

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

REVISED

Meeting Date: March 10, 2015

Consent
 Ordinance

Regular
 Public Hearing

Department: County Administration

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

- A) a budget transfer of \$5,000,000 from reserves in the 1st Cent Tourist Local Option Tax Fund to increase the Public Building Improvement transfer line;
- B) a budget amendment of \$5,000,000 in the Public Building Improvement Fund recognizing the transfer from the 1st Cent Tourist Local Option Tax Fund and establishing a project budget;
- C) an Access Agreement with the City of West Palm Beach, a municipal corporation ("City") granting County access to City-owned property located between Military Trail and Haverhill Road ("Property") to enable pre-purchase due diligence evaluation and testing of the Property; and
- D) contingent on the City approving the Access Agreement on March 16, 2015, a Due Diligence and Planning Services Agreement with HW Spring Training Complex, LLC, a Florida Limited Liability Company (the "LLC") authorizing the LCC to perform and be paid for preconstruction evaluation and testing of the Property.

Summary: The Access Agreement and the Due Diligence and Planning Services Agreement (collectively Agreements) act as precursors to the Interlocal Agreement, Developer and Sports Facility Use Agreements (collectively Operative Agreements) contemplated by the material term sheet which was approved by the City and the County on February 2nd and 3rd, 2015 respectively. The Agreements are necessary in order to gather the information needed for the City, County and the LLC to negotiate the Operative Agreements in a timeframe which is consistent with the Teams' intent to open the new facility for the 2017 spring training season. The Access Agreement identifies the purposes and terms under which the City will allow access to the Property, by which the County may begin to submit permit and development applications to regulatory agencies and allows for pre-Interlocal Agreement land reclamation activities. The Due Diligence and Planning agreement; 1) assigns all of the County obligations under the Access Agreement to the LLC, 2) identifies the terms under which the LLC can proceed with land reclamation and design activities prior to the Operative Agreement being executed, and 3) the terms under which the County will fund these activities through the project budget. The Due Diligence and Planning agreement also requires that the LLC reimburse the County for all expenses paid in the event that the Operative Agreements are never executed (project does not move forward). Administration/Countywide/District 7 (HF/MJ)

Background and Policy Issues:

Attachments:


- (A) Budget Transfer
- (B) Budget Amendment
- (C) Site Access Agreement
- (D) Due Diligence and Planning Agreement

Recommended By: _____

Department Director

Date

Approved By: _____


Deputy County Administrator

3/10/15
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	5,000,000				
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	5,000,000				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget: Yes _____ No x

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____ Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

The use of the 1st Cent for this purpose was conceptually approved by the BCC on October 21, 2014. This item establishes the necessary appropriation budget however the actual transfer of fund cannot take place until the Ordinance is revised.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 3/4/15
 OFMB ^{KW} ASD ^{5/14/15}
 3/4 3/4 3/4/15

[Signature] 3/5/15
 Contract Development and Control
 3-5-15 @ Wheeler

B. Legal Sufficiency:

[Signature] 3/6/15
 Assistant County Attorney

* contingent upon receipt of Corp. resolution authorizing signatures on Guarantys.

C. Other Department Review:

 Department Director

2015 - 0684

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

BUDGET TRANSFER
Fund 1458 - 1st Cent Tourist Local Option Tax

BGEX 021915-970

ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 03/03/15	REMAINING BALANCE
<u>EXPENDITURES</u>							
820-7290-9204 Transfer to Public Bldg. Improv Fund 3804	6,900,000	6,900,000	5,000,000	0	11,900,000		11,900,000
710-7345-9902 Operating Reserves	15,504,667	15,504,667	0	5,000,000	10,504,667	0	16,504,667
TOTALS			5,000,000	5,000,000			

Tourist Development

 INITIATING DEPARTMENT/DIVISION
 Administration/Budget Department Approval
 OFMB Department - Posted

Signatures & Dates

[Signature] 2/29/15
[Signature] 3/11/15

BY BOARD OF COUNTY COMMISSIONERS
 AT MEETING OF
 3/10/2015
 Deputy Clerk to the
 Board of County Commissioners

ASD
2/11/15

2015 - 0685

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET AMENDMENT

FUND 3804 - Public Building Impr Fund

BGRV 021915-484
BGEX 021915-971

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED 3/3/2015	REMAINING BALANCE
REVENUES								
3804-411-B590-8314	Tr Fr TDC 1st Cent Pd 1458	0	0	5,000,000		5,000,000		
Total Receipts and Balances		45,483,096	43,910,866	5,000,000		5,000,000		
EXPENDITURES								
3804-411-B590-6502	New Stadium	0	0	5,000,000		5,000,000		5,000,000
Total Appropriations & Expenditures		45,483,096	43,910,866	5,000,000		5,000,000		

<p>Office of Financial Management & Budget INITIATING DEPARTMENT/DIVISION Administration/Budget Department Approval OFMB Department - Posted</p>	<p>Signatures & Dates <i>Asst. Mgr. Wolf</i> 2/26/15 <i>[Signature]</i> 3/4/15</p>	<p>By Board of County Commissioners At Meeting of 3/10/15 Deputy Clerk to the Board of County Commissioners</p>
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H:\OFMB\New Stadium Bud Amend 3-10-15 rev

AKD
2/4/15

ACCESS AGREEMENT

WPB No. 15565

This Access Agreement is made and entered into on _____ by and between **Palm Beach County**, a political subdivision of the State of Florida ("County") and the **City of West Palm Beach**, a municipality duly organized and existing by virtue of the laws of the State of Florida ("City").

WHEREAS, City owns 167 acres of vacant land located between Military Trail and Haverhill Road as legally described in Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, City and County are negotiating an exchange of the Property for other County owned property ("County Property"); and

WHEREAS, the acquisition of the Property by County will facilitate County's development of a joint use major league baseball spring training facility in West Palm Beach (the "Project"); and

WHEREAS, in order to determine the suitability of the Property and meet certain deadlines for development of the Project to facilitate the future exchange of the Property for the County Property, County requires access to the Property to perform certain inspections and predevelopment activities as more fully described below, and City has agreed to allow County to perform such inspections and predevelopment activities prior to completing negotiation of an agreement for the exchange of the Property and County Property.

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. City hereby grants the County and its duly authorized agents, contractors and employees the right to enter upon the Property for the purpose of performing prepurchase due diligence including, without limitation, surveying, soundings, drillings, appraisals, environmental assessments and examinations (the "Inspections") in order to evaluate the physical and environmental condition of the Property and to establish an estimate of its fair market value. All Inspections shall be performed by people or entities properly licensed in the respective areas or matters tested. County shall provide City with a list of staff and/or consultants authorized to act on behalf of the County in the performance of such activities. The County shall be responsible for, and shall, at its sole cost and expense, promptly repair any damage resulting from the exercise of the rights granted hereby, and restore the Property to the condition it was in prior to such damage, using materials of like kind and quality. The County shall deliver to City complete copies of all reports or similar items evidencing the results of the Inspections.

2. County, its agents, contractors and employees shall also have the right, at County's option, to perform remediation of any environmental contamination that may exist affecting the soil and groundwater on and under the Property, and to remove unsuitable materials from the Property in preparation for County's proposed development of the Property. All such activity shall be performed at County's sole risk and cost, and in accordance with industry standard operating procedures and all regulatory permitting requirements. In the event County and City do not enter into an agreement for County's acquisition of the Property from City, then County shall restore the affected area of the Property to a level, safe and sightly condition at County's sole cost and expense.

3. The County acknowledges and agrees that the rights granted by this Agreement are and shall be strictly limited to the rights expressly set forth herein, and that the County may not utilize the Property for any other purposes whatsoever.

4. City shall have no liability whatsoever relating to the physical condition of the Property and the County hereby knowingly enters upon the Property in its "As Is" condition.

5. In all activities conducted pursuant to this agreement, County shall utilize the services of a company authorized by law to conduct such activities. For the purposes of environmental matters, the County may utilize URS Corporation or a similar company. A representative of URS or such similar company shall be on site during the performance of all work authorized hereunder. In the event any hazardous or regulated substances are discovered by the activities authorized hereunder, County through its subcontractor, shall promptly notify City's project manager identified herein.

6. County is hereby authorized to act as City's agent in applying for any permits and/or approvals required by regulating agencies for the performance of the work authorized hereunder. In the event any regulatory agency will not accept the County's application for a permit or approval, and requires the signature of a City Official, City hereby authorizes the Mayor, or in her absence, the City Administrator, or his/her designee, to sign such applications on behalf of the City, which City will sign within three business days of a request by County.

7. The County shall require its contractors and subcontractors to maintain and keep in full force and effect General Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) general aggregate, bodily injury and property damage liability coverage; Business Automobile Liability at a limit of liability not less than One Million Dollars (\$1,000,000) each occurrence for all owned, non-owned and hired automobiles; and Workers Compensation covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for the Property, Operations, Contractual Liability, Independent Contractors Contractual Liability, and Broad Form Property Damage Liability coverages. Coverage shall be provided on a primary basis. The General Liability policy shall name City

as an Additional Insured. Such insurance shall be issued by an insurance company licensed to do business in the State of Florida and approved by City. A Certificate of Insurance evidencing such insurance coverage shall be provided to City prior to entry upon the Property by the County's contractors and subcontractors pursuant to this Agreement. Such Certificate shall require at least thirty (30) days prior notice of cancellation or non-renewal. In no event shall the limits of said insurance policies be considered as limiting the liability of County and/or its contractors and subcontractors under this Agreement.

8. The County acknowledges the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28 and acknowledges that such statute permits actions at law against the County to recover damages in tort for money damages up to the amounts set forth in such statute for injury or loss of property, personal injury, or death caused by the negligence or wrongful act or omission of an employee of County while acting within the scope of the employee's office or employment under circumstances in which county, if a private person, would be liable under the general laws of this State.

9. City hereby designates Danielle Slaterpryce, Assistant City Administrator as its Project Manager, whose phone number and email address is 561-822-1089 and DSLaterpryce@wpb.org. City designates the following persons, in addition to its Project Manager, to receive copies of all notices and communications regarding this Agreement: Kimberly Rothenburg, Interim City Attorney (561-822-1353; KRothenburg@wpb.org) and Jeffrey Green, City Administrator (561-822-1400; JGreen@wpb.org) County hereby designates Audrey Wolf, Director Facilities Development & Operations, as its Project Manager who shall be the contact person for this Agreement. The County Project Manager's phone number and email address is 561-233-0204 and awolf@pbcgov.org.

10. The County shall also have the right to submit any and all applications as may be required to permit the use and development of the property as a Major League Spring Training Facility and City park as contemplated by the Term Sheet approved by the City and County. These applications may include, but are not limited to, those to the City of West Palm Beach (e.g., Future Land Use Amendment, Rezoning, Special Use, Site Plan Review), the Health Department, the Florida Department of Environmental Protection (FDEP) specifically including for a Brownfield designation, the Florida Department of Transportation (FDOT), and the South Florida Water Management District (SFWMD). City hereby authorizes County to act as City's agent for such applications. Final approval of any such application is contingent on the City and County entering into an exchange agreement for the exchange of the Property and the County Property and no final approvals shall be provided unless and until that agreement is formally approved by both City and County. County shall provide a list of staff and/or consultants authorized to act on behalf of the County in the preparation and submittal of referenced applications.

