New Use Agreement) and expand the facilities to include new theaters/classrooms and education center (available for use by the County and public per agreed upon terms of the New Use Agreement) as well as a new restroom facility at the quad; and
15. Relocated on-Site parking spaces to accommodate the Renovation Project provided that they do not reduce the overall number of spaces provided on-site for employees and players.

**Non-Tourism Improvements:**

Substantially renovate two new clubhouse/administrative buildings within the Exclusive Use Areas for the Teams to meet current and future spring training requirements, which facilities will include the following:

1. Major League Players, Coaches and Clubhouse Staff Locker Rooms
2. Minor League Players, Coaches and Clubhouse Staff Locker Rooms
3. Major League and Minor League Staff Offices

4. Major League and Minor League Training Rooms
5. Equipment Storage Rooms
6. Laundry Rooms
7. Weight Rooms and Associated Training/Strength/Conditioning Facilities
8. Dining Rooms and Kitchens
9. Video Coaching Rooms
10. Administrative Offices, Conference Rooms and Reception Areas
11. Media Work Room and Offices

**EXHIBIT C**

**RESERVED**



**EXHIBIT D**  
**EXCLUDED COSTS**

The following are Excluded Costs which shall not be included in the Project Budget:

1. Any direct or indirect costs or expenses of the Limited Partnership's or Teams' employees, including, but not limited to, any costs or expenses incurred in the Limited Partnership's role as a development consultant and program manager. However, to the extent that the Limited Partnership hires a program manager to oversee the construction of certain portions of the Renovation Project, the costs of said program manager costs shall not be considered an Excluded Cost.
2. Any direct or indirect costs or expenses for attorneys and financial advisors retained by the Limited Partnership or Teams, even if such costs or expenses are for work performed on the Program's behalf.
3. Any County employee expenses or Staff charge-offs. Out of County travel expenses for County employees as requested by the Limited Partnership and approved by the County are Eligible Costs.
4. Fees or costs associated with a peer review conducted pursuant to Section 5.3 unless the Limited Partnership requests the County contract for a peer review and the County agrees to such request.
5. Limited Partnership costs associated with financing any aspect of the Renovation Project not typically included in the Construction Contract.
6. Costs associated with promotional items, marketing the Facility, Program, Teams and/or Major League Baseball Spring Training.
7. Costs, fees, or expense of any kind directly or indirectly associated with not being able to use the Facility, or portion thereof, during the duration of the Work (other than the cost of any temporary facilities necessary to house Limited Partnership or Team administrative staff, or Renovation Project staff during the Renovation Project or on-Site access roads utilized during any phasing of the Renovation Project or any portion thereof).
8. Personal Property (as defined in the New Use Agreement) necessary for the Limited Partnership to perform its obligations under Article 7 of the New Use Agreement.
9. Costs associated with the delivery of Additional Off-Site Parking.
10. Any payments due to a Consultant pursuant to a Consultant Contract or to the Contractor pursuant to the Construction Contract in which the underlying Consultant Contract or Construction Contract was not procured in compliance with applicable Laws.

**EXHIBIT E**  
**SALES TAX RECOVERY PROGRAM**

1.0 Sales and Use Taxes. The County is exempt from paying sales and use taxes on materials and equipment purchased for, and incorporated into, the Facility. The County shall make direct purchases of all materials and equipment purchased for, or to be incorporated into the Facility, as requested by the Limited Partnership and confirmed by the County Representative to be eligible for the Program. All direct purchases of materials and equipment shall be made by the County with funding from the Project Budget specifically allocated for the construction of the Facility, which is a capital improvement project, the construction of which is subject to the County's competitive procurement requirements. In order to avail itself of this exemption, the County requires the Limited Partnership to contractually obligate the Contractor(s) to implement the following procedures:

2.1 County Furnished Materials

2.1.1 The Construction Manager shall include Florida State Sales Tax (Sales Tax) and other applicable taxes in its bid for material, supplies, and equipment.

The Limited Partnership reserves the right to require the Construction Manager to assign some or all of its subcontracts or other agreements with material suppliers directly to the County. Any materials purchased by the County pursuant to such an assignment of a material supply subcontract or agreement of a material supply subcontract or agreement shall be referred to as "County Furnished Materials" and the responsibilities of both the County and Construction Manager relating to such County Furnished Materials shall be governed by the terms and conditions of these Special Conditions, which shall take precedence over other conditions and terms of the Contract Documents where inconsistencies or conflicts exist. In addition, the County's standard terms and conditions associated with purchase ordered materials will be applicable to all County Furnished Materials.

2.1.2 Material suppliers shall be selected by the Construction Manager awarded the contract by the competitive bid process. Supply contracts shall be awarded by the Construction Manager to the supplier whose bid/proposal is most advantageous to the Limited Partnership, price and other factors considered.

The Construction Manager shall include the price for all construction materials in its bid. The County purchasing of construction materials, if selected, will be administered on a deductive Change Order basis.

2.1.3 To enable the Limited Partnership to realize savings of Sales Tax on selected tangible personal property needed for this Program, the Construction Manager will provide to the Limited Partnership a list of all intended suppliers, vendors, and materialmen for consideration as County Furnished Materials. The Construction Manager shall submit price quotes from the vendors, as well as a description of the materials to be supplied, quantities and prices. The Construction Manager will evaluate the list to recommend direct purchases where those direct purchases will result in Sales Tax savings to the Limited Partnership. The Limited Partnership will either accept

or reject the Construction Manager's recommendations and purchases will be made according to the County's procedures.

2.1.4 Construction Manager shall identify materials which the County will furnish through this County Furnished Materials clause which will achieve a minimum agreed upon goal of Sales Tax savings. The Construction Manager will provide the necessary clerical and administrative services support required to implement this program.

In a timely manner, Construction Manager shall prepare County Purchase Order Forms specifically identify the materials which the County may, in its discretion, elect to purchase directly.

Construction Manager shall include copies of vendors' quotations.

2.1.5 The following procedure, which is a waiver of the Palm Beach County Procurement Code, shall be used for the implementation of this program.

Construction Manager shall prepare County Purchase Orders (hereinafter "Purchase Orders") for items of material which the County chooses to purchase directly. Once the Purchase Order has been prepared and executed, it shall be issued directly to the vendor by the County. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Construction Manager, less any sales tax associated with such price. Promptly upon issuance of each Purchase Order by the County, Construction Manager shall verify the purchase of the items in accordance with the terms of the Purchase Order and in a manner to assure timely delivery of items. Palm Beach County's Director of Purchasing or his designated representative shall be the approving authority for the County on Purchase Orders in conjunction with the County Furnished Materials. The Purchase Order shall require that the supplier provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the County Furnished Materials on the delivery dates provided by the Construction Manager. The Vendor shall issue its invoice, for all materials supplied pursuant to a County Purchase Order, directly to Palm Beach County.

2.1.6 In conjunction with or prior to the execution of the Purchase Orders by the suppliers, the Construction Manager shall execute and deliver to the Project Representative who will forward to the County one or more deductive Change Orders, in accordance with General Conditions referencing the full value of all County-Furnished Materials to be provided by each supplier from whom the County elected to purchase material directly, plus all sales taxes associated with such materials in Construction Manager's bid to the County, plus savings to Construction Manager in the cost of Payment and Performance Bonds associated with such County Furnished Materials.

2.1.7 All shop drawings and submittals shall be made in accordance with the General Conditions.

2.1.8 Construction Manager shall be fully responsible for all matters relating to the receipt of materials furnished by the County in accordance with these Special Conditions including, but not limited to, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or

damage to equipment and materials following acceptance of items by the County due to the negligence of the Construction Manager. The Construction Manager shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Construction Manager for the particular materials furnished. The Construction Manager shall provide all services required for the unloading, handling and storage of materials through installation. The Construction Manager agrees to indemnify and hold harmless the County from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions of the Construction Manager.

2.1.9 As County Furnished Materials are delivered to the jobsite, the Construction Manager shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of County Furnished Materials is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order together with such additional information as the County or Limited Partnership may require. The Construction Manager will then forward the documentation to the County through the Limited Partnership.

2.1.10 The Construction Manager shall insure that County Furnished Materials conform to the specifications, and determine prior to incorporation into the Work if such materials are patently defective, and whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Construction Manager discovers defective or non-conformities in County Furnished Materials upon such visual inspection, the Construction Manager shall not utilize such nonconforming or defective materials in the Work and instead shall promptly notify the County of the defective or nonconforming condition so that repair or replacement of those materials can occur without any undue delay or interruption to the Program. If the Construction Manager fails to perform such inspection and otherwise incorporates into the Work such defective or nonconforming County Furnished Materials, the condition of which it either knew or should have known by performance of an inspection, Construction Manager shall be responsible for all damages to the County resulting from Construction Manager's incorporation of such materials into the Program, including liquidated or delay damages.

2.1.11 The Construction Manager shall maintain records of all County Furnished Materials incorporated into the Work from the stock of County Furnished Materials in its possession. The Construction Manager shall account monthly to the County through the Limited Partnership for any County Furnished Materials delivered into the Construction Manager's possession, indicating portions of all such materials which have been incorporated into the Work.

2.1.12 The Construction Manager shall be responsible for obtaining and managing all warranties and guarantees for all materials and products as required by the Contract Documents. All repair, maintenance or damage-repair calls shall be forwarded to the Construction Manager for resolution with the appropriate supplier, vendor, or Subcontractor.

2.1.13 Notwithstanding the transfer of County Furnished Materials by the County to the Construction Manager's possession, the County shall retain legal and equitable title to any and all County Furnished Materials although the Construction Manager shall maintain both Builders Risk

and Inland Marine/Transit insurance on said Materials and the Loss Payee endorsement on said policies shall read "Palm Beach County Board of County Commissioners".

2.1.14 The transfer of possession of County Furnished Materials from the County to the Construction Manager shall constitute a bailment for the mutual benefit of the County and the Construction Manager. The County shall be considered the bailor and the Construction Manager the bailee of the County Furnished Materials. County Furnished Materials shall be considered returned to the County for purposes of their bailment at such time as they are incorporated into the Program or consumed in the process of completing the Program.

2.1.15 The County shall in no way be liable for any interruption or delay in the Program, for any defects or other problems with the Program, or for any extra costs or time resulting from any delay in the delivery of, or defects in, County Furnished Materials.

2.1.16 On a monthly basis, Construction Manager shall be required to review invoices submitted by all suppliers of County Furnished Materials delivered to the Site during that month and either concur or object to the County's issuance of payment to the suppliers, based upon Construction Manager's records of materials delivered to the Site and any defects in such materials.

2.1.17 In order to arrange for the prompt payment to the suppliers, the Construction Manager shall provide to the County a list indicating the acceptance of the goods or materials within 15 Days of receipt of said goods or materials. The list shall include a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonable required by the County. Upon receipt of the appropriate documentation, the County shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be released, delivered and remitted directly to the supplier. The Construction Manager agrees to assist the County to immediately obtain partial or final release of waivers as appropriate. The County shall not make any payment without the appropriate Contractor's concurrence and approval, which shall be delivered to the County by the Project Representative.

2.1.18 The County shall be entitled to the benefits of any discounts attributable to the early payment of vendor invoices for materials furnished by the County pursuant to these Specifications.

2.1.19 The material supplier may be required to provide a Supply Bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the County. If the supply bond is required the cost of the bond will be added to the amount of the purchase order. The premium cost for the surety bond should not be included in the bid price. Verifying that a designated material supplier can furnish a supply bond will be the responsibility of the Construction Manager.

**EXHIBIT F**  
**COUNTY STANDARD DESIGN AND CONSTRUCTION POLICY DEVIATIONS**

1. Deviations from the County standards remain subject to the County's review, comment and approval as required by the applicable provision of the Developer Agreement. The outcome of those discussions may require this Exhibit to be updated.
2. This Exhibit may be modified by written agreement of the County Representative and the Limited Partnership Representative at any time throughout the term of the New Use Agreement.

**EXHIBIT G**  
**PAYMENT CERTIFICATION AND REQUISITION**

Board of County Commissioners  
Palm Beach County, Florida

Name of Contract (Payee): Jupiter Stadium Ltd., Limited Partnership

Amount to be Paid: \$ \_\_\_\_\_

The Limited Partnership has submitted a payment certification and requisition (with accompanying bills) to Palm Beach County, Florida (the "County") for payment for the above-referenced Contract of the Amount set forth above from moneys held by the Clerk. In this regard, the undersigned hereby certify as follows:

- (i) that the obligation described above was incurred and is a proper charge against the Developer Agreement.
- (ii) that the obligations described above, including any amounts retained by the County in the construction fund to be paid at such later date, have been incurred by, or through, the Limited Partnership and that each item thereof is a proper charge against the construction fund and has not been the basis of any previous withdrawal;
- (iii) that all prior distributions made pursuant to previous Payment Requisitions relating to the Facility were applied in the manner set forth in such Payment Requisition;
- (iv) that all required insurance and governmental approvals needed for the construction of the Facility, at this time, is in full force and effect;
- (v) that the Work performed to date has been satisfactorily performed in accordance with the contractual requirements; and
- (vi) that there has not been filed with or served upon the County or the Limited Partnership notice of any valid lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any moneys payable to any of the persons named in such requisition which has not been released or will not be released simultaneously with the payment of such obligation.

Jupiter Stadium Ltd., Limited Partnership, a Florida Limited Liability Company

By: \_\_\_\_\_  
Signature/Title

Print Name:

By: \_\_\_\_\_  
Signature/Title

Print Name:

**EXHIBIT H**

**RESERVED**



**EXHIBIT I-1**  
**MIAMI MARLINS**  
**PAYMENT AND PERFORMANCE AND CONSTRUCTION GENERAL GUARANTY**

This PAYMENT, PERFORMANCE AND CONSTRUCTION GENERAL GUARANTY (this "Guaranty") is made as of the \_\_\_\_\_, by Marlins Teamco LLC, a Delaware limited liability company (the "Guarantor"), in favor of Palm Beach County, a political subdivision of the State of Florida (the "County"), and its successors and assigns, and the State of Florida (the "State"), by and through the Florida Department of Economic Opportunity ("DEO"), and its successors and assigns.

**RECITALS:**

The County is contemporaneously herewith entering into the Developer Agreement (the "Developer Agreement") and the Second Restated Sports Facility Use Agreement (the "New Use Agreement"), to provide for the construction, development and operation of the Renovation Project at the baseball spring training facility (the "Facility"), each dated as of the date hereof, and each entered into by and between the County and Jupiter Stadium Ltd., a Florida Limited Liability Company (the "Limited Partnership"), and the New Use Agreement also being entered into by the Guarantor and the St. Louis Cardinals, LLC, a Missouri Limited Liability Company as to Sections 5.1.2, Article 13, Section 16.7 and Section 22.3 thereof (the New Use Agreement and the Developer Agreement are referred to as the "County Documents").

In order to induce the County to enter into the County Documents and in consideration of the foregoing premises and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, and further, in order to induce DEO to certify the County pursuant to section 288.11631, Florida Statutes, Guarantor hereby agrees for the benefit of the County and its successors and assigns and the State, and its successors and assigns, as follows:

1. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated herein as if set forth in full.
2. Defined Terms. Capitalized terms used herein shall have the meaning set forth herein. Unless the context otherwise requires and except as otherwise provided herein, capitalized terms used herein that are not defined herein shall have the meaning assigned to such terms in the County Documents.
3. Effective Date. The Effective Date of this Guaranty shall be the Effective Date of the Developer Agreement.
4. First Restated Sports Facility Use Agreement Guaranty. As of the Effective Date, this Guaranty replaces, supersedes and terminates the Guaranty attached as Exhibit B to the First Restated Sports Facility Use Agreement entered into May 3, 2011 (R2011-0694) between the Limited Partnership and the County. Any liabilities, obligations, or duties of the Limited

Partnership which arose pursuant to the First Restated Sports Facility Use Agreement and prior to the termination of the First Restated Sports Facility Use Agreement shall be guaranteed by this Guaranty.

5. Payment, Performance, Construction and Operation Guaranty. Guarantor hereby unconditionally, absolutely, generally, continually, and irrevocably guarantees to the County, and DEO as to the rights and interests of DEO pursuant to the County Documents, all obligations imposed by the County Documents, including, without limitation, the planning, design and permitting of the Project and the completion of construction of the Renovation Project and operation of the Renovation Project pursuant to the County Documents and the payment and performance of all liabilities, obligations and duties imposed on the Limited Partnership under each of the County Documents (collectively "the Obligations") as if Guarantor had executed each such County Document in place of the Limited Partnership. This Guaranty shall not terminate until the payment of all sums and performance of all Obligations, except that, to the extent this Guaranty guarantees performance of Obligations which survive the termination of the County Documents, then this Guaranty shall continue to remain in full force and effect.

6. Security. Guarantor has provided a statement from an independent Certified Public Accounting Firm or other independent third-Person (entity) experienced in appraising sports organizations and properties (an "Appraisal Firm"), certifying or opining that the Guarantor has a current net worth or fair value of equity in excess of One Hundred Million and No/100 Dollars (\$100,000,000). At least once every five years thereafter until expiration of this Guaranty, Guarantor shall provide an updated letter to the County from one of the above possible sources, re-certifying or opining that the Guarantor has a then current net worth or fair value of equity in excess of One Hundred Million and No/100 Dollars (\$100,000,000). Additionally, in any year that a statement as described above, is not due to the County, the Guarantor shall provide a statement from an Appraisal Firm or Certified Public Accounting Firm in the form of a letter on letterhead, stating that there have been no material adverse changes in the financial position of the Guarantor that would affect the previously certified minimum net worth or fair value of equity statement set forth above during the last year. Notwithstanding the foregoing, Guarantor shall not be in default or breach of this Section so long as (a) one of the Teams (as defined in the County Documents) has a net worth or fair value of equity of at least One Hundred Million and No/100 Dollars (\$100,000,000); or (b) the Teams together have a net worth or fair value of equity of at least One Hundred Million and No/100 Dollars (\$100,000,000). If the aggregate net worth or fair value of equity of both Teams together is equal to an amount less than One Hundred Million and No/100 Dollars (\$100,000,000), then the Teams will be required, for as long a period as such condition shall exist, to provide one or more irrevocable letters of credit in the amount equal to the difference between the combined aggregate stated net worth or fair value of equity of the Teams and One Hundred Million Dollars (\$100,000,000.00) in the form required by and consistent with Palm Beach County Policy and Procedure Memorandum No. CW-F-055 ("Letter of Credit").

7. Letter of Credit or Payment Bond. Guarantor may, at any time, present a Letter of Credit or Payment Bond in the amounts and according to the requirements set forth above in paragraph 6, instead of providing the CPA Firm or other Person (entity) certification described in paragraph 6, and thereafter Guarantor shall be obligated to maintain either a Letter of Credit or Payment

Bond as security for the Guaranty in the amounts as set forth above and consistent with Palm Beach County Policies and Procedures.

8. Proprietary Business Information. To the extent permitted by law, this Guaranty does not provide the County with access to any proprietary business or financial information of the Guarantor.

9. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of Florida.

10. Severability. If any provision of this Guaranty should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Guaranty shall not be affected thereby.

11. Successors and Assigns. This Guaranty shall inure to the benefit of the County and the County's successors and assigns and DEO, and DEO's successors and assigns, under any of the County Documents in accordance with the terms thereof, and shall be binding upon Guarantor and its successors and assigns.

12. Waiver of Jury Trial. GUARANTOR HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY COUNTY AGAINST GUARANTOR ON ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS GUARANTY.

13. Acceptance of Performance. The County agrees to accept performance by Guarantor of all or any of the Obligations to be performed by the Limited Partnership under the County Documents with the same force and effect as though performed by the Limited Partnership thereunder.

14. Unconditional, Absolute, Irrevocable General and Continuing Guaranty. The obligations of Guarantor under this Guaranty shall be unconditional, absolute, irrevocable, general, and continuing, irrespective of the genuineness, validity, regularity or enforceability of the County Documents or any security which may have been given therefor or in connection therewith or any other circumstances which might otherwise constitute a legal or equitable discharge of a surety or guarantor. This Guaranty and the obligations of Guarantor hereunder shall not be affected, impaired, modified or released by reason of; (a) the making by the Limited Partnership of any assignment for the benefit of creditors or the bankruptcy or insolvency of the Limited Partnership, (b) any action taken by the Limited Partnership in any bankruptcy or insolvency proceeding, including, without limitation, disaffirmance or rejection of the County Documents, (c) any default by the Limited Partnership or a Team under the County Documents, (d) the liquidation or dissolution of the Limited Partnership, (e) any change in or termination of Guarantor's relationship to the Limited Partnership, (f) the enforcement by the County or DEO of any of its rights under the County Documents, (g) the sale, conveyance, transfer or assignment by the Limited Partnership, of all or any portion of its interest under the County Documents, including, but not limited to, any assignment to an Affiliate of the Limited Partnership as authorized by the County Documents, or (h) the transfer by an owner of an interest in the Limited Partnership, including its

successors and assigns, of all or any part of its ownership interest in the Limited Partnership, at any time, to an Affiliate; it being agreed that in the event of any of the foregoing, the liability of Guarantor hereunder shall continue hereunder as if such event had not occurred. The County and the Limited Partnership, without notice to or consent by Guarantor, may at any time or from time to time enter into such extensions, expansions, amendments, assignments, subleases, or other covenants with respect to the County Documents as they may deem appropriate or desirable, including, without limitation, an expansion of the performance obligations and Guarantor shall not be released thereby, but shall continue to be fully liable for the payment and performance of all obligations as so extended, expanded, amended, assigned, sublet, or otherwise modified.

15. Primary Liability; Performance Guaranty. The liability of Guarantor under this Guaranty shall be primary, direct and immediate, and not conditional or contingent upon pursuit by the County or DEO of any remedies it may have against the Limited Partnership or any other Person with respect to the County Documents or any other agreement, whether pursuant to the terms thereof or by law or pursuant to any other security agreement or guaranty, except for pursuit by the County of its remedies against the issuer of any applicable Letter of Credit or Payment Bond securing this Guaranty. Guarantor and the County each acknowledge and agree that this Guaranty is a guaranty of performance in respect to the Obligations. Any one or more successive or concurrent actions may be brought hereon against Guarantor with respect to the Obligations, either in the same action or proceeding, if any, brought against the Limited Partnership or any other person or entity, or in separate actions as often as the County, or DEO, may deem advisable. Guarantor may be joined in any action against the Limited Partnership in connection with the County Documents. Recovery may be had by the County or DEO against Guarantor in any action against Guarantor without the County or DEO first pursuing or exhausting any remedy or claim against the Limited Partnership or any other person or entity, as the case may be, or their respective successors or assigns (except for pursuit by the County of its remedies against the issuer of any applicable Letter of Credit or Payment Bond securing this Guaranty) and Guarantor hereby waives any right it may have to require that the County seek recovery against any other Person before seeking recovery against Guarantor (except for pursuit by the County of its remedies against the issuer of any applicable Letter of Credit or Payment Bond securing this Guaranty). Until termination of this Guaranty in accordance with the provisions hereof, the liability of Guarantor under this Guaranty shall continue after (i) any assignment or transfer by the Limited Partnership, or any successor thereof, of any of its interests under the County Documents or (ii) any assignment or transfer by the County, or any successor thereof, of any of its interests under the County Documents.

16. Waiver of Presentment, Protest and Notices. Guarantor hereby expressly waives: (a) presentment and demand for payment and protest of nonpayment; (b) notice of acceptance of this Guaranty and of presentment, demand and protest; (c) notice of all indulgences under the County Documents; (d) demand for observance or performance of, or enforcement of, any terms and provisions of this Guaranty or the County Documents; (e) notices of default by or to the Limited Partnership under the County Documents; and (f) all other notices and demands otherwise required by law which Guarantor may lawfully waive.

17. No Subrogation. Guarantor shall not enforce any right of subrogation it may now or hereafter have against the Limited Partnership by reason of any payments or acts of performance

by Guarantor in compliance with the obligations of Guarantor hereunder, and Guarantor shall not enforce any remedy which Guarantor now or hereafter shall have against the Limited Partnership by reason of any one or more payments or acts of performance in compliance with the obligations of Guarantor hereunder unless and until all of the Obligations of Guarantor have been fully discharged, performed and satisfied, whereupon Guarantor shall have such subrogation rights as may be allowed under applicable law.

18. No Setoff. No setoff, counterclaim or cross-claim, reduction or diminution of any obligation or any defense of any kind or nature (other than performance of the Obligations) shall be available to Guarantor in any action or proceeding brought by the County or DEO to enforce the Obligations provided, however, that the foregoing shall not be deemed a waiver of the right of Guarantor to assert any compulsory counterclaim arising from a claim brought by the County or DEO hereunder, nor shall the foregoing be deemed a waiver of or prejudice in any manner whatsoever, Guarantor's right to assert any claim which constitutes a defense, setoff, counterclaim or cross-claim of any nature whatsoever against the County in any separate action or proceeding. Guarantor agrees that if at any time all or any part of any amounts at any time received by the County or DEO from Guarantor or the Limited Partnership, or any other Person, as the case may be, for or with respect to the Obligations is or must be rescinded or returned by the County or DEO by reason of any judgment or decree of any court having jurisdiction (including, without limitation, by reason of the insolvency, bankruptcy or reorganization of Guarantor or the Limited Partnership, or any other Person), then Guarantor's obligations hereunder shall, to the extent of the amount rescinded or restored, be deemed to have continued in existence notwithstanding such previous receipt by the County or DEO and the obligation guaranteed hereunder which was to have been discharged by such rescinded or restored amount shall continue to be effective or reinstated, as the case may be, to the extent of such amount, whether or not this Guaranty has terminated, and the obligations of the Guarantor shall survive the termination hereof.

19. Joint and Several and Cumulative Rights and Remedies. The rights and remedies afforded to the County and DEO in this Guaranty are cumulative and are not exclusive of any other right or remedy against Guarantor or any other Person provided by law, in equity or under any other agreement or instrument and all such rights and remedies may be exercised singly or concurrently. No delay or omission by the County or DEO in exercising any such right or remedy shall operate as a waiver thereof. No waiver of any right or remedy hereunder shall be deemed made by the County or DEO unless in writing and shall apply only to the particular instance specified therein and shall not impair the further exercise of such right or remedy or of any other right or remedy of the County, and no single or partial exercise of any right or remedy hereunder shall preclude any other or further exercise thereof or of any other right or remedy. It is understood by the Parties that other agreements similar to this Guaranty may, in the County's or DEO's discretion, be executed and delivered by other Persons with respect to the County Documents. This Guaranty shall be joint and several and cumulative of any such agreements, and the liabilities and obligations of Guarantor hereunder shall in no event be affected or diminished by reason of such other agreements.

20. Entire Agreement. This Guaranty shall constitute the entire agreement of Guarantor with the County with respect to Guarantor's guaranty of the Obligations.

21. Amendment. This Guaranty may not be modified or amended, except by an agreement in writing executed by Guarantor and the County.

22. Guarantor's Representations. In order to induce the County to enter into this Guaranty, Guarantor represents and warrants to the County and DEO that as of the date hereof:

- (i) Guarantor is a limited liability company duly organized, validly existing, and in good standing under the law of the State of Delaware;
- (ii) Guarantor has the requisite power and authority to enter into and carry out the terms and provisions of this Guaranty, and the execution, delivery, and performance of this Guaranty have been duly authorized and approved by all requisite action;
- (iii) This Guaranty constitutes a valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms (subject to any bankruptcy, insolvency, reorganization, receivership, moratorium or similar laws affecting the rights and remedies of creditors general, and subject to the effect of general principles of equity, whether applied by a court of law or equity);
- (iv) Guarantor's execution and performance of this Guaranty will not result in a breach of violation of, or default under, any laws applicable to Guarantor or any agreement, order, commitment, judgment, or decree by which Guarantor is bound;
- (v) The person executing this Guaranty on behalf of Guarantor has all requisite authority to do so, as a duly authorized officer of Guarantor; and
- (vi) Guarantor is solvent and will not be rendered insolvent by reason of this Guaranty.

23. Notices. Whenever it is provided herein that notice, demand, request, consent, approval or other communication shall or may be given to, or served upon, either of the Parties by the other, or whenever either of the Parties desires to give or serve upon the other any notice, demand request, consent, approval or other communication with respect hereto, each such notice, demand, request, consent, approval or other communication (herein referred to as a "Notice") shall be in writing and shall be effective for any purpose only if given or served by (i) certified or registered U.S. Mail, postage prepaid, return receipt requested, (ii) personal delivery with a signed receipt or (iii) a recognized national courier service, addressed as follows (or to such other addresses as a Party may direct by a Notice to the other Party hereto):

If to Guarantor:                      Caroline O'Connor  
    Chief Operating Officer  
    Miami Marlins  
    501 Marlins Way  
    Miami, FL 33125

with a copy to:                         Ashwin Krishnan, Esq.  
    General Counsel

Miami Marlins  
501 Marlins Way  
Miami, FL 33125

If to the County: Palm Beach County  
301 North Olive Avenue, 11th Floor  
West Palm Beach, Florida 33401  
Attention: County Administrator

with a copy to: Palm Beach County Attorney's Office  
301 North Olive Avenue, Suite 601  
West Palm Beach, Florida 33401  
Attention: Real Estate

with a copy to: Facilities Development & Operations  
2633 Vista Parkway  
West Palm Beach, FL 33411

with a copy to: Division of Strategic Business Development  
Florida Department of Economic Opportunity  
107 E. Madison Street, MSC 80  
Caldwell Building  
Tallahassee, FL 32399

Any Notice may be given, in the manner provided in this Section 23, on behalf of any Party by such Party's attorneys as designed by such Party by Notice hereunder. Every Notice shall be effective on the date actually received, as indicated on the receipt therefor or on the date delivery thereof is refused by the recipient thereof.

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IN WITNESS WHEREOF, Guarantor, intending to be legally bound, has executed this Guaranty as of the Day and year first above written.

**WITNESSES:**

**Marlins Teamco LLC, a Delaware limited liability company**

[Signature]  
Print Name: Arthur Koslow

By: Caroline O'Connor

[Signature]  
Print Name: Tony Brasille

Name: Caroline O'Connor  
Title: COO

STATE OF Florida  
COUNTY OF Miami-Dade

)  
)ss:  
)

The foregoing instrument was acknowledged before me this 4 day of May, 2022, by Caroline O'Connor, as COO of Marlins Teamco LLC, a Delaware limited liability company, who is personally known to me or has produced drivers license as identification.

Karen De Leon  
Print Name: [Signature]

Notary Public  
~~Karen De Leon~~  
Notary Public  
State of Florida  
Comm# HH112441  
Expires 3/31/2025





**EXHIBIT I-2**  
**ST. LOUIS CARDINALS**  
**PAYMENT AND PERFORMANCE AND CONSTRUCTION GENERAL GUARANTY**

This RESTATED PAYMENT, PERFORMANCE AND CONSTRUCTION GENERAL GUARANTY (this "Guaranty") is made as of the \_\_\_\_\_, by the St. Louis Cardinals, LLC, a Missouri Limited Liability Company (the "Guarantor"), in favor of Palm Beach County, a political subdivision of the State of Florida (the "County"), and its successors and assigns, and the State of Florida (the "State") by and through the Florida Department of Economic Opportunity ("DEO"), and its successors and assigns.

**RECITALS:**

The County is contemporaneously herewith entering into the Developer Agreement (the "Developer Agreement") and the Second Restated Sports Facility Use Agreement (the "New Use Agreement"), to provide for the construction, development and operation of the Renovation Project at the baseball spring training facility (the "Facility"), each dated as of the date hereof, and each entered into by and between the County and Jupiter Stadium Ltd., a Florida Limited Liability Company (the "Limited Partnership"), and the New Use Agreement also being entered into by the Guarantor and the Marlins Teamco LLC, a Delaware limited liability company as to Sections 5.1.2, Article 13, Section 16.7 and Section 22.3 thereof (the New Use Agreement and the Developer Agreement are referred to as the "County Documents").

In order to induce the County to enter into the County Documents and in consideration of the foregoing premises and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, and further, in order to induce DEO to certify the County pursuant to section 288.11631, Florida Statutes, Guarantor hereby agrees for the benefit of the County and its successors and assigns and the State, and its successors and assigns, as follows:

1. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated herein as if set forth in full.
2. Defined Terms. Capitalized terms used herein shall have the meaning set forth herein. Unless the context otherwise requires and except as otherwise provided herein, capitalized terms used herein that are not defined herein shall have the meaning assigned to such terms in the County Documents.
3. Effective Date. The Effective Date of this Guaranty shall be the Effective Date of the Developer Agreement.
4. First Restated Sports Facility Use Agreement Guaranty. As of the Effective Date, this Guaranty replaces, supersedes and terminates the Guaranty attached as Exhibit B to the First Restated Sports Facility Use Agreement entered into May 3, 2011 (R2011-0694) between the Limited Partnership and the County. Any liabilities, obligations, or duties of the Limited

Partnership which arose pursuant to the First Restated Sports Facility Use Agreement and prior to the termination of the First Restated Sports Facility Use Agreement shall be guaranteed by this Guaranty.

5. Payment, Performance, Construction and Operation Guaranty. Guarantor hereby unconditionally, absolutely, generally, continually, and irrevocably guarantees to the County, and to DEO as to the rights and interests of DEO pursuant to the County Documents, all obligations imposed by the County Documents, including, without limitation, the planning, design and permitting of the Project and the completion of construction of the Renovation Project and operation of the Renovation Project pursuant to the County Documents and the payment and performance of all liabilities, obligations and duties imposed on the Limited Partnership under each of the County Documents (collectively "the Obligations") as if Guarantor had executed each such County Document in place of the Limited Partnership. This Guaranty shall not terminate until the payment of all sums and performance of all Obligations, except that, to the extent this Guaranty guarantees performance of Obligations which survive the termination of the County Documents, then this Guaranty shall continue to remain in full force and effect.

6. Security. Guarantor has provided a statement from an independent Certified Public Accounting Firm or other independent third-Person (entity) experienced in appraising sports organizations and properties (an "Appraisal Firm"), certifying or opining that the Guarantor has a current net worth or fair value of equity in excess of One Hundred Million and No/100 Dollars (\$100,000,000). At least once every five years thereafter until expiration of this Guaranty, Guarantor shall provide an updated letter to the County from one of the above possible sources, re-certifying or opining that the Guarantor has a then current net worth or fair value of equity in excess of One Hundred Million and No/100 Dollars (\$100,000,000). Additionally, in any year that a statement as described above, is not due to the County, the Guarantor shall provide a statement from an Appraisal Firm or Certified Public Accounting Firm in the form of a letter on letterhead, stating that there have been no material adverse changes in the financial position of the Guarantor that would affect the previously certified minimum net worth or fair value of equity statement set forth above during the last year. Notwithstanding the foregoing, Guarantor shall not be in default or breach of this Section so long as (a) one of the Teams (as defined in the County Documents) has a net worth or fair value of equity of at least One Hundred Million and No/100 Dollars (\$100,000,000); or (b) the Teams together have a net worth or fair value of equity of at least One Hundred Million and No/100 Dollars (\$100,000,000). If the aggregate net worth or fair value of equity of both Teams together is equal to an amount less than One Hundred Million and No/100 Dollars (\$100,000,000), then the Teams will be required, for as long a period as such condition shall exist, to provide one or more irrevocable letters of credit in the amount equal to the difference between the combined aggregate stated net worth or fair value of equity of the Teams and One Hundred Million Dollars (\$100,000,000.00) in the form required by and consistent with Palm Beach County Policy and Procedure Memorandum No. CW-F-055 ("Letter of Credit").

7. Letter of Credit or Payment Bond. Guarantor may, at any time, present a Letter of Credit or Payment Bond in the amounts and according to the requirements set forth above in paragraph 6, instead of providing the CPA Firm or other Person (entity) certification described in paragraph 6, and thereafter Guarantor shall be obligated to maintain either a Letter of Credit or Payment

Bond as security for the Guaranty in the amounts as set forth above and consistent with Palm Beach County Policies and Procedures.

8. Proprietary Business Information. To the extent permitted by law, this Guaranty does not provide the County with access to any proprietary business or financial information of the Guarantor.

9. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of Florida.

10. Severability. If any provision of this Guaranty should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Guaranty shall not be affected thereby.

11. Successors and Assigns. This Guaranty shall inure to the benefit of the County and the County's successors and assigns and DEO, and DEO's successors and assigns, under any of the County Documents in accordance with the terms thereof, and shall be binding upon Guarantor and its successors and assigns.

12. Waiver of Jury Trial. GUARANTOR HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY COUNTY AGAINST GUARANTOR ON ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS GUARANTY.

13. Acceptance of Performance. The County agrees to accept performance by Guarantor of all or any of the Obligations to be performed by the Limited Partnership under the County Documents with the same force and effect as though performed by the Limited Partnership thereunder.

14. Unconditional, Absolute, Irrevocable, General and Continuing Guaranty. The obligations of Guarantor under this Guaranty shall be unconditional, absolute, irrevocable, general and continuing, irrespective of the genuineness, validity, regularity or enforceability of the County Documents or any security which may have been given therefor or in connection therewith or any other circumstances which might otherwise constitute a legal or equitable discharge of a surety or guarantor. This Guaranty and the obligations of Guarantor hereunder shall not be affected, impaired, modified or released by reason of; (a) the making by the Limited Partnership of any assignment for the benefit of creditors or the bankruptcy or insolvency of the Limited Partnership, (b) any action taken by the Limited Partnership in any bankruptcy or insolvency proceeding, including, without limitation, disaffirmance or rejection of the County Documents, (c) any default by the Limited Partnership or a Team under the County Documents, (d) the liquidation or dissolution of the Limited Partnership, (e) any change in or termination of Guarantor's relationship to the Limited Partnership, (f) the enforcement by the County or DEO of any of its rights under the County Documents, (g) the sale, conveyance, transfer or assignment by the Limited Partnership, of all or any portion of its interest under the County Documents, including, but not limited to, any assignment to an Affiliate of the Limited Partnership as authorized by the County Documents, or (h) the transfer by an owner of an interest in the Limited Partnership, including its

successors and assigns, of all or any part of its ownership interest in the Limited Partnership, at any time, to an Affiliate; it being agreed that in the event of any of the foregoing, the liability of Guarantor hereunder shall continue hereunder as if such event had not occurred. The County and the Limited Partnership, without notice to or consent by Guarantor, may at any time or from time to time enter into such extensions, expansions, amendments, assignments, subleases, or other covenants with respect to the County Documents as they may deem appropriate or desirable, including, without limitation, an expansion of the performance obligations and Guarantor shall not be released thereby, but shall continue to be fully liable for the payment and performance of all obligations as so extended, expanded, amended, assigned, sublet, or otherwise modified.

15. Primary Liability; Performance Guaranty. The liability of Guarantor under this Guaranty shall be primary, direct and immediate, and not conditional or contingent upon pursuit by the County or DEO of any remedies it may have against the Limited Partnership or any other Person with respect to the County Documents or any other agreement, whether pursuant to the terms thereof or by law or pursuant to any other security agreement or guaranty, except for pursuit by the County of its remedies against the issuer of any applicable Letter of Credit or Payment Bond securing this Guaranty. Guarantor and the County each acknowledge and agree that this Guaranty is a guaranty of performance in respect to the Obligations. Any one or more successive or concurrent actions may be brought hereon against Guarantor with respect to the Obligations, either in the same action or proceeding, if any, brought against the Limited Partnership or any other person or entity, or in separate actions as often as the County, or DEO, may deem advisable. Guarantor may be joined in any action against the Limited Partnership in connection with the County Documents. Recovery may be had by the County or DEO against Guarantor in any action against Guarantor without the County or DEO first pursuing or exhausting any remedy or claim against the Limited Partnership or any other person or entity, as the case may be, or their respective successors or assigns (except for pursuit by the County of its remedies against the issuer of any applicable Letter of Credit or Payment Bond securing this Guaranty) and Guarantor hereby waives any right it may have to require that the County seek recovery against any other Person before seeking recovery against Guarantor (except for pursuit by the County of its remedies against the issuer of any applicable Letter of Credit or Payment Bond securing this Guaranty). Until termination of this Guaranty in accordance with the provisions hereof, the liability of Guarantor under this Guaranty shall continue after (i) any assignment or transfer by the Limited Partnership, or any successor thereof, of any of its interests under the County Documents or (ii) any assignment or transfer by the County, or any successor thereof, of any of its interests under the County Documents.

16. Waiver of Presentment, Protest and Notices. Guarantor hereby expressly waives: (a) presentment and demand for payment and protest of nonpayment; (b) notice of acceptance of this Guaranty and of presentment, demand and protest; (c) notice of all indulgences under the County Documents; (d) demand for observance or performance of, or enforcement of, any terms and provisions of this Guaranty or the County Documents; (e) notices of default by or to the Limited Partnership under the County Documents; and (f) all other notices and demands otherwise required by law which Guarantor may lawfully waive.

17. No Subrogation. Guarantor shall not enforce any right of subrogation it may now or hereafter have against the Limited Partnership by reason of any payments or acts of performance

by Guarantor in compliance with the obligations of Guarantor hereunder, and Guarantor shall not enforce any remedy which Guarantor now or hereafter shall have against the Limited Partnership by reason of any one or more payments or acts of performance in compliance with the obligations of Guarantor hereunder unless and until all of the Obligations of Guarantor have been fully discharged, performed and satisfied, whereupon Guarantor shall have such subrogation rights as may be allowed under applicable law.

18. No Setoff. No setoff, counterclaim or cross-claim, reduction or diminution of any obligation or any defense of any kind or nature (other than performance of the Obligations) shall be available to Guarantor in any action or proceeding brought by the County or DEO to enforce the Obligations provided, however, that the foregoing shall not be deemed a waiver of the right of Guarantor to assert any compulsory counterclaim arising from a claim brought by the County or DEO hereunder, nor shall the foregoing be deemed a waiver of or prejudice in any manner whatsoever, Guarantor's right to assert any claim which constitutes a defense, setoff, counterclaim or cross-claim of any nature whatsoever against the County in any separate action or proceeding. Guarantor agrees that if at any time all or any part of any amounts at any time received by the County or DEO from Guarantor or the Limited Partnership, or any other Person, as the case may be, for or with respect to the Obligations is or must be rescinded or returned by the County or DEO by reason of any judgment or decree of any court having jurisdiction (including, without limitation, by reason of the insolvency, bankruptcy or reorganization of Guarantor or the Limited Partnership, or any other Person), then Guarantor's obligations hereunder shall, to the extent of the amount rescinded or restored, be deemed to have continued in existence notwithstanding such previous receipt by the County or DEO and the obligation guaranteed hereunder which was to have been discharged by such rescinded or restored amount shall continue to be effective or reinstated, as the case may be, to the extent of such amount, whether or not this Guaranty has terminated, and the obligations of the Guarantor shall survive the termination hereof.

