

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of the ___ day of September, 2017 (the “Effective Date”) by and among Sarasota County, a charter county and political subdivision of the State of Florida (the “County”), the City of North Port, a Florida municipal corporation (the “City”), West Villages Improvement District, an independent special district created pursuant to Chapter 189, Florida Statutes and Chapter 2004-456, Laws of Florida, as amended (“WVID”), Manasota Beach Ranchlands, LLLP, a Florida limited liability limited partnership (“Developer”), Calben (US) Corporation, a Delaware corporation (“Developer Guarantor”) (solely with respect to Article 9 and the guaranty attached hereto as **Exhibit H** (the “Guaranty”) and Atlanta National League Baseball Club, LLC, a Georgia limited liability company (“ANLBC”). The County, the City, WVID, Developer, Developer Guarantor and ANLBC are hereinafter sometimes referred to collectively as the “Parties” or individually as a “Party”.

ARTICLE 1
RECITALS

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

1.1 The Parties have determined that the Facility provides a significant public benefit and use to the City, the County, WVID and the State of Florida; therefore, on March 9, 2017, the Parties executed a Letter of Intent and Term Sheet outlining the general terms and conditions under which they would move forward to finance, design, develop, construct and operate the Facility (as defined below) to be located on the Facility Site (as defined below).

1.2 The improvements to the Facility Site are to be designed and constructed pursuant to the Program as set forth in **Exhibit B** attached hereto and made a part hereof.

1.3 It shall be the responsibility of WVID to cause the construction of the Off-Site Infrastructure, as set forth in **Exhibit E**, and the Irrigation Improvements.

1.4 This Agreement provides for the collective planning, design, financing and the construction of the Facility by the Parties and the Off-Site Infrastructure and the Irrigation Improvements by WVID through their respective roles, as further set forth herein. The County, the City and WVID, acting in their governmental and proprietary capacities, have determined that the planning, design, financing and the construction of the Facility and the performance of this Agreement are in the best interests of the County, the City and WVID, respectively, and will serve a paramount public purpose. Specifically, but without limitation, such operation will support the development and improve the quality of life for the citizens of the County, the City and WVID; benefit their convention, tourism, economic development and entertainment industries and the local economy; encourage the growth of cultural, tourism, economic development and entertainment opportunities; and become a prominent symbol of the vibrancy of the County and the City.

1.5 No later than the execution of this Agreement, the Parties shall have entered into all of the other Operative Agreements, with the exception of the Spring Training Program Agreement, the

Note Purchase Agreement, Trust Indenture and Custodian Agreement, pursuant to which, among other things, Developer Guarantor will guaranty Developer's obligations as more particularly described in the Guaranty and ANLBC will guaranty the Team's use of the Facility as its exclusive Spring Training facility in accordance with the Non-Relocation Agreement.

1.6 As a material inducement to the County, WVID and ANLBC to enter into this Agreement, the said Parties have entered into that certain Facility Operating Agreement and the Non-Relocation Agreement (each as defined below).

1.7 As a further material inducement to ANLBC to enter into this Agreement, WVID submitted with the State of Florida an application for a Florida Sports Foundation grant on June 9, 2017 (the "State Application").

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

ARTICLE 2 **DEFINITIONS**

The following terms shall have the meanings specified in this Article 2 when capitalized and used in this Agreement. Capitalized terms not defined in this Article 2 shall have the meanings ascribed to them in this Agreement or in any other agreement referenced herein. The meanings specified are applicable to both the singular and plural.

"Academy" shall mean that certain private, standalone facility to be located on the Academy Site for the exclusive use by the Team and its designees on a year-round basis pursuant to an agreement between Developer as landlord and ANLBC as tenant.

"Academy Site" shall mean that certain real property owned by Developer that is more particularly described in **Exhibit A-1**, attached hereto and incorporated herein by reference, upon which the Academy is to be developed.

"Actual Costs" shall mean, other than Excluded Costs, all costs for the Project Budget authorized and performed, or caused to perform, and either paid or payable by ANLBC or WVID pursuant to this Agreement in an amount equal to the paid or payable expenditures, without administrative mark-up, including all hard costs in connection with the Project, soft costs to be paid directly by WVID to cover the fees and costs relating to the Design Professional, Contractors and Consultants in connection with the Project, soft costs to be paid directly by WVID for WVID's owner's representative, legal fees and other consultant fees incurred after the Funding Date in connection with the Project, including but not limited to the legal fees and costs incurred by WVID in enforcing Construction Contract(s) and Consultant Contract(s), and other costs payable by WVID in accordance with this Agreement for the design, development, construction, completion and conveyance of the Facility and Facility Site to the County.

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

“Affiliate” of a Person shall mean any corporation, partnership, limited liability company, sole proprietorship or other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Person specified. The terms “control”, “controlled by”, or “under common control” mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person.

“ANLBC Parties” shall mean ANLBC, the Team and each of their respective members, officers, directors, employees, agents, servants and representatives, of any and all of the foregoing.

“ANLBC Representative” shall mean the following individual who has authority to act on behalf of ANLBC for purposes of this Agreement: Chip Moore. The ANLBC Representative may be substituted by ANLBC upon delivery of written notification to the other Parties hereto.

“Annual Fee” shall mean the amount equal to the Debt Service Payment for each year for which such amount is payable during the initial term of the Facility Operating Agreement as more particularly set forth in the Facility Operating Agreement; provided, however, that ANLBC shall have the right to make a monetary contribution to reduce the Annual Fee payments pursuant to Section 6.6.2.B; provided, further, that ANLBC shall no longer have to pay an Annual Fee at such time as the amount remaining in any debt service reserve fund established pursuant to the Note Purchase Agreement shall equal or exceed the remaining amount of the Debt Service Payments.

“Application for Payment” shall mean a form submitted by the Contractor certifying that the Work covered by the Application for Payment has been completed in accordance with the Construction Contracts and Consultant Contracts. The Application for Payment shall indicate the original contract amount, net changes by Change Order, total completed Work, retainage and current payment due.

“Braves Completion Deadline” shall mean January 15, 2019.

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

“Capital Maintenance and Repairs” shall mean the provision of labor, services and materials reasonably necessary to maintain, repair, restore and/or replace, when reasonably necessary, all structural components (which may include, but not be limited to, foundations, footings, structural members, piers, columns, walls, roofs, ramps and steps), system components (which may include, but not be limited to, energy management and control programs, electrical components, heating and hot water systems, air conditioning, ventilating, plumbing, gas and water systems and escalators, elevators and dumb waiters) and/or integral parts (which may include, but not be limited to, drainage systems and light towers) of the Facility and/or the Facility Site, the costs of which are of a character typically required to be capitalized under generally accepted accounting principles, as a result of any damage, destruction, ordinary wear and tear or functional obsolescence, and including, but not limited to, those items set forth in

Exhibit A-1 of the Facility Operating Agreement and expressly excluding Routine Maintenance (as defined in the Facility Operating Agreement).

“Change Order” shall mean a (i) written agreement between WVID and the Contractor, Design Professional, or a Consultant (as the case may be) resulting in a material change in scope, Completion Dates, and/or terms of a Design Contract, Construction Contract or Consultant Contract relative to the Program, or (ii) a written directive issued or authorized by WVID to the Contractor, Design Professional, or a Consultant (as the case may be) resulting in a change in scope, Completion Dates, and/or terms of a Design Contract, Construction Contract or Consultant Contract.

“City Contribution” shall mean the City’s share of the funding of a portion of the Project Budget, which amount shall be paid to WVID pursuant to either the Custodian Agreement or the Note Purchase Agreement, whichever is applicable, in a lump sum payment totaling \$4,700,000.

“City Representative” shall mean the following individual who has authority to act on behalf of the City for purposes of this Agreement: City Manager or his designee. The City Representative may be substituted by the City upon delivery of written notification to the other Parties hereto.

“City Use Agreement” shall mean the License Agreement between ANLBC and the City, granting the City a right to use the Facility, subject to the terms thereof, as may be amended or supplemented from time to time.

“City-WVID Interlocal Agreement” shall mean that certain Interlocal Agreement regarding Facility financing obligations by and between the City and WVID setting forth the rights, duties, and obligations of the parties relative to the City Contribution.

“Completion Dates” shall mean and include any Contract Milestone Date and the Substantial Completion Date.

“Construction Administrator” shall mean ANLBC or an Affiliate of ANLBC or such other person or entity or such other person or entity as may be designated in writing by ANLBC. The designated representative for ANLBC is Chip Moore.

“Construction Contract(s)” shall mean the legally binding agreement(s) to be assigned to WVID or entered into by and between WVID and the Contractor(s) for the construction of the Facility, or any portion thereof, as such agreement(s) may be amended from time to time by WVID including through a Change Order authorized pursuant to Section 5.8 herein.

“Construction Documents” shall mean the architectural drawings, specifications and other documents, as may be amended from time to time in accordance with this Agreement, setting forth the design of the Facility and the requirements for its construction in sufficient detail for the permitting and construction of the Facility.

“Consultant” shall mean the planning consultant, environmental consultant, Facility manager/owner’s representative, architectural/design consultant, or other professional either individually or in combination as the context shall require, engaged by WVID (or, in the case of

the Design Professional prior to the Funding Date, engaged by ANLBC and assigned by ANLBC to WVID on or before construction commences pursuant to the terms herein), responsible for planning, permitting, administering and designing the Project, or any portion thereof, pursuant to a Consultant Contract, and such replacement consultant(s) as may be agreed to between the Parties from time to time.

“Consultant Contract(s)” shall mean the agreement(s) to be entered into by and between WVID (or, in the case of the Design Professional engaged by ANLBC prior to the Funding Date and assigned by ANLBC to WVID on or before the date upon which construction commences pursuant to the terms herein), and the Consultant(s) for the planning, design (including the Design Contract) and construction administration of the Facility, or any portion thereof, as such Consultant Contract may be amended by WVID (or by ANLBC, as applicable) from time to time through a Change Order authorized pursuant to Section 5.8 herein. Such Consultant Contracts shall not include WVID’s owner’s representative agreement.

“Contract Milestone Date(s)” shall mean any date identified in the Construction Contract (as modified by Change Order) by which the Contractor must complete a defined portion of the Work and subject to the Construction Contract, the Contractor is contractually liable for liquidated damages due to its failure to complete such Work by that date.

“Contractor” shall mean the construction manager, duly licensed pursuant to Chapter 489, Florida Statutes, engaged by WVID, responsible for constructing the Facility, or any portion thereof, pursuant to the Construction Contract, and such replacement contractor(s) as may be selected in accordance with the terms herein from time to time.

“Conveyance Date” shall mean the Funding Date or such earlier date as agreed to in writing by Developer and WVID.

“Cost Overruns” shall mean those amounts which exceed the Project Budget.

“County Bonds” shall mean one or more series of revenue bonds that the County shall issue and sell to fund a portion of the funding of the Project Budget, which bonds shall provide net proceeds totaling \$21,262,000.

“County-WVID Interlocal Agreement” shall mean that certain Interlocal Agreement by and between the County and WVID setting forth the rights, duties, and obligations of the parties regarding, among other things, the County’s provision of a portion of the funding of the construction and/or acquisition of the Facility, the conveyance of the Facility to the County, and the assignment of the Annual Fee from the County to WVID.

“County Representative” shall mean the following individual who has authority to act on behalf of the County for purposes of this Agreement: Jonathan Lewis. The County Representative may be substituted by County upon delivery of written notification to the other Parties hereto.

“Custodian Agreement” shall mean a custodian agreement with a national banking association authorized by law to exercise corporate trust powers.

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

“Debt Service Payments” shall mean the payments needed by WVID to pay debt service on the WVID Debt pursuant to the Note Purchase Agreement, including, without limitation, payments of principal, interest, and any applicable premium, fees and any other payments required to be made pursuant to the Note Purchase Agreement.

“Deed Restriction” shall mean that certain Mixed Use Project Restrictive Covenant to be recorded in the public records of Sarasota County, Florida with respect to certain real property upon which the Mixed Use Project is to be developed in the form attached as **Exhibit K** hereto and incorporated by reference.

“Default” with regard to a Party shall mean the defaults set out in Article 14 applicable to such Party.

“Design Contract” shall mean the agreement to be entered into by and between WVID and the Design Professional selected for the design of the Facility, or any portion thereof (or, if entered into prior to the Funding Date, entered into by and between ANLBC and the Design Professional and assigned by ANLBC to WVID on or before construction commences pursuant to the terms herein), as such design contract may be amended or replaced from time to time.

“Design Development Documents” shall mean drawings and specifications, as may be amended from time to time in accordance with this Agreement, based upon and refining the Schematic Design Documents illustrating the scope, relationship, forms, size and appearance of the Facility by means of plans, sections and elevations, typical construction details, and equipment layouts.

“Design Documents” shall mean the most recent of the Schematic Design Documents, Design Development Documents and Construction Documents.

“Design Professional” shall mean Fawley Bryant, or such other design professional for the design of the Facility or any portion thereof, as may be selected in accordance with this Agreement.

“Developer Contribution” shall mean Developer’s share of the funding of a portion of the Project Budget, which amount shall be paid in a lump sum payment totaling \$4,700,000.

“Developer License Agreement” shall mean the License Agreement between ANLBC, Developer and Developer Guarantor granting Developer a License to use the Facility subject to the terms thereof, as the same may be amended or supplemented from time to time.

“Developer Parties” shall mean Developer and each of its members, officers, directors, employees, agents, servants and representatives, of any and all of the foregoing.

“Drainage License Agreement” shall mean the agreement between the County, ANLBC, WVID and Developer setting forth the rights, duties and obligations of the parties with regard to the Stormwater Management Facilities and the Stormwater Facilities Site, and providing all rights necessary for the required drainage of the Facility and the Facility Site.

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

“Facility” shall mean the improvements associated with the construction of a professional sports franchise facility for Spring Training of a Major League Baseball team on the Facility Site, including a stadium, training facilities, practice fields, clubhouses, administrative and operational facilities, dedicated on-site parking areas, Multipurpose Fields and Public Plaza and other appurtenances and improvements, intended for use by the Team and for other tourism and community uses contemplated by the Operative Agreements.

“Facility Debt” shall mean the WVID Debt together with the State Sales Tax Payments Bonds.

“Facility Site” shall mean that certain real property more particularly described on **Exhibit A** attached hereto and made a part hereof by this reference, within the City of North Port, Sarasota County, Florida.

“Facility Operating Agreement” shall mean that certain Facility Operating Agreement dated as of May 23, 2017, by and between ANLBC and the County, governing the use, occupancy and operation of the Facility as the same may be amended or supplemented from time to time.

“FF&E” shall mean the furniture, fixtures and equipment ANLBC deems necessary for installation at the Facility to operate the Team’s spring training operations and to otherwise operate and manage the Facility and which are not deemed to be Trade Fixtures.

“Final Completion” shall mean the occurrence of the full and satisfactory completion of the construction of the Facility and the Facility Site in accordance with the Construction Documents, as modified through Change Orders, and includes the full and satisfactory completion of all punch list items, the successful closeout of all Permits, the processing of the final payment(s) under the Construction Contract(s) and Consultant Contract(s), and the resolution of retention claims under the Construction Contract(s) and Consultant Contract(s).

