

**KAUFFMAN STADIUM DEVELOPMENT AGREEMENT**

**between**

**JACKSON COUNTY SPORTS COMPLEX AUTHORITY**

**as Landlord**

**and**

**KANSAS CITY ROYALS BASEBALL CORPORATION**

**as Tenant**

**with**

**CONSENT AND AGREEMENT**

**By**

**JACKSON COUNTY, MISSOURI**

**as Owner**

**Dated as of March 20, 2006**

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**LIST OF EXHIBITS**

<u>Exhibit</u>	<u>Description</u>
A	Preliminary Project Program
AA	Updated Shared Complex/Central Services Facility
B	Preliminary Project Budget
C	Preliminary Project Schedule
D	Minimum Requirement Project Elements
E	Architect Insurance Requirements
F	General Contractor/Construction Manager Insurance Requirements
G	Disbursement Procedures
H	Public/Owner Representative Oversight Responsibilities/Services
I	Sports Complex Fair Share Agreement

## KAUFFMAN STADIUM DEVELOPMENT AGREEMENT

THIS KAUFFMAN STADIUM DEVELOPMENT AGREEMENT (this “**Agreement**”), is made and entered into as of March 20, 2006 (the “**Effective Date**”), by and between the JACKSON COUNTY SPORTS COMPLEX AUTHORITY, a body corporate and politic and political subdivision of the State of Missouri (“**Landlord**” or the “**Authority**”), and KANSAS CITY ROYALS BASEBALL CORPORATION (“**Tenant**” or “**Royals**”).

### RECITALS

A. Jackson County (the “**County**”) has constructed and owns the Harry S. Truman Sports Complex (the “**Sports Complex**”) consisting of Arrowhead Stadium, Kauffman Stadium; an unenclosed stadium plaza (a parking area located between the two stadiums), certain facilities beneath the stadium plaza area, parking lots for vehicles and various other common areas of real estate owned by Jackson County and located in Kansas City, Jackson County, Missouri.

B. The County has leased the Sports Complex to Landlord, which has subleased parts thereof to Tenant and to the Kansas City Chiefs Football Club, Inc. (the “**Co-tenant**” or “**Chiefs**”).

C. Landlord and Tenant previously made and entered into that certain Lease Agreement dated January 19, 1990 (the “**1990 Lease**”), as modified by that certain Memorandum of Understanding dated January 19, 2005 (as so modified, hereinafter referred to as the “**Original Lease**”), pursuant to which Landlord leased to Tenant Kauffman Stadium, certain common areas and other facilities as therein described. The Original Lease was modified and amended by that certain 2006 Lease Amendment dated January 24, 2006 (the “**2006 Lease Amendment**”) pertaining to, among other things, the extension of the term of the Original Lease from January 31, 2015 to January 31, 2031, proposed expansions and renovations to Kauffman Stadium and certain modifications of the Exclusive Leased Premises and the Co-Exclusive Use Property (as defined in the 2006 Lease Amendment). The Original Lease, as amended by the 2006 Lease Amendment, is sometimes referred to herein as the “**2006 Amended Lease**”.

D. The effectiveness of the 2006 Lease Amendment is subject to the satisfaction of certain terms and conditions set out in the 2006 Lease Amendment.

E. Landlord and the County, with a financial contribution from Tenant, wish to complete a Kauffman Stadium Expansion and Renovation Plan (as defined in the 2006 Amended Lease) and sometimes referred to herein as the “**Project**”, which will take the place of pending Master Plan (as defined in the Original Lease) improvements to Kauffman Stadium, all as set forth in the 2006 Amended Lease.

F. Pursuant to a Lease Agreement dated January 19, 1990 (the “**Co-tenant Original Lease**”), Landlord leased Arrowhead Stadium to the Chiefs. Simultaneously with the 2006 Lease Amendment, Landlord entered into a 2006 Lease Amendment dated January 24, 2006 with the Chiefs (the “**Co-tenant 2006 Lease Amendment**”); the Co-

tenant Original Lease, as amended by the Co-tenant 2006 Lease Amendment, hereinafter referred to as the “**Co-tenant 2006 Amended Lease**”) and has or anticipates entering into with Co-tenant a development agreement for the expansion and renovation of Arrowhead Stadium (the “**Co-tenant Development Agreement**”) for the implementation of the Arrowhead Stadium Expansion and Renovation Plan (as defined in the Co-tenant 2006 Amended Lease (the “**Co-tenant Project**”). The Co-tenant Development Agreement is in substantially the same form and contains substantially the same terms and conditions as this Agreement for the Project.

G. The Royals, as Tenant, have agreed to manage the design, development and construction of the Project and to be responsible for any cost overruns pursuant to the terms of the 2006 Amended Lease.

H. The County, Landlord and Tenant intend for the Project to be designed, developed and constructed consistent with the plan, program and criteria set forth on **Exhibit A** attached hereto (the “**Preliminary Project Program**”), on and subject to the terms and conditions set forth herein and in the 2006 Lease Amendment, as supplemented and/or amended pursuant to the terms of this Agreement.

I. The parties recognize and agree that work on the Project and Co-tenant’s Project must be coordinated and done in a manner as to minimize interference to the extent reasonably practical with the other Project and with Tenant’s and Co-tenant’s games and other events which will continue at the Sports Complex during the construction of the Project and Co-tenant Project under this Agreement and the Co-tenant Agreement.

J. The parties further recognize and agree that in order to protect and best serve the expenditure of Public funds for the Project, it is both desirable and necessary that Landlord/County, with the assistance of a professional “**Public/Owner Representative**” (as defined below), have review and oversight rights and responsibilities with respect to the design and construction of the Project and payments to contractors and service providers for the Project and that those certain “**Minimum Required Project Elements**” (as defined below) be included in the Project, all as set forth in, and subject to the terms and conditions of, the 2006 Amended Lease and this Agreement.

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

## **ARTICLE 1** **GENERAL: PARTIES, TERM, RECITALS AND DEFINITIONS**

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

**Section 1.02 Tenant.** Tenant–Kansas City Royals Baseball Corporation is a corporation organized under the Laws of the State of Missouri and qualified to do business in said State.

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

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

**Section 1.05 Definitions.** Initially capitalized terms used in this Agreement are defined in **Article 14**, or have the meanings given them when first defined, or are defined in the 2006 Amended Lease.

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

**Section 1.07 Relationship of this Agreement to 2006 Amended Lease.** In the event of any inconsistency between the terms of this Agreement and the 2006 Lease Amendment, the terms of the 2006 Lease Amendment shall control unless otherwise expressly stated herein. The fact that the 2006 Lease Agreement does not address a topic or matter covered in this Agreement shall not be considered an inconsistency.

## **ARTICLE 2** **CONDITIONS PRECEDENT**

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

**Section 2.02 Acknowledgements of Satisfied Conditions Upon Execution.** By execution of this Agreement, Landlord and Tenant shall be deemed to have approved or waived the following conditions:

(a) Preliminary Project Program. Landlord and Tenant have approved the narrative description of the Project (the **“Preliminary Project Program”**), a copy of which is attached hereto as **Exhibit A**.

(b) Preliminary Project Budget. Landlord and Tenant have approved a preliminary budget for the Project (the **“Preliminary Project Budget”**) a copy of which is attached hereto as **Exhibit B**.

(c) Preliminary Project Schedule. Landlord and Tenant have approved a preliminary schedule for completion of the Project (the “**Preliminary Project Schedule**”), a copy of which is attached hereto as Exhibit C.

(d) Approval of Minimum Required Project Elements. Landlord/County and Tenant have approved the minimum improvements that must be made to Kauffman Stadium as part of the Project (hereinafter the “**Minimum Required Project Elements**”) a description of which is attached hereto as Exhibit D.

**Section 2.03 Parties Conditions Precedent.** The Parties shall not be obligated to proceed with the Project unless and until all of the following conditions precedent have been satisfied (or waived by both Parties in their sole discretion):

(a) New County Sales Tax. The New County Sales Tax (as defined in the 2006 Lease Amendment) for a 3/8¢ levy to provide funds for the Project and the Co-tenant Project must have been passed in Jackson County in the April 4, 2006 election.

(b) Availability of Funds. Within one hundred and fifty (150) days after the passage of the New County Sales Tax, Landlord and County have made available for draw down by and/or distribution to Tenant as provided in this Agreement, Landlord’s Capped Contribution (as defined below in Section 6.05(b) and in Section 22(a) of the 2006 Lease Amendment) and the amounts set forth in **Section 12.01** hereof and the Fair Share Agreement, for disbursement to Tenant as needed to construct and complete, on schedule as herein provided, the Leased Premises Renovation (as defined in the 2006 Lease Amendment) including payment of the costs and expenses relating to the design, development and construction of the Kauffman Stadium Expansion and Renovation Plan (including without limitation all hard and soft costs, including without limitation those costs and expenses referenced in Section 29 of the 2006 Lease Amendment).

(c) MDFB Agreement. (i) A Tax Credit Agreement [(or Agreements if a separate Agreement (the “**MDFB Agreement**”), is entered into by the County, Co-tenant and the Missouri Development Finance Board (the “**MDFB**”)], which MDFB Agreement shall not impose any additional obligations upon Tenant in addition to those set forth in the 2006 Lease Amendment (except for fees, costs or expenses imposed by the MDFB as a condition to the MDFB’s execution of the MDFB Agreement, which fees, costs or expenses shall be subject to Tenant’s prior written approval), must have been executed by the County, Tenant and the MDFB for the issuance of Missouri State Tax Credits equal to fifty percent (50%) of Tenant’s Contribution (as defined in the 2006 Lease Amendment) to the Kauffman Stadium Expansion and Renovation Plan (as defined in the 2006 Lease Amendment) and the total Chiefs contribution (\$75,000,000) to the plan for the expansion and renovation of, and improvements to, the Football Stadium, as set forth in the Co-Tenant 2006 Lease Amendment, with revenues therefrom to be

contributed to financing of the Project and Co-tenant Project, and (ii) all conditions precedent to the issuance of the Missouri State Tax Credits described in this **Section 2.03(c)** have been satisfied.

(d) General Contractor/Construction Manager Agreement. (i) As provided in **Section 4.05**, the General Contractor (or Construction Manager) selected by Tenant as a result of the Competitive Bid Process (as defined below) for the construction of the Project must have been approved by the Landlord/County 2/3 Approval Process (as defined below), and (ii) a General Contractor Agreement for the Project must have been executed by the General Contractor and Tenant.

(e) Fair Share MBE/WBE Agreement. Tenant and Landlord must have executed the Fair Share Agreement as referred to in **Section 12.02** and set out in the form of **Exhibit I** attached hereto for the M/WBE and Workforce Goals described therein.

(f) Architect's Agreement. Pursuant to **Section 4.04**, and in accordance with an RFQ Process (as defined below), an Architect for the Project has been selected by Tenant and an Architect's Agreement must have been executed by Tenant and the Architect.

(g) Final Project Schedule. Landlord must have reasonably approved any material modification (a modification that changes the scheduled completion date of Spring 2010) to the Preliminary Project Schedule.

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

(i) Appropriation. No later than September 30, 2006, the Jackson County Legislature and the Jackson County Sports Complex Authority shall have taken all necessary actions, including without limitation any necessary appropriation of the Landlord's Capped Contribution and any necessary appropriation of the amounts set forth in **Section 12.01** and **Section 12.02** hereof, to make unconditionally available to Tenant (except for the conditions to disbursement set forth herein) the Landlord's Capped Contribution for the Project.

(j) Tenant Approvals. On or before March 28, 2006, this Agreement has been approved by Major League Baseball (MLB).

(k) Project Program. Tenant shall have confirmed to Landlord that there are no material modifications or revisions to the Preliminary Project Program, or shall have submitted to Landlord any material modifications and revisions to the Preliminary Project Program (the Preliminary Project Program,



together with any such changes or revisions thereto, hereinafter referred to as the “**Final Project Program**”); provided, however, that no Minimum Required Project Elements (**Exhibit D**) shall be removed from the Project and Tenant shall not cause any of the quality of materials and finishes to be incorporated into the Kauffman Stadium Expansion and Renovation Plan (as defined in the 2006 Lease Amendment) to be less than the existing quality of comparable materials and finishes in the Baseball Stadium) except in accordance with **Section 4.18** hereof.

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

**Section 2.05 Right to Terminate.** In the event that the conditions set forth in Section 2.03 above are not satisfied on or prior to the date specified therefore (if a date is specified) or otherwise in accordance with the terms of this Agreement, either Party, by written notice delivered to the other Party and the County at any time after any such missed date, may elect to terminate this Agreement and the 2006 Lease Amendment, in which event this Agreement and the 2006 Lease Amendment shall be null and void. In the event that the conditions set forth in **Section 2.03** have not been satisfied prior to one hundred and eighty (180) days after the Effective Date, then this Agreement shall terminate and be of no further force or effect, unless the Parties and the County otherwise mutually agree to an extension of such date.

**Section 2.06 Compliance with Laws.**

(a) Compliance with Laws and Other Requirements. Subject to the Site (as defined below) complying with all Laws as of the Effective Date, and subject to Landlord’s obligations under the 2006 Amended Lease for certain environmental conditions of the Leased Premises and except as provided in **Section 5.01(c)** below, Tenant, to the extent required by any appropriate enforcing Governmental Authority (taking into account any variances or other deviations properly approved), and at all times throughout the Development Term, shall, in the construction of the Project, comply with: (i) all Laws applicable to the construction of the Project; and (ii) all requirements of Major League Baseball with respect to the design and construction of the Project. All costs and expenses of Tenant in connection with its obligations under this Section 2.06(a) may be paid as a Project Cost.

(b) Building Compliance Procedures. The Architect’s Agreement shall require the Architect to comply with the reasonable and customary

professional standards applicable to design of similar projects and structures in Jackson County, Missouri (the “**Building Compliance Procedures**”).

**Section 2.07 Condition of the Site and Approvals.** Landlord hereby represents and warrants to Tenant as follows:

(i) Regulatory Approvals. Landlord hereby warrants and represents that to the best of its knowledge and belief the Project is not subject to any legal requirements imposed by the City of Kansas City, Missouri, and that no Regulatory Approvals must be obtained from, and no building permit or other fees must be paid to, the City of Kansas City, Missouri. Because the Project is owned by the County, no building permit fees, inspection fees, impact fees or other charges shall be made for any Regulatory Approvals required to be obtained from Landlord or the County, and County and Landlord hereby waive any such fees and charges, to the extent applicable.

(ii) Title. The County possesses marketable fee simple title to the Leased Premises, free and clear of any liens or encumbrances and free and clear of any covenants, restrictions, easements (excepting standard utility easements) or other rights or agreements (excepting the 2006 Amended Lease and the Co-tenant 2006 Amended Lease) that may impact, affect or interfere with the Project and the Parties’ performance of their respective duties and obligations hereunder.

(iii) Environmental; Soil Conditions; Tenant Inspection Rights. Landlord has no knowledge of any environmental or soils condition of the Site that may impact, affect or interfere with the Project and the Parties’ performance of their respective duties and obligations hereunder, and to Landlord’s knowledge, the Site is in compliance with all Laws. Tenant, in its sole discretion, and its contractors, in their sole discretion, may conduct necessary environmental assessments, soil testing and other inspections at the Site in order to confirm such conditions and plan the construction of the Improvements.

(iv) Zoning. The Site is zoned so that the Project is an allowable use upon the Site, and Tenant can reasonably expect to be able to obtain any necessary Regulatory Approvals for the Project, upon terms and conditions and in a manner reasonably satisfactory to Tenant.

### **ARTICLE 3** **INDEMNIFICATION**

#### **Section 3.01 Indemnification.**

(a) Indemnification Obligations of Landlord and County. Notwithstanding anything to the contrary in the 2006 Amended Lease, during the

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

(b) Indemnification Obligations of Tenant. Notwithstanding anything to the contrary in the 2006 Amended Lease, during the Development Term, Tenant shall, to the fullest extent permitted by Law, Indemnify Landlord, the County, Co-Tenant and their related Indemnified Parties from and against any and all Losses incurred in connection with or arising directly or indirectly, in whole or in part, out of (i) the death of any person or any injury, accident, loss or damage whatsoever caused to any person or to the property of any person which may occur on or adjacent to the Site and which may be caused by any negligent acts or omissions of Tenant or its Agents, or (ii) any default by Tenant in the observation or performance of any of the terms, covenants or conditions of this Agreement to be observed or performed on the part of Tenant; provided, however, that Tenant shall not be obligated under this **Section 3.01(b)** to Indemnify Landlord, County or their related Indemnified Parties from Losses caused by the negligence or willful misconduct of any of the Landlord or the County or their related Indemnified Parties. Tenant's total liability to Landlord, County and/or the related Indemnified Parties for any Losses caused in part by the fault of Tenant and in part by the fault of Landlord, County or any of their related Indemnified Parties or any other entity or individual shall not exceed the percentage share that Tenant's fault bears to the total fault of Tenant, Landlord, County, and of their related Indemnified Parties and all other entities and individuals as determined on the basis of comparative fault principles.