19. Joint and Several and Cumulative Rights and Remedies. The rights and remedies afforded to the County and DEO in this Guaranty are cumulative and are not exclusive of any other right or remedy against Guarantor or any other Person provided by law, in equity or under any other agreement or instrument and all such rights and remedies may be exercised singly or concurrently. No delay or omission by the County or DEO in exercising any such right or remedy shall operate as a waiver thereof. No waiver of any right or remedy hereunder shall be deemed made by the County or DEO unless in writing and shall apply only to the particular instance specified therein and shall not impair the further exercise of such right or remedy or of any other right or remedy of the County, and no single or partial exercise of any right or remedy hereunder shall preclude any other or further exercise thereof or of any other right or remedy. It is understood by the Parties that other agreements similar to this Guaranty may, in the County's or DEO's sole discretion, be executed and delivered by other Persons with respect to the County Documents. This Guaranty shall be joint and several and cumulative of any such agreements, and the liabilities and obligations of Guarantor hereunder shall in no event be affected or diminished by reason of such other agreements.

20. Entire Agreement. This Guaranty shall constitute the entire agreement of Guarantor with the County with respect to Guarantor's guaranty of the Obligations.



General Counsel  
St. Louis Cardinals  
700 Clark Street  
St. Louis, MO 63102

If to the County: Palm Beach County  
301 North Olive Avenue, 11th Floor  
West Palm Beach, Florida 33401  
Attention: County Administrator

with a copy to: Palm Beach County Attorney's Office  
301 North Olive Avenue, Suite 601  
West Palm Beach, Florida 33401  
Attention: Real Estate

with a copy to: Facilities Development & Operations  
2633 Vista Parkway  
West Palm Beach, FL 33411

with a copy to: Division of Strategic Business Development  
Florida Department of Economic Opportunity  
107 E. Madison Street, MSC 80  
Caldwell Building  
Tallahassee, FL 32399

Any Notice may be given, in the manner provided in this Section 23, on behalf of any Party by such Party's attorneys as designed by such Party by Notice hereunder. Every Notice shall be effective on the date actually received, as indicated on the receipt therefor or on the date delivery thereof is refused by the recipient thereof.

THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, Guarantor, intending to be legally bound, has executed this Guaranty as of the Day and year first above written.

WITNESSES:

St. Louis Cardinals, LLC, a Missouri Limited Liability Company

Mike Wattle

By: William O. Dewitt III

Print Name: MIKE WATTLE

Name: WILLIAM O. DEWITT III

Michelle Lietta

Title: PRESIDENT

Print Name: Michele Liotta

STATE OF Missouri

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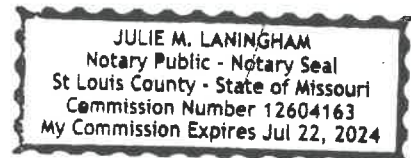
)ss:

COUNTY OF St. Louis

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The foregoing instrument was acknowledged before me this 5th day of May, 2022, by William O. Dewitt III, as President of the St. Louis Cardinals, LLC, a Missouri Limited Liability Company, who is personally known to me or has produced \_\_\_\_\_ as identification.

Julie M. Laningham  
Print Name: Julie M. Laningham  
Notary Public





**EXHIBIT J  
RESERVED**

**EXHIBIT K**  
**STATE FUNDING AGREEMENT**

**RFP ATTACHMENT H  
FORM OF CMR CONTRACT  
(For Information Purposes Only, Do Not Return With Proposal)**

# **CONTRACT FOR CONSTRUCTION MANAGER AT RISK SERVICES**

This Contract is entered into on April 8, 2024, by and between **Jupiter Stadium, Ltd**, a Florida limited partnership, hereinafter referred to as “**JSL**” “” and \_\_\_\_\_, Federal Tax ID Number \_\_\_\_\_ hereinafter referred to as the “**Construction Manager**” or “**CM**”.

## **WITNESSETH:**

That JSL currently has a use agreement (the “Use Agreement”) with Palm Beach County, Florida (the “County”) for Roger Dean Chevrolet Stadium and Sports Complex, located at 4751 Main St., Jupiter, FL 33458 (collectively, the “Facility”).

That, in connection with the Developer Agreement (defined below), JSL will undertake a project to renovate and expand the Facility (collectively, the “Project”).

And in accordance with the Contract Documents (defined below) and for the promises and mutual consideration specified herein, the Construction Manager hereby covenants and agrees to undertake and execute all of the Work (defined below) awarded hereunder in a good and workmanlike manner and further agrees to furnish and pay for all materials, labor, supervision, equipment, supplies, fees, expertise, and services necessary to fully complete all Work in accordance with all requirements of the Contract Documents and in accordance with all applicable codes and governing regulations, and within the time limit specified in the Contract Documents.

The parties agree that the Contract Documents consist of the following documents, all of which are incorporated herein by reference:

- The Contract and any approved amendments (when executed);
- Schedule of Liquidated Damages, Exhibit A;
- Developer Agreement, Exhibit B;
- Break-down of the Construction Budget Limitation, Exhibit C;
- General Conditions to the Contract, Exhibit D;
- Special Conditions, Exhibit E;
- Forms of Public Construction Bond and Form of Guarantee, Exhibit F;
- Technical Specifications, Addenda, Drawings/Plans and any revisions thereto, Exhibit G;
- Task Orders, GMP Amendment(s), Notices to Proceed and any Change Orders thereto;
- EBO Schedules when completed and submitted.

## **ARTICLE 1**

### **GENERAL TERMS**

**1.1 Definitions.** Terms used in this Contract shall have the following meanings:

**1.1.1** “90% CD Documents” has the meaning set forth in Section 2.1.2.

**1.1.2** “100% DD Documents” has the meaning set forth in Section 2.1.2.

**1.1.3** “Amendment” means a written instrument approved and executed by the parties that modifies the Contract.

**1.1.4** “API” has the meaning set forth in Section 2.1.13.1(b).

**1.1.5** “Architect” means the Architect/Engineer of Record for the Project which will be designated in the special conditions to this Contract.

**1.1.6** “Basic Services” means the services described in Article 2 of this Contract.

**1.1.7** “Bid Cost Commitment” means the total amount of all competitive bids on the Work that Construction Manager receives from the various Trade Contractors through the competitive bid process set forth in Section 2.1.13 plus any Work that JSL authorizes the Construction Manager to self-perform (that is not included as a General Conditions Cost).

**1.1.8** “Board” has the meaning set forth in Section 2.1.13.1(a).

**1.1.9** “Cardinals” means the St. Louis Cardinals baseball club of MLB, which is operated by St. Louis Cardinals, LLC.

**1.1.10** “Change Order” means written orders to Construction Manager for any changes in accordance with Section GC 65 of the General Conditions.

**1.1.11** “Construction Budget Limitation” means Eighty-Three Million Dollars (\$83,000,000), which is the maximum amount established by JSL for the sum of the Construction Manager’s Fee, the Cost of the Work (including GC Costs) and the Construction Contingency, as further detailed on Exhibit C. The Construction Budget Limitation expressly excludes the Preconstruction Services Fee.

**1.1.12** “Construction Contingency” means two and one-half percent (2.5%) of the sum of all Subcontracts and JSL-approved Work to be self-performed by Construction Manager, unless otherwise agreed by JSL and Construction Manager in the GMP Amendment or otherwise in accordance with the Contract Documents.

**1.1.13** “Construction Documents” means the fully developed architectural drawings, construction drawings and specifications describing the size, character, design, construction, materials, finishes, structure and mechanical, electrical and other systems of the Project produced by Architect, including technical specifications, design documents (whether, as applicable, preliminary or final), plans, addenda and Change Orders for the Project.

**1.1.14** “Construction Manager’s Fee” means \_\_\_\_\_ percent (\_\_\_%) of the Cost of the Work to be paid to Construction Manager as Construction Manager’s fee for overhead (not otherwise included in the General Conditions Costs) and profit for performing the Basic Services.

**1.1.15** “Construction Schedule” has the meaning set forth in Section 1.6, and may be used

interchangeably with the term “Master Project Schedule”.

**1.1.16** “Construction Services” means those services to be provided by Construction Manager in accordance with Section 2.2 hereof.

**1.1.17** “Construction Team” means JSL, the Architect and the Construction Manager.

**1.1.18** “Contract” means the Contract as defined on page one hereof.

**1.1.19** “Contract Documents” means the documents listed in the list preceding Article 1.

**1.1.20** “Contract Sum” means Guaranteed Maximum Price for the Project, and the terms will be used interchangeably.

**1.1.21** “Contract Time” means, collectively and subject to modification by Change Orders, the dates established pursuant to the Contract Documents for Construction Manager to achieve Substantial Completion, final completion and all other interim milestone dates, including, without limitation, the Project Substantial Completion Date.

**1.1.22** “Contractor” or “Construction Manager” or “CM” the terms will be used interchangeably and means the company named in the initial paragraph of page one of this Contract

**1.1.23** “Cost of the Work” has the meaning set forth in Section 8.1.

**1.1.24** “County” means Palm Beach County.

**1.1.25** “Developer Agreement” means the agreement between the County and JSL, dated May 17, 2022, for the Project, Exhibit B.

**1.1.26** “EBO Ordinance” has the meaning set forth in Section 2.1.13.1(a).

**1.1.27** “EBO Program” has the meaning set forth in Section 2.1.13.1(a).

**1.1.28** “General Conditions Costs” has the meaning set forth in Section 6.4.

**1.1.29** “GC Lump Sum” means \_\_\_\_\_ [Insert Amount], which is the full amount of reimbursement for which Construction Manager is entitled for General Conditions Costs and any and all other overhead or general expenses for the Project, including profit thereupon, except as may be expressly included in Article 8, herein, as the “Cost of the Work”.

**1.1.30** “Guaranteed Maximum Price” or “GMP” the terms will be used interchangeably, means the amount calculated for the Project in accordance with Article 6 hereof, and accepted by JSL, as the maximum compensation to which Construction Manager may be entitled to receive from JSL to provide all Work in accordance with the Construction Documents, and includes, without limitation, all Cost of the Work, including General Conditions Costs and the Construction Manager’s Fee and any and all other costs and

expenses to complete all Work for the Project, subject to additions and deductions by Change Orders. The GMP does not include the Preconstruction Services Fee.

**1.1.31** “GMP Amendment” means an amendment to this Contract that establishes the Guaranteed Maximum Price for the Project determined in accordance with the Contract Documents.

**1.1.32** “GMP Pricing Documents” has the meaning set forth in Section 2.1.14.

**1.1.33** “GMP Proposal” has the meaning set forth in Section 2.1.14.

**1.1.34** “GMP Schedule” means the version of the Construction Schedule submitted by Construction Manager in accordance with Section 2.1.6 based on the 90% CD Documents that have been approved by JSL.

**1.1.35** “JSL” means Jupiter Stadium, Ltd.

**1.1.36** “JSL’s Representative” has the meaning set forth in Section 4.1.

**1.1.37** “LD Project Element” means, as applicable, one or more of the specific improvements listed in Table A of Contract Exhibit A under the column containing the heading “LD Project Element”.

**1.1.38** “Liquidated Damages” has the meaning set forth in Section GC 79 of the General Conditions.

**1.1.39** “Marlins” means the Miami Marlins baseball club of MLB, which is operated by Marlins Teamco LLC.

**1.1.40** “MLB” means Major League Baseball.

**1.1.41** “Preconstruction Services” means those services to be provided by Construction Manager in accordance with Section 2.1 hereof.

**1.1.42** “Preconstruction Services Fee” has the meaning set forth in Section 7.1.1.

**1.1.43** “Project Substantial Completion” means the condition of Substantial Completion of all Work for the Project.

**1.1.44** “Project” has the meaning set forth in the second paragraph of the Contract (preceding Article 1).

**1.1.45** “Project Substantial Completion Date” means the date established by the GMP Amendment as the date upon which the Construction Manager shall achieve Project Substantial Completion.

**1.1.46** “Single Phase Schedule” has the meaning set forth in Section 2.1.6.1.

**1.1.47** “Spring Training” means the MLB pre-season training and exhibition game season, which generally takes place at the Facility during the months of February and March each year, or as otherwise may be scheduled by MLB.

**1.1.48** “Spring Training Period” means the period each year after commencement of the Project beginning on the day before the date established by MLB as the first day MLB pitchers and catchers may voluntarily report for Spring Training at the Facility and ending on the date following the day of the last Spring Training game scheduled by MLB to take place at the Stadium.

**1.1.49** “Stadium” means the principal playing field within the Facility with an approximate seating capacity of six thousand eight hundred (6,800), which is commonly known as Roger Dean Chevrolet Stadium, and is the Spring Training home of the Marlins and the Cardinals.

**1.1.50** “Subcontractor” means Trade Contractor, and the terms will be used interchangeably.

**1.1.51** “Subcontract” means an agreement to perform the Work directly between Construction Manager and a Trade Contractor. The term “Subcontracts” means, collectively, every Subcontract for the Work.

**1.1.52** “Substantial Completion” or “substantially complete” means the condition of the Work, or any element thereof, being essentially complete to JSL’s satisfaction in accordance with the Contract Documents, such that the Work, or element thereof, is ready for full occupancy, operation and/or use without material inconvenience or discomfort to JSL, its patrons or sponsors, and all certificates, licenses and permits required by all applicable laws have been obtained. For purpose of determining Substantial Completion, a minor amount of Work, as determined by and at the sole discretion of JSL, such as installation of non-essential accessories or items, an insignificant amount of painting, minimal replacement of defective Work, negligible adjustment of controls or systems will not delay the determination of Substantial Completion, and JSL may specify areas of the Work or Project to be individually adjudged as substantially complete.

**1.1.53** “Task Order” means an Amendment to the Contract that authorizes pre-construction services for the Project.

**1.1.54** “Team” and “Teams” means either one or both of the Marlins and Cardinals, as applicable.

**1.1.55** “Trade Contractor” means the affiliates, trade contractors, vendors, suppliers, subcontractors and consultants hired by the CM to perform the Work for the Project.

**1.1.56** “Two Phase Schedule” has the meaning set forth in Section 2.1.6.1.

**1.1.57** “Work” means all the preconstruction, the construction and other services required



by the Contract and includes all labor, materials, equipment, supervision and services provided by the Construction Manager to fulfill its obligations under the Contract for the Project.

**1.2 Standard of Performance.** The Construction Manager agrees to furnish its best skill and judgment and to cooperate with JSL and Architect in furthering the interests of JSL. The Construction Manager agrees to furnish efficient business administration and superintendence and to use its best efforts to complete the Project in an expeditious and economical manner consistent with the interests of JSL.

**1.3 The Construction Team.** The Construction Team will cooperate together through construction completion for the Project. The Construction Manager shall provide leadership to the Construction Team on all matters relating to construction. The Architect will provide leadership to the Construction Team on all matters relating to design. Nothing herein is intended to make JSL liable for the acts or deeds of the Construction Manager.

**1.4 General Warranties.** By execution of this Contract, JSL and Construction Manager each represent and warrant to the other that they are authorized to enter into this Contract and that this Contract represents such party's legal, valid and binding obligation, enforceable according to the terms thereof.

**1.5 Construction Manager's Warranties.** Construction Manager covenants, represents and warrants to JSL that:

It is a business organization duly organized, validly existing and in good standing under the laws of the State of Florida, having full power and authority to engage in the business it presently conducts and contemplates conducting, and is and throughout the Work will be duly licensed or qualified and in good standing under the laws of said jurisdiction;

It has the required authority, ability, skills and capacity to perform, and shall perform, the Work in a manner consistent with sound engineering and construction principles, project management and supervisory procedures, and reporting and accounting procedures;

The execution, delivery and performance of this Contract will not conflict with any applicable laws or with any covenant, agreement or understanding to which it is a party or by which it or any of its properties or assets is bound or affected;

It has knowledge of all the applicable laws in effect on the effective date of the Contract and of all business practices in the jurisdiction within which the Work is located that must be followed in performing the Work.

**1.6 Time is of the Essence.**

Time is of the essence in this Contract, and the Construction Manager agrees to promptly perform its duties under the Contract and will give the Work as much priority as is necessary to cause the Work to be completed on a timely basis in accordance with the Contract Documents. All Work shall be performed strictly (not substantially) within the time limitations necessary to maintain the critical path and all deadlines established in the Contract Documents.

All dates and periods of time set forth in the Contract Documents, including those for the commencement, prosecution, interim milestones, milestones, and completion of the Work, and for

the delivery and installation of materials and equipment, are included because of their importance to JSL.

Construction Manager acknowledges and recognizes that the Work for the Project must be performed in accordance with the project schedule developed for the Project in accordance with Article 5 hereof and General Condition 47 of the Contract (the "Construction Schedule").

By signing this Contract, the Construction Manager agrees to the assessment of liquidated damages as provided in Exhibit A hereof.

In agreeing to bear the risk of delays for completion of the Work, except for extensions approved in accordance with the Contract, the Construction Manager understands that, except and only to the extent provided otherwise in the Contract, the occurrence of events of delay within the Construction Manager's control shall not excuse the Construction Manager from its obligation to achieve full completion of the Work according to the project schedule, and shall not entitle the Construction Manager to an adjustment of the GMP. All parties under the control or in contract with the Construction Manager shall include but are not limited to Subcontractors, materialmen and laborers. If the Construction Manager has reason to believe that a delay on the part of a materialman or supplier was not within the Construction Manager's control, the Construction Manager may present such justification to the JSL for consideration of an extension in accordance with the General Conditions of the Contract.

**1.7 Complete Functional Project.** It is the intent of the parties to describe in the Contract Documents a functionally complete project to be constructed in accordance with the Contract and in accordance with all codes and regulations governing construction of the Project. Any work, materials or equipment that may reasonably be inferred from the Contract as being required to produce the intended result shall be supplied by Construction Manager whether or not specifically called for. Where words, which have a well-known technical or trade meaning, are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of performance of the Work and Construction Manager shall comply therewith. JSL shall have no duties other than those duties and obligations expressly set forth within the Contract.

**1.8 Governing Order.** The Governing Order of the Contract is agreed to be as follows: The Contract includes various divisions, sections and conditions which are essential parts for the Work to be provided by the Construction Manager. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete project. In case of discrepancy, the following precedence will govern the interpretation of the Contract Documents:

1. Any Amendments to this Contract including Task Orders, GMP Amendment, Notices to Proceed and Change Orders thereto
2. This Contract
3. EBO Schedules
4. Special Conditions
5. General Conditions
6. Insurance Certificates, Public Construction Bond and Guarantee

7. The Construction Documents (when approved)
8. The Developer Agreement, subject to Section 1.10 hereof.

In the event that any conflicts cannot be resolved by reference to this Governing Order of Contract Documents provision, then JSL shall resolve the conflict in any manner which is acceptable to JSL and which comports with the overall intent of the Contract.

**1.9 Extent of Agreement.** The Contract represents the entire agreement between JSL and the Construction Manager and supersedes all prior negotiations, representations or agreements. This Contract may be amended only by written instrument signed by JSL and the Construction Manager.

**1.10 Applicability of the Developer Agreement.** Contractor must perform the Work in accordance with the requirements that expressly apply to “Contractor” therein (with the specific exclusion of Section 9.4), and, in a manner that is consistent with JSL’s obligations to the County thereunder, including, without limitation:

1. The County’s standard design and construction policies (Section 3.3(H));
2. The requirement to incorporate new materials and equipment (Section 3.3(AA));
3. Participation in the Sales Tax Recovery Program (Section 3.3(NN) and Exhibit E);
4. The Payment and requisition procedures (Sections 5.6 and 9.3 and Exhibit G);
5. Naming the County as additional insured and/or third-party beneficiaries to all insurance policies and bonds (Section 7.2(F));
6. The timing of the payment process under Article 9 of the Developer Agreement, excluding Section 9.4; and
7. Prohibition against business with Scrutinized Companies (Section 19.29).

## ARTICLE 2

### CONSTRUCTION MANAGER’S BASIC SERVICES

**2.0 Phases.** The Construction Manager’s Basic Services under this Contract include preconstruction phase services and construction phase services for the Project.

**2.0.1 CM’s Project Manager.** Unless agreed to the contrary in writing by JSL, the Construction Manager shall provide continuity in the assignment of the Construction Manager’s project manager during the pre-construction and construction phases for the Project.

**2.1 The Preconstruction Phase.** It is the intent of JSL to use the construction manager-at-risk project delivery system to engage the Construction Manager to serve as an active participant in the design finalization and construction planning process, working with JSL and Architect to evaluate options to expedite and efficiently carry out the Project. The Construction Manager shall perform the following Preconstruction Services:

**2.1.1 Design Team Meetings.** CM shall meet with the Architect and any other design

team members to fully understand the program, the design documents, the project scope and all other pertinent aspects of the Project.

**2.1.2 Reports Required.** CM shall provide (a) preconstruction deliverables consisting of 7 copies of reports at the following intervals: ninety percent (90%) completion of Construction Documents (“90% CD Documents”); and (b) the GMP Proposal in accordance with Section 2.1.14 hereof. The reports shall include a complete discussion and summary of the services provided in accordance with the following subparagraphs.

**2.1.3 Design Reviews.** CM shall review designs during their development, including without limitation bringing to JSL’s and Architect’s attention any known observations in the design that appear to be ambiguous, confusing, conflicting or erroneous. With respect to each such issue, the Construction Manager shall submit a written report to both JSL and the Architect. At a minimum, each such written report shall contain: (1) a description of the constructability/biddability issue with background information; (2) a summary of the Construction Manager’s in-depth study/research; and, (3) written recommendations for addressing the issue. CM shall proactively advise the Architect with regard to the most effective approach for designing the Project regarding issues of onsite use and improvements, selection of materials, building systems and equipment. CM shall provide recommendations on relative feasibility of construction methods, compliance with applicable laws, codes, (relating to installation only) design standards, and ordinances, availability of materials and labor, time requirements for procurement, installation and construction and factors related to cost including, but not limited to, costs of alternative designs or materials, preliminary budgets and possible economies, while maintaining JSL’s design objectives. CM shall conduct the comparisons and reviews required by General Condition (GC) 19.

**2.1.4 Construction Planning Meetings.** CM shall attend regularly scheduled meetings with the Architect and consultants to advise them on matters relating to site use, improvements, selection of materials, building methods, construction details, building systems and equipment, early procurement opportunities, enabling, phasing and sequencing. The Construction Manager shall provide written recommendations on construction feasibility.

**2.1.5 Value Analysis.** CM shall evaluate the design and schedule and obtain an understanding of the intent of JSL and Architect. The Preconstruction Services will not include a comprehensive value analysis, but, based on CM’s review, CM may offer cost savings suggestions and best value recommendations to the Architect and JSL that CM ascertains in the course of review.

#### **2.1.6 Development of the Construction Schedule.**

**2.1.6.1. Alternative Initial Potential Schedules.** CM shall evaluate alternative construction sequencing and scheduling options for the Project.

**2.1.6.2. Schedule of Construction Manager’s Services.** CM shall provide, for the Architect’s and JSL’s review and acceptance, a schedule that details the Construction Manager’s services, with the anticipated Construction Schedule(s) for the Project. The schedule, at a minimum, must be in a detailed precedence-style critical path management or primavera-type format satisfactory to JSL that must also (a) provide a graphic representation of all major activities

and events that will occur during performance of the Work; (b) identify each phase of design, construction, and occupancy; and (c) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents. The Construction Schedule(s) must include an appendix or table that separately lists an anticipated date of Substantial Completion of each of the respective LD Project Elements.

**2.1.6.3.** The Construction Manager shall update each such potential schedule periodically, as required, including, without limitation, and as applicable, all alternative scheduling options.

**2.1.7 Cost Estimates.** The Preconstruction Services will not include a mandatory construction document-level estimate of construction cost; provided, however, CM shall advise JSL and the Architect if it appears that the construction cost may exceed the Construction Budget Limitation. CM shall make recommendations for corrective action.

**2.1.8 Specification Review.** The Construction Manager shall review the drawings and specifications, recommending alternative solutions whenever design details affect costs, construction feasibility or schedules. The Construction Manager shall notify JSL and Architect in writing upon observing any known features in the plans or specifications, which appear to be ambiguous, confusing, conflicting or erroneous. All ambiguous, confusing, conflicting and/or erroneous features discovered in the plans or specifications by the Construction Manager during the review process shall be deemed to be corrected, and any associated costs shall be included in the Guaranteed Maximum Price (GMP).

**2.1.9 Schedule for Building Components and Systems.** The Construction Manager agrees that time is of the essence in maintaining the Construction Schedule for the Project. In an effort to achieve the Construction Schedule, the Architect will rely upon the input and recommendations of the Construction Manager in preparing the project documents, recognizing that cost is one of a number of issues that will influence the selection of building components and systems.

**2.1.10 Project Insurance Planning.** Construction Manager shall advise the JSL of recommended insurance program for the project to the extent that Construction Manager participates in a controlled insurance program (CCIP) or maintains a builder's risk program that may be available for the Project. Construction Manager shall coordinate collection of Subcontract insurance information as required for pre-qualification and establishment of the GMP in accordance with the Contract.

**2.1.11 Dividing Project into Trades.** CM shall advise on the separation of the Project into subcontracts for various categories of work. If separate contracts are to be awarded, review the drawings and specifications and make recommendations as required to provide that (1) the work of the separate contractors is coordinated with that of the Trade Contractors, (2) all requirements for the Project have been assigned to the appropriate separate contract, (3) the likelihood of jurisdictional disputes has been minimized, and (4) proper coordination has been provided for phased construction.

**2.1.12 Schedule for Each Trade.** CM shall develop a projected Construction Schedule providing for all major elements such as phasing of construction and times of commencement and

completion required of each Trade Contractor. CM shall provide the projected Construction Schedule for each set of bidding documents. CM shall develop a plan for the phasing of construction.

**2.1.12.1 Long Lead Items.** CM shall establish a schedule for the purchase of materials and equipment requiring long lead time procurement. CM shall expedite and coordinate delivery of these purchases.

**2.1.12.2 Inventory of Pre-Procured Equipment.** CM shall prepare an inventory of all materials and equipment that JSL procured through separate contractors, including, without limitation, long-lead power equipment provided through the supplier, SourceBlue. CM shall expedite and coordinate delivery of these long-lead purchases to the extent delivery has not been accomplished.

**2.1.12.3 Enabling Work.** CM shall develop options for Project enabling work or other work that would allow CM to improve completion of the work in an expeditious and efficient manner, including, without limitation, relocation of utilities, early demolition opportunities, tree removal and other preparatory work. CM shall evaluate such options with JSL and present recommendations that may benefit of schedule and coordination of the Project.

**2.1.13 Pre-Qualification of Trade Contractors; Competitive Public Bidding Required.** CM shall develop procedures that are acceptable to JSL for the prequalification of Trade Contractors. CM shall not pre-qualify or accept bids from contractors that are on the “Convicted Vendor List” maintained by the Florida Department of Management Services under Section 287.133, Florida Statutes. CM shall not pre-qualify or accept bids from contractors that are on the County’s “Suspended & Debarred Vendor List” maintained by Palm Beach County’s Purchasing Department. CM shall provide copies of draft bid documents to JSL. CM shall review draft bid documents with JSL to ascertain that all required contract clauses have been included in draft bid documents. CM shall finalize bid documents after JSL review. CM shall develop Trade Contractor interest in the Project, publicly advertise the project in the local newspaper and advertise on relevant trade industry websites and conduct pre-bid conferences with interested bidders to review the documents. The CM shall work closely with the staff of the County’s Office of Equal Business Opportunity during the Trade Contractor pre-qualification and bidding phase of the Project in order to identify certified small, minority and women owned businesses (S/M/WBEs) in required trades and to notify such businesses of bidding opportunities. CM shall take competitive bids on the Work (from at least three bidders) of the various Trade Contractors or, if authorized by JSL in writing, negotiate for the performance of that Work in accordance with Section 2.1.13.4. The Construction Manager shall use its best efforts to encourage certified S/M/WBEs and local Trade Contractors to bid on the Project. The Construction Manager may require bidders to submit bid bonds or other bid security acceptable to the Construction Manager as a prerequisite to bidding on the Work. CM shall analyze and evaluate the results of the various bids and their relationship to budgeted and estimated amounts, and prepare for review with JSL and Architect a bid tabulation analysis and such other support data as necessary to properly compare the various bids and their responsiveness to the desired scope of work. CM shall specifically, review the scope of work in detail with apparent low responsive bidders to determine that their bids are complete but do not include duplicate scope items. CM shall maintain records of all pre-award interviews with apparent low bidders.

**2.1.13.1 Equal Business Opportunity (EBO) Program.**

**a. Policy, Program and Enforcement.** It is the policy of the Board of County Commissioners of Palm Beach County, Florida, (the “Board”) that all segments of its business population, including, but not limited to, small, local, minority and women owned businesses, have an equitable opportunity to participate in the County’s procurement process, prime contract and subcontract opportunities. In pursuance of that policy, the Board adopted an Equal Business Opportunity (EBO) Ordinance which is codified in Sections 2-80.20 through 2-80.30 (as may be amended) of the County Code. The EBO Ordinance sets forth the County’s requirements for the EBO program (the “EBO Program”), which is applicable to this Project and is incorporated herein and made part of this Contract. Non-compliance with the EBO Ordinance must be corrected within fifteen (15) days of notice of non-compliance. Failure to comply with the EBO Ordinance may result in any of the following penalties:

- Suspension of Contract;
- Withholding of funds;
- Termination of the Contract based upon a material breach of contract pertaining to the EBO Program compliance;
- Suspension or debarment of the Construction Manager from eligibility for providing goods or services to the County for a period not to exceed three (3) years; and
- Liquidated damages equal to the difference in dollar value of S/M/WBE participation as committed to in the Contract, and the dollar value of S/M/WBE participation as actually achieved.

**b. Affirmative Procurement Initiatives (APIs) Applicable to this Contract.**

**i. CM/SBE Partnering Program.** If the Construction Manager in its proposal to JSL agreed to participate in the County’s CM/SBE Partnering program and received evaluation preference points from the selection committee for partnering with an SBE firm, then Construction Manager shall submit with this Contract, EBO Schedules 1 and 2 documenting the SBE anticipated dollar value or percentage of the preconstruction and construction services to be performed by the SBE partner. When completed and submitted, the Schedule 1 and Schedule 2(s) shall become material terms of this Contract.

**ii. Mandatory Subcontracting Goal(s) on the Construction Trade Contracts.** For the construction phases of this Project, the County’s Goal Setting Committee has applied the following mandatory subcontracting goals: 20% SBE participation of which 5% must be MBE participation by African American and/or Hispanic American firms. GSC findings to support MBE goal: The County’s disparity study showed a disparity in construction contracting for African American and Hispanic American firms. The Construction Manager may apply an S/M/WBE price preference, for subcontracts less than \$1,000,000, where the subcontract will be awarded to the lowest responsive, responsible bidder unless a certified S/M/WBE’s bid is within ten (10) percent of the lowest non-S/M/WBE bid, in which case the award shall be made to the certified S/M/WBE submitting the lowest responsive, responsible bid. For subcontracts \$1,000,000 or more, the Construction Manager may apply an S/M/WBE price preference where the subcontract will be awarded to the low bidder responsive to the S/M/WBE requirements provided that such bid does not exceed the lowest responsive bid by more than \$100,000 plus 3% of the total bid in excess of \$1,000,000.

**c. Subcontracting Goal Waiver Requests/Good Faith Efforts.** If Construction Manager is unable to comply with the subcontracting goal established by the County’s Goal

Setting Committee for the bidding of the construction subcontracts, then the Construction Manager must request a waiver or partial waiver from the Office of EBO. Such waiver request shall be made on the required Office of EBO forms and include documentation that demonstrates good faith efforts were undertaken by Construction Manager to comply with the subcontracting goal on the construction subcontracts. Fillable pdfs of all EBO forms can be found on the OEBO website at <http://discover.pbcgov.org/oebo/Pages/Compliance-Programs.aspx>.

**d. Required Documentation with GMP Amendment.** The Construction Manager shall submit completed Schedule 1(list of all Subcontractors, including S/M/WBE participation) and Schedule 2s (Letter of Intent to perform as a Subcontractor, including S/M/WBE Subcontractors) on all construction subcontracts prior to the GMP Amendment. When completed and submitted, the Schedule 1 and Schedule 2(s) shall become material terms of this Contract. The Construction Manager understands that each S/M/WBE firm utilized on this Contract must be certified by Palm Beach County in order to be counted toward the S/M/WBE participation goal. Construction Manager agrees to provide any additional information requested by the County to substantiate participation.

**e. VSS Registration Required.** Construction Manager certifies that it has registered in the County's Vendor Self Service ("VSS") system at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService> . Construction Manager must also ensure that all Subcontractors are registered as vendors in VSS prior to the Subcontractor beginning work. All Subcontractor agreements must include a contractual provision requiring that the Subcontractor register in VSS.

**f. Required Documentation with Pay Application.** Construction Manager is required to submit accurate progress payment information with each pay application regarding each of its Subcontractors, including S/M/WBE Subcontractors.

The Construction Manager shall submit a **Subcontractor Activity Form (Schedule 3)** and **Subcontractor Payment Certification Forms (Schedule 4)** with each payment application. **Failure to provide these forms may result in a delay in processing payment or disapproval of the pay application until they are submitted.** The Subcontractor Activity Form (Schedule 3) is to be filled out by the Construction Manager and the Subcontractor Payment Certification Form (Schedule 4) is to be executed by each Subcontractor to verify receipt of payment.

Upon letter notification by the County that the payment tracking system is automated, the Construction Manager is required to input all Subcontractor payment information directly into the County's contract information system prior to submitting a payment application.

Completed and submitted EBO forms are incorporated into and made a part of the Contract Documents.

**g. S/M/WBE Substitutions.** Construction Manager will only be permitted to replace a certified S/M/WBE Subcontractor who is unwilling or unable to perform. Such substitution must be done with other certified S/M/WBEs in order to maintain the S/M/WBE percentages submitted with the GMP Amendment. Requests for substitutions must be submitted to the JSL Representative and the Office of EBO for approval. **Any desired changes (including**



**substitutions or termination and self-performance) must be approved in writing in advance by the Office of EBO.** Upon receiving approval of substitution for the S/M/WBE Subcontractor, the Construction Manager must submit a completed and signed Schedule 2 by the proposed S/M/WBE Subcontractor.

**h. Records and Access.** The Office of EBO has the right to review Construction Manager's records and interview Trade Contractors and Subcontractors in order to determine compliance with the County's EBO Program and contract requirements for up to four (4) years from contract completion or termination date.

#### **2.1.13.2 Local Preferences.**

**a. General.** In the same manner of the Palm Beach County Local Preference Code, a preference will be given to firms having a permanent place of business in Palm Beach County. The Construction Manager may apply this preference when evaluating Subcontractor bids. Local preference means that if the lowest responsive, responsible Bidder is a non-local business, then all bids received from responsive, responsible local Bidders are decreased by 5%, to a maximum of \$100,000 difference. The original bid amount is not changed; the 5% decrease is calculated only for the purposes of determining the local preference. The \$100,000 is a cumulative value for all Subcontractors under one project

**b. Definition of Local Business.** To receive a local preference, a business must have a permanent place of business in existence prior to the issuance of this Invitation for Bid. A permanent place of business means that the business' headquarters is located in Palm Beach County, or the business has a permanent office or other site in Palm Beach County where the business will produce a substantial portion of the goods or services to be purchased.

A valid business tax receipt issued by the Palm Beach County Tax Collector will be used to verify that the business had a permanent place of business prior to the issuance of an Invitation for Bid. A Palm Beach County business tax receipt is required unless specifically exempted by law.

**c. Ranking of Responsive Bidders.** The ranking of responsive Bidders pursuant to the EBO Program which results in an award to a Bidder in compliance with the EBO Program shall not be re-ordered by the provisions of the Local Preference Ordinance to the extent that the application of local preference would result in an award to a non-S/M/WBE firm.

#### **2.1.13.3 Living Wage Ordinance.**

**a. General.** In connection with the Project, Construction Manager shall comply, and cause Subcontractors to comply, with the Palm Beach County Living Wage Ordinance, as may be amended, which is summarized in this Section 2.1.13.3.

**b. Definition.** Living wage means a minimum wage of \$12.62 per hour effective October 1, 2019, through September 30, 2020. The living wage is adjusted annually on October 1 as provided for in the ordinance. The Construction Manager and all Subcontractors (collectively, for purposes of this Section 2.1.13.3 only "Employers") shall pay the living wage to all employees directly providing construction-related services.

**c. Certification Required.** Before entering any Amendment under this Contract,

the Construction Manager must provide a certificate to JSL and each Subcontractor must provide a certificate to the Construction Manager, stating that it will pay each employee no less than the living wage. A copy of the certificate must be made available to the public upon request. The certificate form is provided with the Contract Documents.

**d. Notice and Posting.** The Construction Manager and each Subcontractor shall post a copy of the following statement at the work site in a prominent place where it can easily be seen by the employees: “NOTICE TO EMPLOYEES: If you are employed to provide certain services to Palm Beach County, your employer may be required by Palm Beach County law to pay you at least (insert the living wage hourly pay rate, as adjusted) per hour. If you are not paid this hourly rate, contact your supervisor and/or Palm Beach County Capital Improvements Division at (561) 233-2055.” The preceding statement shall be printed in English, Spanish, and Creole, and shall be printed with black lettering on letter-size, white paper using a Times New Roman 14-point font, Courier New 14-point font, or Arial 14-point font. Posting requirements will not be required if the employer attaches a copy of the preceding statement to the employee’s first paycheck, and to subsequent paychecks at least every six (6) months thereafter. Employers shall supply a copy of the preceding statement to any employee upon request within a reasonable time. Employers shall forward a copy of the requirements of this ordinance to any person or business submitting a bid for a subcontract on any project covered by this ordinance.

**e. Maintenance of Payroll Records.** Each employer shall maintain payroll records and basic records relating thereto for each employee, and shall preserve them for a period of three (3) years. The records shall contain: Each employee’s name and address; Each employee’s job title and classification; The number of hours worked each day by each employee; The gross wages and deductions made for each employee; and Annual wages paid to each employee.

**f. Reporting Payroll.** Every six (6) months each Subcontractor shall certify and file with the Construction Manager certification that all employees who worked on the Project during the preceding six (6) month period were paid the living wage in compliance with this ordinance. Upon JSL’s request, the employer shall produce for inspection and copying the payroll records for any or all of its employees for the prior three (3) year period.

**2.1.13.4 JSL Approval Required for Work to be Negotiated or Self-Performed by CM.** Construction Manager must take competitive bids on the Work; however, if: 1) no bids are received for a portion of the Work; or 2) the bids received for a portion of the Work exceed the applicable line item amount in the GMP; or 3) Construction Manager is unable to obtain the mandatory subcontracting goal set out in 2.1.13.1(b) after competitive bidding, then JSL may agree to the Construction Manager negotiating with Trade Contractors for the performance of that Work or JSL may agree in situations 1 and 2 above that the Construction Manager can self-perform the Work for the specified line item lump sum amount or less.

**2.1.14 Construction Manager’s GMP Proposal.** JSL will deliver to Construction Manager the 90% CD Documents upon completion by Architect and review and approval by JSL, along with a detailed listing prepared by Architect at the request of JSL of all incomplete design elements contained in the 90% CD Documents and Architect’s statement of intended scope with respect to such incomplete elements (collectively, the “GMP Pricing Documents”). Within ninety (90) (calendar) days of Construction Manager’s receipt of the GMP Pricing Documents, Construction Manager must, in good-faith, propose and deliver to JSL a GMP for the Project consistent with the GMP Pricing Documents, Construction Schedule, and other Contract

Documents (“GMP Proposal”). The GMP proposed by Construction Manager in the GMP Proposal will be the sum of the Bid Cost Commitment, the GC Lump Sum, the Construction Contingency, and the Construction Manager’s Fee, each of which must be consistent with the Construction Schedule(s) and all Contract Documents and must be itemized in the GMP Proposal. Construction Manager may provide alternative pricing for each alternative presented by Construction Manager to JSL in accordance with the terms of this Contract. The GMP must identify, in the Cost of the Work, any applicable federal, state or local sales or use taxes. Construction Manager must provide with the GMP Proposal a written statement of its basis, which must include:

- a. A list of the GMP Pricing Documents, including any drawings and preliminary specifications that Construction Manager used in preparation of the GMP Proposal;
- b. A schedule of allowances and a statement of the basis for each item;
- c. A list of the clarifications and assumptions made by Construction Manager in the preparation of the GMP Proposal to supplement the information contained in the GMP Pricing Documents, including, without limitation, a schedule of the issuance dates of the Construction Documents upon which the respective dates of Substantial Completion are based;
- d. The proposed GMP, including a statement of the Bid Cost Commitment organized by trade categories, the GC Lump Sum, allowances, Construction Contingency, Construction Manager’s Fee and all other items that comprise the GMP;
- e. Documentation supporting that the Bid Cost Commitment was established in accordance with the requirements of Section 2.1.13;
- f. Documentation required in accordance with Section 2.1.13.1(d);
- g. The Construction Schedule, including, without limitation, the proposed Project Substantial Completion Date and all major milestone dates thereof, upon which the proposed GMP is based;
- h. The surety and amount of the payment and performance bonds required pursuant to the Contract Documents for the Construction Services; and
- i. Optionally, a proposal to provide a CCIP and/or Builder’s Risk insurance for the Project.

**2.1.14.1 Assumptions and Other Items in the GMP.** All (a) assumptions made by the Construction Manager in the development of the GMP, (b) alternates included in the GMP, and (c) any and all delegated design items shall be specifically listed in the GMP proposal, and the GMP will not be adjusted due to assumptions made by the Construction Manager, but not included in the GMP proposal.

**2.1.14.2 Maintenance of the Construction Budget.** In the event that the GMP exceeds the Construction Budget Limitation, JSL reserves the right to direct the Construction Manager to (and the Construction Manager shall) work in conjunction with the Architect to redesign the Project as necessary to maintain the project program and meet the Construction Budget Limitation as follows:

- a. After consultation with JSL, the Construction Manager shall coordinate and cooperate with the Construction Team to alter and redraft the Construction Documents as necessary to accomplish the required reduction in cost.
- b. The Construction Manager shall develop and provide to JSL a GMP in connection with the redrafted and altered Construction Documents to accomplish the necessary reductions in cost.
- c. The Construction Manager shall analyze the Architect's originally submitted and as altered and redrafted Construction Documents, and make recommendations to JSL as to ways and methods to reduce the costs of constructing the Project to a sum which does not exceed the Construction Budget Limitation.