“Force Majeure” shall mean acts of God, natural disaster, accidents, fire or other casualty, earthquake, hurricane, tornadoes, named storms, flood, war, riot, intervention by civil or military authorities of government, insurrection, or other civil commotion, governmental action (except that, as to the County, governmental action shall exclude any governmental action or inaction with respect to the granting or withholding of any governmental approvals or Permits needed for the development of the Facility within the control of the County), material shortages, industry wide strikes, boycotts, lockouts or labor disputes (including, without limitation, labor disputes involving MiLB (as defined in the Facility Operating Agreement) or MLB players that result in missed games), or any other similar or like event or occurrence beyond the reasonable

control of a Party (or any Design Professional, Consultant, or Contractor, of any tier) hereto, that causes such Party to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder.

“Funding Date” shall mean the date on which the WVID Construction Account, or any subaccounts thereof, holds all of the following amounts, which is anticipated to be December 2017: (a) the City Contribution, (b) the net proceeds of the County Bonds, (c) the net proceeds of the States Sales Tax Payments Bonds or the Temporary Funding, (d) the net proceeds of the WVID Debt, and (e) the Developer Contribution.

“GMP” or “Guaranteed Maximum Price” shall mean the guaranteed maximum cost for the Work to be performed pursuant to the Construction Contract and including, but not limited to, the Contractor’s fee as set forth in the Construction Contract, as adjusted by Change Order pursuant to the terms of the Construction Contract and as approved by the terms of this Agreement.

“Governmental Authority” or “Governmental Authorities” shall mean any federal, state, county, municipal or other governmental department, entity, authority, commission, board, bureau, court, agency, or any instrumentality of any of them, in each case having jurisdiction with respect to the Facility, Facility Site or any other Person in connection with the design, development, construction, equipping, commissioning, use, occupancy, possession, operation, maintenance and management of the Facility or Facility Site.

“Impact Fees” shall mean any impact fees as such term is defined in the respective ordinances of the City and the County.

“Irrigation Improvements” shall mean an off-Facility Site pump station and irrigation water conveyance lines to deliver water to the lake located east of the Facility Site, the cost of which shall not be included in the Project Budget.

“Irrigation Improvements Work” shall mean all work to be performed to construct the Irrigation Improvements in accordance with this Agreement.

“Lien” shall mean any encumbrance, lien, security interest, pledge, easement, license, right-of-way, covenant, condition, restriction or claim in, to, against or in any way applicable to any portion of the Facility or the Facility Site, as the case may be.

“Major League Baseball” or “MLB” shall mean, depending on the context, any or all of (i) the Office of the Commissioner of Baseball, each other MLB Entity and/or all boards and committees thereof, including, without limitation, Executive Council and the Ownership Committee, and/or (ii) the Major League Clubs acting collectively.

“Major League Baseball Club” or “Major League Club” shall mean any professional baseball club that is entitled to the benefits, and bound by the terms, of the Major League Constitution.

“Major League Constitution” shall mean the Major League Constitution adopted by the Major League Clubs (which amended and superseded the Major League Agreement dated

January 1, 1975, the Agreement in re Major Leagues Central Fund dated as of December 8, 1983, as amended, and the respective constitutions of the former American and National Leagues of Professional Baseball Clubs) as the same may be amended, supplemented or otherwise modified from time to time in the manner provided therein and all replacement or successor agreements that may in the future be entered into by the Major League Clubs.

“Mixed Use Project” shall mean that certain project to be developed by Developer in the area commonly known as the “West Villages,” in accordance with the preliminary components as set forth on **Exhibit M** attached hereto and incorporated by reference.

“MLB Agency Agreement” shall mean the Amended and Restated Agency Agreement, effective as of January 1, 2013, by and among Major League Baseball Properties, Inc., the various Major League Baseball Clubs and the Office of the Commissioner of Baseball (and the Operating Guidelines related thereto), as may be amended, supplemented or otherwise modified from time to time.

“MLB Entity” shall mean each of the Office of the Commissioner of Baseball, Major League Baseball Properties, Inc., The MLB Network, LLC, MLB Advanced Media, L.P., and/or any of their respective past, present or future affiliates, assigns or successors.

“MLB Governing Documents” shall mean the following documents as in effect from time to time and any amendments, supplements or other modifications thereto and all replacement or successor documents thereto that may in the future be entered into: (a) the Major League Constitution, (b) the Basic Agreement between the Major League Baseball Clubs and the Major League Baseball Players Association, (c) the Professional Baseball Agreement between the Office of the Commissioner of Baseball, on behalf of itself and the Major League Baseball Clubs, and the National Association of Professional Baseball Leagues, (d) the Major League Rules (and all attachments thereto), (e) the Interactive Media Rights Agreement, effective as of January 20, 2000, by and among the Office of the Commissioner of Baseball, the various Major League Baseball Clubs, MLB Advanced Media, L.P. and various other MLB Entities and (f) each agency agreement and operating guidelines among the Major League Baseball Clubs and any MLB Entity, including, without limitation, the MLB Agency Agreement.

“MLB Rules and Regulations” shall mean (x) the MLB Governing Documents, (y) any present or future agreements or arrangements entered into by, or on behalf of, the Office of the Commissioner of Baseball, any other MLB Entity or the Major League Baseball Clubs acting collectively, including, without limitation, agreements or arrangements entered into pursuant to the MLB Governing Documents, and (z) the present and future mandates, rules, regulations, policies, practices, bulletins, by-laws, directives or guidelines issued or adopted by, or behalf of, the Commissioner, the Office of the Commissioner of Baseball or any other MLB Entity as in effect from time to time.

“Multipurpose Fields” shall mean the grass fields comprising a portion of the Facility Site used for a multitude of public recreational events and as overflow parking for the Facility as generally described in the Facility Operating Agreement and more particularly described in **Exhibit B**.

“Non-Relocation Agreement” shall mean that certain Non-Relocation Agreement dated as of May 23, 2017 by and between ANLBC, the County and WVID governing ANLBC’s obligations to use the Facility as the sole Spring Training facility of the Team pursuant to the terms thereof, as the same may be amended or supplemented from time to time.

“Note Purchase Agreement” shall mean a note purchase agreement (or similarly named agreement) between WVID and the WVID Collateral Agent relating to the WVID Debt.

“Off-Site Infrastructure” shall mean the off-site roadway design, permitting and construction to facilitate ingress and egress to the Facility Site meeting all applicable governmental standards and requirements, and wastewater and water infrastructure design, permitting and construction bringing utilities (stubbed to the Facility Site) and other infrastructure improvements to serve the Facility for its intended purpose, as more particularly described in **Exhibit E**, to be performed, or caused to be performed by WVID as provided in this Agreement.

“Off-Site Infrastructure and Irrigation Improvements Agreement” shall mean that certain Agreement Regarding the Joint Funding and Completion of Certain Infrastructure Improvements (Spring Training Facility) by and between WVID and Developer.

“Off-Site Infrastructure Work” shall mean all work to be performed to construct the Off-Site Infrastructure in accordance with this Agreement.

“Operative Agreements” shall mean, collectively, the following agreements: (i) this Agreement, (ii) the Facility Operating Agreement, (iii) the Non-Relocation Agreement, (iv) the City Use Agreement, (v) the Developer License Agreement, (vi) the County-WVID Interlocal Agreement, (vii) the City-WVID Interlocal Agreement, (viii) the Deed Restriction, (ix) the Spring Training Program Agreement, (x) the Drainage License Agreement, (xi) the Note Purchase Agreement, (xii) the Trust Indenture, (xiii) the Custodian Agreement, (xiv) the Off-Site Infrastructure and Irrigation Improvements Agreement, and (xv) any other agreements deemed necessary by the Parties to govern the transactions contemplated hereby.

“Pad Ready” shall mean a development tract that is free from (a) hazardous substances that create a legal impediment to the Substantial Completion of the Facility, excluding substances that are introduced to the land as a result of construction of the Work and (b) conditions not frequently encountered during site work and excavation in Sarasota County, including without limitation, sinkholes, buried debris, and unnaturally occurring buried organics through the date of Substantial Completion of the Project, and which otherwise allows the Contractor to obtain Permits relating to the construction of the improvements.

“Permits” shall mean any permit, license or approval to be issued by any Person, including, but not limited to, required permits for the Facility, including, without limitations, any applicable permits specified in the Program.

“Permitted Exceptions” shall mean (a) the title exceptions with respect to the Facility Site that are listed on **Exhibit F** attached hereto or (b) easements for the use of the Facility Site and Academy Site as contemplated hereunder that are agreed to by (i) Developer, (ii) the County,

(iii) WVID, so long as WVID is the owner of the Facility Site at that time, and (iv) ANLBC, with such approval in each case not to be unreasonably withheld, conditioned, or delayed.

“Person” or “Persons” shall mean any natural person, sole proprietorship, corporation, association, partnership, trust, limited liability company, limited liability association, unincorporated association or organization, joint venture, joint stock company, Governmental Authority, political subdivision or any other entity.

“Program” shall mean the physical components of the Facility, the formulation of how those spaces will be used, and general descriptions of the following stadium systems: food services, concessions, sound, HVAC, security, scoreboard, electrical and emergency generation, lighting and telecommunications and data. A true and correct copy of the Program approved by the Parties is attached as **Exhibit B** hereto and may be amended as provided in this Agreement.

“Project” shall mean the design, development, construction and financing of the Facility in accordance with this Agreement.

“Project Budget” shall mean the budget comprising the sources and uses of funds in **Exhibit I** to be used for the development, design, and construction of the Facility and approved by the Parties, as described herein. For the avoidance of doubt, the Project Budget does not include any costs for the Off-Site Infrastructure or the Irrigation Improvements, because Off-Site Infrastructure and Irrigation Improvements are not included in the definition of “Facility”.

“Project Schedule” shall mean the schedule of events, dates and milestones (including, without limitation, the Completion Dates) for the timely completion of the Work prepared by the Contractor and approved by WVID and ANLBC in accordance with the terms of the Construction Contract.

“Public Laws” shall mean all applicable federal, state and local laws, codes, ordinances, rules, regulations, standards or orders of any public authority having jurisdiction over the Project, including building, health, labor, safety, licensing, environmental or zoning laws, codes, ordinances, rules, regulations, standards or orders of any such public authority.

“Public Plaza” shall mean the entry plaza to the Facility as generally described in the Facility Operating Agreement and more particularly described in **Exhibit B**.

“Review and Consultation” or “Review and Consult” shall mean the delivery of an item by a Party via e-mail or in writing for review by the receiving Party, whereby the receiving Party will promptly review such item and notify the delivering Party as to any comments it may have regarding same. Following the making of any such comments by the receiving Party, the delivering Party shall undertake a good faith review thereof.

“Schematic Design Documents” shall mean the conceptual design documents of the Facility, as may be amended from time to time in accordance with this Agreement, illustrating the scale and relationship of the Facility components.

“Spring Training” shall mean, as to each calendar year of the Term (as defined in the Facility Operating Agreement), the regular annual training period during winter and early spring

of any year during which the Team prepares for an upcoming MLB season, and shall be deemed to include time reasonably required for: (i) the preparation of the Facility; (ii) planning for the start of Spring Training; (iii) additional minor league player training prior to the commencement of the minor league season; and (iv) a period for the “winding down” of Spring Training activities by the Team. It is anticipated by the parties that the foregoing timeframe will be from approximately January 1 to approximately April 15 of each calendar year.

“Spring Training Program Agreement” shall mean that certain Spring Training Program Agreement between the Florida Department of Economic Opportunity and WVID relative to the State Sales Tax Payments Bonds, as the same may be amended or supplemented from time to time, subject to ANLBC’s Review and Consultation.

“State Bond Funding Date” shall mean the date on which the net proceeds of the State Sales Tax Payments Bonds have been deposited into the WVID Construction Account, or any subaccounts thereof.

“State Certification Letter” shall mean the contingent certification letter to be issued by the State of Florida in connection with the State Sales Tax Payment Bonds.

“State Sales Tax Payment Bonds” shall mean one or more series of revenues bonds on a taxable or tax-exempt basis that WVID shall issue, payable from state funding received from the State of Florida pursuant to Section 288.11631, Florida Statutes relating to the Facility.

“Stormwater Management Facilities” shall mean, collectively, the stormwater ponds and drainage improvements associated therewith, with such facilities to be constructed by WVID (and not subsequently conveyed to County) as more particularly described in the Drainage License Agreement.

“Stormwater Facilities Site” shall mean that certain real property within the City of North Port, Sarasota County, Florida upon which the Stormwater Management Facilities are to be developed as described in the Drainage License Agreement.

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

“Substantial Completion” shall be defined as more particularly set forth in the Construction Contract, but shall include, at a minimum, the occurrence of all of the following: (i) the Design Professional has delivered to the Parties a certificate certifying that the Facility is sufficiently complete in accordance with the requirements of the Construction Contract subject to the completion of punch list items that do not materially affect the use or occupancy of the Facility or its operation for purposes as a Spring Training Facility, (ii) all required governmental inspections and certifications have been made and posted, and (iii) a temporary or permanent Certificate of Occupancy has been issued in respect of the Facility; provided that the Certificate of Occupancy shall be delivered to ANLBC promptly following its issuance.

“Substantial Completion Date” shall mean the date identified in the Construction Contract by which the Contractor is required to achieve Substantial Completion, as may be modified by Change Order.

“Team” shall mean the Atlanta Braves, an MLB franchise owned and operated by ANLBC.

“Temporary Funding” shall mean funding from ANLBC to be utilized by WVID in the event that the State Sales Tax Payment Bonds are not issued by the Funding Date, as more particularly set forth at Section 6.6.3 below, with such amount to be available until the State Bond Funding Date, pursuant to the Operative Agreements.

“Title Defect” means any Lien or other condition which is not a Permitted Exception and would (i) render the title for the Facility unmarketable or to have diminished marketability or (ii) impair the use of the Facility Site for the purposes intended.

“Trade Fixtures” shall mean, collectively, fixtures that are not part of the Program and are funded solely by ANLBC (i.e., not from the Capital Maintenance Fund (as defined in the Facility Operating Agreement) and are owned by ANLBC, and which are not integral to the operation of the Facility as an MLB Spring Training Facility, but rather are supplemental or additive to the Facility and are capable of removal.

“Trust Indenture” shall mean the trust indenture for the State Sales Tax Payment Bonds.

“Work” shall mean all obligations, duties and responsibilities assigned to, or undertaken by, a Contractor required to complete the scope of work or services for the Facility under the Construction Contract pursuant to the terms and conditions thereof.

“WVID Collateral Agent” shall mean the collateral agent with respect to the WVID Debt.

“WVID Construction Account” shall mean a construction funding account to be established by WVID with the WVID Collateral Agent pursuant to the Custodian Agreement. The WVID Construction Account shall include one or more sub-accounts to preclude the commingling of funds as may be required pursuant to Public Laws and by bond covenant(s) in the Trust Indenture or the Note Purchase Agreement.

“WVID Debt” shall mean one or more series of revenue bonds, notes or other form of indebtedness on a taxable or tax-exempt basis that WVID shall issue, secured by the Annual Fee.

“WVID Debt Account” shall mean those revenue, debt service reserve or other financing accounts to be established by WVID with the WVID Collateral Agent, but not including the WVID Construction Account. The WVID Debt Account shall include one or more sub-accounts to preclude the commingling of funds as may be required pursuant to Public Laws.

“WVID Personnel” shall mean WVID and each of its members, officers, directors, employees, agents, servants, engineers, managers, staff and representatives, of any and all of the foregoing.