(c) Waiver of Subrogation. Anything in this Agreement or the 2006 Amended Lease to the contrary notwithstanding, it is agreed that each Party (the

“**Releasing Party**”) hereby releases the other Party (the “**Released Party**”) from any liability or responsibility (to the Releasing Party or anyone claiming through or under the Releasing Party by way of subrogation or otherwise) which the Released Party would, but for this **Subsection 3.01(c)** have had to the Releasing Party during the Development Term resulting from the occurrence of any accident or occurrence or casualty (i) which is or would be covered by a fire and extended coverage policy (with a vandalism and malicious mischief endorsement attached) or by sprinkler leakage, boiler and machinery or water damage policy in the State of Missouri (irrespective of whether such coverage is being carried by the Releasing Party), or (ii) covered by any other casualty or property damages insurance being carried by the Releasing Party at the time of such occurrence, even if such casualty resulted in whole or in part from any act or neglect of the Released Party, its partners, officers, agents or employees; provided, however, that the releases herein contained shall not apply to any loss or damage occasioned by the willful, wanton or premeditated action or omission of the Released Party. Each Party hereto and the County shall, if reasonably possible, obtain a waiver from any insurance carrier with which it carries insurance covering the Sports Complex or part thereof, or the contents thereof, releasing subrogation rights against the other Party and the County. To the extent a Party or the County is unable to obtain such a waiver, such Party or the County shall promptly provide notice to all other Parties or the County (as applicable) and the provisions of this **Subsection 3.01(c)** shall be inapplicable if such circumstance prevents such Party or the County from obtaining insurance coverage.

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

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

(f) Additional Obligations. The agreements to Indemnify set forth in this Agreement are in addition to, and in no way shall be construed to limit or replace, any other obligations or liabilities which an Indemnifying Party may have to an Indemnified Party in this Agreement, the 2006 Amended Lease or under applicable Law.

(g) Defense. The Indemnifying Party shall, at its option, be entitled to control the defense, compromise, or settlement of any indemnified matter; provided, however, in all cases the Indemnified Party shall be entitled to participate in such defense, compromise, or settlement at its own expense. If the Indemnifying Party shall fail, however, within a reasonable time following notice from the Indemnified Parties alleging such failure, to take reasonable and appropriate action to defend such suit or claim, the Indemnified Parties shall have

the right promptly to use counsel reasonably selected by the Indemnified Parties to carry out such defense, the expense of which shall be due and payable to the Indemnified Parties within thirty (30) days after receipt by Indemnifying Party of an invoice therefore. The Indemnified Party shall also be entitled to an award of its costs and expenses, including but not limited to attorneys' fees and expert fees, in enforcing the obligations of the Indemnifying Party.

(h) Offset Remedy. Without limiting any other right or remedy that either Party or the County may have hereunder or at Law or in equity, if and to the extent that any Indemnifying Party shall, for any reason (including without limitation, in the case of Landlord or County, any claim by Landlord or County or any judicial determination that Landlord or County is not permitted, in accordance with Law, to fully and completely perform each and all of its covenants and agreements set forth under this **Section 3.01**), fail to fully and completely perform each and all of its covenants and agreements set forth under this **Section 3.01**, then the Indemnified Parties shall have the right to offset against all amounts due to the Indemnifying Party from such Indemnified Parties, or any of them (including without limitation amounts due under this Agreement or under the 2006 Amended Lease), until such Indemnified Parties have recovered from the Indemnifying Party an amount equal to all Losses incurred by such Indemnified Parties, together with interest thereon at the Premium Rate. In the case of Landlord and County, Tenant shall have the right to offset against amounts due to either such party upon any failure by either such party to fully and completely perform each and all of its covenants and agreements set forth under this **Section 3.01**.

#### **ARTICLE 4**

#### **PROJECT OWNERSHIP, DESIGN AND CONSTRUCTION DOCUMENTS**

**Section 4.01 Project.** Subject to the terms and conditions set forth in this Agreement, (a) the County shall own the Project for public purposes as provided herein; (b) Tenant shall manage and oversee the planning, design, development, construction, completion and making operational of the Project in accordance with the Project Program (as hereinafter defined) and this Agreement and always with the Minimum Required Project Elements (**Exhibit D**) included as part of the Project except as expressly set forth in this Agreement; and (c) Landlord/County and Tenant shall fund their respective funding commitments as required in **Article 6** hereof. Notwithstanding the foregoing, to the extent permitted by applicable Law and the instruments governing the issuance of the Bonds (as defined below), certain materials, equipment, fixtures and, other elements of the Project that were paid for as Specific Expenses pursuant to **Section 6.06(e)** shall be deemed to be owned by Tenant, subject, however, to applicable provisions of the 2006 Amended Lease regarding the use, maintenance, repair, replacement, removal or encumbrance of such items and regarding the disposition and ownership of such items upon termination of the 2006 Amended Lease. In no event shall this **Section 4.01** be deemed to limit any rights of Tenant in and to any of Tenant's property under the 2006 Amended Lease.

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

**Section 4.03 Design and Construction of Project; Coordination with Co-tenant Project.**

(a) In General. Tenant shall have control over the development and construction of the Project, except (i) as set forth in **Section 4.07** below, (ii) to the extent this Agreement elsewhere expressly provides for the Landlord/County’s participation in any portion of such process and (iii) in no case shall there be any unauthorized Material Change (as defined below) in the Project nor shall the Minimum Required Project Elements (**Exhibit D**) be removed from the Project except as expressly permitted in this Agreement. Tenant shall be responsible, except as otherwise specifically provided herein, for meeting, either directly, indirectly or through contractual or other arrangements, any and all requirements of Laws applicable to the construction of the Project, including without limitation, as applicable, (i) United States Occupational Safety and Health Administration requirements (“OSHA”), (ii) Americans with Disabilities Act (“ADA”) requirements, (iii) requirements under Title VII of the Civil Rights Act of 1964, as amended, (iv) Age Discrimination in Employment Act requirements; and (v) any other requirements set forth in this Agreement including the Building Compliance Procedures.

(b) Coordination with Co-tenant Project. In that the Project will be developed and constructed concurrently with, and in close proximity to, the Co-tenant Project, Tenant agrees to use its reasonable efforts to, and to use its reasonable efforts to cause the Architect and the General Contractor and all trade contractors and other subcontractors to, to the extent reasonably possible, coordinate and cooperate with Co-tenant, and Co-tenant’s architect, general contractor or construction manager and subcontractors, with respect to the development and construction of the Project and the Co-tenant Project being constructed pursuant to the Co-tenant Development Agreement. Tenant and Tenant’s Architect, General Contractor and trade contractors and other subcontractors shall use reasonable efforts to periodically meet with Co-Tenant’s architect, general contractor and trade contractors and other subcontractors to review and coordinate schedules and activities to minimize delay and disruptions to Tenant’s and Co-Tenant’s Projects (under the Co-tenant Development Agreement) and minimize interference with Tenant’s and Co-Tenant’s events at the Sports Complex. The jointly developed schedules (the “**Coordination Plan**”) shall thus constitute schedules that Tenant and Co-Tenant shall use reasonable efforts to comply with until subsequently modified by agreement. **TENANT FURTHER AGREES THAT ANY DISPUTE BETWEEN TENANT AND CO-TENANT WITH RESPECT TO SUCH COORDINATION AND COOPERATION SHALL BE SUBJECT TO RESOLUTION UNDER**



**ARTICLE XV (CONFLICTS AND ARBITRATION) OF THE ORIGINAL  
LEASE AND OF THE CO-TENANT ORIGINAL LEASE.**

**Section 4.04 Architect and Engineers; Insurance.** As soon as reasonably possible after the execution of this Agreement, if Tenant has not already done so, Tenant shall undertake an RFQ Process to select the “**Architect**” for the Project as required by applicable Laws. Once Tenant selects the Architect, Tenant shall enter into the agreement (the “**Architect Agreement**”) it reasonably approves for the Architect to design and oversee development and construction of the Project. Pursuant to and subject to the terms of the Architect Agreement, Tenant shall have the authority, control and rights in directing, supervising, terminating and replacing the Architect and any engineers for the Project. Tenant shall use its reasonable best efforts to require the Architect to be contractually obligated to indemnify Tenant, the County and Landlord and to maintain insurance (including errors and omissions coverage) for the benefit of Tenant, and the County and Landlord as additional insureds, as described on **Exhibit E** attached hereto. Each structural element of the Project shall be engineered in accordance with generally accepted engineering practices. The Project shall be designed to comply with all requirements of Major League Baseball in effect when such design is made.

**Section 4.05 General Contractor.** The Parties recognize and acknowledge that Tenant will accomplish the construction of the Project either through (in Tenant’s sole discretion): (i) the engagement of a professional construction manager through the procedures set forth in R.S.Mo. §§ 8.675 through 8.687, inclusive, with various portions of the Project actually constructed by responsible trade contractors submitting the lowest and best bid for such work pursuant to the Competitive Bid Process and as established by Laws; or (ii) a responsible general contractor submitting the lowest and best bid for the entire Project pursuant to the Competitive Bid Process (set out below) and as established by Laws; or (iii) another allowable project delivery method permitted by established Laws. In the event that Tenant utilizes the method of construction set forth in **part (i)**, the term “**General Contractor**” in this Agreement shall mean the professional construction manager described in **part (i)**. In the event that Tenant utilizes the method of construction set forth in **part (ii)**, the term “**General Contractor**” in this Agreement shall mean the general contractor selected pursuant to the process described in **part (ii)**. In the event Tenant utilizes the method of construction set forth in **part (iii)**, the term “**General Contractor**” shall mean the entity responsible to Tenant for the construction of the Project. The selection of each General Contractor under this **Section 4.05** shall be subject to the Landlord/County 2/3 Approval Process to the extent not prohibited by applicable Laws. Tenant shall, in its sole discretion, select the project delivery method, and utilize the form of contract it reasonably approves in entering into the contract(s) with the General Contractor entities described in this **Section 4.05** (the “**General Contractor Agreement**”). Pursuant to and subject to the terms of the General Contractor Agreement, Tenant shall have authority, control and rights in directing, supervising, terminating and replacing the General Contractor (subject, however, with respect to the replacement of the General Contractor, to the Landlord/County 2/3 Approval Process). Tenant shall require that the General Contractor bid out all construction packages and award such packages in accordance with the applicable terms

of the General Contractor Agreement, the Competitive Bid Process and the Fair Share Agreement.

**Section 4.06 Design Documents.** The Kauffman Stadium Expansion and Renovation Plan attached as **Exhibit H** to the 2006 Amended Lease and as further modified as set forth on **Exhibit A** attached hereto, sets forth a conceptual description of certain improvements, renovations, replacements and additions to be made by Tenant to the Exclusive Leased Premises and to the Central Services Facility improvements relating to the separation and reconfiguration of the Central Services Facility (as the foregoing terms are defined in the 2006 Amended Lease). Said conceptual descriptions shall form the basis for program and schematic designs, plans and specifications to be developed by Tenant and approved by Landlord (which approval shall not be unreasonably withheld, conditioned or delayed) (hereinafter **“Program and Schematic Designs”**) and for final designs, plans and specifications to be developed by Tenant and approved by Landlord (which approval shall not be unreasonably withheld, conditioned or delayed) based upon such Program and Schematic Designs (hereinafter, **“Final Designs”**). Tenant shall submit the Program and Schematic Designs and the Final Designs to the Landlord's Representative (as defined below) in accordance with this Agreement for each stage of construction in a logical manner in order to facilitate the preparation and solicitation of bid packages following the Competitive Bid Process by the General Contractor and/or Tenant, as Tenant determines to be appropriate or desirable; provided that for purposes of such submittals the Construction Documents (as defined below) may be organized in packages representing Program and Schematic Designs and Final Designs for each Stage of Construction (each a **“Stage of Construction”** and collectively the **“Stages of Construction”**). Notwithstanding the organization of the Project and the design thereof into Stages, Tenant shall be obligated to construct and complete all Minimum Required Project Elements (**Exhibit D**) and in no event shall there be any reduction in or material adverse modification to the Minimum Required Project Elements except as expressly provided herein.

**Section 4.07 Control of Construction Documents.** Tenant shall have the sole right and responsibility to negotiate and enter into all contracts, including all **“Construction Documents”** (as defined below), necessary for the design, engineering, construction and completion of the Project; provided, however, that Tenant shall not be required to be a party to subcontracts between the General Contractor and any subcontractor or any other contractor and any subcontractor. Tenant shall provide a copy of all Construction Documents to the Landlord's Representative and the M/WBE and Workforce Coordinator (as defined below) for review no less than ten (10) business days prior to the Tenant's or General Contractor's execution thereof.

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



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

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

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

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

(b) Monthly Information Meetings. The Landlord's Representative and the M/WBE and Workforce Coordinator shall be given reasonable advance notice of, and shall be invited to attend, a monthly informational meeting during any period of substantial planning for or construction of the Project, to update and inform the Landlord's Representative and the M/WBE and Workforce Coordinator as to the development, planning, design and construction of the Project.

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

**Section 4.11 Review of Final Designs for Construction Stages.** Upon approval by Tenant of the Final Designs for any Construction Stage, Tenant shall request that the Architect submit the foregoing to Landlord's Representative in one package marked clearly with the words "Final Designs for \_\_\_\_\_ [applicable Construction Stage]." Landlord shall have five (5) business days following its receipt of any applicable Final Designs, but in no event less than fourteen (14) days of its receipt of the Final Designs for

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

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

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

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

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

Representative for such purposes until such additional documents are received by the Landlord's Representative);

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

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

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

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

**Section 4.15 Applicable Standard of Review.** With respect to Landlord's right to approve the Program and Schematic Designs and the Final Designs for each Stage of Construction, Landlord agrees that it (or Landlord's Representative) will not unreasonably withhold, condition or delay its consent to any plans and specifications and that, in determining whether to consent or reasonably withhold or condition its consent, Landlord acknowledges and agrees that, consistent with the operation of the Sports Complex, the generation of additional revenue for Tenant, and the generation of

additional activity in the vicinity of the Sports Complex, particularly on weekdays, is of paramount importance to Tenant in maintaining its financial viability.

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

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

**Section 4.18 Scope and Value Engineering Changes.** If so required by Tenant, to cause the Project to substantially match the funds available to Tenant for the implementation of the Kauffman Stadium Expansion and Renovation Plan, Tenant may make, without the approval of Landlord (except as stated below), scope or "value engineering" changes in the Project; provided, however, that (A) such changes will not cause the Project to be constructed in a manner that would result in the quality of materials and finishes to be incorporated into the Leased Premises Renovation (as defined in the 2006 Lease Amendment) to be less than the existing quality of comparable materials and finishes in the Baseball Stadium, (B) the substitute materials are certified by the Architect as being substantially equivalent, as to the quality of materials and finishes, as not less than the existing quality of comparable materials and finishes in Kauffman Stadium; and (C) none of such changes cause the scope of the Project to be less than the Minimum Required Project Elements described in **Exhibit D** (each such change prohibited being referred to hereinafter as a "**Material Change**"). Any Material Change described in (A) or (B) above must first be approved in writing by Landlord, which approval shall not be unreasonably withheld or delayed and, if Landlord does not deliver written notice of disapproval to Tenant (or other requesting party) (specifying in detail the reasons for such disapproval) within ten (10) business day after written notice to Landlord from Tenant's (or other requesting party's) action in question, such action shall be for all purposes deemed approved. Any Material Change described in (C) above must first be approved in writing by the Landlord/County 2/3 Approval Process.

**Section 4.19 [Reserved]**

**Section 4.20 Scope of Tenant Submissions of Construction Documents.**

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

**Section 4.21 Changes in Final Construction Documents.**

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

**Section 4.22 Process for Processing Changes in Final Construction Documents.**

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

**Section 4.23 Construction Change Disputes.**

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

**Section 4.24 As-Built Documents.**

Tenant shall furnish the Public/Owner Representative and Landlord a fully updated set of as-built plans, specifications and any surveys (if available, provided that Tenant shall not be obligated to obtain a survey) with respect to the Site within one hundred twenty (120) days after Completion of the Improvements. As used in this **Section 4.24**, "**as-built plans and specifications**" means a fully updated set of as-built record drawings prepared during the course of construction.



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

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

**Section 4.26 General Contractor Assurances.** Landlord may from time to time reasonably request in writing that Tenant require the General Contractor to furnish to the Landlord evidence of the performance and payment bonds, indemnification and insurance required to be provided by the General Contractor.

**Section 4.27 Minimum Required Project Elements.** The Parties recognize and agree that Tenant has certain rights to adjust the scope and/or "value engineer" parts of the Project as such parts are competitively bid. The parties further recognize and agree, however, that notwithstanding these Tenant rights, certain basic and essential parts or elements of the Project are required to make Kauffman Stadium a first-class, state of the art facility for the Public. These "**Minimum Required Project Elements**" are described on attached **Exhibit D**.