**2.1.14.3 JSL's Right to Reject GMP.** JSL has the right to reject any GMP as originally submitted, or as adjusted. In addition, JSL has the right to withhold, in its sole discretion, approval of the amendment of the Contract to reflect any GMP.

**2.1.14.4 Review of Budget, Estimates and GMP.** The Construction Manager's proposed GMP will be reviewed by the Architect and JSL for reasonableness and compatibility with the Construction Budget Limitation. Meetings and negotiations with the Construction Manager will be held to resolve questions and differences that may occur between the Construction Budget Limitation and the Construction Manager's corresponding GMP. If indicated by the Construction Budget Limitations or other circumstances, the Construction Manager shall work with JSL to reach a mutually acceptable GMP. Unless, within thirty (30) days after JSL's receipt of such GMP Proposal (a) JSL accepts the GMP Proposal by written notice to Construction Manager, or (b) JSL otherwise comes to an agreed upon GMP with Construction Manager, the GMP Proposal will expire, notwithstanding any acceptance language to the contrary in the GMP Proposal.

**2.1.14.5 Acceptance of GMP.** If the GMP Proposal is accepted, in writing, by JSL, the GMP and its basis will be set forth in the GMP Amendment for the Project.

**2.1.14.6 Costs Incurred Prior to GMP Acceptance.** Prior to JSL's acceptance of the GMP Proposal, Construction Manager must not incur any cost to be reimbursed as part of the Cost of the Work, except as JSL may specifically approve in writing.

**2.1.14.7 Subcontractor Bid Schedule.** Although the Construction Manager is solely responsible for the preparation of the GMP, the Construction Manager shall submit in writing to JSL and the Architect a detailed bid schedule thirty (30) days in advance of issuance of the deadline for the GMP Proposal, outlining the proposed bid deliverables, processes and timelines it intends to employ to complete the GMP Proposal, including, without limitation, compliance with all Project bidding requirements applicable to Subcontractors. JSL and the Architect shall be permitted to participate in Subcontractor bid openings, review bid packages released to the subcontracting community and be permitted to attend all post bid interviews with subcontractors. JSL shall have the right to reject any otherwise qualified Subcontractor (meeting all requirements of the Contract Documents to participate in the project) proposed by Construction

Manager if JSL is dissatisfied with such subcontractor's qualifications or bid.

#### **2.1.15 Public Construction Bond Required.**

**2.1.15.1** A “Public Construction Bond and Form of Guarantee” on the County’s standard forms, CMR Contract Exhibit F, shall be provided by the Construction Manager within five (5) days of the final execution of the GMP Amendment in accordance with a Contract Documents. The Public Construction Bond and Form of Guarantee will name the County and JSL as co-obligees. The amount of the foregoing public construction bond and guarantee must be in the amount equal to 100% of the GMP.

**2.1.15.2** The surety issuing such public construction bond must be authorized to issue bonds in the State of Florida and otherwise acceptable to JSL, in JSL’s sole discretion shall incorporate by reference all of the terms and conditions of the Contract, including, but not limited, to the Construction Manager and surety's obligation for liquidated damages as well as surety's acknowledgment regarding any and all provisions the Contract Documents.

**2.1.16 Changes to Scope Before Finalization of Construction Drawings and Specifications.** Construction Manager and JSL recognize that, at the time of execution of the GMP Amendment, the final Construction Documents may not be fully and finally prepared by Architect. Construction Manager acknowledges that it will have had sufficient involvement with the Project to understand the program requirements and Project scope as expressed in the GMP Pricing Documents and, therefore, agrees that it will make no claim against JSL for an increase in the GMP based upon the more fully developed plans, sections or details contained in the Construction Documents, unless the finalized Construction Documents results in a material change in scope that could not be readily inferred from the GMP Pricing Documents.

**2.1.16.1 Notice.** Construction Manager must provide JSL and Architect notice if Construction Manager believes it is entitled to an increase in the GMP and/or an extension on the Contract Time as a result of a potential change in scope not later than seven (7) days after the condition giving rise to the alleged change in scope should have been recognized or is communicated to Construction Manager, whichever is earlier. Such notice must include a clear and detailed description of the claimed change in scope. Construction Manager’s failure to provide JSL with notice of such Claim within the applicable time frame means that Construction Manager has waived such Claim and must perform all Work associated with the alleged change at issue without an increase in the GMP or an extension of the Contract Time.

**2.1.16.2 Adjustments.** If Construction Manager provides timely notice of a potential change in scope requiring an increase to the GMP or an extension of the Contract Time, then Construction Manager must, if requested by JSL, prepare and submit specific comments, recommendations and alternatives for modifying the Project in order to achieve the GMP and Contract Time or detailed estimates, quotations or costs to be used in determining the amount of an adjustment to the GMP. Thereafter, JSL will exercise one of the following options: (a) execute a Change Order increasing the GMP by the actual, substantiated increase in the Cost of the Work caused thereby and/or modifying the Contract Time as agreed between JSL and Construction Manager equal to the increases requested in Construction Manager’s notice; (b) execute a Change Order increasing the GMP by the actual, substantiated increase in the Cost of the Work caused thereby and/or

modifying the Contract Time partially (i.e., in amounts less than requested by Construction Manager) subject to Construction Manager's right to refer the modification of Contract Time, if any, to dispute resolution as provided in the Contract Documents; or (c) require Architect to revise and modify the Construction Documents to eliminate the change in scope.

**2.1.17 Termination Upon Completion of Preconstruction Services.** If JSL does not enter into a GMP Amendment with Construction Manager pursuant to Section 2.1.14, JSL may, in JSL's sole discretion, terminate this Contract upon notice to Construction Manager.

**2.1.17.1** Termination pursuant to Section 2.1.17 will terminate all further services and obligations of Construction Manager, and Construction Manager must accept the amount negotiated for its Preconstruction Services Fee and any Cost of the Work authorized by JSL and reasonably and actually incurred by Construction Manager prior to the termination as its full compensation for any Work or other services. Construction Manager will not be entitled to any further amount for any Work or other services related to this Contract, including, without limitation, lost profits or other termination damages.

**2.1.17.2** Upon any termination, JSL will have the unrestricted right to construct the Project with any contractor or construction manager of JSL's choice, and with the unrestricted right to use, license others to use, the Work. Construction Manager must reasonably cooperate with any such transition to avoid any additional delays, inefficiencies or adverse impact to the Project.

**2.1.17.3** The right of termination under this Section 2.1.17 is in addition to the rights to terminate provided elsewhere in the Contract Documents.

**2.2 Construction Phase.** Unless otherwise authorized by JSL, all Work shall be performed under trade contracts held by the Construction Manager. The Construction Manager shall not bid on any of the Trade Contractor work or perform such work with its own forces without the prior written consent of JSL in accordance with Section 2.1.13.4. The Construction Manager shall perform the following services:

**2.2.1 General.** CM shall administer the construction phase as provided in the Contract.

**2.2.2 Commencement of Work.** CM shall commence the Work within 10 days after receipt of the executed Guaranteed Maximum Price amendment, all permits, and "Notice(s) to Proceed" (NTP) from JSL.

**2.2.3 Award Trade Contracts.** CM shall promptly award and execute trade contracts with approved Trade Contractors. CM shall provide copies of fully executed trade contracts, insurance certificates and, if required, bonds to JSL, when requested. The Subcontractor buyout is to be completed within 60 days from NTP and the Construction Contingency reconciled with the savings/overage unless the Construction Manager requests and receives a time extension from JSL.

**2.2.4 Management of the Work.** CM shall manage, schedule and coordinate the Work, including the work of the Trade Contractors, and coordinate the Work with the activities and responsibilities of JSL, Architect and Construction Manager in order to complete the Project in

accordance with JSL's objectives of cost, time and quality. CM shall develop and maintain a program, acceptable to JSL and Architect, to assure quality control of the construction. CM shall supervise the work of all Trade Contractors so that the work conforms to the requirements of the plans and specifications. CM shall provide instructions to each Trade Contractor when its work does not conform to the requirements of the plans and specifications so that the work conforms to the requirements of the plans and specifications, and continue to manage each Subcontractor to ensure that corrections are made in a timely manner so as to not affect the progress of the Work. Should disagreement occur between the Construction Manager and the Architect over acceptability of Work and conformance with the requirements of the specifications and plans, JSL shall be the final judge of performance and acceptability.

**2.2.5 CM Staff.** CM shall maintain exclusively for the Project a competent full-time staff at the project site to coordinate and direct the Work and progress of the Trade Contractors on the Project. The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the project site authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the Work and progress of the subcontractors and CM shall provide no less than those personnel during the respective phases of construction that are set forth in an exhibit to the GMP Amendment. The CM shall not change any of those persons unless mutually agreed to by JSL and Construction Manager. In such case, JSL shall have the right of approval of the qualifications of replacement personnel. All of the Construction Manager's on-site management and supervisory personnel shall be consistent with the Construction Manager's Proposal and its interview presentation and shall not be removed or replaced without JSL's consent. Upon written notice and with reasonable justification, JSL shall have the right to direct the Construction Manager to remove or replace any on-site personnel whose performance becomes unsatisfactory to JSL. In such event, the Construction Manager shall promptly replace such personnel, without consideration of additional compensation for the replacement.

**2.2.5.1 On-Site Authority.** CM shall establish on-site organization and lines of authority in order to carry out the overall plans of the Construction Team. CM shall identify an on-site staff member to represent the Construction Manager, on a daily basis, with authority to negotiate Change Orders and contract modifications on behalf of the Construction Manager. CM shall make available such executive personnel as necessary to execute Change Orders or other contract modifications on behalf of the Construction Manager so as not to delay the progress of the Work.

**2.2.6 Project Manual.** CM shall establish procedures for coordination among JSL, Architect, Trade Contractors and Construction Manager with respect to all aspects of the Work. CM shall implement such procedures, incorporate them into a project resource manual, and distribute manuals to the Construction Team.

**2.2.6.1 Coordination Drawings.** CM shall require of the various Trade Contractors such coordination drawings as may be necessary to properly coordinate the Work among the Trade Contractors.

**2.2.6.2 Processing of Shop Drawings.** In coordination with the Architect, CM shall establish and implement procedures for tracking and expediting the processing of shop drawings and samples, as required by the Contract Documents.

**2.2.7 Progress Meetings.** CM shall schedule and conduct weekly progress meetings with Trade Contractors to review such matters as job procedures, job safety, construction progress, schedule, shop drawing status and other information as necessary. CM shall attend team meetings with the Architect and JSL.

**2.2.8 Schedule Updates.** CM shall review the schedule with the various Trade Contractors and review, or expand the level of detail to incorporate specific Trade Contractor input consistent with the overall completion requirements. CM shall regularly monitor and update the project schedule and various sub-networks as construction progresses. CM shall identify potential variances between scheduled and probable completion dates. CM shall review schedule for Work not started, or incomplete, and make adjustments in the schedule to meet the scheduled completion date. CM shall provide summary reports of each monitoring and document all changes in the schedule. Regular schedule updates and reporting shall be included as part of the monthly project report outlined herein.

**2.2.9 Management of Trade Contractors.** CM shall determine the adequacy of the Trade Contractors' personnel and equipment, and the availability of materials and supplies to meet the schedule. In consultation with JSL and the Architect, CM shall take necessary corrective actions when requirements of a trade contract or a trade contract schedule are not being met.

**2.2.10 County-Furnished Material.** Whenever County-furnished contractor-installed materials or equipment are shipped to the project site, the Construction Manager shall notify JSL and shall be responsible for their acceptance, proper storage, and incorporation into the Work provided the scope of County-furnished contractor-installed work is included within the Guaranteed Maximum Price.

**2.2.11 Cost Control.** CM shall develop and maintain an effective system of project cost control which is satisfactory to JSL. CM shall revise and refine the initially approved project construction budget, incorporate approved changes as they occur, and develop cash flow reports and forecasts as needed. CM shall identify variances between actual and budgeted or estimated costs and advise JSL and Architect whenever projected costs exceed budgets or estimates. Cost control reports shall be included as part of the monthly project report outlined herein.

**2.2.12 Records.** CM shall maintain a consistent and accurate accounting system. The Construction Manager shall preserve all accounting records for a period of five (5) years after final payment of the Work or as otherwise requested in writing by JSL. JSL shall have access to all such accounting records at any time during the performance of the Work and for a period of five (5) years after final payment of the Work.

**2.2.12.1 Sales Tax Savings Purchase Program.** CM shall administer direct tax savings purchase program (as provided in Section SC 10 of the Special Conditions).

**2.2.13 Change Orders.** CM shall develop and implement a system for the preparation, review and processing of Change Orders. Without assuming any of the Architect's responsibilities for design, CM shall recommend necessary or desirable changes to JSL and the Architect, review requests for changes and submit recommendations to JSL and Architect.



**2.2.13.1 Change Order Cost Estimates.** When requested by JSL or Architect, CM shall promptly prepare and submit estimates of probable cost for changes proposed in the Work including similar estimates from the Trade Contractors. If directed by JSL, CM shall promptly secure formal written change order proposals from such Trade Contractors.

**2.2.14 Safety Programs.** CM shall be responsible for initiating, maintaining and supervising effective safety programs and require similar programs of the Trade Contractors and Sub-subcontractors. The OSHA guidelines shall serve as the basis for the construction safety program.

**2.2.14.1 Notice of Safety Issues.** CM shall promptly notify JSL and, where applicable, JSL's Insurance Administrator, in writing, upon receiving notice of filing of any charge of non-compliance from OSHA, or upon receiving notification that a federal or state inspector shall visit or is visiting the project site.

**2.2.14.2 Safety Meetings.** At progress meetings with Trade Contractors, CM shall conduct a review of job safety and accident prevention, and prepare minutes of such meetings that will be available to JSL's Representative on request. The minutes of job safety and accident prevention portion of such progress meetings shall be made available, upon JSL's request, to JSL's insurance administrator.

**2.2.15 Security.** CM shall make provisions for project security acceptable to JSL, to protect the project site and materials stored off-site, or on-site, against theft, vandalism, weather, fire and accidents, damage, or injury to person(s) or property, etc., as required by job and location conditions.

**2.2.16 Monthly Progress Reports.** CM shall record the progress of the Project. CM shall submit written monthly progress reports to JSL and the Architect including information on the Trade Contractors' work, the percentage of completion, current estimating, computerized updated monthly "Critical Path Method" scheduling and project accounting reports, including estimated time to completion and estimated cost to complete. CM shall keep a daily log available to JSL and the Architect. CM shall report and record such additional information related to construction as may be requested by JSL.

**2.2.17 Hazardous Materials Disposal.** The Construction Manager shall be responsible for the coordination of removal, encapsulation, transportation and disposal of any hazardous material, including, without limitation, any asbestos or asbestos-related products as may be required in connection with the Work. Handling and removal will be performed, if necessary, under separate contract with JSL. However, hazardous material, described by federal guidelines brought onsite by the Construction Manager or the Trade Contractors shall remain their responsibility for proper disposal. Any hazardous material not specifically shown on the Construction Documents shall be considered a concealed condition and may be the responsibility of the Construction Manager in a Change Order increasing the Guaranteed Maximum Price for any additional costs incurred. Such Change Order shall be submitted in as timely a manner as is reasonably possible after discovery of the concealed condition.

**2.2.18 Funding Agreements.** Construction Manager shall comply with all requirements of funding agreements which apply to all or a part of the Work and the Developer Agreement,

including preparing such reports and making such certifications and representations as may be required by JSL.

**2.3 Non-Interference with Spring Training Activities.** Construction Manager must not perform any Work or occupy the Project site in a manner that hinders, delays, or interferes with any of the following: (a) any activity or event at the Facility during a Spring Training Period, (b) any other maintenance, construction, or other activities at the Facility, including, without limitation, such activities that may affect the availability of backfields for training, (c) any other activity or event at the Facility, including, without limitation, sporting or other events or activities at the Facility and/or office occupancy of JSL or its affiliates (during any such periods in which the Construction Schedule provides for any such occupancy to be permitted at the Facility), and/or (d) any other events or activities within or near the Facility. JSL will have the right to direct a postponement or rescheduling of any date or time for the performance of any part of the Work that may interfere with the operations or activities of other contractors or the Facility or the activities of any of JSL's tenants or invitees, and, upon such direction Construction Manager must reschedule any portion of the Work affecting activities at the Project site.

### **ARTICLE 3**

#### **ADDITIONAL SERVICES**

Upon the mutual agreement of JSL and the Construction Manager, and upon written authorization from JSL, the Construction Manager shall provide additional services which are beyond the scope of the Basic Services described in Article 2 herein. The Construction Manager shall be compensated for such additional services by a fee to be negotiated by JSL and the Construction Manager at the time of the additional service request.

### **ARTICLE 4**

#### **JSL'S RESPONSIBILITIES**

**4.1 JSL's Representative.** JSL will designate a representative to act on its behalf ("JSL's Representative") for the Project. This representative, or his/her designee, will receive progress reports of the Work, serve as liaison with the Construction Manager and the Architect, receive and process communications and paperwork, and represent JSL in the day-to-day conduct of the Project. The Construction Manager will be notified in writing of the representative and of his/her designee or any changes thereto.

**4.2 Inspector.** JSL may retain a "threshold building" special inspector, if required by Chapter 553, Florida Statutes.

**4.3 Review of CM Deliverables.** JSL will review and approve or take other appropriate action on the Construction Manager's preconstruction deliverables in a timely manner.

### **ARTICLE 5**

#### **SCHEDULE**

**5.1 Preconstruction Phase.** The Construction Manager shall submit the pre-construction reports required under Article 2 hereof within fourteen (14) days following the completion of each applicable design phase or other applicable milestone.

**5.2 Construction Phase.** The number of days for performance of the Work under the construction phase of the Project shall be established in the Guaranteed Maximum Price Amendment to this Contract.

**5.3 Critical Dates Established.** At the time a Guaranteed Maximum Price (GMP) is established, as provided for in Article 6, a Project Substantial Completion Date, a project final completion date and an JSL occupancy date in accordance with the Master Project Schedule, shall also be established by the Construction Team for the Project. The Construction Manager agrees to complete the construction in accordance with the agreed upon Project Substantial Completion Date, final completion date and JSL occupancy date for the Project. The Construction Manager acknowledges that failure to complete the Project within the construction time set forth in the Construction Schedule will result in substantial damages to JSL. Construction Manager will be subject to assessment of Liquidated Damages as provided for in the Contract Documents, and, Construction Manager must provide notice of such potential Liquidated Damages to Trade Contractors, if Constructor Manager may include any Subcontract provision by which any such Liquidated Damages assessed against the Construction Manager may be assessed by Construction Manager, in whole or in part, against such Trade Contractor.

**5.4 Acceleration of Schedule.** In the event JSL desires to accelerate the schedule for any portion of the Work, JSL shall notify the Construction Manager in writing. As soon as possible but not later than 21 days after JSL request, the Construction Manager shall give JSL a revised Guaranteed Maximum Price for the acceleration which shall become a Change Order upon acceptance. JSL may then direct the Construction Manager to increase its staff and require its Trade Contractors to increase their manpower, or to work such overtime hours as may be necessary to accomplish the required acceleration in accordance with the approved Change Order. In such event JSL shall reimburse the Construction Manager for the costs of such acceleration subject to the Guaranteed Maximum Price. In no event shall the Construction Manager be entitled to compensation in excess of the adjusted Guaranteed Maximum Price. The Construction Manager shall require accurate daily records of all costs of the required acceleration and shall secure JSL's approval of such records.

**5.5 Use or Occupancy Ahead of Schedule.** JSL shall have the right to occupy, or use, any portion of the Work ahead of schedule. If use or occupancy ahead of schedule affects the cost of the Project or the schedule for the Work, the Construction Manager shall so notify JSL in writing and the use or occupancy will be treated as a change to the Work in accordance with Article 9 herein.

## **ARTICLE 6**

### **GUARANTEED MAXIMUM PRICE**

**6.1 Establishment of the GMP.** The GMP for the Project will be established in accordance with Section 2.1.14. The GMP is subject to modification for JSL changes in the Work as provided

in Article 9, herein.

**6.2 Taxes.** The GMP will only include those taxes in the Cost of the Work which are legally enacted at the time the GMP is established.

**6.3 Construction Contingency.** The Construction Contingency, which, upon approval of JSL in each instance, may be available for the purpose of defraying costs that Construction Manager may incur due to circumstances relating to the Project that were unforeseen at the time of establishment of the GMP. When the Construction Manager proposes to apply funds from the Construction Contingency on any basis, the Construction Manager must first furnish to JSL supporting documentation evidencing expenditures to be charged to the Construction Contingency of the same detail required of an application for payment in accordance with the Contract Documents. Construction Manager must provide additional supporting documentation or information upon request of JSL. Once approved by JSL, Construction Manager may request reimbursement for the applicable cost by requesting a contingency use change order in accordance with the Contract Documents. If trade contracts are executed below the applicable line items in the GMP, the surplus will be added to the Construction Contingency. If trade contracts are above the applicable line item in the GMP, the deficiency will be taken from the Construction Contingency, however such events shall not be cause to increase the GMP. Notwithstanding anything herein to the contrary, the Construction Contingency is only available for the following costs: (1) documented scope gaps between Trade Contractors, unless such work is shown on drawings, (2) actual, reasonable, and necessary costs that exceed allowances set forth in contracts of Trade Contractors, and (3) unforeseen field conditions. The Construction Contingency shall not be used for design errors and omissions that a prudent Construction Manager should reasonably have detected during the Construction Manager's pre-construction duties and reasonable due diligence by the Construction Manager.

**6.4 General Conditions Costs.** The term "General Conditions Costs" means all of the following costs incurred by Construction Manager in connection with the Project:

**6.4.1** The cost of its home or branch office employees or consultants not at the project site, including the cost of all benefits, insurance, and taxes attributable to wages and salaries and other company overhead expenses for said home office employees.

**6.4.2** The cost of project management, including, without limitation, field employees identified in Subparagraph 2.2.5 herein, or their approved replacements, including the cost of all benefits, insurance, and taxes attributable to wages and salaries for said field employees.

**6.4.3** General operating expenses of the Construction Manager's principal and branch offices, other than the field office.

**6.4.4** Construction Manager's capital expenses.

**6.4.5** All costs for computers for Construction Manager's personnel assigned to the Project, networks, wiring of networks, printers, support, software including project management software system for the Project, including fees to have the Architect, JSL and Subcontractors part of the system.

**6.4.6** Travel and per diem costs of Construction Manager's employees and consultants if calculated in accordance with F.S. 112.061.

**6.4.7** Those services set forth in Article 2.2.

**6.4.8** Expenses such as Internet service fees, long distance telephone calls, telephone, water, and electrical service at the Construction Manager's field office at the site, postage, office supplies, expressage, and similar items in connection with the Work.

**6.4.9** Cost of equipment such as field office typewriters, cameras, radios, computers, pagers, copiers, facsimile equipment, telephones, cell phones, trailers, vehicles and furniture used, purchased or rented by the Construction Manager, including costs of installation permits, installation of utilities, utility consumption charges, mobilization, storage and demobilization, for Construction Manager, Architect and JSL's representative.

**6.4.9.1** A private doublewide trailer for JSL's representative with a minimum of eight (8) work spaces and a conference, which is to be fully furnished and private (i.e., separated from spaces operated by Construction Manager and its forces).

**6.4.9.2** A minimum of two (2) all-terrain vehicles (i.e., John Deere Gator Utility Vehicle or equivalent) for exclusive use of JSL's representative.

**6.4.10** All costs for weekly cleaning the Construction Manager site office complex as well as the site office complex of Architect, consultants and JSL's representative.

**6.4.11** All costs for a complete operational data system at the Project office complex to support the Construction Manager, Architect, consultants and JSL's Representative. Construction Manager must provide a traditional phone system or voice over IP (VOIP) capable of hosting at least three receptionists, and be capable of voice mail. If applicable, long distance charges will be the responsibility of the party making such call. At a minimum, Construction Manager must include 4 phone/VOIP lines, Internet access, one DSL or T1 line or equal, a wireless Internet router to provide Wi-Fi access to the Project office, and a dedicated fax line or additional lines as the Construction Manager or JSL's Representative may require. Construction Manager shall provide at least one Wi-Fi enabled copier or printer.

**6.4.12** All costs for copiers, fax machines, postage, overnight express mail, maintenance on the copier machines, printers, copier paper, disposable office supplies, pens, pencils, paper, markers, binders, etc.

**6.4.13** All costs for water for office personnel, coffee and other provisions for office complex, lunches for meetings and miscellaneous jobsite expenses.

**6.4.14** All costs for Construction Manager staff, Architect staff, JSL's Representative's staff and visitors for hardhats, vests, and safety glasses.

**6.4.15** Direct project management expenses, including all applicable overhead and profit incurred at the jobsite for control, supervision and administration of the Work that is not otherwise a Cost of the Work.

**6.4.16** Legal costs resulting from prosecution of the Work for JSL. Legal costs incurred in connection with disputes solely between the Construction Manager and JSL or incurred in connection with disputes solely between the Construction Manager and Trade Contractors are the responsibility of the Construction Manager and shall not be included in the Cost of the Work.

**6.5 Payment Requests.** Request for compensation for services shall be submitted in detail as requested by JSL in order to approve the fee.

**6.6 Certification.** By submitting payment requests to JSL, the Construction Manager certifies that all factual unit costs supporting the fees allowable under this Contract are accurate, complete and current at the time of submission; and that any other factual unit costs that may be furnished to JSL in the future to support any additional fees that may be authorized will also be accurate, complete, reasonable. The fees allowable under this Contract and any additional fees that may be authorized in the future shall be adjusted to exclude any sums by which JSL determines the fee was increased due to inaccurate, incomplete, or non-current factual unit costs.

**6.7 No Inconsistent Positions.** The Construction Manager's role in providing Preconstruction Services has allowed/caused the Construction Manager to formulate positions with respect to specific scope of work and contract interpretation issues. In that the Construction Manager is familiar with aspects of the scope of the Work and the Contract for the Project during the preconstruction phase, the Construction Manager agrees not to request an increase in the GMP for any substantially similar issue based upon a theory of recovery which is inconsistent with written advice or consultation previously discussed pursuant to the aforesaid Preconstruction Services.

**6.8 GMP Adjustments.** Adjustments to the GMP will be made as described in the Contract Documents.

**6.9 No Overhead and Profit on Construction Contingency.** When summarizing the cost of the GMP, the overhead and profit factor shall not be calculated on the Construction Contingency nor will the Construction Manager be due any additional overhead and profit on the use of the Construction Contingency.

**6.10 Cost Savings.** All cost savings for the not-to-exceed value of the GMP shall be returned to JSL as part of the net aggregate savings established when final accounting is submitted upon final completion of the Work, or at such earlier time as agreed to by JSL and the Construction Manager. "Cost savings" are the net difference obtained by deducting from the Adjusted GMP, the expended portions of the documented Construction Manager's Fee, the Construction Contingency balance and the actual expenditures representing the "Cost of the Work" as defined in Article 8 herein. Liquidated damages, if any, are different from, and are not a part of, this calculation.

## ARTICLE 7

### PAYMENTS TO CONSTRUCTION MANAGER

**7.1 Payments.** In consideration of the performance of the Contract, JSL agrees to pay the Construction Manager, as compensation for its services an amount as set forth below:

**7.1.1 Pre-Construction.** For Preconstruction Services, the total sum amount listed below for such services (the “Preconstruction Services Fee”) which will be paid to Construction Manager in monthly installments in accordance with the Contract Documents:

Total:	\$	Dollars (\$	)
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**7.1.2 Construction.** Upon acceptance of the GMP for the Project, the amount established in the GMP Amendment to this Contract, which includes the GC Lump Sum for the “General Conditions Costs” as described in Paragraph 6.4, the Construction Manager’s Fee, and the “Cost of the Work” as described in Article 8, is to be paid monthly as described in the Contract. Unless otherwise provided in the GMP Amendment, the Construction Manager’s Fee and the GC Lump Sum will be paid proportionally on a percent complete basis of the Work in place, less retainage.

If Work is authorized only for a part of the Project, the overhead and profit fee shall be proportionate to the amount of Work authorized.

**7.1.2.1 Payment of Trade Contractors.** Construction Manager shall provide Trade Contractors hired by Construction Manager with a written notice of disputed invoice within 5 business days after receipt of invoice which clearly states the reasons for the disputed invoice. As required by Section 218.735, F.S., within ten (10) working days from receipt of payment from JSL, the Construction Manager shall pay each Trade Contractor out of the amount paid to the Construction Manager on account of such Trade Contractor’s work, the amount to which said Trade Contractor is entitled reflecting the percentage actually retained, if any, from payments to the Construction Manager on account of said Trade Contractor’s work. The Construction Manager shall, by appropriate agreement with each Trade Contractor, require each Trade Contractor to make payments to its Subcontractors in a similar manner consistent with Florida Statutes.

**7.1.3 Pay Applications.** Pay requests for Preconstruction Services and for construction shall be documented in accordance with the General Conditions of the Contract and submitted in detail sufficient for a proper audit thereof.

**ARTICLE 8**

**COST OF THE WORK**

**8.1 Definition.** The term “Cost of the Work” shall mean costs, including General Conditions Costs, incurred in the Work as described and defined in Paragraph 8.2, below, and paid or incurred by the Construction Manager, which are not included in Paragraph 6.4, less any reimbursement for scrap value and cash or trade discounts, subject to Article 10, herein. The term “wages” as used herein shall include the straight time and overtime pay and the cost of associated employee benefits. Employee benefits include, but are not limited to, unemployment compensation, social security, and other mandatory and customary contributions and fringe benefits insofar as such costs are based on wages, salaries, or other remuneration paid to employees of the Construction Manager.

**8.2 Cost Items.** Cost of the Work includes and is limited to actual expenditure for the following cost items:

**8.2.1** Subject to prior approval by JSL, wages paid for labor in the direct employ of the Construction Manager, other than those provided under Paragraph 6.4 herein as a part of the Construction Manager's Fee, in the performance of the Work.

**8.2.2** The cost of all materials, supplies and equipment incorporated in the Work or stored on site, including cost of transportation and storage thereof. At JSL's sole discretion, JSL may make payment for materials, supplies and/or equipment stored off-site and bonded.

**8.2.3** Payments made by the Construction Manager to Trade Contractors for their work performed pursuant to trade contracts with the Construction Manager.

**8.2.4** Cost of the premiums for all insurance or bonds including Trade Contractor bonds which the Construction Manager is required to procure by this Contract, or other insurance or bonds subsequently deemed necessary by the Construction Manager, and agreed upon by JSL. Insurance and bonds shall be reimbursed as Costs of the Work at fixed rates, as set forth in the GMP Amendment and as governed by GC 31.

**8.2.5** Sales, use, gross receipt, or similar taxes directly applicable for performance of the Work imposed by any governmental authority and for which the Construction Manager is liable.

**8.2.6** Building and operating permit fees, inspection and filing fees, sewer and water fees, and deposits lost for causes other than the Construction Manager's own negligence.

**8.2.7** Cost of removal and disposal of all debris including clean-up and trash removal, not including Construction Manager's office trailers (and those provided by Construction Manager for use by Subcontractors, Architect and JSL's Representative).

**8.2.8** Cost incurred due to an emergency affecting the safety of persons and/or property.

**8.2.9** Cost of temporary electric power, lighting, water, sanitary facilities, and heat required for the performance of the Work, or required to protect the Work from weather damage, not including Construction Manager's office trailers (and those provided by Construction Manager for use by Subcontractors, Architect and JSL's Representative).

**8.2.10** Cost of temporary safety-related protection including barricades and safety equipment, temporary roads and parking, dust control, pest control, installation and operation of temporary hoists, scaffolds, ladders and runways, and temporary project signs and costs of permits and fees pursuant to the General Conditions of the Contract.

**8.2.11** Cost of watchmen or similar security services.

**8.2.12** Cost of surveys, measurements and layout work reasonably required for the execution of the Work or the requirements of the Contract.

**8.2.13** Cost of preparation of shop drawings, coordination plans, or as-built documents not included in trade contracts.



**8.2.14** All costs for reproduction of documents to directly benefit the Work, not including reproduction of documents in Construction Manager's office (and offices provided by Construction Manager for use by Subcontractors, Architect and JSL's Representative).

**8.2.15** Costs directly incurred in the performance of the Work and not included in the Construction Manager's Fee as set forth in Paragraph 6.4, herein.

**8.2.16** Cost, including transportation and maintenance, of all materials, supplies, equipment, temporary facilities not owned by the workmen which are employed or consumed in the performance of the Work, not including job site offices.

**8.2.17** Rental charges of all necessary machinery and equipment, including hand tools used in the performance of the Work, whether rented from the Construction Manager or others, including installation, repairs and replacements, dismantling, removal, costs of lubrication, transportation and delivery costs thereof, not including job site office equipment.

**8.2.18** Costs associated with setting up and demobilizing tool sheds, temporary fences, temporary roads, and temporary fire protection.

**8.3 Defective Work.** No costs shall be paid to the Construction Manager for any expense related to correcting defective workmanship or work not in conformance with the plans or specifications.

**8.4 Costs Not Reimbursable.** Except as otherwise expressly approved by JSL or otherwise permitted under the Contract Documents, costs, expenses and fees Construction Manager incurs in connection with the following will not be Cost of the Work, and no payment will be made by JSL in connection therewith:

- .1 Home and branch office overhead and general expenses of Construction Manager, except as may be expressly included as a Cost of the Work in accordance with Section 8.2;
- .2 Expenses (including interest) of Construction Manager's capital employed for the Project;
- .3 Professional or business licenses of Construction Manager or any Subcontractor;
- .4 Except as directly applicable for performance of the Work hereunder, amounts required to be paid by Construction Manager for federal, state or local income or franchise taxes, sales, use, or gross receipts tax, payroll taxes and state, county and municipal taxes, and fees;
- .5 Costs of repairing or replacing damaged Work that is caused by Construction Manager, Subcontractor or other for whose acts Construction Manager may be liable or any and all costs excluded under Section 8.4 hereof;
- .6 Cost to repair or replace defective Work resulting from the failure of Construction Manager, Subcontractor or other for whose acts Construction

Manager may be liable to perform the Work in accordance with the contract Documents;

- .7 Costs of warranty Work;
- .8 Premiums for payment and performance bonds obtained by Subcontractors and Sub-subcontractors and not approved by JSL;
- .9 Costs incurred to the extent that such costs result in the GMP being exceeded;
- .10 Costs to persuade employees to join, or not to join, any trade union or other association of organized labor or political activity;
- .11 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal offices or other than the site office, except as expressly included as a Cost of the Work in accordance with Section 8.2;
- .12 Any other costs or expenses not specifically included as a Cost of the Work under Section 8.2 hereof; and
- .13 Any and all costs that constitute General Conditions Costs or that can otherwise be included in the GC Lump Sum.

**8.5 Cost Recovery.** Whenever Construction Manager has been paid, as a Cost of the Work, amounts that are recoverable from any other source (e.g., a Subcontractor, its insurer or other third parties), Construction Manager must diligently pursue such recovery and must credit JSL with any amounts recovered (less Construction Manager's attorneys' fees and other costs of collection).

**8.6 Credits against Costs.** JSL will be entitled to a credit for all unused equipment and materials for which Construction Manager has been compensated as a Cost of the Work for the greater of (a) the market value of the unused equipment and materials (in Palm Beach County, Florida) or (b) the salvage value of such equipment or materials, unless JSL elects by providing Construction Manager notice of JSL's intent to retain such unused equipment and materials. With respect to any equipment rented to the Project for which JSL has paid as a Cost of the Work, and amount equal to the market value of such equipment, JSL will be entitled to a credit for the greater of (a) depreciated market value of the equipment (in Palm Beach County, Florida) following completion of its use on the Project or (b) the salvage value of such equipment.

## **ARTICLE 9**

### **CHANGES IN THE WORK**

JSL, without invalidating this Contract, may order changes in the Work within the general scope of this Contract consisting of additions, deletions, or other revisions. All changes in the Work shall be authorized as described in the General Conditions of the Contract. Except in cases of emergency endangering life or property, the Construction Manager shall allow no changes in the Work without the prior written approval of JSL.

## **ARTICLE 10**

## **DISCOUNTS**

All quantity discounts shall accrue to JSL. All trade discounts, rebates and refunds, and all returns from the sale of surplus materials and equipment shall be credited to JSL.

## **ARTICLE 11**

### **INSURANCE**

The Construction Manager shall provide insurance as required by the General Conditions of the Contract and, as required by and further described in the General Conditions, name JSL and the County as additional insureds.

## **ARTICLE 12**

### **PERIOD OF SERVICE**

The period of service and contract term shall commence upon the approval and execution of this Contract by both parties and continue until completion of all phases of the Work for the Project, unless otherwise terminated as provided for in the Contract.

## **ARTICLE 13**

### **INSPECTOR GENERAL**

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. This Project is subject to the Inspector General's authority, which includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the Construction Manager, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. Construction Manger shall, and shall cause its, Subcontractors and everyone for whom Construction Manager is responsible, to fully cooperate with the Inspector General including receiving access to records relating to any bid, proposal or any resulting contract.

Subject to all other requirements of this Contract, including, without limitation, the forgoing paragraph of this Article 13 and GC 51, Construction Manager must keep full, true and accurate books of accounts based on good accounting principles and other records containing relevant information and data which may be necessary to ascertain and verify the remuneration payable to Supplier hereunder for a period of three (3) years following the year to which such records relate. During the Term and for a period of three (3) years following its expiration or any termination, JSL shall have the right to audit, or have an agent, accountant or other representative, audit such books, records and supporting data upon thirty (30) days' notice. Any audit will be at JSL's expense, except that (1) Construction Manager's costs to comply with any such audit shall not be a Cost of the Work or otherwise reimbursable to Construction Manager and (2) Construction Manager shall reimburse JSL for the cost of the audit in the event that JSL discovers any overpayment (or request that would result in an overpayment) of ten percent (10%) or more of the

actual amount due.

## **ARTICLE 14**

### **SCRUTINIZED COMPANIES**

**14.1** As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the Construction Manager certifies that it, its Subcontractors have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(b), if Construction Manager is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the County.

**14.2 When contract value is greater than \$1 million:** As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the Construction Manager certifies that it, its Subcontractors, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

**14.3** If JSL or County determines, using credible information available to the public, that a false certification has been submitted by the Construction Manager, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract may be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal, if applicable.

## **ARTICLE 15**

### **NON-DISCRIMINATION**

JSL and County are committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the requirements of which apply to this Project, the Construction Manager warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Contract. The Construction Manager will include a provision in accordance with this paragraph in all of its contracts related to this Contract.

As a condition of entering into this Contract, the Construction Manager represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770 as amended. As part of such compliance, the Construction Manager shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subconsultants, subcontractors, vendors, suppliers, or commercial customers, nor shall the Construction Manager retaliate against any person for reporting instances of such discrimination. The Construction Manager shall provide equal opportunity for Subcontractors to participate in all of its public sector

and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The Construction Manager understands and agrees that a material violation of this clause shall be considered a material breach of contract and may result in termination of the contract, disqualification or debarment of the Construction Manager from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

## **ARTICLE 16**

### **COUNTERPARTS**

This Contract may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same contract.

## **ARTICLE 17**

### **PUBLIC ENTITY CRIMES**

As provided in F.S. 287.132-133, by entering into this contract or performing any work in furtherance hereof, the Construction Manager certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a). The Construction Manager shall include a provision in accordance with this Article in all contracts related to this Contract.

## **ARTICLE 18**

### **HARASSMENT FREE WORKPLACE**

The Construction Manager shall provide a harassment-free workplace, with any allegations of harassment given priority attention and action by management. The Construction Manager shall include a provision in accordance with this Article in all contracts related to this Contract.

## **ARTICLE 19**

### **LOBBYING**

Pursuant to sections 11.062 and 216.347, F.S., the Construction Manager shall not use any funds received under this Contract for lobbying the Legislature, the judicial branch, or any state agency. The Construction Manager will apprise Florida's Department of Economic Opportunity of any requests for testimony or its participation in any Congressional, legislative, and other State or Federal hearings, or agency, committee, or task force meetings or the like, related to this Contract. The Construction Manager shall insert a provision in accordance with this Article in all contracts, or subcontracts related to this Contract.

**ARTICLE 20**

**DISCRIMINATORY VENDOR**

The Construction Manager acknowledges the provisions of section 287.134, F.S. The Construction Manager shall disclose if any of its affiliates, as defined in section 287.134(1)(a.), F.S., appears on the discriminatory vendor list. The Construction Manager shall include provisions in accordance with this Article in all contracts, and subcontracts related to this Contract.

**THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY**

SAMPLE

**IN WITNESS WHEREOF**, JSL and Construction Manager have made and executed this Contract and, respectively, each has set its hand the day and year written. The Construction Manager represents that it is authorized to execute this Contract on behalf of itself and its Surety.

**JSL:**

**JUPITER STADIUM, LTD.**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**CONSTRUCTION MANAGER:**

**By**  
**(Name)**

**By:** \_\_\_\_\_  
**(signatory)**

\_\_\_\_\_  
**(print signatory's name)**

**It's** \_\_\_\_\_  
**(print title)**

## CMR CONTRACT EXHIBIT A

### SCHEDULE OF LIQUIDATED DAMAGES

**A.1.** For Spring Training Period of 2026, if the Construction Manager has not achieved Substantial Completion of the Stadium Improvements (defined below) before the first day of the Spring Training Period of 2026, including, without limitation, all applicable occupancy permits, then the Liquidated Damages applicable to the Project are Five Thousand Dollars (\$5,000) per day (unless otherwise mutually agreed in the GMP Amendment).

**A.2.** For the Spring Training Period of 2026, if the Construction Manager does not achieve Substantial Completion of all elements of the MLB Clubhouses scheduled to be substantially complete by the first day of the Spring Training Period of 2026 in accordance with the then-current Construction Schedule, including, without limitation, all applicable temporary occupancy permits to permit JSL to utilize the MLB Clubhouses for their intended purposes during Spring Training Period of 2026 (collectively, the “2026 Spring Training MLB Clubhouse Requirements”), at least ten (10) days before the first day of the Spring Training Period of 2026 then the Liquidated Damages applicable to the Project are twenty-five thousand (\$25,000) dollars per day thereafter until the earlier of (a) Substantial Completion of the 2026 Spring Training MLB Clubhouse Requirements or (b) the end of the Spring Training Period of 2026.