“WVID Representative” shall mean the following individual who has authority to act on behalf of WVID for purposes of this Agreement: Martin Black and/or his designee. The WVID Representative may be substituted by WVID upon delivery of written notification to the other Parties hereto. When email correspondence is permitted to be sent to the WVID Representative

under this Agreement, and on all email correspondence from the Construction Administrator relating to the Construction Administrator's services hereunder, such email correspondence should be sent to pm@westvillagesid.org.

ARTICLE 3 **THE FACILITY SITE**

3.1 The Facility Site. The Facility will be developed on the Facility Site as more particularly described on **Exhibit A**. Developer shall not take any action that would impair the condition of the Facility Site. Within thirty (30) Days of receipt of notice of a Title Defect as described in this Section 3.1, but prior to the Conveyance Date, Developer shall cure, or cause to be cured (i) any Title Defects arising as a result of third party claims against Developer following the Effective Date and (ii) any other Title Defects arising between the Effective Date and the Conveyance Date, provided that, for this item (ii), Developer and its agents shall not be required to cure any such Title Defects that are reasonably expected to incur costs beyond \$100,000 (excluding (a) the fees of Developer's legal counsel and (b) the funds required to obtain a partial release of the loan from Synovus relating to the Facility Site) and in case of such Title Defects, the Parties agree to confer to determine how best to proceed with the Project.

3.2 Conveyance of Facility Site; Easements; WVID Obligations Post-Conveyance.

- A.** On the Conveyance Date, Developer shall convey to WVID, and WVID shall accept from Developer, fee simple marketable title to the Facility Site that is Pad Ready at no cost to WVID or impact upon the Project Budget. The conveyance shall be by special warranty deed in the form attached hereto as **Exhibit G**, subject only to Permitted Exceptions and encumbrances, exceptions or qualifications of record which do not constitute Title Defects, and those monetary encumbrances which shall be discharged by Developer before the closing on the Facility Site. At Developer's expense, Developer shall deliver to WVID an updated title insurance commitment and an owner's title insurance policy acceptable to WVID that will be issued timely with the conveyance of title of the Facility and the Facility Site by Developer to WVID. Developer shall be responsible for any incremental expenses or Cost Overruns that result from unforeseen, abnormal or unplanned circumstances preventing delivery of a Pad Ready Facility Site upon the Conveyance Date, other than due to the construction of the Off-Site Infrastructure Work or the Irrigation Improvements Work by WVID or a Force Majeure. For the avoidance of doubt, such incremental expenses or Cost Overruns shall not be considered consequential damages for the purposes of Section 15.1. Upon the conveyance of the Facility Site to WVID, WVID agrees to grant to Developer an access and cross-parking easement, having reasonable and customary terms and conditions, to the roadway and the parking lot adjacent to the Stadium Area Site (as defined in the Deed Restriction). In consideration of Developer subjecting the Stormwater Facilities Site to the Drainage License Agreement, ANLBC agrees to pay Two Hundred Fifty Thousand Dollars (\$250,000) to Developer on the Funding Date.

- B.** Upon Substantial Completion, WVID shall convey to the County marketable title to the Facility and the Facility Site, subject only to Permitted Exceptions and encumbrances, exceptions or qualifications of record which do not constitute Title Defects, all as set forth in more detail in the WVID-County Interlocal Agreement. The conveyance shall be by special warranty deed in the form attached hereto as **Exhibit G**. The conveyance of the Facility and the Facility Site from WVID to the County will require and be subject to the issuance of a title insurance policy acceptable to the County that will be issued timely with the conveyance. The County agrees to pay up to \$117,530.00 toward the title insurance premium with all other costs of the conveyance and the issuance of the title policy including, but not limited to, title search fees, title examination fees, or any additional title insurance premium to be paid by directly by ANLBC at the time of the conveyance. Notwithstanding the foregoing, the lift station infrastructure located within the Facility Site or adjacent thereto shall be conveyed to the City for ultimate operation, ownership and maintenance.
- C.** Notwithstanding anything to the contrary herein, following conveyance of the Facility and the Facility Site to the County at Substantial Completion and as set forth in more detail in the County-WVID Interlocal Agreement, (i) WVID shall assign to the County all warranties, approvals, and other rights of WVID and relating to the Project and the construction of the Facility, subject to the terms herein. It is not the County's intent to accept an assignment of the Construction Contract(s) or Consultant Contract(s). Rather, the County intends to exercise its rights as an express third party beneficiary of the contracts and associated warranties. However, the County may elect to be assigned the Consultant Contract(s) or Construction Contract(s), such election to be at the County's sole discretion, and upon the County request, WVID shall have no further obligations under this Agreement, except for those provisions which by their terms require continued WVID performance or otherwise survive such period, including but not limited to (a) Section 5.2 shall continue to apply to the WVID Representative, as applicable, (b) WVID shall continue to perform its obligations under Article 7, including making payments under the Construction Contract(s) and Consultant Contract(s), and (c) WVID shall remain responsible for the final close out of all punch list items, the successful closeout of all Permits, the closeout of all resolution of all final payments and retention claims under the Construction Contract(s) and Consultant Contract(s), and the administration of all warranty claims. Three (3) months following Substantial Completion, but no earlier than April 15, 2019 (such date, the "WVID Limited Obligations Date"), WVID's responsibility for warranty claims (except on individual punch list items, for which WVID shall be responsible for warranty claims until each such punch list item is completed) will evolve from the full administration of such claims to cooperating and assisting the County and ANLBC, as needed, in the pursuit of such claims. Following the WVID Limited Obligations Date, WVID shall have no further obligations under this Agreement except as to those provisions that expressly require WVID performance following the WVID Limited Obligations Date, including, but not limited to, items (a), (b) and (c) above. Nothing in this

Section 3.2C shall operate to alter, extend or eliminate any obligations of WVID regarding the Off-Site Infrastructure Work or the Irrigation Improvements Work.

3.3 Academy Development.

3.3.1. ANLBC and Developer intend to enter into a separate agreement regarding the Academy to be developed by ANLBC on the Academy Site.

3.3.2. Easements.

- A. Temporary Easement.** Prior to commencement of construction on the Academy Site, Developer will agree to grant to ANLBC a non-exclusive temporary construction and access easement over the Facility Site reasonably necessary for ANLBC to access and construct improvements on the Academy Site which shall not unreasonably interfere with construction on the Facility Site. The easement will have customary terms and conditions.

- B. Access Easement.** Prior to conveyance of the Facility Site by Developer to WVID, Developer will grant to ANLBC a non-exclusive, access easement (having customary terms and conditions) over the location depicted as Parcel G on **Exhibit O** for access to the Academy Site with the understanding that the roadway will not be final and complete until the date of conveyance of the Facility Site to the County and in the event the actual roadway varies slightly after construction from the location on **Exhibit O**, the applicable Parties will agree to cooperate in the relocation.

3.4 Developer Option. At the expiration of the Term (or Extension Term, if applicable) (as such terms are defined in the Facility Operating Agreement), for a period of up to one year, Developer shall have the option to purchase the Facility Site from the County for a nominal fee (*i.e.*, transaction costs); provided, however, if the County desires to continue use of the Facility for Spring Training purposes following expiration of the Term or Extension Term (as such terms are defined in the Facility Operating Agreement), the County shall negotiate in good faith for a period of six (6) months prior to such expiration for the continued use of the Facility Site with Developer, but in all instances at the end of such Term (or Extension Term, if applicable), Developer shall thereafter, for a period of one year, have the option to purchase the Facility Site from the County for a nominal fee (*i.e.*, transaction costs). Upon Developer's exercise of its option, the County shall convey to Developer marketable title to the Facility and the Facility Site, subject only to encumbrances, exceptions or qualifications of record which do not constitute Title Defects.

3.5 Zoning. The City has provided an affirmative statement that the Facility and the Facility Site and the Academy and Academy Site are properly zoned for their intended uses by ANLBC and the Team, as memorialized in the August 24, 2017 Zoning Verification Letter (City Application No. ZVL-17-152). Upon conveyance, WVID shall not implement any rezoning or variance process without ANLBC approval.

3.6 Fees.

3.6.1. The Parties will work in good faith to minimize any and all potential Impact Fees, Permit fees, mobility fees, connection fees, capacity charges, usage fees and similar charges required for the Project and explore potential credits that may benefit the Project Budget. The County, City and WVID agree that no taxes, surcharges, franchise tax, Impact Fees, development contributions, assessments, irrigation rates, or similar charges shall be levied by the County, City or WVID against ANLBC that are not generally applicable to all other businesses in the County, City or WVID as applicable.

3.6.2. WVID acknowledges and agrees that, during the Term and any Extension Term of the Facility Operating Agreement (as such terms are defined therein), except for any fees or assessments relating to the Irrigation Improvements (which shall not be assessed until the Irrigation Improvements are completed), no fees or assessments will be charged by WVID to any portion of the Facility Site (including, without limitation, in connection with any Stormwater Management Facilities located or to be located on the Stormwater Facilities Site).

3.7 Access to Facility Site. Developer has provided authorization for, and granted a license to, WVID, County, ANLBC and their respective agents and consultants (including the Contractor and Design Professional) to enter upon the Facility Site to be able to perform various tests and studies of the Facility Site, and other preconstruction work as contemplated by this Agreement, including, but not limited to, the commencement of geotechnical work on the Facility Site. Prior to the conveyance of the Facility Site to WVID, neither ANLBC nor WVID shall be permitted to commence development or improvements on the Facility Site without the express written consent of Developer, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that ANLBC and/or WVID shall be afforded reasonable access to the Facility Site to perform soil borings and geotechnical work thereto. Upon its taking title to the Facility Site and until Substantial Completion of the Facility (at which point the Facility and the Facility Site shall be conveyed to the County as addressed in Section 3.2 herein), WVID shall make the Facility Site available to County and ANLBC and shall grant to County and ANLBC and their respective invitees uninterrupted access to and egress from the Facility Site and the right to enter the Facility Site to the extent reasonably necessary for ANLBC to exercise its rights and perform its respective rights and obligations under this Agreement and the other Operative Agreements. Upon its taking title to the Facility Site and throughout the Term, the County shall make the Facility Site fully available to WVID and ANLBC and shall grant to WVID and ANLBC and their respective invitees reasonable access to and egress from the Facility Site and the right to enter the Facility Site to the extent reasonably necessary for WVID and ANLBC, respectively, to exercise their respective rights and perform their respective obligations under this Agreement and the other Operative Agreements, and WVID shall retain ownership of the Stormwater Facilities Site and shall continue to be responsible for the operation, maintenance and/or management of the Stormwater Management Facilities and the Stormwater Facilities Site. Upon the date set forth in the Project Schedule as of the date of the commencement of construction, WVID shall be fully responsible for ensuring, or causing to be ensured, the provision of the Off-Site Infrastructure Work and the Irrigation Improvements Work and for providing, or causing to be provided, the insurance required by this Agreement; provided, however, that Developer shall be solely responsible for ensuring, or causing to be ensured, that the Facility Site is Pad Ready except with respect to the provision of the Off-Site Infrastructure Work and the Irrigation Improvements Work.

ARTICLE 4
FACILITY DESIGN AND PRE-CONSTRUCTION PRIOR TO FUNDING DATE

4.1 Facility Design Prior to Funding Date. ANLBC shall fund all costs and expenses related to the Project through the Funding Date and shall be solely responsible for services related to the Project prior to the Funding Date, including the hiring of the Design Professional and the development of plans, designs, schematics, specifications, drawings and programs for the construction of the Facility. ANLBC shall direct the Design Professional to prepare Design Documents that are in general conformance with the Program and all Public Laws.

4.2 Selection of Contractor(s) and Consultants. Notwithstanding the foregoing, WVID shall be responsible for retaining the Contractor(s) and any additional Consultants necessary for the design and development of the Facility and for hiring the Contractor(s) and any additional Consultants necessary for the construction of the Facility. WVID shall be reimbursed for all of its Actual Costs from the Project Budget; provided, however, any such reimbursement that is made from the net proceeds of the State Sales Tax Payment Bonds and the County Bonds shall be limited to capital costs. WVID shall select a Contractor(s) and Consultants to design and construct the Facility in a manner consistent with the requirements of applicable Public Laws. As allowed by applicable law, ANLBC shall Review and Consult the selection of Contractors and Consultants, which may include participation on any selection committees pursuant to applicable public procurement procedures. For the avoidance of doubt, the Contractor(s) and Consultants engaged as of the Effective Date and listed on **Exhibit C** have been approved by the Parties. As allowed by Public Law, ANLBC shall Review and Consult regarding the form of any Construction Contract or Consultant Contract during its negotiation and no later than five (5) Business Days prior to the intended date of execution of any Construction Contract or Consultant Contract, or any amendment to any Construction Contract or Consultant Contract (other than a Change Order), WVID shall provide a copy of such Construction Contract or Consultant Contract to ANLBC and the County for review. WVID's selection of the Contractor(s) and Consultants and WVID's execution of the Construction Contract(s) and Consultant Contracts shall be subject to the following conditions:

- A.** ANLBC and the County shall be third party beneficiaries to all Construction Contract(s) and Consultant Contracts, and WVID shall promptly deliver to ANLBC and County fully executed, imaged copies of each such agreement;
- B.** The Parties agree to reasonably cooperate in order to provide the Contractor with the option of having a third party "self-certify" the Facility as having been completed, or substantially completed, in accordance with all plans and approvals, and the Contractor and WVID (in consultation with ANLBC) shall be authorized to hire a firm to certify the Project as having been completed consistent with all building and permit requirements;
- C.** Construction Contract(s) and Consultant Contracts shall require the insurance as set forth in Article 10 hereof, including policy requirements, endorsements, limits equal or greater and other such requirements as set forth therein;

- D. Construction Contract(s) and Consultant Contracts shall require a payment and performance bond, where required by Florida Statutes §255.05;
- E. Construction Contract(s) and Consultant Contracts shall require ANLBC, WVID, the County, and Developer to be named as additional insureds to all insurance policies (where applicable) and co-obligees on all bonds;
- F. Construction Contract(s) and Consultant Contracts shall indemnify and hold harmless ANLBC, WVID, the County, and Developer using standard indemnity provisions found within contracts in the State of Florida for projects of a similar size and scope to the Project;
- G. ANLBC and the County shall be third party beneficiaries under all warranties set forth in the Construction Contract(s) and Consultant Contracts and contracts with Subcontractors, as applicable;
- H. Upon Substantial Completion and conveyance of the Facility to the County, WVID shall assign or cause to be assigned, and deliver or cause to be delivered, all warranties under the Construction Contract(s) and Consultant Contracts to the County. All such warranties shall name WVID, the County, and ANLBC as joint beneficiaries. WVID shall deliver to ANLBC copies of all warranties under the Construction Contract(s) and Consultant Contracts;
- I. The Construction Contract(s) and Consultant Contracts shall be assignable to the County upon Substantial Completion, but shall only be assigned by WVID to the County upon the County's request pursuant to the terms of Section 3.2C; and
- J. Prior to Substantial Completion, WVID shall provide the County with copies of all requisitions or other proof of expenditure of funds by WVID relative to the design and construction of the Facility that are paid from the proceeds of the County Bonds.

4.3 Funding Date Reimbursement.

4.3.1. **WVID Reimbursement.** On the Funding Date, WVID shall be reimbursed for all reasonable costs and fees, actual third party transaction fees, and other expenses incurred by WVID in connection with administering WVID's responsibilities under the Operative Agreements, prior to the Funding Date (excluding the Excluded Costs), including but not limited to WVID's obligations under Section 4.2; provided, however, any such reimbursement that is made from the net proceeds of the State Sales Tax Payment Bonds and the County Bonds shall be limited to capital costs. For the avoidance of doubt, WVID shall be permitted to engage an owner's representative, the cost for which shall be capped at \$75,000 and added to the Project Budget on the Funding Date.