11. This Agreement is revocable and may be terminated by City at any time upon fifteen (15) days prior written notice. This Agreement shall not be recorded in the Public Records of Palm Beach County.

12. This Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Agreement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

13. No party shall be considered the author of this Agreement since the parties have participated in the drafting and redrafting of this document so as 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 section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, the remaining portions of this Agreement shall remain in full force and effect.

14. No modification of this Agreement shall be effective unless the same is in writing and signed by all parties.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
_____, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: Anthony Wolf
Department Director

CITY OF WEST PALM BEACH, a
municipal corporation of the State of Florida

ATTEST:

By: _____
City Clerk

By: _____
Geraldine Muoio, Mayor
(City Seal)

CITY ATTORNEY'S OFFICE
Approved as to form and legality

By: _____

EXHIBIT "A"
Legal Description

LEGAL DESCRIPTION

A CERTAIN PARCEL OF LAND LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WESTERLY 1/4 SECTION QUARTER FOR SAID SECTION 1, THENCE S87°45'39"E, A DISTANCE OF 50.05 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF HAVERHILL ROAD PER POSTING AND VIEWING AT PALM BEACH COUNTY COMMISSIONERS MEETING DATED 07-05-1925, SAID POINT ALSO BEING ON THE NORTH LINE OF THAT PARCEL AS DESCRIBED IN O.R.B. 8918, PG. 1853 AND SAID POINT ALSO BEING ON THE SOUTH LINE THE PLAT OF ADAMS SUBDIVISION, AS RECORDED IN PLAT BOOK 20, PAGE 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE CONTINUE S87°45'39"E, ALONG THE NORTH LINE OF SAID PARCEL PER O.R.B. 8918, PG.1853, AND ALONG SAID SOUTH PLAT LINE, A DISTANCE OF 463.04' TO THE POINT OF BEGINNING, SAID POINT OF BEGINNING ALSO BEING THE NORTHEAST CORNER OF THE AFORESAID PARCEL PER O.R.B. 8918, PG. 1853; THENCE CONTINUE S87°45'39"E, ALONG THE SOUTH LINE OF AFORESAID ADAMS SUBDIVISION AND THE SOUTH LINE OF SOUTHWINDS PLAZA, AS RECORDED IN PLAT BOOK 54, PAGE 109, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 1674.75' TO THE NORTHWEST CORNER OF THAT F.D.O.T. PARCEL AS RECORDED IN O.R.B. 11131, PG. 928; THENCE S01°47'55"W, A DISTANCE OF 261.51'; THENCE S87°47'46" E, A DISTANCE OF 438.30'; THENCE S02°40'11"E, A DISTANCE OF 848.27'; THENCE S03°41'16"W, A DISTANCE OF 1566.91'; THENCE S01°56'49"W, A DISTANCE OF 1.01' CALCULATED (0.96' DESCRIBED), TO A POINT OF THE SOUTH LINE OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 42 EAST, THE PREVIOUS 5 COURSES BEING COINCIDENT AND CONTIGUOUS WITH THE WESTERLY RIGHT OF WAY FOR MILITARY TRAIL AS RECORDED IN D.O.T. PARCEL TAKEN BY O.R.B. 11131, PAGE 928; THENCE N88°08'00"W, DEPARTING SAID RIGHT OF WAY LINE AND ALONG SAID SOUTH LINE OF SECTION 1, SAID LINE ALSO BEING THE SOUTH LINE OF THE SOUTH 450' OF THE SOUTHWEST 1/4 OF THE AFOREMENTIONED SECTION 1, A DISTANCE OF 2658.70' TO A POINT ON THE EASTERLY RIGHT OF WAY FOR HAVERHILL ROAD, SAID RIGHT OF WAY PER POSTING AND VIEWING BY THE PALM BEACH COUNTY COMMISSIONERS, DATED 07-05-1925; THENCE N 04°55'39", ALONG SAID EASTERLY RIGHT OF WAY LINE OF HAVERHILL ROAD, A DISTANCE OF 2285.39' TO THE POINT OF BEGINNING.

CONTAINS 156.99 ACRES OVERALL, MORE OR LESS

DUE DILIGENCE AND PLANNING SERVICES AGREEMENT

THIS DUE DILIGENCE AND PLANNING SERVICES AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, _____, 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 HW Spring Training Complex, LLC, a Florida Limited Liability Company (the "LLC").

WITNESSETH:

WHEREAS, the County desires to develop and own a baseball stadium and related facilities, including two-team training facilities, practice fields, clubhouses, on-site parking areas, and other appurtenances and related improvements to be used by the Washington National and the Houston Astros as their joint spring training facility (the "Facility") to be located on certain real property more particularly described on **Exhibit A**, attached hereto and made a part hereof by this reference (the "Property"), within the City of West Palm Beach, Palm Beach County, Florida (the "City"); and

WHEREAS, the Property is currently owned by the City; and

WHEREAS, the County requires: 1) access to the site to perform due diligence, testing, and studies, 2) authorization to proceed with various planning and design tasks, and 3) authorization to commence the filing and processing of development and permit applications from a variety of regulatory agencies; and

WHEREAS, the City has approved an Access Agreement for the aforementioned purposes; and

WHEREAS, the County desires to enter into an agreement with the LLC whereby the LLC will coordinate and administer all due diligence, planning, site evaluation, permitting, design and construction, the scope of which is limited to the purposes of this Agreement, of the Project; and

WHEREAS, the LLC and the County require certain due diligence, testing and planning activities to immediately commence in order to conclude negotiations on the on the conveyance of the property from the City to the County and desire to initiate these activities in an expedited manner with the intent of achieving a Facility opening in 2017 or 2018; and

WHEREAS, the County has allocated up to Five Million Dollars and No/100 (\$5,000,000) of Tourist Development Tax funds for pre-construction services which include those services contemplated by this Agreement.

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 true and correct and are hereby incorporated herein, and made a part hereof, by this reference.

ARTICLE 2
DEFINITIONS

“Actual Costs” shall mean compensation for Services authorized pursuant to this Agreement, in an amount equal to the LLC’s actual costs for Consultants and Contractor assigned to this Project for the term of this Agreement.

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

“Budgeted Amount” shall mean Five Million and No/100 Dollars (\$5,000,000.00).

“City” shall mean the City of West Palm Beach, a municipal subdivision of the State of Florida.

“City Park” shall mean the approximately 12 acres of the Property to be identified in the future.

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

“Construction Contract” shall mean the construction contract to be entered into by and between the LLC and the Contractor for the construction of the Facility, or any portion thereof, as such construction contract may be amended or replaced from time to time.

“Contractor” shall mean the Construction Manager, duly licensed pursuant to Chapter 489, Florida Statutes, selected in accordance with the procedures set forth in **Exhibit B**, engaged by the LLC, responsible for constructing the Project, or any portion thereof, pursuant to the Construction Contract, and such replacement contractor(s) as may be selected in accordance with County requirements from time to time.

“Consultant” shall mean the Planning Consultant, Environmental Consultant, Program Manager, Architectural/Design Consultant, or other professional either individually or collectively as the context shall require, selected either in accordance with the procedures set forth in **Exhibit B** or otherwise as agreed to between the Parties, engaged by the LLC, responsible for planning, permitting, administering and designing the Project, or any portion thereof, pursuant to a Consultant Contract, and such replacement consultant(s) as may be selected as agreed to between the Parties from time to time.

“Consultant Contract” shall mean the consultant contract to be entered into by and between the LLC and a Consultant for the planning design and/or construction administration of the Facility, or any portion thereof, as such Consultant contract may be amended or replaced from time to time.

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

“County Representative” shall mean an employee and a member of the Facilities Development and Operations Department with authority to act for the County, within the limits provided by law and County policy. The County will notify the LLC in writing the name of the County Representative.

“Developer Agreement” shall mean an agreement between the County and the LLC for the planning, design and construction of the Facility.

“Effective Date” shall mean the date this Agreement is executed by the Palm Beach County Board of County Commissioners, set forth in the introductory paragraph of this Agreement.

“Effective Termination Date” shall be seven (7) days after the defaulting party has received such notice of termination.

“Excluded Costs” shall mean those direct or indirect costs, fees and/or expenses that are not eligible for payment from the Project Budget as set forth in **Exhibit D**.

“Facility” shall mean the improved and unimproved areas of the Property as well as off-site Project improvements that are required for regulatory approval of the Project.

“Interlocal Agreement” shall mean an agreement between the City and the County that provides the terms and condition under which land will be exchanged for the purpose of constructing the Facility.

“Land Reclamation” shall mean the actual Work tasks, subject to Article 4.3, associated with the removal, disposal of unsuitable and/or contaminated materials as well as replacement with suitable building materials. Land Reclamation shall not include making any improvements to the Property other than to replace the soils and Property with suitable building materials.

“Material Term Sheet” shall mean the Material Terms of Land, Developer and Use Agreement Between Palm Beach County and the Teams, attached herein as Exhibit “G” and incorporated herein by reference.

“Minimum Requirements” shall mean the minimum programmatic requirements for a Facility, acceptable to the County, as set forth in **Exhibit C**.

“Operative Agreements” shall mean the Developer Agreement, the Sports Facility Use Agreement and the Interlocal Agreement, collectively.

“Pre-construction Services” shall mean any services performed by the Contractor prior to the commencement of construction activities, including, without limitation, value engineering, cost estimating and scheduling.

“Pre-Land Reclamation” shall mean activities relating to the Consultant and Contractor gaining access to the Property for the purpose of performing site investigation and due diligence as needed to prepare assessments, condition reports, and development plans. Activities may include, but are not limited to, subsurface and/or obtrusive exploration and sampling of the soil and/or groundwater, installation and abandonment of soil borings and temporary monitoring wells using standard drilling practices and/or direct push technologies and limited emergency response source removal activities.

“Project” shall mean the development and construction of the Facility, any off or on site improvements required by regulatory approval including, two-team training facilities, practice fields, clubhouses, parking areas, and other appurtenances and related improvements.

“Project Budget” shall mean the line item breakdown of all costs associated with the planning, due diligence, permitting, design, testing, development, construction, furnishing, fixtures and equipment, and related costs, including, without limitation, consultants’ and, all contingencies, costs associated with payment and performance bonds and insurance (including builder’s risk insurance), and consultant costs associated with the negotiation and administration of contracts for, and the management of, the Project, including the amounts paid by the County for Sales Tax Recovery Purchase Orders, but in no event exceeding the Budgeted Amount.

“Project Representative” shall mean the competent person designated by the LLC and acceptable to the County, who will represent and act on behalf of the LLC.

“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 LLC in accordance with all requirement of the Construction Contract.

“Property” has the meaning set forth in the Recitals.

“Selection Committee” shall mean the three person committee made up of a representative of the County and a representative of each of the Teams to select the Contractor and Consultants.

“Services” shall mean the responsibilities required to be performed by the LLC, including, but not limited to, the design, permitting, construction, and development of the Facility and all other tasks and services required by this Agreement, except for those specifically assigned to County under this Agreement.

“Sports Facility Use Agreement” shall mean the agreement between the County and the LLC governing the use and operation of the Facility.