**A.3.** If the Construction Manager does not achieve Project Substantial Completion of all elements of the Project as required by the then-current Construction Schedule, including, without limitation, all applicable occupancy permits at least ten (10) after the Project Substantial Completion Date established in the Contract Documents, then the Liquidated Damages applicable are two thousand five hundred (\$2,500) dollars per day thereafter until Construction Manager achieves Substantial Completion of the Project.

**A.4.** The Liquidated Damages shall serve as JSL’s sole remedy in the event of Construction Manager’s delay and will be cumulative and payable upon demand at the time they accrue.

**A.5.** The Liquidated Damages will commence as set forth in this Exhibit A and will accumulate until the date that Substantial Completion of the Work is achieved, as applicable.

**A.6.** If the provisions of this Contract establishing Liquidated Damages are found for any reason to be void, invalid or otherwise inoperative so as to disentitle JSL from claiming Liquidated Damages for delay, JSL will be entitled to all damages at law or in equity under the terms of this Contract and applicable law for the Construction Manager’s failure to achieve Substantial Completion on or before the applicable date(s) scheduled for Substantial Completion.

**A.7.** Notwithstanding the foregoing, cumulative Liquidated Damages may not exceed a percentage established in the GMP Amendment that is no less than fifty percent (50%) and no more than one hundred percent (100%) of the Construction Manager’s Fee.

The term “MLB Clubhouses” is defined as both Marlins and Cardinals Clubhouses, Player Development Buildings, Agility Fields, and Batting Tunnels as described in the Contract Documents, including, without limitation, all associated site work.

The term “Stadium Improvements” is defined as Team Store, Visiting Team Clubhouse, Third



Base Group Seating and Bar Improvements, Stadium Administration Office, Stadium Ticketing Office, Grab-n-Go Concessions, Press Box, Center Field Batter's Eye, Commissary Work, Art in Public Places, Relocated Bullpens, Site Work, Maintenance Building & Maintenance Storage as described in the Contract Documents.

SAMPLE

**CMR CONTRACT EXHIBIT B  
DEVELOPER AGREEMENT**

[Attached]

SAMPLE

**CMR CONTRACT EXHIBIT C  
BREAK-DOWN OF THE CONSTRUCTION BUDGET LIMITATION**

**[Attached]**

SAMPLE

**CMR CONTRACT EXHIBIT D  
GENERAL CONDITIONS**

SAMPLE

**CONSTRUCTION MANAGER AT RISK SERVICES**

**CONTRACT CONDITIONS**

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GC-41 PLANT, EQUIPMENT AND FACILITIES

GC-42 CONSTRUCTION MANAGER-FURNISHED MATERIALS, EQUIPMENT AND  
WORKMANSHIP

GC-43 SUBSTITUTIONS

GC-44 EXPEDITING

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GC-46 DRAWINGS, DATA AND SAMPLES

GC-47 CONSTRUCTION SCHEDULE

GC-48 RESPONSIBILITY FOR WORK SECURITY

GC-49 PROTECTION OF WORK IN PROGRESS, MATERIALS AND EQUIPMENT

GC-50 PROTECTION OF EXISTING PROPERTY

GC-51 LABOR

GC-52 EQUAL EMPLOYMENT OPPORTUNITY

GC-53 SAFETY & PROTECTION OF PERSONS & PROPERTY

GC-54 PROJECT SITE PROTECTION

GC-55 FIRE PREVENTION

GC-56 ILLUMINATION

GC-57 BEST MANAGEMENT PRACTICES

GC-58 DUST CONTROL

GC-59 WATER POLLUTION

GC-60 AIR POLLUTION

GC-61 EXPLOSIVES & HAZARDOUS MATERIALS

GC-61(a) ASBESTOS NOTIFICATION

GC-62 INSPECTION: REJECTION OF MATERIALS AND WORKMANSHIP

GC-63 TESTING

GC-64 PROGRESS

GC-65 CHANGES

GC-66 RECORD DRAWINGS AND SPECIFICATIONS

GC-67 MEASUREMENT OF AND PAYMENT FOR WORK



GC-68 PROGRESS PAYMENT PROCEDURES

GC-69 USE OF COMPLETED PORTIONS OF WORK

GC-70 NOT USED

GC-71 SUBSTANTIAL COMPLETION

GC-72 FINAL INSPECTION AND ACCEPTANCE

GC-73 DISPOSAL OF MATERIAL OUTSIDE PROJECT LIMITS

GC-74 IDENTITY OF INTEREST WITH SUBCONTRACTORS/SUPPLIERS

GC-75 CLEANING UP

GC-76 PROJECT SIGNS

GC-77 SEVERABILITY

GC-78 PUBLIC RECORDS AND CONFIDENTIAL INFORMATION

GC-79 LIQUIDATED DAMAGES

GC-80 DISCLAIMER OF CONSEQUENTIAL DAMAGES

GC-81 E-VERIFY

## GENERAL CONDITIONS

### GC 1 EFFECTIVE DATE/ENTIRE AGREEMENT

1.1 This Contract is expressly contingent upon the approval of JSL and shall become effective only when signed by all parties.

1.2 This Contract (which consists of the Contract Documents and the Construction Documents) embodies the entire agreement between JSL and Construction Manager and supersedes all other writings, oral agreements, or representations. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments or modifications of any of the terms or conditions of the Contract shall be valid unless reduced to writing and signed by both parties.

### GC 2 INDEPENDENT CONTRACTOR

2.1 Construction Manager represents that it is fully experienced and properly qualified to perform the class of Work provided for herein, and that it is properly licensed, equipped, organized and financed to perform such Work.

2.2 Construction Manager shall act as an independent contractor and not as the agent of JSL in performing the Contract, maintaining complete control over its employees and all of its suppliers and subcontractors. Nothing contained in this Contract or any subcontract awarded by Construction Manager shall create any contractual relationship between any such supplier or subcontractor and JSL. Construction Manager shall perform all Work in accordance with its own methods subject to compliance with the Contract. Construction Manager represents that all subcontractors' agreements entered into shall incorporate by reference the terms and conditions of this Contract, and further warrants that JSL and the County are **intended express third party beneficiaries** of any such subcontract.

2.3 Except as specifically and expressly provided for herein, no provision of this Contract is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Contract.

### GC 3 AUTHORIZED REPRESENTATIVES

3.1 Before starting Work, Construction Manager shall designate a competent, authorized representative acceptable to JSL to represent and act for Construction Manager and shall inform JSL in writing, of the name and address of such representative together with a clear definition of the scope of his authority to represent and act for Construction Manager and shall specify any and all limitations of such authority ("CM's Authorized Representative"). At the Preconstruction Conference, Construction Manager shall provide resumes of key personnel for JSL's approval. Construction Manager shall keep JSL informed of any subsequent changes in the foregoing. Such representative shall be present or duly represented at the site of work at all times when Work is actually in progress. During periods when Work is suspended, arrangements for an authorized representative acceptable

to JSL shall be made for any emergency Work which may be required. All notices, determinations, instructions and other communications given to the authorized representatives of the Construction Manager shall be binding upon Construction Manager. Nothing contained herein shall be construed as modifying the Construction Manager's duty of supervision and fiscal management as provided for by Florida law. JSL will designate an authorized representative who will have limited authority to act for JSL. JSL will notify the Construction Manager in writing of the name of such representative(s) ("JSL's Authorized Representative"). Any work performed by the Construction Manager without proper authorization is performed at the Construction Manager's risk, and JSL shall have no obligation to compensate the Construction Manager for such work. JSL has the right to assign various responsibilities of JSL to JSL's Architect/Engineer of Record, and can do so at any time during the duration of this Contract with written notice to the Construction Manager. The Construction Manager agrees to cooperate with JSL's Architect/Engineer.

- 3.2 The Construction Manager's Authorized Representative, qualifying agents, project managers, superintendents and supervisors are all subject to prior and continuous approval of JSL. If, at any time during the term of the Contract, any individual nominally performing any of the positions named above is, for any reason, or no reason at all, unacceptable to JSL, Construction Manager shall replace the unacceptable personnel with personnel acceptable to JSL at no additional cost to JSL.

#### GC 4 NOTICES

- 4.1 Any notices provided for hereunder shall be in writing and may be served either personally on the authorized representative of the receiving party at the jobsite or by certified mail to that party at the addresses shown below:

JSL: Jupiter Stadium, Ltd.  
Attn. Dan Good, Co-Chairman  
4751 Main St.  
Jupiter, FL 33458  
[dgood@cardinals.com](mailto:dgood@cardinals.com)

Jupiter Stadium, Ltd.  
Attn: Caroline O'Connor, Co-Chairman  
4751 Main St.  
Jupiter, FL 33458  
[coconnor@marlins.com](mailto:coconnor@marlins.com)

with copy to:

Roger Dean Chevrolet Stadium  
Attn. Mike Bauer, General Manager  
4751 Main St.  
Jupiter, FL 33458  
[mike@rogerdeanchevroletstadium.com](mailto:mike@rogerdeanchevroletstadium.com)

St. Louis Cardinals, LLC.  
Attn: General Counsel  
700 Clark Street  
St. Louis, MO 63102  
[mwhittle@cardinals.com](mailto:mwhittle@cardinals.com)

AND

Marlins Teamco LLC  
Attn: General Counsel  
501 Marlins Way  
Miami, FL 33125  
[blash@marlins.com](mailto:blash@marlins.com)

CONSTRUCTION MANAGER: (To be Identified After Award)

- 4.2 These addresses may be changed by either of the parties by written notice to the other.
- 4.3 When a time period is specified in the Contract Documents for the delivery of notice, that time period shall be calculated from the earlier of (1) transmission by email, if directed to each of the email addresses for the specified party established in Section 4.1 hereof or (2) the date three (3) business days after the sender placed the notice(s) in the United States Mail via Certified U.S. Mail.

#### GC 5 LAWS AND REGULATIONS

- 5.1 Construction Manager and its employees and representatives shall at all times comply with all applicable laws, codes, ordinances, statutes, rules or regulations in effect at the time Work is performed under this Contract.
- 5.2 If, during the term of this Contract, there are any changed or new laws, ordinances or regulations not known or foreseeable at the time of signing this Contract which become effective and which affect the cost or time of performance of the Contract, Construction Manager shall immediately notify JSL in writing and submit detailed documentation of such effect in terms of both time and cost of performing the Contract. Upon concurrence by JSL as to the effect of such changes, an adjustment in the compensation and/or time of performance will be made.
- 5.3 If any discrepancy or inconsistency should be discovered between the Contract and any law, ordinance, regulation, order or decree, Construction Manager shall immediately report the same in writing to JSL who will issue such instructions as may be necessary.

- 5.4 However, it shall not be grounds for a change order that the Construction Manager was unaware of or failed to investigate the rules, codes, regulations, statutes, and all ordinances of all applicable governmental agencies having jurisdiction over the Project or the Work.
- 5.5 JSL shall not be liable for any costs, delays or damages which Construction Manager incurs as a result of the actions or orders of any other governmental entity or agency.

#### GC 6 STANDARDS AND CODES

- 6.1 Wherever references are made in the Contract to standards or codes in accordance with which Work is to be performed or tested, the edition or revision of the standards or codes current on the effective date of this Contract shall apply, unless otherwise expressly set forth. Unless otherwise specified, reference to such standards or codes is solely for implementation of the technical portions of such standards and codes. In case of conflict among any referenced standards and codes or between any referenced standards and codes JSL will determine which shall govern. Construction Manager acknowledges that compliance with code requirements represents minimum standards for construction and is not evidence that the Work has been completed in accordance with the Contract.

#### GC 7 CODE RELATED INSPECTIONS

- 7.1 The Construction Manager recognizes that the Town of Jupiter Building Department is a separate political subdivision from the County that is charged with the inspection of improvements to real property for code compliance in connection with this Project.

#### GC 8 GOVERNING LAW

- 8.1 The Contract shall be governed by the laws of the State of Florida and venue of any action shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

#### GC 9 RIGHTS AND REMEDIES; THIRD PARTY BENEFICIARIES

- 9.1 The duties and obligations imposed by the Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available at law or in equity or by statute or otherwise.
- 9.2 The parties hereby acknowledge and agree that the Board is an intended third-party beneficiary under this Contract. To the extent that any warranties, guarantees, or indemnifications are provided by Construction Manager to JSL under this Contract, Construction Manager hereby provides to the Board all such warranties, guarantees and indemnifications. Construction Manager has no rights, remedies or other recourse against Board or any party other than JSL arising out of or relating to this Contract. With the exception of the parties indemnified in accordance with Section GC 30 hereof, no person or entity is intended, or shall be construed as, a third-party beneficiary to this Contract.
- 9.3 In any legal action or other proceeding to enforce or interpret this Contract or resolve any

disputes between the parties in connection with the Project, the prevailing party will be entitled to recover from the other party its costs and expenses, including reasonable attorney's fees, court costs and all expenses (including taxes and, without limitation, all such fees, costs, and expenses incident to appeals), incurred in connection with such action or proceeding and enforcing any judgment or order obtained.

#### GC 10 COMMERCIAL ACTIVITIES

- 10.1 Construction Manager shall not establish any commercial activity or issue concessions or permits of any kind to third parties for establishing commercial activities on lands owned or controlled by JSL. Construction Manager shall not allow its employees to engage in any commercial activities on the site.

#### GC 11 COOPERATION WITH OTHERS

- 11.1 JSL and other contractors and subcontractors may be working at the site during the performance of this Contract. Construction Manager shall fully cooperate with JSL, JSL's Authorized Representative, and other contractors to avoid any delay or hindrance of their Work. JSL may require that certain facilities be used concurrently by Construction Manager and other parties and Construction Manager shall comply with such requirements.
- 11.2 If any part of the Construction Manager's Work depends on proper execution or results from any work performed by JSL or any separate contractor, the Construction Manager shall, prior to proceeding with the Work, promptly report to JSL any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Construction Manager to report such discrepancies or defects shall constitute an acceptance of JSL's separate contractor's work as fit and proper to receive its Work, except as to defects which may subsequently become apparent in such work performed by others. Any costs caused by defective or ill-timed work of others shall be borne by the Construction Manager unless Construction Manager gives written notice to JSL, if reasonably possible, prior to proceeding with the Work and in any event within three days of commencement of Work. In no event shall JSL be liable to the Construction Manager for delay damages.

#### GC 12 FORMS AND DOCUMENTS

- 12.1 The below listed documents are to be used by the Construction Manager and JSL during the administration of this Contract. Additional administrative forms may supplement this list upon written notice by JSL (or JSL's Authorized Representative). JSL reserves the right to modify these forms as it deems necessary. Construction Manager shall maintain logs for Items A-I and provide to JSL monthly.
- A. Request for Information
  - B. Field Instruction
  - C. Field Bulletin
  - D. Construction Change Proposal
  - E. Change Order

- F. Construction Change Directive
- G. Submittal Transmittal
- H. Deficiency Report
- I. Non-Conformance Report
- J. Construction Manager's Daily Report
- K. Substitution Request Form
- L. Contingency Use Directive
- M. Application for Payment
- N. EBO Schedule 1
- O. EBO Schedule 2
- P. EBO Schedule 3
- Q. EBO Schedule 4
- R. Living Wage Notice for Posting
- S. Certification of Compliance – Living Wage Ordinance

12.2 The above listed forms are attached as Appendix A to these General Conditions.

#### GC 13 PUBLICITY AND ADVERTISING

13.1 Construction Manager shall not make any announcement or release any information or publish any photographs concerning this Contract or the Project or any part thereof to any member of the public, press or any official body, unless prior written consent is obtained from JSL.

#### GC 14 TAXES

14.1 Construction Manager shall pay all taxes, levies, duties and assessments of every nature which may be applicable to any Work under this Contract. The Contract Sum and any agreed variations thereof shall include all taxes imposed by law. Construction Manager shall make any and all payroll deductions required by law. Construction Manager herein indemnifies and holds JSL and County harmless from any liability on account of any and all such taxes, levies, duties, assessments and deductions. The indemnity provisions of this section shall survive the termination or expiration of this Contract.

#### GC 15 FEES

15.1 JSL will be responsible for the following fees associated with this Project: utility connection fees, utility installation fees (including FPL), and water meter charges except for fees/permits associated with Construction Manager mobilization which have not been waived by JSL. Construction Manager shall advise JSL ten (10) days in advance of requirement for any fee amount. Water and/or sanitary sewer service capacity charges will also be paid directly by JSL. There are no impact fees pursuant to Palm Beach County's Impact Fee Ordinance associated with this Project.

#### GC 16 UTILITIES

16.1 The Construction Manager, at its expense, shall arrange for, develop, and maintain all

utilities in work areas to meet the requirements of the Contract. Such utilities shall be furnished by Construction Manager and shall include, but not be limited to, the following:

- A. Public telephone service for the Construction Manager's use.
- B. Construction power as required at each point of construction.
- C. Water as required throughout the construction.

16.2 Prior to final acceptance of the Work the Construction Manager shall, at its expense, satisfactorily remove and dispose of all temporary utilities developed to meet the requirements of the Contract. JSL will assume the utility costs directly related to its usage of areas in which the Work has been certified as Substantially Complete.

#### GC 17 SUCCESSORS, ASSIGNS AND ASSIGNMENT

17.1 JSL and the Construction Manager each binds itself, its officers, directors, qualifying agents, partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract. It is agreed that the Construction Manager shall not assign, transfer, convey or otherwise dispose of the contract or its right, title or interest in or to the same or any part thereof, or allow legal action to be brought in its name for the benefit of others, without the prior written consent of JSL and concurred to by the sureties.

#### GC 18 EXAMINATION OF CONSTRUCTION MANAGER'S RECORDS

18.1 JSL shall, until the expiration of five (5) years after final payment under this Contract, have access to, and the right to examine any directly pertinent books, documents, papers and records of the Construction Manager involving transactions relating to this Contract, and to make copies, excerpts and transcriptions thereof.

#### GC 19 COORDINATION AND CORRELATION OF DRAWINGS AND SPECIFICATIONS

19.1 The Construction Manager represents that the Construction Manager, Subcontractors, material and equipment suppliers have compared phasing, demolition, architectural, structural, mechanical, electrical, plumbing, civil and site drawings and specifications and have compared and reviewed all general and specific details on the drawings and that all conflicts, discrepancies, errors and omissions, which are within the commonly accepted knowledge base of a licensed general contractor, subcontractor, trades persons, manufacturers or other parties required to carry out the Work involved in this Contract, have been either corrected or clarified prior to execution of the GMP Amendment to the Contract. Construction Manager warrants that the GMP includes the cost of correcting all conflicts, discrepancies, errors, or omissions which Construction Manager identifies, or should have identified through the exercise of reasonable skill and care, during the preconstruction phase of this Contract.

19.2 The Construction Manager represents that the Contract Sum represents the total cost for complete and functional systems as depicted in or reasonably inferable from the plans and



specifications and therefore, the Construction Manager's review and comparison of all drawings has taken into consideration the total and complete functioning of all systems.

#### GC 20 PERMIT DRAWINGS AND SPECIFICATIONS

- 20.1 The Construction Manager shall provide JSL with two (2) complete sets of the permitted drawings and addendum within five (5) days of issuance by the appropriate building official. If the permitted set of drawings changes the scope of the Work to be performed, the Construction Manager shall notify JSL, and Architect/Engineer of Record within thirty (30) days of receipt of the permitted drawings and such notification shall contain a written description of the change and the cost and time associated with the change, if any. Failure to provide such notice within thirty (30) days shall be a complete waiver by the Construction Manager of all additional cost and time, and the Construction Manager shall perform the Work at its expense and complete the Work in accordance with the schedule and in no event shall the Construction Manager recover delay or consequential damages.
- 20.2 The Construction Manager shall, immediately upon receipt of the permitted drawings, check all drawings furnished and shall promptly notify JSL of any illegibility, errors, omissions or discrepancies discovered in such drawings. The Construction Manager shall perform Work only in accordance with the permitted drawings and any subsequent revisions thereto. Construction Manager shall maintain at the site of the work a copy of the permitted drawings and specifications kept current with all changes and modifications and shall at all times give JSL, as well as all trades performing at the Project, access thereto.

#### GC 21 CONTRACT INTERPRETATION

- 21.1 All claims of Construction Manager and all questions the Construction Manager may have concerning interpretation or clarification of this Contract or its acceptable fulfillment shall be submitted immediately in writing to JSL for resolution. JSL, or its representatives, will render its determination concerning such resolution, which determination shall be considered final and conclusive unless Construction Manager files a written protest pursuant to GC 22 "DISPUTES". The Construction Manager's protest shall state clearly and in detail the basis thereof. JSL will consider Construction Manager's protest and render its decision thereon within twenty-one (21) calendar days. If Construction Manager does not agree with JSL's decision, the Construction Manager shall immediately deliver written notice to that effect to JSL.
- 21.2 Construction Manager is solely responsible for requesting instructions or interpretations and is solely liable for any cost and/or expenses arising from its failure to do so. Construction Manager's failure to protest JSL's determinations, instructions, clarifications or decisions within fourteen (14) calendar days after receipt thereof shall constitute a waiver by Construction Manager of all its rights to further protest, judicial or otherwise.

#### GC 22 DISPUTES

- 22.1 Any dispute relating to a question of fact arising under this Contract shall be resolved through good faith efforts upon the part of Construction Manager and JSL or JSL's

representatives. At all times, Construction Manager shall carry on the Work and maintain its progress schedule in accordance with the requirements of the Contract and the determination of JSL or JSL's representatives, pending resolution of any dispute. Any dispute that is not disposed of by mutual agreement shall be decided by JSL or its representatives who shall reduce such decision to writing. The decision of JSL or its representatives shall be final and conclusive. Construction Manager's failure to protest JSL's determinations, instructions, clarifications or decisions within fourteen (14) calendar days after receipt thereof shall constitute a waiver by Construction Manager of all its rights to further protest, judicial or otherwise.

- 22.2 In no event will a dispute, the filing of a protest, claim or appeal, or the resolution or litigation thereof, relieve the Construction Manager from its obligations to timely perform the Work required by the Contract and to maintain the progress schedule in accordance with the Contract.

### GC 23 SUSPENSION

- 23.1 JSL may, at its sole option, decide to suspend at any time the performance of all or any portion of Work to be performed under the Contract. Construction Manager will be notified of such decision by JSL in writing. Such notice of suspension of Work may designate the amount and type of plant, labor and equipment to be committed to the work site. During the period of suspension, Construction Manager shall use its best efforts to utilize its plant, labor and equipment in such a manner as to minimize costs associated with suspension.

- 23.1.1 Upon receipt of any such notice, Construction Manager shall, unless the notice requires otherwise:

1. immediately discontinue Work on the date and to the extent specified in the notice;
2. place no further orders or subcontracts for material, services, or facilities with respect to suspended Work other than to the extent required in the notice;
3. promptly make every reasonable effort to obtain suspension, upon terms satisfactory to JSL, of all orders, subcontracts and rental agreements to the extent they relate to performance of Work suspended;
4. continue to protect and maintain the Work including those portions on which work has been suspended, and
5. take any other reasonable steps to minimize costs associated with such suspension.

- 23.1.2 As full compensation for such suspension, Construction Manager will be reimbursed for the following verifiable costs (without profit), without duplication of any item, to the extent that such costs directly result from such suspension of Work:

1. A standby charge to be paid to Construction Manager during the period of

suspension of Work which standby charge shall be sufficient to compensate Construction Manager for keeping, to the extent required in the notice, its organization and equipment committed to the Work in a standby status;

2. All reasonable costs associated with mobilization and demobilization of Construction Manager's plant, forces and equipment;
3. An equitable amount to reimburse Construction Manager for the cost of maintaining and protecting that portion of the Work upon which Work has been suspended; and
4. If as a result of any such suspension of Work the cost to Construction Manager of subsequently performing Work is increased or decreased, an equitable adjustment will be made in the cost of performing the remaining portion of Work.

23.2 In no event shall the Construction Manager be entitled to assert a claim for home office overhead in accordance with the Eichleay Formula or otherwise, in the event of a JSL suspension. Upon receipt of notice to resume suspended work, Construction Manager shall immediately resume performance of the suspended Work to the extent required in the notice. Any claim on the part of Construction Manager for time and/or compensation arising from suspension shall be made within twenty-one (21) calendar days after receipt of notice to resume Work and Construction Manager shall submit for review a revised Construction Schedule. No adjustment shall be made for any suspension to the extent that performance would have been suspended, delayed, or interrupted by any Construction Manager's non-compliance with the requirements of this Contract.

#### GC 24 DECLARATION OF DEFAULT

24.1 The failure of the Construction Manager to supply enough properly skilled workers or material, or to make prompt payment to subcontractors or for materials or labor or to obey laws, ordinances, rules, regulations or orders of public agencies having jurisdiction, or to comply in any way with the Contract, shall be sufficient grounds for JSL to find the Construction Manager in substantial default and that sufficient cause exists to terminate the Contract and to withhold payment or any part thereof until the cause or causes giving rise to the default have been eliminated by the Construction Manager and approved by JSL. If a finding of default is made, the Construction Manager and its surety shall remain responsible for performance of the requirements of the Contract unless and until JSL terminates the Contract. Upon a finding of default, JSL shall set a reasonable time within which the Construction Manager and its surety shall eliminate the cause or causes of default. When the basis for finding of default no longer exists, JSL shall notify the Construction Manager and its surety in writing that the default has been corrected and that the Construction Manager is no longer in default. If the Construction Manager fails to correct the default within the time allowed, JSL may terminate the Contract and the employment of the Construction Manager, without otherwise waiving its rights against the Construction Manager or its surety.

#### GC 25 TERMINATION FOR DEFAULT

25.1 Notwithstanding any other provisions of this Contract, Construction Manager shall be

considered in default of its contractual obligations under this Contract if it:

- A. Performs work which fails to conform to the requirements of this Contract;
- B. Fails to meet the contract schedule or fails to make progress so as to endanger performance of this Contract;
- C. Abandons or refuses to proceed with any or all Work including modifications directed pursuant to the clause entitled "CHANGES"; or
- D. Fails to fulfill any of the terms of this Contract.

25.2 Upon the occurrence of any of the foregoing, JSL or its authorized representatives shall notify Construction Manager in writing of the nature of the failure and of JSL's intention to either terminate the Contract for default, or to declare the Construction Manager to be in default and make demand upon its surety to perform, at its sole option.

25.3 If Construction Manager or its surety(ies) does not commence to cure such failure within three (3) calendar days from receipt of notification, or sooner if consideration of safety to persons is involved, or if Construction Manager or its surety(ies) fails to provide satisfactory evidence that such default will be corrected, JSL may, without notice to Construction Manager's surety(ies), if any, terminate in whole or in part Construction Manager's right to proceed with Work by written notice and prosecute the Work to completion by contract or by any other method deemed expedient. JSL may take possession of and utilize any materials, plant, tools, equipment, and property of any kind furnished by Construction Manager and necessary to complete the Work.

25.4 Construction Manager and its sureties, if any, shall be liable jointly and severally for all costs in excess of the contract price for such terminated work reasonably and necessarily incurred in the completion of the Work as scheduled, including cost of administration of any contract awarded to others for completion and for liquidated damages.

25.5 Upon termination for default Construction Manager shall:

- A. immediately discontinue Work on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of Work terminated;
- B. inventory, maintain and turn over to JSL all materials, plant, tools, equipment, and property furnished by Construction Manager or provided by JSL for performance of Work;
- C. promptly obtain cancellation upon terms satisfactory to JSL of all purchase orders, subcontracts, rentals, or any other agreements existing for performance of the terminated Work or assign those agreements to JSL as directed;
- D. cooperate with JSL in the transfer of information and disposition of Work in progress so as to mitigate damages;
- E. comply with other reasonable requests from JSL regarding the terminated

Work; and

F. continue to perform in accordance with all of the terms and conditions of the Contract such portion of Work that is not terminated.

25.6 If, upon termination pursuant to this clause, it is determined for any reason that Construction Manager was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause entitled "TERMINATION FOR CONVENIENCE".

#### GC 26 TERMINATION FOR CONVENIENCE

26.1 JSL may, at its option, terminate the Contract, in whole or in part at any time for any reason or for no reason by giving ten (10) business days written notice thereof to Construction Manager, whether or not Construction Manager is in default. Upon any such termination, Construction Manager hereby waives any claims for damages from the termination for convenience, including loss of anticipated profits, on account thereof, but as the sole right and remedy of Construction Manager, JSL shall pay Construction Manager in accordance with the subparagraphs below, provided, however, that those provisions of the Contract which by their very nature survive final acceptance under the Contract shall remain in full force and effect after such termination.

A. Upon receipt of any such notice, Construction Manager and its surety shall, unless the notice requires otherwise:

1. Immediately discontinue Work on the date and to the extent specified in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of Work under the Contract that is not terminated;
3. Promptly make every reasonable effort to obtain cancellation upon terms satisfactory to JSL of all orders and subcontracts to the extent they relate to the performance of Work terminated or assign to JSL those orders and subcontracts and revoke agreements specified in such notice;
4. The Construction Manager agrees to assign all subcontracts required for performance of this Contract to JSL;
5. The Construction Manager shall include in all subcontracts, equipment leases and purchase orders, a provision requiring the subcontractor, equipment lessor or supplier, to consent to the assignment of their subcontract to JSL;
6. Assist JSL, as specifically requested in writing, in the maintenance, protection and disposition of property acquired by JSL under the Contract; and
7. Complete performance of any Work which is not terminated.

B. Upon any such termination, JSL will pay to Construction Manager an amount determined in accordance with the following (without duplication of any item):

1. All amounts due and not previously paid to Construction Manager for Work completed in accordance with the Contract prior to such notice, and for Work thereafter completed as specified in such notice.
2. The reasonable cost of settling and paying claims arising out of the termination of Work under subcontracts or orders as provided in subparagraph A.3. above.
3. Any other reasonable costs which can be verified to be incidental to such termination of Work.

26.2 The foregoing amounts will include a reasonable sum, under all of the circumstances, as profit for all Work satisfactorily performed to date of termination by Construction Manager.

26.3 Construction Manager shall submit within 30 days after receipt of notice of termination, a proposal for an adjustment to the contract price including all incurred costs described herein. JSL shall review, analyze, and verify such proposal, and negotiate an equitable adjustment, and the Contract shall be amended in writing accordingly.

#### GC 27 EXTENSION OF TIME/NO DAMAGES FOR DELAY

27.1 If the Construction Manager's performance of this Contract is delayed at any time in the commencement or progress of the Work by labor disputes, fire, unusual delay in deliveries, weather, unavoidable casualties or other causes not reasonably foreseeable on the date the Work commenced and that are beyond Construction Manager's reasonable control ("Force Majeure"), and where such delay impacts the Critical Path, then the Contract Time will be extended by Change Order for a reasonable time in accordance with this Section GC 27, but the Contract Sum shall not be changed. Construction Manager shall use its best efforts to remove, relieve and/or minimize the effect of any delay, whether caused by any event of Force Majeure or other causes of delay.

27.2 The Construction Manager must request the extension of time in writing and must provide the following information within the time periods stated hereafter. Failure to submit such information and in compliance with the time requirements hereinafter stated, shall constitute a waiver by the Construction Manager and a denial of the claim for extension of time:

- A. Nature of the delay or change in the Work;
- B. Dates of commencement/cessation of the delay or change in the Work;
- C. Activities on the progress schedule current as of the time of the delay or change in the Work affected by the delay or change in the Work;
- D. Identification and demonstration that the delay or change in Work impacts the Critical Path (submittal of CPM schedule);
- E. Identification of the source of delay or change in the Work;
- F. Anticipated impact extent of the delay or change in the Work; and
- G. Recommended action to minimize the delay.

27.2.1 The Construction Manager acknowledges and agrees that the evaluation of time extensions will be based upon the following criteria:

1. All schedule updates, submittals and other requirements of this General Condition have been met;
2. The delay must be beyond the control of the Construction Manager and subcontractors and due to no direct or indirect fault of the Construction Manager;
3. The delay which is the subject of the time extension must result in a direct delay to the Critical Path;
4. The schedule must clearly display that the Construction Manager has used, in full, all the float time, except for JSL initiated changes. Float time is not for the exclusive use of either the Construction Manager or JSL; and
5. If adverse weather conditions are the basis for a claim for additional time, such claim shall be submitted within thirty (30) days of occurrence and shall be documented by data substantiating that weather conditions were abnormal for the period of time required for completion of the Work, could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

27.3 JSL's determination as to the total number of days of contract extension will be based upon the Construction Schedule current at the time of the delay event.

27.4 The Construction Manager shall not be entitled to any extension of time for delays resulting from any cause unless it shall have notified JSL in writing within twenty-four hours (24) after the commencement of such delay or 96 hours of knowledge of a potential delay, whichever is earlier. In any event, within seven (7) days of commencement of the delay, the Construction Manager shall provide in writing the information stated above.

27.5 The Construction Manager shall not be entitled to and hereby waives, any and all damages which it may suffer by reason of Force Majeure, unforeseen condition, delay, acceleration, cardinal changes, loss of efficiency or any other impacts to the Work or time of performance and further, hereby waives all damages which it may suffer by reason of these events, including, but not limited to lost profits, overhead (whether determined by the Eichleay Formula or otherwise), increased insurance costs, loss of bonding capacity or lost profits on alternate or unperformed contracts, supervision, or home office expense. Construction Manager hereby affirms that the extension of time granted herein is the Construction Manager's sole and exclusive remedy. Apart from extension of time, no payment of claim for damages shall be made to the Construction Manager as compensation for damages for any delays or hindrances from any cause whatsoever in the progress of the Work whether such delay be avoidable or unavoidable.

27.6 For all changes in the Work in which the Construction Manager claims entitlement to a time extension, the Construction Manager shall provide to JSL the same information as required above within seven (7) days of the issuance of the request for Change Order or direction to change the scope of the Work and the Construction Manager's failure to provide such information shall constitute a waiver by the Construction Manager and a denial of any time extension for that change in the Work. Further, upon execution by JSL and Construction Manager of any Change Order where no time extension has been requested and/or granted, that Change Order shall constitute a complete waiver of all claims for dollars or for any extension of time related to that Work, or any Work impacted by the change.

## GC 28 WARRANTY

28.1 Unless otherwise provided elsewhere in the Contract, all materials and equipment incorporated into any Work covered by the Contract shall be new and, where not specified, of the highest grade of quality for their intended use, and all workmanship shall be in accordance with construction drawings and specifications.

28.2 Unless otherwise provided in the Contract, Construction Manager warrants all equipment, materials, and labor furnished or performed under this Contract, against defects in design, materials and workmanship for a period of twelve months (unless longer guarantees or warranties are provided for elsewhere in the Contract in which case the longer periods of time shall prevail) from and after substantial completion of the Work under the Contract, regardless of whether the same were furnished or performed by Construction Manager or by any of its subcontractors of any tier. In the event that JSL assumes partial utilization of portions of the Work prior to completion of all Work, the Warranty for that portion shall also extend for twelve months from substantial completion of that portion of the Work, if and only if JSL has exclusive use of the area. If JSL does not have exclusive use of the area, the warranty period shall extend for twelve months from substantial completion of the last portion of the Work.

28.3 Upon receipt of written notice from JSL of any defect in any such equipment, materials, or labor during the applicable warranty period, due to defective design, materials or workmanship, the affected item or parts thereof shall be redesigned, repaired or replaced by Construction Manager at a time and in a manner acceptable to JSL.

28.4 JSL and Construction Manager agree that the provisions of Florida Statute Chapter 558 shall not apply to this Contract.

28.5 Construction Manager warrants such redesigned, repaired or replaced Work against defective design, materials and workmanship for a period of twelve months from and after the date of acceptance thereof. Should Construction Manager fail to promptly make the necessary redesign, repair, replacement and tests, JSL may perform or cause to be performed the same at Construction Manager's expense.

Construction Manager shall perform such tests as JSL may require verification that such redesign, repairs and replacements comply with the requirements of this Contract. All costs incidental to such redesign, repair, replacement and testing, including the removal, replacement and reinstallation of equipment and materials necessary to gain access, shall be borne exclusively by Construction Manager.

28.6 The Construction Manager shall commence Work to remedy or replace the defective, deficient Work within five (5) calendar days after receiving written (including transmittals by FAX or email) notice from JSL. If the Construction Manager fails to remedy or remove or replace that Work or material which has been found to be defective, then JSL may remedy or replace the defective or deficient Work at the Construction Manager's expense; provided, however, all repairs to natural gas, telephone, radio, computer security, water, electric, air conditioning services and



all emergency services shall be commenced within twelve (12) hours of notification, or by 7:00 a.m. whichever is earlier, and Construction Manager shall complete the repairs in an expeditious manner befitting the nature of the deficiency. The Construction Manager shall immediately pay the expenses incurred by JSL for remedying the defects. If JSL is not paid within ten (10) calendar days, JSL may pursue any and all legal or equitable remedies it may have against the Construction Manager.

28.7 The Construction Manager is required to provide a designated telephone number for warranty related emergencies which occur outside the normal workday. The Construction Manager is solely responsible for ensuring that all warranty Work is completed in the manner described above. If JSL agrees, in writing, a subcontractor may be the point of contact for notices regarding warranty items, but such agreement shall not absolve the Construction Manager of its responsibility.

28.8 The terms of this section shall not modify, restrict or limit JSL's other available remedies or restrict, limit or be construed as the sole or exclusive remedy for defective performance or failure to meet Contract obligations. This section shall not relieve the Construction Manager of its responsibilities for the performance of the original work in accordance with the requirements of the Contract Documents and will not limit JSL's remedies at law, in equity or under Contract.

Additionally, the terms of a later signed manufacturer's warranty shall not modify or abridge the Construction Manager's warranties (express or implied), Construction Manager's performance, or Construction Manager's duties and liabilities under the Contract Documents and the warranties therein and shall not limit or restrict JSL's remedies or damages at law, in equity, or under contract.

28.9 Construction Manager and its surety or sureties shall be liable for the satisfaction and full performance of the Contract Documents and the warranties therein and any damage to other parts of the Work caused by the Construction Manager's failure to perform pursuant to the Contract Documents and this general condition.

28.10 The provisions of this section shall survive the termination or expiration of this Contract.

#### GC 29 PATENT INDEMNITY

29.1 Construction Manager hereby indemnifies and shall defend and hold the County and JSL and their representatives harmless from and against all claims, losses, costs, damages, and expenses, including attorney's fees, incurred by the County or JSL and their representatives, respectively, as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent and arising out of the use of the equipment or materials furnished under the Contract by Construction Manager, or out of the processes or actions employed by, or on behalf of Construction Manager in connection with the performance of the Contract.

29.2 Construction Manager shall, at its sole expense, promptly defend against any such claim or action unless directed otherwise by JSL or its representatives; provided that JSL or its representatives shall have notified Construction Manager upon becoming aware of such claims or actions, and provided further that Construction Manager's aforementioned obligations shall not apply to equipment, materials, or processes furnished or specified by JSL or JSL's representatives. Construction Manager shall have the right, in order to avoid such claims or actions, to substitute

at its expense non-infringing equipment, materials, or processes, or to modify such infringing equipment, materials and processes so they become non-infringing, or obtain the necessary licenses to use the infringing equipment, material or processes, provided that such substituted and modified equipment, materials and processes shall meet all the requirements and be subject to all the provisions of this Contract.

29.3 This section shall survive the termination or expiration of this Contract.

### GC 30 INDEMNITY

30.1 Construction Manager shall indemnify and hold harmless JSL, JS Stadium Inc., Jupiter Hammerheads Baseball Club, Inc., Palm Beach Cardinals, LLC, Marlins Teamco LLC, Marlins Funding LLC, Marlins Holdings LLC, St. Louis Cardinals, LLC, the Board, each of their parents, subsidiaries, and affiliates, and each of their respective shareholders, owners, officers, directors, members, partners, representatives, contractors, subcontractors, licensees, agents, and employees, assigns, and insurers from and against any and all claims, liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, arising out of or in connection with (a) any breach of the Contract by Construction Manager, (b) the negligence, recklessness, or intentional wrongful misconduct of Construction Manager and persons employed or utilized by the Construction Manager or Subcontractor(s) in the performance of this Contract, (c) any claim that the services provided by Construction Manager hereunder infringe or otherwise violate the intellectual property rights of any third party, (d) any and all liens, (e) claims of Construction Manager's employees, consultants and Subcontractors, or anyone claiming to be an employee or consultant or subcontractor, relating to the services provided hereunder, and (f) claims for which Construction Manager is required to indemnify JSL and County in accordance with Section GC 29.

30.2 To the extent permitted by, and in accordance with, F.S. 725.06, Construction Manager further agrees that "damages, losses and costs," includes fines, citations, court judgments, insurance claims, restoration costs or other liability, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Construction Manager and persons employed or utilized by the Construction Manager in the performance of this Contract.

30.3 To the extent permitted by, and in accordance with, F.S. 725.06, for purposes of indemnity, the "persons employed or utilized by the Construction Manager" shall be construed to include, but not be limited to, the Construction Manager, its staff, employees, subcontractors, all deliverers, suppliers, furnishers of materials or services or anyone acting for, on behalf of, or at the request of Construction Manager.

30.4 The indemnification provisions of this section shall survive termination or expiration of this Contract.

30.5 The Construction Manager's indemnity and hold harmless obligations hereunder shall extend to all claims against JSL and/or any third party or third party beneficiary of this Contract and all liabilities, damages, losses and costs related thereto.

30.6 If any provision(s), or portion(s) of a provision(s) of this Section or the application thereof

to any person or circumstance shall, to any extent, be held to be invalid, illegal or unenforceable for any reason whatsoever: the validity, legality and enforceability of the remaining provision(s), or part of the provision(s), shall not in any way be affected or impaired thereby; and shall be interpreted to the fullest extent possible to be enforceable and to give effect to the intent manifested by the provision(s), or portion(s) thereof, held invalid, illegal or unenforceable.

## GC 31 INSURANCE

31.1 General Requirements. Unless otherwise specified in this Contract, the Construction Manager shall, at its sole expense, maintain in full force and effect at all times during the life of this Contract or the performance of Work hereunder, insurance coverage as described herein at limits, including endorsements, set forth in the Insurance Coverage & Limit Table in Section 31.15, below. Construction Manager shall deliver to JSL certificate(s) of insurance evidencing that such policies are in full force and effect, not later than fourteen (14) calendar days after receipt of Notification of Intent to Award, but in any event, prior to execution of the Contract by JSL and prior to commencement of Work on the project. Such certificate(s) shall adhere in every respect to the conditions set forth herein.

The requirement contained herein as to types and limits, as well as JSL's approval of insurance coverage to be maintained by Construction Manager are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Construction Manager under the Contract.