4.3.2. **ANLBC Reimbursement.** On the Funding Date ANLBC shall be reimbursed for its Actual Costs from the Project Budget in order to keep the Project on schedule, which amounts shall include, without limitation, costs incurred in connection with the hiring of the Design Professional and the development of plans, designs, schematics, specifications, drawings

and programs for the construction of the Facility, with any agreements relating to any of the foregoing and obligations arising thereunder to be assigned to and assumed by WVID; provided, however, any such reimbursement that is made from the net proceeds of the State Sales Tax Payment Bonds and the County Bonds shall be limited to capital costs.

ARTICLE 5
FACILITY DESIGN AND CONSTRUCTION FOLLOWING FUNDING DATE

5.1 The Program.

5.1.1. WVID will accept assignment of the Design Contract pursuant to the terms of Section 5.3 and will cause the Facility to be constructed in accordance with the terms of this Agreement. In furtherance of the foregoing requirements, WVID hereby designates and tasks the Construction Administrator with the administration of the design, development, construction and completion of the Facility in accordance with the terms of this Agreement. Pursuant to the terms of this Agreement, WVID hereby designates ANLBC as the Construction Administrator, who may subcontract any construction administration services required hereunder to a subconsultant(s) to assist in the performance of the duties and obligations as set forth in this Agreement. WVID, the County, and Developer shall be indemnified and held harmless by ANLBC for any subconsultant contracts entered into by ANLBC for construction administration services, using standard indemnity provisions found within contracts in the State of Florida for projects of a similar size and scope to the Project. In addition, any subconsultant contracts entered into by ANLBC for construction administration services shall name the County, the City, and WVID as additional insureds with respect to policies of insurance required to be carried under the subconsultant's contract with ANLBC (except as to professional liability, employer's liability, and worker's compensation). WVID agrees to cooperate and coordinate with the Construction Administrator pursuant to the terms of this Agreement. Unless otherwise indicated by WVID and the County in writing, neither the Construction Administrator nor any such subconsultant shall have any authority (in writing or by course of conduct) to bind WVID or the County to a change to the Program, this Agreement or to any changes in any of the Operative Agreements, which may only be modified as provided in the Operative Agreements. Further, notwithstanding anything to the contrary herein, Construction Administrator shall ensure that all contracts, contract amendments, Change Orders, direct purchase documents, payment applications, requisitions, and other binding instruments are presented to the WVID Representative for consideration and signature, and no such instruments shall be effective absent the signature of the WVID Representative, the WVID's Secretary or Assistant Secretary or WVID's Engineer and the WVID Collateral Agent, if required under the Note Purchase Agreement, Trust Indenture or Custodian Agreement, subject to Section 5.8.1 and the Note Purchase Agreement. The County agrees to the continued appointment of ANLBC as the Construction Administrator upon Substantial Completion.

5.1.2. The approved Program is set forth in **Exhibit B**, attached hereto and incorporated herein by reference. Subject to the Custodian Agreement or the Note Purchase Agreement, as applicable, prior to commencement of construction, the Program may only be modified and adjusted by ANLBC with the express written consent of the County. Upon commencement of construction, Program modifications shall be governed by Section 5.8; it being understood that any deviations in the Actual Costs or financing of the Facility arising as a

direct consequence of any such modifications or adjustments shall be at the sole cost and expense (or savings) of ANLBC, unless otherwise noted herein.

5.1.3. WVID shall not be paid a developer fee or be compensated for its services, nor shall the Construction Administrator be paid for its services acting in accordance with its responsibilities pursuant to Section 5.1.1 as provided by this Agreement. Notwithstanding any term or condition in this Agreement to the contrary, the Parties acknowledge and agree that WVID's obligations hereunder are to manage, administer, and implement, or cause others to manage, administer and implement, the construction of the Facility and to implement, or cause others to implement, the design and development of the Facility. Notwithstanding any term or condition in this Agreement to the contrary, the Construction Administrator shall not act as an agent of WVID, but shall instead be empowered to administer the design, development and construction of the Facility, and shall promptly inform WVID of all decisions requiring approval of WVID. Notwithstanding any term or condition in this Agreement to the contrary, the intent of the Parties is that neither WVID nor ANLBC are performing any services (and shall not act) as a contractor within the meaning of Chapter 489, Florida Statutes, nor are they providing any professional services regulated under Florida law (including but not limited to professional architectural or engineering services within the meaning of Chapters 471 or 481, Florida Statutes) and that all such services shall be performed by licensed contractors (as so defined under Chapter 489, Florida Statutes) and/or licensed professionals, as applicable.

5.2 Coordination and Design Review.

5.2.1. The design of the Facility and the Facility Site is continuing and ANLBC shall have final approval rights related to all material design elements of the Facility, including, without limitation, design matters impacting baseball operations (e.g. clubhouse, playing field and practice field areas) and fan amenities and revenue generating operations of the Facility (e.g. suites, concessions, ticket operations, premium clubs, team store, etc.). The approved master site plan is attached hereto as **Exhibit L**. The Construction Documents must be approved in writing by ANLBC, the County and WVID prior to the commencement of the construction on the Facility Site on the basis that such documents are materially consistent with the Program, which approval shall not be unreasonably withheld, conditioned or delayed. Once Construction Documents have been approved by ANLBC, the County and WVID, any changes will be addressed through the Change Order process and requirements pursuant to Section 5.8.

5.2.2. The Construction Administrator agrees to keep the County Representative, City Representative and the WVID Representative informed regarding the progress of the design and construction of the Facility, including any material issues that may impact the foregoing or the schedule for completion of the Facility through meetings that are scheduled at mutually agreeable dates with the County Representative, the City Representative and the WVID Representative. The ANLBC Representative, the County Representative, City Representative and the WVID Representative will each monitor the Project and make decisions on the behalf of their respective Party, and shall not be deemed to be agents of any other Party and shall in no way be considered or construed as a joint decision making body or any other body that would be subject to Section 286.011, Florida Statutes. The Construction Administrator shall cause the Design Professional to provide the County Representative, the City Representative and the WVID Representative information regarding the progress of the design through each design

phase, and shall cause the Contractor to provide such representatives information regarding the progress of the construction of the Facility through monthly status reports from the Contractor (including Project Schedule updates therein). During construction, the County Representative, the City Representative and the WVID Representative shall receive notice of and have the right to attend regularly scheduled monthly Site meetings among the Construction Administrator, the Design Professional and the Contractor, and to inspect the Facility at reasonable times, subject to reasonable restrictions imposed by Construction Administrator or the Contractor. The Construction Administrator, working in conjunction with the WVID Representative, shall provide or cause to be provided to the County Representative and the City Representative monthly progress reports, in a form reasonably acceptable to the County Representative, relating to the Actual Costs incurred during the preceding month, including all expenditures by WVID during the preceding month. Any rights that the Parties have under this Section 5.2.2 shall not be the basis for any liability to accrue to the County, ANLBC or WVID for such monitoring or investigation or for the failure to have conducted such monitoring or investigation. The ANLBC Representative, the County Representative, and the WVID Representative shall each individually be responsible for approving any final punch list of items at Substantial Completion and prior to any conveyance of the Facility and the Facility Site to the County. After conveyance of the Facility to the County, the Parties shall not be allowed to expand the scope of the final punch list items, without the review and consent of ANLBC, the County, the City, and WVID.

5.3 Construction Contracts and Facility Design Following the Funding Date. If ANLBC enters into the Construction Contracts and/or Design Contract prior to the Funding Date, on the Funding Date, or earlier if agreed to by ANLBC and WVID, ANLBC shall assign the Construction Contracts and/or Design Contract to WVID at no cost to WVID or the Project Budget. Any assignment of the Design Contract by ANLBC to WVID shall occur no later than the commencement of construction by WVID under the Construction Contract, and ANLBC shall ensure that the Design Contract as assigned meets the requirements set forth in this Agreement, including Section 4.2 herein. Additionally, no later than the commencement of construction by WVID under the Construction Contract, and to the extent not already part of the Design Contract, ANLBC shall transfer to WVID all rights to work product (and/or assign all related Consultant Contracts) necessary for the construction of the Facility. Notwithstanding anything to the contrary herein, all (i) intellectual property and ownership rights in design documents, reports, data, or design concepts, CADD materials, models and information (collectively, “Design Document Works”) produced by a Consultant or anyone working under a Consultant under a Design Contract and (ii) all rights in and to trademarks, service marks and/or trade dress resulting from the creation of the Design Document Works by Consultant or its Subconsultants shall be owned jointly by ANLBC, WVID and the County, notwithstanding any assignment by ANLBC to WVID; provided, however, that ANLBC shall retain all rights to its intellectual property, as well as to concepts derived or created from architectural drawings for the Facility. Following the assignment of the Construction Contracts and/or Design Contract (or other necessary Consultant Contracts and/or work product), WVID shall be solely responsible for the Work; provided, that WVID will have no responsibility for the adequacy of the provisions of the Construction Contract and/or Design Contract in the form assigned to it by ANLBC.

5.4 Contractor.

5.4.1. WVID has or shall competitively select a Contractor to oversee construction of the Facility in accordance with the Program, the Design Documents and the Public Laws. Subject to applicable Public Law, the Contractor shall select and engage such other Subcontractors, Consultants and service providers in connection with the Work as the Contractor or WVID may deem necessary, consistent with Public Laws, in consultation with the Construction Administrator (who shall keep the WVID Representative informed regarding the engagement and selection of such Subcontractors, Consultants and service providers), and subject to objection from WVID, as described in the Construction Contract.

5.4.2. WVID shall include in the Construction Contract provisions requiring compliance with Public Laws, requisite bonding as provided in Section 5.4.4 below, and the insurance requirements set forth in Article 10.

5.4.3. The Construction Contract shall require the Contractor to manage the construction of the Facility “at-risk” and shall require bonds to be issued in the amount of the GMP (as amended) for the direct and indirect construction costs of the Facility. The Construction Contract shall require the Contractor to provide warranties for the Work, which such warranties shall name WVID, the County, and ANLBC as joint beneficiaries and shall be assignable to the County pursuant to Section 4.2H of this Agreement.

5.4.4. Before the Contractor commences the Work related to the construction of Facility, the Contractor shall execute, deliver to WVID (with copies to the City, the County, Developer and ANLBC), and record in the public records of Sarasota County, Florida, a payment and performance bond in the amount of the GMP and in compliance with the terms of Section 255.05, Florida Statutes, naming WVID, the County, the City, Developer and ANLBC beneficiaries thereof, as obligees.

5.5 Construction Administration.

5.5.1. The Construction Administrator is hereby authorized to take all actions necessary for the administration of the design, development and construction of the Facility pursuant to this Agreement, the Construction Contracts, the Consultant Contracts and in accordance with the other Operative Agreements. The specific duties of the Construction Administrator are identified in Section 5.5.2 of this Agreement.

5.5.2. The Construction Administrator shall perform the following services in a commercially reasonable manner consistent with the terms of the Operative Agreements:

- A.** administering the performance of the obligations (other than any obligation requiring the payment of money) of WVID under Construction Contracts and Consultant Contracts;
- B.** overseeing the Design Professional’s compliance with the requirements of the Design Contract, and coordinating the design of the Facility to ensure that the baseball operations and fan amenities and revenue generating operations of the Facility are in substantial accordance with the approved Program and generally consistent with other MLB spring training facilities in Florida;

- C. overseeing and coordinating the hiring of Subcontractors by Contractor or by Design Professional in compliance with Public Laws, and the terms and conditions of the Construction Contract and Design Contract, as applicable;
- D. coordinating the direct purchase by WVID of supplies and materials;
- E. preparing and updating, or causing to be prepared and updated, the approved Project Schedule in accordance with Section 5.6, and delivering copies to the County Representative, City Representative and the WVID Representative in accordance with Section 5.2;
- F. maintaining, or causing to be maintained, complete and accurate books and records, consistent with industry standards, regarding the design and construction of the Facility, including the Design Documents, shop drawings, Change Orders, as-built drawings, applications for payment, Permits, insurance policies received, vendor invoices or payment applications, Lien waivers, customary periodic reports, inspector daily reports, estimates, correspondence and bid calculation sheets;
- G. causing to be reviewed, and making recommendations regarding payment of, all properly submitted payment applications, and coordinating with the WVID Representative for the submission, approval and payment of such payment applications in connection with the funding of the Project;
- H. providing the other Parties, or causing others to provide to the other Parties, upon Substantial Completion, with an “as-built” set of the Construction Documents in a format reasonably acceptable to the County and WVID revised to show the “as-built” condition of the Facility and other changes made during construction;
- I. managing, or causing others to manage, punch list and warranty Work after Substantial Completion;
- J. establishing and updating, or causing others to establish and update, as necessary and in accordance with the requirements of this Agreement, the schedule of dates for delivery of various Design Documents for review by the County and WVID;
- K. causing the completion of, or causing others to complete, the Facility in accordance with the Program, the Design Documents, quality standards consistent with a majority of comparable MLB Spring Training facilities located in Florida, the approved Project Schedule, the Completion Dates, and within the Project Budget;
- L. subject to the obligations of the other Parties with respect to Permits under this Agreement, obtaining (with prior authorization of the WVID Representative) or causing others to obtain all Permits necessary for construction of the Facility;
- M. maintaining copies of all contracts and amendments thereto relating to the Facility, and coordinating the processing and approval of Change Orders pursuant

to Section 5.8 of this Agreement, as well as coordinating any other contracts and/or amendments necessary for the completion of the Facility with approval by WVID;

- N. overseeing the Contractor's maintenance of the Facility construction site in safe condition and properly secured against unpermitted access from and after the commencement of construction as set forth herein, with WVID to be provided with an imaged copy of the safety manual for each Contractor to be adopted and followed in connection with the construction of the Facility;
- O. using reasonable efforts to cause the Contractor to supervise and coordinate the construction of the Facility, including the scheduling of all construction Work on the Facility, so that the Facility is constructed, equipped, furnished and completed in a good and workmanlike manner, in accordance with the approved Project Schedule, the Completion Dates, and otherwise in accordance with this Agreement;
- P. furnishing promptly, or causing others to furnish promptly, to the other Parties copies of any and all written claims received by the Construction Administrator or WVID affecting the Facility or the Facility Site, as the case may be; and
- Q. causing the Contractor to coordinate Work and grant appropriate access to the Facility Site for contractors appropriately performing Work.

5.6 Project Schedule.

5.6.1. Following the execution of this Agreement and upon execution of the Construction Contract and finalization of the Guaranteed Maximum Price by the Contractor, and to the extent such information is available, the Construction Administrator shall provide to WVID for WVID and ANBLC's review and approval, and to the County Representative and the City Representative for their Review and Consultation, a preliminary (i) Project Schedule setting forth the schedule for the various stages of design and the Completion Dates for the construction of the Facility, and (ii) schedule of values as provided by the Contractor pursuant to the Construction Contract. The Construction Administrator shall provide, or cause the Contractor to provide, to WVID, City Representative and to the County Representative monthly updates to those schedules. ANLBC, the City, WVID, the County and Developer (pursuant to its obligations under Section 3.2) shall use commercially reasonable efforts to ensure that (x) commencement of construction occurs as soon as practicable, (y) construction proceeds in accordance with the Project Schedule, and (z) the Completion Dates are achieved, including Substantial Completion, prior to the Braves Completion Deadline, in each case subject to extensions resulting from Force Majeure.