**Section 4.28 Procurement of Construction Materials.** The County shall use its reasonable best efforts to provide to Tenant such documentation as may be necessary to permit Tenant to purchase goods and services for the Leased Premises Renovations without payment of any applicable sales and use taxes. The parties hereby acknowledge that there may be tax benefits to having the County or Landlord procure certain construction materials and supplies. Accordingly, from time-to-time, County and/or Landlord, upon the prior written request of Tenant, shall, in the name of the County or Landlord, place orders for certain construction materials and supplies as designated from time-to-time by Tenant (the "**Construction Materials**") in the amounts requested in such writing by Tenant. Tenant shall, as part of such written request, deliver to the County or Landlord all forms completely filled out and addressed (with appropriate cover letters and stamped envelopes) to the appropriate vendors. Tenant shall not make any such requests more than once in a calendar month and shall submit such written request so that the County or Landlord has no less than ten (10) business days to sign and send out such request to the appropriate vendors; provided, however, that if Tenant reasonably determines that, from time-to-time, it is necessary to submit more than one request in a calendar month, County or Landlord will attempt to reasonably cooperate with Tenant in processing such requests. If a deposit or other payment is required to be sent with such

written request, Tenant shall include a check, drawn on Tenant, in the appropriate amount, and Tenant shall submit a reimbursement for such deposit or payment in the immediately next Payment Certificate submitted by Tenant to Landlord. Neither the County nor Landlord makes any warranty or representation as to the tax benefits or burdens relating to the acquisition of any Construction Materials pursuant to the terms of this Section.

**Section 4.29 Intellectual Property Rights.** Except as set forth in the 2006 Amended Lease, the Parties agree that ownership of all names, trademarks, service marks, trade dress, logos and slogans used for or in association with the Project; all depictions, likenesses, images or other identifiers of the Project or areas in the Project; all merchandizing rights in association with the Project; as well as all trademark, copyright and other proprietary rights in the same and all rights to protect, enforce and license any or all of the foregoing (the “**Identity Rights**”) shall be owned by Tenant. Further, to the extent required, Landlord/County further hereby grants to Tenant a royalty-free exclusive license, with the right of sublicense, during the Development Term, to use the Identity Rights for any and all purposes, including for commercialization and merchandizing purposes and to retain all proceeds therefrom, subject to the terms of the 2006 Amended Lease. Landlord/County shall have the limited right to use the Identity Rights for non-commercial purposes, subject to the prior written approval of Tenant, which Tenant may reasonably withhold or condition.

**Section 4.30 Changes in Project Schedule.** Tenant shall submit to Landlord's Representative for review in connection with each Stage of Construction and during the course of construction, any material revisions or changes to the Project Schedule; provided, however, that in no event may Tenant change the scheduled completion date of Spring 2010 (subject to Force Majeure), without Landlord's prior approval, which approval shall not be unreasonably withheld, conditioned or delayed.

## **ARTICLE 5**

### **DEVELOPMENT OF THE SITE; TENANT AND LANDLORD OBLIGATIONS**

#### **Section 5.01** Tenant's Development Obligations.

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

(b) Management of Construction. Tenant shall manage the construction of the Improvements on the Site, all in the manner set forth in this **Article 5** and the Final Project Program, and shall use commercially reasonable efforts to construct or cause such construction to be completed on or prior to



Spring 2010, subject to Force Majeure. Subject only to the express terms of this Agreement and the provisions of applicable Laws and permitting requirements, Tenant and the General Contractor shall determine construction means, methods, techniques, sequences and procedures, and shall be responsible for coordinating all portions of the work on the Project. Tenant shall cause the General Contractor to provide and pay for all materials utilized in the work in compliance with the applicable provisions of the Competitive Bid Process (including Construction Materials if purchased pursuant to **Section 4.28** above) and the Fair Share Agreement.

(c) Demolition, Alteration and Additions – Hazardous Materials. With respect to existing structures and improvements, or parts thereof, which are required to be demolished for the Project, and in connection with any alterations or additions to existing structures or improvements comprising a part of the Exclusive Leased Premises, Tenant shall cause all such existing structures and improvements to be inspected for lead, asbestos and other Hazardous Materials by a qualified inspector prior to such demolition. If any friable asbestos-containing materials are identified, Tenant shall give written notice thereof to Landlord and Tenant shall implement before demolition adequate abatement practices in accordance with all applicable Hazardous Materials Laws and Regulatory Approvals and otherwise perform any Remediation of any Hazardous Materials found above ground in such existing structures or improvements in connection with construction of the Project if such Remediation is legally required by the applicable Governmental Authority. In connection with construction of the Project, Tenant shall be solely responsible for removing and properly disposing of any and all asbestos containing materials, lead-based paint or lead-containing building materials, PCB-containing equipment or any other Hazardous Materials within such existing structures and improvements in accordance with all applicable Hazardous Materials Laws and Regulatory Approvals, subject to reimbursement as a Project Cost. Landlord shall be solely responsible for any Remediation of Hazardous Materials required by applicable Laws, for any in-ground or below the surface contamination of the Leased Premises not caused by Tenant, the cost of which Remediation shall be at Landlord's sole cost and expense.

**Section 5.02 Landlord's Obligations.** The parties hereby agree that the Landlord (or County), as appropriate, shall perform the following as a part of the following "**Landlord's Obligations**", each of which shall be completed in accordance with the then-current Project Schedule, at no cost to Tenant except as stated:

(a) Title to Site; Delivery of Possession. Pursuant to **Section 2.07(ii)** hereof, Landlord/County shall have taken any reasonably necessary actions to confirm County's marketable fee simple title to and the delivery of possession of the Site to Tenant as a condition precedent upon the satisfaction (or waiver, if applicable, under the terms of **Section 2.03**) of the other conditions precedent set forth in **Section 2.03**.

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

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

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

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

(f) Any Environmental Remediation of Site. Except as set out in **Section 5.01(c)** of this Agreement, Landlord/County shall be obligated to perform and observe all obligations set forth in Section 12.01 of the Original Lease and the obligations set forth herein with respect to in-ground or below the surface contamination not caused by Tenant, and to otherwise reasonably support and cooperate with Tenant (including the obtaining of Regulatory Approvals) with respect to any required environmental Remediation of the Site.

(g) Insurance Required Under 2006 Amended Lease. Landlord shall maintain all insurance required to be maintained by Landlord under the 2006 Amended Lease.

**Section 5.03 Construction Schedule.** Tenant shall require the General Contractor to commence, prosecute and complete all construction and development of the Improvements and use commercially reasonable efforts to do so to complete the Project on or before Spring 2010, or within such extension of time as Landlord may reasonably grant in writing or as otherwise permitted by this Agreement, subject to Force Majeure.

**Section 5.04 Insurance Requirements.**

(a) In General. During the Development Term, Tenant shall continue to maintain its required insurance under the 2006 Amended Lease and to require the Architect and General Contractor to maintain the insurance described on

**Exhibits E** and **F**, respectively. Tenant shall cause its General Contractor and Architect to list Co-tenant as an additional insured on their respective liability releases applicable to the Project. Landlord shall also require Co-tenant in the Co-tenant Development Agreement to cause its General Contractor and Architect to list Tenant as an additional insured on their respective liability releases applicable to the Co-tenant Project.

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

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

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

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

(a) Landlord and the County and their Agents, including the Landlord's Representative, will have the right of access to the Site (upon reasonable prior notice (which may be orally conveyed to Tenant's Representative) except in emergency situations or in situations in which, under applicable Law, Landlord or County is authorized generally to access construction sites without advance notice for the purpose of enforcing applicable Laws) to the extent reasonably necessary to carry out Landlord/County's rights and responsibilities under this Agreement, and to verify that Tenant is fulfilling its obligations under this Agreement, including, but not limited to, the inspection of the work being performed in constructing the Improvements. Additionally, from time to time, the Landlord's Representative shall have the right during the Development Term (upon reasonable prior notice (which may be oral) except in emergency situations or in situations in which, under applicable Law, Landlord or the County is authorized generally to access construction sites without advance

notice for the purpose of enforcing applicable Laws) to enter onto the Site to review the Project and the status of construction of the Project and compare whether such construction is in substantial compliance with the Final Designs and the Construction Documents for the applicable Stage of Construction and all applicable Laws and Regulatory Approvals. In the event the Landlord's Representative discover any such noncompliance with any of the above which either (i) falls under or fell under the Landlord's Scope of Review or (ii) would cause a non-compliance with the terms of this Agreement, Landlord's Representative shall inform Tenant's Representative of such noncompliance. Upon Landlord's Representative's notification to Tenant's Representative regarding such noncompliance, Landlord's Representative and Tenant's Representative shall jointly review the issue and if both parties reasonably agree that there is such a noncompliance with any of the above, Tenant shall immediately take all steps to cause the construction of the Project to comply with all of the above in accordance with this Agreement. In the event that the Landlord's Representative and the Tenant's Representative do not agree that the issue results in such a noncompliance with any of the above, then the Landlord's Representative may request a meeting with Tenant, the Tenant Representative, the Architect, the engineers, and/or the General Contractor, which parties must attend (in person or by telephone) at a mutually agreeable time to discuss the issue. In the event that the Landlord's Representative, after such consultations, still reasonably believe there is a noncompliance with respect to the issue, Tenant shall correct such matter or Tenant may seek to resolve the matter through Expedited Dispute Resolution under **Section 11.06**.

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

created pursuant to this Agreement or applicable Laws, to issue any instructions or directives to Tenant or Tenant's Representative.

**Section 5.06 Construction Signs and Barriers.** Tenant shall require General Contractor to provide appropriate construction barriers and construction signs and post the signs on the Site during the period of construction. The size, design and location of such signs and the composition and appearance of any non-moveable construction barriers shall be in compliance with all applicable Laws. In addition, Landlord or the County shall have the right to direct the posting of the Landlord's or County's standard public improvement signage at locations reasonably acceptable to Landlord/County and Tenant.

**Section 5.07 Damage and Destruction.** If at any time between the commencement of construction of the Project and the end of the Development Term, a fire or other casualty damages or destroys the Site or Improvements, or any portion of the Site or Improvements, the applicable provisions of the 2006 Amended Lease shall control, but in any event Tenant shall be entitled to draw the proceeds of the insurance for such damage or destruction and the parties shall mutually agree to an extended completion date for the Project and any adjustments to the Project Costs which may be necessary due to insufficient insurance proceeds. Upon the Parties' mutual agreement on an extended completion date and adjustment to Project Costs (if applicable), which the parties agree to negotiate in good faith, Tenant shall remain obligated to complete construction of the Improvements as set forth herein but only if Landlord or County has maintained adequate casualty insurance (or supplies any deficiency not covered by property insurance) such that, in combination with any remaining Bonds proceeds, there are adequate funds to complete such construction.

**Section 5.08 Construction Staging.** If, at any time during the Development Term, Tenant needs staging areas on other Landlord or County property that Landlord or County reasonably determines is available for such purpose, Tenant shall obtain permission to enter from the Landlord or County on terms and conditions as are mutually and reasonably acceptable to the Parties, including such insurance, surety and indemnification requirements as Landlord or the County may determine are appropriate for such entry. This provision shall not apply to any of the Co-tenant's Exclusive Leased Premises unless agreed to by Co-tenant in its sole and absolute discretion. Further, no Common Areas of the Sports Complex shall be used for such staging purposes except with the consent of Tenant, Co-tenant and Landlord.

## **ARTICLE 6**

### **FINANCING OF THE PROJECT**

**Section 6.01 Project Costs.** All costs of the Project, whether or not such costs exceed the Landlord's Capped Contribution and the Tenant's Contribution (as defined in the 2006 Lease Amendment and hereinafter collectively referred to as the "**Dedicated Project Funds**"), shall be paid by Tenant (the "**Project Costs**") pursuant to the terms of

this **Article 6**, or as otherwise expressly set out in this Agreement including Sections 12.01 and 12.02. Project Costs shall include without limitation the following:

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

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

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

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

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

(f) fees and expenses of accountants, attorneys and consultants of Tenant for services rendered in connection with the Project, including the fees and expenses for programming services rendered in connection with the Project, and fees and expenses in connection with the drafting and negotiation of the 2006 Lease Amendment, this Agreement and any related instruments, and agreements with any person providing labor, services, equipment, materials or supplies for the Project;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(u) Advance Costs (as defined in the 2006 Lease Amendment); and



(v) other costs and expenses reasonably identified for payment or reimbursement as “**Project Costs**” in the Fair Share Agreement (in the amount specified in, and to be paid in accordance with and subject to the terms of the Fair Share Agreement), **Section 12.01**, the Final Project Budget or on an approved Requisition.

Project Costs shall not include any costs incurred by Tenant in connection with financing the Tenant Contribution (as defined below) nor any costs related to Landlord's Representative except as provided in **Section 12.01**.

**Section 6.02 Landlord/County Costs.** Unless otherwise provided on As provided in **Section 12.01**, the administrative type costs of the Landlord Obligations (including the costs for Landlord’s in-house engineer who will be one of the Landlord's Representative) are not Project Costs and will be paid by Landlord or County (collectively, the “**Landlord/County Costs**”) outside of the Dedicated Project Funds.

**Section 6.03 Preliminary Project Budget; Final Project Budget.**

(a) Landlord and Tenant have previously agreed on and approved the Preliminary Project Budget setting forth the aggregate amount of the projected total Project Costs and identifying in reasonable detail each material cost item. A copy of the Preliminary Project Budget is attached hereto as **Exhibit B**.

(b) Landlord and Tenant acknowledge that, as of the Effective Date, the Preliminary Project Budget represents the Parties’ current expectations as to the Project Costs except for the cost for the Public/Owner Representative as set forth in **Section 12.01** and the costs specifically referenced as "project costs" in the Fair Share Agreement.

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

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



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

**Section 6.05 Disbursement Account.**

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

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

(i) Landlord’s Capped Contribution. Landlord shall make a contribution of no less nor more than \$225,000,000 in public funds (the “**Landlord’s Capped Contribution**”) to the Disbursement Account and with revenues from the Missouri State Tax Credits held in any project disbursement account under the MDFB Agreement (as defined below) credited toward said amount. Landlord/County intends to provide the funds for the Landlord’s Capped Contribution by issuing tax-exempt bonds based on the New County Sales Tax (the “**Bonds**”) and approximately \$12,500,000 from the Missouri State Tax Credit Revenues (as defined below) with any discount on sale loss of such credits to be covered by additional revenue from the New County Sales Tax and/or other sources as determined by Landlord/County. The parties recognize and agree that to maximize available monies from the Bonds, Landlord or the County may issue the Bonds in increments or in different series so long as sufficient monies are available to Tenant in Tenant’s reasonable judgment, when required for completion of the Project and each Stage of Construction in accordance with the Project Schedule (as such Project Schedule may be revised from time to time as provided in **Section 4.30** hereof) and in accordance with the Final Project Budget.

(ii) Tenant's Contribution. As such funds are needed for Project Costs to be paid with Tenant funds or as needed for other Project Costs after use of the Landlord's Capped Contribution funds in the Distribution Account, Tenant shall deposit into the Disbursement Account (i) cash in the amount of the Tenant contribution (the "**Tenant's Contribution**"), in the total amount of \$25,000,000 and (ii) cash in the amount of any Project Cost Overruns. Notwithstanding the foregoing, the Parties recognize and agree that Tenant's Contribution to the Project must be administered and disbursed as required by the MDFB Agreement.

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

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

Disbursement Account be subject to offset, application for mandatory or optional redemption of Bonds (including as a result of default by Landlord/County or otherwise) or application for any purpose other than disbursement to fund the Project Costs hereunder.

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

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

(b) Within ten (10) business days after the satisfaction of the conditions precedent set forth in **Section 2.03** hereof (or waiver, if applicable, and as provided in **Section 2.03** hereof), Landlord must have deposited the sum of at least \$225,000,000 (counting any such funds in or committed to an MDFB Agreement Account) in the Disbursement Account (sometimes referred to herein as the “**Project Funding Date**”) for the Kauffman Stadium Expansion and Renovation Plan. Tenant shall have direct and irrevocable access to the Disbursement Account. The only condition for Tenant drawing upon such funds in the Disbursement Account is Tenant not being in material default under this Agreement (which shall mean that all applicable notices shall have been given and all applicable cure periods shall have expired) and the proper submittal of Requisitions in accordance with the procedures set forth in (c) below. The proceeds in the Disbursement Account may only be used by Tenant for Project Costs, and not for any other purposes. Subject to the rights of Landlord as provided in **Section 12.01**, only Tenant shall be permitted to expend funds in the Disbursement Account. Following the deposit of the Landlord’s Capped Contribution, neither Landlord nor the County shall have any further obligation to fund additional Project Costs amounts, subject to Landlord’s obligations under **Section 5.02** hereof.