31.2 Commercial General Liability. Construction Manager shall agree to maintain a standard ISO version Commercial General Liability policy form, or its equivalent providing coverage for, but not be limited to, Bodily Injury and Property Damage, Premises/Operations, Products/Completed Operations, Independent Contractors, Contractual Liability, Broad Form Property Damage, X-C-U Coverages (if applicable), Severability of Interest including Cross Liability, and be in accordance with all of the limits, terms and conditions set forth herein. Construction Manager agrees this coverage shall be provided on a primary basis.

31.3 Business Automobile Liability. Construction Manager shall agree to maintain a standard ISO version Business Automobile Liability coverage form, or its equivalent, providing coverage for all owned, non-owned and hired automobiles, and in accordance with all of the limits, terms and conditions set forth herein. Construction Manager agrees this coverage shall be provided on a primary basis. Notwithstanding the foregoing, should the Construction Manager not own any automobiles, the business auto liability requirement shall be amended to allow the Construction Manager to agree to maintain only Hired & Non-Owned Auto Liability. This amended coverage requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form.

31.4 Worker's Compensation & Employer's Liability. Construction Manager shall agree to maintain Worker's Compensation Insurance & Employers Liability, including Federal Act endorsement for U.S. Longshoremen's and Harbor Workers Act when any Work is on or contiguous to navigable bodies of U.S. waterways and ways adjoining, covering all of its employees on the work site. This coverage shall be in accordance with all of the limits, terms and conditions set forth herein. Exemptions for a contractor in or doing work in the Construction

Industry, or proof of worker's compensation coverage provided by an employee leasing arrangement shall not satisfy this requirement. If any Work is sublet, Construction Manager shall require all subcontractors to similarly comply with this requirement unless such subcontractors' employees are covered by Construction Manager's Worker's Compensation insurance policy. Construction Manager agrees this coverage shall be provided on a primary basis.

31.5 Additional Required Insurance. The Construction Manager shall agree to maintain the following additional required insurance coverages with respect to any Work involving property, operations, or type of equipment for which each insurance coverage described below have been designed specifically to provide coverage for:

31.5.1 Watercraft Liability. With respect to any of the Work hereunder involving watercraft owned, hired, or borrowed, the Construction Manager shall agree to maintain Protection and Indemnity, or similar Watercraft Liability. Coverage shall be included either by way of endorsement under the Commercial General Liability or by separate watercraft liability insurance and be in accordance with all of the limits, terms and conditions set forth herein. Construction Manager agrees this coverage shall be provided on a primary basis.

31.5.2 Aircraft Liability. With respect to any of the Work involving (fixed wing or helicopter) aircraft owned, hired, or borrowed, the Construction Manager shall agree to maintain Aircraft Liability. Passenger Liability shall be included when persons other than the pilot and crew are occupying the aircraft. Coverage shall be in accordance with all of the limits, terms and conditions set forth herein. Construction Manager agrees this coverage shall be provided on a primary basis.

31.5.3 Builder's Risk. The party identified in the GMP Amendment as responsible for maintaining Builder's Risk insurance will place and maintain (or caused to be placed or maintained), on an all-risk or "special form" policy form (insuring against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, flood, windstorm, earth movement and/or subsidence, vandalism, malicious mischief, collapse, false work, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable laws) of builder's risk insurance for the Project. Construction Manager will be responsible for \$25,000.00 per claim deductible under the builder's risk policy for any claim by Construction Manager, a Subcontractor, or other for whose acts Construction Manager may be liable or if the loss is due to vandalism, malicious mischief or theft or the negligence or willful misconduct of Construction Manager, a Subcontractor or other for whose acts Construction Manager may be liable; otherwise JSL will be responsible for the deductible. JSL and Construction Manager must cooperate with each other and jointly adjust and settle any loss insured under the builder's risk insurance. If the loss is to be made payable to a party hereunder, receipt of such payment is done so on behalf of the insureds, as their interests may appear, subject to the requirements of any applicable mortgagee clause. That party receiving insurance proceeds will pay the other that other party's just share of insurance proceeds. Construction Manager must pay Subcontractors their just share of insurance proceeds received by Construction Manager, and by appropriate agreements, written if legally required for validity, must require all Subcontractors and to make payments to their sub-subcontractors in similar manner. Construction Manager will not be responsible for repairing or replacing any property damaged by a casualty loss to be covered by the builder's risk insurance unless Construction Manager is given a Change Order for such Work. JSL waives all rights of action against Construction Manager and

its Subcontractors of all tiers for loss of use of the Project or any other property, including consequential losses, due to any casualty loss to be covered by the builder's risk insurance. In addition, Construction Manager and its Subcontractors of all tiers shall be Named Insureds under the Builder's Risk policy, or, if the policy is held by the Construction Manager, JSL and the Palm Beach County Board of County Commissioners shall be Named Insureds.

Partial Occupancy or use of the Work shall not commence until insurance company or companies providing insurance as required have consented to such partial occupancy or use. Construction Manager shall take reasonable steps to notify and obtain consent of the insurance company or companies, and agree to take no action, other than upon mutual consent, with respect to occupancy or use of the Work that could lead to cancellation, lapse, or reduction of insurance.

The coverage shall be kept in force until Substantial Completion has been obtained, or until no one but JSL and County has any property interest in the Project, or until Construction Manager and JSL mutually consent to the termination, whichever occurs first.

31.5.4 Inland Marine/Transit Insurance. With respect to property with values in excess of \$100,000 which is rigged, hauled or situated at the site pending installation, the Construction Manager shall agree to maintain inland marine property/transit insurance provided the coverage is not afforded by a Builders Risk policy. Coverage shall be provided in accordance with all of the limits, terms and conditions set forth herein. Construction Manager agrees this coverage shall be provided on a primary basis. The Construction Manager agrees and understands JSL shall not provide any inland marine or transit insurance on behalf of Construction Manager for loss or damage to work, or to any other property of owned, hired, or borrowed by the Construction Manager.

31.6 Satisfying Limits under an Umbrella Policy. If necessary, the Construction Manager may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under an Umbrella or Excess Liability. The underlying limits may be set at the minimum amounts required by the Umbrella or Excess Liability provided the combined limits meet at least the minimum limit for each required policy. The Umbrella or Excess Liability shall have an Annual Aggregate at a limit not less than two (2) times the highest per occurrence minimum limit required above for any of the required coverages. JSL and County shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Umbrella or Excess Liability provides continuous coverage to the underlying policies on a complete "Follow-Form" basis without exceptions and stated as such on the Certificate of Insurance.

31.7 Additional Insured. The Construction Manager agrees to endorse JSL and County as Additional Insureds on each insurance policies required to be maintained by the Construction Manager, except for Worker's Compensation and Business Auto Liability. The CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, shall be endorsed to the Commercial General Liability. Other policies, when required, such as for watercraft, aircraft, builder's risk or transit insurance, shall provide a standard Additional Insured endorsement offered by the insurer providing coverage with respect to liability arising out of the operations of the Construction Manager. The endorsement shall read "Jupiter Stadium, Ltd., JS Stadium Inc., Jupiter Hammerheads Baseball Club, Inc., Palm Beach Cardinals, LLC, Marlins Teamco LLC, Marlins Funding LLC, Marlins Holdings LLC, St. Louis Cardinals, LLC, each of

their parents, subsidiaries, and affiliates, and each of their respective officers, directors, members, partners, representatives, contractors, subcontractors, licensees, agents, employees, assigns, and insurers, and Palm Beach County Board of County Commissioners". The Construction Manager shall agree the Additional Insured endorsements provide coverage on a primary basis. Endorsement shall be in accordance with all of the limits, terms and conditions set forth herein.

31.8 Reserved.

31.9 Waiver of Subrogation. The Construction Manager shall agree by entering into this Contract to a Waiver of Subrogation for each required policy providing coverage during the life of this Contract. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the Construction Manager shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the insured enter into such an agreement on a pre-loss basis. The Waiver of Subrogation shall be in accordance with all of the limits, terms and conditions set forth herein.

31.10 Right To Review & Adjust. The Construction Manager shall agree, notwithstanding the foregoing, JSL reserves the right to periodically review, reject or accept all required policies of insurance, including limits, coverages, or endorsements, hereunder from time to time throughout the life of this Contract. Furthermore, JSL reserves the right to review and reject any insurer providing coverage because of poor financial condition or because it is not operating legally. In such event, JSL will provide Construction Manager written notice of such adjusted limits, and Construction Manager shall agree to comply within thirty (30) days of receipt thereof and to be responsible for any premium revisions as a result of any such reasonable adjustment.

31.11 No Representation of Coverage Adequacy. The coverages and limits identified in the table have been determined to protect primarily interests of JSL and County only, and the Construction Manager agrees in no way should the coverages and limits in the table be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect the Construction Manager against any loss exposures, whether as a result of the construction Project or otherwise.

31.12 Certificate of Insurance. Certificates of Insurance must provide clear evidence that Construction Manager's Insurance Policies contain the minimum limits of coverage and terms and conditions set forth herein. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be identified on the certificate.

In the event JSL is notified that a required insurance coverage will cancel or non-renewed during the period of this Contract, the Construction Manager shall agree to furnish at least thirty (30) days prior to the expiration of such insurance, an additional certificate of insurance as proof that equal and like coverage for the balance of the period of the Contract and any extension thereof is in effect. Construction Manager shall agree not continue to work pursuant to this Contract unless all required insurance remains in effect. JSL shall have the right, but not the obligation, of prohibiting Construction Manager or any subcontractor from entering the Project site until such

certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and accepted by JSL. JSL reserves the right to withhold payment, but not the obligation, to Construction Manager until coverage is reinstated. If the Construction Manager fails to maintain the insurance as set forth herein, JSL shall have the right, but not the obligation, to purchase said insurance at Construction Manager's expense.

#### ADDITIONAL REQUIREMENTS FOR CERTIFICATES OF INSURANCE

1. Shall clearly identify all additional insureds in accordance with the Contract Documents for all required insurance coverages, except Workers Compensation and Business Auto Liability.
2. Shall clearly indicate Project name and Project number to which it applies.
3. Shall clearly indicate a minimum thirty (30) day endeavor to notify requirement in the event of cancellation or non-renewal of coverage, ten (10) day for non-payment.
4. Evidence of renewal coverage must be provided at least thirty (30) days in advance of any policy that may expire during the term of this Contract.
5. Shall clearly identify "Jupiter Stadium, Ltd." and "Palm Beach County" endorsed as Loss Payees on the Builder's Risk and any Inland Marine coverages, if applicable.
6. Construction Manager shall deliver to JSL a certificate of insurance with respect to each required policy to be provided under this Section. The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate. Certificates need to show the following as Certificate Holder.

Submit certificates of insurance to:

Jupiter Stadium, Ltd.  
Attn. Dan Good, Co-Chairman  
4751 Main St.  
Jupiter, FL 33458

Jupiter Stadium, Ltd.  
Attn: Caroline O'Connor, Co-Chairman  
4751 Main St.  
Jupiter, FL 33458

With a copy to:

Roger Dean Chevrolet Stadium  
Attn. Mike Bauer, General Manager  
4751 Main St.  
Jupiter, FL 33458

7. Construction Manager shall also deliver original Certificate(s) of Insurance to the following:

Palm Beach County  
 c/o Capital Improvements Division  
 2633 Vista Parkway  
 West Palm Beach, FL 33411-5604

8. Renewal Policies - The Construction Manager shall promptly deliver to JSL a certificate of insurance with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the terms specified herein. Such certificate shall be delivered to JSL not less than five (5) business days before to the expiration date of any policy.

31.13 Deductibles, Coinsurance Penalties, & Self-Insured Retention. The Construction Manager shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.

31.14 Subcontractor’s Insurance. The Construction Manager shall agree to cause each subcontractor employed by Construction Manager with a subcontract valued in excess of one hundred thousand dollars (\$100,000) to purchase and maintain Commercial General Liability insurance of the type specified herein, but with minimum limits of \$1,000,000/\$2,000,000, unless the Construction Manager’s insurance provides coverage on behalf of the subcontractor or, upon prior request in writing by the Construction Manager in each instance, JSL approves a subcontractor providing a lower amount of Commercial General Liability insurance, which approval may be provided or withheld at JSL’s sole discretion. When requested by JSL, the Construction Manager shall agree to obtain and furnish copies of certificates of insurance evidencing coverage for each subcontractor.

31.15 Insurance Coverage & Limit Table. The Construction Manager shall agree to maintain the coverages, endorsements, and limits of liability in accordance with and set forth by the Insurance Coverage & Limit Table below:

INSURANCE COVERAGE & LIMIT TABLE		
TYPE OF COVERAGE		MINIMUM LIMITS
<p><b><u>COMMERCIAL GENERAL LIABILITY:</u></b>            Limit of Liability not less than:</p> <p>Additional Insured endorsement required:</p>		<p>\$10,000,000 per occurrence</p> <p>\$50,000,000 excess coverage</p> <p>\$10,000,000 products/completed operations aggregate</p>



INSURANCE COVERAGE & LIMIT TABLE		
		Yes
<b><u>COMPREHENSIVE AUTO LIABILITY:</u></b> Limit of Liability not less than:		\$5,000,000 per accident occurrence
<b><u>WORKERS COMPENSATION &amp; EMPLOYER'S LIABILITY:</u></b> Coverage not less than:  Employers Liability Limits:		Statutory but not less than \$1,000,000 per accident and \$1,000,000 per disease/per employee  \$500,000/\$500,000/\$500,000
<b><u>WATERCRAFT LIABILITY:</u></b> Limit of Liability not less than:  Additional Insured endorsement required:		\$5,000,000 per occurrence  Yes
<b><u>POLLUTION:</u></b> Limit of Liability not less than:  Additional Insured endorsement required:		\$5,000,000 per occurrence  Yes
<b><u>AIRCRAFT LIABILITY:</u></b> Limit of Liability not less than:		\$5,000,000 per occurrence
When used to carry passengers (excluding aircraft's crew) coverage for Passenger Liability not less than:  Additional Insured endorsement required:		\$1,000,000 per passenger  Yes
<b><u>BUILDERS RISK (when/if provided by CM):</u></b> Limit not less than:  Endorsement to waive coverage termination from Occupancy Clause.  Endorsement cover until final acceptance of the Project by Certificate of Occupancy by JSL.  Additional Insured & Loss Payee endorsements required:		100% of the completed total insurable value of the Project.  Yes  Yes  Yes
<b><u>INLAND MARINE COVERAGE:</u></b>		

INSURANCE COVERAGE & LIMIT TABLE	
Limit not less than:	Highest value exposed during the construction Project.
Additional Insured & Loss Payee endorsements required:	Yes

### GC 32 SITE CONDITIONS

32.1 Construction Manager shall have the sole responsibility of satisfying itself concerning the nature and location of Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of materials; availability, quantity and quality of labor; familiarity with local and regional market and industry conditions including labor skill level and availability, water and electric power; availability and condition of roads; climatic conditions, location of underground utilities as depicted on Construction Documents, and through verification with local utility companies and JSL, physical conditions of existing construction, topography and ground surface conditions; to the extent identified in the Project Geotechnical Study and Report, Environmental Study and Report, or other documentation made available to the Construction Manager, subsurface geology, and nature and quantity of surface and subsurface materials to be encountered; the nature of the ground water conditions; equipment and facilities needed preliminary to and during performance of the Contract; and all other matters which can in any way affect performance of the Contract, or the cost associated with such performance. The failure of Construction Manager to acquaint itself with any applicable condition will not relieve it from the responsibility for properly estimating either the difficulties or the costs of successfully and timely performing the Contract. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Construction Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Construction Documents, then notice shall be given to JSL promptly before conditions are disturbed. Should it be determined that such conditions exist and if they differ materially and cause an increase or decrease in the cost of the Work, the CM will receive an equitable adjustment in the GMP or Contract time, or both in accordance with GC 65.

### GC 33 NOT USED

### GC 34 ACCESS TO WORK AREAS

34.1 JSL, and its duly authorized representatives and employees, and all duly authorized representatives of governmental agencies having jurisdiction over work areas or any part thereof shall, at all reasonable times, for the purpose of determining compliance with Contract requirements and permits, have access to such areas and the premises used by Construction Manager. Construction Manager shall also arrange for JSL, its said representatives and employees, to have access at all reasonable times to all places where equipment or materials are being manufactured, produced, or fabricated for use under the Contract.

34.2 Construction Manager's accesses to the site and storage areas shall be as shown on the plans and as designated by JSL. Access routes may also be used by JSL employees, the public and other Construction Managers. No other access points shall be allowed unless approved by JSL. All Construction Manager traffic authorized to enter the site shall be experienced in the route or guided by Construction Manager personnel. The Construction Manager is responsible for immediate cleanup of any debris deposited along the access route as a result of its construction traffic.

#### GC 35 INGRESS AND EGRESS

35.1 Construction Manager's access to the work area will be permitted only through approaches which will be designated by JSL, and then only in such manner that Construction Manager's traffic will not interfere with JSL's operations. Construction Manager shall, at all times, maintain free unimpeded ingress and egress at the site. Construction Manager personnel are not to enter into any areas of the jobsite other than work areas and areas of designated access.

#### GC 36 PRECONSTRUCTION CONFERENCE

36.1 As soon as practicable after award of this Contract and prior to commencing any Work, a pre-construction conference will be arranged by JSL. In attendance at said conference will be JSL and any of its representatives as may be deemed advisable. The purpose of said conference is to determine procedures related to the smooth progress of the Project and to review any items requiring clarification. Procedures for processing and distribution of all documents and correspondence related to the Contract will be established.

#### GC 37 MEETINGS

37.1 The Construction Manager shall, at its expense, as requested by JSL, attend any and all meetings called by JSL to discuss the Work under the Contract. Such meetings shall be conducted and recorded by JSL with typed minutes of each meeting distributed to all attendees.

#### GC 38 NOT USED

#### GC 39 DELIVERY, UNLOADING AND STORAGE

39.1 Construction Manager shall, at its expense, receive, unload, store in a secure place, and deliver from storage to the construction site all materials, plant and equipment required for the performance of the Contract. The storage facilities, methods of storing and security provisions shall meet JSL's approval and manufacturer's recommendations. Materials and equipment subject to degradation by outside exposure shall be stored in a weather tight enclosure provided by Construction Manager at its expense.

#### GC 40 WORK AREA

40.1 All Construction Manager's work areas on the jobsite will be assigned by JSL. Construction Manager shall confine its office, shops, storage, assembly and equipment and vehicle parking to the areas so assigned. Before commencing Work, the Construction Manager shall provide a

temporary office on the site of the work, which shall have a telephone where a representative of the Construction Manager may be reached at all times during normal working hours. Should Construction Manager find it necessary or advantageous to use any additional land outside the Project site for any purpose whatever, Construction Manager shall, at its expense, provide and make its own arrangements for the use of such additional land.

#### GC 41 PLANT, EQUIPMENT AND FACILITIES

41.1 Construction Manager shall provide and use on any Work only such construction plant and equipment as are capable of producing the quality and quantity of Work and materials required by the Contract and within the time or times specified in the Contract. Before proceeding with any Contract Work or with erection of any facilities, including but not limited to temporary structures, machinery, equipment, offices and warehouses, Construction Manager shall furnish JSL such information and drawings relative to such equipment, plant facilities as JSL may request.

41.2 Upon written order of JSL, Construction Manager shall discontinue operation of unsatisfactory plant and equipment or facilities and shall either modify or remove the unsatisfactory items from the site. Construction Manager shall not remove construction plant or equipment from the site before the Work is finally accepted without JSL's written approval. Such approval shall not be unreasonably withheld.

#### GC 42 CONSTRUCTION MANAGER-FURNISHED MATERIALS, EQUIPMENT AND WORKMANSHIP

42.1 Only new, unused items of recent manufacture, of designated quality, but in no event less than the standard quality for the improvements, free from defects, will be accepted. Rejected items shall be removed immediately from the Work and replaced with items of specified quality. Failure by JSL to order removal of rejected materials and equipment shall not relieve Construction Manager from responsibility for quality of the materials supplied or from any other obligation under the Contract.

42.2 Construction Manager shall continuously check architectural and structural clearances for accessibility of equipment and mechanical and electrical systems. No allowance of any kind will be made for Construction Manager's negligence to foresee means of installing equipment into position inside structures.

42.3 No Work defective in construction or quality, or deficient in meeting any requirement of the Contract drawings and specifications will be acceptable regardless of JSL's failure to discover or to point out defects or deficiencies during construction; nor will the presence of field representatives at the Work or the satisfaction of the Work meeting applicable code requirements relieve Construction Manager from responsibility for the quality and securing progress of Work as required by the Contract. JSL shall notify the Construction Manager of defective or unacceptable work if JSL discovers such. Defective work revealed within the time required by warranties (whether expressed or implied) shall be remedied in accordance with the GENERAL CONDITIONS Section entitled, "WARRANTY". No payment, whether partial or final, shall be construed as an acceptance of defective work or improper materials.

42.4 Construction Manager shall waive “common practice” and “common usage” as construction criteria wherever details and specifications or governing codes and ordinances require greater quantity or better quality than common practices and common usage would require. Construction Manager shall order and schedule delivery of materials in reasonable time to avoid delays in construction. Delays in delivery of equipment or material purchased by the Construction Manager or its subcontractors shall not be considered as a cause for an adjustment of the Contract Time or a basis for damages or compensation. The Construction Manager shall be fully responsible for the timely ordering, scheduling, expediting, delivery, and installation of all equipment and materials. If an item is found to be unavailable, Construction Manager shall notify JSL immediately of recommended substitutes to permit JSL’s selection of a suitable substitute.

42.5 JSL will exercise sole authority for determining conformance of workmanship, materials, equipment and systems with the requirements of the Contract. Review and approval of all items proposed by Construction Manager for incorporation into the Work will be by JSL. This function by JSL will apply both to approvals for the Contract as initially signed, and to approvals for changes to the Contract by modifications during progress of the Work. Reference to manufacturers’ names, brands and models is to establish the type and quality desired. Substitutions may be permitted unless specifically noted otherwise and in accordance with GC 43 below.

42.6 When materials, equipment, or systems are specified by performance only, without reference to specific manufacturer’s brands or models, Construction Manager shall submit its own choice for JSL’s review and approval, supported by sufficient evidence of conformity with the Contract.

#### GC 43 SUBSTITUTIONS

43.1 Prior to proposing any substitute item, Construction Manager shall satisfy itself that the item proposed is, in fact, equal or better to that specified, that such item will fit into the space allocated, that such item affords comparable ease of operation, maintenance and service, that the appearance, longevity and suitability for the climate are comparable, and that by reason of cost savings, reduced construction time, or similar demonstrable benefit, the substitution of such item will be in JSL’s interest, and will in no way impact detrimentally upon the Project completion date and schedule.

43.2 The burden of proof of equality of a proposed substitution for a specified item shall be upon Construction Manager. Construction Manager shall support its request with sufficient test data and other means to permit JSL to make a fair and equitable decision on the merits of the proposal. Construction Manager shall submit drawings, samples, data and certificates and additional information as may be required by JSL for proposed substitute items as required by GC 46 “DRAWINGS, DATA & SAMPLES”.

43.3 Any item by a manufacturer other than those specified or of brand name or model number or of generic species other than those specified will be considered a substitution. JSL will be the sole judge of whether or not the substitution is equal in quality, utility and economy to that specified. Construction Manager shall allow an additional 15 days for JSL’s review of substitution. All requests for substitutions with submittal data must be made at least fifty (50) days prior to the time Construction Manager must order, purchase or release for manufacture or fabrication. Materials and methods proposed as substitutions for specified items shall be supported by certification of their approval for use by all governmental agencies having jurisdiction over use of specific material

or method. Substitutions may not be permitted in those instances where the products are designed to match artistic design, specific function or economy of maintenance. Approval of a substitution shall not relieve Construction Manager from responsibility for compliance with all requirements of the Contract. Construction Manager shall coordinate the change with all trades and bear the expense for any changes in other parts of the Work caused by any substitutions.

43.4 If JSL rejects Construction Manager's substitute item on the first submittal, Construction Manager may make only one additional request for substitution in the same category. On the second request, and all future requests, the Construction Manager shall be invoiced the expenses (including JSL, and Architect's cost and overhead) involved in reviewing submittal data.

#### GC 44 EXPEDITING

44.1 The equipment and material furnished under this Contract may be subject to expediting by JSL. JSL shall be allowed reasonable access to the shops, factories, and other places of business of the Construction Manager and its subcontractors and suppliers, for expediting purposes. As required by JSL, Construction Manager shall supply schedules and progress reports for JSL's use in expediting and Construction Manager shall cooperate with JSL and require its subcontractors and suppliers to cooperate with JSL in such expediting. Any expediting performed by JSL shall not relieve Construction Manager of its sole and primary responsibility for timeliness of delivery of the equipment and material to be furnished under this Contract.

#### GC 45 FIELD LAYOUT OF WORK

45.1 All Work under this Contract shall be constructed in accordance with the lines and grades shown on the Construction Drawings or as approved by JSL in writing. Elevation of existing ground, structures and appurtenances are believed to be reasonably correct but are not guaranteed to be absolute and therefore are presented only as an approximation.

45.2 All survey work for construction control purposes shall be made by a land surveyor registered in the State of Florida with demonstrated experience in the Project area who shall be employed by the Construction Manager at its expense. The Construction Manager shall establish all base lines for the location of the principal component parts of the Work together with permanent bench marks and temporary bench marks adjacent to the Work. Based upon the information provided by the Construction Drawings, the Construction Manager shall develop and make all detail surveys necessary for construction including establishment or construction of grid coordinates as shown on the Construction Drawings, location of property boundaries, stakes for all working points, lines and elevations. Construction Manager shall furnish survey sketch and legal necessary for utility easements.

45.3 The Construction Manager shall have the responsibility to carefully preserve all bench marks, reference points and stakes. In case of destruction thereof by the Construction Manager resulting from its negligence, or for any other reason, CM shall be held liable for any expense and damage resulting therefrom and shall be responsible for any mistakes that may be caused by the unnecessary loss or disturbance of such bench marks, reference points and stakes. Existing or new control points, property markers, and monuments that will be established or are destroyed during the normal course of construction shall be re-established by the Construction Manager, and all

reference ties recorded therefore shall be furnished to JSL. All computations necessary to establish the exact position of the Work shall be made and preserved by the Construction Manager.

#### GC 46 DRAWINGS, DATA AND SAMPLES

46.1 Review and permission to proceed by JSL as stated in this Contract does not constitute acceptance or approval of design details, calculations, analyses, test methods, certificates or materials developed or selected by the Construction Manager and does not relieve Construction Manager from full compliance with contractual obligations. Drawings, samples, catalogues, data and certificates required to be submitted to JSL for review, shall be submitted attached to forms provided by JSL.

46.2 Transmittals from the Construction Manager to JSL shall be numbered sequentially and the submittal number shall be referenced. Submittal drawings (shop, erection or setting diagrams) and schedules, required for work of various trades, shall be checked before submission by technically qualified employees of Construction Manager for accuracy, completeness and compliance with contract requirements. These drawings and schedules shall be stamped and signed by Construction Manager certifying to such check. The certification stamp shall read as follows:

“I certify that I have checked this submittal for accuracy, completeness and compliance with contract requirements, and it has been coordinated with all other submittals and the Contract.”

\_\_\_\_\_

SIGN

“XYZ Construction Management Company”

DATE

#### 46.3 Drawings

46.3.1 Where drawings are required for (a) fabrication of Construction Manager furnished equipment; (b) installing Construction Manager furnished material or equipment; or (c) planning and performance of the Work under Contract; such drawings shall be originally generated and submitted by the Construction Manager at its expense before fabrication, installation or performance is commenced. Each submittal shall be made not less than thirty-five (35) calendar days prior to the time that the drawings are required in accordance with the schedule. CM must allow at least 21 calendar days for review by JSL. Such drawings shall include, but not be limited to, matchmarks, erection diagrams and other details, such as field connections for proper installation, erection of the equipment, and performance of the Work. Construction Manager shall prepare and submit for approval a detailed submittal schedule outlining the required submittals for the Project, the submittal dates due and review durations by JSL/ Architect/Engineer. This schedule shall be incorporated into the Master Project Schedule and updated regularly with the Project Schedule Updates

46.3.2 For drawings greater in size than 11” x 17”, one reproducible and four copies shall be submitted to JSL by and at the expense of the Construction Manager. JSL will be the sole judge of the adequacy of the quality of the reproducible and prints and may reject reproducibles and/or prints on the basis of quality alone. Such drawings will not be folded, but will be transmitted in

mailer rolls manufactured expressly for that purpose. The reproducible with JSL's review comments will be returned to the Construction Manager. A reproducible copy of drawings equal to or less than 11" x 17" is not necessary, but five copies of the unfolded drawings must be transmitted to JSL.

**46.3.3 If drawings show variations from the Contract requirements, the Construction Manager shall describe such variations in writing, separate from the drawings, at the time of submission.** If JSL approves any such variation(s), it will issue an appropriate contract modification, except that, if the variation is minor and does not involve a change in price or in time of performance, a modification need not be issued.

46.3.4 Drawings of a specific piece of equipment shall identify components with the manufacturer's part number or reference drawing clearly indicated. If reference drawing numbers are used, the review date of such drawings shall be included. Drawings shall indicate design dimensions, maximum and minimum allowable operating tolerances on all major wear fits, i.e. - rotating, reciprocating or intermittent sliding fits between shafts or stems and seals, guides and pivot pins. The sequence of submission of all drawings shall be such that all information is available for reviewing each drawing when it is received.

46.3.5 All drawings submitted by the Construction Manager shall be certified and dated by the Construction Manager on the face of each drawing to be correct, accurate and shall be furnished in accordance with requirements of the specifications. JSL will conduct a review of Construction Manager's drawings and a drawing marked with one of the following review comments will be returned to the Construction Manager.

1. No exceptions taken.
2. Make corrections noted. No re-submittal.
3. Make corrections noted. Resubmit.
4. Rejected.
5. Not required for review.

46.3.6 The Construction Manager must incorporate the changes indicated, resubmit and obtain a Code 1 or 2 notation before release for shipment can be granted.

#### 46.4 Samples

46.4.1 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged. Samples of all items of related systems (i.e. adjacent surfaces requiring similar colors but manufactured of different materials) must be submitted in the same time frame before the approval process can begin.

46.4.2 Where samples are required, they shall be submitted by and at the expense of the Construction Manager. Such submittal shall be made not less than thirty five (35) calendar days prior to the time that the materials represented by such samples need to be ordered for incorporation into any Work in accordance with the schedule. CM must allow at least 21 calendar days for JSL's review. Materials represented by such samples shall not be manufactured, delivered to the site or incorporated into any Work without such review. Each sample shall bear a label showing the



Construction Manager's name, date submitted, project name, name of the item, manufacturer's name, brand name, model number, supplier's name, and reference to the appropriate drawing, technical specification section and paragraph number, all as applicable.

46.4.3 Samples which have been reviewed may, at JSL's option, be returned to the Construction Manager for incorporation into the Work.

#### 46.5 Catalogues, Data and Certificates

46.5.1 Where catalogues, data or certificates are required, five (5) copies of each shall be submitted by and at the expense of the Construction Manager. Such submittal shall be made not less than thirty five (35) calendar days prior to the time that the materials represented by such catalogues, data or certificates must be ordered for incorporation into any Work in accordance with the CPM schedule. Allow at least 21 calendar days for JSL's review. Material represented by such shall not be fabricated, delivered to the site or incorporated into any work without such review.

46.5.2 Certificates shall clearly identify the material being certified and shall include but not be limited to providing the following information: Construction Manager's name, project name, name of the item, manufacturer's name, and reference to the appropriate drawing, technical specification section and paragraph number all as applicable. All catalogues, data and certificates submitted by the Construction Manager shall be certified and dated by the Construction Manager on the face of each catalogue, data and certificate to be correct and shall be furnished in accordance with these requirements and the requirements of the technical specification, on forms provided by JSL. JSL will conduct a review of Construction Manager's catalogues, data, and certificates and one copy, marked with the review comments listed above, will be returned to the Construction Manager.

#### GC 47 CONSTRUCTION SCHEDULE

47.1 Within thirty (30) days after the date of the GMP Amendment approval by JSL, the Construction Manager shall prepare and submit a Construction Schedule which graphically depicts the activities contemplated to occur as a necessary incident to performance of the Work required to complete the Project, showing the sequence in which the Construction Manager proposes for each such activity to occur and duration (dates of commencement and completion, respectively) of each such activity.

47.1.1 The Construction Schedule shall be complete in all respects, covering, in addition to activities and interfaces with other Construction Managers at the site of work, offsite activities such as design, fabrication, an allowance for weather delays, submittals, procurement and jobsite delivery of Construction Manager furnished material and equipment. The schedule shall be a Critical Path Method (CPM) type network drawn to a time scale using arrow or precedence type diagramming. The Construction Schedule activities shall mirror the payment application breakdown.

47.1.2 The Construction Schedule shall include the following:

1. Brief description of each activity.

2. All submittals, samples, approvals, fabrication, and deliveries for equipment and materials. Allow no more than 60 days float between submittal approval and beginning of fabrication.
  3. Activities showing scheduled start and finish, late start and finish, and float.
4. Relations between activities.
5. Duration of activities. No activity should be scheduled for more than 20 workdays, unless approved by JSL.
  6. Contractual and other major milestones including phasing.
  7. Schedule activities to include labor and material.
  8. An allowance for delays due to weather. Contract time extensions for weather delays will be granted only when all of the conditions and criteria for evaluation of time extensions have been met pursuant to the General Conditions.
  9. JSL activities or activities by others which will affect the work schedule.

47.1.3 Upon acceptance of the original CPM Schedule, the Early Start and Early Finish dates for all activities shall be fixed as Planned Start and Planned Finish dates. Any further revisions to the schedule must be submitted in writing and approved by JSL.

47.1.4 The detailed CPM schedule submittal shall include five (5) color copies of the following:

1. Time Scaled Network Diagram.
2. Bar Chart in the following formats:
  - a) Sorted by activity
  - b) Sorted by total float
  - c) Sorted by early start
3. Precedence and Successor report
4. Narrative report, if requested by JSL's Authorized Representative.
5. Electronic copy. (One copy)
6. Submittals shall be organized under Standard CSI format.

47.1.5 The detailed CPM Schedule shall be updated monthly and submitted along with an updated computer diskette with the Application for Payment. Construction Manager shall meet with JSL and Architect/Engineer of Record to review and verify:

1. Actual start and finish dates for completed activities.
2. Remaining duration required to complete each activity started, scheduled to start, but not completed.
3. Logic and time, for change orders that are to be incorporated into the diagram and computer produced schedules.
4. Percentage for completed and partially completed activities.

47.2 Following development and submittal of the Construction Schedule as aforesaid, the Construction Manager shall, at the end of each calendar month occurring thereafter during the period of time required to finally complete the subject Project, or at such earlier intervals as circumstances may require, update and/or revise the Construction Schedule to show the actual progress of the Work performed and the occurrence of all events which have affected the progress

of performance of the Work already performed or will affect the progress of the performance of the Work yet to be performed in contrast with the planned progress of performance of such Work, as depicted on the original Construction Schedule and all updates and/or revisions thereto as reflected in the updated and/or revised Construction Schedule last submitted prior to submittal of each such monthly update and revision.

47.3 The Construction Manager shall prepare and incorporate into the schedule data base, at the required intervals, the following schedules:

1. Pre-Bid Schedules (Subnetwork) - The Construction Manager shall prepare a Construction Schedule for work encompassed in each bid package. The schedule shall be sufficiently detailed as to be suitable for inclusion in the bid package as a framework for contract completion by the successful bidder. It shall show the interrelationships between the work of the successful bidder and that of other subcontractors, and shall establish milestones eyed to the overall master schedule.

2. Subcontractor Construction (Subnetworks) - Upon the award of each subcontract, the Construction Manager shall jointly with the subcontractor, develop a schedule which is more detailed than the pre-bid schedule included in the specifications, taking into account the work schedule of the other subcontractors. The Construction Schedule shall include as many activities as necessary to make the schedule an effective tool for construction planning and for monitoring the performance of the subcontractor. The Construction Schedule shall also show pertinent activities for material purchase orders, manpower supply, shop drawing schedules and material delivery schedules.

3. Occupancy Schedule - The Construction Manager shall jointly develop with the Architect-Engineer and JSL a detailed plan, inclusive of punch lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to JSL occupancy. The Occupancy Schedule shall be produced and updated monthly from its inception through final JSL occupancy.

47.4 If requested by JSL's authorized representative, the Construction Manager shall submit a written narrative report as a part of its monthly review and update in a form agreed upon by the Construction Manager and JSL. When requested, the narrative report shall include a description of problem areas; current and anticipated delaying factors and their estimated impact on performance of other activities and completion dates; and an explanation of corrective action taken or proposed.

47.5 The Construction Manager shall have in its employ for the length of this Project, at least one qualified scheduling specialist whose responsibility as to this Contract will be to prepare, plan and draft the Construction Schedules, monitor the construction progress, analyze scheduling problems for resolution, update the Construction Schedule as required in the Contract, and maintain updated information as required regarding the interface with other contracts.

47.6 The Construction Manager agrees that whenever it becomes apparent from the current progress review meeting or the computer produced calendar dated schedule that the contract completion date will not be met, the Construction Manager shall execute some or all of the following remedial actions at Construction Manager's sole cost and expense:

1. Increase construction manpower in such quantities and crafts as necessary to eliminate the backlog of Work.
2. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of construction equipment, or any combination of the foregoing to eliminate the backlog of Work.
3. Reschedule the Work in conformance with the specification requirements.

47.7 Prior to proceeding with any of the above actions, the Construction Manager shall notify JSL of the proposed schedule changes. Such actions shall be incorporated by the Construction Manager into the diagram before the next update, at no additional cost.

#### GC 48 RESPONSIBILITY FOR WORK SECURITY

48.1 Construction Manager shall, at its expense, at all times conduct all operations under the Contract in a manner to avoid the risk of loss, theft or damage by vandalism, sabotage or other means to any property. Construction Manager shall promptly take all reasonable precautions which are necessary and adequate against any conditions which involve a risk of loss, theft or damage to its property, at a minimum. Construction Manager shall continuously inspect all its Work, materials, equipment and facilities to discover and determine any such conditions and shall be solely responsible for discovery, determination and correction of any such condition.

48.2 Construction Manager shall prepare and maintain accurate reports of incidents of loss, theft or vandalism and shall furnish these reports to JSL within three days of each incident.

#### GC 49 PROTECTION OF WORK IN PROGRESS, MATERIALS AND EQUIPMENT

49.1 Construction Manager shall be responsible for and shall bear any and all risk of loss or damage to Work in progress, all materials delivered to the site, and all materials and equipment involved in the Work until completion and final acceptance of the Work under this Contract. Excluded from Construction Manager's responsibility is any loss or damage which results from the sole active negligence of JSL or its representatives.

49.2 Permanent openings or thoroughfares for the introduction of Work and materials to the structure and construction site shall be protected so that upon completion, the entire Work will be delivered to JSL in proper, whole and unblemished condition.

#### GC 50 PROTECTION OF EXISTING PROPERTY

50.1 Construction Manager shall so conduct its operations as not to damage, close, or obstruct any utility installation, highway, road or other property until permits therefore have been obtained. If facilities are closed, obstructed, damaged or rendered unsafe by Construction Manager's operations, Construction Manager shall, at its expense, make such repairs and provide temporary guards, lights and other signals as necessary or required for safety and as will be acceptable to JSL and/or its Insurance Representative.

50.2 Construction Manager shall conduct its operation so as not to damage any existing buildings or structures. The Construction Manager shall verify that means and methods of construction used inside, adjacent to, under or over existing buildings will not cause damage. The Construction Manager shall provide protection methods which are acceptable to JSL and/or its insurance representatives.

50.3 Unless otherwise specifically provided in the Contract, Construction Manager shall not do any Work that would disrupt or otherwise interfere with the operation of any pipeline, telephone, electric, radio, gas, transmission line, ditch or other structure, nor enter upon lands in their natural state until approved by JSL. Thereafter, and before it begins such Work, Construction Manager shall give due notice to JSL of its intention to start such Work. Construction Manager shall not be entitled to any extension of time or any extra compensation on account of any postponement, interference or delay caused by any such line, ditch or structure on or adjacent to the site of Work.

50.4 Construction Manager shall preserve and protect all cultivated and planted areas and vegetation such as trees, plants, shrubs and grass on or adjacent to the premises, which, as determined by JSL, do not reasonably interfere with the performance of this Contract.

50.5 Construction Manager shall be responsible for damage to any such areas and vegetation and for unauthorized cutting of trees and vegetation, including, without limitation, damage arising from the performance of its Work through operation of equipment or stockpiling of materials. All cost in connection with any repairs or restoration necessary or required by reason of any such damage or unauthorized cutting shall be borne by Construction Manager.

#### GC 51 LABOR

51.1 Construction Manager is solely and exclusively responsible for the supervision and control of all Construction Manager's personnel on site. Construction Manager shall employ only competent and skilled personnel to perform the Work. Construction Manager shall, if requested to do so by JSL, remove from the jobsite any personnel of Construction Manager working in violation of any provision of this Contract.

51.2 Disputes between the Construction Manager and its subcontractors regarding work assignments and the settlement of jurisdictional disputes shall conform with either the "Rules, Regulations and Procedures of the Plan for Settlement of Jurisdictional Disputes in the Construction Industry", and any successor agreement thereto, or any other mutually established method of determining work assignments and settling jurisdictional disputes.

51.3 Construction Manager is solely and exclusively responsible for ensuring and providing for jobsite safety and conditions. Construction Manager shall enforce all JSL jobsite condition safety rules and regulations which directly affect the performance of the Work including but not limited to starting and quitting time, smoking regulations, check-in and check-out procedures, job site safety regulations and security regulations, emergency plans and procedures, and daily clean-up.

51.4 The Construction Manager and subcontractors shall be bound by and comply with all Federal, State and local laws with regard to minimum wages, overtime work, hiring, and discrimination.

All Work necessary to be performed after regular working hours, on Sundays or legal holidays, shall be performed without additional expense to JSL. The Construction Manager shall comply with the Copeland Anti-Kick Back Act (19 U.S.C. 874) as supplemented in the Department of Labor Regulations (29 CFR Part 3). This act provides that each contractor or subcontractor shall be prohibited from inducing by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

51.5 Construction Manager shall submit a “Contractor’s Daily Report” (See Appendix A of these General Conditions) for each day Work is accomplished. Reports shall be submitted daily to JSL.