5.6.2. If the Parties agree that the Braves Completion Deadline is not expected to be met, WVID and the County shall assist ANLBC with finding an alternative temporary site reasonably acceptable to ANLBC to host its Spring Training until such time as the Facility is complete; provided, however, that no liability shall accrue to WVID, the County, the City, Developer or ANLBC if the Braves Completion Deadline is not met (except if as a result of a

material Default (as identified in Article 14) by one or a combination of such Parties). In the event that the Braves Completion Deadline is not met or an Alternate Site Condition (as defined in the Non-Relocation Agreement) exists, the Team shall be permitted to play what would otherwise be a Home Game (as defined in the Non-Relocation Agreement) at a location other than the Facility; provided, however, that ANLBC shall not be relieved of its obligations under this Agreement.

5.6.3. If the Braves Completion Deadline is not met and the other Parties have issued the bonds or provided the alternative forms of financing required by each Party to finance the Facility pursuant to Article 6, ANLBC shall begin making its Annual Fee payments in the manner set forth in the Facility Operating Agreement as if that agreement had commenced at the time of the Braves Completion Deadline; provided, however, that until the Facility achieves Substantial Completion so that the Team is able to hold Spring Training operations and play Spring Training games at the Facility (x) a pro rata portion of the Annual Fee shall be reimbursed from financing reserves, if available, once sufficient for such reimbursement, if permitted under the Note Purchase Agreement, the Custodian Agreement and Public Law, (y) ANLBC shall receive liquidated damages, if any, for late delivery as a third party beneficiary under the Design Contract or Construction Contract, as applicable, and (z) if applicable, ANLBC shall be reimbursed with any insurance proceeds it is entitled to receive as an additional insured or otherwise under any such insurance policies, or any performance bond proceeds, if applicable.

5.7 Procurement of Construction Materials. The Construction Administrator shall coordinate with Contractors, Consultants, WVID Representative and ANLBC, and use commercially reasonable efforts to purchase and install or cause to be installed construction materials and equipment for the Facility on a sales tax exempt basis pursuant to State law. WVID, with assistance from the Construction Administrator, shall use commercially reasonable efforts to execute and deliver all documents and certificates as necessary to assure that the Project is eligible to take full advantage of any available sales tax exemptions for materials and equipment. WVID shall not be responsible for any failure to make such purchases on a sales tax exempt basis, provided that they perform their obligations in accordance with the standards set forth in this Section.

5.8 Change Orders.

5.8.1. Change Order Approval. All Change Orders shall be subject to the executed approval of WVID, which approval may be subject to the approval of the holder(s) of the WVID Debt, pursuant to the Custodian Agreement and/or the Note Purchase Agreement. Before entering into any Change Order, the Construction Administrator shall review and analyze such proposed Change Order and deliver to the WVID Representative and ANLBC (i) a description of the proposed change to the Work; (ii) a calculation of the additional costs, if any, resulting from implementing such Change Order, together with reasonable documentation supporting such calculation; and (iii) the Construction Administrator's recommendation as to whether WVID shall accept or reject such proposed Change Order (collectively, the "Change Order Documentation"). The Construction Administrator shall send Change Order Documentation pursuant to Section 5.8.4. Subject to the first sentence of this Section 5.8.1, if the WVID Representative fails to approve or reject a valid Change Order within two (2) Business Days (which such response may be via handwritten or electronic signature and transmitted by email

correspondence), the Change Order is deemed approved by the WVID Representative, and the WVID Representative shall execute it. If the WVID Representative rejects the proposed Change Order, the WVID Representative shall specify the basis for disapproval. If WVID rejects the following Change Orders, such rejection will be deemed unreasonable: Change Orders that (i) are materially consistent with the Program or (ii) do not cause the Project Budget to be exceeded or further exceeded (unless the Party responsible for such incremental costs provides funding equal to such incremental costs, pursuant to Section 6.11). The WVID Representative shall not unreasonably reject the Construction Administrator's recommendations related to Change Orders. If ANLBC wishes to dispute such disapproval, the dispute shall be resolved by the dispute resolution provisions under Article 13. Notwithstanding the foregoing, WVID shall have the right to reject any Change Order that would materially delay the Braves Completion Deadline.

5.8.2. ANLBC Rejection Right. WVID shall not enter into or approve the following Change Orders without the approval by the ANLBC Representative: (i) Change Orders that would reasonably be expected to cause a material delay to the Project; (ii) Change Orders that result in a material deviation from the Program; (iii) Change Orders that cause the projected total Actual Costs to exceed or further exceed the Project Budget; and (iv) Change Orders that would otherwise have a material impact on baseball operations, fan amenities, and revenue generating operations of the Facilities. The Construction Administrator shall submit the proposed Change Order to the ANLBC Representative for approval pursuant to the process described in Section 5.8.4, and the ANLBC Representative shall not unreasonably withhold, delay, or condition its approval of the foregoing Change Orders, which such approval may be via handwritten or electronic signature and transmitted by email correspondence, and shall be deemed approved if not rejected within two (2) Business Days pursuant to the process described in Section 5.8.4.

5.8.3. County Rejection Right. WVID shall not enter into or approve the following Change Orders without the approval by the County Representative: (i) Change Orders that result in a deviation from the Program; (ii) Change Orders that present a material risk to public safety; (iii) Change Orders that result in a change to the exterior materials (e.g. brick) or general appearance of the Facility; (iv) Change Orders that change the material functional elements of the Facility (e.g. access, layout and circulation); (v) Change Orders to the Public Plaza or Multipurpose Fields; and (vi) Change Orders that present a material risk of increasing Capital Maintenance and Repairs for the Facility. The Construction Administrator shall submit the proposed Change Order to the County Representative for approval pursuant to the process described in Section 5.8.4, and the County Representative shall not unreasonably withhold, delay, or condition its approval of the foregoing Change Orders, which such approval may be via handwritten or electronic signature and transmitted by email correspondence, and County shall respond to the Change Order approval request with either an approval, rejection of the request along with the reasoning for the rejection, or a request for additional information within two (2) Business Days pursuant to the process described in Section 5.8.4. If the County fails to respond to the Change Order approval request within two (2) Business Days, the Construction Administrator will provide additional notice of the original Change Order approval request and the County shall respond within two (2) Business Days of the second notice. If the County fails to respond to the additional notice within such two (2) Business Days, the WVID Representative may execute the Change Order; provided, however that the County retains the right to dispute the Change Order pursuant to Article 13; provided, further, however that if the County does not

provide a Dispute Notice (as defined herein) against ANLBC within five (5) Business Days of receipt of the second notice, the County shall have waived its right to dispute such Change Order. For the avoidance of doubt, ANLBC shall hold WVID harmless for any costs arising from such Dispute. If the County requests additional information regarding the Change Order, the Construction Administrator shall furnish such additional information within three (3) Business Days. Upon receipt, the County will then have an additional two (2) Business Days to respond to the request with either an approval or rejection of the request. If the County fails to respond to the additional information furnishing within such two (2) Business Days, the WVID Representative may execute the Change Order; provided, however that the County retains the right to dispute the Change Order pursuant to Article 13; provided, further, however that if the County does not provide a Dispute Notice against ANLBC within five (5) Business Days of receipt of the additional information, the County shall have waived its right to dispute such Change Order. For the avoidance of doubt, ANLBC shall hold WVID harmless for any costs arising from such Dispute.

5.8.4. Change Order Approval Process. The Construction Administrator shall send Change Order Documentation to the appropriate representative(s) pursuant to Sections 5.8.1, 5.8.2 and 5.8.3, as appropriate, via email, overnight courier service, or hand delivery. The first line of the email (or transmittal letter if by overnight courier service or hand delivery) shall be a separate paragraph that states the following in all caps and bold, “**CHANGE ORDER APPROVAL REQUIRED WITHIN TWO BUSINESS DAYS**”. If the proposed Change Order involves a deviation from the Program, then the Construction Administrator shall include the following language in all caps and bold in the email (or transmittal letter if by overnight courier service or hand delivery), “**THIS CHANGE ORDER INCLUDES A PROGRAM CHANGE**” and shall provide a brief description of the proposed change. If sent by email after 5pm Eastern, the response period shall not commence until the following Business Day. A Change Order request that does not comply with the foregoing requirements shall be invalid and no response is required by the appropriate representative(s). For approval requests sent by overnight courier, the response period shall run from the date of delivery.

5.8.5. Change Orders Required by Public Law. The Construction Administrator shall make any Change Orders that are required to comply with the final permitted set of Construction Documents and Public Laws.

5.8.6. Voluntary Change Orders. Each of WVID, the County, the City, Developer and ANLBC may request Change Orders provided that the Party requesting such Change Order delivers Change Order Documentation to each of the other Parties; provided, further that all such Change Orders shall be subject to the other provisions of this Agreement.

5.8.7. Program Reduction Change Orders. Subject to the other provisions of this Agreement, the Construction Administrator may only implement a Change Order that reduces the Program scope provided the revised Program and Facility remains generally consistent with other MLB Spring Training facilities located in Florida as reasonably determined by WVID, in consultation with the Construction Administrator.

5.8.8. Change Order Reports. The Construction Administrator shall provide, or cause the Contractor to provide, the County Representative and the WVID Representative with a

monthly report listing of all Change Orders with sufficient details to enable the review by them of the Change Orders for consistency with the terms of this Agreement.

5.9 Cost Savings. The Parties shall use good faith efforts to achieve cost savings through the various stages of the Project and shall allocate the cost savings as set forth herein. The Parties will work together throughout the design of the Facility to ensure that (1) the design and specifications reflect the materials typically installed in Major League Baseball Spring Training facilities, (2) that quantities of features are generally comparable to other Major League Baseball Spring Training facilities, (3) that any recycled and/or re-used materials are considered, when appropriate, and (4) that specified building equipment and materials are of types and installation details typical to Sarasota County, Florida. The Construction Administrator shall conduct, or cause to be conducted, design reviews to ensure consistency with the above listed requirements and to identify opportunities for cost savings. Cost savings will be applied to reduce the total amount of the WVID Debt, dollar for dollar by such reduction in the Project Budget, or otherwise to the benefit of ANLBC, subject to the Custodian Agreement and/or the Note Purchase Agreement.

5.10 Off-Site Infrastructure and Irrigation Improvements.

5.10.1. Subject to the terms and conditions of this Section 5.10 and the other provisions of this Agreement and subject to the Off-Site Infrastructure and Irrigation Improvements Agreement (of which ANLBC shall be a third party beneficiary), WVID shall be responsible for the management of the design and construction of the Off-Site Infrastructure Work and the Irrigation Improvements Work.

5.10.2. WVID agrees to use commercially reasonable efforts to coordinate its schedule for the Off-Site Infrastructure Work with the Contractor's Project Schedule relative to required delivery dates of the Off-Site Infrastructure. WVID shall complete the Off-Site Infrastructure Work so as to allow the Off-Site Infrastructure Work to be completed by the Braves Completion Deadline. **Exhibit E** contains a description of all material elements that comprise the Off-Site Infrastructure. None of the Off-Site Infrastructure elements listed in **Exhibit E** may be amended or deleted without the prior written approval of ANLBC.

5.10.3. WVID will use good faith, commercially reasonable efforts to construct the Irrigation Improvements, but does not guarantee that such water source will provide sufficient irrigation water for the needs of the Facility. Subject to Section **Error! Reference source not found.**, WVID shall invoice ANLBC in accordance with the Facility Operating Agreement monthly for such irrigation water, or within such other timeframe that is consistent with irrigation usage invoicing for other properties within WVID as determined by WVID, which rate shall be determined through WVID approved rate-making proceedings consistent with Public Laws. The rate analysis shall take into consideration the following customary and reasonable costs of WVID and consistent with other similarly utilized properties within the District: (i) operation and maintenance; (ii) capital improvements; and (iii) fees for water sources, which include reclaimed water and groundwater well capacity owned by an affiliate of the Developer. WVID agrees to cooperate with ANLBC to provide information related to the Irrigation Improvements.

5.10.4. Notwithstanding anything to the contrary herein, (i) in the event the opening of the Facility is delayed for any reason (except to the extent caused by WVID or Developer), the completion timelines applicable to the Off-Site Infrastructure shall be extended for the duration of such period of delay, and (ii) no liability shall accrue to WVID (or Developer or Developer Guarantor, to the extent such Parties construct the Off-Site Infrastructure pursuant to the Off-Site Infrastructure and Irrigation Improvements Agreement or the Guaranty) for the failure to timely complete the Off-Site Infrastructure so long as such failure does not prevent the Facility from timely opening by the later of the Braves Completion Deadline or the end of the period referenced in sub-paragraph (i) above, and provided further the Off-Site Infrastructure is substantially complete by the later of the Braves Completion Deadline or the end of the period referenced in sub-paragraph (i) above. Notwithstanding the forgoing, if the Off-Site Infrastructure is substantially complete, but minor punch list items are not yet complete, by the later of the Braves Completion Deadline or the end of the period referenced in sub-paragraph (i) above, the Developer shall use commercially reasonable efforts to thereafter complete all remaining Off-Site Infrastructure punch list items within a reasonable period of time. In the event there is any delay in the completion of the Off-Site Infrastructure (which, for the avoidance of doubt, excludes the Irrigation Improvements) that prevents the Facility from timely opening such that ANLBC must use a different facility for any portion of its Spring Training, (a) ANLBC agrees to use reasonable efforts to mitigate any damages caused by such delay (including, without limitation, its costs associated in securing the alternate facility), and (b) in the event any liability accrues to WVID, Developer, or Developer Guarantor in connection with such delay after taking into account the provisions of this Section 5.10.4, ANLBC's recovery will be limited only to actual damages suffered by ANLBC after it has fulfilled its mitigation obligations pursuant to Section 5.10.4(a). ANLBC acknowledges that a delay in the delivery of the Irrigation Improvements will not prevent the Facility from timely opening.

5.10.5. WVID shall hire, oversee, and pay the civil engineer and other design professionals required to design the Off-Site Infrastructure and the Irrigation Improvements. WVID shall cause each design professional for the Off-Site Infrastructure Work and the Irrigation Improvements Work to carry professional liability and other insurance coverages that are customary, and in amounts customary, for work of this nature and consistent with the general requirements set forth in Article 10, for which WVID shall cause ANLBC to be named as an additional insured (except as to professional liability policies), provided it is commercially reasonable to do so based on the scope of work or services and vendor being used. Developer shall advise ANLBC prior to contract signing if it is unable to add ANLBC as an additional insured.

5.10.6. WVID shall hire, oversee, and pay one or more contractor(s) to construct the Off-Site Infrastructure and the Irrigation Improvements. To the extent commercially reasonable to do so, such construction contract(s) ("Off-Site and Irrigation Construction Contract(s)") shall meet the following requirements:

- A. ANLBC shall be a third party beneficiary to the Off-Site and Irrigation Construction Contract(s), and WVID shall promptly deliver to ANLBC fully executed, imaged copies of each such agreement for ANLBC's Review and Consultation;

- B. The Off-Site and Irrigation Construction Contract(s) shall require insurance coverages that are customary, and in amounts customary, for work similar to the Off-Site Infrastructure Work and the Irrigation Improvements Work, pursuant to Section 10.3;
- C. The Off-Site and Irrigation Construction Contract(s) shall require a payment and performance bond, where required by Florida Statutes §255.05;
- D. The Off-Site and Irrigation Construction Contract(s) shall require ANLBC and WVID to be named as additional insureds to all insurance policies (where applicable) and co-obligees on all bonds;
- E. The Off-Site and Irrigation Construction Contract(s) shall provide for the indemnification of ANLBC and WVID, using standard indemnity provisions found within contracts in the State of Florida for projects of a similar size and scope to the Off-Site Infrastructure Work and the Irrigation Improvements Work; and
- F. ANLBC shall be a third party beneficiary under all warranties set forth in the Off-Site and Irrigation Construction Contract and identified as a joint beneficiary in any warranties issues by subcontractors in connection with contracts with subcontractors.