(c) On and after the Project Funding Date, Tenant shall have the right, from time to time, to submit to Landlord a draw request requesting that Landlord (or the Bond Trustee) make a distribution of the proceeds of the Disbursement Account to Tenant to reimburse or pay Tenant the Project Costs incurred or due and payable by Tenant in connection with the development and construction of the Project (each, a “**Requisition**”). Each Requisition shall be accompanied by copies of invoices, cancelled checks or such other backup documentation substantiating such costs incurred or due and payable by Tenant. Upon receipt of a Requisition from Tenant, the Bond Trustee shall act on such Requisition pursuant to the procedures and within the time frames (the “**Disbursement Procedures**”) set forth in **Exhibit G** attached hereto.

(d) Landlord agrees that Requisitions submitted by Tenant for reimbursement of Project Costs may include the Advance Costs for the Project as defined in Section 29 of the 2006 Lease Amendment.

(e) From time-to-time, Tenant may give notice to Landlord of specific materials; equipment, fixtures or other elements of the Project for which Tenant desires to make payment (“**Specific Expenses**”) out of Tenant’s Contribution. If the Tenant’s Contribution has not already been deposited, Tenant shall promptly deposit the amount of the Specific Expenses in the Disbursement Account (or request the holder of such monies under the MDFB Agreement to make such deposit or expenditure). Whether they are paid out of the prior deposited Tenant’s Contribution or such specific deposit, the Specific Expenses shall be deemed to have been paid solely from the Tenant’s Contribution. Tenant shall have the right to exercise its rights under this **Section 6.06(e)** if and to the extent that Landlord shall reasonably determine, upon advice of bond counsel, that Tenant’s exercise of its rights hereunder is permitted by the MDFB Agreement and shall not adversely affect the tax-exempt status of the Bonds.

**Section 6.07 Savings on Project Costs; Handling of Disbursement Account Balance.** The parties hereby agree that the following shall apply to any savings upon Completion of the Project. If and to the extent that, upon completion of the Project (including all Deferred Items, if any) and final payment of all Project Costs, there remains any balance in the Disbursement Account, then the balance in the Disbursement Account shall be disbursed to Landlord/County and Tenant on the basis of the Project Costs contribution ratio between Landlord/County (for “Public Funds”) and Tenant’s Contribution as set out in Section 22 of the 2006 Lease Amendment. Landlord’s part of any such savings shall be placed in the Kauffman Stadium RMMO Fund (as defined in the 2006 Lease Amendment).

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

bear the costs incurred by it in connection with the audit rights in this Section, which shall not be recoverable as Project Costs.

## **ARTICLE 7** **COMPLETION**

**Section 7.01 Substantial Completion.** The Project shall be considered “**Substantially Complete**” (or “**Substantial Completion**” has occurred) if all material aspects of the Improvements (excluding “punch list” type items, landscaping or exterior finishes (to the extent that such finishes can not be applied due to weather conditions or would be damaged during the course of subsequent construction) and hereinafter referred to as “**Deferred Items**”) have been completed in accordance with the approved Final Construction Documents. Substantial Completion, subject to Force Majeure or other delays, is presently planned to be accomplished in Spring 2010.

**Section 7.02 Hosting of Sporting Events Prior to Substantial Completion.** Notwithstanding the provisions of **Section 7.01** above, upon the Project Improvements in question meeting all applicable fire and safety codes, Tenant may, pursuant to and under the provisions of the 2006 Amended Lease, commence hosting sporting events, concerts and other events at the Project Improvements in question (together with concession sales at the Exclusive Leases Premises) prior to the occurrence of Substantial Completion.

**Section 7.03 Effect of Substantial Completion; Certificate of Completion.** Upon substantial completion of the Project, this Agreement will terminate, except for completion and payment provisions of this Agreement regarding any Deferred Items and other provisions to survive such terminations and except for provisions which otherwise expressly survive the termination of this Agreement. Upon completion of all Deferred Items, Landlord and Tenant will execute an instrument (the “**Certificate of Completion**”) confirming the termination of this Agreement upon the written request of either Party or the County.

## **ARTICLE 8** **ENCUMBRANCES AND LIENS**

### **Section 8.01 No Mortgage, Etc.**

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

(b) Security Interest in this Agreement. Except as permitted in this Agreement, Tenant may not engage in any financing or other transaction creating any mortgage or deed of trust, lien (including a mechanic’s lien) or other encumbrance on Tenant’s interest in this Agreement. Notwithstanding the foregoing, it is understood that Tenant may mortgage, assign, grant a security

interest in, pledge or otherwise encumber its interest in revenues derived from the Project or Exclusive Leased Premises as security for a loan or financing obtained by Tenant or an Affiliate of Tenant or otherwise as permitted under the 2006 Amended Lease. Landlord/County agrees to execute and deliver such documents and to provide such assurances as may reasonably be requested by Tenant or its lender in connection with any such financing.

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

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

**ARTICLE 9**  
**FURTHER ACTIONS; REASONABLENESS AND COOPERATION BY**  
**PARTIES; TIME FOR CERTAIN ACTIONS**

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

**Section 9.02 Reasonableness and Cooperation by Parties.** Except where expressly stated to be in a Party's, or the County's, sole discretion, or where it is stated that a Party, or the County, has the ability to act in its sole judgment or for its own uses or purposes, wherever it is provided or contemplated in this Agreement that a Party, or the County, must give its consent or approval to actions or inactions by the other Party or the County or a third person in connection with this Agreement, unless otherwise required by applicable Laws, such consent or approval will not be unreasonably withheld, conditioned or delayed nor will any other determinations which must be made by a Party, or the County, in the course of performing and administering this Agreement be unreasonably made. Except as otherwise stated in this Section, the Parties, and the County, each also agree to cooperate with and reasonably assist each other in good faith in carrying out the provisions of this Agreement.

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

**ARTICLE 10**  
**ASSIGNMENT AND TRANSFER**

**Section 10.01 Prohibition Against Transfer of the Agreement.** Except as allowed in **Section 8.01**, Tenant may not sell, convey, assign, transfer, alienate or otherwise dispose of all or any of its interest or rights in this Agreement, including any right to develop the Site or otherwise do any of the above or make any contract or agreement to do any of the same (“**Transfer**”), without in each instance obtaining the prior written approval of Landlord and the County; provided, however, that assignments, transfers and conveyance as described in Section 31.02 of the Original Lease shall not constitute a Transfer.

**Section 10.02 Effect of Violation.**

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

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

(c) Transfer by Landlord. Landlord may only transfer its interest in and to its interests or rights under this Agreement to any Person to whom Landlord may assign its rights under the 2006 Amended Lease as provided for in the 2006 Amended Lease.

**ARTICLE 11**  
**DEFAULTS, REMEDIES AND TERMINATION**

**Section 11.01 Tenant Default.**

The following constitute a “**Tenant Default**”:

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

(b) Tenant fails to (i) pay any amount or amounts (including, but not limited to, payment for Project Cost Overruns) required to be paid under this



Agreement at any time when due, and any such failure continues for fifteen (15) business days following written notice from Landlord to Tenant, provided; however, that Tenant shall have the right to contest the amount or propriety of any amounts due to Landlord hereunder in accordance with **Section 11.06** hereof, or to contest the amount or propriety of any amounts due to any third party so long as Tenant shall provide to Landlord assurances reasonably acceptable to Landlord for the payment of such amounts upon the completion of such contest.

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

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

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

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

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

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

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

(a) Subsection 11.02(a) Notice and Cure. If a Tenant Default shall occur under **Subsections 11.01(a), (b), (c), (f), (g) or (h)** (collectively, a "**Subsection 11.02(a) Tenant Default**"), then Landlord shall, after delivery of

written notice and expiration of the applicable cure period provided under the applicable subsection of **Section 11.01**, send written notice (a “**Subsection 11.02(a) Landlord Notice**”) to Tenant and any lender of Tenant with a security interest pursuant to **Subsection 8.01(b)** hereof of which Tenant has previously provided to Landlord written notice thereof (the “**Lender**”) that such Subsection 11.02(a) Default has occurred and Tenant shall have ten (10) business days from and after such **Subsection 11.02(a) Landlord Notice** to cure such default (the “**Subsection 11.02(a) Ten Day Tenant Cure Period**”).

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

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

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

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

**Section 11.03 Events of Default — Landlord**. The following constitute Events of Default by Landlord (a “Section 11.03 Landlord Event of Default”):

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

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

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

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

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

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

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

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

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

(b) Termination. In the event that (i) a Section 11.03 Landlord Event of Default occurs under **Section 11.03(a), (b) or (f)** which has not been cured within the thirty (30) days of the date of Tenant's notice of default pursuant to **Section 11.03(a)** (a "**Subsection 11.03(a) Landlord Event of Default**"), or (ii) an Event of Default under **Sections 11.03(c) through (e)** has occurred (a "**Subsection 11.03(c) through (e) Landlord Event of Default**"), Tenant may terminate this Agreement by giving written notice to Landlord and County of such termination (the "**Landlord Termination Notice**"). Termination of this Agreement shall thereafter occur (x) on the date which is ten (10) business days after the date of the Landlord Termination Notice with respect to a Subsection 11.03(a) Landlord Event of Default, and (y) on the date which is thirty (30) days

after the date of the Landlord Termination Notice with respect to a Subsection 11.03(c) through (e) Landlord Event of Default; provided, however, such termination of this Agreement will be (A) cancelled if the Landlord or County cures such Event of Default by the Landlord prior to the expiration of the applicable grace period after the date of the Landlord Termination Notice, or (B) suspended, pending the outcome of the expedited dispute resolution procedure set forth in **Section 11.06** below, if Landlord provides written notice to Tenant prior to the expiration of the applicable grace period after the date of Landlord Termination Notice that such party disputes whether a Event of Default by Landlord actually exists. If the Landlord should lose the dispute resolution set forth in **Section 11.06**, then the above suspension in this **Section 11.04(b)** shall be terminated and the Landlord shall have ten (10) business days from the date the Landlord receives notice of the determination of the resolution of the dispute in order to cure such Event of Default. If Landlord fails to cure such default within such ten (10) business days after Landlord receives notice of such dispute determination under **Section 11.06** below, then this Agreement shall terminate at the end of such ten (10) day period. If Landlord should win such dispute resolution then the termination under Landlord Termination Notice shall be cancelled. No act by Tenant other than giving notice of termination to Landlord in writing shall terminate this Agreement. On termination of this Agreement under this Section 11.04(b), all rights of Landlord under this Agreement shall cease. In such event, the 2006 Lease Amendment shall terminate simultaneously upon any termination by Tenant of this Agreement.

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

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

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

#### **Section 11.05 General.**

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

shall be instituted in the Circuit Court of Jackson County, Missouri, or, if appropriate, in the Federal District Court in Kansas City, Missouri.

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

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

#### **Section 11.06 Expedited Dispute Resolution.**

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

(b) Dispute Resolution Process. In the event that any declaration of a Subsection 11.02(b) Tenant Default or a Section 11.03 Landlord Event of Default arises under this Agreement or as otherwise provided in this Agreement, the following procedure shall apply:

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

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

(iii) In the event that the meeting set forth in **Section 11.06(b)(ii)** above is unsuccessful in resolving the dispute, then the dispute shall be submitted to a committee consisting of three (3) people (the **“Dispute Committee”**), one of whom shall be appointed by Landlord, one of whom shall be appointed by Tenant, and one of whom shall be appointed by the first two members of the Dispute Committee or, if such two members cannot mutually agree upon a third member of the Dispute Committee, then the two members will request the appointment of a third member by the American Arbitration Association or similar organization selected by the two initial members of the Dispute Committee. The members of the Dispute Committee shall be unaffiliated with either Party, and each member shall be an attorney with at least ten (10) years of practice in construction law in the states of Missouri or Kansas. Each of the Initiating Party and Responding Party shall have the opportunity to present written evidence to the Dispute Committee concerning the dispute, and shall be available to answer questions if requested by the Dispute Committee. The Dispute Committee shall meet within ten (10) days after its Initial Meeting and shall attempt to resolve the dispute. A decision of a majority of the Dispute Committee shall be binding and not subject to appeal.

(iv) In the event that the Dispute Committee is unsuccessful in resolving the dispute within thirty (30) days after the Initial Meeting, then the Dispute Committee shall appoint a retired judge with significant expertise in the area(s) of the law at issue in the dispute to resolve the dispute (the **“Retired Judge”**). In the event that the Dispute Committee cannot, by majority rule, agree to the appointment of the Retired Judge, then the Retired Judge shall be appointed by the Presiding Judge of the Circuit Court of Jackson County, Missouri. The Retired Judge shall review the Dispute Notice, any documentation submitted by the Initiating Party and the Responding Party to the Dispute Committee, and any other documentation prepared by the Dispute Committee, and shall make a

determination based on such evidence within fifteen (15) days after such Retired Judge's appointment. The Retired Judge shall have the authority to order specific performance or mandamus relief if the circumstances so warrant. The determination of the Retired Judge shall be binding and not subject to appeal.

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

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

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

## **ARTICLE 12** **SPECIAL PROVISIONS**

**Section 12.01 Public/Owner Representative.** The Parties recognize and agree that substantial Public funds are to be invested in the Project which involves the improvement of the Publicly owned Truman Sports Complex. Therefore, the Parties agree that it is proper and desirable that the Public, Landlord and the County have an independent professional and expert consultant to assist Landlord and the County in monitoring and overseeing the design, development, construction and financial aspects of the Project to assist in protecting the Public's interest. For this purpose, as soon as reasonably possible after the Effective Date, and pursuant to a RFQ Process, and subject to required confirmation by the Landlord/County 2/3 Approval Process, Landlord will select and retain the appropriate person(s) or firm(s) to act as the "**Public/Owner Representative**" to perform such functions as more fully described in **Exhibit H** attached hereto. The total costs and expenses of the Public/Owner Representative, which



shall not exceed the aggregate amount of \$750,000 per twelve (12) month period during the Development Term hereunder and under the Co-tenant Development Agreement (with the first 12-month period to commence two (2) weeks prior to submission by Tenant of any Program and Schematic Designs for approval under Article 4 hereof) shall be paid by Landlord from time to time as Project Costs from the proceeds of the Bonds, one-half from Tenant's Disbursement Account and one-half from the Chief's Disbursement Account (as defined in the Co-tenant Development Agreement) pursuant to Requisitions filed by Landlord. The Authority shall cause the Bonds to be sized and issued in an aggregate principal amount sufficient to provide, when combined with the \$12,500,000 of Missouri State Tax Credits, the \$225,000,000 Landlord Capped Contribution, the total of the "project costs" as specifically referenced in, and in accordance with, the Fair Share Agreement, and the cost set forth above for the Public/Owner Representative.

**Section 12.02 MBE/WBE Goals; Fair Share Agreement .** If the Parties have not already done so, and subject to the Project moving forward, Landlord and Tenant will separately execute on or about April 4, 2006, and carry out, the "Sports Complex Fair Share Agreement" in the form attached hereto as **Exhibit I** (the "**Fair Share Agreement**"). Under the Fair Share Agreement the Parties (and the County) will use best faith efforts to attempt to achieve certain goals for MBE/WBE and Workforce participation for the Project (such goals, together with the MBE/WBE requirements under the County's General Ordinances herein sometimes collectively referred to as the "**M/WBE Goals and Workforce Goals**"). Landlord (and the County) and Tenant shall continue to consult with, and to use reasonable efforts to cause the General Contractor and all subcontractors, vendors, consultants and third party contractors to consult with, recognized minority contractor representatives from time-to-time during the Development Term with respect to implementation of the Fair Share Agreement and the M/WBE and Workforce Policy and Program to be determined and implemented thereunder. The selection of the "**M/WBE and Workforce Coordinator**" for the Fair Share Agreement (and any replacement person) shall be subject to the Landlord/County 2/3 Approval Process.

**Section 12.03 Prevailing Wages.** Tenant shall cause the General Contractor and its subcontractors in constructing the Project to pay wages as required under Missouri's Prevailing Wage Law - RSMo Sections 290.210 — 290.340, inclusive.

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

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

**Section 12.06 Approval of Co-tenant Development Agreement.** The Parties acknowledge that Landlord and Co-tenant are negotiating the Co-tenant Development Agreement with respect to Co-tenant's Football Stadium. Landlord agrees that it will deliver to Tenant a copy of the proposed final form of the Co-tenant Development Agreement, with all exhibits and attachments completed and attached, and that this Agreement shall be subject to the review and approval of the Co-tenant Development Agreement by Tenant in its sole and subjective discretion. Any terms or provisions in the Co-tenant Development Agreement which are, in whole or in part, more favorable to Co-tenant than the terms and provisions contained herein automatically shall be deemed incorporated herein by reference and for the benefit of Tenant.

**Section 12.07 Updated Shared Complex/Central Services Facility.**

(a) The parties recognize and agree that part of the Project and the Co-tenant Project will be to update, modify and/or add to the existing Central Services Facility so that said "**Updated Shared Complex/Central Services Facility**" as described on Exhibit AA attached hereto may be used in such a manner that Tenant and Co-tenant can, if either wishes, conduct their respective operations at their separate Stadiums with different concessionaires and other vendors. The parties further recognize and agree that, unless all such updates, modifications and/or additions are agreed to by Co-tenant, said Updated Shared Complex/Central Services Facility Component must be modified or constructed in such a manner and at such times that there will be no material decrease in the access to, or functionality of, such service areas for Co-tenant's operations as compared to the existing Central Services Facility, nor any material increase in the costs to Co-tenant in using such service areas.