## GC 52 EQUAL EMPLOYMENT OPPORTUNITY

52.1 During the performance of this Contract, the Construction Manager agrees as follows:

- A. The Construction Manager will not discriminate against any employee or applicant for employment because of race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status, or genetic information. The Construction Manager will take affirmative action to ensure that applicants and employees are treated during employment without regard to their race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status, or genetic information. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Construction Manager agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by JSL setting forth provisions of this nondiscrimination clause.
- B. The Construction Manager will, in all solicitations or advertisements for employees placed for, by, or on behalf of the Construction Manager, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status, or genetic information.
- C. The Construction Manager will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by JSL, advising the labor union or workers’ representative of the Construction Manager’s commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Construction Manager will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The Construction Manager will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the

Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by JSL and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- F. In the event of the Construction Manager's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated or suspended in whole or in part and the Construction Manager may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The Construction Manager will include the provisions of paragraphs A through F in every subcontract or purchase unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Construction Manager will take such action with respect to any subcontractor or vendor as may be directed to the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Construction Manager becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Construction Manager may request the United States to enter into such litigation to protect the interest of the United States.
- H. The Construction Manager shall comply with all regulations, guidelines, and standards lawfully adopted under the governing statutes.

## GC 53 SAFETY & PROTECTION OF PERSONS & PROPERTY

### 53.1 Responsibility For Safety And Health

53.1.1 The Construction Manager shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work to be performed under the terms of the Contract. The Construction Manager shall take all precautions and follow all procedures for the safety of, and shall provide all protection to prevent injury to, all persons involved in any way in the Work and all other persons, including, without limitation, the employees, agents, guests, visitors, invitees and licensees of JSL and users who may be affected thereby. The Construction Manager shall set forth in writing its safety precautions and programs in connection with the Work and submit the same to JSL. JSL may, but shall not be obligated to, make suggestions and recommendations to the Construction Manager with respect thereto.

53.1.2 All Work, whether performed by the Construction Manager, its Subcontractors or Sub-subcontractors, or anyone directly or indirectly employed by any of them, and all equipment, appliance, machinery, materials, tools and like items incorporated or used in the Work, shall be in compliance with, and conform to:

- A. all applicable laws, ordinances, rules, regulations and orders of any public, quasi-public or other authority relating to the safety of persons and their protection against injury,

specifically including, but in no event limited to, the Federal Occupational Safety and Health Act of 1970, as amended and all State, Local, City and County rules and regulations now or hereafter in effect; and

- B. all codes, rules, regulations and requirements of JSL and its insurance carriers relating thereto. In the event of conflicting requirements, the more stringent shall govern.

53.1.3 The Construction Manager is solely and exclusively responsible for worksite safety. If JSL receives notice or is made aware that the Construction Manager has failed to provide a safe area for the performance of the Work or any portion thereof, then JSL shall have the right, but not the obligation, to suspend Work in the unsafe area until the Construction Manager remedies the unsafe conditions. All costs of any nature resulting from the suspension, by whomsoever incurred, shall be borne by the Construction Manager.

53.1.4 The Construction Manager is solely and exclusively responsible for supervising all workers at the job site including ensuring the use of proper safety equipment by the workers for the duties performed. The Construction Manager shall provide, or cause to be provided, to each worker on the Job Site the proper safety equipment for the duties being performed by that worker and will not permit any worker on the job site who fails or refuses to use the same. If JSL receives notice or is made aware that the Construction Manager has failed in its duty to ensure that proper safety equipment is used by the workers then JSL shall have the right, but not the obligation, to suspend Work until the Construction Manager corrects the unsafe work practice. All costs of any nature resulting from the suspension, by whomsoever incurred, shall be borne by the Construction Manager.

53.1.5 To the extent permitted by, and in accordance with the provisions of Florida Statute 725.06, the Construction Manager shall defend, indemnify and hold the County, JSL, Design Professional, JSL's Representative and their respective officers, directors, agents, employees and assigns, harmless from and against any and all liability, public or private, penalties, contractual or otherwise, losses, damages, costs, attorneys' fees, expenses, causes of action, claims or judgments resulting either in whole or in part from any failure of the Construction Manager, its subcontractors or sub-subcontractors or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, to comply with the provisions of this Section GC 53.

53.1.6 To the extent permitted by, and in accordance with the provisions of Florida Statute 725.06, the Construction Manager shall not raise as a defense to its obligation to indemnify under this General Condition any contributing negligence of any of those indemnified hereunder, it being understood and agreed that no such contributing negligence shall relieve the Construction Manager from its liability to so indemnify nor entitle the Construction Manager to any contribution, either directly or indirectly, by those indemnified hereunder.

53.1.7 In any and all claims against those indemnified hereunder by any employee of the Construction Manager, any subcontractor or sub-subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way to any limit(s) on the amount or type of damage, compensation or benefits payable by or for the Construction Manager or any subcontractor or sub-subcontractor under any workers' compensation acts, disability benefit acts



or other employee benefit acts.

53.1.8 The indemnity provisions of this Section shall survive the termination or expiration of this Contract.

### 53.2 Protection Of Work And Property; Responsibility For Loss

53.2.1 The Construction Manager shall, throughout the performance of the Contract, maintain adequate and continuous protection of all completed Work and temporary facilities against loss or damage from whatever cause, shall protect the property of JSL and third parties from loss or damage from whatever cause arising out of the performance of the Contract and shall comply with the requirements of JSL and its insurance carriers and with all applicable laws, codes, rules and regulations with respect to the prevention of loss or damage to the property. JSL, their representatives or insurance carriers may, but shall not be required to, make periodic patrols of the job site as a part of its normal safety, loss control and security programs. In such event, however, the Construction Manager shall not be relieved of its aforesaid responsibilities and JSL shall not assume, nor shall it be deemed to have assumed, any responsibility otherwise imposed upon the Construction Manager by this Contract.

53.2.2 Until final acceptance of the Work by JSL pursuant to GC 72, of this Contract, the Construction Manager shall have full and complete charge and care of and, except as otherwise provided in this subparagraph, shall bear all risk of loss of, and injury or damage to, the Work or any portion thereof (specifically including JSL or County furnished supplies, equipment or other items to be utilized in connection with, or incorporated in, the Work) from any cause whatsoever.

53.2.3 The Construction Manager shall rebuild, repair, restore and make good all losses of, and injuries or damages to, the Work or any portion thereof (specifically including JSL or County-furnished supplies, equipment or other items to be utilized in connection with, or incorporated in, the Work and including improvements disturbed outside the limits of construction) before final acceptance of the Work. Such rebuilding, repair or restoration shall be at the Construction Manager's sole cost and expense unless the loss, injury or damage requiring such rebuilding, repair or restoration:

- A. is directly due to errors in the Construction Documents which were not discovered by the Construction Manager and which the Construction Manager could not have discovered through the exercise of due diligence;
- B. is caused by the agents or employees of JSL (unless (1) the Construction Manager has waived its rights of subrogation against JSL on account thereof as provided in the Contract, or (2) such loss or damage would be covered by any policy or policies of insurance which the Construction Manager is required to maintain hereunder, whether the Construction Manager actually maintains such insurance or not, or (3) is otherwise covered by a policy or policies of insurance maintained by the Construction Manager (whether or not required hereunder).
- C. is covered by a Builder's Risk policy maintained by JSL under Section 31.5.3 hereof (subject to Construction Manager's responsibility for any applicable deductible).

### 53.3 Surface And Subsurface Water

53.3.1 Surface or subsurface water or other fluid shall not be permitted to accumulate in excavations or under or in the structures. Should such conditions develop or be encountered, the water or other fluid shall be controlled and suitably disposed of by means of temporary pumps, piping, drainage lines and ditches, dams or other methods approved by JSL in writing. The proposed location and coordination of temporary channels and conduits conducting accumulated water from the job site shall be permitted by the proper regulatory agency and submitted to JSL for its prior written approval. All such Work shall be done at the sole expense of the Construction Manager.

### 53.4 EMERGENCIES

53.4.1 In any emergency affecting the safety of persons or property, or in the event of a claimed violation of any federal or state safety or health law or regulation, arising out of or in any way connected with the Work or its performance, the Construction Manager shall act immediately to prevent threatened damage, injury or loss to persons or to property or to remedy said violation, whichever is applicable. Failure by Construction Manager to take necessary emergency action shall entitle JSL to take whatever action it deems necessary including, but not limited to, suspending the Work as provided in GC 23.

53.4.2 JSL may offset any and all costs or expenses of whatever nature, including attorneys' fees, paid or incurred by JSL in taking such emergency action against any sums then or thereafter due to the Construction Manager. The Construction Manager shall defend, indemnify and hold JSL and County harmless against any and all costs or expenses pursuant to this Paragraph, by whomsoever incurred. If the Construction Manager shall be entitled to any additional compensation or extension of time claimed on account of emergency Work which is not due to the fault or neglect of the Construction Manager or its subcontractors or sub-subcontractors, it shall be handled as a claim as provided in GC 65.

53.4.3 The indemnity provisions of this Section shall survive the termination or expiration of this Contract.

### 53.5 JSL's Standards

53.5.1 JSL reserves the right, but assumes no duty, to establish and enforce standards, and to change the same from time to time, for the protection of persons and property, with which the Construction Manager shall comply, and to review the efficacy of all protective measures taken by the Construction Manager. The exercise of or failure to exercise any or all of these rights by JSL shall not relieve the Construction Manager of its duties and responsibilities under this Contract, and JSL shall not thereby assume, nor be deemed to have assumed, any such duties or responsibilities of the Construction Manager.

## GC 54 PROJECT SITE PROTECTION

54.1 Construction Manager, at its expense, shall maintain such protection as provided in General

Conditions Section (GC 53) titled SAFETY & PROTECTION OF PERSONS & PROPERTY in a satisfactory condition until removal is authorized by JSL. Construction Manager, at its expense, shall make all necessary repairs to property damaged by construction operations. Repairs shall be made in a manner satisfactory to JSL. The Construction Manager, at its expense, will provide parking for its employees within the designated work areas. Construction Manager employees will not be allowed to park in areas which are used by any facilities which remain in operation.

#### GC 55 FIRE PREVENTION

55.1 Construction Manager shall, at its expense, conform to all Federal, State, and local laws and regulations pertaining to burning, fire prevention and control within or adjacent to the Project. Necessary precautions to avoid and eliminate fire hazards shall be the responsibility of the Construction Manager. This includes keeping the Project work area clear of all trash at all times.

55.2 All tarpaulins used for any purpose during construction of any Work shall be made of material resistant to fire, water and weather and shall bear UL labels. Lighting of any fires on premises is strictly forbidden. Controlled burning shall be with the consent of JSL. Construction Manager shall provide portable fire extinguishers properly labeled, located and compatible with the hazard of each work area and shall instruct its personnel in their use. Wherever welding and burning are conducted, inflammable materials shall be protected and a fire watch shall be provided by Construction Manager to be present during the burning and welding operation to ensure that protective measures are taken and that no fires result from such operation. The fire watch shall have fire extinguisher equipment readily available and know-how for proper use.

#### GC 56 ILLUMINATION

56.1 When any Work is performed at night or where daylight is shut off or obscured, Construction Manager shall, at its expense, provide artificial light sufficient to permit Work to be carried on efficiently, satisfactorily and safely, and to permit thorough inspection. During such time periods the access to the place of Work shall also be clearly illuminated. All wiring for electric light and power shall be installed and maintained in a first-class manner, securely fastened in place at all points, and shall be kept as far as possible from telephone wires, signal wires, and wires used for firing blasts.

#### GC 57 BEST MANAGEMENT PRACTICES

57.1 Construction Manager shall be responsible for evaluating the site before construction is initiated to determine if any site conditions may pose particular problems for the handling of any Regulated Substances. For example, handling Regulated Substances in the proximity of water bodies or wetlands may be improper.

57.2 Regulated Substances are substances that may cause significant harm to human health and the environment (including surface and groundwater). The Unified Land Development Code (ULDC) Section 9.3, Wellfield Protection, regulates the storage, handling, use and production of Regulated Substances within wellfield zones which may impair present and future drinking water suppliers. In addition, the ULDC, Section 9.6, Excavation, requires that "Best Management Practices for the Construction Industries" be followed for Agricultural Area, TYPE II, TYPE IIIA

and TYPE IIIB excavation activities.

57.3 If any Regulated Substances are stored on the construction site, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. Any storage container of 55 gallons, or 440 pounds, or more containing Regulated Substances shall have constructed below it an impervious containment system constructed of materials of sufficient thickness, density and composition that will prevent the discharge to the land, groundwaters, or surface waters, of any pollutant which may emanate from said storage container or containers. Each containment system shall be able to contain 150% of the contents of all storage containers above the containment system.

57.4 Construction Manager shall familiarize itself with the manufacturer's safety data sheet supplied with each material containing a Regulated Substance and shall be familiar with procedures required to contain and clean up any releases of the Regulated Substance. Any tools or equipment necessary to accomplish same shall be available in case of a release.

57.5 Upon completion of construction, all unused and waste Regulated Substances and containment systems shall be removed from the construction site and shall be disposed of in a proper manner as prescribed by law.

#### GC 58 DUST CONTROL

58.1 The Construction Manager shall, for the duration of the Work, maintain, at its expense, all excavations embankments, haul roads, access roads, plant sites, waste disposal areas, borrow areas, and all other Work areas free from dust. Industry-accepted methods of dust control suitable for the area involved and approved by JSL will be permitted.

58.2 Construction Manager shall, for the duration of the Work, protect all fixtures, equipment, devices, and surfaces from any dust or debris within any facility which is affected by the Work and shall comply with JSL's direction to insure dust control is being managed and maintained.

#### GC 59 WATER POLLUTION

59.1 Construction Manager shall, at its expense, provide suitable facilities to prevent the introduction of any substance or materials into any stream, river, lake or other body of water which may pollute the water or constitute substances or materials deleterious to fish and wildlife.

#### GC 60 AIR POLLUTION

60.1 The Construction Manager shall, at its expense, so perform its Work as not to discharge into the atmosphere from any source whatever smoke, dust, or other air contaminants in violation of the laws, rules and regulations of all Federal, State and local air and water pollution requirements including, but not limited to: Registering with the Palm Beach County Health Department, Air Pollution Board, any equipment requiring operating permits by said Board; Adhering to all Palm Beach County Air Pollution Board Regulations.

#### GC 61 EXPLOSIVES & HAZARDOUS MATERIALS

61.1 Construction Manager shall obtain all required Federal, State and local permits and licenses and shall be responsible for the safe and proper handling, transporting, storage and use of any explosive or hazardous materials brought onto or encountered within the site, and make good any damage caused by its handling, transporting, storage and use. The Construction Manager will notify JSL immediately if explosive or hazardous materials are encountered on the site. Transporting explosive or hazardous materials onto the site will require prior written approval from JSL. The Construction Manager shall maintain and post as necessary Material Hazard Data Sheets for all applicable hazardous materials used in the course of its Work.

61.2 In the event that hazardous material is improperly handled or stored by the Construction Manager, its subcontractors, any sub-subcontractors, or any employee or agent of any of the aforementioned which results in contamination of the site, Construction Manager shall immediately notify JSL and the appropriate governmental authority and shall take whatever action is necessary or desirable to remediate the contamination at the Construction Manager's sole cost and expense. Further, Construction Manager shall indemnify and hold harmless JSL and County from any and all cost, expense, action, or liability whatsoever resulting from such contamination and/or remedial activities.

61.3 The indemnification provisions of this Section shall survive the termination or expiration of this Contract.

#### 61(a) ASBESTOS NOTIFICATION

61(a).1 Prior to the renovation of any structure, JSL conducts an inspection for asbestos-containing building materials (ACBM), through a review of current surveys or the request for a new survey. All asbestos surveys are conducted under the direction of Florida licensed asbestos consultants contracted by JSL.

61(a).2 Prior to the renovation of any structure, JSL facilitates the removal of all ACBM that may be disturbed during the renovations, (except bituminous roofing materials), unless stated otherwise in the Contract. All asbestos removal is conducted by a Florida licensed asbestos contractor contracted by JSL.

61(a).3 An asbestos summary report may be included as part of the Contract. If not attached, it is the Construction Manager's responsibility to contact JSL and request the report.

61(a).4 Licensed asbestos contractors are not required for removing or repairing asbestos containing roofs, except for transite (cementitious) shingles. If the Work specified will disturb asbestos containing roofing materials, the Construction Manager must comply with all requirements of OSHA 1926.58 and ASBESTOS NESHAPS. A summary of these requirements are outlined by the National Roofing Contractors Association (NRCA). A licensed roofer who has training as an asbestos competent person is required for projects disturbing asbestos roof materials. JSL will provide an asbestos survey of the roof.

61(a).5 If materials are discovered that are suspected asbestos materials that were not previously sampled, CM must stop all work that will disturb these materials and immediately notify JSL.

## GC 62 INSPECTION: REJECTION OF MATERIALS AND WORKMANSHIP

62.1 All materials and equipment furnished and Work performed shall be properly inspected by Construction Manager, at its expense, and shall at all times be subject to quality surveillance, observations or quality audit by JSL. JSL has the right but not the obligation to perform such quality surveillance, observations or quality audit as JSL deems necessary. Construction Manager shall provide safe and adequate facilities and all samples, drawings, lists and documents necessary for such quality surveillance, observation or quality audit. For this purpose, JSL, its agents, employees, and designees shall be afforded full and free access to the shops, factories or places of business of Construction Manager and its subcontractors and suppliers for such quality surveillance, observation or quality audit and to determine the status of the Work. JSL, its agents, employees, and designees shall be entitled to conduct such surveillance, observation, or quality audits in such a manner and with such frequency and for such duration as JSL, in its sole discretion, shall determine is appropriate. If Construction Manager covers all or any portion of the Work prior to any quality surveillance or test by JSL, the cost of any necessary uncovering and replacing shall be borne by Construction Manager. JSL has no duty or responsibility to inspect or audit Construction Manager's work and in doing so does not assume any liability or responsibility for Construction Manager's materials and workmanship. Neither the failure to make such quality surveillance, observance or quality audit, nor to discover defective workmanship, materials, or equipment, nor acceptance of or payment to Construction Manager for such Work, materials or equipment shall prejudice the rights of JSL thereafter to correct or reject the same as hereinafter provided.

62.2 If any material, equipment or workmanship is determined by JSL, either during performance of the Work or on final quality surveillance, or during any applicable warranty period (expressed or implied), to be defective or not complying with the requirements of this Contract, JSL shall notify Construction Manager in writing that such material, equipment or work is rejected and JSL reserves the right to withhold payment on any such item. Thereupon, Construction Manager shall, at its own expense, immediately remove and replace or correct such defective material, equipment or Work by making the same comply strictly with all requirements of the Contract.

## GC 63 TESTING

63.1 Unless otherwise provided in the Contract, drawings and specifications shop testing of materials or Work shall be performed by the Construction Manager at its expense and in accordance with the technical specifications. Field testing of materials or Work shall be performed by JSL. Should tests in addition to those required by the Specifications be desired by JSL, Construction Manager will be advised in reasonable time to permit such testing. Such additional tests will be at JSL's expense unless such additional tests are required due to Construction Manager's Work or materials having failed any initial test. In this event, such additional (re-test) tests shall be at Construction Manager's expense. Construction Manager shall furnish samples as requested and shall provide reasonable assistance and cooperation as necessary to permit tests to be performed on materials or Work in place including reasonable stoppage of work during testing. Construction Manager shall provide reasonable and accurate notice of when construction activities which require JSL's testing services are required. Construction Manager shall be responsible for stand-by and other costs associated with the testing agency if that construction activity is delayed or canceled.

## GC 64 PROGRESS

64.1 Construction Manager shall give JSL full information in advance as to its plans for performing each part of the Work. If at any time during the progress of Work, Construction Manager's actual progress is inadequate to meet the requirements of the Contract, JSL may so notify Construction Manager who shall thereupon take such steps as may be necessary to improve its progress. If within a reasonable period as determined by JSL, Construction Manager does not improve performance to meet the currently approved contract Construction Schedule, JSL may require an increase in Construction Manager's labor force, the number of shifts, overtime operations, additional days of work per week and an increase in the amount of construction plant; all without additional cost to JSL. Neither such notice by JSL nor JSL's failure to issue such notice shall relieve Construction Manager of its obligation to achieve the quality of work and rate of progress required by the Contract.

64.2 Failure of Construction Manager to comply with the instructions of JSL may be grounds for determination by JSL that Construction Manager is not prosecuting its Work with such diligence as will assure completion within times specified. Upon such determination, JSL may terminate Construction Manager's right to proceed with the performance of the Contract, or any separable part thereof, in accordance with the applicable provisions of this Contract.

## GC 65 CHANGES

65.1 JSL may, at any time, without invalidating the Contract and without notice to the surety(ies), make changes in the Work by issuing a Change Order. Construction Manager shall provide notice to its surety(ies) of all Change Orders.

65.2 JSL will issue written orders to Construction Manager for any changes except that in the event of an emergency which JSL determines endangers life or property, JSL may issue oral orders to Construction Manager for any Work required by reason of such emergency. Such orders will be confirmed in writing as soon as practicable. Such orders, whether written or oral, may be accompanied by drawings and data as are necessary to show the extent of such ordered Work.

65.3 Construction Manager shall commence such changed Work so that all dates set forth in Construction Manager's current Construction Schedule as accepted by JSL will be met. In the event of an emergency which JSL determines endangers life or property, Construction Manager shall immediately commence such changes as required by JSL in order to mitigate or remove the emergency condition. Failure to commence any such change in timely fashion shall entitle JSL to invoke the provisions of GC25 entitled TERMINATION FOR DEFAULT.

65.4 Unless otherwise required, Construction Manager shall, within twenty-one (21) calendar days following receipt of a written contract Field Bulletin, submit in writing to JSL a Contract Change Proposal for accomplishing such change, which proposal shall reflect the increase or decrease, if any, in cost to JSL of performing the change under the Contract in comparison to what the cost would have been, had such change not been offered.

65.5 The proposal shall state the Construction Manager's added and/or deleted compensation in

detail, including but not limited to:

- A. Material quantities and unit prices
- B. Labor man-hours and wages by craft
- C. Equipment type and size and rental rate
- D. Overhead and profit percentage
- E. Subcontract costs with back-up detail as specified in items A, B, C, and D above
- F. Time extension, if any;
- G. A detailed description of any impacts this change will have on any activities on the Critical Path which would affect any of the Milestone Dates;
- H. Proof of payment of any tax liability resulting from a specific change (if requested by JSL).

65.6 Under no circumstances shall Construction Manager apply for or be entitled to recover consequential damages including, but not limited to, extended home office overhead costs associated with a change in the Work, whether or not calculated in accordance with the Eichleay Formula. Unless directed by JSL, there will be no extensions of time in connection with any changes to the Work. Therefore, the Construction Manager should reflect this in pricing all requested changes related to the Contract substantial completion date.

65.7 If Construction Manager does not propose the method of compensation for such change or any part thereof within the time required, or if any proposed method is not acceptable, or if a method of compensation for such change, or any part thereof cannot be agreed upon, JSL may direct and Construction Manager shall proceed upon direction (Construction Change Directive) with such change.

65.8 A Construction Change Directive (CCD) is a written order prepared by the Architect/Engineer of Record and signed by JSL, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. A CCD may be used in the absence of total agreement on the terms of Change Order or to complete Work which, if not accomplished, could adversely affect a critical path activity. Upon receipt of the CCD, the Construction Manager shall promptly proceed with the change in the Work involved and advise the Architect/Engineer of Record of the Construction Manager's agreement or disagreement with the method, if any, provided in the CCD for determining the proposed adjustment in the Contract Sum or Contract Time. When JSL and Construction Manager agree with the determination made by the Architect/Engineer of Record concerning the adjustments in the Contract Sum and/or Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be recorded by the preparation of a Change Order. The Construction Manager shall not seek payment for Work performed pursuant to a CCD until it has been converted to a Change Order.

65.9 If, at any time after Construction Manager commences such change, a method of compensation other than time and material is agreed upon, such compensation will be made in accordance with such agreement. In any event, Construction Manager shall keep accurate records of the actual cost to Construction Manager for such change. Costs for which Construction Manager shall be entitled to compensation on a time and material basis as described above, are as follows:

Direct Labor Cost - Payment will be made for all manual classifications up to and including foremen, but shall not include superintendents, assistant superintendents, general foremen,



office personnel, time-keepers and maintenance mechanics. The time charged to changes will be subject to the daily approval of JSL and no charges shall be accepted unless evidence of such approval is submitted by Construction Manager with its billing.

Labor rates used to calculate the direct labor costs shall be those rates in effect during the accomplishment of the change. In addition to the direct payroll costs, the direct labor costs shall include payroll taxes and insurance, vacation allowance, subsistence, travel time and overtime premium and any other payroll additives required to be paid by Construction Manager by law or collective bargaining agreements. Copies of certified pertinent payrolls shall be submitted to JSL.

Equipment Costs - Payment for the rental and operation of the equipment furnished and used by Construction Manager shall be made for all construction and automotive equipment or tools with a new cost greater than one thousand dollars each. Equipment time charged to changes will be subject to daily written approval of JSL and no charges will be accepted unless evidence of such approval is submitted with Construction Manager's billing. The equipment rental and operation rates include costs for rental, fuel, oil, grease, repair parts, service and maintenance of any kind, and necessary attachments. Such charges do not include costs for operating labor and transportation to and from the location of the change. Equipment rental rates for Construction Manager-owned equipment used in this Contract shall be those contained in the RENTAL RATE BLUE BOOK as published by Equipment Watch, 1735 Technology Drive, Suite 410, San Jose, California 95110-1333, (800-669-3282) and current at the time work for any specific change is performed. When equipment is used for time and materials changes which does not reasonably resemble Blue Book rental rates, the rental rate shall be negotiated and agreed upon in writing.

If Construction Manager-owned equipment is not available and equipment is rented from outside sources, payment will be computed on the basis of actual invoice cost. Rental rates for non-owned equipment must be approved in advance by JSL.

When the operated use of equipment is infrequent and, as determined by JSL, such equipment need not remain at the site of the work continuously, payment shall be limited to actual hours of use. Equipment not operating but retained at the location of changes at JSL's direction shall be paid for at a standby rate.

Unless otherwise provided in the Contract, all equipment rental rates shall be agreed upon in writing before commencing any change. When a specific piece of rental equipment, normally used to perform unchanged contract work is used for time and material changed work, the applicable rental rate shall be the actual rate paid by the Construction Manager at the time the work is performed.

Transportation costs for bringing equipment to the jobsite and for returning equipment to the point of origin, exclusively for use on time and material work, will be reimbursed to Construction Manager based on invoices, provided that prior written approval has been given to Construction Manager.

Overtime shall be paid as per Method 2 described in said RENTAL RATE BLUE BOOK.

No compensation will be made to the Construction Manager for equipment repair or equipment maintenance.

Material Costs - Payment for the cost of materials furnished by Construction Manager for use in performing the change will be made, provided such furnishing and use of materials was as specifically authorized and the actual use was verified by JSL. Payment will be the net cost to Construction Manager delivered at the job and vendor's invoice shall accompany the billing along with the verification by JSL of such use of such materials.

Contract and Outside Service Costs - Payment for work and services subcontracted by Construction Manager in the performance or completion of the change will be made only when both the subcontractor and the terms of payment to such subcontractor have been approved in writing by JSL before the subcontractor starts to work on the change.

Tools and Equipment - Payment will be made for tools and equipment with a new cost of One Thousand Dollars, or less, each, only upon approval by JSL.

For purposes of any and all changes made pursuant to this provision (whether lump sum or time and material) as to all supplies, overhead, supervision and profit, the Construction Manager is entitled to an overhead and profit fixed fee not to exceed a maximum of fifteen percent (15%) (the Maximum Percentage) of the estimated direct labor and material costs pertaining to each change which amount will be converted to a lump sum before Work begins. The agreed upon percentage (not to exceed the Maximum Percentage), including but not limited to overhead and profit which may be added to the estimated Change Order costs for changes in the Work shall be as follows:

1. If the CM is authorized by JSL to perform work with its own forces, the Construction Manager may add an overhead and profit fixed fee as agreed upon with JSL up to 10% of its estimated Change Order costs which amount will be converted to a lump sum before the Change Order is issued and before Work begins.

2. For all Work done by subcontractors, the respective subcontractors may add an overhead and profit fixed fee as agreed upon up to 10% of their estimated costs which amount will be converted to a lump sum before the Change Order is issued and before Work begins. The Construction Manager may add an overhead and profit fixed fee as agreed upon up to 5% of the subcontractors' total estimate which amount will be converted to a lump sum before the Change Order is issued and before Work begins.

65.10 For any changes involving deductive items, the following shall apply to the amount of allowable overhead and profit:

1. For deductive changes only (those which contain no additive items), there will be no reduction in overhead and profit and, likewise, no addition by the Construction Manager for processing.

2. For changes containing both additions and deductions covering related Work or substitutions, the overhead and profit shall be figured on the net increase if any, with respect to

that change.

65.11 No change order or CCD shall be valid until approved and signed by JSL. The Architect/Engineer of Record is not authorized to bind JSL to changes relative to changes in contract cost and or time. The Architect/Engineer may only recommend acceptance or rejection. If a proposed change is deemed beneficial to the Project and is within the limits set forth in the Contract, JSL may cause to be issued an appropriate change order to the Contract with or without the Construction Manager's signature.

65.12 The Architect/Engineer of Record will have the authority to order minor changes in the Work which do not involve adjustment to the Contract Sum or Contract Time and are not inconsistent with the intent of the Contract. Such changes shall be effected by written order and shall be binding on JSL and Construction Manager. The Construction Manager shall carry out such written orders promptly, and the Construction Manager shall receive no additional compensation therefore, nor shall there be any change in the Contract Time. The Architect/Engineer shall immediately provide notices of all minor changes in the Work to JSL.

65.13 Execution of change order acknowledges final settlement of, and releases, all claims for costs and time associated, directly or indirectly, with the stated modification(s), including all claims for cumulative delays or disruptions resulting from, caused by, or incident to such modification(s), and including any claim that the modification(s) constitutes, in whole or part, a cardinal change to the Contract.

#### GC 66 RECORD DRAWINGS AND SPECIFICATIONS

##### A. Drawings:

1. Conformed Documents - Prior to the first application for payment, Construction Manager shall show proof of conformed documents with all Bid addenda identified on the record drawings and on its field set of drawings. Supplemental information following the bid shall be included and updated monthly for review with the application for payment.

2. Progress Records - During construction, Construction Manager shall keep a marked-up and up-to-date set of drawings showing as-built conditions on the site as an accurate record of all deviations between work as shown and work as installed. These drawings shall be available to JSL for inspection at any time.

3. Final Records – Prior to request for Substantial Completions, the Construction Manager shall furnish to JSL a complete set of marked-up as-builts with RECORD clearly printed on each sheet. JSL, at its expense, will furnish Construction Manager with drawings for mark-up by Construction Manager. Construction Manager shall, by use of professional draftsman, accurately and neatly transfer all deviations from progress as-builts to final as-builts. Record information necessary to establish utility services shall be provide by the Construction Manager a minimum of 30 days prior to the needed utility services.

##### B. Specifications:

1. Progress Records - During construction, Construction Manager shall keep a marked-up and up-to-date set of specifications showing as-is conditions on the site annotated to clearly indicate all substitutions that are incorporated into the Work. Where selection of more than one product is specified, annotation shall show which product was installed. These specifications shall be available to JSL for inspection at any time.

2. Final Records Prior to request for Substantial Completion, the Construction Manager shall furnish to JSL a complete set of marked-up as-built specifications with RECORD clearly printed on cover. JSL, at its expense, will furnish Construction Manager a set of specifications for mark-up by Construction Manager. Construction Manager shall accurately and neatly transfer all annotations from progress as-builts to final as-builts.

C. Manuals and Training:

1. Manuals - As a condition precedent to Substantial Completion, the Construction Manager shall furnish to JSL three complete sets of manuals and applicable operating instructions as referenced in technical specifications.
2. Unless otherwise specified, manuals to be bound in 3-ring binder with contents clearly indicated on outside cover.
3. Training: Where JSL training is required by the technical specifications, Construction Manager shall video and audio record the training and provide JSL with one copy of recording.

D. Endorsement:

1. Construction Manager shall sign each final record drawing and the cover of the record specifications and shall note thereon that deviations and annotations are complete and accurate.
2. The Construction Manager shall provide a signed and notarized affidavit indicating that no asbestos containing materials were used or installed during the course of construction as a condition precedent to Final Acceptance.

E. Fixed Asset Equipment and Fixture Information:

1. Prior to Final Acceptance, Construction Manager shall provide JSL with a list (in electronic format and hard copy) of each piece of equipment having an individual value greater than \$1,000. The list shall include, at a minimum; a) the name, make and model number, b) the quantity installed, and 3) the value of the equipment.

GC 67 MEASUREMENT OF WORK FOR PAYMENT

67.1 Estimates and all support data shall be prepared by Construction Manager and submitted in writing for JSL's approval on or about the end of each month covering the amount and value of Work satisfactorily performed by Construction Manager up to the date of such estimate. Such

estimates shall be based on the Construction Schedule completed activity cost, as approved, and may be confirmed by actual measurement of the Work in place. Estimates shall be based on cumulative total quantities of Work performed. Estimates may include materials or equipment not incorporated into the Work provided the requirements set forth below are met. A format for such estimates shall be determined by JSL according to type of Contract Work and shall be agreed upon prior to, or no later than, application for the first progress payment.

The quantity of Work to be paid for under any item for which a unit price is fixed in the Contract shall be the amount or number, approved by JSL, of units of work satisfactorily completed with the Contract and computed in accordance with applicable measurement for payment provisions of the Contract.

Progress Payments for general conditions will be based on the percentage of Work completed to date. Separate payments for shop drawings and deposits for materials will not be allowed.

67.2 Partial payments may be made to the extent of the delivered cost of materials to be incorporated in the Work, provided such materials meet the requirements of this Contract, plans, and specifications and are delivered to acceptable locations at the Project Site or to other sites acceptable to JSL (i.e. bonded warehouse). Such material must be stored in a secure manner, acceptable to JSL, and in accordance with any manufacturer's recommendations.

Delivered cost of such stored or stockpiled materials may be included in any subsequent payment request once the Construction Manager meets the following conditions:

1. An applicable purchase order or supplier's invoice is provided listing the materials in detail, cost of materials and identifying this specific contract, by name.
2. The material is insured against loss or damage (from whatever source) or disappearance prior to incorporation into the Work.
3. Once any stored material is paid for by JSL, it shall not be removed from the designated storage area except for incorporation into the Work.
4. Evidence that Construction Manager has verified quantity and quality of materials delivered (verified packing list).

It is not the intent of this section to pay for stored materials that are intended for day-to-day inventory i.e. small diameter piping, fittings, conduit, etc. Payment for stored materials under this section shall be limited to finished prefabricated products, piece-marked, and customized for the Project. Any payment for stored materials is subject strictly to the sole discretion of JSL.

It is further agreed between the parties that the transfer of title and JSL's payment for any stored or stockpiled materials pursuant to this General Condition shall in no way relieve the Construction Manager of the responsibility of ensuring the correctness of those materials and for furnishing and placing such materials in accordance with the requirements of this Contract, plans and specifications.

67.3 Construction Manager shall make all surveys necessary for determining all quantities of Work to be paid for under the Contract. Copies of field notes, computations, and other records made by Construction Manager for the purpose of determining quantities shall be furnished to JSL upon request. Construction Manager shall notify JSL prior to the time such surveys are made. JSL, at

its discretion, may arrange to have its representative witness and verify all surveys made by Construction Manager for determining quantities of Work to be paid for under the Contract. Measurements and computations shall be made by such methods as JSL may consider appropriate for the class of Work measured.

67.4 The dividing limits, lines or planes between adjacent items or classes of excavation, concrete, or other types of Work where not definitely indicated on the drawings or in the specifications, shall be determined by JSL.

67.5 No payments of invoices (or portions thereof) shall at any time constitute approval or acceptance of the Work under this Contract, nor be a waiver by JSL of any of the terms contained herein.

#### GC 68 PROGRESS PAYMENT PROCEDURES

68.1 The Construction Manager shall prepare a schedule of values by phases of Work to show a breakdown of the Contract Sum corresponding to the payment request breakdown and progress schedule line items. The schedule of values must also show dollar value for each unit of Work scheduled. Change Orders shall be added as separate line items.

Prior to the initial payment request, the following must be submitted and approved by the Architect/Engineer of Record and JSL.

1. List of principal subcontractors and suppliers.
2. Schedule of values.
3. Shop drawing log.
4. Project schedule.
5. Certified copy of recorded bond. JSL's contract number will be provided after award of the Contract and the Construction Manager shall include this number on the bond prior to recording the bond. JSL will not make any payment to Construction Manager until Construction Manager has complied with this requirement.

68.2 The Construction Manager will prepare and submit three (3) original copies of monthly invoices for Work completed during the one month period. Pay applications shall be submitted in the format and wording of the form contained in Appendix A to these General Conditions. All information must be completed for the pay application to be accepted. JSL's account number(s) for the Project will be given at the Pre-Construction meeting and will be placed at the top right hand corner of each application. These payment applications will be reviewed by all parties in attendance at the monthly pay application meetings. Prior to formal submission of the application the Construction Manager shall submit a rough draft plus two extra copies for JSL and Architect/Engineer of Record to review. The Construction Manager shall submit four (4) final approved copies to: the Architect/Engineer of Record, whose approval is required prior to submission to JSL.

68.3 If the pay estimate and support data are not approved, the Construction Manager is required to submit new, revised or missing information according to JSL's instructions. Otherwise, the Construction Manager shall prepare and submit to JSL an invoice in accordance with the estimate as approved. JSL will pay Construction Manager, in accordance with Local Government Prompt

Payment Act (FS 218.70). JSL shall provide Construction Manager with a written notice of disputed pay request within 10 days after receipt of such pay request which clearly states any and all deficiencies in Construction Manager's pay request that will prevent prompt processing and issuance of payment. To the extent there is an undisputed portion of the pay request that can be paid, JSL shall proceed with prompt payment of that portion of the pay request.

Construction Manager must remit undisputed payment due for labor, services, or materials furnished by trade contractors, subcontractors and suppliers hired by the Construction Manager, within 10 days after the Construction Manager's receipt of payment from JSL pursuant to Section 218.70, Florida Statutes. Construction Manager shall provide trade contractors, subcontractors and suppliers hired by Construction Manager with a written notice of disputed invoice within 5 business days after receipt of invoice which clearly states the reasons for the disputed invoice.

Retainage, in the amount of 5%, will be withheld on the calculated value of any Work, with the exception of stored materials which may be paid at the supplier's invoiced cost.

The Construction Manager may request at any point the release of retainage from JSL attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers if the work of the subcontractor has been successfully completed or if the materials of the supplier have been inspected and accepted by the Construction Manager. The Construction Manager must submit the request in writing to JSL.

Notwithstanding the foregoing, in no instance can the amount retained be less than the value of JSL's good faith claims plus the value of the Work JSL determines remains to be put in place or required to be performed as remedial activities.

All retainage released by JSL to the Construction Manager which is attributable to the labor, services or materials supplied by one or more subcontractors or suppliers must be timely remitted by the Construction Manager to those subcontractors or suppliers.

68.4 Each application for payment shall be accompanied by the following:

1. A JSL approved Construction Schedule update.
2. EBO Schedule 3 - Subcontractor Activity Form.
3. EBO Schedule 4 – Subcontractor Payment Certification.
4. Partial lien waivers of Construction Manager and all Subcontractors in a form substantially complying with the requirements of Florida Statute 713.20.

68.5 Copies of Schedules 3 and 4 will be available at the Pre-Construction meeting.

68.6 If one or more "Notice of Non-Payment" is received by JSL, no further payments will be approved until non-payment(s) have been satisfied and an original "Release of Claim" for each "Notice" has been submitted to JSL. Upon request, Construction Manager shall furnish acceptable evidence that all such claims or liens have been satisfied. On bonded projects only, JSL may allow, with consent of Surety and indemnification of JSL against any claims, payment for Work on which there is an outstanding Notice of Non-Payment.

68.7 Any amount otherwise payable under the Contract may be withheld, in whole or in part if:

1. Any claims are made against Construction Manager by JSL or third parties, including claims for liquidated damages, or if reasonable evidence indicates the probability of the making of any such claim; or
2. Construction Manager is in default of any Contract condition; or
3. There is reasonable doubt that this Contract can be completed within the time specified or for the balance then unpaid; or
4. Defective work or material is not remedied; or
5. Construction Manager persistently fails to carry out the Work in accordance with the Contract; or
6. Construction Manager fails to submit the information required by this Contract;
7. Construction Manager fails to comply with the EBO requirements, including but not limited to, failing to comply with the API requirements for the Contract; or
8. Construction Manager fails to submit a JSL approved updated Schedule with each Application for Payment.

68.8 If claims or liens filed against Construction Manager or property of JSL connected with performance under this Contract are not promptly removed by Construction Manager after receipt of written notice from JSL to do so, JSL may remove such claims or liens and all costs in connection with such removal shall be deducted from withheld payments or other monies due, or which may become due, to Construction Manager. If the amount of such withheld payments or other monies due Construction Manager under the Contract is insufficient to meet such cost, or if any claim or lien against Construction Manager is discharged by JSL after final payment is made, Construction Manager and its surety or sureties shall promptly pay JSL all costs (including attorney's fees) incurred thereby regardless of when such claim or lien arose.

68.9 Following issuance, by the Architect/Engineer of Record, of a Certificate of Substantial Completion, Construction Manager may submit a special payment request, provided the following have been completed:

1. Obtain permits, certificates of inspection and other approvals and releases by governing authorities, required for JSL's occupancy and use of the Project.
2. Complete final cleaning of the Work.
3. Submit record documents (record drawings).
4. Submit listing of work to be completed before final acceptance.
5. Settle liens and other claims.
6. Obtain Consent of Surety for partial release of retainage.
7. Settle Liquidated Damages due to JSL, if any.
8. Conditional Final Waiver and Release of Claim signed by Construction Manager.

68.10 Upon receipt by JSL of Construction Manager's written Notice of Final Completion of its Work under this Contract, in accordance with GC 72, JSL shall verify all Work has been completed on the Project. When all Work has been verified as complete, and the Construction Manager completes and submits the items listed below, the Construction Manager may submit a final invoice.



1. Complete all work listed on the punch list prepared in accordance with GC 71 and obtain Architect/Engineer certification of completed Work.
2. Submit proof of payment on fees, taxes or similar obligations.
3. Transfer operational, access, security and similar provisions to JSL; remove temporary facilities, tools and similar items.
4. Obtain Consent of Surety for final payment and/or partial release of retainage.
5. All information required by GC 66.
6. Obtain certification of as-built (record) drawings from Architect/Engineer of Record.
7. Final Waiver and Release of Claim signed by Construction Manager.
8. Final lien waivers of Construction Manager and all Subcontractors in a form substantially complying with the requirements of Florida Statute 713.20.