“Teams” shall mean the Houston Astros, LLC, a Texas limited liability company and the Washington Nationals Baseball Club, LLC, a Washington, D.C. limited liability company.

“Work” shall mean all obligations, duties and responsibilities assigned to, or undertaken by the Contractor required to complete the Project pursuant to the Construction Contract.

ARTICLE 3
SERVICES TO BE PROVIDED BY LLC

3.1 The LLC shall assume and have sole responsibility for all of County’s obligations set forth in the Access Agreement between County and City with a Resolution Number # _____, except as identified in Article 4 herein.

3.2 The LLC by itself, or through the Project Representative, shall also:

- (a) select Consultants and a Contractor in a manner consistent with the requirements of the Consultant's Competitive Negotiation Act (CCNA), F.S. § 287.055 and County PPM CW-O-048, if applicable, or via a competitive request for proposals as required by County Code and as further detailed in the attached **Exhibit B**. The County shall have a voting member of each and every Selection Committee;
- (b) subject to Article 3.2(a) and Article 5 herein, engage (prepare, negotiate and enter into contracts with) and manage qualified Consultants to perform due diligence, testing, planning, design, and construction services as may be required in the LLC’s discretion. The LLC shall also engage Consultants and a Contractor necessary to provide advice to the County concerning the conveyance of the Property, or portion thereof, to the County;
- (c) subject to Article 3.2(a) herein, engage (prepare, negotiate and enter into contracts with) and manage Contractor for the limited purpose of performing Pre-Land Reclamation activities;
- (d) take all actions necessary to effectively manage and coordinate all tasks and activities associated with the execution of multiple design and construction teams required for the planning, permitting, design and Pre-Land Reclamation services for the Project;
- (e) identify requirements and confirm assumptions for the Project related to reclamation of the Property, infrastructure and permitting requirements;
- (f) consider seeking a brownfields designation for the Property;
- (g) secure all permits necessary to perform Pre-Land Reclamation activities;

- (h) identify critical schedule and/or cost issues for specific monitoring;
- (i) prepare a provisional Project Schedule based on analysis of existing schedules, programs, goals and objectives;
- (j) develop a list of dates which are critical for the success of the overall schedule of the Services identified in this Agreement;
- (k) prepare the preliminary line items within the Project Budget;
- (l) at appropriate intervals and where necessary, review and assist in preparing revised line items within the Project Budget;
- (m) provide specific guidance about the proposed program and uses for the Facility, and ensure that the program meets or exceeds the Minimum Requirements;
- (n) conduct meetings with City, regulatory agencies and the community, as may be required to accomplish all Services contemplated in this Agreement ;
- (o) prepare a list of required governmental reviews and approvals, and engage Consultants to prepare, submit and secure any permits or approvals that are required for the construction of the Facility;
- (p) identify and coordinate activities required for site access and due diligence that must be performed by third parties in order for the Project Schedule, Project Budget, development approval and permit assumptions to be satisfied; review preliminary designs for the Project in order to confirm budget assumptions;
- (q) conduct good faith comprehensive constructability reviews and value analysis to reduce the cost of the Project;
- (r) assist in monitoring the implementation of appropriate standards for design and construction;
- (s) implement cost monitoring and management procedures throughout the Project;
- (t) design all improvements which will become the renewal/replacement responsibility of the County to County building standard where comparable standard exists;
- (u) conduct design progress meetings with the Consultants and Contractors, and County when required or requested/appropriate, as a forum for exchange of information and resolution of design decisions;
- (v) monitor the development of drawings and the specifications prepared by the Consultants, conduct progress reviews of the drawings and specifications and coordinate such reviews with the Teams;

- (w) observe the Services in progress to ensure that the Services are compliant with the terms of the Consultant Contract and Contractor Contract;
- (x) conduct progress meetings and prepare reports, including a bi-monthly executive summary, 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;
- (y) review and certify each request for payment submitted by Consultants and Contractor for payment in accordance with Article 6 herein.
- (z) review the activities of the Contractor and all Consultants for compliance with the Project Schedule and Project Budget;
- (aa) determine the acceptability of the Consultants and Contractor's Work, as required;
- (bb) coordinate with utility service providers for off and on-site water, sewer, gas, electric and telecommunications service, as appropriate;
- (cc) provide the County with advance notice of all regularly scheduled meetings;
- (dd) invite the County Representative to each and every meeting with the City or any regulatory agency;
- (ee) provide assistance to and use all reasonable efforts to cooperate with County in the County's performance of its responsibilities as identified in Article 4 herein; and
- (ff) handle public relations activities related to the Project, including but not limited to, responding to public inquiries, attending public meetings and presenting at community meetings.

ARTICLE 4

COUNTY RESPONSIBILITIES

4.1 Permit and Development Approval Applications

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

4.2 Conditions of Approval/Expenses not in Project Budget

All conditions of permits or approvals which run with the land and/or require an expense not covered by the Project Budget require the approval and/or execution by the same individual as in Article 4.1 herein.

4.3 Consider Request to Commence Land Reclamation

After the Pre-Land Reclamation is concluded, the County shall consider any requests from the LLC to proceed with Land Reclamation. Any request to proceed with Land Reclamation activities shall be accompanied by all pertinent studies and evaluation, permits and identification of all off-site disposal locations for unsuitable and/or contaminated materials found on the Property. If the LLC is authorized to proceed with Land Reclamation, the approval shall be reduced to writing and may contain conditions relating to the authorized activities.

4.4 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 hire 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 County building standards. The cost of any peer review conducted by the County will be an Excluded Cost.

4.5 Meetings

The County, at its option, may attend any meeting scheduled by the LLC relating to the Project except those between the LLC and/or its representatives and legal counsel that may be considered attorney-client privileged. The LLC shall provide the County with advance notice of any such regularly scheduled meetings and those meetings required by Article 3.2(ee).

4.6 Make Payments

The County shall timely pay any and all compensation requested by the LLC for the Consultants and Contractor to be paid by County pursuant to the terms of this Agreement. Payments shall be made after certification by the LLC as required by the terms of this Agreement. The County shall pay the LLC for Services authorized by this Agreement, including those authorized Services rendered prior to the Effective Date of this Agreement. In no case shall the County pay for authorized Services prior to the date when the LLC executed a Consultant Contract or Construction Contract, meeting the requirements of this Agreement. Payments shall not exceed the Budgeted Amount, shall be disbursed by the Clerk, and shall be payable in accordance with the requirements of the Clerk's Office and the requisition procedures which are set forth in Article 6 of this Agreement and in **Exhibit E** attached hereto.

4.7 Cooperation

The County shall lend friendly assistance and use all reasonable efforts to cooperate with the LLC in the LLC's performance of its responsibilities under this Agreement. The County shall use reasonable and best efforts to timely provide all information and data, in the County's possession, relating to the development of the Project, to the LLC upon request of the LLC. The County makes no representations as to the accuracy of said information and data, and shall not be held liable for any inaccuracies or inconsistencies contained therein.

ARTICLE 5
CONTRACTS

5.1 Contracts

The LLC shall have the right to negotiate, to approve and to execute in its name, all contracts and agreements for the Facility, including, without limitation, the Consultants Contracts and the Construction Contracts, provided that the LLC;

- (a) selects the Consultants and Contractor as set forth in **Exhibit B** and Article 3.2(a);
- (b) uses a form Contractor Agreement that is substantially similar to County's Construction Manager at Risk form contract including the requirements that the Construction Manager at Risk comply with and implement the County's Small Business Enterprise and Local Preference policies as set forth in Palm Beach County Code Sections 2-80.21 through 2-80.34 and Sections 2-80.41-44, 2-80.46, 2-80.47, as amended as well as the specific language required by any State or Local law;
- (c) requires insurance in an amount equal to or greater than the County standard for all Consultants and Contractor;
- (d) requires a payment and performance bond, where required by FSS 255.055 on the County's form and from a surety meeting the County's requirements;
- (e) names the Palm Beach County Board of County Commissioners as additional insured and/or third party beneficiaries to all insurance policies and/or bonds;
- (f) requires Consultants and Contractors to provide indemnification in accordance with County standards and to name the Palm Beach County Board of County Commissioners as an additional Indemnitee;
- (g) ensures that the Consultants and Contractor are registered vendors with the County;
and
- (h) for the sole purposes of determining compliance with the requirements of the Agreement and allowing the County to set up the necessary payment accounts, secure the approval of the Director, Facilities Development & Operations on each and every Consultant Contract and Contractor Contract, which approval shall not be unreasonably withheld or delayed.

5.2 Ownership of Documents.

The LLC shall ensure that each Consultant Contract and Contractor 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 LLC, prepared by the Consultant and the Contractor pursuant the Consultant Contract or the Construction Contract, as the case may be, or pursuant to any other agreement related to the Project, 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 Project, by or from the Consultant or the Contractor, and received by the LLC, shall be and remain the County's property.

ARTICLE 6 **PAYMENTS**

6.1 The County shall only be required to pay Actual Costs not exceeding the Budgeted Amount associated with the Consultants and Contractor, and for the tasks authorized by Article 3 provided however, such sum shall not exceed the Budgeted Amount. Under no circumstance shall the County pay for any other costs of the Project, including but not limited to those Excluded Costs as identified in **Exhibit D**.

6.2 On the fifth (5th) day of each month, beginning in the month following the Effective Date, the LLC shall be entitled to submit to the County a Payment Certification and Requisition which shall include a copy of the Consultants or Contractor Application for Payment, on a form provided by the County and certified by the LLC and the applicable Consultant in accordance to the requirements of **Exhibit E**. The LLC agrees to deliver to the County such back-up materials as the County may reasonably require, and which the LLC 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 LLC in the amounts due to: (a) the Consultant, pursuant to each Consultant Contract; and (b) the Contractor, pursuant to the Construction Contract; within 30 days from the date of receipt of a complete Payment Certification and Requisition from the LLC. The Contractor's application for payment must also be certified by the applicable Consultant(s). 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 LLC 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 10.1, and the parties agree to follow the dispute resolution procedure to resolve any such payment disputes.

6.3 With each Payment Certification and Requisition submitted to the County, the LLC shall deliver to the County from the Consultant and the Contractor for which payment is requested, as the case may be, fully executed partial waivers and releases of claims in the amount of the immediately prior payment for the Consultant or the Contractor, as the case may be, excepting any claims that remain in dispute. The County shall not release payment for any portion of the Services or Work performed by the Consultant or the Contractor, as the case may be, unless the Payment Certification and Requisition submitted to the County is accompanied by such partial waiver and release of claims for the Consultant or the Contractor. However, the County may, but shall not be required to, make payments on account of the Construction Contract without such partial waiver and release of claims, if the Contractor presents to the LLC, and the LLC presents to the County, a consent of surety to such payment, from the Contractor's surety, in form acceptable to the LLC and the County.

6.4 The receipt of such payment by the LLC is hereby deemed to be a condition precedent to the LLC's obligation to transmit payments to the Consultant or the Contractor. The LLC shall be obligated to transmit payments to the Consultants and the Contractor, as the case may be, provided, and to the extent, that the LLC has received payment from the County pursuant to this Section, in the amounts set forth in the LLC's Payment Certification and Requisition.