(b) Unless otherwise agreed by Tenant and Co-tenant, it is presently contemplated that part of the Updated Shared Complex/Central Services Facility will be that (i) the Royals control the corridor space connecting Kauffman Stadium to the Central Services Facility, that the Chiefs control the corridor space from Arrowhead Stadium to the Central Services Facility, and that both Teams have access to the loading dock areas and (ii) the remaining part of the Central Services Facility shall be equally divided between the Chiefs and the Royals, with the Chiefs assuming control and use of that half of the remaining Central Services Facility closest to Arrowhead Stadium and the Royals assuming control and use of that half of the remaining Central Services Facility closest to Kauffman Stadium, taking into consideration the needs of each Team for reasonable access to the loading dock area and utilities.

**Section 12.08 Other Agreements.** In the event that Tenant is not a party to any other agreement between Co-tenant and the County or Landlord relating to the development or construction of any other improvements to the Sports Complex, the terms of which are inconsistent with the terms of this Agreement or the 2006 Amended Lease, the terms of this Agreement and the 2006 Amended Lease shall control.

**ARTICLE 13**  
**GENERAL PROVISIONS**

**Section 13.01 Force Majeure — Extension of Time of Performance.**

(a) Effect of Force Majeure. For the purpose of any of the provisions of this Agreement, including, without limitation, the Project Schedule (as such Project Schedule may be revised from time to time in accordance with **Section 4.30** hereof), neither Tenant, Landlord nor any successor in interest (the “**Delayed Party**,” as applicable) will be considered in breach of or default in any obligation or satisfaction of a condition to an obligation of the other Party), in the event of Force Majeure.

(b) Definition of Force Majeure. “**Force Majeure**” means events that cause delays in the Delayed Party’s performance of its obligations under this Agreement, or in the satisfaction of a condition to the other Party’s performance under this Agreement, due primarily to causes beyond the Delayed Party’s control, including, but not restricted to: acts of God or of the public enemy, terrorist acts, malicious mischief acts of the government (including any delay in the issuance of permits applicable to the Site or the Improvements) fires, floods, tidal waves, epidemics, quarantine restrictions, freight embargoes, earthquakes, unusually severe or adverse weather, delays of architects, design professionals, contractors or subcontractors that are not caused by the fault of Tenant, the unanticipated presence of Hazardous Materials or other concealed conditions on the Site that would materially and adversely impair Tenant’s ability to construct the Project, archeological finds on the Site, strikes, and substantial interruption of work because of labor disputes, failure by Landlord without lawful excuse to timely grant approvals hereunder, inability to obtain materials or services or reasonably acceptable substitute materials or services (provided that Tenant has ordered such materials or services on a timely basis and Tenant is not otherwise at fault for such inability to obtain materials or services), any event entitling the Architect, General Contractor or any trade contractor to an extension of time under its contract with Tenant, unlawful detainer actions or other administrative appeals, litigation or arbitration relating to the relocation of tenants licensees, or others from the Site, or any Litigation Force Majeure or Regulatory Force Majeure (defined below) or other administrative appeals, litigation and arbitration relating to the construction of the Project (provided that the Delayed Party proceeds with due diligence to defend such action or proceeding or take other appropriate measures to resolve any dispute that is the subject of such action or proceeding). In the event of the occurrence of any Force Majeure, the time or

times for performance of the obligations of Tenant, Landlord will be extended for the period of the delay. Notwithstanding anything to the contrary in this Section, the lack of credit or financing for Tenant's Contribution or responsibility for Project Cost Overruns under this Agreement shall not be considered to be a matter beyond Tenant's control and therefore no event caused by a lack of such financing in and of itself shall be considered to be an event of Force Majeure for purposes of this Agreement.

(c) Definition of Litigation Force Majeure. **"Litigation Force Majeure"** means any action or proceeding before any court, tribunal, or other judicial, adjudicative or legislative decision-making body, including any administrative appeal, brought by a third party, (i) which seeks to challenge the validity of any action taken by Landlord or County in connection with the Project, including execution, and delivery of this Agreement or the Amended Lease and its performance hereunder, the County's approval, execution and delivery of any resolution of, or other action by, Landlord or County approving the Landlord's execution and delivery of this Agreement, the performance of any action required or permitted to be performed by the Landlord or County hereunder or any findings upon which any of the foregoing are predicated or (ii) which seeks to challenge the validity of any other Regulatory Approval. Performance by a party hereunder shall be deemed delayed or made impossible by virtue of Litigation Force Majeure during the pendency thereof, and until a judgment, order, or other decision resolving such matter in favor of the party whose performance is delayed has become final and nonappealable. Under no circumstances shall the delay attributable to an event of Litigation Force Majeure extend beyond three (3) years unless such limitation is expressly waived by both Parties. The Parties shall each proceed with due diligence and shall cooperate with one another to defend the action or proceeding or take other measures to resolve the dispute that is the subject of such action or proceeding.

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

(e) Regulatory Force Majeure. If any necessary Regulatory Approval contains a requirement or condition of approval that requires the construction of improvements upon real property other than the Site, the construction of which improvements: (i) is not expressly specified in the Final Project Program, and (ii) either: (A) in the reasonable opinion of Tenant, is likely to contribute to Tenant

Project Cost Overruns, or (B) requires entry upon property owned by third parties whose consent cannot be obtained after using commercially reasonable efforts, then Regulatory Force Majeure includes Tenant's appeal of such Regulatory Approval and other efforts by or on behalf of Tenant to obtain the removal of the objectionable requirement as a condition of approval.

**Section 13.02 Requests for Approval; Notices.**

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

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

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

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

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

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

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

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

and with a copy to its Counsel:

White Goss Bowers March Schulte & Weisenfels, P.C.  
4510 Belleview Avenue, Suite 300  
Kansas City, Missouri 64111-3538  
Attn: Mike T. White, Esq.

and with a copy to:

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

and with a copy to County's Special Counsel:

Lathrop & Gage L.C.  
2345 Grand Boulevard, Suite 2400  
Kansas City, Missouri 64108  
Attn: Stephen G. Mitchell, Esq.

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

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

Kansas City Royals Baseball  
Corporation  
702 SW 9th Street  
Bentonville, Arkansas  
72716

and

Kansas City Royals Baseball  
Corporation  
P.O. Box 419969  
Kansas City, Missouri  
64141  
Attn: President

and with a copy to its  
Counsel:

Stinson Morrison Hecker  
LLP  
1201 Walnut, Suite 2600  
Kansas City, Missouri  
64106

Attn: David W. Frantze, Esq.  
Catherine M. Hauber, Esq.

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

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

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

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

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

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

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



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

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

### **Section 13.05 Time of Performance.**

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

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

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

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

### **Section 13.06 Interpretation of Agreement.**

(a) Recitals, Exhibits and Schedules. Whenever an “Exhibit” is referenced, it means an Exhibit to this Agreement unless otherwise specifically identified. All such Exhibits are incorporated into this Agreement by reference. Recitals found at the beginning of this Agreement and its Exhibits (including any attachments or schedules thereto) and any properly adopted amendments, supplements or replacements thereto are incorporated herein by reference and are important and material parts of this Agreement. If any of the Exhibits required hereunder are not available or completed upon the execution of this Agreement, the validity of this Agreement shall not be affected thereby and the Parties agree to use their reasonable best efforts to obtain or complete and reasonably agree to such Exhibits as soon as possible after the execution of this Agreement and attach the same to their respective copies of this Agreement.

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

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

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

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

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

**Section 13.07 Successors and Assigns.** This Agreement is binding upon and will inure to the benefit of the successors and permitted assigns of the Landlord and Tenant, subject to the limitations on assignment set forth in **Article 10**. Where the term “Tenant” or “Landlord” is used in this Agreement, it means and includes their respective successors and assigns.

**Section 13.08 No Third Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other Person shall have or acquire any right or action based upon any provisions of this Agreement except the County as otherwise specifically provided herein and except for the third party beneficiary enforcement rights set out in the Fair Share Agreement.

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

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

**Section 13.11 Entire Agreement.** This Agreement, the 2006 Amended Lease, and the MDFB Agreement and other contemporaneously executed agreements between the Parties or an Affiliate constitute the entire agreement between the Parties with respect to the subject matter of this Agreement and supersede all negotiations or previous agreements between the Parties with respect to all or any part of the terms and conditions mentioned in or incidental to this Agreement. No parole evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement.

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

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

**Section 13.14 Extensions by Landlord.** Upon the request of Tenant, Landlord, acting through the Landlord's Representative, may, by written instrument, extend the time for Tenant's performance of any term, covenant or condition of this Agreement or permit the curing of any default upon such terms and conditions as it determines appropriate, including but not limited to, the time within which Tenant shall agree to such terms or conditions; provided, however, any such extension or permissive curing of any particular default will not operate to release any of Tenant's obligations nor constitute a waiver of the Landlord's rights with respect to any other term, covenant or condition of this Agreement or any other default in, or breach of, this Agreement or otherwise affect the time of the essence provisions with respect to the extended date or the other dates for performance under this Agreement. Tenant shall have the right to rely upon any extension of time executed by the Landlord's Representative in writing without inquiring whether Landlord has taken any necessary action to authorize such action.

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

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

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

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

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

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

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

(c) No Limitation on Ability to Perform. Neither Tenant's articles of organization or bylaws, nor any other agreement or Law in any way prohibits, limits or otherwise affects the right or power of Tenant to enter into and perform

all of the terms and covenants of this Agreement. Tenant is not a party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument which could prohibit; limit or otherwise affect the same. No consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other Person is required for the due execution, delivery and performance by Tenant of this Agreement or any of the terms and covenants contained in this Agreement. There are no pending or threatened suits or proceedings or undischarged judgments affecting Tenant before any court, administrative body, or arbitrator which might materially adversely affect the enforceability of this Agreement or the business, operations, assets or condition of Tenant.

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

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

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

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

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

(b) Valid Execution. Landlord has taken all necessary action to authorize its execution, delivery and, subject to any conditions set forth in this

Agreement, performance of this Agreement. Upon the full execution of this Agreement, this Agreement shall constitute a legal, valid and binding obligation of Landlord, enforceable against it in accordance with its terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally.

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

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

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

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

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

## **ARTICLE 14** **DEFINITIONS**

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

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

**“2006 Amended Lease”** as defined in **Recital F**.

**“2006 Amended Co-tenant Lease”** as defined in **Recital F**.

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

**“Agreement”** means this Kauffman Stadium Development Agreement, as it may be amended in accordance with its terms, including all Exhibits.

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

**“Architect”** as defined in **Section 4.04**.

**“Architect’s Agreement”** as defined in **Section 4.04**.

**“Attorneys’ Fees and Costs”** means any and all reasonable attorneys’ fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and the costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, fees and costs associated with execution upon any judgment or order, and costs on appeal.

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

**“Bond Proceeds”** means the net proceeds of the Bonds distributed into the Disbursement Account.

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

**“Bonds”** as referred to in **Section 6.05(b)** and which shall mean those approximately \$425 Million in bonds to be issued and sold by Landlord or the County based on the New County Sales Tax to finance Landlord’s Capped Contributions to the Project and Co-tenant’s Project and customary “Costs of Issuance” for such Bonds (in accordance with the terms of the 2006 Amended Lease) and certain costs for the Project described in Sections 12.01 and the Fair Share Agreement.

**“Building Compliance Procedures”** as defined in **Section 2.06(c)**.



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

**“Certificate of Completion”** as defined in **Section 7.03**.

**“City”** means the City of Kansas City, Missouri.

**“Competitive Bid Process”** shall mean those processes and procedures applicable to the County in procuring goods and services under Missouri State bidding laws and applicable County Ordinances (Chapter 10) and, if applicable, County Executive Order #94-24 (Formal Procedures for the Procurement of Architectural, Engineering and Land Surveying Services) and as required by the Fair Share Agreement. In obtaining bids under current County bid procedures and approving contracts and change orders for the Project reasonable best efforts will be taken: (i) to mitigate construction risks and costs, including using or requiring guaranteed maximum price (“GMP”) contracts, payments and performance bonds in an amount equal to the entire contracted amount of the respective part of the work and builder’s all risk insurance; and (ii) to schedule construction so as to not materially interfere with, or cause cancellation of, any regularly scheduled sporting or other events of Tenant, Co-tenant or Landlord at the Sports Complex.

**“Construction Bond”** as defined in **Section 4.06(e)**.

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

**“Construction Manager”** as defined in **Section 4.05**.

**“Construction Materials”** as defined in **Section 4.28**.

**“Deferred Items”** as defined in **Section 7.01**.

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

**“Design Development Documents”** means such documents that (i) are a further advancement of the Schematic Drawings, (ii) indicate in substantially greater detail than the Schematic Drawings (but not as detailed as the Final Construction Documents) the spaces within the Improvements, (iii) indicate the elements and functions that affect the site work for the Project, (iv) indicate in substantially greater detail than the Schematic Drawings (but not as detailed as the Final Construction Documents) the sections and interior and exterior elevations, and (v) include more detailed outlined specifications and systems narratives than those in the Schematic Drawings (but not as detailed as the Final

Construction Documents), all as contemplated by the Final Project Program and as approved by Landlord and Tenant as herein provided. Any architectural plans or drawings shall bear the seal of an architect registered in Missouri, if so required by Applicable Laws.

**“Development Term”** as defined in **Section 1.04**.

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

**“Disbursement Procedures”** as defined in **Section 6.06(c)** and set out on **Exhibit G**.

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

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

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

**“Fair Share Agreement”** as described in **Section 12.02** and set out in **Exhibit I**.

**“Final Designs”** as defined in **Section 4.06**.

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

**“Final Project Program”** as defined in **Section 2.03(k)**.

**“Force Majeure”** as described in **Section 13.01(b)**.

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

**“General Contractor Agreement”** as defined in **Section 4.05**.

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

**“Hazardous Material Laws”** means federal, state or local Laws or policies in effect during the Term relating to Hazardous Material (including, without limitation, its Handling, transportation or Release) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Site (including the Improvements) and any other property including without limitation, soil, air, air quality, water, water quality and groundwater conditions.

**“Hazardous Material”** means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or

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

**“Identity Rights”** as defined in **Section 4.29**.

**“Improvements”** mean all physical construction on the Site as described in the Final Project Program and approved by Landlord/County as provided for in this Agreement.

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

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

**“Indemnified Parties”** means the Indemnified Landlord Parties or the Indemnified Tenant Parties; as applicable.

**“Indemnify”** means indemnify, protect, defend and hold harmless.

**“Infrastructure”** means on-site and off-site sewer and utility improvements.

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

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

**“Invitees”** means any Person invited onto the Site Area by Landlord, County, Tenant, the Landlord’s Representative or the Tenant’s Representative but excluding fans, employees or agents for game day or other events at the Sports Complex.

**“Landlord's Representative”** means an engineer employee of the Authority of which Landlord will notify Tenant and the Public/Owner Representative selected by Landlord for the Project subject to the Landlord/County 2/3 Approval Process. Landlord may replace either of the then-acting Landlord's Representative from time-to-time upon not less than five (5) business days’ prior written notice to Tenant but any new

Public/Owner Representative shall be subject to the Landlord/County 2/3 Approval Process.

**“Landlord’s Capped Contribution”** as defined in **Section 6.05(b)**.

**“Landlord’s Final Designs Review Period”** as defined in **Section 4.11**.

**“Landlord’s Obligations”** as defined in **Section 5.02**.

**“Landlord’s Review Period”** as defined in **Section 4.10**.

**“Landlord’s Scope of Review”** as defined in **Section 4.07(b)(v)**.

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

**“Landlord/County 2/3 Approval Process”** means with respect to the action in question that, to the extent permitted by law, such action shall be subject to the approval of a majority of the Jackson County Executive, the Chairman of the Jackson County Sports Complex Authority, and the Chairman of the Jackson County Legislature. Any such approval shall not be unreasonably withheld or delayed, and if neither Landlord nor County shall deliver written notice of disapproval to Tenant (or other requesting party) (specifying in detail the reasons for such disapproval) within ten (10) business days after written notice to Landlord and County from Tenant (or other requesting party) of Tenant’s (or other requesting party’s) action in question, such action shall be for all purposes deemed approved.

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

**“Lender”** as defined in **Section 11.02(a)**.

**“Litigation Force Majeure”** as defined in **Section 13.01(c)**.

**“Loss”** or **“Losses”** when used with reference to party indemnity means any and all claims, demands, losses, liabilities, damages (including foreseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other

proceedings, judgments and awards and costs and expenses (including, without limitation, reasonable Attorneys' Fees and Costs, and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise.

**"M/WBE and Workforce Coordinator"** as referred to in **Section 12/02** and defined in the Fair Share Agreement (**Exhibit I**).