5.10.7. With respect to any utility work that is part of the Off-Site Infrastructure Work, the utilities will be brought to the property line of the Facility Site. However, utility work within the property line of the Facility Site shall be part of the Work. Upon completion, all water and wastewater utility work, including the lift station located on the Facility Site or adjacent thereto and servicing the Facility Site, whether part of the Off-Site Infrastructure Work, the Irrigation Improvements Work, or the Work, shall be owned, operated, and maintained by the City. The City and the County shall reasonably cooperate in the turnover process of certain of the Off-Site Infrastructure Work and the Irrigation Improvements Work (e.g., the transfer of utilities to the City, etc.).

5.11 NO WVID WARRANTIES. WVID DISCLAIMS ANY AND ALL WARRANTIES RELATED TO THE OFF-SITE INFRASTRUCTURE WORK, THE IRRIGATION IMPROVEMENTS WORK, AND THE WORK, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANSHIP, CONSTRUCTION OR PHYSICAL CONDITION OF THE FACILITY AND ALL FIXTURES OR ITEMS OF PERSONAL PROPERTY CONTAINED THEREIN, REGARDLESS OF WHETHER THE WARRANTIES ARISE FROM CUSTOM, USAGE, COURSE OF TRADE, CASE LAW, STATUTORY LAW OR OTHERWISE. ANY CONVEYANCE OF THE WORK FROM WVID IS ON AN “AS IS” BASIS, “WITH ALL FAULTS.”

5.12 Cooperation.

5.12.1. Each of the Parties shall reasonably expedite any actions or approvals requested or required of such Party in connection with the Project, and except as otherwise provided in this Agreement, all such actions or approvals shall not be unreasonably withheld, conditioned or delayed. The Parties shall not act, or fail to act, in a manner that would cause, or would reasonably be expected to cause, the completion of the Project to be delayed beyond the Braves Completion Deadline. Notwithstanding the foregoing, ANLBC approval shall be required for any acceleration necessary to achieve any Completion Date that would increase the Project Budget. The Parties shall provide assistance to and use reasonable efforts to cooperate with WVID and Developer in the performance of this Agreement. Nothing in this Section 5.12 shall be construed to require any Party to violate any valid and enforceable Public Laws.

5.12.2. WVID and/or the County, as applicable, shall enter into agreements with the WVID Collateral Agent and the counterparties to each contract material to the financing, construction, operation and maintenance of the Facility to which either WVID or the County or both may be a party, whereby all such parties agree that, (i) the WVID Collateral Agent shall have notice, cure and other rights customarily contained in a consent to assignment with respect to each such material contract and (ii) upon an Event of Default with respect to the WVID Debt, the WVID Collateral Agent shall have such rights as may be negotiated in order to permit the WVID Collateral Agent to enforce such material contracts and pursue claims against counterparties thereto, including without limitation against ANLBC under this Agreement and the Facility Operating Agreement. For the purposes of this Section 5.12.2, the County's bond documents shall not be considered "contract(s) material to the financing, construction, operation and maintenance of the Facility" and the WVID Collateral Agent will not be granted additional remedies as against the County beyond those set forth in the applicable material contract.

5.12.3. A Party shall promptly notify the other Parties of any suit, proceeding or action (each, an "Action") that is initiated or threatened in writing against it in connection with the Facility. Any Action against WVID in connection with the Facility will be pursued in all material respects and settled by WVID, subject to Review and Consultation by ANLBC to the extent that such Action would reasonably be expected to materially impact ANLBC or the Project.

5.13 Mixed Use Project and Deed Restriction. As a material inducement to cause ANLBC to enter into this Agreement, Developer has provided that it intends to develop the Mixed Use Project. Developer hereby agrees to use its commercially reasonable efforts to cause the Mixed Use Project to be completed in a commercially reasonable manner (provided, however, that ANLBC acknowledges that components of the Mixed Use Project will be phased, and the timing of the Mixed Use Project will be subject to market conditions and potential delays, which shall not subject Developer to any liability). Developer shall be responsible for developing, or causing to be developed, the Mixed Use Project; provided that the cost of clearing, filling and grading the Stadium Area Site (as defined in the Deed Restriction) to design elevation shall be funded by ANLBC. Developer covenants to coordinate its construction activities for the Mixed Use Project with (a) the Consultant and Contractor prior to the Substantial Completion Date to ensure that such activities will not adversely affect any Completion Date hereunder, and (b) ANLBC at all times thereafter to ensure that such activities will not adversely impact the contemplated use of the Facility by ANLBC and its invitees. Certain portions of the Mixed Use Project will be subject to the Deed Restriction, as set forth more fully in the Deed Restriction.

ARTICLE 6
CONSTRUCTION FUNDING SOURCES

6.1 Plan of Finance/Project Budget. ANLBC, the County, WVID and Developer hereby approve the plan of finance substantially as described herein and attached hereto as **Exhibit I**. The Project Budget setting forth the sources and uses of funds for the Project are depicted in **Exhibit I**, and each of the Parties agrees to make such financial contributions in the manner described herein. WVID may update the Project Budget pursuant to the terms hereof, including but not limited to the Change Order process described in Section 5.8, from time to time subject to the prior written consent of ANLBC for any reallocations within the Project Budget and revisions which may result in an increase to the aggregate amount of the Project Budget, and shall provide copies thereof to the other Parties. The Parties anticipate the cost of the Project will not exceed the Project Budget, other than as set forth herein.

6.2 Intentionally Omitted.

6.3 City Contribution. The City shall pay WVID a lump sum of \$4,700,000 in accordance with the City-WVID Interlocal Agreement. WVID shall deposit said monies into the WVID Construction Account or WVID Debt Account no later than the Funding Date. The City acknowledges and agrees that WVID can utilize the City Contribution to fund the design, development, construction and financing of the Facility as WVID shall determine to be appropriate, including reimbursement of ANLBC in connection therewith. The City further acknowledges and agrees that WVID can pledge the City Contribution to secure the payment of the Debt Service Payments or enhance the credit worthiness of the WVID Debt. Other than as a result of a default of its obligations hereunder, the City shall have no financial or other liability beyond the City Contribution.

6.4 County Funding. The County shall issue and sell the County Bonds in an aggregate amount sufficient (taking into account issuance costs, required reserves, if any, and capitalized interest costs, if deemed to be necessary by the County) to deposit net proceeds of \$21,262,000 as set forth on **Exhibit I** into the WVID Construction Account no later than the Funding Date, which amount, together with investment earnings thereon, is exclusively made available to pay any capital costs comprising the Actual Costs. The County shall determine the details of the issuance of the County Bonds, including the use of capitalized interest, subject to the Review and Consultation of ANLBC. For the avoidance of doubt, the County Funding shall not be required to be deposited earlier than contemporaneous with the other contributions and payments made on or before the Funding Date to fulfill the Project Budget, subject to the City-WVID Interlocal Agreement. The County has adopted Ordinance No. 2017-025 authorizing the use of Tourist Development Tax revenue to pay debt service on the County Bonds. The County intends to pledge one or more legally available non-ad valorem revenue sources in connection with the issuance of the County Bonds. Tourist Development Tax Revenues will not be pledged to the repayment of the County Bonds and the County's obligation to issue the County Bonds does not create any lien upon or pledge of the County's Tourist Development Tax revenue. In no event shall the County's obligation to issue the County Bonds as provided for in this Agreement be or constitute a general obligation or indebtedness of the County or a pledge of the ad valorem taxing power of the County within the meaning of the Constitution of the State of Florida or any applicable law. No person shall have the right to compel the exercise of the ad valorem taxing

power of the County in any form on any real or personal property to satisfy the County's obligations to issue Bonds under this Agreement or satisfy any other County obligation provided for in this Agreement.

6.5 Developer Contribution. Developer shall deposit \$4,700,000 into the WVID Construction Account or WVID Debt Account, no later than the Funding Date. Developer acknowledges and agrees that WVID can utilize the Developer Contribution to fund the design, development, construction and financing of the Facility as WVID shall determine to be appropriate, including reimbursement of ANLBC in connection therewith. Developer further acknowledges and agrees that WVID can pledge the Developer Contribution to secure the payment of the Debt Service Payments or enhance the credit worthiness of the WVID Debt. Other than as a result of a default of its obligations hereunder, Developer shall have no financial or other liability relative to the Program beyond the payment of the Developer Contribution and any obligations pursuant to the Off-Site Infrastructure and Irrigation Improvements Agreement.

6.6 WVID Funding (Facility Debt).

6.6.1. State Sales Tax Payments Bonds.

A. Spring Training Program Agreement. WVID has applied for annual funding for the Facility from the State of Florida pursuant to Section 288.11631, Florida Statutes. The annual funding is anticipated to be leveraged through the issuance by WVID of the State Sales Tax Payments Bonds to generate a deposit of net proceeds (currently estimated to be equal to \$14,430,270 as set forth on **Exhibit I**, with actual net proceeds to be subject to market conditions) into the WVID Construction Account, which amount, together with investment earnings thereon, is exclusively made available to pay any capital costs comprising the Actual Costs which are eligible to be paid pursuant to Section 288.11631, Florida Statutes. Once the State of Florida has certified the applicant to receive annual state funding pursuant to Section 288.11631, Florida Statutes, relating to the Facility, WVID and the State of Florida shall approve and execute the Spring Training Program Agreement. WVID shall issue the State Sales Tax Payments Bonds and deposit the net proceeds of the State Sales Tax Payments Bonds into the WVID Construction Account upon the State Bond Funding Date. WVID, in its sole discretion, but subject to reasonable opportunity for consultation and review by ANLBC, shall determine the details of the issuance of the State Sales Tax Payments Bonds, including the use of capitalized interest.

B. Annual Reporting Requirements for State Sales Tax Payments Bonds.

(i) The Parties agree to cooperate in the preparation of the annual report required for the State Sales Tax Payments Bonds (the "Annual Report"). In addition to any other information or documents requested by the State of Florida set forth in the Spring

Training Program Agreement, on or before August 1 of each year, the Parties shall respectively provide to WVID the following:

- a. WVID shall provide: (i) a detailed accounting of all local and state funds expended to date on the Facility, (ii) a copy of the Operative Agreements and any amendments or supplements related to the Project (provided that the other Parties shall provide copies of any such documents for which WVID is not a party), (iii) a cost-benefit analysis of the impact on the City, (iv) until the completion of the Work, a copy of all agreements with an estimated cost greater than \$250,000 executed in furtherance of the financing, design and/or construction of same, and (v) written evidence that WVID continues to meet the criteria in effect for the State Application when certification was received;
 - b. ANLBC shall provide: (i) Facility attendance data for the prior Spring Training season, (ii) the number of Spring Training games scheduled versus played in the prior season, (iii) a summary of marketing, promotional, and/or advertising efforts undertaken during the prior Spring Training season; and (iv) written evidence, including numerical and/or statistical analysis as applicable, that it is in compliance with section 288.1167, Florida Statutes, relative to its food and beverage and related concession operations; and
 - c. Developer shall provide a summary of private funds, if any, other than the Developer Contribution, expended to date by Developer to fund Work; provided, however, that such summary shall only be required until the completion of such Work.
- (ii) If any such Party fails to meet its obligations under Section 6.6.1B(i) and cure prior to August 20 of such year which results in the inability of WVID to timely submit the Annual Report, then such Party shall be subject to any financial penalty imposed by the State of Florida against WVID for failure to report, if any.
 - (iii) Upon receipt and no later than September 1 of each year, WVID shall prepare and submit the Annual Report to the State of Florida in accordance with the reporting requirements in the Spring Training Program Agreement and Section 288.11631(4), Florida Statutes.

- C. Quarterly Reporting Requirements for Sales Tax Payment Bonds.** The Parties agree to cooperate in the preparation of the quarterly report as may be required for the State Sales Tax Payment Bonds pursuant to the Spring

Training Program Agreement (the “Quarterly Report”). Until the completion of the Work, WVID shall prepare and submit the Quarterly Report which shall consist of a written update as to the status of the Project.

- D. Other Reporting Requirements.** The Parties agree to cooperate in the preparation and/or compilation of any other documents or information that is requested by the State of Florida relative to the Sales Tax Payment Bonds and pursuant to the Spring Training Program Agreement.

6.6.2. **WVID Debt.** WVID shall issue and sell the WVID Debt in an aggregate amount sufficient (taking into account issuance costs, any required reserves and capitalized interest costs, if deemed to be necessary by WVID) to deposit net proceeds as set forth on **Exhibit I** (and subject to market conditions) sufficient to fully fund the portion of Project Budget not funded by the combined net proceeds of: (i) the City Contribution, (ii) the County Bonds, (iii) the Developer Contribution, (iv) the State Sales Tax Payment Bonds, and (v) if funded prior to pricing the WVID Debt, the ANLBC initial funding contribution described in Section 6.6.2B. WVID shall determine the details of the issuance of the WVID Debt, subject to the Review and Consultation of ANLBC, including transactions costs, the use of capitalized interest and any required reserves. The WVID Debt shall be secured by the Annual Fee. WVID shall deposit the proceeds from the WVID Debt or other funds described above into appropriate subaccount of the WVID Construction Account on or before the Funding Date, except for the ANLBC initial funding contribution described in Section 6.6.2B, which will be addressed via the funding agreement identified in Section 6.6.2B.

- A. ANLBC Annual Fee.** ANLBC shall remit the Annual Fee to WVID to be placed into the WVID Debt Account for the purpose of funding the Debt Service Payments securing the WVID Debt subject to the requirements of the Note Purchase Agreement. ANLBC shall pay the Annual Fee to WVID in the manner set forth at Section 6 of the Facility Operating Agreement, with adjustments to the amount of the Annual Fee to be subject to confirmation in accordance with Section 6(a) of the Facility Operating Agreement.
- B. ANLBC Initial Funding.** Notwithstanding the foregoing, ANLBC shall enter into a separate funding agreement with WVID no later than September 2017 whereby ANLBC shall be obligated to pay, with no right of reimbursement from the Facility Debt, all of the fees and costs due under the Design Contract and the first \$12.4 million of fees and costs due under the Construction Contract, and the County, the City and the WVID Collateral Agent shall be third party beneficiaries under such funding agreement. The aggregate amount of the WVID Debt shall be sized to reflect this initial funding obligation of ANLBC, as set forth in **Exhibit I**.
- C. Other Provisions.** If the WVID Debt is redeemed in full prior to the final maturity of the WVID Debt (with the exception of redemption of the WVID Debt for the purpose of refinancing such debt), ANLBC shall pay

no Annual Fee for the remaining portion of the thirty (30) year term, other than as set forth in the Facility Operating Agreement. Notwithstanding the foregoing, ANLBC shall continue to make its annual contributions to the Capital Maintenance Fund in accordance with the Facility Operating Agreement and to otherwise pay its share of the Capital Maintenance and Repair of the Facility. A Default by the County shall not excuse ANLBC from making any required payment of the Annual Fee. ANLBC shall provide an enforceability opinion regarding each material agreement to which it is a party, including the Facility Operating Agreement pursuant to which it will pay the Annual Fee, and if requested, shall address such opinion to the underwriter and the purchaser(s) of the WVID Debt and the WVID Collateral Agent. ANLBC acknowledges and agrees that WVID can pledge the Annual Fee to secure payment of Debt Service Payments on the WVID Debt.