6.5 In the event that the County fails to make payment to the LLC in the entire amount of any Payment Certification and Requisition submitted by the LLC, the LLC shall only be obligated to transmit payment to the Consultant or the Contractor the amount actually received from the County.

6.6 Upon receipt of payment from the County with respect to any Payment Certification and Requisition, the LLC shall transmit payment to the Consultant or the Contractor, in the exact amount received from the County for the Services within five (5) Business Days from the date of the LLC's receipt of such payment from the County.

6.7 If, for any reason whatsoever, the LLC terminates, abandons, or otherwise fails to complete the Project, the LLC shall reimburse the County all payments made by the County in accordance with this Article 6.

ARTICLE 7

TERM

7.1 Generally

The term of this Agreement shall commence on the Effective Date and shall continue until the earlier of: (a) full completion of all services and payments contemplated under this Agreement; or (b) the date of the termination of this Agreement, pursuant to the terms hereof (the "Term"). If the City terminates the Access Agreement, the LLC shall cease all Services pursuant to this Agreement until the County and the LLC agree that either; 1) the Services of this Agreement shall continue or 2) the Agreement shall be terminated.

ARTICLE 8

LITIGATION AND INDEMNITY

8.1 Litigation

The LLC shall be responsible for the defense of all litigation, claims, demands or suits, including appeals, or other liability arising as a result of the development and/or use of the Property, and shall pay, and be solely responsible for all fines, citations, court judgments, insurance claims, restoration costs, damages, attorney's fees or other litigation related expenditures.

8.2 Indemnity

The LLC agrees to protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officials and each of them (hereinafter collectively and for the purposes of this paragraph, referred to as "County"), 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

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 party hereto, or of any party acquiring an interest hereunder, and any third party or other party whomsoever, arising out of or in incident to or in connection with LLC's performance, non-performance or purported performance under this Agreement, the condition of the property, LLC's acts or omissions or operations hereunder, or the LLC's breach of any of the terms of this Agreement.

The LLC further agrees to hold harmless and indemnify County for fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from LLC's Contractor's or Consultant's activities pursuant to this Agreement, whether or not LLC was negligent or even knowledgeable of any events precipitating a claim or arising as a result of any situation involving LLC's activities.

The LLC shall indemnify, defend and save County harmless from and against any and all claims, actions, damages, liability and expense in connection with: (i) loss of life, personal injury and/or damage to or destruction of property arising from or out of the LLC's Services pursuant to the Agreement, (ii) any act or omission of the LLC, the Teams, any of their agents, contractors, employees or invitees. In case County shall be made a party to any litigation commenced against the LLC or by the LLC against any third party, then LLC shall protect and hold harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, and any appeals thereof.

ARTICLE 9 **GUARANTEE**

The Teams shall individually guarantee all of LLC's obligations under this Agreement pursuant to **Exhibits F-1 and F-2**.

ARTICLE 10 **DISPUTE, RESOLUTION; DEFAULT; SUSPENSION; TERMINATION**

10.1 Dispute Resolution.

The LLC and the County agree to make every reasonable effort to resolve any dispute under this Agreement prior to either party's proceeding to terminate this Agreement due to a default by the other party. Accordingly, in the event of a dispute related to the performance of either the LLC or the County under this Agreement, the LLC and the County agree not to exercise their respective termination rights 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 attorney's fees and costs thereafter.

10.2 Events of LLC's Default.

The following shall be "Events of LLC's Default":

(a) The filing by the LLC 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 LLC for the benefit of creditors; an admission in writing by the LLC of its inability to pay debts as they become due; the filing by the LLC 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 LLC 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 LLC in the appointment of any custodian, trustee, receiver or liquidator of it, or any part of its property; and the commencement against the LLC 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 thirty (30) days;

(b) The failure of the LLC to transmit amounts due to any Contractor or any Consultant under any Consultant Contract or any Construction Contract, as the case may be, as and when due under this Agreement, provided that the County has provided to the LLC written notice of such failure, and such failure continues for ten (10) days after the receipt by the LLC of such written notice; or

(c) The failure of the LLC in the performance of any material obligations under this Agreement, provided that the County has provided the LLC with written notice of such failure, specifying with detail, the nature of such failure, and such failure is not cured within fourteen (14) days following the receipt by the LLC of such written notice from the County, or, provided that such failure cannot be cured within such fourteen (14) day period, if the LLC does not commence to cure such failure within such fourteen (14) day period and thereafter diligently pursue the cure of such failure to completion.

10.3 Events of County's Default.

The following shall be "Events of County's Default":

(a) The failure of the County to pay the LLC amounts due to the LLC under this Agreement, as and when due, provided that the LLC has provided to the County written notice of such failure, and such failure continues for ten (10) 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 LLC 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 fourteen (14) days, following the receipt by the County of such written notice from the LLC, or, provided that such failure cannot be cured within such fourteen (14) day period, if the County does not commence to cure such failure within such fourteen (14)- day period and thereafter diligently pursue the cure of such failure to completion.

10.4 Remedies.

If an Event of LLC's Default or an Event of County's Default, the non-defaulting party may terminate this Agreement upon providing written notice of termination to the defaulting party, subject to the provision of Article 10.1 hereof. Termination shall be effective seven (7) days after the defaulting party has received such notice of termination (the "Effective Termination Date"), provided however, such seven (7) day period shall not be deemed to be a cure period. In addition to such right of termination, the non-defaulting party shall have all other remedies available to it at law or equity, as a result of such default, subject to any specific limitations set forth in this Agreement.

10.5 County Early Termination.

The County shall have the right to terminate this Agreement for any reason subject to the County making payment to the LLC for Actual Costs. The County shall only be obligated to pay the LLC, and the LLC shall only be entitled to receive from the County, all Actual Costs accrued to the date of the termination or expiration of the Terms of this Agreement.

10.6 LLC's Termination Option.

The LLC shall have the right to terminate this Agreement for any reason, subject to repayment of One Hundred Percent (100%) of the Actual Costs paid to the LLC pursuant to this Agreement. The repayment shall be made within thirty (30) days of notice of termination and receipt of the substantiated bills from the County.

10.7 City Termination of Access Agreement.

In the event the City terminates the Access Agreement between it and the County (referenced in Article 3.1), the LLC shall stop work immediately. County will consider any request of the LLC to then continue work, which shall be submitted to the County in writing. If the LLC is authorized to proceed, the approval shall be reduced to writing and may contain conditions relating to the authorized activities and payment for such Services.

10.8 Operative Agreements Not Executed.

The LLC shall reimburse County for all Actual Costs paid if the Operative Agreements are not executed, unless the failure to execute any or all of the Operative Agreements is the result of County's failure to act consistently with the Material Term Sheet.

ARTICLE 11
MISCELLANEOUS

11.1 LLC.

All parties hereto recognize that the LLC is a limited liability company whose sole managers are Arthur Fucillio and Giles Kibbe. HW Spring Training Complex, LLC., a Florida Limited Liability Company is formed under the laws of the State of Florida and validly authorized to do business as a limited liability company under Florida law. All parties hereto agree that no manager or member of this LLC 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 F-1 and F-2**) under any legal or equitable theory. All parties further

agree that no manager or member 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 manager or member in any proceeding, suit or claim in violation of this paragraph. This paragraph shall not preclude any claim against the LLC as a limited liability company.

11.2 No Agency.

The LLC is, and shall be, in the performance of all Work 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 LLC's sole direction, supervision, and control. The LLC shall exercise control over the means and manner in which it and its employees, sub-consultants and suppliers perform the Work, and in all respects the LLC'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 LLC 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.

The LLC represents that all Construction Contracts and Consultant Contracts, and all subcontracts thereto entered into shall incorporate by reference the terms and conditions of this Agreement, and further warrants that the County is an intended express third party beneficiary of any such contract or subcontract.

11.3 Indebtedness.

The LLC 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. The LLC further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

11.4 Status of Parties.

Nothing in this Agreement or in the relationship of the County and the LLC as created by this Agreement or any other agreement shall be deemed or construed by the parties hereto or by any third person to create the relationship of a partnership or a joint venture between the County and the LLC, and in no event shall the LLC hold itself out to be an agent of the County nor shall the LLC bind the County to any obligation or liability without the express written approval of the County in each instance.

11.5 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 LLC, 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.

11.6 Non-Discrimination.

Pursuant to Resolution R-2014-1421, as amended, it is the policy of the Board of County Commissioners of Palm Beach County that Palm Beach County shall not conduct business with nor appropriate any funds to any organization that practices discrimination on the basis of race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information.

All entities doing business with Palm Beach County are required to submit a copy of their non-discrimination policy which shall be consistent with the policy of Palm Beach County contained in R-2014-1421, as amended, stated above, prior to entering into any contract with Palm Beach County. In the event an entity does not have a written non-discrimination policy, or such policy is not consistent with Palm Beach County's policy, the entity shall be required to sign a statement affirming they will conform to Palm Beach County's non-discrimination policy as stated above.

The LLC has provided a written statement affirming that it will conform to County's non-discrimination policy as contained in R-2014-1421, as amended.

11.7 Public Records Access and Audits.

The LLC shall maintain records related to all charges, expenses, and costs incurred in estimating and performing the Services for at least three (3) years after completion or termination of this Agreement. The County shall have access to such records as required in this section for the purpose of inspection or audit during normal business hours, at the LLC's place of business. To the extent applicable, the LLC shall comply with the provisions of Florida's Public Records Law, including but not limited to the provisions of Chapter 119, Florida Statutes, during the performance of this Agreement.

11.8 Self Performance.

The LLC shall not self-perform any physical construction on the Property. Furthermore, the LLC shall not perform, and nothing contained in this Agreement shall be construed to require the LLC 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.

11.9 Assignment.

Subject to the LLC's obligation to enter into the Consultant Contracts with the Consultants and to enter into the Construction Contract with the Contractor as provided in Article 5 hereof, this Agreement is for the professional services of the LLC and may not be assigned by the LLC without the prior written consent of the County, which consent may be withheld in the County's sole discretion; provided however, the LLC shall have the right to assign this Agreement to an Affiliate of the LLC upon prior written notice to the County, provided that such assignment shall

be subject to all of the terms and conditions of this Agreement. The County shall not be entitled to assign this Agreement without the consent of the LLC, which consent may not be unreasonably withheld. 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.

11.10 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:

Any notice required to be given hereunder shall be in writing and mailed, postage prepaid, by United States Certified or Registered Mail, Return Receipt Requested, or dispatched by overnight courier, address to the parties as follows, unless a different address is later designated by either party under this notice provision:

For notice to the LLC:

Giles Kibbe
HW Spring Training Complex, LLC
501 Crawford, Suite 500
Houston, Texas 77001

And

Arthur Fuccillo
HW Spring Training Complex, LLC
Lerner Enterprises
2000 Tower Oaks Boulevard
Eighth Floor
Rockville, Maryland 20852

With copies to:

Houston Astros, LLC
501 Crawford, Suite 500
Houston, Texas 77001
Attention: James R. Crane

And

Washington Nationals Baseball Club, LLC
Mark D. Lerner
Vice Chairman & Principal Owner
Nationals Park
1500 South Capitol Street, SE
Washington, DC 20003

And

Brian M. Seymour, Esq.
Gunster
777 S. Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401

For notice to the County:

County Administrator
301 North Olive Avenue, 11th Floor
West Palm Beach, FL 33401

With Copies to:

County Attorney
301 North Olive Avenue, 6th Floor
West Palm Beach, FL 33401

And

Director of Office of Financial Management
301 North Olive Avenue, 7th 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. All Notices given hereunder shall be effective and deemed to have been duly given only upon receipt by the party to which notice is being given, said receipt being deemed to have occurred upon such date as the postal authorities shall show the Notice to have been delivered, refused, or undeliverable, as evidenced by the return receipt.