68.11 Notwithstanding anything to the contrary herein, Construction Manager must upon request of JSL separately identify in all applications for payment the direct costs allocable, respectively, to (1) Temporary Facilities (defined below) and/or (2) Club-Specific Facilities (defined below). Construction Manager must then issue separate applications for payment in each monthly cycle, with one application for payment excluding all direct costs for Temporary Facilities and/or Club-Specific Facilities (as applicable) and another that includes any applicable costs for Temporary Facilities and/or Club-Specific Facilities. Each application for payment must conform to the requirements of this Section GC 68 and the Contract Documents. As referenced in the Contract Documents, the term "Temporary Facilities" means costs, fees and expenses associated with temporary structures brought on site as temporary clubhouses for use by the applicable baseball teams (players and coaches), but excluding local administrative staff and JSL's staff, consultants and contractors administering this Project). As referenced in the Contract Documents, the term "Club-Specific Facilities" means the separate areas occupied by the Cardinals and Marlins, e.g., clubhouses, batting cages and training facilities

#### GC 69 USE OF COMPLETED PORTIONS OF WORK

69.1 Whenever, as determined by JSL, any portion of Work performed by Construction Manager is in a condition suitable for use, JSL may issue a certificate of Substantial Completion (Partial Utilization) for that portion and take possession of or use such portion. Such Certificate of Substantial Completion (Partial Utilization) will be issued in accordance with the applicable requirements of General Condition 71 "SUBSTANTIAL COMPLETION". Such use by JSL shall in no case be construed as constituting final acceptance, and shall neither relieve Construction Manager of any of its responsibilities under the Contract, nor act as a waiver by JSL of any of the conditions thereof, provided, that Construction Manager shall not be liable for the cost of repairs, rework, or renewals which may be required due to ordinary wear and tear resulting from such use. However, if such use increases the cost or delays the completion of remaining portions of Work, Construction Manager shall be entitled to an equitable adjustment in its compensation and/or schedule under this Contract.

69.2 If, as a result of Construction Manager's failure to comply with the provisions of the Contract, such use proves to be unsatisfactory to JSL, JSL shall have the right to continue such use until such portion of work can, without injury to JSL, be taken out of service for correction of defects, errors, omissions, or replacement of unsatisfactory materials or equipment, as necessary for such

work to comply with the Contract; provided that the period of such operation or use pending completion of appropriate remedial action shall not exceed twelve months unless otherwise mutually agreed upon in writing between the parties.

69.3 Construction Manager shall not use any permanently installed equipment unless such use is approved by JSL in writing. Where Construction Manager's written request is granted for the use of certain equipment, Construction Manager shall properly use and maintain, and upon completion of its use, and at its expense, recondition such equipment to the satisfaction of JSL. If JSL furnishes an operator for such equipment, such operator's services shall be performed under the complete direction and control of Construction Manager and shall be considered Construction Manager's employee for all purposes other than the payment of such operator's wages, workmen's compensation or other benefits paid directly or indirectly by JSL.

GC 70 NOT USED

#### GC 71 SUBSTANTIAL COMPLETION

71.1 The date of Substantial Completion is the date established by the Architect or Engineer (A/E) and approved by JSL when the Project is sufficiently complete to permit JSL to use it for its intended purpose, JSL issues a certificate of Substantial Completion and the items listed below are complete. For the issuance of a certificate of Substantial Completion (Partial Utilization) in accordance with General Condition 69, JSL and/or the A/E will notify the Construction Manager of which items listed below must be complete for partial utilization.

71.2 The Construction Manager shall notify the A/E in writing when the Construction Manager considers the Project Substantially Complete and attach a comprehensive list of incomplete work and items needing correction with dates indicating when the items listed will be completed.

71.3 Once the A/E has received notice and attachments from the Construction Manager, the A/E will promptly inspect the Work. The A/E may refuse to inspect the Work if the Work is obviously not substantially complete or when the Construction Manager's list is not complete.

71.4 The following items shall be completed prior to a request by the Construction Manager for inspection for Substantial Completion.

1. Certificate of Occupancy or Certificate of Completion, as applicable, shall be obtained from the proper Building Official.
2. All general construction completed.
3. All mechanical and electrical work complete, equipment and fixtures in place, connected, cleaned and ready for use.
4. All electrical circuits shall be scheduled in panels, and all panels and disconnect switches properly labeled.
5. All painting shall be completed; all signs installed.

6. All Project components including floors, glass and metal work shall be cleaned.
7. All finish hardware shall be installed, and all doors shall be in good working order. All keys and blanks shall have been provided.
8. Project site shall be cleared of the Construction Manager's excess equipment, storage shacks, trailers, and/or building supplies. All temporary construction shall be removed.
9. All mechanical and electrical systems including Fire Alarm and Security, shall be complete, fully functional, and demonstrated to JSL. The Fire Alarm system must be 100% complete without exception.
10. All operations and maintenance manuals for all equipment shall have been submitted.
11. Manufacturers' certifications and warranties shall be delivered to JSL.
12. All operations and maintenance training related literature, software and back-up disks shall have been provided.
13. All required spare parts as well as any special tools shall have been provided.
14. All HVAC testing and balancing reports shall have been submitted and approved.
15. The Project record drawings and specifications shall be submitted in accordance with GC 66.

71.5 If Substantial Completion is not obtained at the inspection, called by the Construction Manager, for reasons which are the fault of the Construction Manager, the cost of any subsequent inspections requested by the Construction Manager for the purpose of determining Substantial Completion shall be the responsibility of the Construction Manager and shall be assessed against the final payment application.

71.6 Once Substantial Completion is achieved and within the time allowed by F.S. 218.70 *et seq*, the Architect and/or JSL will prepare the punch list required by the Local Government Prompt Payment Act. The punch list items shall be corrected by the Construction Manager within the time defined in the Project Schedule incorporated in the GMP Amendment, as subsequently modified and prior to any request for Final Inspection and Acceptance. The failure to include any corrective work or pending items not yet completed on the list does not alter the responsibility of the Construction Manager to complete the Work pursuant to the Contract.

## GC 72 FINAL INSPECTION AND ACCEPTANCE

72.1 When the Construction Manager considers that all Work under the Contract is complete as previously referenced in GC 71, Construction Manager shall so inform JSL and A/E in writing, "Notice of Final Completion". When items on the punch list as recorded at the Substantial Completion inspection have been corrected and JSL is satisfied that all Work under the Contract

is completed and is in accordance with the requirements of this Contract, JSL shall notify Construction Manager in writing of final acceptance of its Work under this Contract.

JSL will then make final payment to the Construction Manager in accordance with the terms of General Condition 68 of the amount remaining after deducting all prior payments and all amounts to be kept or retained under the provisions of the Contract, including the following items, for which a Change Order will be issued:

1. Liquidated Damages, as applicable.
2. At the discretion of JSL, one and one-half times the value of outstanding items, corrective Work, and incomplete punch list. All such Work shall be completed or corrected to the satisfaction of JSL in conformance with the Contract Documents, or on the "final punch list", or any other "punch list", otherwise the Construction Manager does hereby waive any and all claims to all monies withheld by JSL to cover the value of all such uncompleted or uncorrected items.

72.2 Neither final acceptance of the Work, nor payment therefore, nor any provision of the Contract shall relieve the Construction Manager of responsibility for defective or deficient materials or work or responsibility for full Contract compliance. If, within one (1) year or as provided for elsewhere in the General Conditions or technical specifications after Substantial Completion, any of the Work is found to be defective, deficient or not in accordance with the Contract, the Construction Manager shall correct, remove and replace it promptly after receipt of a written notice from JSL and correct and pay for any damage to other Work resulting therefrom as set forth in General Condition 28 entitled "WARRANTY".

#### GC 73 DISPOSAL OF MATERIAL OUTSIDE PROJECT LIMITS

73.1 The Construction Manager shall make its own arrangements for disposal of materials outside the Project limits and the CM shall pay all costs involved. JSL reserves the right to retain any salvage material or equipment scheduled for removal. Should JSL elect to retain salvaged materials or equipment, the Construction Manager will provide appropriate on-site storage and protection. JSL will be responsible for transporting from the site any materials or equipment it has elected to retain. Off-site disposal of any items not retained by JSL shall be the responsibility of the Construction Manager.

73.2 When any material is to be disposed of outside the Project limits, the Construction Manager shall first obtain a written permit from the property owner on whose property the disposal is to be made and he shall file in writing with JSL said permit or the certified copy thereof together with a written release from the property owner absolving JSL of any and all responsibility in connection with the disposal of material on said property.

73.3 When material is disposed of as above provided and the disposal location is visible from the Project, the Construction Manager shall dispose of the material in a neat and uniform manner to the satisfaction of JSL.

#### GC 74 IDENTITY OF INTEREST WITH SUBCONTRACTORS/SUPPLIERS

74.1 The Construction Manager represents to JSL that neither the Construction Manager, nor any

officer, director, partner or shareholder who holds ten percent (10%) or more of the outstanding stock of the Construction Manager, has any financial interest in, or as an officer, director, partner or ten percent (10%) plus shareholder of any firm, person or entity which has been or may be contracted with to furnish labor, material, equipment or professional services in connection with the construction of the Project. Construction Manager agrees to give written notification and obtain the approval of JSL before entering into any contract on this Project with any subcontractor or materialman where there exists any identity of interest.

#### GC 75 CLEANING UP

75.1 Construction Manager shall, at all times, at its expense, keep its work areas in a neat, clean and safe condition. Upon completion of any portion of the Work, Construction Manager shall, within 48 hours, remove all of its equipment, construction plant, temporary structures and surplus materials not to be used at or near the same location during later stages of Work.

#### GC 76 PROJECT SIGNS

76.1 Construction Manager, at no additional cost to JSL, shall construct a project job sign as indicated and described on the "Site Sign Detail". Construction Manager shall coordinate location of sign with JSL's representative and install such sign within 21 days after JSL's issuance of "Notice to Proceed". Any deletion/addition of lettering during the life of the Project will be at the Construction Manager's expense. Construction Manager will remove and properly dispose of sign at Project Substantial Completion. With the exception of the right reserved by JSL to erect a sign in connection with the Project and unless otherwise provided in the Contract, Construction Manager shall not display or permit to be displayed on or about the Project, any sign, trademark, poster or other advertising or identifying device, without prior written approval of JSL.

#### GC 77 SEVERABILITY

77.1 If any provision(s), or portion(s) of a provision(s) of this Contract, or the application thereof to any person or circumstance shall, to any extent, be held to be invalid, illegal or unenforceable for any reason whatsoever: the validity, legality and enforceability of the remaining provision(s), or part of the provision(s), shall not in any way be affected or impaired thereby; and shall be interpreted to the fullest extent possible to be enforceable and to give effect to the intent manifested by the provision(s), or portion(s) thereof, held invalid, illegal or unenforceable.

#### GC 78 PUBLIC RECORDS AND CONFIDENTIAL INFORMATION

78.1 Public Records Requests. Under Chapter 119, Florida Statutes (the Florida Public Records Law), a request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency, and this Project will be subject to such potential public record requirements.

78.2 Required Procedures for Protecting Confidential and Exempt Information.

- A. Records Exempt from the Public Records Laws. The Florida Public Records Law provides for certain exemptions to the Florida's Public Records Law to protect the security of specific governmental facilities, employees and visitors. For the same security reasons, the County has the statutory obligation to protect such records from public disclosure and only disclose confidential information to a licensed engineer, architect or contractor. The purpose of this Section is to facilitate the Construction Manager's Work by making specific documents available to individuals/firms while implementing controls on the distribution of records or information which is confidential and/or exempt from the Florida Public Records Law.
- B. Confidential Information. For purposes of this Section, "Confidential Information" shall include all information or material that is confidential and/or exempt according to the Florida Public Records Law. The exemptions most relevant to the Construction Manager include, but are not limited to:
- Plans, blueprints, drawings and diagrams which depict the internal layout and structural elements of a building or other structure, including 911, E911 or Public Safety Radio communication system infrastructure, owned or operated by the County;
  - Security or firesafety system plans, including records, information, photographs, audio and visual representations, schematic diagrams, floor plans, surveys, as-built drawings, recommendations or consultations relating directly to the physical security or firesafety of the facility or revealing security or firesafety systems in whole or in part;
  - Geographical maps indicating the actual or proposed locations of 911, E911 or Public Safety Radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911 or Public Safety Radio services, or 911, E911 or Public Safety Radio communication structures or facilities owned and operated by the County;
  - Nationwide Public Safety Broadband Network (Network) information, where such information would reveal the design and operation of Network facilities; Network coverage, including geographical maps indicating actual or proposed locations of Network infrastructure or facilities; the capabilities of Network infrastructure and facilities; the functions of Network services; and the security, including cybersecurity, of the design and operation of the Network;
  - Threat assessments;
  - Emergency evacuation plans;
  - Sheltering arrangements; or
  - Manuals for security or firesafety personnel, emergency equipment, security or firesafety training; or otherwise containing narrative and/or graphic content of a security nature.
- C. Obligations.
1. Maintain the Confidentiality of the Confidential Information. The Construction Manager has an obligation to maintain the confidential status of Confidential Information. The Construction Manager shall hold and maintain the Confidential Information in the strictest confidence for the sole and exclusive benefit of the County

and JSL. The Construction Manager shall restrict access to Confidential Information to: 1) the Construction Manager's employees, and/or 2) licensed architects, engineers, contractors, subcontractors (Third Parties) for the sole purpose of providing contractual services. Prior to releasing any Confidential Information to a Third Party, the Construction Manager shall require those Third Parties to execute nondisclosure restrictions at least as protective as those in this Section, and maintain a list of any Third Party to which the Construction Manager has distributed Confidential Information. **Other than as authorized above, the Construction Manager shall not, without prior written approval of JSL, publish, copy, or otherwise disclose to others any Confidential Information.**

2. Disclosure Warning. If Confidential Information is in written form, the Construction Manager shall label or stamp the materials as they are created with the Disclosure Warning described below on each and every sheet of plans, documents or reports that contain exempt information. If the Construction Manager is distributing Confidential Information to authorized recipients, the materials and the correspondence related thereto should contain the following disclosure warning:

**DISCLOSURE WARNING. THIS DOCUMENT IS EXEMPT AND CONFIDENTIAL UNDER SEC. 119.071, FLORIDA STATUTES. ANY ENTITY OR PERSONS RECEIVING SUCH INFORMATION SHALL MAINTAIN THE EXEMPT STATUS OF THE INFORMATION UNLESS OTHERWISE AUTHORIZED BY THE COUNTY. THESE DOCUMENTS SHALL NOT BE DISTRIBUTED, LOANED OR COPIED WITHOUT THE WRITTEN PERMISSION OF THE COUNTY IN ACCORDANCE WITH THE RELEVANT PROVISIONS OF FLORIDA LAW. THE COUNTY MUST BE ADVISED IMMEDIATELY AS TO ANY CHANGES IN CUSTODIAN FROM THOSE PERSONS LISTED IN CORRESPONDENCE FOR ORIGINAL DISTRIBUTION, IF THE DOCUMENTS ARE LOST OR STOLEN, OR IF THERE IS IMPROPER DISCLOSURE OR UNAUTHORIZED USE OF THE INFORMATION IN THE DOCUMENT. UPON COMPLETION OF USE, WORK, PROJECT, OR CONTRACT, THE CONTRACTOR/CONSULTANT SHALL SHRED OR BURN ANY DUPLICATE RECORDS.**

3. Identifying Correspondence that May Contain Exempt or Confidential Information. In order to assist in the identification of electronic records, i.e. email, which may be exempt from Public Records Requests and protect information that is exempt from disclosure, the Construction Manager (as either the writer or receiver of an electronic document which may contain confidential and/or exempt information) must use the letters "PREX" (in caps) as the *first* four letters of the subject line of the electronic document. The PREX identifier should be used if the email contains confidential and/or exempt information in the body and/or an attachment.
4. Notification of Improper Disclosure. JSL must be notified immediately if the Confidential Information is lost or stolen or of any improper disclosure or unauthorized use of the Confidential Information. The Construction Manager shall make a report to JSL not more than seven (7) business days after the Construction Manager learns of such an improper disclosure or unauthorized use of the Confidential Information. The Construction Manager's report shall identify, to the extent known, the nature of the

improper disclosure or unauthorized use, the Confidential Information disclosed or used, who made the disclosure of or used the information, what the Construction Manager has done or shall do to mitigate any harmful effects of the improper disclosure or unauthorized use, and what corrective action the Construction Manager has taken or shall take to prevent future similar unauthorized use or improper disclosure. The Construction Manager shall provide any other such information about the unauthorized use or improper disclosure as reasonably requested by JSL. The Construction Manager shall take all steps JSL deems advisable to mitigate, resolve and/or prevent the unauthorized use or improper disclosure of the Confidential Information.

- D. Survival. The nondisclosure provisions of this Section shall survive the termination of this Contract. The Construction Manager's duty to hold Confidential Information in confidence shall remain in effect until JSL sends the Construction Manager written notice releasing the Construction Manager from the provisions of this Section.
- E. Enforcement. The Construction Manager understands that non-compliance with the terms of this Section may result in debarment pursuant to the Palm Beach County Code as well as subject itself to any other remedies available to the County in law or equity.

**IF THE CONSTRUCTION MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSTRUCTION MANAGER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT: BUSINESS AND COMMUNITY AGREEMENTS MANAGER, FACILITIES DEVELOPMENT & OPERATIONS, 2633 VISTA PARKWAY, WEST PALM BEACH, FL 33411 OR BY EMAIL AT [FDORECORDSREQUEST@PBCGOV.ORG](mailto:FDORECORDSREQUEST@PBCGOV.ORG) OR BY TELEPHONE AT 561-233-0220.**

F. Trade Contracts and Subcontracts. Construction Manager will include in all trade contracts and subcontracts related to this Contract provisions in accordance with this General Condition regarding public records and compliance with chapter 119, F.S.

#### GC 79 LIQUIDATED DAMAGES

For purposes of the Contract Documents, Liquidated Damages means damages assessed for the Construction Manager's failure to substantially complete the Work within the Contract Time, including any change(s) to Contract Time authorized by Change Order(s) and Written Amendment(s). Should the Construction Manager or, in the event of its default, the Surety fail to achieve certification of Substantial Completion of the Work within the Contract Time, the Construction Manager or, in the event of its default, the Surety shall pay to JSL, not as a penalty, but as Liquidated Damages in the daily amount(s) established in **Exhibit A** of the Contract, unless otherwise provided in the GMP Amendment.



The Construction Manager hereby agrees and affirms that the amounts specified in this section reflect a fair compensable value for damages suffered by JSL as a result of Construction Manager's delay, and that said amounts are not a penalty nor shall ever be contested as reflecting the imposition of a penalty against the Construction Manager.

JSL shall have the right to apply as payment on such Liquidated Damages any money on any Project that is due the Construction Manager by JSL, and, to deduct Liquidated Damages either incrementally from progress payment(s) or the Final Payment.

Permitting the Construction Manager to continue and to finish the Work, or any part of it, after the expiration of Contract Time, shall in no way act as a waiver on the part of JSL of the Liquidated Damages due under the Contract.

The number of days of default shall be determined by counting all calendar days. In case of default of the Contract and completion of the Work by JSL, the Construction Manager and its Surety shall be liable for the Liquidated Damages under the Contract, but no Liquidated Damages shall be chargeable for any delay in the Substantial Completion of the Work by JSL, due to an unreasonable action or delay on the part of JSL.

#### GC 80 DISCLAIMER OF CONSEQUENTIAL DAMAGES

JSL shall not be liable to the Construction Manager, whether in contract, tort, warranty or under any statute or on any other basis, for any consequential, incidental, indirect, special, punitive or exemplary damages suffered or incurred by the Construction Manager in connection with this Contract, even if JSL has been advised of the possibility of such damages. Consequential damages shall include, by way of example and without limitation, opportunity costs, loss of use of facilities or other assets, consequential damage claims of subcontractors, lost profits, lost savings, lost business, lost bonding capacity, lost financing, lost reputation or lost goodwill.

#### GC 81 E-VERIFY - EMPLOYMENT ELIGIBILITY

81.1 Construction Manager warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov) and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of the Contractor's trade contractors and subcontractors performing any duties and obligations under this Contract are registered with the E-Verify System and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

81.2 Construction Manager shall obtain from each of its trade contractors and subcontractors an affidavit stating that the trade subcontractor or subcontractor does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. Construction Manager shall maintain a copy of any such affidavit from a trade contractor or subcontractor for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Contract which requires a longer retention period.

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## **APPENDIX A to General Conditions**

Request for Information  
Field Instruction  
Field Bulletin  
Construction Change Proposal  
Change Order  
Construction Change Directive  
Submittal Transmittal  
Deficiency Report  
Non-Conformance Report  
Construction Manager's Daily Report  
Substitution Request Form  
Contingency Use Directive  
Application for Payment  
EBO Schedule 1  
EBO Schedule 2  
EBO Schedule 3  
EBO Schedule 4  
Living Wage Notice for Posting  
Certification of Compliance – Living Wage Ordinance

JUPITER STADIUM, LTD.

PROJECT: Roger Dean Chevrolet Stadium & Sports Complex Renovation Project

REQUEST FOR INFORMATION (RFI)

RFI # \_\_\_\_\_

TO: PROJECT NUMBER: \_\_\_\_\_

ATTENTION: DATE: \_\_\_\_\_

FROM: CONTRACT NUMBER: \_\_\_\_\_

SUBJECT: \_\_\_\_\_

DRAWING LOCATION: \_\_\_\_\_ SPECIFICATION SECTION: \_\_\_\_\_

INFORMATION REQUIRED:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ORIGINATOR: \_\_\_\_\_ DATE: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

REPLY REQUESTED FROM:

REPLY:  DP  OPR  OTHER \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DISTRIBUTION: SIGNED BY: \_\_\_\_\_

DATE: \_\_\_\_\_



JUPITER STADIUM, LTD. (JSL)

PROJECT: Roger Dean Chevrolet Stadium & Sports Complex Renovation Project

FIELD BULLETIN (FB)

TO:	FB NUMBER: _____
ATTENTION:	DATE: _____
REFERENCE:	PROJECT NAME: _____
	PROJECT NUMBER: _____
	CONTRACT NUMBER: _____

THIS BULLETIN IS NOT A CHANGE IN THE ABOVE CONTRACT NOR AN AUTHORIZATION TO THE CONTRACTOR TO PERFORM WORK, OTHER THAN CONTRACT WORK, OR TO STOP OR SUSPEND WORK UNLESS SPECIFICALLY AUTHORIZED BY THIS BULLETIN. However, it covers certain PROPOSED MODIFICATIONS to the work covered by said contract.

CAUSE:

DESCRIPTION:

NOTE: The Contractor shall submit, within 21 days of receipt of this Bulletin, a CONSTRUCTION CHANGE PROPOSAL # \_\_\_\_\_, in detailed form, for the above referenced project.

ORIGINATOR:

_____	_____	_____
FIRM	SIGNATURE	DATE

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DISTRIBUTION: JSL's Project Manager \_\_\_\_\_  
JSL's Field Representative \_\_\_\_\_ DESIGN PROFESSIONAL \_\_\_\_\_ DATE \_\_\_\_\_

JUPITER STADIUM, LTD.

Roger Dean Chevrolet Stadium & Sports Complex Renovation Project

CONSTRUCTION CHANGE PROPOSAL (CCP)

TO: \_\_\_\_\_ CCP NUMBER: \_\_\_\_\_  
ATTENTION: \_\_\_\_\_ DATE: \_\_\_\_\_  
REFERENCE: \_\_\_\_\_ PROJECT NAME: \_\_\_\_\_  
PROJECT NUMBER: \_\_\_\_\_  
CONTRACT NUMBER: \_\_\_\_\_

We propose to accomplish the MODIFICATIONS identified in FIELD BULLETIN FB # \_\_\_\_\_ and as described herein. Except as modified below, the original contract and all prior amendments shall remain in full force and effect.

DESCRIPTION:

PROPOSED CONTRACT PRICE CHANGE (increases) \$ \_\_\_\_\_  
(decrease)  
(unchanged)

PROPOSED CONTRACT TIME CHANGE (increases) \_\_\_\_\_ days  
(unchanged)

PROPOSED NEW SUBSTANTIAL COMPLETION \_\_\_\_\_ date

FROM: \_\_\_\_\_  
CONTRACTOR

DISTRIBUTION: JSL's Project Manager  
JSL's Field Representative

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

**JUPITER STADIUM, LTD.**

**CHANGE ORDER**

ISSUED TO:	CHANGE ORDER NO.:
	REFERENCE CCP NO.:
PROJECT: Roger Dean Chevrolet Stadium & Sports Complex Renovation Project	RESOLUTION NO.:
PROJECT NO.	DISTRICT NO.:

The completion date, contract price, and all terms, covenants, and conditions of the above referenced contract, except as duly modified by this and previous Change Orders, if any, shall remain in full force and effect.

DESCRIPTION OF CHANGE:

**CONTRACT PRICE**

Original Contract Price:	_____	\$0.00
Previous CO # ____ through ____:	_____	\$0.00
This Change Order No. ____:	_____	\$0.00
ADJUSTED Contract Price:	_____	

**COMPLETION DATE**

Contract Completion Date will be increased by insert #days calendar days.

Contract Notice to Proceed Date: \_\_\_\_\_

Contract Substantial Completion Date: \_\_\_\_\_

ADJUSTED Substantial Completion Date: \_\_\_\_\_

**CONTRACTOR**

Execution of this change order acknowledges final settlement of, and releases, all claims for costs and time associated, directly or indirectly, with the above stated modification(s), including all claims for cumulative delays or disruptions resulting from, caused by, or incident to such modifications(s), and including any claim that the above stated modification(s) constitutes, in whole or part, a cardinal change to the contract. The above changes are accepted:

\_\_\_\_\_  
Contractor

By: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**DESIGN PROFESSIONAL**

The above changes are recommended for approval by JSL:

\_\_\_\_\_  
Design Professional

By: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Jupiter Stadium, Ltd. (JSL)

By: \_\_\_\_\_

Title: Project Manager Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_



JUPITER STADIUM, LTD. (JSL)

Roger Dean Chevrolet Stadium & Sports Complex Renovation Project

CONSTRUCTION CHANGE DIRECTIVE (CCD)

TO: \_\_\_\_\_ CCD NUMBER: \_\_\_\_\_  
DATE: \_\_\_\_\_  
ATTENTION: \_\_\_\_\_ PROJECT NAME: \_\_\_\_\_  
PROJECT NUMBER: \_\_\_\_\_  
FROM: \_\_\_\_\_ CONTRACT NUMBER: \_\_\_\_\_

PROCEED WITH THE FOLLOWING WORK ON A TIME AND MATERIALS BASIS PER GENERAL CONDITION 65.

CAUSE FOR THE DIRECTIVE:

DESCRIPTION OF WORK:

NOTIFICATION MUST BE GIVEN TO JSL PRIOR TO WORK COMMENCING  
WORK TICKETS MUST BE SIGNED DAILY BY JSL'S REPRESENTATIVE

Issued By: \_\_\_\_\_

DESIGN PROFESSIONAL

BY: \_\_\_\_\_  
DATE

NOTE: The Contractor shall submit all documentation for payment of this work within 21 calendar days of the completion of the above referenced CCD.

DISTRIBUTION: JSL's Project Manager \_\_\_\_\_  
JSL's Field Representative \_\_\_\_\_ JSL'S REPRESENTATIVE DATE

\_\_\_\_\_  
JSL DATE

**JUPITER STADIUM, LTD. (JSL)**

**Roger Dean Chevrolet Stadium & Sports Complex Renovation Project**

**SUBMITTAL TRANSMITTAL**

PROJECT NAME: _____ _____ PROJECT NUMBER: _____ _____ CONTRACT NUMBER: _____ _____	VIA <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;"></td> <td style="width:25%; text-align: center;">DATE</td> <td style="width:25%; text-align: center;">HAND</td> </tr> <tr> <td></td> <td style="text-align: center;">MAIL</td> <td style="text-align: center;">EXPRESS</td> </tr> </table> FORWARDED TO DP _____ FORWARDED TO GC _____		DATE	HAND		MAIL	EXPRESS
	DATE	HAND					
	MAIL	EXPRESS					

FROM: _____ _____ CONTRACTOR	SIGNED: _____ _____ CONTRACTOR
TO: _____ _____ DESIGN PROFESSIONAL	RECEIVED BY: _____ _____

SPECIFICATION SECTION	SUBMITTAL NO.	DESCRIPTION	SUBMITTAL TYPE	APPROVAL STATUS

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

JUPITER STADIUM, LTD. (JSL)

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROCESSED BY: \_\_\_\_\_

PROFESSIONAL  
DESIGN PROFESSIONAL

DESIGN  
DATE

APPROVAL STATUS CODE

- 1. NO EXCEPTION TAKEN
- 2. MAKE CORRECTIONS NOTED
- 3. MAKE CORRECTS NOTED RESUBMIT

- 4. REJECTED
- 5. NOT REQUIRED FOR REVIEW



JUPITER STADIUM, LTD. (JSL)

Roger Dean Chevrolet Stadium & Sports Complex Renovation Project

NON-CONFORMANCE REPORT (NCR)

TO:	NCR NUMBER:	_____
	DATE:	_____
ATTENTION:	PROJECT NAME:	_____
REFERENCE:	CONTRACT NUMBER:	_____

DEFICIENCY REPORT # \_\_\_\_\_ dated \_\_\_\_ / \_\_\_\_ / \_\_\_\_ has not been corrected. Unless corrective work is commenced within three (3) working days, JSL may exercise the option in GC 62 "Inspection: Rejection of Materials and Workmanship" to withhold payment sufficient to correct the deficiency.

DESCRIPTION OF WORK:

DESIGN PROFESSIONAL	SIGNED: _____	DATE: _____
CONTRACTOR ACKNOWLEDGMENT	SIGNED: _____	DATE: _____
DISTRIBUTION: JSL's Project Manager		
JSL's Field Representative		

**JUPITER STADIUM, LTD. (JSL)  
SUBSTITUTION REQUEST FORM**

TO: \_\_\_\_\_  
                    Consultant

Date: \_\_\_\_\_

RE: Palm Beach County

**Project:** Roger Dean Chevrolet Stadium & Sports Complex Renovation

We hereby submit for your consideration the following product as a substitution to the specified item for the above project.

Specification Section: \_\_\_\_\_ Paragraph: \_\_\_\_\_

Specified Item: \_\_\_\_\_ Specified Manuf.: \_\_\_\_\_

Drawing No.: \_\_\_\_\_ Drawing Title: \_\_\_\_\_

Location of Product Use: \_\_\_\_\_

1. Does the substitution affect dimensions shown on Drawings? Yes \_\_\_ No \_\_\_  
If yes, attach drawings with affected changes clearly marked.

2. Will the change have an effect on other disciplines: Yes \_\_\_ No \_\_\_  
If yes, explain: \_\_\_\_\_  
\_\_\_\_\_

3. What effect does substitution have on schedule? \_\_\_\_\_

4. Will the Contractor be offering a credit for the proposed substitution? If yes, how much? Yes \_\_\_\_\_ \$ \_\_\_\_\_ No \_\_\_\_\_

5. Reason for substitution: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Is the substitution equal to or better than the specified product in all aspects?  
Yes \_\_\_\_\_ No \_\_\_\_\_



**JUPITER STADIUM, LTD. (JSL)**

**CONTINGENCY USE DIRECTIVE**

**AUTHORIZATION TO ADJUST THE CONTRACTOR'S  
CONTINGENCY WITHIN THE GUARANTEED MAXIMUM PRICE (GMP)**

Project No: \_\_\_\_\_

Project Name: \_\_\_\_\_ CUD NO. \_\_\_\_\_

The following is a description of items to adjust the Contractor's Contingency within the Guaranteed Maximum Price (GMP). This action does not change the GMP amount or the contract time:

Item	RFI #	Description of Adjustments to the Contingency	Value

Total all items for this CUD

---

Original Contingency Amount	
Previous CUD's (CUD )	
Balance before this CUD	
THIS CUD	
Balance After THIS CUD	0

---

Execution of this CUD acknowledges final settlement of, and releases, all claims for costs and time associated, directly or indirectly, with the above stated modification(s), including all claims for cumulative delays or disruptions resulting from, caused by, or incident to such modification(s) and including any claims that the above stated modification constitutes, in whole or part, a cardinal change to the contract. The above changes are accepted:

ARCHITECT:

JSL:

By: \_\_\_\_\_  
Project Manager

Date: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

CONSTRUCTION MANAGER:

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**APPLICATION AND CERTIFICATE FOR PAYMENT**

TO (JSL): Jupiter Stadium, Ltd. 4751 Main Street Jupiter, FL 33458	PROJECT:  PROJECT #: O	APPLICATION #: APPLICATION DATE: PERIOD ENDING:  COMMENCEMENT DATE: ORIGINAL CONTRACT PERIOD:                      days EXTENDED CONTRACT PERIOD:                      days CONTRACT COMPLETION DATE:
FROM (CONTRACTOR):	VIA (Consultant):	

CONTRACTOR'S APPLICATION FOR PAYMENT		
CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Change Orders approved in previous months by JSL		
Total Approved this Month:		
<b>TOTALS</b>	<b>\$0.00</b>	<b>\$0.00</b>
Net change by Change Orders	\$0.00	\$0.00
No.                      Date Approved		

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheets are attached.  
**Note:** It is only necessary to enter data in cell **L23** (Less Previous Cert for Payment). All other cells below are linked to the Continuation Sheet.

1. ORIGINAL CONTRACT SUM	\$ 0.00
2. Net change by Change Orders	\$ 0.00
3. CONTRACT SUM TO DATE (1 + 2)	\$ 0.00
4. TOTAL COMPLETED & STORED TO DATE (Continuation Sheet Column G)	\$ 0.00
5. TOTAL RETAINAGE: (5a + 5b)	\$ 0.00
a. 10% of Completed Work	\$ 0.00
b.        of Stored Material	\$ incl in above
6. TOTAL EARNED LESS RETAINAGE (4 less 5)	\$ 0.00
7. LESS PREVIOUS CERT. FOR PAYMENT	\$
8. <b>CURRENT PAYMENT DUE (6 less 7)</b>	<b>\$ 0.00</b>
9. BALANCE TO FINISH, INCLUDING RETAINAGE (3 less 6)	\$ 0.00

**CONTRACTOR'S CERTIFICATION FOR PAYMENT**

The undersigned contractor certifies that, to the best of its knowledge, information and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and Payments received from JSL, and that current payment shown here is now due. Further, Contractor states that as of the date of this application, it has no claims against JSL, except as may be set forth in an attachment to this Certificate for Payment. Any claims accruing as of the date of this application which are not listed in an attachment hereto are waived.

CONTRACTOR:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Name and Title: \_\_\_\_\_

**State of:** \_\_\_\_\_ **County of:** \_\_\_\_\_

*The foregoing instrument was acknowledged before me by means of*  *physical presence or*  
 *online notarization, this* \_\_\_\_\_ *day of* \_\_\_\_\_ *by* \_\_\_\_\_  
 \_\_\_\_\_ *of* \_\_\_\_\_, *a* \_\_\_\_\_

*corporation, on behalf of the corporation. He/she is personally known to me or has produced*  
 \_\_\_\_\_ *as identification and did (did not) take an oath.*  
 Notary: \_\_\_\_\_ My Commission Expires:

**CONSULTANT CERTIFICATION FOR PAYMENT**

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Consultant certifies to JSL that to the best of the Consultant's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

CONSULTANT:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Name and Title: \_\_\_\_\_

AMOUNT CERTIFIED:..... \$ \_\_\_\_\_

JUPITER STADIUM, LTD.:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Name and Title: \_\_\_\_\_

# OEBO SCHEDULE 1

## LIST OF PROPOSED CONTRACTOR/CONSULTANT AND SUBCONTRACTOR/SUBCONSULTANT PARTICIPATION

SOLICITATION/PROJECT/BID NAME: \_\_\_\_\_

SOLICITATION/PROJECT/BID No.: \_\_\_\_\_

NAME OF PRIME RESPONDENT/BIDDER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

SOLICITATION OPENING/SUBMITTAL DATE: \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_

**PLEASE LIST THE DOLLAR AMOUNT OR PERCENTAGE OF WORK TO BE COMPLETED BY THE PRIME CONTRACTOR/CONSULTANT ON THIS PROJECT. PLEASE ALSO LIST THE DOLLAR AMOUNT OR PERCENTAGE OF WORK TO BE COMPLETED BY ALL SUBCONTRACTORS/SUBCONSULTANTS ON THE PROJECT.**

Name, Address and Phone Number	(Check all Applicable Categories)			DOLLAR AMOUNT OR PERCENTAGE OF WORK					
	<u>Non-SBE</u>	<u>M/WBE</u>	<u>SBE</u>	Black	Hispanic	Women	Caucasian	Other (Please Specify)	
		Minority/Women Business	Small Business						
1.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____	
2.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____	
3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____	
4.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____	
5.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____	
(Please use additional sheets if necessary)				<b>Total</b>	_____	_____	_____	_____	_____
Total Bid Price \$ _____				Total SBE - M/WBE Participation _____					

I hereby certify that the above information is accurate to the best of my knowledge: \_\_\_\_\_  
Signature Title

- Note:**
1. The amount listed on this form for a Subcontractor/subconsultant must be supported by price or percentage listed on the properly executed Schedule 2 or attached signed proposal.
  2. Firms may be certified by Palm Beach County as an SBE and/or an M/WBE. If firms are certified as both an SBE and/or M/WBE, please indicate the dollar amount under the appropriate category.
  3. Modification of this form is not permitted and will be rejected upon submittal.

**OEBO LETTER OF INTENT – SCHEDULE 2**

**A completed Schedule 2 is a binding document between the Prime Contractor/consultant and a Subcontractor/subconsultant (for any tier) and should be treated as such. The Schedule 2 shall contain bolded language indicating that by signing the Schedule 2, both parties recognize this Schedule as a binding document.** All Subcontractors/subconsultants, including any tiered Subcontractors/subconsultants, must properly execute this document. Each properly executed Schedule 2 must be submitted with the bid/proposal.

SOLICITATION/PROJECT NUMBER: \_\_\_\_\_

SOLICITATION/PROJECT NAME: \_\_\_\_\_

Prime Contractor: \_\_\_\_\_ Subcontractor: \_\_\_\_\_

**(Check box(s) that apply)**

SBE    WBE    MBE    M/WBE    Non-S/M/WBE   Date of Palm Beach County Certification (if applicable): \_\_\_\_\_.

The undersigned affirms they are the following (select one from each column **if applicable**):

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> African-American/Black <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American	<input type="checkbox"/> Caucasian American <input type="checkbox"/> Supplier

**S/M/WBE PARTICIPATION** – S/M/WBE Primes must document all work to be performed by their own work force on this form. Failure to submit a properly executed Schedule 2 for any **S/M/WBE** participation may result in that participation not being counted. Specify in detail, the scope of work to be performed or items supplied with the dollar amount and/or percentage for each work item. S/M/WBE credit will only be given for the areas in which the S/M/WBE is certified. A detailed proposal may be attached to a properly executed Schedule 2.

Line Item	Item Description	Unit Price	Quantity/ Units	Contingencies/ Allowances	Total Price/Percentage

The undersigned Subcontractor/subconsultant is prepared to self-perform the above-described work in conjunction with the aforementioned project at the following total price or percentage: \_\_\_\_\_

**If the undersigned intends to subcontract any portion of this work to another Subcontractor/subconsultant, please list the business name and the amount below accompanied by a separate properly executed Schedule 2.**

\_\_\_\_\_ Price or Percentage: \_\_\_\_\_

**Name of 2<sup>nd</sup>/3<sup>rd</sup> tier Subcontractor/subconsultant**

\_\_\_\_\_  
Print Name of Prime

\_\_\_\_\_  
Print Name of Subcontractor/subconsultant

By: \_\_\_\_\_  
Authorized Signature

By: \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**OEBO SCHEDULE 3  
SUBCONTRACTOR ACTIVITY FORM**

SUBCONTRACTOR ACTIVITY FOR MONTH ENDING \_\_\_\_\_ PROJECT #: \_\_\_\_\_

PROJECT NAME \_\_\_\_\_

PRIME CONTRACTOR NAME \_\_\_\_\_

PROJECT SUPERVISOR \_\_\_\_\_

Schedule 3 is used to show the monthly payment activity for work performed by each Subcontractor on the project and in conformity with the Subcontractor(s) submitted on Schedule 2. It also shows approved change orders as they impact all Subcontractors. Schedule 3 is to be submitted by the Prime Contractor with each payment request to Palm Beach County. In the Subcontracting Information section, list the name(s) of each Subcontractor, including each S/M/WBE subcontractor on the project and the total contracted amount for each Subcontractor on the project. As the project proceeds, please complete each column under the Subcontractor Information section. If a subcontractor is an S/M/WBE, please check the appropriate categories applicable.

SUBCONTRACTING INFORMATION								Subcontractor Category (check all applicable)						
Name of Subcontractor(s)	Total Contract Amount	Approved Change Orders	Revised Contract Amount	Amount drawn for Sub this Period	Amount drawn for Sub to Date	Amount Paid to Date for Subcontractor	Actual Starting Date	Minority/ Women Business (√)	Small Business (√)	Black (√)	Hispanic (√)	Women (√)	Caucasian (√)	Other (Please Specify) (√)

I hereby certify that the above information is accurate to the best of my knowledge \_\_\_\_\_  
(Signature) (Title)

Additional Sheets May Be Used As Necessary

**NOTE:** Firms may be certified as an SBE and/or an M/WBE. If firms are certified as both an SBE and M/WBE, the dollar amount will not be counted twice.