6.6.3. Temporary Funding. If the State Certification Letter has been received but the State Sales Tax Payment Bonds are not yet issued and the net proceeds deposited into the WVID Construction Account by the Funding Date, ANLBC shall deposit into the WVID Construction Account an amount equal to the estimated proceeds of the State Sales Tax Payment Bonds and/or any amounts needed to preserve the Project Schedule, as applicable, to be used toward Project expenses consistent with all other funds shown in **Exhibit I** until the State Bond Funding Date, when such amount will be reimbursed, in full to ANLBC within five (5) Business Days following the State Bond Funding Date, subject to the City-WVID Interlocal Agreement.

6.7 Limited Obligations. Notwithstanding anything herein to the contrary, and in addition to the limitations on the County's obligations described in Section 6.4 above, neither the obligation of WVID to issue the Facility Debt or otherwise incur indebtedness hereunder nor the County's or the City's obligations hereunder will be or constitute a general obligation or indebtedness of WVID, the County or the City or a general obligation or indebtedness of WVID, the County or the City within the meaning of the Constitution of the State of Florida or any other Public Law. No Person shall ever have the right to compel taxation in any form on any real or personal property to satisfy WVID's, the County's or the City's obligations hereunder.

6.8 FF&E and Capital Improvements. The approvals and funding of FF&E, Capital Maintenance and Repairs will be made in the manner set forth in the Facility Operating Agreement.

6.9 No Liens. Neither WVID nor the County shall structure its financing documents to permit a Lien upon the Facility Site or the Facility.

6.10 Review and Consent Rights. ANLBC and the County shall have the right to review all financing documents related to financing of the Facility and to participate in meetings and other activities related to such financing as the Parties may deem reasonably appropriate. Any refinancing or amendment to such financing documents for the Facility that increases the Debt Service Payment paid by WVID or which modify any material terms or conditions of then existing financing documents (including, without limitation, modifications which would increase the amount of the Annual Fee or extend the number of Annual Fee payments) shall require the

approval of ANLBC. Any refinancing of the WVID Debt or amendment to such financing that results in a reduction in the annual Debt Service Payment paid by WVID relative to the WVID Debt shall not require ANLBC approval, provided that the Annual Fee paid by ANLBC shall be reduced dollar for dollar by such reduction in the annual Debt Service Payments.

6.11 Cost Overruns.

6.11.1. **Responsible Party.** ANLBC shall fund and bear the cost of all Cost Overruns, except to the extent a Cost Overrun is caused by the following: (a) Developer's failure to meet its obligations pursuant to Section 3.2A; (b) an approved discretionary Change Order requested by WVID, the County, the City or Developer that is not necessary to comply with the final permitted set of Construction Documents or Public Laws, in which case the Party requesting the Change Order must pay any incremental costs to the extent such Change Order causes the projected total Actual Costs to exceed or further exceed the Project Budget; (c) amounts for which the Design Professional, a Contractor, or a Consultant are responsible to pay under their respective contracts; (d) another Party's gross negligence or willful misconduct which materially breaches any of the Operative Agreements or any agreements relating to bond financing for the Project; or (e) grossly negligent acts or omissions of WVID, the County or Developer arising out of the performance of the Work or other services in connection with the Project; provided, however, that the Party responsible for item (d) or item (e) shall have fifteen (15) Days after written notice thereof is given to such Party to cure such breach, act, or omission; provided, however, that if it is not reasonably possible to cure within such fifteen (15) Day period, such cure period shall be extended for up to sixty (60) Days following the date of the original notice if within fifteen (15) Days after such written notice the Party commences and thereafter diligently continues to cure such breach, act or omission. In the event that the foregoing breach, act or omission occurs and is uncured, the responsible Party shall pay a proportionate share of any such Cost Overrun, which proportion shall be equal to the extent to which the Cost Overrun was caused by such Party. For the avoidance of doubt, for the purposes of item (b) above, a Change Order that is necessary to complete construction of the Facility shall not be considered a "discretionary" Change Order, and ANLBC would be responsible for funding any resulting Cost Overrun, except to the extent such Cost Overrun is caused by one of the other excluded causes set out in this Section 6.11. By way of example of the foregoing, and not limitation, if a Cost Overrun is due to a Change Order that results solely from a conflict in any of the plans or because materials that had originally been selected are no longer available and the replacement materials and/or equipment is more expensive than originally contemplated, such Change Order would not be considered discretionary, and so long as the Change Order is not also due, in whole or in part, to any of the other excluded causes set forth in this Section 6.11, any resulting Cost Overrun would be funded by ANLBC. Any payment by ANLBC for Cost Overruns shall be not be deemed a payment for use of any portion of the Facility.

6.11.2. **Disputes.** Notwithstanding Section 13.3, during the duration of any dispute regarding the party responsible for the payment of a Cost Overrun, ANLBC agrees to fund such Cost Overrun, subject to its right to seek reimbursement from such party pursuant to this Agreement or an agreement with the Design Professional, a Contractor or a Consultant.

6.11.3. **Off-Site Infrastructure Work and Irrigation Improvements Work.** For the avoidance of doubt, this Section 6.11 does not apply to any cost overruns related to the Off-Site

Infrastructure Work or the Irrigation Improvements Work because the definition of “Cost Overruns” does not include costs related to such work.

ARTICLE 7

WVID CONSTRUCTION ACCOUNT ADMINISTRATION

7.1 The WVID Construction Account. WVID, the WVID Collateral Agent with respect to the WVID Debt, ANLBC and the County shall enter into a Custodian Agreement in order to establish a WVID Construction Account prior to the Funding Date and shall maintain such WVID Construction Account until all funds deposited therein are applied in accordance with such Custodian Agreement. Separate subaccounts shall be created in such account with respect to each of the deposits described in Article 6 hereof to be made into the WVID Construction Account. The Custodian Agreement shall provide that the WVID Construction Account and moneys on deposit in each subaccount created therein (i) shall be kept separate and apart from all other funds and accounts of WVID, (ii) shall be withdrawn, used and applied solely for the payment of Actual Costs and as otherwise expressly provided in this Agreement and such Custodian Agreement, (iii) shall be invested solely in conservative investments that may not reduce the amounts deposited into the WVID Construction Account and subaccounts created therein and may be immediately withdrawn for the purposes contemplated by this Agreement, (iv) shall be free and clear of all Liens, claims and charges, except for encumbrances established pursuant to the Custodian Agreement committing monies on deposit in the Construction Account to pay Actual Costs, and (v) if determined by WVID to be in its best interests, all Persons having signatory authority or otherwise having control of the funds therein shall be required to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to WVID to secure the performance by such Persons as to his or her powers and duties. The Parties shall deposit their contributions into the respective subaccounts in the WVID Construction Account as provided in Article 6 and the Custodian Agreement.

7.1.1. The Custodian Agreement shall provide that the funds in the WVID Construction Account and subaccounts therein shall be used to pay Actual Costs, including purchases of materials and equipment by WVID in accordance with Section 5.8 and **Exhibit J**, and as otherwise expressly provided in this Agreement and such Custodian Agreement, and to reimburse ANLBC for its costs and expenses as provided in Section 4.3.2.

7.1.2. The Custodian Agreement shall provide that the earnings from the investment of the WVID Construction Account may be used when realized by WVID for its uses to pay any legally permissible costs, including soft costs, related to the Facility with any remainder to be used for any other lawful purpose. Any limitations prescribed by Public Laws which are applicable to the corpus in the WVID Construction Account shall also apply to investment earnings on the WVID Construction Account.

7.1.3. The Custodian Agreement shall provide that the monthly statements of all activity in the WVID Construction Account and subaccounts therein shall be furnished to the Parties, and the Parties shall have the right to audit those statements.

7.2 Funding Requests.

7.2.1. The Custodian Agreement shall provide that WVID may withdraw funds from the WVID Construction Account and any subaccounts therein to pay Actual Costs and as otherwise expressly provided in this Agreement and such Custodian Agreement, by completing a funding request in the form attached to the Custodian Agreement.

7.2.2. The Custodian Agreement shall provide that, with each funding request completed by WVID, the Contractor(s) or Consultant(s), as the case may be, for which payment is requested by WVID shall provide to WVID a fully executed Application for Payment and Affidavit of Disbursement of Previous Payments in the amount of the immediately prior payment for the applicable Contractor or Consultant, as the case may be, excepting any claims that remain in dispute. The Custodian Agreement shall further provide that copies of each Application for Payment and Affidavit of Disbursement, together with the approvals of the appropriate parties thereof, be provided to the County for each funding request for which a disbursement from the County's subaccount is made. The Custodian Agreement shall provide that, to the extent permitted by Public Laws, WVID shall not release payment for any portion of the Work performed by the Consultant(s) or the Contractor(s), as the case may be, unless the funding request is accompanied by the Affidavit of Disbursement of Previous Payments for the Consultant(s) or the Contractor. However, the Custodian Agreement shall provide that WVID may, but shall not be required to, make payments on account of the respective Construction Contract or Consultant's Contract without such affidavit, if the Contractor or Consultant presents to WVID a consent of surety to such payment, from the Contractor's or Consultant's surety, in a form acceptable to WVID.

ARTICLE 8 **TERM AND SURVIVAL**

8.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue until the later of: (a) full completion of the Project (including the full repayment of the WVID Debt and the States Sales Tax Payment Bonds); or (b) the completion of the obligations of the Spring Training Program Agreement (the "Term").

8.2 Survival. The following provisions shall survive expiration or termination of this Agreement: Article 9, Article 11, Article 12, Article 13 and Article 15, and Sections 3.4, 18.4, 18.5, 18.9, 18.10, 18.18 and 18.19.

ARTICLE 9 **GUARANTY**

Developer acknowledges that the willingness of Developer Guarantor to guarantee Developer's obligations as more particularly described in the Guaranty is a material inducement to ANLBC's willingness to enter into this Agreement. Accordingly, Developer Guarantor hereby executes this Agreement solely for the purpose of this Article 9 and the Guaranty, and Developer Guarantor shall guaranty Developer's obligations as more particularly set forth in the Guaranty.

ARTICLE 10 **INSURANCE**

10.1 ANLBC Insurance

10.1.1. Throughout the Term of this Agreement, ANLBC shall secure and maintain, or shall cause to be secured and maintained, at its expense, the following insurance with respect to ANLBC and Team's and Construction Administrator's operations, duties and obligations pursuant to this Agreement:

A. Commercial General Liability insurance with limits not less than:

General Aggregate (Other than Products-Completed Operations)	\$ 2,000,000
Products-Completed Operations Aggregate Limit	\$ 2,000,000
Personal & Advertising Injury Limit	\$ 1,000,000
Each Occurrence Limit	\$ 1,000,000
Damage to Premises Rented to You	\$ 1,000,000

Such insurance shall include coverage for contractual liability (applying to the terms and conditions of this Agreement), products-completed operations, personal and advertising injury, property damage and bodily injury liability (including death).

B. Automobile Liability insurance arising out of ANLBC's use, operation and/or maintenance of any auto (including owned, non-owned, leased, hired or borrowed), with limits not less than \$1,000,000 combined single limit each accident for bodily injury and property damage.

C. Workers' Compensation insurance with statutory limits as required by the State of Florida covering all ANLBC and Team employees. Such insurance policy shall also include Employer's Liability coverage with limits not less than \$1,000,000 each accident, \$1,000,000 disease-each employee and \$1,000,000 disease-policy limit.

D. Umbrella and/or Excess Liability insurance with limits not less than \$25,000,000 each occurrence and in the aggregate shall apply in excess of and be substantially similar to the underlying Commercial General Liability, Automobile Liability and Employer's Liability policy limits.

E. Builders Risk Property insurance. During the course of construction and through Substantial Completion of the Project, Builders Risk property insurance covering loss or damage to the Facility for its full replacement cost, except mutually agreed Sub-limits for Named Storm, Flood, Off-site storage, and Inland transit. Said policy shall be written on an "all risk" special causes of loss or equivalent coverage form insuring against the perils of fire and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, water damage, falsework, testing and startup, temporary buildings and debris removal. Said policy shall provide coverage for the full replacement cost of the Work (except for Sub-limits as outlined above), whether temporary or permanent and whether or not incorporated or to be incorporated in the Facility, including materials or equipment stored off the Site and during inland transportation to the Site. Said policy shall include the

other Parties (other than WVID) as Loss Payees under the policy with respect to their insurable interests. ANLBC shall include WVID and WVID Personnel as additional insureds (or loss payees, if additional insured status is not reasonably available) under the policy.

- F. Upon Substantial Completion of the Facility, ANLBC shall secure and maintain, at no cost to the other Parties, the insurance coverages required of it under the Facility Operating Agreement.

10.1.2. **Other Insurance Requirements.**

- A. Additional Insured Requirement: Each of the City, the County, WVID, WVID Personnel, and Developer shall be included as additional insureds (and not as named insureds) on the Commercial General Liability, Auto Liability and Umbrella/Excess Liability insurance policies for claims arising in connection with ANLBC's operations under this Agreement. The Additional Insureds for the County shall include "[Sarasota County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents]", c/o [_____], FL [_____].
- B. Loss Payee Requirement: ANLBC shall include other Parties as Loss Payees under the Builders Risk policy, but only with respect to their insurable interests.
- C. Separation of Insureds Requirement: All liability insurance policies must provide Cross Liability coverage (separation of insureds or severability of interest provisions).
- D. Primary Insurance Requirement: The ANLBC liability insurance policies shall apply on a primary and non-contributory basis for claims arising in connection with the operations of ANLBC pursuant to this Agreement.
- E. Certificate of Insurance Requirement: Within five (5) Business Days of a written request to do so from the County, WVID or Developer, ANLBC shall deliver to the County, WVID, and/or Developer as the case may be, via the Insurance Company/Agent a signed Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required of ANLBC this Agreement have been obtained and are in full force and effect.
- F. Deductibles or Self-Insured Retentions: ANLBC shall bear all costs of all deductibles or self-insured retentions that apply under its insurance policies, and shall remain solely and fully liable for the full amount of any Claim not covered by insurance.
- G. Notice Requirement: ANLBC shall provide at least thirty (30) days' prior written notice to the other Parties if any of the required insurance is to be materially changed, reduced or cancelled.

- H. Certificates of Insurance: ANLBC shall furnish, or shall cause Construction Administrator to furnish, the other Parties with certificates of insurance evidencing compliance with all insurance provisions noted above prior to the commencement of the construction administration work and at least ten (10) days prior to the expiration of each required insurance policy.
- I. No Limitation of Liability: The insurance requirements set forth herein will in no way modify, reduce, or limit the ANLBC's indemnification obligation under this Agreement.
- J. Contractors and Subcontractors: To the extent that ANLBC utilizes any Subcontractors to perform any construction administration work in connection with the Project, ANLBC will require such parties to maintain appropriate insurance coverages and limits as reasonably determined by ANLBC.