**"M/WBE Goals and Workforce Goals"** as defined in **Section 12.07**.

**"MBE/WBE Goals"** as defined in **Section 12.02**.

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

**"Material Change"** as defined in **Section 11.06(g)**.

**"MDFB"** shall mean the Missouri Development Finance Board of the State of Missouri.

**"MDFB Agreement"** shall mean the Tax Credit Agreement to be entered into among the County, Tenant or its Affiliate, and the MDFB with respect to the Missouri State Tax Credits part of the Landlord's Capped Contribution for the Project.

**"New County Sales Tax"** as defined in the 2006 Amended Lease.

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

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

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

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

**"Preliminary Project Program"** as defined in **Recital H** and attached hereto as **Exhibit A**.

**"Preliminary Project Schedule"** as attached hereto as **Exhibit C**.

**“Preliminary Project Budget”** means the approved budget for the construction of the Project, a copy of which is attached hereto as **Exhibit B** and by reference made a part hereof.

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

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

**“Program and Schematic Designs”** as defined in **Section 4.06**.

**“Project”** as defined in **Recital E**.

**“Project Costs”** as defined in **Section 6.01**.

**“Project Costs”** as defined in **Section 6.01**.

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

**“Project Schedule”** shall mean the Preliminary Project Schedule as modified from time to time.

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

**“Regulatory Force Majeure”** as defined in **Section 13.01(c)**.

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

**“Representative”** means the Landlord's Representative or the Tenant's Representative, as appropriate.

**“Requested Material Change”** as defined in **Section 4.09**.

**“Requisition”** as defined in **Section 6.06(c)**.

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

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

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

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

**“Section 11.03 Landlord Event of Default”** as defined in Section 11.03.

**“Site”** shall mean the Tenant’s Exclusive Leased Premises as defined in the Amended Lease and any other parts of the Sports Complex which are affected by work by Tenant on the Project or must be temporarily used by Tenant as part of the development and construction of the Project..

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

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

**“State”** means the State of Missouri.

**“Subsection 11.02(a) Tenant Default”** as defined in **Section 11.02(a)**.

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

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

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

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

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

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

**“Tenant Default”** as defined in **Section 11.01**.

**“Tenant Design Development Notice”** as defined in **Section 4.07(b)(ii)**.

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



**“Tenant’s Bid Package Review Period”** as defined in **Section 4.13(a)**.

**“Tenant’s Contribution”** as defined in **Section 6.05(b)**.

**“Tenant’s Obligations”** as defined in **Section 2.03(n)**.

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

**“Transfer”** as defined in **Section 10.01(a)**.

**“Updated Shared Complex/Central Services Facility”** as defined in **Section 12.07** and **Exhibit AA**.

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

**THIS AGREEMENT (IN SECTION 4.03(b)) INCORPORATES BY REFERENCE THE ORIGINAL LEASE BINDING ARBITRATION PROVISION (IN SECTION 15.02) AS TO TENANT AND CO-TENANT AND ANOTHER BINDING MEDIATION/ARBITRATION PROVISION IN SECTION 11.06 AS TO TENANT AND LANDLORD, BOTH OF WHICH MAY BE ENFORCED BY SAID PARTIES.**

**JACKSON COUNTY SPORTS  
COMPLEX AUTHORITY**

(Seal)

By: \_\_\_\_\_  
Printed Name: Michael Smith  
Title: Chairman

ATTEST:

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: Secretary

APPROVED AS TO FORM:

White Goss Bowers March Schulte & Weisenfels P.C.

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: Counsel to the Authority

KANSAS CITY ROYALS BASEBALL  
CORPORATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## COUNTY CONSENT AND AGREEMENT

In order to induce the Tenant named above and signing below to enter into the foregoing Kauffman Development Agreement to which this instrument is annexed (the “**Development Agreement**”), and in consideration therefor, JACKSON COUNTY, MISSOURI (the “**County**”) as of March 20, 2006 consents, represents, warrants and agrees as follows:

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

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

B. No act which Landlord or Tenant is required or permitted to do under the terms of the Development Agreement shall constitute a default under the County Master Lease.

C. The County accepts the obligations imposed upon it in the Development Agreement and the 2006 Amended Lease and agrees to fulfill such obligations as an inducement to Tenant to enter into the Development Agreement, and the County recognizes that Tenant shall only be required to perform the obligations imposed upon it by the Development Agreement when all conditions under the Development Agreement are satisfied.

D. The County hereby adopts all representations and warranties made by Landlord to Tenant under the 2006 Amended Lease and the Development Agreement as its own representations and warranties to Tenant. The County further adopts all obligations of Landlord to Tenant under the 2006 Amended Lease and the Development Agreement as its own obligations to Tenant.

E. Tenant shall have all rights and remedies against County that Tenant has against Landlord under the Development Agreement and the 2006 Amended Lease.

2. If Tenant shall perform the obligations under the Amended Lease and the Development Agreement on its part to be performed, the County further covenants and agrees that Tenant’s rights under the Development Agreement shall not be adversely affected in any way by reason of any default by the Co-tenant under the Co-tenant’s Amended Lease or Co-tenant Development Agreement referred to therein or by reason of any action taken by Landlord as landlord with respect to any default of the Co-tenant under the Co-tenant’s Amended Lease or Co-tenant Development Agreement.

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

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

**JACKSON COUNTY, MISSOURI**

(Seal)

By: \_\_\_\_\_  
Katheryn Shields  
Title: County Executive

ATTEST:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Title: Clerk of the County Legislature

APPROVED AS TO FORM:

\_\_\_\_\_  
Edward B. Rucker  
County Counselor

**JACKSON COUNTY SPORTS  
COMPLEX AUTHORITY**

(Seal)

By: \_\_\_\_\_  
Michael Smith  
Title: Chairman

ATTEST:

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: Secretary

APPROVED AS TO FORM:

White Goss Bowers March Schulte & Weisenfels P.C.

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**KANSAS CITY ROYALS BASEBALL  
CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT A

### Preliminary Project Program Kauffman Stadium Renovation Plan

#### **Field Level**

- New elevator service.
- New Field Level group sales areas.
- New and expanded utility services.
- New and expanded field maintenance area.
- New Field access tunnel from Lot "A".
- Move bullpens to leftfield and rightfield foul lines.
- Add field level group sales areas.
- Add approximately 1,500 new seats "fountain view seats" in leftfield.
- Structural modifications and improvements.
- New and expanded utilities.
- More energy efficient building.

#### **Field Level Concourse**

- More fan amenities; restrooms, concession, retail areas.
- Concession and retail storage areas.
- Replacement of deteriorated concrete.
- New Commissary and retail storage areas.
- New elevator.
- On average, double the width of concourse area, partially climate-controlled.
- New Commissary and storage areas.

#### **Plaza Level Concourse**

- On average, double the width of concourse from 20 feet to 40 feet.
- Four (4) new retail stores.
- New trellis party rooms in leftfield and rightfield for groups.
- New landscape and hardscape surrounding the stadium.
- New gates and expanded entry areas.
- New elevator and escalator service.
- New ticket offices.
- New mechanical and electrical service areas.
- Public Restaurant.
- Increase concession point of sale from 100 to 200.
- Increase number of restrooms from 314 to 420.
- (2) water/garden areas.
- New TV truck parking in Lot "A".
- Expansion of homeplate pedestrian areas toward Lot "M".
- BBQ Area.



- **New Party Deck(s).**

#### **Outfield**

- **Create a 360° concourse, including new outfield main street “walk of fame.”**
- **New 2,500 SF “Hall of Fame”; kids’ area; Little “K” and other public amenities.**
- **New Video and Scoreboards with specific boards capable of rotating 180 degrees to the outfield entertainment area.**
- **New Royals Pavilion with terraced seating, open floor plan and minimum seating of 9,500 seats, and mostly covered by Rolling Roof or other structure, if Rolling Roof unavailable.**
- **New Royals Park area above Dubiner Circle Drive, including retaining wall, sidewalks, trees and other landscape amenities.**
- **Hardscape of Dubiner Circle.**
- **Administrative and Operations Offices.**
- **Multi-purpose hospitality/banquet/entertainment facility.**

#### **Loge Level**

- **Enclosed climate controlled loge areas.**
- **Expand seating.**
- **Double fan amenities.**
- **Renovated broadcast press box.**
- **Renovated and expanded Corporate Suites.**
- **Loge Level Public Party Rooms.**
- **New elevator service.**

#### **View Level**

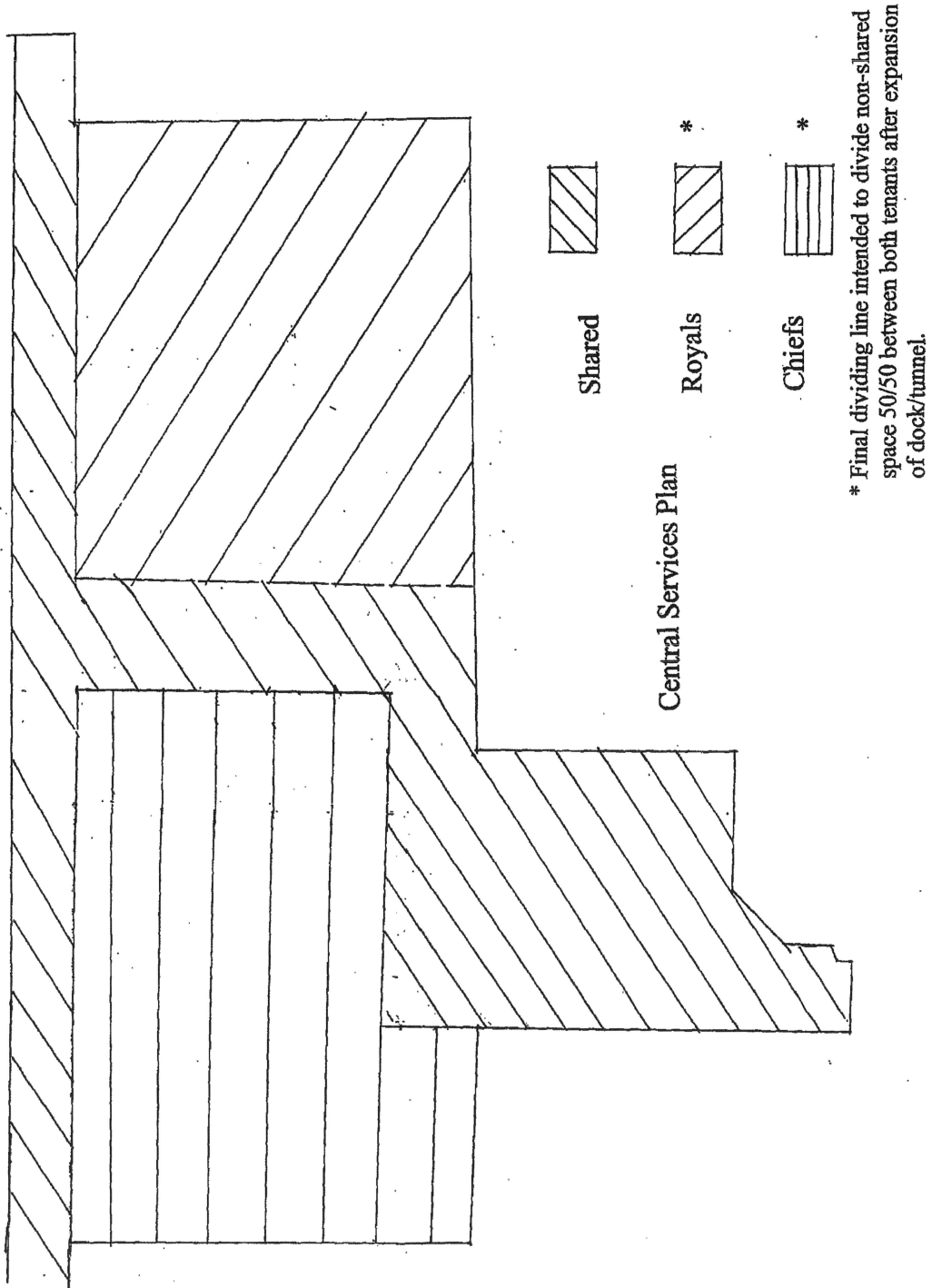
- **New home plate food court.**
- **Increase restroom facilities.**
- **Top of the “K” Group Sales Area.**
- **Writing Press structure and facilities**
- **Renovated and expanded concession and novelty stands.**
- **New elevator and escalator service, including escalator access to centerfield family entertainment areas.**

#### **Miscellaneous**

- **Providing better access to all fans to all levels with more elevators and escalators.**
- **Vibrant and colorful environmental graphics.**
- **New Code required elements; fire alarm, communications, lighting and electrical systems.**

EXHIBIT AA

UPDATED SHARED COMPLEX/CENTRAL SERVICES FACILITY



**EXHIBIT B**

**PRELIMINARY PROJECT BUDGET**

**Kansas City Royals  
Renovation of Kauffman Stadium\*  
Conceptual Budget  
(Excludes Central Services/Shared Complex Facilities)  
(Costs are 11/2006 Prices)**

**2006**

<b><u>Description of Work</u></b>	<b><u>Project Total</u></b>	
<b>A FAN AMENITIES</b>		
2 Field Level Improvements/Expansion	\$12,248,650	
3 Left Field Seat Expansion/Group Party Areas	\$2,463,300	
4 Right Field Seat Expansion/Group Party Areas	\$2,512,750	
7 Plaza Level - Improvements/Expansion	\$26,231,500	
8 Trellis Group Areas - Right and Left Field	\$604,900	
9 Left Field - Kids Area	\$3,812,500	
10 Left Field Public Amenities	\$5,424,600	
11 Right Field Public Amenities (partial Royals obligation)	\$11,808,400	
14 Above Plaza Level (2nd/3rd Tier) Expansion/Improvement	\$49,312,000	
15 Upper Seating Level Trellis Walkway/Seat Improvements	\$4,255,300	
16 New Scoreboards, Videoboard, Auxiliary Boards	\$16,519,750	
17 Vertical Transportation for Project	\$6,605,600	
18 Royals Hall of Fame Structure/Interactive Area	\$2,872,700	
19 FF&E for Project (Excl. Corp. Suites)	\$16,266,750	
29 Center Field Entertainment/Structures (partial Royals obligation)	\$18,100,000	
30 Royals Initial & On-Going Buildout of Corporate Leased Suites (Royals' Obligation)	\$18,000,000	
<b>Subtotal</b>	<b>\$197,038,700</b>	<b>78.815%</b>
<b>B STADIUM FUNCTIONAL AREAS</b>		
1 Underground Service Area Expansion @ Field Level	\$6,152,800	
5 Service Level Expansion Near Entry	\$1,233,950	
6 New Service Tunnel Area - Right Field	\$5,559,100	
12 Plaza Work Around Facility	\$8,143,150	
13 Renovate Lower Press Level	\$2,134,400	
20 Graphics Package for Project	\$2,541,500	
28 General Materials Replacement & Contingency	\$2,789,900	
31 Administrative & Operation Facilities	\$8,251,500	
<b>Subtotal</b>	<b>\$36,806,300</b>	<b>14.723%</b>
<b>C SITE &amp; STADIUM FUNCTIONAL AREAS</b>		
21 Architectural Lighting for Project	\$1,524,900	
22 New Fire Alarm System	\$1,715,800	
23 New Broadcast Cable	\$1,398,400	
24 New Distributed TV System for all Levels	\$1,196,000	
25 Upgrade Electrical Service (within Kauffman perimeter)	\$3,431,600	
26 Upgrade Telephone Service (within Kauffman perimeter)	\$857,900	

<u>Description of Work</u>	<u>Project Total</u>	
27 Upgrade Incoming Utilities (within Kauffman perimeter)	\$1,030,400	
28 New Mechanical/HVAC Systems	\$4,000,000	
<b>Subtotal</b>	<b>\$15,155,000</b>	<b>6.062%</b>
<b>D Demolition</b>		
29 Site Demolition	\$1,000,000	0.400%
<b>Total</b>	<b>\$250,000,000</b>	<b>100.000%</b>



## EXHIBIT D

### MINIMUM REQUIRED PROJECT ELEMENTS

#### **Kansas City Royals HOK Sport Project No. 05-2730-10**

### **List of Minimum Requirements**

(Refer to attached Exhibits D-1 and D-2 - Conceptual Design Site Plans dated March 16, 2006)

#### **Field Level**

- Move bullpens to leftfield and rightfield foul lines.
- Add field level group sales areas.
- Add approximately 1,500 new seats "fountain view seats" in leftfield.
- New field access tunnel from Lot A and expanded maintenance facility.
- Structural modifications and improvements.
- New and expanded utilities.
- More energy efficient building.

#### **Field Level Concourse**

- More fan amenities; restrooms, concession, retail areas.
- Concession and retail storage areas.
- On average, double the width of concourse area, partially climate-controlled.
- New Commissary and storage areas.