**OEBO Schedule 3(A)  
PROFESSIONAL SERVICES ACTIVITY REPORT**

Date: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project No.: \_\_\_\_\_ BCC Resolution No.: \_\_\_\_\_

Original Contract Amt.: \$ \_\_\_\_\_ Amended Contract Amt.: \$ \_\_\_\_\_

CSA Project Name: \_\_\_\_\_

CSA Project No.: \_\_\_\_\_ CSA Project Amt.: \$ \_\_\_\_\_

CSA BCC Resolution No. (If applicable): \_\_\_\_\_ CSA Payment Application No.: \_\_\_\_\_

Prime Consultant: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Project Name: \_\_\_\_\_

Phone # \_\_\_\_\_ Email: \_\_\_\_\_

Amount Paid to Date: \_\_\_\_\_

Total Percentage of work performed to date by Prime: \_\_\_\_\_

**SUB-CONSULTANTS**

1. Firm Name: \_\_\_\_\_

Contract Amount: \$ \_\_\_\_\_ Start Date: \_\_\_\_\_

Amount Paid to Date: \_\_\_\_\_ % Completed: \_\_\_\_\_

2. Firm Name: \_\_\_\_\_

Contract Amount: \$ \_\_\_\_\_ Start Date: \_\_\_\_\_

Amount Paid to Date: \_\_\_\_\_ % Completed: \_\_\_\_\_

3. Firm Name: \_\_\_\_\_

Contract Amount: \$ \_\_\_\_\_ Start Date: \_\_\_\_\_

Amount Paid to Date: \_\_\_\_\_ % Completed: \_\_\_\_\_

4. Firm Name: \_\_\_\_\_

Contract Amount: \$ \_\_\_\_\_ Start Date: \_\_\_\_\_

Amount Paid to Date: \_\_\_\_\_ % Completed: \_\_\_\_\_

5. Firm Name: \_\_\_\_\_

Contract Amount: \$ \_\_\_\_\_ Start Date: \_\_\_\_\_

Amount Paid to Date: \_\_\_\_\_ % Completed: \_\_\_\_\_

I hereby certify that the above is accurate to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**OEBO SCHEDULE 4 – SUBCONTRACTOR/SUBCONSULTANT PAYMENT CERTIFICATION**

A properly executed Schedule 4 shall be submitted for each Subcontractor/subconsultant after receipt of payment from the Prime. The Prime shall submit this form with each payment application or invoice submitted to the County when the COUNTY has paid the Prime on the previous payment application for services provided by a Subcontractor/subconsultant. All named Subcontractors/subconsultants on this form must also complete and submit a separate Schedule 4 after receipt of payment. If the Prime is an S/M/WBE, completion of a Schedule 4 is also required to document all portions of work performed by their work force. **A completed release of lien form can be submitted in lieu of a Schedule 4.**

This is to certify that \_\_\_\_\_ received a  
(Subcontractor/subconsultant Name)

(Monthly) or (Final) payment of \$ \_\_\_\_\_ from \_\_\_\_\_  
(Prime Contractor Name)

On \_\_\_\_/\_\_\_\_/\_\_\_\_ for my \_\_\_\_\_ Invoice for labor and/or materials supplied  
MM DD YYYY Month

On \_\_\_\_\_ / \_\_\_\_\_  
(Project Name) (Project No.)

DEPT.: \_\_\_\_\_ TASK ORDER/WORK ORDER/DELIVERY ORDER/PURCHASE ORDER/ NO.: \_\_\_\_\_

PRIME CONTRACTOR/CONSULTANT VENDOR CODE: \_\_\_\_\_

SUBCONTRACTOR/SUBCONSULTANT VENDOR CODE: \_\_\_\_\_

If the undersigned intends to distribute any portion of this payment to another Subcontractor/subconsultant, please list the business name and the amount below accompanied by a separate properly executed Schedule 4.

\_\_\_\_\_ Price or Percentage: \_\_\_\_\_  
Name of 2<sup>nd</sup>/3<sup>rd</sup> tier Subcontractor/subconsultant

By: \_\_\_\_\_  
(Signature of Subcontractor/subconsultant) (Name & Title of Person executing on behalf of Subcontractor/subconsultant)

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Print, Type or Stamp Commissioned Name of Notary

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_ Type of Identification \_\_\_\_\_



## **PALM BEACH COUNTY LIVING WAGE**

October 1, 2023, through September 30, 2024.

This notice is provided in accordance with the Palm Beach County Living Wage Ordinance and reflects the adjusted living wage effective October 1, 2023, through September 30, 2024.

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### **NOTICE TO EMPLOYEES (ENGLISH):**

If you are employed to provide certain services to Palm Beach County, your employer may be required by Palm Beach County law to pay you at least **\$14.83** per hour. If you are not paid this hourly rate, contact your supervisor or Palm Beach County.

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### **NOTIFICACIÓN A PATRONES (ESPAÑOL):**

Si usted tiene un empleo por el cual provee ciertos servicios al Condado de Palm Beach, el Condado de Palm Beach puede requerir de su patrón que le pague a usted por lo menos **\$14.83** por hora. Si a usted no se le paga esta cantidad por hora, póngase en contacto con su supervisor o el Condado de Palm Beach.

---

### **AVI POU ENPLWAYE-YO (CREOLE):**

Si ke ou enplwaye pou bay kek sévis pou Komin-n Palm Beach-la, Dapré la Lwa, Bos travay-la sipoze peye-w o mwen **\$14.83** pa lé. Si yo pa peye-w valé sa-a, se pou-w kontakte sipévize-w la o byen Komin-n Palm Beach-la.

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**CERTIFICATION OF COMPLIANCE  
WITH  
THE LIVING WAGE ORDINANCE**

The Palm Beach County Living Wage Ordinance states: "Every six (6) months the non-county employer shall certify and file with the construction department if the non-county employer is a general contractor, or with the general contractor if the non-county employer is a subcontractor, certification that all non-county employees who worked on each construction contract during the preceding six month period were paid the living wage in compliance with this division."

The undersigned authorized person hereby certifies that the above requirements are adhered to and that payroll records are being maintained in accordance with the requirements of the Ordinance.

Project: \_\_\_\_\_

\_\_\_\_\_  
Contractor

By: \_\_\_\_\_

Signature

\_\_\_\_\_  
Title

Date: \_\_\_\_\_



**CMR CONTRACT EXHIBIT E**  
**SPECIAL CONDITIONS**

## **SPECIAL CONDITIONS TABLE OF CONTENTS**

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## SC 1 SPECIAL CONDITIONS

The following supplements, modifies, changes, deletes from or adds to the General Conditions of this Contract. Where any paragraph or subparagraph is modified or deleted by these supplements, the unaltered provision of that paragraph, subparagraph or clause shall remain in effect.

## SC 2 PROJECT TEAM

Key members of the Project Team as referenced in the specifications are defined as follows:

1. Property Manager: Jupiter Stadium, Ltd. (JSL)
2. Construction Manager: \_\_\_\_\_
3. Architect: Fawley Bryant Architects, Inc. d/b/a Fawley Bryant Architecture
4. User: JSL
5. JSL's Project Representative: Marc Taylor, Marc Taylor, Inc. ("MTI"), mtaylor@marc-taylor.com
6. CM's Representative: \_\_\_\_\_
7. Architect's Representative: Kirk Bauer, kbauer@fawleybryant.com
8. Governmental and Regulatory agencies having jurisdiction over this project include: Town of Jupiter, Florida and Palm Beach County, Florida
9. Utility companies providing service to the project include Florida Power & Light (Electrical), AT&T (Telephone), Town of Jupiter (Water), Loxahatchee River District (Water Runoff).

## SC 3 LOCATION OF WORK

Roger Dean Chevrolet Stadium and Sports Complex, located at 4751 Main St., Jupiter, FL 33458

## SC 4 WORK CONSTRAINTS

Normal allowable Project work hours are from 7:00am to 5:00pm Monday thru Friday. Requests by the Construction Manager to work outside this time frame including weekend and Holiday work shall be made to JSL at least 3 work days prior to the requested work time change.

Part of the Work will take place during time periods overlapping with events at the Facility, including, without limitation, continuous office occupancy and training and other activities throughout the complex, and games at Roger Dean Stadium that may be scheduled by Major

League Baseball, Low-A Southeast League, Florida Complex League or any other organizer. Areas of the Project site that are used by JSL or any of its permitted users for their operations include, without limitation, the stadium playing field, dugouts, bullpens, players' clubhouses, umpires' locker rooms, training rooms, offices, concourses, spectator seating areas, concessions, press boxes, concessions, storage rooms, restrooms, adjacent training fields, parking lots, and all other areas of the Facility that may be used or accessed by JSL, authorized users of the Facility and their respective employees, contractors, vendors, patrons or invitees during any such event at the Facility.

Construction Manager must, within a reasonable time before each activity or event or as directed by JSL, secure all tools, equipment and materials from areas of public access in a manner that does not obstruct or interfere with the operations of JSL. Construction Manager acknowledges that its failure to comply with the requirements of this section will result in significant lost revenues, costs, expenses, risks and other damages.

Construction Manager must access the Sports Complex at the construction entrance/exit designated by JSL, which JSL may, at its sole discretion, designate another construction entrance/exit and/or modify. Construction Manager must mark such designated construction entrance/exit with appropriate signage in a form and manner acceptable to JSL and in compliance with applicable law, including, without limitation those pertaining to labor relations. Construction Manager must cause all Trade Contractors to access the Facility by the construction entrance/exit designated by JSL.

#### SC 5 FIELD OFFICE

JSL will designate a location for a field office at a designated location within the Roger Dean Chevrolet Stadium sports complex.

#### SC 6 CONCURRENT WORK

The following work, under separate contract to JSL, is anticipated to occur during the contractual time frames of the Project: TBD

The foregoing in no way limits JSL's rights to execute additional work on the site under separate contract.

#### SC 7 PESTICIDES AND HERBICIDES APPLICATION

Construction Manager shall provide evidence to JSL of proper certification of applicators of pesticides or herbicides prior to the application of those products on JSL's property.

#### SC 8 NPDES PERMIT FOR STORM WATER DISCHARGE

On projects where construction activities disturb one acre of land or more, the Construction Manager will be required to comply with the County's NPDES General Permit which includes implementation of a storm water pollution prevention plan (SWPPP) during construction.

SC 9 NOT USED

SC 10 TAXES

Construction Manager shall pay all taxes, levies, duties and assessments of every nature which may be applicable to any Work under this Contract. The Contract Sum and any agreed variations thereof shall include all taxes imposed by law. Construction Manager herein indemnifies and holds JSL and County harmless from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

10.1 County Furnished Materials

10.1.1 The Construction Manager shall include Florida State Sales Tax (Sales Tax) and other applicable taxes in its bid for material, supplies, and equipment. The County as the owner of the property is exempt from sales tax, so JSL reserves the right to request that the County make direct purchases of various construction materials included in the Construction Managers bid and/or contract.

JSL reserves the right to require Construction Manager to assign some or all of its subcontracts or other agreements with material suppliers directly to County. Any materials purchased by County pursuant to such an assignment of a material supply subcontract or agreement of a material supply subcontract or agreement shall be referred to as "County-Furnished Materials" and the responsibilities of both JSL and Construction Manager relating to such County Furnished Materials shall be governed by the terms and conditions of these Special Conditions, which shall take precedence over other conditions and terms of the Contract where inconsistencies or conflicts exist. In addition, the County's standard terms and conditions associated with purchase ordered materials will be applicable to all County Furnished Materials.

10.1.2 Material suppliers shall be selected by the Construction Manager awarded the contract by the competitive bid process. Supply contracts shall be awarded by the Construction Manager to the supplier whose bid/proposal is most advantageous to JSL, price and other factors considered.

The Construction Manager shall include the price for all construction materials in its bid. County-purchasing of construction materials, if selected, will be administered on a deductive Change Order basis.

10.1.3 To enable the County and JSL to realize savings of Sales Tax on selected tangible personal property needed for this Project, the Construction Manager will provide to JSL and the County a list of all intended suppliers, vendors, and materialmen for consideration as County-Furnished Materials. The Construction Manager shall submit price quotes from the vendors, as well as a description of the materials to be supplied, quantities and prices. The Construction Manager will evaluate the list to recommend direct purchases where those direct purchases will result in Sales Tax Savings to the Project. JSL will present direct purchase requests to the County and the County will either accept or reject the Construction Manager's recommendations and purchases will be made according to County procedures.

10.1.4 Construction Manager shall identify materials which the County will furnish through this

County Furnished Materials clause which will achieve a minimum agreed upon goal of tax savings. County may agree to furnish materials worth more than the minimum agreed goal. The Construction Manager will provide the necessary clerical and administrative services support required to implement this Special Condition.

In a timely manner, Construction Manager shall prepare "Purchasing Requisition Request Forms" which shall, in form and detail be acceptable to JSL and County, specifically identify the materials which JSL may, in its discretion, elect to recommend to County to purchase directly. The Purchasing Requisition Request Form shall include:

- a. the name, address, telephone number and contact person for the material supplier
- b. manufacturer or brand, model of specification number of the item
- c. quantity needed as estimated by Construction Manager
- d. the price quoted by the supplier for the materials identified therein
- e. any sales tax associated with such quote
- f. shipping and handling insurance cost
- g. 100% Performance Bond cost
- h. delivery dates as established by Construction Manager
- i. any reduction in Construction Manager's cost for both the Payment Bond and the Performance Bond
- j. detail concerning bonds or letters of credit provided by the supplier if included in its proposal

Construction Manager shall include copies of vendors' quotations, and specifically reference any terms and conditions which have been negotiated with the vendors concerning letters of credit, terms, discounts, or special payments.

10.1.5 The following procedure, which is a waiver of the Palm Beach County Procurement Code, will be used for the implementation of this program.

After receipt of the Purchasing Requisition Request Form, JSL will coordinate with County to prepare County Purchase Orders (hereinafter Purchase Orders) for items of material which JSL chooses for the County to purchase directly. Upon request of JSL, Construction Manager shall prepare the Purchase Orders for submission to the County in lieu of the Purchasing Requisition Request Form. Once the Purchase Order has been prepared and executed, it shall be issued directly to the vendor by the County, in coordination with JSL. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Construction Manager, less any sales tax associated with such price. Promptly upon issuance of each Purchase Order by the County, Construction Manager shall verify the purchase of the items in accordance with the terms of the Purchase Order and in a manner to assure timely delivery of items. Palm Beach County's Director of Purchasing or his designated representative shall be the approving authority for the County on Purchase Orders in conjunction with County-Furnished Materials. The Purchase Order shall require that the supplier provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the County-Furnished Materials on the delivery dates provided by the Construction Manager in the Purchasing Requisition Request Form. The Vendor shall issue its invoice, for all materials supplied pursuant to a County Purchase Order, directly to the County.

10.1.6 In conjunction with or prior to the execution of the Purchase Orders by the suppliers, the Construction Manager shall execute and deliver to JSL one or more deductive Change Orders, in accordance with General Conditions (GC 65 Changes) referencing the full value of all County-Furnished Materials to be provided by each supplier from whom JSL recommended and County elected to purchase material directly, plus all sales taxes associated with such materials in Construction Manager's bid to JSL, plus savings to Construction Manager in the cost of Payment and Performance Bonds associated with such County-Furnished Materials.

10.1.7 All shop drawings and submittals shall be made in accordance with GC 46, Drawings, Data & Samples, of the General Conditions.

10.1.8 Construction Manager shall be fully responsible for all matters relating to the receipt of materials furnished by JSL or County in accordance with these Special Conditions including, but not limited to, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases providing and obtaining all warranties and guarantees required by the Contract, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials following acceptance of items by JSL due to the negligence of the Construction Manager. The Construction Manager shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Construction Manager for the particular materials furnished. The Construction Manager shall provide all services required for the unloading, handling and storage of materials through installation. The Construction Manager agrees to indemnify and hold harmless the County and JSL from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions of the Construction Manager.

10.1.9 As County-Furnished Materials are delivered to the jobsite, the Construction Manager shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of County-Furnished Materials is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order together with such additional information as the County or JSL or Project Manager may require. The Construction Manager will then forward the invoice and documentation to JSL through the Project Manager for payment.

10.1.10 The Construction Manager shall insure that County-Furnished Materials conform to the specifications, and determine prior to incorporation into the Work if such materials are patently defective, and whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Construction Manager discovers defective or non-conformities in County-Furnished Materials upon such visual inspection, the Construction Manager shall not utilize such nonconforming or defective materials in the Work and instead shall promptly notify JSL of the defective or nonconforming condition so that repair or replacement of those materials can occur without any undue delay or interruption to the Project. If the Construction Manager fails to perform such inspection and otherwise incorporates into the Work such defective or nonconforming County-Furnished Materials, the condition of which it either knew or should have known by performance of an inspection, Construction Manager shall be responsible for all damages to JSL and County resulting from Construction Manager's

incorporation of such materials into the Project, including liquidated or delay damages.

10.1.11 The Construction Manager shall maintain records of all County-Furnished Materials incorporated into the Work from the stock of County-Furnished Materials in its possession. The Construction Manager shall account monthly to JSL through the Project Manager for any County-Furnished Materials delivered into the Construction Manager's possession, indicating portions of all such materials which have been incorporated into the Work.

10.1.12 The Construction Manager shall be responsible for obtaining and managing all warranties and guarantees for all materials and products as required by the Contract. All repair, maintenance or damage-repair calls shall be forwarded to the Construction Manager for resolution with the appropriate supplier, vendor, or subcontractor.

10.1.13 Notwithstanding the transfer of County-Furnished Materials by the County to the Construction Manager's possession, the County shall retain legal and equitable title to any and all County-Furnished Materials. If the Construction Manager is required to maintain Builders Risk or Inland Marine/Transit insurance on said County-Furnished Materials, the Loss Payee endorsement on said policies shall read "Palm Beach County Board of County Commissioners."

10.1.14 The transfer of possession of County-Furnished Materials from the County to the Construction Manager shall constitute a bailment for the mutual benefit of the County and the Construction Manager. The County shall be considered the bailor and the Construction Manager the bailee of the County-Furnished Materials. County-Furnished Materials shall be considered returned to the County for purposes of their bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project.

10.1.15 Neither JSL nor County shall in any way be liable for any interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from any delay in the delivery of, or defects in, County-Furnished Materials.

10.1.16 On a monthly basis, Construction Manager shall be required to review invoices submitted by all suppliers of County-Furnished Materials delivered to the project sites during that month and either concur or object to the issuance of payment to the suppliers, based upon Construction Manager's records of materials delivered to the site and any defects in such materials.

10.1.17 In order to arrange for the prompt payment to the suppliers, the Construction Manager shall provide to JSL a list indicating the acceptance of the goods or materials within 15 days of receipt of said goods or materials. The list shall include a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonable required by JSL or County. Upon receipt of the appropriate documentation, JSL or County (as applicable) shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be released, delivered and remitted directly to the supplier. The Construction Manager agrees to assist JSL to immediately obtain partial or final release of waivers as appropriate.

10.1.18 JSL or County (as applicable) shall be entitled to the benefits of any discounts attributable to the early payment of vendor invoices for materials furnished by JSL or County (as applicable)



pursuant to these specifications.

10.1.19 The material supplier may be required to provide a Supply Bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to JSL. If the supply bond is required, the cost of the bond will be added to the amount of the purchase order.

The premium cost for the surety bond should not be included in the bid price. Verifying that a designated material supplier can furnish a supply bond will be the responsibility of the Construction Manager.

SC 11 NOT USED

#### SC 12 CM/SBE PARTNERING PROGRAM REPORTING

If the Construction Manager in its proposal to JSL agreed to participate in the County's CM/SBE Partnering program and received evaluation preference points from the Selection Committee for partnering with an SBE firm, then the following contract terms apply:

12.1 The Construction Manager shall have an executed memorandum of understanding (MOU) with the partnering SBE that sets out the types of developmental assistance that the Construction Manager will provide to the partnering SBE, the scope of services to be rendered by the partnering SBE on the project; the anticipated dollar value or percentage of the construction management contract that will be performed by the partnering SBE; and the frequency of meetings between the Construction Manager and the partnering SBE.

12.2 The Construction Manager must file a final report with JSL at the conclusion of the project that summarizes the assistance provided to partnering SBE and indicates if the goals in the MOU were achieved. The final report will also include a "lessons learned" section which evaluates the success of the partnering arrangement.

**CMR CONTRACT EXHIBIT F  
FORMS OF PUBLIC CONSTRUCTION BOND and GUARANTY**

**PUBLIC CONSTRUCTION BOND**

BOND NUMBER \_\_\_\_\_

BOND AMOUNT \_\_\_\_\_

CONTRACT AMOUNT \_\_\_\_\_

CONTRACTOR'S NAME: \_\_\_\_\_

CONTRACTOR'S ADDRESS: \_\_\_\_\_

CONTRACTOR'S PHONE: \_\_\_\_\_

SURETY COMPANY: \_\_\_\_\_

SURETY'S ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SURETY'S PHONE: \_\_\_\_\_

OWNER'S NAME: PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS  
CAPITAL IMPROVEMENTS DIVISION

OWNER'S ADDRESS: 2633 Vista Parkway  
West Palm Beach, FL 33411-5604

OWNER'S PHONE: (561) 233-0261

DEVELOPER'S NAME: JUPITER STADIUM, LTD.

DEVELOPER'S ADDRESS: 4751 Main Street  
Jupiter, FL 33458

DEVELOPER'S PHONE: (561) 775-1818

PROJECT NAME: Roger Dean Chevrolet Stadium and Sports Complex Renovation Project

DESCRIPTION OF WORK: Upgrades, additions, replacements and/or alterations of Roger Dean Chevrolet Stadium Sports Complex, a facility owned by Palm Brach County, Florida, and developed by Jupiter Stadium, LTD in accordance with the Developer Agreement (Contract R2002 0520), dated May 17, 2022.

PROJECT ADDRESS, PCN, or LEGAL DESCRIPTION: 4751 Main Street, Jupiter, FL 33458

This Bond is issued in favor of the JSL conditioned on the full and faithful performance of the Contract.

KNOW ALL MEN BY THESE PRESENTS: that Contractor and Surety, are held and firmly bound unto:  
Palm Beach County Board of County Commissioners  
301 N. Olive Avenue  
West Palm Beach, Florida 33401

herein called County,

and

Jupiter Stadium, Ltd.  
4751 Main Street  
Jupiter, Florida 33458

herein called JSL,

as Co-Obligees, for the use and benefit of claimant as hereinbelow defined, in the amount of

Dollars \$

(Here insert a sum equal to the Contract Price)

for the payment whereof Principal and Surety bind themselves, their heirs, personal representatives, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Principal has by written agreement entered into a contract with the Co-Obligees for

Project Name: ROGER DEAN CHEVROLET STADIUM & SPORTS COMPLEX  
RENOVATION PROJECT  
Project Description: Upgrades, additions, replacements and/or alterations of Roger Dean  
Chevrolet Stadium Sports Complex  
Project Location: 4751 Main Street, Jupiter, Florida 33458

in accordance with Drawings and Specifications prepared by

NAME OF ARCHITECTURAL FIRM: Fawley Bryant Architects, Inc. d/b/a Fawley  
Bryant Architecture  
LOCATION OF FIRM: 5391 Lakewood Ranch Blvd., Sarasota, Florida 324240  
PHONE: (941) 343-4070

which contract is by reference made a part hereof in its entirety, and is hereinafter referred to as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract between Principal and JSL for the construction of upgrades, additions, replacements and/or alterations of Roger Dean Chevrolet Stadium Sports Complex, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and

2. Promptly makes payments to all claimants, as defined in Section 255.05, Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and

3. Pays JSL and/or County (as applicable) all losses, damages (including liquidated damages), expenses, costs, and attorneys' fees, including appellate proceedings, that JSL and/or County (as applicable) sustains because of a default by Principal under the contract; and

4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

5. Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond. Any increase in the total contract amount as authorized by JSL shall accordingly increase the Surety's obligation by the same dollar amount of said increase. Contractor shall be responsible for notification to Surety of all such changes.

6. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of construction liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against the bond.

7. Principal and Surety expressly acknowledge that any and all provisions relating to consequential, delay and liquidated damages contained in the contract are expressly covered by and made a part of this Performance, Labor and Material Payment Bond. Principal and Surety acknowledge that any such provisions lie within their obligations and within the policy coverages and limitations of this instrument.

Section 255.05, Florida Statutes, as amended, together with all notice and time provisions contained therein, is incorporated herein, by reference, in its entirety. Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes. This instrument regardless of its form, shall be construed and deemed a statutory bond issued in accordance with Section 255.05, Florida Statutes.

Any action brought under this instrument shall be brought in the court of competent jurisdiction in Palm Beach County and not elsewhere. Dated \_\_\_\_\_, 2024.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**Principal** (Seal)

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**Surety** (Seal)

\_\_\_\_\_  
(Print Name and Title)

**IMPORTANT:** Surety companies executing bonds must appear and remain on the U.S. Treasury Department's most current list (Federal Register) during construction, guarantee and warranty periods, and be authorized to transact business in the State of Florida.

**FIRST PAGE MUST BE COMPLETED**

**BOND MUST CONTAIN ORIGINAL SIGNATURES. NO COPIES WILL BE ACCEPTED**

**FORM OF GUARANTEE**

GUARANTEE FOR Contractor Name: \_\_\_\_\_ and Surety Name:  
\_\_\_\_\_.

**We the undersigned** hereby guarantee that the ROGER DEAN CHEVROLET STADIUM & SPORTS COMPLEX RENOVATION PROJECT (Project No. \_\_\_\_\_) Palm Beach County, Florida, which we have constructed and bonded, has been done in accordance with the plans and specifications; that the work constructed will fulfill the requirements of the guaranties included in the Contract Documents. We agree to repair or replace any or all of our work, together with any work of others which may be damaged in so doing, that may prove to be defective in the workmanship or materials within a period of one year from the date of Substantial Completion of all of the above named work by Jupiter Stadium, Ltd, and/or the County of Palm Beach, State of Florida (as applicable), without any expense whatsoever to said JSL and/or County of Palm Beach, ordinary wear and tear and unusual abuse or neglect excepted by JSL and/or the County. When correction work is started, it shall be carried through to completion.

In the event of our failure to acknowledge notice, and commence corrections of defective work within five (5) working days after being notified in writing by JSL or the Board of County Commissioners, Palm Beach County, Florida, we, collectively or separately, do hereby authorize JSL and/or Palm Beach County to proceed to have said defects repaired and made good at our expense and we will honor and pay the costs and charges therefore upon demand.

DATED \_\_\_\_\_  
(Date to be filled in at substantial completion)

SEAL AND NOTARIAL  
ACKNOWLEDGMENT OF SURETY

\_\_\_\_\_  
(Contractor Name) (Seal)

By: \_\_\_\_\_  
(Contractor Signature)

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Surety Name) (Seal)

By: \_\_\_\_\_  
(Surety Signature)

\_\_\_\_\_  
(Print Name and Title)

**MUST CONTAIN ORIGINAL SIGNATURES, NO COPIES WILL BE ACCEPTED**

**CMR CONTRACT EXHIBIT G  
CONSTRUCTION DOCUMENTS**

A list of the anticipated set of Construction Documents follows. Any modifications or supplements to the Construction Documents implemented after the Effective Date hereof will be identified in the GMP Amendment.

**[Attached]**

## **RFP ATTACHMENT I**

### **PROJECT SUMMARY**

JSL initially plans for the construction phase of the work to commence after Spring Training 2025, with the major activities to be completed near the start of Spring Training Period of 2026 with punch list activities, close out and final completion occurring through and end of August 2026. The clubhouse renovation work for both the Cardinals and Marlins will be included in two phases. It is anticipated that JSL will maintain a level 2 renovation for the existing clubhouses which will allow Minor League Operations to maintain occupancy during construction and will allow use of their space during Extended Spring Training, FSL and FCL between April 5, 2025, and October 1, 2025, thereby phasing the MLB renovation work with the MILB renovation work. A more detailed projection of the schedule is below.

The Scope of the Project is defined in the RFP. The following is a summary and overview of the scope of the Project for reference (but not intended to be an exhaustive definition of every element of the work described in the RFP, including, without limitation, as depicted in the DD Drawings):

#### **Sports Complex Improvements**

1. Marlins Clubhouse
2. New Marlins Player Development Building
3. Marlins Batting Tunnels
4. Cardinals Clubhouse
5. New Cardinals Player Development Building
6. New Cardinals Dining/Meeting Building
7. Cardinals Batting Tunnel
8. Agility Fields
9. Sitework

#### **Stadium Improvements**

1. Visiting Team Clubhouse renovation
2. Third Base Group Seating and Bar Improvements
3. Stadium Administration Office Improvements
4. Stadium Ticketing Office Improvements
5. New Team Store
6. Grab-n-Go Concession Conversion
7. Press Box Renovations
8. New Center Field Batter's Eye
9. Walk in Freezer / Cooler Renovation
10. Art in Public Places
11. Relocated Bullpens
12. Expanded and Renovated Maintenance Complex
13. Stadium Sitework

#### **ADDITIONAL DETAIL:**



**Stadium Improvements: (Renovation of Existing)**

1. New two-story group fan area with 300 +/- ticketed seats, Standing Room only spaces, ADA Ramp connecting to existing elevated stadium concourse. Two new bars, one on grade and the other on the second floor, and new protective netting.
2. Convert 2 existing stadium concessions to modern grab and go function
3. Improvements to the existing commissary kitchen
4. Upgraded Press box seating, new press box windows, press dining Space, and finish upgrades.
5. New 3,000 SF team store adjacent to existing retail storage
6. Ticketing and executive office interior renovations
7. Stadium sound system improvements
8. Stadium wi-fi
9. Relocated bullpens to the outfield wall
10. New batter's eye

**Art in Public Places: (Improvement to Existing)**

11. Options for potential integration into the Public Places component within the stadium
12. Potential integration of the 1st and 3rd base stadium plaza locations

**Visiting Team Clubhouse (Renovations and additions to Existing)**

13. Renovate existing structure to meet MLB PDL requirements (team dining space, athletic training, visiting staff, visiting manager office, storage, laundry, etc)
14. Male and female umpire locker rooms to meet PDL requirements
15. New storage area
16. New emergency generator with 72hr run time with diesel fuel tank

**Maintenance Building: (Renovation of existing)**

17. Renovation of existing women's and men's restroom
18. Exterior improvements per Abacoa POA

**Maintenance Storage Building: (New Construction)**

19. New locker rooms for grounds staff
20. Female and Male Umpire Locker Rooms

21. Exterior covered storage area
22. Offices
23. Breakroom
24. Laundry Room
25. Gasoline dispensing and storage area
26. exterior material storage bays
27. Vehicle Washing Area
28. New irrigation pump utilizing existing infrastructure

**Marlins Clubhouse: (Renovation of Existing)**

29. Major and Minor league player and coaches locker room renovations
30. Major and Minor league Coaches Meeting Room renovations
31. Staff Locker Room renovations
32. Finish upgrades to Administration Offices and Conference Rooms

**Marlins Player Development Building: (New Construction)**

33. Strength and Conditioning space
34. Athletic Training for major and minor league players
35. Hydrotherapy plunge pools
36. Agility fields and necessary protective netting from adjacent fields

**Marlins Batting Tunnel: (Renovation of Existing)**

37. New synthetic turf
38. New retractable netting
39. Technology infrastructure improvements

**Cardinals Clubhouse: (Renovation of Existing)**

40. Major and Minor league player and coaches locker room renovations
41. Major and Minor league Coaches Meeting Room renovations
42. Staff Locker Room renovations
43. Finish upgrades to Administration Offices and Conference Rooms

**Cardinals Player Development Building: (New Construction)**

44. Strength and Conditioning space

45. Agility fields and necessary protective netting on adjacent fields
46. Hydrotherapy Plunge Pools
47. Athletic Training for Major and Minor League Players

**Cardinals Meeting Building: (New Construction)**

48. Flexible Meeting Room
49. Commercial kitchen with serving area
50. Team Dining area
51. Outdoor Dining area

**Cardinals Batting Tunnel: (New Construction)**

52. 6 batting tunnels and an enclosed video coaching space
53. All cages to have retractable netting
54. Exterior viewing area for the public to watch batting practice
55. Covered outdoor seating area for players
56. Portable mounds for indoor agility drills

It should be also noted, that JSL intends to undertake direct contracts of the fixtures, furnishing and equipment (FF&E) in coordination with the Project schedule to include but not be limited too, special systems, furniture, kitchens, training room, weight rooms, bar equipment, trash cans, laundry equipment, signage and graphics, baseball specific equipment etc. It will be anticipated however, the selected Proposer will provide all mechanical, electrical and plumbing supports, infrastructure, raceways and hookups required for the complete FF&E, and special systems packages provided by JSL. This work will be coordinated by a mutually accepted FF&E matrix determined at the time of GMP.

**RFP ATTACHMENT J**  
**PRELIMINARY SCHEDULE**

**[Attached]**

Task Name	Duration	Start	Finish
<b>RFP CMAR</b>	<b>43 days</b>	<b>Sun 2/11/24</b>	<b>Fri 4/12/24</b>
RFP Announced to County Vendor List	1 day	Sun 2/11/24	Thu 2/11/24
First Weekly Advertisement	1 day	Sun 2/11/24	Sun 2/11/24
Second Weekly Advertisement	1 day	Sun 2/18/24	Sun 2/18/24
Mandatory Pre-Proposal Conference - 2pm	1 day	Mon 3/4/24	Mon 3/4/24
Optional RDCS Complex Walkthrough	1 day	Fri 3/8/24	Fri 3/8/24
Deadline for Bidder Questions	1 day	Fri 3/15/24	Fri 3/15/24
Deadline for RFPs	1 day	Mon 3/25/24	Mon 3/25/24
Short List Committee: A Short List Committee will review and evaluate each Proposal based upon the criteria set forth in the RFP. At least three Proposers will be short listed. [TENTATIVE DATE, subject to change]	1 day	Wed 3/27/24	Wed 3/27/24
Final Selection Committee: Short-listed Proposers will make presentations to and be interviewed by a Final Selection Committee	1 day	TBD	TBD
Award of Contract (anticipated, subject to change)	1 day	Mon 4/8/24	Mon 4/8/24
SBE Outreach (Bid Community)	60 days	Tue 4/30/24	Mon 7/22/24
<b>SITE PLAN AMENDMENT / PLANNING AND ZONING</b>	<b>80 days</b>	<b>Wed 11/29/23</b>	<b>Tue 3/19/24</b>
Abacoa Architectural Review (Need Approval before Planning and Zoning)	8 wks	Wed 11/29/23	Tue 1/23/24
Submit Site Plan Amendment Submittal	1 day	Tue 12/5/23	Tue 12/5/23
SITE PLAN First Review	6 wks	Wed 12/6/23	Tue 1/16/24
SITE PLAN Respond to Comments	1 wk	Wed 1/17/24	Tue 1/23/24
SITE PLAN Second Review	6 wks	Wed 1/24/24	Tue 3/5/24
SITE PLAN Planning and Commissioning TOJ (CITY is pushing to get this through 2/13)	1 day	Tue 3/12/24	Tue 3/12/24
FB Respond to County Comments	1 wk	Mon 2/26/24	Fri 3/1/24
<b>CONSTRUCTION DOCUMENTS</b>	<b>66 days</b>	<b>Mon 3/4/24</b>	<b>Mon 6/3/24</b>
50% CD Early Review Set	25 days	Mon 3/4/24	Fri 4/5/24
Owner Program Budget Update 50% CD	5 wks	Mon 4/8/24	Fri 5/10/24
JSL Approval - Program Budget and Schedule (JSL to Issue NTP)	3 days	Mon 5/13/24	Wed 5/15/24
JSL Review Page Turn (Marlins)	2 days	Mon 4/8/24	Tue 4/9/24
JSL Review Page Turn (Cardinals)	2 days	Wed 4/10/24	Thu 4/11/24
JSL Stadium (Marlins and Cardinals)	2 days	Fri 4/12/24	Mon 4/15/24
FB CD Drawing Adjustments	6 days	Tue 4/16/24	Tue 4/23/24
90% FINAL CD Set (Balance of Work)	45 days	Mon 3/4/24	Fri 5/3/24
County Review and Comment of 90% CD	3 wks	Mon 5/6/24	Fri 5/24/24
FB Respond to County Comments	1 wk	Mon 5/27/24	Fri 5/31/24
100% CD GMP SET	1 day	Mon 6/3/24	Mon 6/3/24
<b>PERMITTING (TOWN OF JUPITER)</b>	<b>40 days</b>	<b>Tue 6/4/24</b>	<b>Mon 7/29/24</b>
PERMIT #1 Submit for TOJ First Review	4 wks	Tue 6/4/24	Mon 7/1/24
PERMIT #1 A&E Response Comment	1 wk	Tue 7/2/24	Mon 7/8/24
PERMIT #1 Submit for TOJ Second Review Comments	3 wks	Tue 7/9/24	Mon 7/29/24
<b>SITE CIVIL PERMITTING</b>	<b>80 days</b>	<b>Mon 2/26/24</b>	<b>Fri 6/14/24</b>
South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) (2 rounds of comments)	3 mons	Mon 2/26/24	Fri 5/17/24
SFMWD Water Use Permit for Dewatering	1 mon	Mon 4/22/24	Fri 5/17/24
Northern Palm Beach County Improvement District - Drainage General Permit (2 rounds of comments)	3 mons	Mon 2/26/24	Fri 5/17/24
Loxahatchee River District - Sewer Agreement and Plan Review (2 rounds of comments)	2.5 mons	Mon 2/26/24	Fri 5/3/24
Town of Jupiter - Engineering and Water Utilities Permit (2 rounds of comments)	4 mons	Mon 2/26/24	Fri 6/14/24
PBC Health Department - Water and Sewer Construction Permits (1 round of comments)	1 mon	Mon 5/20/24	Fri 6/14/24
Early Site Work Can Commence	0 days	Fri 6/14/24	Fri 6/14/24
<b>PRECONSTRUCTION PHASE</b>	<b>14 days</b>	<b>Wed 4/17/24</b>	<b>Mon 5/6/24</b>
Preliminary Schedule Assessment	14 days	Wed 4/17/24	Mon 5/6/24
Site Assesments	14 days	Wed 4/17/24	Mon 5/6/24
Logistic Plans	14 days	Wed 4/17/24	Mon 5/6/24
<b>GMP DEVELOPMENT</b>	<b>105 days</b>	<b>Mon 5/6/24</b>	<b>Fri 9/27/24</b>
Bid Scope, Bid Form Development, Schedule and Coordination Packages	20 days	Mon 5/6/24	Fri 5/31/24
Advertise Bidders	30 days	Mon 6/3/24	Fri 7/12/24
GMP Bid Phase	6 wks	Mon 7/15/24	Fri 8/23/24
Bid Scope Interviews	2 wks	Mon 8/26/24	Fri 9/6/24
Final GMP Deliverable	1 wk	Mon 9/9/24	Fri 9/13/24
Approval and Execution JSL, PBC, CMAR	10 days	Mon 9/16/24	Fri 9/27/24
<b>SPRING TRAINING SEASON</b>	<b>42 days</b>	<b>Wed 2/5/25</b>	<b>Thu 4/3/25</b>
Spring Training Season	42 days	Wed 2/5/25	Thu 4/3/25
<b>CONSTRUCTION</b>	<b>525 days</b>	<b>Mon 9/9/24</b>	<b>Fri 9/11/26</b>
<b>ENABLING WORK</b>	<b>110 days</b>	<b>Mon 9/9/24</b>	<b>Fri 2/7/25</b>
Enabling Work (AND or Early Procurement if Necessary)	95 days	Mon 9/30/24	Fri 2/7/25
Early Submittals Electrical, Batting Tunnels, Hydrotherapy, Mechanical Equipment Etc.	45 days	Mon 9/9/24	Fri 11/8/24
<b>CLUBHOUSE RENOVATION / HEAVY AND LIGHT - FSL / FCL (with Punchlist, Substantial Completion, TCO, FFE Install)</b>	<b>218 days</b>	<b>Fri 4/4/25</b>	<b>Tue 2/3/26</b>
Marlins Existing Clubhouse Heavy Renovation MLB (15,000 SF)	128 days	Fri 4/4/25	Tue 9/30/25
Marlins MiLB Clubhouse Light Renovation (25,000/SF)	90 days	Wed 10/1/25	Tue 2/3/26
Cardinals Existing Clubhouse Heavy Renovation MLB (15,000 SF)	128 days	Fri 4/4/25	Tue 9/30/25
Cardinals MiLB Clubhouse Light Renovation (25,000/SF)	90 days	Wed 10/1/25	Tue 2/3/26
<b>CLUBHOUSES (with Punchlist, Substantial Completion, TCO, FFE Install)</b>	<b>220 days</b>	<b>Fri 4/4/25</b>	<b>Thu 2/5/26</b>
Site Work Player Development Areas	11 mons	Fri 4/4/25	Thu 2/5/26
Marlins Player Development New (12,500/SF)	11 mons	Fri 4/4/25	Thu 2/5/26
Marlins Batting Tunnel Renovation (9,650/SF)	11 mons	Fri 4/4/25	Thu 2/5/26
Cardinals Player Development Building New (12,500/SF)	11 mons	Fri 4/4/25	Thu 2/5/26
Cardinals Dining Building New (6,932/SF)	11 mons	Fri 4/4/25	Thu 2/5/26
Cardinals New Batting 6 Bay Tunnel Building (15,075 SF)	11 mons	Fri 4/4/25	Thu 2/5/26
<b>STADIUM ( (with Punchlist, Substantial Completion, TCO, FFE Install)</b>	<b>230 days</b>	<b>Fri 4/4/25</b>	<b>Thu 2/19/26</b>
Sitework Stadium	11.5 mons	Fri 4/4/25	Thu 2/19/26
Team Store New Addition (3,752/SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
Visiting Team Clubhouse Renovation / Addition (6,127/SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
Third Base Bar New Terrace (6,739/SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
Grab and Go Renovation (800SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
Admin and Ticketing Office Renovation (5,000/SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
Press Level Renovation (4,850/SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
Walk in Cooler / Commissary Kitchen Remodel (700/SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
Bull Pens and Batters Eye @ Existing Outfield Wall	5.1 mons	Wed 10/1/25	Thu 2/19/26
Grab and Go Renovation (800/SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
Renovation Maintenance Facility (5,594/SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
New Maintenance Facility (7,170/SF)	11.5 mons	Fri 4/4/25	Thu 2/19/26
<b>CLOSE OUT ANTICIPATED</b>	<b>156 days</b>	<b>Fri 2/6/26</b>	<b>Fri 9/11/26</b>
Complete Punchlist Player Development (Restricted Hours During Spring Training 2-5-26 through 4-3-26)	100 days	Fri 2/6/26	Thu 6/25/26
Complete Punchlist Stadium (Restricted Hours During Spring Training 2-19-26 through 4-3-26)	100 days	Fri 2/20/26	Thu 7/9/26
Operations and Maintenance Logs Player Development	120 days	Fri 2/6/26	Thu 7/23/26
Operations and Maintenance Logs Stadium	120 days	Fri 2/20/26	Thu 8/6/26
Final Asbuilts and Record Drawings	140 days	Fri 2/20/26	Thu 9/3/26
Final Certificate of Occupancy/ Final Completion	6 days	Fri 9/4/26	Fri 9/11/26