11.11 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 Palm Beach County, Florida.

11.12 WAIVER OF JURY TRIAL.

THE PARTIES HERETO EACH HERE BY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WIAVE 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 LLC TO ENTER INTO THIS AGREEMENT.

11.13 Construction.

In construing this Agreement, feminine or neutral 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.

11.14 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.

11.15 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.

11.16 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.

11.17 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.

11.18 Compliance with Laws.

The Parties hereto shall, in all manners, directly or indirectly, comply with all 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 Facility under the terms of this Agreement.

11.19 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.

11.20 Attorney's Fees.

Except where required pursuant to the provisions of Article 8, 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.

11.21 Survival.

The warranties and indemnities set forth in this Agreement shall survive the termination of this Agreement.

11.22 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.

11.23 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.

11.24 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.

11.25 No Third Party Beneficiaries.

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 citizens of County or employees of County, LLC or Teams.

11.26 Articles to Service Expiration/Termination of Agreement

The following Articles shall survive the expiration/termination of this Agreement: Article 6.7 and Article 8.

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, by the appropriate officials and the necessary seals to be affixed thereto as the day first written above.

ATTEST:

**SHARON R. BOCK
CLERK & COMPTROLLER**

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

By: _____
Deputy Clerk

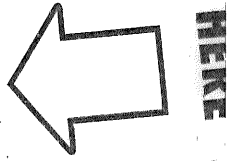
By: _____
Shelley Vana, Mayor

**APPROVED FOR TERMS AND
CONDITIONS**

**APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:**

By: *Anthony Worf* *AW*
Director, Facilities Development &
Operations

By: _____
Assistant County Attorney



WITNESS:

**HW SPRING TRAINING COMPLEX., a
Florida Limited Liability Company**

By: *AW Perry*
Witness Signature

By: *[Signature]*

 HUGH W. PERRY
Print Witness Name

 Antonio Fucillo, MEMBER
Print Name and Title

By: *[Signature]*
Witness Signature

By: *[Signature]*

 STEPHEN M. [Signature]
Print Witness Name

 Giles Kibbe, General Counsel
Print Name and Title

**EXHIBIT A
PROPERTY**

LEGAL DESCRIPTION

A CERTAIN PARCEL OF LAND LYING IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WESTERLY 1/4 SECTION QUARTER FOR SAID SECTION 1, THENCE S87°45'39"E, A DISTANCE OF 50.05 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF HAVERHILL ROAD PER POSTING AND VIEWING AT PALM BEACH COUNTY COMMISSIONERS MEETING DATED 07-05-1925, SAID POINT ALSO BEING ON THE NORTH LINE OF THAT PARCEL AS DESCRIBED IN O.R.B. 8918, PG. 1853 AND SAID POINT ALSO BEING ON THE SOUTH LINE THE PLAT OF ADAMS SUBDIVISION, AS RECORDED IN PLAT BOOK 20, PAGE 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE CONTINUE S87°45'39"E, ALONG THE NORTH LINE OF SAID PARCEL PER O.R.B. 8918, PG.1853, AND ALONG SAID SOUTH PLAT LINE, A DISTANCE OF 463.04' TO THE POINT OF BEGINNING, SAID POINT OF BEGINNING ALSO BEING THE NORTHEAST CORNER OF THE AFORESAID PARCEL PER O.R.B. 8918, PG. 1853; THENCE CONTINUE S87°45'39"E, ALONG THE SOUTH LINE OF AFORESAID ADAMS SUBDIVISION AND THE SOUTH LINE OF SOUTHWINDS PLAZA, AS RECORDED IN PLAT BOOK 54, PAGE 109, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 1674.75' TO THE NORTHWEST CORNER OF THAT F.D.O.T. PARCEL AS RECORDED IN O.R.B. 11131, PG. 928; THENCE S01°47'55"W, A DISTANCE OF 261.51'; THENCE S87°47'46" E, A DISTANCE OF 438.30'; THENCE S02°40'11"E, A DISTANCE OF 848.27'; THENCE S03°41'16"W, A DISTANCE OF 1566.91'; THENCE S01°56'49"W, A DISTANCE OF 1.01' CALCULATED (0.96' DESCRIBED), TO A POINT OF THE SOUTH LINE OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 42 EAST, THE PREVIOUS 5 COURSES BEING COINCIDENT AND CONTIGUOUS WITH THE WESTERLY RIGHT OF WAY FOR MILITARY TRAIL AS RECORDED IN D.O.T. PARCEL TAKEN BY O.R.B. 11131, PAGE 928; THENCE N88°08'00"W, DEPARTING SAID RIGHT OF WAY LINE AND ALONG SAID SOUTH LINE OF SECTION 1, SAID LINE ALSO BEING THE SOUTH LINE OF THE SOUTH 450' OF THE SOUTHWEST 1/4 OF THE AFOREMENTIONED SECTION 1, A DISTANCE OF 2658.70' TO A POINT ON THE EASTERLY RIGHT OF WAY FOR HAVERHILL ROAD, SAID RIGHT OF WAY PER POSTING AND VIEWING BY THE PALM BEACH COUNTY COMMISSIONERS, DATED 07-05-1925; THENCE N 04°55'39", ALONG SAID EASTERLY RIGHT OF WAY LINE OF HAVERHILL ROAD, A DISTANCE OF 2285.39' TO THE POINT OF BEGINNING.

CONTAINS 156.99 ACRES OVERALL, MORE OR LESS

EXHIBIT B
CONSULTANT AND CONTRACTOR SELECTION PROCEDURES

Planning Consultant

The Work will include all of the land planning, land development and permitting coordination.

The Selection Committee interviewed the two planning firms which currently hold continuing contracts with Palm Beach County. On February 5, 2015, the Selection Committee chose Urban Design Kilday Studios.

Environmental Consultant

The Work will include, among other things, all of the environmental analysis and geotechnical investigation required of an experienced environmental engineering and geotechnical consultant in the State of Florida and will include consideration of the site specific considerations of the property.

The Selection Committee interviewed the three environmental assessment consultants which currently hold continuing contracts the Palm Beach County. On February 17, 2015, the Selection Committee chose URS Corp.

Program Manager

The Consultant, and any sub-consultant working thru consultant, shall serve as the Teams' Program Manager, also referred to as project manager, for the development of the Facilities. The duties may include, but are not limited to:

- a. Develop, monitor and administer Program Budget.
- b. Develop, monitor and administer Program Schedule.
- c. 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.
- d. Assist in the development and negotiations of Consultant Contracts.
- e. Coordinate the activities of consultants.
- f. Review value engineering efforts of design professionals and make recommendations to the Teams.
- g. Assist in the permitting and approval process in conjunction with legal counsel and other Consultants.
- h. Provide technical support for land acquisition efforts.
- i. Make recommendations to the Teams on the most appropriate project delivery method and assist with pre-qualifying and selecting Contractor.
- j. Administer the Construction Contract.
- k. Evaluate and negotiate change orders and claims on behalf of the Teams.
- l. Coordinate the procurement of all Furniture, Fixtures & Equipment, including baseball specific items.

- m. Plan and implement transition, occupancy and commissioning of all improvements.
- n. Act as an extension of the Teams' staff on any matter related to this Project that is assigned by the Teams.
- o. Assist with selection of Architectural and Design Professional Services.
- p. Coordinate the design and construction of all sponsorship and revenue related aspects of the Project including concessions and other third-party involvement.
- q. Coordinate vendor review and comment on project-specific elements including but not limited to Food Service, Concessions, AV/IT, and Broadcast facilities.
- r. Coordinate the introduction and integration of Team operational, food service, and maintenance staffs during the start-up and pre-opening phases.
- s. Coordinate the close-out of all contracts and the establishment of organized reference and as-built files.
- t. Any other responsibilities generally consistent with those listed above in the managing of the Project.

Experience with stadium facilities, including but not limited to baseball facilities (major league and spring training facilities), as well as multi-team facilities, is preferred. Experience with the local permitting agencies (e.g. City of West Palm Beach, Palm Beach County, Florida Department of Transportation, South Florida Water Management District) is also encouraged.

The solicitation was publically advertised with responses received on February 13. The minimum requirements for the responses were identical to that required in County competitive Request for Proposals for similar services. The Selection Committee convened and made its final decision based on the following point structure.

Category	Points
<i>SBE Participation</i>	
Percentage of SBE (as set forth below)	10
<i>Quality of Experience, Depth and Specialized Skills (including as related to specific individuals)</i>	
Experience with sports stadiums	20
Experience with baseball stadiums	15
Experience with spring training facilities	20
Experience with multi-team spring training facilities	10
Experience with permitting with local agencies (e.g., City of West Palm Beach, Palm Beach County, Florida Department of Transportation and South Florida Water Management District)	3
Experience with development of former land fill sites, or in the alternative other potentially environmentally sensitive properties.	2
<i>Performance</i>	
Ability to meet strict deadlines	10
Demonstrated ideas for cost effectiveness	5
Financial capability and capacity to perform	5
Total	100

The Selection Committee interviewed responders on February 17, 2015 and chose Stranix Associates.

Architectural/Design Professionals

Design Professionals with experience with stadium facilities, including but not limited to baseball facilities (major league and spring training facilities), as well as multi-team facilities, is preferred. Experience with the local permitting agencies (e.g. City of West Palm Beach, Palm Beach County, Florida Department of Transportation, South Florida Water Management District) is also preferred. The lead architect must be certified by Palm Beach County as well as sub-consultants. The lead architect must be licensed to do business in the State of Florida, including the ability (either thru itself or sub-consultants) to sign and seal drawings.

The Consultant shall serve as the Teams professional architectural and design representative for the architecture, design and construction administration phases of the development of the Facilities. This shall include, but not be limited to:

- a. Architectural Design
- b. Civil Engineering, including drainage, utilities, water management, water use (including reclaimed water), site development and roadway production.
- c. Traffic Engineering, including traffic performance analysis and signalization
- d. Mechanical, Electrical, Plumbing and Fire Protection
- e. Lighting
- f. Acoustical and Sound Engineering
- g. Life Safety
- h. Signage
- i. Survey and Site Controls
- j. Audio-Visual and Broadcast
- k. Furniture, Fixtures & Equipment, including baseball specific items.
- l. Telephone and Data
- m. Food services, including specialty food service
- n. Security
- o. Field Design, for both major league spring training and minor league fields
- p. Structural Engineering
- q. Geotechnical engineering, specially related to the Facilities and related offsite improvements (e.g. roadways)
- r. Theming and Sponsorships
- s. Interior Design
- t. Construction Administration
- u. Other sub-disciplines the lead architect or the Teams deem appropriate.