#### **Plaza Level Concourse**

- On average, double the width of concourse.
- Double concession p.o.s. and restrooms toilets.
- Four (4) new retail stores.
- New trellis party rooms in leftfield and rightfield for groups.
- New landscape and hardscape over the entire stadium footprint.
- New ticket offices.

#### **Outfield**

- Creation of a 360° walk-around concourse, including new outfield main street "walk of fame."
- Leftfield "Hall of Fame", kids' area, Little "K" other public amenities.
- New Video and Scoreboards with specific boards capable of rotating 180 degrees to outfield entertainment area.

- New Royals Pavilion with terraced seating, open floor plan and minimum seating of 9,500 seats, and mostly covered by Rolling Roof or other structure, if Rolling Roof not available).
- New Royals Park area above Dubiner Circle Drive, including retaining wall, sidewalks, trees and other landscape amenities.
- Hardscape of Dubiner Circle.
- Administrative and Operations Offices.
- Public Restaurant in Right Field.

### **Loge Level**

- Enclosed climate controlled loge areas.
- Expand seating.
- Double fan amenities.
- Renovated press box.
- Renovated and expanded Corporate Suites.
- Loge Level Public Party Rooms.

### **View Level**

- New home plate food court.
- Increase restroom facilities.
- Renovated and expanded concession/novelty stands.
- Writing Press structure/facilities.

### **Miscellaneous**

- Providing better access to all fans to all levels with more elevators and escalators.
- Vibrant and colorful environmental graphics.
- New Code required elements; fire alarm, communications, lighting and electrical systems.



**EXHIBIT E**

**ARCHITECT'S INSURANCE REQUIREMENTS**

**The Architect shall be required to carry insurance, and to cause insurance to be carried in accordance with the provisions of the Architect's Agreement; provided, however, that Landlord, County and Co-tenant (on the respective liability releases applicable to the Co-tenant project) shall be named as "additional insureds" or "loss payees" as is appropriate on all such Architect's insurance coverages and provided further that Tenant shall submit to Landlord the policy limits to be required of Architect for review (and approval unless such policy limits are not reasonable and customary for the nature and scope of the Project).**

**EXHIBIT F**

**GENERAL CONTRACTOR/CONSTRUCTION MANAGER  
INSURANCE REQUIREMENTS**

<b>Coverage</b>	<b>Limit</b>
Worker's Compensation	Statutory
Employer's Liability	\$2,000,000
General Liability	\$2,000,000 per occurrence/\$4,000,000 aggregate
Excess Liability	\$50,000,000
Automobile	\$1,000,000
Builder's Risk	\$250,000,000*
Errors Omissions	\$10,000,000

**\*Subject to Reduction Based on Possible Interface With Current County Casualty  
Insurance for Sports Complex/Kauffman Stadium**

## EXHIBIT G

### DISBURSEMENT PROCEDURES

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

2. On or before the 1st business day of each month, the Tenant or Tenant's Contractors shall submit to Landlord, with a copy to the individual or entity responsible for the certification of costs for the Landlord (the "Landlord's Representative" which may be the Public/Owner Representative) a copy of each such Requisition (along with the documentation required by Section 6.06 of the Development Agreement;

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

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

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

6. If and to the extent that any costs included in a Requisition have been incurred by Tenant but not paid to the contractor, supplier or other payee, Tenant shall identify such costs and the Landlord shall have

the right to direct the Bond Trustee to pay such costs directly to such contractor, supplier or other payee.

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

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

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

## EXHIBIT H

### PUBLIC/OWNER REPRESENTATIVE OVERSIGHT RESPONSIBILITIES AND SERVICES

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

#### **Design and Preconstruction Phase Responsibilities/Services**

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

#### **Procurement Phase Responsibilities/Services**

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

#### **Construction Phase Responsibilities/Services**

- Make at least monthly (or as requested) oral and/or written reports to the Sports Authority and Jackson County Legislature on the progress of the Project and any concerns or issues.

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

## EXHIBIT I

### SPORTS COMPLEX FAIR SHARE AGREEMENT

THIS SPORTS COMPLEX FAIR SHARE AGREEMENT (this "Agreement") is entered into as of \_\_\_\_\_, 2006, by and between the JACKSON COUNTY SPORTS COMPLEX AUTHORITY, a duly incorporated Sports Complex Authority under Missouri law (the "Authority"), and KANSAS CITY ROYALS BASEBALL CORPORATION, a Missouri corporation (the "Royals").

WHEREAS, the Authority and the Royals entered into the 2006 Lease Amendment (the "Lease Amendment") dated as of the 24<sup>th</sup> day of January, 2006, for the operation of the Royals' exclusive leased premises at, and other portions of, the Harry S. Truman Sports Complex; and

WHEREAS, the Authority and the Royals intend to enter into a Kauffman Stadium Development Agreement regarding the Royals Complex Development Project (the "Development Agreement") for the renovation and operation of the Royals' exclusive leased premises at the Harry S. Truman Sports Complex (the "Royals Project"); and

WHEREAS, pursuant to the terms of the Development Agreement and the Lease Amendment, the Royals intend to enter into this Agreement in an effort to assure that opportunities are maximized for minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs") to participate in the Royals Project, and to assure that opportunities for minorities and women to be employed in the workforce on the Royals Project are maximized; and

WHEREAS, the Authority and the Royals agree that the Authority shall establish a Fairness Committee (the "Fairness Committee") to prepare and present an M/WBE and Workforce Policy and Program (the "M/WBE and Workforce Policy and Program") to the Authority for its consideration and acceptance as hereinafter provided; and

WHEREAS, the Royals, as the party designated in the Development Agreement to develop the Royals Project, has agreed, in connection with the design, development and construction of the Royals Project, to enter into this Agreement (a) to use best faith efforts to achieve goals set forth in this Agreement for hiring minorities and women and utilizing MBEs and WBEs, and (b) to consult with, and to cause its construction manager, general contractor, subcontractors, vendors, consultants and/or third-party contractors providing goods or services to the Royals Project (together, its "Contractors") to consult with, minority contractor representatives recommended by the M/WBE and Workforce Coordinator (as defined hereinafter) from time-to-time during the term of the Development Agreement with respect to implementation of the Royals Project; and

WHEREAS, the Royals shall encourage utilization of joint ventures and other strategic alliances to achieve minority and women participation in all prime roles including, but not limited to, the following areas: architectural services, general contracting, engineering services, legal services, purchases and other services provided to the Royals Project; and



WHEREAS, the Royals desire that opportunities are maximized for MBEs and WBEs with offices located first in Jackson County, then in the State of Missouri, and then in the Kansas City metropolitan area; and

WHEREAS, this Agreement represents the strict commitment of the parties to include MBEs and WBEs from and after the date of this Agreement in all aspects of the design, procurement, development and construction of the Royals Project, such as the above-mentioned areas, and including, but not limited to, all construction-related services, professional services, other services, and procurement of material, supplies and equipment.

WHEREAS, the Royals, pursuant to the M/WBE and Workforce Policy and Program, and upon consultation with the M/WBE and Workforce Coordinator, shall use reasonable diligence and efforts to cause its Contractors to coordinate the creation of subcontracting opportunities suitable in size and scope of work for MBEs and WBEs in order to enhance contracting opportunities for MBEs and WBEs and to develop the capacity of MBEs and WBEs;

NOW, THEREFORE, IT IS AGREED, FROM AND AFTER THE DATE HEREOF:

#### SECTION I: FAIRNESS COMMITTEE

The Authority shall establish a Fairness Committee consisting of nine (9) voting members and three non-voting members, which shall be composed of the following representatives, subject to the Authority's approval of each recommendation:

- Two members and two alternates recommended by the Builders' Association.
- One member and an alternate recommended by the Heavy Contractors' Association.
- One member and an alternate recommended by the Owners Council of the National Association of Women in Construction.
- One member and an alternate recommended by the NAACP.
- One member and an alternate recommended jointly by the Minority Contractors' Association and the Kansas City Hispanic Association Contractors Enterprise, Inc.
- One member and an alternate recommended jointly by the Mid-America Minority Business Development and Supplier Council and the Black Chamber of Commerce of Greater Kansas City.
- One member and an alternate recommended by the Greater Kansas City Chamber of Commerce.
- The Chair shall be appointed by the Authority and shall be a voting member.
- The M/WBE and Workforce Coordinator shall be a non-voting but participating member.
- One representative of the Royals shall be a non-voting but participating member.

- One representative of the Chiefs shall be a non-voting but participating member.

## SECTION II: M/WBE AND WORKFORCE POLICY AND PROGRAM / M/WBE GOALS

The Authority shall cause the Fairness Committee to prepare and present an M/WBE and Workforce Policy and Program to the Authority for its consideration and acceptance. The purpose of the M/WBE and Workforce Policy and Program shall be to (a) provide MBEs and WBEs with the maximum opportunity to participate in the procurement of material and equipment and in the construction and professional services necessary to implement the Royals Project; (b) provide procedures for monitoring and enforcing compliance with the Royals' covenant to use best faith efforts to achieve the goals for MBE and WBE participation set forth in Schedule "1" attached hereto (the "M/WBE Goals"); (c) provide minority and women workers the maximum opportunity to gain employment in the workforce on the Royals Project; and (d) provide procedures for monitoring and enforcing compliance with the Royals' covenant to use best faith efforts to achieve the goals for the employment of minorities and women equal to the percentage of minorities and women, respectively, in the union labor pool from time to time for each trade being used on the worksite and in the pool of available unskilled workers, the current percentages of which are all as set forth in Schedule "1" attached hereto (the "Workforce Goals"); provided, however, that in an effort to exceed the Workforce Goals, the Royals agree to cause its general contractor to participate in the Project Prepare program as described in Section V hereof. The M/WBE and Workforce Policy and Program shall not impose obligations upon the Royals beyond the scope of obligations provided in this Agreement, the Development Agreement and the Lease Amendment. The M/WBE and Workforce Policy and Program shall be adopted by the Authority as promptly as possible following April 4, 2006, but not later than May 5, 2006. The Royals shall have no responsibility for any failure of the Authority to adopt the M/WBE and Workforce Policy and Program by such date. It is agreed that, prior to the approval of the M/WBE and Workforce Policy and Program, the Royals and the Authority may continue to incur fees, costs or expenses in connection with the implementation of the Royals Project in order to cause the Royals Project to continue to move forward in a timely manner; the parties understand, however, that such fees, costs and expenses incurred prior to the approval of the M/WBE and Workforce Policy and Program shall be incurred primarily in the areas of legal services and design services. Such fees, costs and expenses incurred prior to the approval of the M/WBE and Workforce Policy and Program shall be excluded from the aggregate total of all sums paid in connection with the implementation of the Royals Project, and therefore shall not be included in the costs of the Royals Project that are subject to the M/WBE Goals.

## SECTION III: BEST FAITH EFFORTS

The Royals shall use best faith efforts, in accordance with the provisions of Schedule "2" attached hereto, as determined by the Authority upon recommendation and/or report of the Fairness Committee, to comply with the terms of the M/WBE and Workforce Policy and Program, including reporting requirements thereunder. Further, the Royals shall contractually obligate its Contractors to use best faith efforts, as determined by the Authority upon recommendation and/or report of the Fairness Committee, in accordance with the provisions of Schedule "2" attached hereto, and to comply with the terms of the M/WBE and Workforce Policy and Program, including reporting requirements thereunder, and the Royals shall make all reasonable efforts to enforce such obligations made by its Contractors. If and to

the extent that any failure to comply with the M/WBE and Workforce Policy and Program occurs by any Contractor, such failure shall not constitute a failure by the Royals to use best faith efforts so long as the Royals have contractually obligated such Contractor, or required its general contractor to contractually obligate such Contractor, to use best faith efforts to comply with the M/WBE and Workforce Policy and Program, and the Royals have used reasonable efforts to cause all Contractors with which it has a direct contract to comply with the requirements of the M/WBE and Workforce Policy and Program.

Notwithstanding the foregoing, with respect to workforce utilization provisions of the M/WBE and Workforce Policy and Program, the Royals and the Authority agree that, as to any work constituting a portion of the Royals Project that is performed by any Contractor, any failure by any Contractor to comply with the workforce utilization provisions of the M/WBE and Workforce Policy and Program shall not constitute a failure by the Royals to use best faith efforts so long as the Royals have contractually obligated such Contractor, or required its general contractor to contractually obligate such Contractor, to use best faith efforts to comply with such workforce utilization provisions of the M/WBE and Workforce Policy and Program, and the Royals have used reasonable efforts to cause all Contractors with which it has a direct contract to comply with the requirements of the M/WBE and Workforce Policy and Program.

#### SECTION IV: M/WBE AND WORKFORCE COORDINATOR

The Royals shall provide the Authority with fifty percent (50%) of the cost (said fifty percent (50%) not to exceed \$50,000 for each twelve (12) month period commencing on May 1, 2006 and ending upon completion of the Royals Project as mutually agreed by the parties, but in no event later than that date (the "Termination Date") that is the date of Substantial Completion under Section 7.01 of the Development Agreement) to retain a person or firm to serve as an M/WBE and Workforce Coordinator, reasonably acceptable to the Royals, to assist the Authority and the Royals in the implementation, monitoring and enforcement of the best faith efforts required to achieve the desired results of this Agreement and the M/WBE and Workforce Policy and Program. The Authority shall provide the remaining funds necessary to pay all remaining costs in the implementation, monitoring and enforcement of the best faith efforts required to achieve the desired results of this Agreement and the M/WBE and Workforce Policy and Program. Both the Royals' portion of such costs (as set forth above) and the Authority's portion of such costs attributable to this Agreement (which shall be limited to an amount not to exceed \$120,000 [\$240,000 total for Chiefs and Royals Fair Share Agreements] for each twelve (12)-month period commencing thirty (30) days prior to the commencement of substantial construction and ending upon the Termination Date that is the date of Substantial Completion under Section 7.01 of the Development Agreement) shall be paid from time to time as project costs from the construction fund established from the proceeds of the sale of the tax-exempt bonds issued pursuant to Section 6.05 of the Development Agreement. The Authority shall cause such bonds to be sized and issued in an aggregate principal amount sufficient to provide, when combined with the \$12,500,000 of Missouri State Tax Credits, the \$225,000,000 Landlord Capped Contribution as defined in Subsection 22(a) of the Lease Amendment plus the total of all costs reasonably estimated to be provided by the Royals and the Authority (subject to the limitation of such Authority costs as set forth above) and paid as project costs from the construction fund pursuant to this SECTION IV and the Royals portions of costs under SECTION V below. The selected person or firm shall serve in this capacity beginning May 1,

2006 and ending upon the Termination Date. The person or firm shall be provided with comparable office space along with other construction personnel and construction-related personnel at the Royals Project, so long as such is maintained by the Royals at the job site. The responsibilities for the M/WBE and Workforce Coordinator are generally described in the attached Schedule "3".

#### SECTION V: WORKFORCE GOALS

As part of this M/WBE and Workforce Policy and Program and with respect to Workforce Goals for the Royals Project, the minimum Workforce Goals for employment of minorities and women shall be as provided in Section II hereof. The Royals shall further seek to extend those Workforce Goals by causing the construction manager or general contractor for the Royals Project to enter into a Memorandum of Understanding with the Fair Employment Council to maximize the hiring of minority workers and women workers through Project Prepare, such Memorandum of Understanding to be consistent with the program described in the attached Schedule "4". The Royals shall contractually obligate its general contractor, and shall cause its general contractor to contractually obligate its Contractors, to participate in Project Prepare consistently with such Memorandum of Understanding. The Royals and the Authority understand and agree that the costs of implementing the Project Prepare program set forth in such Memorandum of Understanding shall be approximately \$400,000 over a two-year period (the anticipated term of this Agreement). The Royals shall provide the Authority with or pay fifty percent (50%) of such costs (such fifty percent (50%) not to exceed \$100,000 for each twelve (12)-month period commencing on May 1, 2006, and ending two (2) years thereafter); provided, however, that in no event shall the Royals be obligated to pay a total amount under this Agreement in excess of \$200,000 for its share of the costs of implementing the Project Prepare program. The Authority shall provide the remaining funds necessary to pay any remaining costs. The Royals' portion of such costs shall be paid from time to time as project costs from the construction fund established from bond sale proceeds as set forth above.

#### SECTION VI: MAXIMUM OPPORTUNITY / REPORTING

The Royals agree that their executive officer charged with the responsibility of directing the M/WBE and Workforce Policy and Program shall have been granted necessary corporate authority to do so. The executive officer shall have sufficient authority, staff and resources to carry out the proper development and implementation of the M/WBE and Workforce Policy and Program. With assistance from the M/WBE and Workforce Coordinator, the Royals shall submit a report to the Fairness Committee and the governing body of the Authority on a monthly basis documenting the involvement of MBEs and WBEs in the design, development, procurement and construction of the Royals Project and including documentation of payments to MBEs and WBEs identified as being so involved. Such report shall also include a report on workforce utilization of minorities and women on the site.