The solicitation was publically advertised with responses received on February 23. The minimum requirements for the responses were identical to that required in County CCNA solicitations. The Selection Committee convened and made its final decision based on the following point structure.

Category	Points
<i>SBE/Local Participation</i>	
Percentage of SBE (as set forth below)	10
Percentage of Local Business (Palm Beach County) in addition to SBE	10
Volume of previous work with Palm Beach County	10
<i>Quality of Experience, Depth and Specialized Skills (including as related to specific individuals).</i>	
Experience with sports stadiums	13
Experience with baseball stadiums, including major league stadiums, minor league stadiums and/or spring training stadiums.	8
Experience with spring training facilities specifically	13
Experience with multi-team spring training facilities specifically	8
Experience with permitting with local agencies (e.g., City of West Palm Beach, Palm Beach County, Florida Department of Transportation and South Florida Water Management District)	3
Experience with development of former land fill sites, or in the alternative other potentially environmentally sensitive properties.	2
LEED AP Certifications, including LEED Proven Provider Certification	2
Awards received for similar project design and development	4
<i>Performance</i>	
Ability to meet strict deadlines	7
Demonstrated ideas for cost effectiveness	5
Financial capability and capacity to perform	5
Total	100

The Selection Committee interviewed responders on February 25, 2015 and chose the team lead by HKS.

Construction Manager

Construction Managers with experience in stadium facilities, including but not limited to baseball facilities (major league and spring training facilities), as well as multi-team facilities, is preferred. Experience with the local contracting environment and local permitting agencies (e.g., City of West Palm Beach, Palm Beach County, Florida Department of Transportation, South Florida Water Management District) is also encouraged. The Construction Manager must be a licensed General Contractor in the State of Florida qualified firms to provide construction management services for the ultimate construction of the Facilities on a Guaranteed Maximum Price basis. The selected Construction Management firm will function as a general contractor responsible for publicly bidding trade contracts, all scheduling and

coordination of the project, and the successful, timely, and economical completion of the project. The selected Construction Manager (CM) will also provide preconstruction services. In coordination with and/or at the direction of the Teams, the Construction Manager shall provide all services usually and customarily provided by CM at Risk general construction contractors in Florida for projects of the size and scope of the Facilities. Those services shall begin immediately upon selection by the Teams and shall include, but not be limited to, the following:

- A. Develop a comprehensive approach to completion of the Project in compliance with the Teams' required construction schedule and overall budget requirements and limitations.
- B. Advise key stakeholders on procedures, design sequence and phasing, coordination and scheduling of the Work
- C. Provide design, estimating and constructability reviews and advise on availability of materials and labor
- D. Provide preconstruction budgeting support related to overall project cost and associated costs of alternative designs or materials, life-cycle data, and possible cost reductions without loss of utility or performance.
- E. Provide Value Engineering analysis as required during the entirety of the Project.
- F. Provide an integrated design and construction schedule that addresses all design, procurement, and construction activities and sequences.
- G. Provide recommendations on project phasing and the need and impact of any necessary accelerated, fast-tracked or phased construction
- H. Provide preliminary total project cost estimates with comparisons to preliminary budget expectations. Generate alternative design and cost reduction alternatives to the degree they are needed to reduce the project cost relative to the established budget.
- I. Develop an organization chart, for Teams' approval, reflecting the proper number and experience of staff necessary to carry out the complete construction of the Project.
- J. Generate a potential subcontractor bid list and maintain an active program of subcontractor solicitation to generate and determine market strength in all necessary disciplines.
- K. Develop a Bid List for the Teams' approval.
- L. Draft all invitations and solicitations for bid.
- M. Assemble all bid solicitation packages.
- N. Solicit, receive, review, and present all bid results to the Teams in the form of a Guaranteed Maximum Price (GMP) using the CM at risk format under Florida law.
- O. Provide a payment and performance bond as required by the Teams.
- P. Purchase all subcontractors as required to meet the established project schedule, ensuring that the full scope of the completed project is included in the GMP
- Q. Ensure that all necessary trade permits are acquired for commencement of Work
- R. Properly staff the project to ensure efficient leadership and proper oversight of all construction operations.
- S. Provide information and support to LEED certification activities, as required.
- T. Conduct weekly Owner, Architect, Contractor meetings to review project progress and ensure integrated project management.
- U. Coordinate the work with the Teams' requirements related to Furniture, Fixtures &

- Equipment, sponsorship, third-party vendors, Team consultants, and Team operations.
- V. Manage and administer project cost and change order issues. Prepare all pay requisitions and coordinate any sales tax exemption procedures with local County officials to maximize savings to the Project.
 - W. Develop and execute an operations start-up and commissioning schedule that allows phased, early, Team and vendor occupancy prior to project completion, as required for specific specialty areas including but not limited to concessions, AV/IT, sponsorship, and team operations areas.
 - X. Develop a program for phased punch list development, completion and turnover.
 - Y. Develop a schedule of required County and other regulatory inspections necessary for phase occupancy and operations of the ballpark and training facilities.
 - Z. Provide stand-by trade support during initial facility and ballpark operations, including initial team and public events to ensure immediate reaction to system failures or start-up difficulties.
 - AA. Create a comprehensive library of Record Drawings, submittals and spare inventory for Team operational use.
 - BB. Provide and enforce complete close-out checklists for all subcontractors prior to requests for final payment.
 - CC. Work efficiently at all times with the Teams' selected consultants selected to interface with the Construction Manager.

Selection will be based on the following criteria:

Category	Points
SBE Participation	-
A. SBE Participation (as set forth below)	10
Quality of Experience, Depth and Specialized Skills (including as related to specific individuals)	-
B. Experience with sports stadiums	15
C. Experience with baseball stadiums	20
D. Experience with sports training facilities	20
E. Experience with construction of baseball playing fields	10
F. Knowledge of local conditions, including experience with local building codes and requirements	10
Performance	-
G. Ability to meet strict deadlines	10
H. Financial capability and capacity to perform	5
TOTAL	100

The solicitation was publically advertised with responses to be received on March 20, 2015. The minimum requirements for the responses were identical to that required in County competitive Request for Proposals for similar services. The Selection Committee convened and made its final decision on the following point structure. The Selection Committee is scheduled to interview responders on March 25, 2015.

EXHIBIT C
PROJECT MINIMUM REQUIREMENTS

The following are the minimum requirements for the Project

- 6,400-seat and 1,000 to 1,500 berm seat baseball stadium bowl and supporting components, such as concession stands, restaurants, bars, public and family toilets, novelty stores, ticket sales offices, administrative offices, windows and box offices;
- Two 60,000 square foot clubhouses each which include locker rooms, steam room, sauna, coaches conference room and lounge, video room, training staff locker room, and storage, physician exam room, hydrotherapy room, weight room, kitchen, laundry indoor and outdoor dining, equipment room and garage;
- Four Major League practice fields;
- Eight Minor League practice fields;
- Two agility fields;
- Covered and outdoor batting cages;
- Major and Minor League pitching mounds;
- Major and Minor League observation tower;
- Pedestrian access to the Minor League Clubhouse, at the Minor League practice fields clover leaves, at the Major League practice fields, and adjacent to the Major League and Minor League batting tunnels and pitching mounds;
- 3,000 parking spaces, of which 1500 will be grassed parking which is convertible to 5 regulation size adult soccer field in the non-training season;
- other supporting training spaces such a maintenance compound;
- a public art feature coordinated and approved by the County's public art administrator; and
- any other improvements and/or infrastructure necessary to create a fully functional and code compliant facility.

EXHIBIT D
EXCLUDED COSTS

The following are Excluded Costs.

1. Any direct or indirect costs or expenses of the LLC's or Teams' employees.
2. Any direct or indirect costs or expenses for attorneys retained by the LLC or Teams, even if such costs or expenses are for work performed on the Project's behalf.
3. Any County employee expenses or Staff charge-offs. Out of County travel expenses for County employees as requested by the LLC and approved by the County are permitted to be charged to the Project Budget.
4. Any fees or costs associated with a peer review conducted pursuant to Article 4.4.
5. Palm Beach County impact fees.
6. Palm Beach County building permit fees.

EXHIBIT E
PAYMENT CERTIFICATIONS AND REQUISITIONS

Board of County Commissioners
Palm Beach County, Florida

Name of Contract (Payee): _____

Amount to be Paid: \$ _____

The LLC has submitted an Application for Payment (with accompanying bills) to Palm Beach County, Florida (the "County") for payment to the above-referenced Contractor of the Amount set forth above from moneys held by the Clerk in the construction fund _____. In this regard, the undersigned hereby certify as follows:

- (i) that the obligation described above was incurred and is a proper charge against the construction fund _____.
- (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 LLC 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 a good and workmanlike manner; and
- (vi) that there has not been filed with or served upon the County or the LLC 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, other than materialmen's or mechanics' lien accruing by mere operation of law.

HW Spring Training Complex, L.L.C., a Florida Limited Liability Company

By: _____
Signature

Print Name: _____

By: _____
Signature

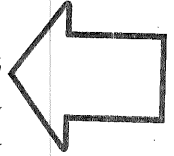
Print Name: _____

Print Title: _____
(Corporate Seal)

EXHIBIT F-1
HOUSTON ASTROS GUARANTY

PAYMENT, PERFORMANCE AND CONSTRUCTION GUARANTY

This PAYMENT, PERFORMANCE AND CONSTRUCTION GUARANTY (this "Guaranty") is made as of the ___ day of _____, 2015, by the Houston Astros, LLC, a Texas Limited Liability Company (the "Guarantor"), in favor of PALM BEACH COUNTY, a political subdivision of the State of Florida (the "County").



**SIGN
HERE**

RECITALS:

County as of the date hereof is entering into an Access Agreement with the City of West Palm Beach and a Due Diligence and Planning Services Agreement with HW Spring Training Complex, LLC, a single purpose limited liability company, to provide for due diligence, planning and preliminary construction services as defined herein in anticipation of development of a major league baseball spring training facility with all related amenities (collectively, the "Project Documents").

In order to induce County to enter into the Project 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, Guarantor hereby agrees for the benefit of County 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 Project Documents.
3. (a) Guaranty. Guarantor hereby unconditionally, absolutely and irrevocably guarantees to County all obligations imposed by the Project Documents, including, without limitation, the planning, design and permitting of the Project, commencement of any and all preliminary site work (including, without limitation, clearing, grading, soil borings, environmental remediation and ancillary demolition, and all other payment and performance obligations imposed by the Project Documents and the payment and performance of all liabilities, obligations and duties imposed on each Affiliate of Guarantor under the Project Documents (collectively, "the Preconstruction Obligations"), as if Guarantor had executed the Project Document in place of such Affiliate. The guaranty described in this Section 3 of this Guaranty shall commence upon execution and shall continue until a substitute guaranty is provided.
- (b) Reimbursement of Actual Costs. In the event Guarantor or its Affiliates fail to perform the Preconstruction Obligations for any reason, whatsoever, and the County has paid

Actual Costs (as defined in the Project Documents), Guarantor shall pay to County the sum equal to the Actual Costs paid by County pursuant to the Due Diligence and Planning Services Agreement.