#### SECTION VII: LOCAL PREFERENCE

In an effort to maximize the use of firms with an office in Jackson County, Missouri or in the State of Missouri, a weighted scale of participation to achieve the M/WBE Goals shall be determined as follows:

MBEs AND WBEs With Office in Jackson County	100%
MBEs AND WBEs With Office in Missouri But No Office in Jackson County	90%
MBEs AND WBEs With No Office in Jackson County But Office in the Kansas City Metropolitan Area	80%
MBEs AND WBEs With No Office in Missouri and No Office in the Kansas City Metropolitan Area	70%

It is acknowledged that the weighted scale set forth above may reduce the percentage of MBE and WBE participation in terms of ultimate percentage, but the Royals and the Authority agree that achieving the goal of maximizing the use of firms with an office in Jackson County, Missouri or in the State of Missouri or in the Kansas City metropolitan area justifies such a weighted scale.

SECTION VIII: EXCLUDED EXPENDITURES

The Royals and its Contractors shall use best faith efforts as set forth herein in order to progress towards the achievement of the M/WBE Goals and Workforce Goals, but the Royals shall not be required to pay any amounts in excess of the lowest responsible and responsive price or bid to procure any goods or services, or to delay any design, development or construction activities in order to progress towards the achievement of the M/WBE Goals and Workforce Goals. The Royals agree the bid requirements shall obligate a Contractor to agree to execute a contract by which it is contractually obligated to use best faith efforts as set forth herein, and that for a bid or price to be responsible and responsive, it must have been prepared by a Contractor that agrees to be so contractually obligated. In the event that the lowest price or bid is not responsible and responsive because the Contractor does not agree to be contractually obligated to use best faith efforts as set forth herein, the Royals shall, or shall cause its general contractor to, either re-bid that contract or select the next lowest responsible and responsive price or bid, if permitted by applicable law. The M/WBE and Workforce Coordinator shall be entitled to review any and all bids to examine whether they are responsible and responsive with regard to best faith efforts as set forth herein, but there shall be no obligation on the Royals to delay the Royals Project pending such review, and if any Contractor that becomes contractually obligated to use best faith efforts as provided herein is ultimately determined to have not used such best faith efforts, the remedies of the Authority shall be as set forth in this Agreement with respect to such Contractor. Any disagreement between such Coordinator and the Royals shall be submitted first to the Fairness Committee and then to the Authority for resolution.

Based upon the Royals' representations that there are no qualified MBEs and/or WBEs from which it will be able to purchase suitable scoreboards, sound systems and seating, procurements of scoreboards, sound systems and seating are specifically excluded from the aggregate total of all sums paid in connection with the implementation of the Royals Project. Nevertheless, MBEs and WBEs shall have maximum opportunity to participate in the installation of scoreboards, sound systems and seating unless installation is an integral part of the purchase and/or separate installation would negate or vitiate any warranty. In addition, in the event that,

after the date hereof, the Royals reasonably determine that there are no qualified MBEs and/or WBEs from which it will be able to purchase other goods to be utilized in the development of the Royals Project, the Royals shall notify the Fairness Committee. The Fairness Committee shall investigate and submit its recommendation to the Authority with respect to such goods, and if the Authority shall determine that there are no qualified MBEs and/or WBEs from which the Royals will be able to purchase such goods, then procurements of such goods shall be specifically excluded from the aggregate total of all sums paid in connection with the implementation of the Royals Project as to which the M/WBE Goals are applicable. Nevertheless, MBEs and WBEs shall have maximum opportunity to participate in the installation of such goods unless installation is an integral part of the purchase and/or separate installation would negate or vitiate any warranty.

#### SECTION IX: CERTIFICATION

The M/WBE and Workforce Policy and Program shall designate the appropriate authorities or entities to provide certification of MBEs and WBEs and shall establish criteria for all requirements relating to qualifications for MBEs and WBEs. The Royals and its Contractors may rely entirely upon the certification or lack of certification provided by the designated authorities or entities in determining whether any such person or entity is a certified MBE or WBE. In no event shall any criteria based upon amount of revenues or sales be used in the determination as to whether entities are qualified as MBEs or WBEs.

#### SECTION X: DEFAULT

In the event any claim is made by the M/WBE and Workforce Coordinator or the Authority that the Royals or any of its Contractors has not made a best faith effort to achieve the M/WBE Goals or the Workforce Goals, or that it or they have breached any provision (or failed to perform under any provision) of this Agreement, such claim shall first be submitted to and investigated by the Fairness Committee, which shall conduct a prompt investigation, consider all facts and evidence provided to it and make a recommendation to the Authority for its consideration and determination.

If the Authority finds, after investigation and consideration by the Fairness Committee, that the Royals have failed to (a) perform its obligations under this Agreement, (b) contractually obligate its general contractor on the Royals Project to use best faith efforts, or (c) contractually obligate any other Contractors directly engaged by the Royals to use best faith efforts to comply with this Agreement, then if the default has not been cured as prescribed by the Authority within the time prescribed by the Authority, then such failure shall constitute a default hereunder and under the Development Agreement, and the Authority may take such action to enforce this Agreement as is available at law or in equity hereunder. The Authority may note such non-compliance in any future application by any parties to implement any future contracts. In addition, the Authority may take into account the past compliance record of the Royals' proposed Contractors in evaluating such Contractors' applications for future contracts. No failure by the Royals hereunder that results in a failure to achieve the M/WBE Goals and the Workforce Goals shall constitute a Royals default hereunder so long as the Royals have made best faith efforts to comply with the provisions of this Agreement and the M/WBE and Workforce Policy and Program, and so long as the Royals have used reasonable efforts to cause



all Contractors with which it has a direct contract to comply with the requirements of the M/WBE and Workforce Policy and Program. If the general contractor or any Contractor that is contractually obligated to use best faith efforts shall fail to do so, such failure shall not constitute a default by the Royals hereunder, and the Royals hereby agree that the Authority is a third party beneficiary of such contractual obligations to use best faith efforts, and the Authority shall have the right to seek damages or specific performance directly against such general contractor or other Contractor. The Royals will contractually obligate its general contractor and all other Contractors engaged by the Royals to agree that the Authority is a third party beneficiary of the contractual obligation to use best faith efforts hereunder, subject to all available remedies, and shall contractually obligate the general contractor to contractually obligate its Contractors to agree that the Authority is a third party beneficiary of the contractual obligations to use best faith efforts hereunder, subject to all available remedies.

#### SECTION XI: EFFECT OF AGREEMENT

This Agreement is subject to and conditioned upon the prior or subsequent signing of the Development Agreement, and passage of the April 4, 2006 referendum.

Upon passage of the April 4, 2006 referendum, the Royals and the Authority shall put in place a process to effectuate the intent embodied herein. As part of this process, the Royals shall work with the M/WBE and Workforce Coordinator and the Fairness Committee in developing and implementing the provisions of this Agreement including the M/WBE and Workforce Policy and Program.

The undertaking and commitments set forth in this Agreement shall not be deemed to modify, amend or abrogate any provision of the Development Agreement, the Lease Amendment or any related agreement between the Authority and the Royals except as specifically set forth herein. If the Royals should contract with the Authority concerning the construction of a rolling roof for Kauffman Stadium, the parties will negotiate in good faith for a separate Fair Share Agreement applicable to such construction.

Terms used herein as defined terms and not defined herein shall have the meaning set forth in the Lease Amendment.

#### SECTION XII: INCORPORATION OF RECITALS AND EXHIBITS

The parties hereby agree that the Recitals, the M/WBE and Workforce Policy and Program and the Exhibits and Schedules attached hereto are hereby incorporated into this Agreement in full and form an integral part thereof.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**JACKSON COUNTY SPORTS COMPLEX  
AUTHORITY**

By: \_\_\_\_\_  
Jim Rowland, Executive Director

ATTEST

\_\_\_\_\_  
Michael T. White, General Counsel

**KANSAS CITY ROYALS BASEBALL  
CORPORATION**

By: \_\_\_\_\_



**SCHEDULE "1"**

**Participation Goals**

The over-all M/WBE Goals for participation under this Agreement are 22% MBE and 8% WBE. Such over-all M/WBE Goals, broken down by business category, ethnicity and gender, are as follows:

CATEGORY	GOALS	
	MBE	WBE
Construction and Construction-related Services	22%	8%
Architectural & Engineering	22%	8%
Professional Services	22%	8%
Materials, Supplies & Equipment	22%	8%
Other Services	22%	8%

**Workforce Goals**

The Workforce Goals for the Royals Project are as follows:\*

CATEGORY	GOALS	
	Minorities	Women
Boilermakers	13%	4%
Masons	20%	1%
Carpenters	13%	2%
Carpet, Floor, Tile	13%	2%
Cement, Concrete	17%	1%
Drywall, Ceiling	23%	4%
Electricians	15%	2%
Glaziers	19%	1%
Painters	23%	8%
Plumbers, Pipefitters	12%	2%
Roofers	41%	1%
Sheet Metal Workers	10%	1%
Iron & Steel	13%	2%
Construction Equipment Operators	15%	2%
Unskilled Workers	26%	3%

\* These percentages are supplied by the Missouri Department of Labor for the Kansas City Metropolitan Area as the percentage of minorities and women workers in the union labor pool for each listed trade. The Authority represents that these figures are correct to the best of its information and belief. If the actual percentage of minorities or women workers in the union labor pool, and applied trade is less than as set forth herein, or if the category of laborers does not include all unskilled workers, then the numbers of the schedule above will be adjusted to the

percentages in such labor pool or group. The parties understand that these figures can change from time to time.

## SCHEDULE "2"

### **Guidance Concerning Best Faith Efforts**

Standards to determine best faith efforts.

(1) Best faith efforts are efforts that, given all relevant circumstances, a bidder or proposer actively and aggressively seeking to meet the goals can reasonably be expected to make. In evaluating best faith efforts made toward achieving the goals, whether the bidder or proposer has performed the following may be considered, along with any other relevant factors:

(a) Advertised opportunities to participate in the contract in general circulation media, trade and professional association publications, small and minority business media, and publications of minority and women's business organizations not less than fifteen (15) days prior to the deadline for submission of bids to allow MBE and WBE firms to participate effectively;

(b) Provided notice to a reasonable number of minority and women's business organizations of specific opportunities to participate in the contract not less than fifteen (15) days prior to the deadline for submission of bids to allow MBE and WBE firms to participate effectively;

(c) Sent written notices, by certified mail, e-mail or facsimile, to qualified, certified MBEs and WBEs soliciting their participation in the contract not less than fifteen (15) days prior to the deadline for submission of bids to allow them to participate effectively;

(d) Attempted to identify portions of the work for qualified, certified MBE and/or WBE participation in order to increase the likelihood of meeting the goals, including breaking down contracts into economically feasible units;

(e) Requested assistance in achieving the goal from the M/WBE and Workforce Coordinator and acted on the M/WBE and Workforce Coordinator's recommendations;

(f) Conferred with qualified, certified MBEs and WBEs and explained the scope and requirements of the work for which their bids or proposals were solicited;

(g) Attempted to negotiate in good faith with qualified, certified MBEs and WBEs to perform specific subcontracts; not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities;

(h) Within five working days after drawing the bid specifications, bidder sent certified letters, e-mails or facsimiles to qualified, certified MBEs and

WBEs listed by the MBE/WBE Directory maintained by the City of Kansas City, Missouri;

(i) Followed up initial solicitations of interest by contacting MBEs and WBEs to determine whether the MBEs and WBEs were interested;

(j) Made efforts to refer interested MBEs and WBEs to entities who may be able to assist them in obtaining required bonding, lines of credit, or insurance; and

(k) Effectively used the services of available minority community organizations, minority contractors groups, local, state and Federal minority business assistance offices, and other organizations that provide assistance in the recruitment and placement of MBEs and WBEs.

(2) A bidder or proposer shall submit documentation of best faith efforts when requested by the M/WBE and Workforce Coordinator, the Fairness Committee or the Authority.

### SCHEDULE "3"

#### **General Responsibilities and Budget for M/WBE and Workforce Coordinator**

The Coordinator will assist the Royals and the Authority with the following:

1. Conduct outreach and marketing.
2. Participate in senior-level management meetings in connection with matters dealing with the Royals Project.
3. Participate in pre-construction and pre-bid meetings.
4. Assist pre-qualification determinations.
5. Assist in the decision process for awarding contracts.
6. Conduct periodic site visits on the project sites to verify MBE AND WBE utilization and to verify employment levels for minorities and women.
7. Develop required reporting documents.
8. Review status and progress reports before they go to Fairness Committee.
9. Audit the status of interested firms' certification.
10. Assist the Royals and Contractors in identifying qualified MBE and WBE firms.
11. Review billings to ensure that payment levels meet the utilization plan.
12. Provide technical assistance that will help firms with the necessary bonding and insurance capabilities.
13. Assist in preparation of monthly reports due under this Agreement.
14. Provide minority source prospect lists from Jackson County.
15. Provide minority source prospect lists of Jackson County-based companies.
16. Assist in the development of web page links to facilitate MBE AND WBE contractor applications.
17. Facilitate the use of County-owned or project-based meeting space for all networking sessions, pre-bid meetings and minority workshops.
18. Take claims, disputes or appeals by any party initially to the Fairness Committee and, if necessary, to the Authority.

19. Monitor screenings of apprenticeship and employment applicants and participate in the Interview Panel process under the “Project Prepare” Memorandum of Understanding with the Fair Employment Council.
20. Take such other responsibilities as are reasonably requested by the Authority and the Royals in furtherance of the M/WBE and Workforce Policy and Program to facilitate the effective development of the Royals Project.

The annual Budget for the M/WBE and Workforce Policy and Program will be approximately \$340,000.

## SCHEDULE "4"

### **Project Prepare**

This Memorandum of Understanding (the "MOU") among the Royals, the construction manager or general contractor for the Royals Project, the Authority, and the Fair Employment Council (the "FEC") shall incorporate provisions consistent with the following:

1. The purpose of the MOU will be to establish the procedures for the screening and referral of applicants to the general contractor or construction manager on the Royals Project. The FEC, as coordinator for Project Prepare, agrees to recruit, test, and prescreen available and interested candidates for positions with Contractors on the Royals Project. Participants referred for an interview must meet the employer's minimum requirements for employment.
2. The FEC will (a) recruit applicants through the Missouri Careers Centers in Jackson County and other counties in the Kansas City metropolitan area in conjunction with Project Prepare; (b) assess clients based on title and descriptions provided by the construction manager or general contractor; (c) collaborate with the construction manager or general contractor to provide applicants with an overview of positions and qualifications needed in conjunction with the Royals Project; and (d) assist the construction manager or general contractor with background screening, drug testing, and other prescreening requirements for the Royals Project.
3. The construction manager or general contractor will (a) provide the FEC with job descriptions of the craft positions available for the Royals Project as well as qualifications needed for each position; (b) notify the FEC in advance of the time when job vacancies must be filled; (c) provide feedback to the FEC regarding hiring decisions and client outcomes; and (d) meet with the FEC monthly to review results.
4. The Royals and the Authority will provide funds to pay the FEC per SECTION V of the Agreement.
5. The MOU is effective for a period of two years from the date of signature. If appropriate, the MOU may be extended by mutual written agreement.

**Project Prepare  
Section 14.02 Flow Chart**

Legend  
TRADES: Electrician, Cement Mason, Laborers, Bricklayers, Painter, Sprinklerfitter, Roofer, Carpenters, Sheet Metal Worker, and Ironworkers

Eligibility Requirements  
High School Graduate or GED  
Must be 18 or older — Targeting 18-21 - but does not exclude  
Pass Urinalysis Test  
Must be a Missouri Resident

Step One  
Orientation  
Full Employment Council's Role Recruit, Offer the One-Stop Orientation, Conduct Eligibility, Assess and Conduct Drug Test

Step Two  
Interview Panel  
Apprenticeship Coordinator from each Trade will conduct interview with potential participants for Project Prepare

Step Three  
Selection Process  
Each individual **CRAFT Coordinators** will select participants for Project Prepare Training

Step Four  
Project Prepare Orientation (AFL-CIO)  
The Kansas City AFL-CIO will provide a program orientation to all participants selected to participant in the next process. Participants will sign a statement which acknowledges the participants rights and responsibilities with respect to the program.

ARTICLE 3 STEP FIVE  
**Referral to Individual TRADE/Pre-Apprenticeship Training**  
AFL-CIO will provide pre-apprenticeship training which will consist of a six-week curriculum that will consist of two parts  
Part One: Work Maturity Skills Training

ARTICLE 2 STEP SIX  
Community Service Project/Work Experience  
Community Service/Work Experience will be provided at non-for-profit worksites. Participants will be engaged in construction related activities or at a trade organization, training center, or at actual construction worksites

Full Employment Council  
Supportive Services for Work  
Tools & Steel Toe Boots for  
those who are selected

ARTICLE 1 STEP SEVEN  
Apprenticeship Program

Participants will be selected to participate in Apprenticeship Program by Trade Coordinators if they are successful with Steps One - Step Six  
**\* FEC will not determine who will participate**