(c) Security for Guaranty. Simultaneously with execution hereof, the Guarantor shall provide current financial documents demonstrating cash on hand of at least Five Million and No/100 Dollars (\$5,000,000), and every thirty (30) days thereafter, Guarantor shall provide evidence of continuing cash on hand, satisfactory to County, of at least Five Million and No/100 Dollars (\$5,000,000). If at any time, cash on hand is less than Five Million and No/100 Dollars (\$5,000,000), or if the County does not receive satisfactory evidence of available cash on hand every thirty (30) days, then the County shall provide written notice to the Guarantor who shall provide the County with either (i) a clean irrevocable letter of credit in the amount of Five Million (\$5,000,000.00) Dollars with an expiration date of not earlier than twelve (12) months from the date of issuance and otherwise in the form required by and consistent with Palm Beach County Policy and Procedure Manual No. CW-F-055 ("Letter of Credit") or (ii) a Payment and Performance Bond in the amount of Five Million (\$5,000,000.00) Dollars on the form required by, and issued from an institution acceptable to the County, within Ten (10) business days of receipt of County's notice ("Payment Bond"). Any Letter of Credit or Payment Bond issued pursuant to this section shall contain language acceptable to the County that said Letter of Credit or Payment Bond is issued as security for this Guaranty.

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

5. 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.

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

7. 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.

8. Acceptance of Performance. County agrees to accept performance by Guarantor of all or any of the Preconstruction Obligations to be performed by any Affiliate of Guarantor under the Project Documents with the same force and effect as though performed by the applicable Affiliate thereunder.

9. Unconditional, Absolute, Irrevocable and Continuing Guaranty. The obligations of Guarantor under this Guaranty shall be unconditional, absolute, irrevocable and continuing, irrespective of the genuineness, validity, regularity or enforceability of the Project 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 any Affiliate of Guarantor of any assignment for the benefit of creditors or the bankruptcy or insolvency of any such Affiliate, (b) any action taken by any Affiliate of Guarantor in any bankruptcy or insolvency proceeding, including, without limitation, disaffirmance or rejection of the Project Documents, (c) any default by any Affiliate of Guarantor under the Project Documents, (d) the liquidation or dissolution of any Affiliate of Guarantor, (e) any change in or termination of Guarantor's relationship to any Affiliate of Guarantor that is a party to the Project Documents, (f) the enforcement by County of any of its rights under the Project Documents, or (g) the sale, conveyance, transfer or assignment by any Affiliate of Guarantor of all or any portion of its interest under the Project Documents; 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. County and each Affiliate of Guarantor that is a party to the Project Documents, 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 Project 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.

10. 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 County of any remedies it may have against any Affiliate of Guarantor or any other Person with respect to the Project 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 County of its remedies against the issuer of the Letter of Credit or Payment Bond securing this Guaranty. Guarantor and County each acknowledge and agree that this Guaranty is a guaranty of performance in respect to the Project Document obligations. Any one or more successive or concurrent actions may be brought hereon against Guarantor with respect to the Preconstruction Obligations, either in the same action or proceeding, if any, brought against any Affiliate of Guarantor or any other person or entity, or in separate actions as often as County, in its sole discretion, may deem advisable. Guarantor may be joined in any action against any Affiliate of Guarantor in connection with the Project Documents. Recovery may be had by County against Guarantor in any action against Guarantor without County first pursuing or exhausting any remedy or claim against any Affiliate of Guarantor or any other person or entity, as the case may be, or their respective successors or assigns (except for pursuit by County of its remedies against the issuer of the Letter of Credit or Payment Bond securing this Guaranty) and Guarantor hereby waives any right it may have to require that County seek recovery against any other Person before seeking recovery against Guarantor (except for pursuit by County of its remedies against the issuer of the 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 Affiliate of Guarantor, or any successor thereof, of any of its interests under the Project Documents or (ii) any assignment or transfer by County, or any successor thereof, of any of its interests under the Project Documents.

11. 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 Project Documents; (d) demand for observance or performance of, or enforcement of, any terms and provisions of this Guaranty or the Project Documents; (e) notices of default by or to any Affiliate of Guarantor under the Project Documents; and (f) all other notices and demands otherwise required by law which Guarantor may lawfully waive.

12. No Subrogation. Guarantor shall not enforce any right of subrogation it may now or hereafter have against any Affiliate of Guarantor that is a party to the Project Documents 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 any such Affiliate 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 Preconstruction Obligations of Guarantor have been fully discharged, performed and satisfied, whereupon Guarantor shall have such subrogation rights as may be allowed under applicable law.

13. No Setoff. No setoff, counterclaim or cross-claim, reduction or diminution of any obligation or any defense of any kind or nature (other than payment of the Actual Costs and performance of the Preconstruction Obligations) shall be available to Guarantor in any action or proceeding brought by County to enforce the Preconstruction 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 County 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 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 County from Guarantor or any Affiliate of Guarantor, or any other Person, as the case may be, for or with respect to the Preconstruction Obligations is or must be rescinded or returned by County 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 any Affiliate of Guarantor, 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 County 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.

14. Joint and Several and Cumulative Rights and Remedies. The rights and remedies afforded to County 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 County 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 County 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 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 County's sole discretion, be executed and delivered by other Persons with respect to the Project 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.

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

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

17. Guarantor's Representations. In order to induce County to enter into this Guaranty, Guarantor represents and warrants to County 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 Texas;
- (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) Guarantor is an Affiliate of each of the parties with which County has entered into the Project Documents;
- (vi) The person executing this Guaranty on behalf of Guarantor has all requisite authority to do so, as a duly authorized officer of Guarantor; and
- (vii) Guarantor is solvent and will not be rendered insolvent by reason of this Guaranty.

18. 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: Houston Astros, LLC
501 Crawford, Suite 500
Houston, Texas 77001
Attention: Giles Kibbe

with a copy to: Houston Astros, LLC
501 Crawford, Suite 500
Houston, Texas 77001
Attention: James R. Crane

If to 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

Any Notice may be given, in the manner provided in this Section 18, 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

WITNESSES:

HOUSTON ASTROS, LLC
a Texas Limited Liability Company

[Signature]
Print Name: Hobbs W. Perry

By: [Signature]

[Signature]
Print Name: FRANK M. McQuinn

Name: Giles Kibbe

STATE OF Florida)

)ss:

COUNTY OF Leon)

The foregoing instrument, was acknowledged before me this 3rd day of March, 2015, by Giles Kibbe, as General Counsel of the Houston Astros, LLC, who is personally known to me or has produced as identification.

[Signature]
Print Name:

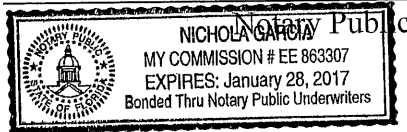


EXHIBIT F-2
WASHINGTON NATIONALS GUARANTY

PAYMENT, PERFORMANCE AND CONSTRUCTION GUARANTY

This PAYMENT, PERFORMANCE AND CONSTRUCTION GUARANTY (this "Guaranty") is made as of the ___ day of _____, 2015, by the Washington Nationals Baseball Club, LLC, a Washington, DC Limited Liability Company (the "Guarantor"), in favor of PALM BEACH COUNTY, a political subdivision of the State of Florida (the "County").

RECITALS:

County as of the date hereof is entering into an Access Agreement with the City of West Palm Beach and a Due Diligence and Planning Services Agreement with HW Spring Training Complex, LLC, a single purpose limited liability company, to provide for due diligence, planning and preliminary construction services as defined herein in anticipation of development of a major league baseball spring training facility with all related amenities (collectively, the "Project Documents").

In order to induce County to enter into the Project 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, Guarantor hereby agrees for the benefit of County 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 Project Documents.
3. (a) Guaranty. Guarantor hereby unconditionally, absolutely and irrevocably guarantees to County all obligations imposed by the Project Documents, including, without limitation, the planning, design and permitting of the Project, commencement of any and all preliminary site work (including, without limitation, clearing, grading, soil borings, environmental remediation and ancillary demolition, and all other payment and performance obligations imposed by the Project Documents and the payment and performance of all liabilities, obligations and duties imposed on each Affiliate of Guarantor under the Project Documents (collectively, "the Preconstruction Obligations"), as if Guarantor had executed the Project Document in place of such Affiliate. The guaranty described in this Section 3 of this Guaranty shall commence upon execution and shall continue until a substitute guaranty is provided.

(b) Reimbursement of Actual Costs. In the event Guarantor or its Affiliates fail to perform the Preconstruction Obligations for any reason, whatsoever, and the County has paid Actual

Costs (as defined in the Project Documents), Guarantor shall pay to County the sum equal to the Actual Costs paid by County pursuant to the Due Diligence and Planning Services Agreement.

(c) Security for Guaranty. Simultaneously with execution hereof, the Guarantor shall provide current financial documents demonstrating cash on hand of at least Five Million and No/100 Dollars (\$5,000,000), and every thirty (30) days thereafter, Guarantor shall provide evidence of continuing cash on hand, satisfactory to County, of at least Five Million and No/100 Dollars (\$5,000,000). If at any time, cash on hand is less than Five Million and No/100 Dollars (\$5,000,000), or if the County does not receive satisfactory evidence of available cash on hand every thirty (30) days, then the County shall provide written notice to the Guarantor who shall provide the County with either (i) a clean irrevocable letter of credit in the amount of Five Million (\$5,000,000.00) Dollars with an expiration date of not earlier than twelve (12) months from the date of issuance and otherwise in the form required by and consistent with Palm Beach County Policy and Procedure Manual No. CW-F-055 ("Letter of Credit") or (ii) a Payment and Performance Bond in the amount of Five Million (\$5,000,000.00) Dollars on the form required by, and issued from an institution acceptable to the County, within Ten (10) business days of receipt of County's notice ("Payment Bond"). Any Letter of Credit or Payment Bond issued pursuant to this section shall contain language acceptable to the County that said Letter of Credit or Payment Bond is issued as security for this Guaranty.

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

5. 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.

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

7. 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.

8. Acceptance of Performance. County agrees to accept performance by Guarantor of all or any of the Preconstruction Obligations to be performed by any Affiliate of Guarantor under the Project Documents with the same force and effect as though performed by the applicable Affiliate thereunder.

9. Unconditional, Absolute, Irrevocable and Continuing Guaranty. The obligations of Guarantor under this Guaranty shall be unconditional, absolute, irrevocable and continuing, irrespective of the genuineness, validity, regularity or enforceability of the Project 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 any Affiliate of Guarantor of any assignment for the benefit of creditors or the bankruptcy or insolvency of any such Affiliate, (b) any action taken by any Affiliate of Guarantor in any bankruptcy or insolvency proceeding, including, without limitation, disaffirmance or rejection of the Project Documents, (c) any default by any Affiliate of Guarantor under the Project Documents, (d) the liquidation or dissolution of any Affiliate of Guarantor, (e) any change in or termination of Guarantor's relationship to any Affiliate of Guarantor that is a party to the Project Documents, (f) the enforcement by County of any of its rights under the Project Documents, or (g) the sale, conveyance, transfer or assignment by any Affiliate of Guarantor of all or any portion of its interest under the Project Documents; 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. County and each Affiliate of Guarantor that is a party to the Project Documents, 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 Project 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.

10. 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 County of any remedies it may have against any Affiliate of Guarantor or any other Person with respect to the Project 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 County of its remedies against the issuer of the Letter of Credit or Payment Bond securing this Guaranty. Guarantor and County each acknowledge and agree that this Guaranty is a guaranty of performance in respect to the Project Document obligations. Any one or more successive or concurrent actions may be brought hereon against Guarantor with respect to the Preconstruction Obligations, either in the same action or proceeding, if any, brought against any Affiliate of Guarantor or any other person or entity, or in separate actions as often as County, in its sole discretion, may deem advisable. Guarantor may be joined in any action against any Affiliate of Guarantor in connection with the Project Documents. Recovery may be had by County against Guarantor in any action against Guarantor without County first pursuing or exhausting any remedy or claim against any Affiliate of Guarantor or any other person or entity, as the case may be, or their respective successors or assigns (except for pursuit by County of its remedies against the issuer of the Letter of Credit or Payment Bond securing this Guaranty) and Guarantor hereby waives any right it may have to require that County seek recovery against any other Person before seeking recovery against Guarantor (except for pursuit by County of its remedies against the issuer of the 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 Affiliate of Guarantor, or any successor thereof, of any of its interests under the Project Documents or (ii) any assignment or transfer by County, or any successor thereof, of any of its interests under the Project Documents.

11. 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 Project Documents; (d) demand for observance or performance of, or enforcement of, any terms and provisions of this Guaranty or the Project Documents; (e) notices of default by or to any Affiliate of Guarantor under the Project Documents; and (f) all other notices and demands otherwise required by law which Guarantor may lawfully waive.

12. No Subrogation. Guarantor shall not enforce any right of subrogation it may now or hereafter have against any Affiliate of Guarantor that is a party to the Project Documents 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 any such Affiliate 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 Preconstruction Obligations of Guarantor have been fully discharged, performed and satisfied, whereupon Guarantor shall have such subrogation rights as may be allowed under applicable law.

13. No Setoff. No setoff, counterclaim or cross-claim, reduction or diminution of any obligation or any defense of any kind or nature (other than payment of the Actual Costs and performance of the Preconstruction Obligations) shall be available to Guarantor in any action or proceeding brought by County to enforce the Preconstruction 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 County 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 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 County from Guarantor or any Affiliate of Guarantor, or any other Person, as the case may be, for or with respect to the Preconstruction Obligations is or must be rescinded or returned by County 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 any Affiliate of Guarantor, 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 County 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.

14. Joint and Several and Cumulative Rights and Remedies. The rights and remedies afforded to County 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 County 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 County 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 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 County's sole discretion, be executed and delivered by other Persons with respect to the Project 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.

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

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

17. Guarantor's Representations. In order to induce County to enter into this Guaranty, Guarantor represents and warrants to County 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) Guarantor is an Affiliate of each of the parties with which County has entered into the Project Documents;
- (vi) The person executing this Guaranty on behalf of Guarantor has all requisite authority to do so, as a duly authorized officer of Guarantor; and
- (vii) Guarantor is solvent and will not be rendered insolvent by reason of this Guaranty.

18. 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: Mark D. Lerner
Vice Chairman & Principal Owner
Washington Nationals Baseball Club
Nationals Park
1500 South Capitol Street, SE
Washington, DC 20003

with a copy to: Arthur Fuccillo
Executive Vice President
Lerner Enterprises
2000 Tower Oaks Boulevard
Eighth Floor
Rockville, Maryland 20852

If to 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

Any Notice may be given, in the manner provided in this Section 18, 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:

WASHINGTON NATIONALS BASEBALL CLUB, LLC
a Washington, DC limited liability company

H. W. Perry
Print Name: HUGH W. PERRY

By: [Signature]

[Signature]
Print Name: STEPHEN MCALPIN

Name: ARTHUR FUCILLO
Title: AUTHORIZED REPRESENTATIVE

STATE OF Florida

)

)ss:

COUNTY OF Leon

)

The foregoing instrument was acknowledged before me this 3rd day of March, 2015, by Arthur Fucillo, as Member/ Auth. Rep. of the Washington Nationals Baseball Club, LLC, who is personally known to me or has produced _____ as identification.

Nichola Garcia

Print Name: _____

Notary Public

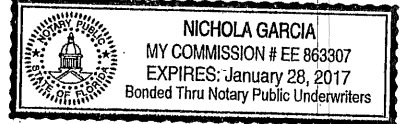


EXHIBIT G
Spring Training Facility
Washington Nationals and Houston Astros (Teams)
Status of Material Terms of Land, Developer and Use Agreements
Between Palm Beach County and the Teams
Last Update 030215

Land Control and Ownership	Notes
The County will secure ownership and/or use rights to the Facility (which includes the Stadium Property and the Easement).	
The County would enter into a Developer Agreement with the Teams concurrent with a Sports Facility Use Agreement	The term of the Sports Facility Use Agreement will be for 30 years with no provisions for early termination and incorporate the terms of the; 1) applicable terms of the Interlocal Agreement with the City of West Palm Beach (which includes the Teams assuming 100% of the obligations relative to the development of the City Park)and 2) the funding agreement with the State.
Funding/Financing	
The State will provide \$2M/year for 25 years.	The County will secure the funding agreement and same will be a condition precedent to commencement of construction.
The County will issue taxable bonds to fund the project budget ¹ of \$135 million consisting of \$130,000,000 of bond proceeds and a \$5 million cash payment for pre-construction soft costs associated with the Facility. The debt services payments will be made from a combination of State, County/TDC and Teams funding.	
Teams' funding	The Teams will pay \$2.2 Million/year for eight (8) years beginning with the County's third annual debt service payment, increasing to \$2.5 Million/year for 12 years, and increasing to \$2.65 Million for (8) years.

¹ The project budget and the amount of the bonds actually issued may be reduced based upon any pre-construction savings as discussed below.

Teams' guaranty of annual rent payments	County will receive guaranty from each of the franchises and maintenance of a minimum net worth requirement will be required.
Teams shall have the right to terminate the Development Agreement prior to the issuance of County financing.	Right to terminate is for any reason prior to the sale of the bonds subject to 100% repayment of the County's out of pocket third party expenses.
Teams Interest Election	The County intends to issue bonds to fund the Project Cost. The County intends to issue the bonds immediately prior to the award of the construction contract subject to the True Interest Rate not exceeding 4.78%. If, at the time of bond issuance, the True Interest Rate exceeds 4.78%, then the Teams shall elect (Interest Election) to either; 1) authorize the County to issue the bonds and to increase their Annual Rent Payments by the additional annual interest cost due to the higher interest rate, or 2) terminate the Agreement and reimburse the County 50% of the County's expenses at the date of termination.
No Tourist Development Tax dollars can be used toward the development of a City Park and as such the Teams agree to solely fund separately and in addition to its funding obligations agreed to on 10/21/14 and described above with respect to the Facility. The Teams agree to work with the County on specific bid and pay application formats which will readily demonstrate that no TDT dollars were expended on City Park.	
Development Agreement	Notes
The Teams will be responsible for the competitive selection of a program manager and design team consistent with the requirements of CCNA and a County Staff member will have a seat on the Committee.	

<p>The Teams will be responsible for the competitive selection of a construction manager at risk consistent with the County's selection requirements and a County Staff member will have a seat on the selection committee.</p>	<p>The Teams will use a construction contract substantially similar to the County's CM At Risk standard contract and include requirements for the CMAR to implement the County's SBE and Local preference policies when bidding the work.</p>
<p>Pre-construction, the County and Teams will share (pro rata with the County share being the combination of State and County funding) in project cost savings, if any, potentially allowing for a reduction in the County's share of the funding.</p>	<p>The County and Teams will work cooperatively throughout the design to ensure specifications reflect the quality of materials typically installed, and that quantities of features are comparable to other facilities in Florida.</p>
<p>The County and Teams will utilize the County's sales tax recovery program. All savings resulting from the sales tax recovery program will accrue to the project contingency.</p>	
<p>Savings accruing to the project (except for those savings resulting from the sales tax recovery program) during the construction phase will accrue to a project line set aside for renewal/replacement.</p>	<p>One third (1/3) of the savings will be placed in a county renewal/replacement line and the remaining two thirds (2/3) in a Teams renewal/replacement line. Both the County and the Teams will use these lines first to fund R/R obligations of the Agreement.</p>
<p>The Teams will be responsible for the cost of the project which exceeds the project budget.</p>	
<p>The Teams will have sole responsibility for all performance obligations and responsibilities with respect to the City Park that are assigned to the County pursuant to the County/City Interlocal Agreement.</p>	<p>Pursuant to the Interlocal Agreement Between the County and the City, neither the County or the Teams shall have any on-going, maintenance or operational responsibility associated with the City Park. Responsibility for maintenance and operation of the City Park lies solely with the City.</p>

Use	Notes
The Teams will be solely responsible for the maintenance and operation of the entire Facility at the Teams cost.	The Teams are responsible for all facility and property inspection, safety and litigation resulting from development and use of the Facility.
The Teams will be solely responsible for the R/R program subject only to payment by the County/TDC for R/R costs on the Facility and other public use structures (grounds and personal property excluded).	The annual R/R schedule will be prepared by the Teams and submitted to the County for approval.
The Teams will be solely responsible for performing and funding new capital improvements.	The Teams will be required to seek County approval for new capital improvements. The County's review is limited to review for consistency with the terms of the Agreement and that the improvements to not reduce public access to the Facility.
The County will be solely responsible for insuring the Facility for casualties.	Responsibility is the County's. FDO/Risk Management will work on details of coverage.
The Teams will have the right, but not the requirement to bring Grapefruit League Teams to Stadium	
The Teams will be solely responsible for the annual non-ad valorem assessments.	
The Teams will be solely responsible for the payment of on-site municipal services.	
The Teams will be solely responsible for the payment for any off-site municipal services.	

<p>The Teams will be solely responsible for the scheduling and managing of all non-Team use.</p>	<p>During time of non-Team use, Sports Commission use of the recreational multi-purpose/soccer field/parking areas and the non-exclusive areas of the Teams (e.g. clubhouses, etc.) will be the priority with bumping rights for incidental community use.</p>
<p>The use for sports tourism and other activities sponsored by the TDC are unlimited but subject to availability after the Teams' use. During sports tourism events and other activities sponsored by the TDC, The Teams will allow for the use of the NW pervious recreation/parking area and the NE impervious parking area so that sufficient parking is available to support the event without the use of the property previously included in the M- Canal Buffer.</p>	<p>The Sports Commission and/or the Event Sponsor shall not be charged a use fee, but are required to cover all out of pocket fees and costs associated with the events so that the Teams are not out of pocket any costs associated with this use.</p>
<p>The Teams will be responsible for developing standard fee structure for use.</p>	<p>The fee should not be any more than the Teams' expense to prepare and operate the Facility for the community's use for sporting activities. The Teams may charge a use fee for non-sporting community events.</p>
<p>The Teams will perform marketing services/promotion of the Palm Beach County spring training facility in each home city with an annual value of no less than 500,000/Team.</p>	<p>Prior to the start of regular season baseball annually, the Teams will coordinate with the TDC on the placement and content of the services/promotion in each home City to 1) review content of promotions, and 2) so that there is no dispute as to the value of services/promotion provided.</p>