10.2 Developer Insurance Requirements.

10.2.1 Throughout the Term of this Agreement, Developer shall secure and maintain (or shall cause to be secured and maintained) at its expense, the following insurance in connection with its obligations and operations under this Agreement; provided that any references to the Off-Site Infrastructure Work and the Irrigation Improvements Work apply only to the extent that Developer completes such improvements pursuant to the Off-Site Infrastructure and Irrigation Improvements Agreement:

- A. Commercial General Liability insurance for claims arising out the Developer's operations, including the Off-Site Infrastructure Work and the Irrigation Improvements Work in connection with the Project, with limits not less than:

General Aggregate (per project/location)	\$ 2,000,000
Products-Completed Operations Aggregate Limit	\$ 2,000,000
Personal & Advertising Injury Limit	\$ 1,000,000
Each Occurrence Limit	\$ 1,000,000
Damage to Premises Rented to You	\$ 1,000,000
Medical Expense Limit (any one person)	\$ 5,000

Such insurance shall include coverage for contractual liability (applying to the terms and conditions of this Agreement), premises liability (for the Site with respect to the Off-Site Infrastructure Work, the Irrigation Improvements Work and related construction operations), products-completed operations, personal and advertising injury, property damage and bodily injury liability (including death). Said policy shall include coverage for use, operation and maintenance of mobile equipment, broad form property damage including products/completed operations, independent contractors and coverage for explosion, collapse, and underground (XCU) hazards. With respect to the products-completed operations insurance, said coverage shall be maintained for a minimum period of three (3) years after final completion of the Off-Site Infrastructure Work and the Irrigation Improvements Work or until expiration of the applicable statute of repose, whichever is longer.

- B. Automobile Liability insurance covering liability arising out of any auto (including any owned (to the extent owned by Developer or its related affiliate), hired and non-owned trucks and other vehicles) used in connection with its obligations and operations under this Agreement, including the Off-Site Infrastructure Work and the Irrigation Improvements Work in connection with the Project, with limits not less than \$1,000,000 each accident combined single limit for bodily injury and property damage; and Auto Physical Damage insurance providing coverage for Comprehensive and Collision losses for to such autos.
- C. Workers' Compensation insurance covering all employees, contractors and subcontractors (to the extent employed by Developer or its related affiliate) performing Off-Site Infrastructure Work and the Irrigation Improvements Work in connection with the Project, with limits as required by statutory law, including Employer's Liability coverage with limits not less than \$1,000,000 each accident, \$1,000,000 disease-each employee and \$1,000,000 disease-policy limit.
- D. Umbrella and/or Excess Liability insurance with limits not less than \$25,000,000 each occurrence and in the aggregate shall apply in excess of and on a following form basis to the underlying Commercial General Liability, Automobile Liability and Employer's Liability policy limits. Any umbrella or excess liability insurance furnished by Developer hereunder shall provide that the coverage afforded to the Additional Insureds is primary and non-contributory to any other insurance (including any umbrella or excess policies) or self-insurance afforded to or maintained by the Additional Insureds for the first two (2) years.
- E. Pollution Liability insurance with limits not less than \$5,000,000 each occurrence and in the aggregate providing coverage for third-party environmental liability claims for bodily injury, property damage, defense, and cleanup as a result of pollution conditions (sudden/accidental and gradual) arising from construction operations in the performance of Off-Site Infrastructure Work and the Irrigation Improvements Work. Said policy shall include coverage for liability arising out of any Hazardous Materials or explosives introduced to the Site as a result of construction operations.
- F. Builders Risk Property insurance. During the course of construction and through substantial completion of the Off-Site Infrastructure Work and the Irrigation Improvements Work, Builders Risk property insurance covering loss or damage to the Off-Site Infrastructure and the Irrigation Improvements for its full replacement cost. Said policy shall be written on an "all risk" special causes of loss or equivalent coverage form insuring against the perils of fire and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, water damage, falsework, testing and startup, temporary buildings and debris removal.
- G. Contractors Equipment Inland Marine Property insurance covering loss or damage to any equipment, tools, and machinery, jobsite trailers, temporary

structures, protective fencing, or other property of similar nature not consumed during construction of the Off-Site Infrastructure and the Irrigation Improvements or destined to become a permanent part of the completed Off-Site Infrastructure or the Irrigation Improvements, whether owned, leased, rented, borrowed or otherwise in the care, custody and control of the Developer, its construction manager or any contractors or subcontractors, for use in the performance of Off-Site Infrastructure Work and the Irrigation Improvements Work. Said policy shall be written on an “all risk” replacement cost basis.

- H. Professional Liability insurance covering errors or omissions related to any professional services in connection with the Off-Site Infrastructure Work and the Irrigation Improvements Work, including architectural services, design-build work and construction management, with limits of not less than \$5,000,000 per claim. In the event of cancellation or non-renewal of such coverage and to the extent such coverage is written on a claims-made policy form (rather than an occurrence form), the discovery period for insurance claims (tail coverage) will be at least one hundred twenty (120) months from the date on which the project is completed.

10.2.2 Other Insurance Requirements.

- A. Additional Insured Requirement. Each of the City, the County, WVID, WVID Personnel, ANLBC, the ANLBC Parties, and such other parties as ANLBC may reasonably designate from time to time via written notice to Developer shall be included as Additional Insureds under the Commercial General Liability, Auto Liability, Pollution Liability and Umbrella/Excess Liability policies to be maintained by Developer in connection with the Off-Site Infrastructure Work and the Irrigation Improvements Work.
- B. Loss Payee Requirement: Developer shall include other Parties (other than WVID) as Loss Payees under the Builders Risk and Contractors Equipment property insurance policies (with respect to the Off-Site Infrastructure Work and the Irrigation Improvements Work), but only with respect to their insurable interests. Developer shall include WVID and WVID Personnel as additional insureds under the Builders Risk and Contractors Equipment property insurance policies (with respect to the Off-Site Infrastructure Work and the Irrigation Improvements Work),
- C. Separation of Insureds Requirement: All liability insurance policies must provide Cross Liability Coverage (separation of insureds or severability of interest provisions).
- D. Primary Insurance Requirement: The Developer’s liability insurance policies shall apply on a primary and non-contributory basis for claims arising in connection with the operations of Developer pursuant to this Agreement.

- E. Deductibles or Self-Insured Retentions: Developer shall bear all costs of all deductibles or self-insured retentions that apply under its insurance policies, including any Developer Controlled Insurance Programs (DCIP), and shall remain solely and fully liable for the full amount of any Claim not covered by insurance. The existence of any self-insurance (regardless of whether Developer has an insurance policy) shall not relieve Developer or its carrier of the obligation to indemnify and defend every other Party, and their respective officers, employees, attorneys, agents and instrumentalities as set forth in Paragraph 11.3 herein from the inception of any claim or action triggering such indemnity and defense obligations. In addition to Developer's obligations above, in the event Developer has any self-insurance exposure, it shall have the same obligations that any open market insurance carrier would have.
- F. Notice Requirement: Developer shall provide at least thirty (30) days prior written notice to the other Parties if any of the required insurance is to be materially changed, reduced or cancelled.
- G. Certificates of Insurance: Developer shall furnish the other Parties with certificates of insurance evidencing compliance with all insurance provisions noted above prior to the commencement of the Off-Site Infrastructure Work and the Irrigation Improvements Work and at least ten (10) days prior to the expiration of each required insurance policy.
- H. No Limitation of Liability: The insurance requirements set forth will in no way modify, reduce, or limit the Developer's indemnification obligation under this Agreement.
- I. Contractors and Subcontractors: To the extent that Developer utilizes any contractors or Subcontractors to perform any Off-Site Infrastructure Work or Irrigation Improvements Work in connection with the Project, Developer will require such parties to maintain insurance coverages and minimum limits required of Developer in accordance with this Agreement.

10.3 WVID Insurance Requirements. Throughout the Term of this Agreement and through Substantial Completion of the Facility and the Project, WVID shall cause the Contractor and Design Professional to secure and maintain, as part of the costs under their respective contracts, the insurance substantially as described in **Exhibits N-1 and N-2**, respectively. Further, and with respect to the Off-Site Infrastructure Work and the Irrigation Improvements Work, WVID shall require the Contractor to secure and maintain a payment and performance bond consistent with the requirements of Section 255.05, Florida Statutes, and insurance coverages that are customary, and in amounts customary, for work similar to the Off-Site Infrastructure Work and the Irrigation Improvements Work, as reasonably determined by WVID and which determination need not meet the requirements of Section 10.2.1. During the course of construction and through substantial completion of the Off-Site Infrastructure Work and the Irrigation Improvements Work, WVID shall secure and maintain (or cause its general contractor to secure and maintain) Builders Risk property insurance covering loss or damage to the Off-Site Infrastructure and the Irrigation Improvements for its full replacement cost. Said policy shall be written on an "all risk"

special causes of loss or equivalent coverage form insuring against the perils of fire and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, water damage, falsework, testing and startup, temporary buildings and debris removal. WVID shall include (or cause its general contractor to include) other Parties as Loss Payees under the Builders Risk policy, but only with respect to their insurable interests, if any.

10.4 Carrier Insurance Requirements. All insurance policies to be maintained by each of the Parties pursuant to this Agreement must be issued by an insurance carrier with an A.M. Best rating of A- and Class VII or better.

10.5 Waiver of Subrogation. Under the insurance policies to be maintained by certain Parties pursuant to this Agreement, each such Party shall waive its rights of subrogation against the other Parties, and each such Party further agrees that it will require its respective insurance carriers for the insurance policies to be maintained by such Parties to this Agreement to likewise waive and relinquish such subrogation rights. Each such Party shall require its Contractors, Subcontractors, Consultants, etc. to do the same.

ARTICLE 11

INDEMNIFICATION

11.1 Indemnification by WVID. To the maximum extent permitted by Public Laws, WVID shall indemnify, defend and hold harmless every other Party, and their officers, employees, attorneys, agents and instrumentalities from and against any claim, loss, damage, liability, cost or expense, including reasonable attorneys' fees, directly arising out of a WVID Default (as defined below) or from any and all personal injury or property damage claims, liabilities, losses and causes of action arising from such claim which may arise solely as a result of the gross negligence of WVID in connection with its rights and obligations under this Agreement; provided, however, that the foregoing indemnification shall not extend to those claims, losses, damages, liabilities, costs or expenses asserted against or suffered by any other Party (or its officers, employees, attorneys, agents or instrumentalities) which are due to the grossly negligent or willful acts or omissions of such other Party (or its officers, employees, attorneys, agents or instrumentalities), or to any action taken by such other Party in violation of this Agreement or any action not taken that is required under this Agreement; provided further that the foregoing indemnification shall only apply to the express monetary limits of Section 768.28 Fla. Stat., and without constituting a waiver of WVID's sovereign immunity, and subject to the provisions of that Statute whereby WVID shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum set forth in said statute, or any claim or judgments or portions thereof, which, when totaled with all other occurrences, exceeds the sum set forth in said statute. The Parties expressly understand and agree that WVID's obligation to indemnify pursuant to this Section 11.1 is solely to the extent such claims are not satisfied by insurance; provided that the obligations of WVID to indemnify, defend and hold harmless as outlined in this Section 11.1 are in no way limited to the amount(s) of insurance required under Article 10. Notwithstanding the foregoing, WVID shall not be liable for any liabilities, damages, suits, claims and judgments of any nature (including reasonable attorneys' fees and expenses) arising from or in connection with any loss or liability due to a Force Majeure.

11.2 Indemnification by ANLBC. To the maximum extent permitted by Public Laws, ANLBC shall indemnify, defend and hold harmless every other Party, and their officers, employees, attorneys, agents and instrumentalities from and against any claim, loss, damage, liability, cost or expense, including reasonable attorneys' fees, directly arising out of (a) an ANLBC Default (as defined below), or all personal injury or property damage claims, liabilities, losses and causes of action arising from such claim which may arise solely as a result of the gross negligence of ANLBC or the Construction Administrator (which includes ANLBC and any subconsultants to ANLBC) in connection with its rights and obligations under this Agreement; provided, however, that the foregoing indemnification shall not extend to those claims, losses, damages, liabilities, costs or expenses asserted against or suffered by any other Party (or its officers, employees, attorneys, agents or instrumentalities) which are due to the grossly negligent or willful acts or omissions of such other Party (or its officers, employees, attorneys, agents or instrumentalities), or to any action taken by such other Party in violation of this Agreement or any action not taken that is required under this Agreement. The Parties expressly understand and agree that ANLBC's obligation to indemnify pursuant to this Section 11.2 is solely to the extent such claims are not satisfied by insurance; provided that the obligations of ANLBC to indemnify, defend and hold harmless as outlined in this Section 11.2 are in no way limited to the amount(s) of insurance required under Article 10. Notwithstanding the foregoing, ANLBC shall not be liable for any liabilities, damages, suits, claims and judgments of any nature (including reasonable attorneys' fees and expenses) arising from or in connection with any loss or liability due to a Force Majeure.

11.3 Indemnification by Developer. To the maximum extent permitted by Public Laws, Developer shall indemnify, defend and hold harmless every other Party, and their respective officers, employees, attorneys, agents and instrumentalities from and against any claim, loss, damage, liability, cost or expense, including reasonable attorneys' fees, directly arising out of a Developer Default (as defined below) by Developer or from any and all personal injury or property damage claims, liabilities, losses and causes of action arising from such claim which may arise solely as a result of the gross negligence of Developer in connection with its rights and obligations under this Agreement; provided, however, that the foregoing indemnification shall not extend to those claims, losses, damages, liabilities, costs or expenses asserted against or suffered by any other Party (or its officers, employees, attorneys, agents or instrumentalities) which are due to the grossly negligent or willful acts or omissions of such other Party (or its officers, employees, attorneys, agents or instrumentalities), or to any action taken by such other Party in violation of this Agreement or any action not taken that is required under this Agreement. The Parties expressly understand and agree that Developer's obligation to indemnify pursuant to this Section 11.3 is solely to the extent such claims are not satisfied by insurance; provided that the obligations of Developer to indemnify, defend and hold harmless as outlined in this Section 11.3 are in no way limited to the amount(s) of insurance required under Article 10. Notwithstanding the foregoing, Developer shall not be liable for any liabilities, damages, suits, claims and judgments of any nature (including reasonable attorneys' fees and expenses) arising from or in connection with any loss or liability due to a Force Majeure. Developer hereby agrees to indemnify and hold harmless ANLBC and the County from any and all claims, demands or liabilities arising or in any way connected with loss or damage to ANLBC or the County, respectively, from (x) that certain Declaration of Covenants, Conditions, Easements and Restrictions recorded in Instrument Number 2004216589, as amended in Instrument Number 2005257191 and 2007018906 of the Public Records of Sarasota County, Florida, limited to

provisions creating easements in paragraphs 5.1 and 5.3 and (y) that certain Declaration of Covenants, Conditions, Easements and Restrictions recorded in Instrument Number 2005197548 as amended under Instrument Number 2008099652 of the Public Records of Sarasota County, Florida, limited to provisions creating easements in paragraph 3.3.

11.4 Indemnification by the County. To the maximum extent permitted by Public Laws, the County shall indemnify, defend and hold harmless every other Party, and their respective officers, employees, attorneys, agents and instrumentalities from and against any claim, loss, damage, liability, cost or expense, including reasonable attorneys' fees, directly arising out of a Government Party Default (as defined at Section 14.4 below) by the County or from any and all personal injury or property damage claims, liabilities, losses and causes of action arising from such claim which may arise solely as a result of the gross negligence of the County in connection with its rights and obligations under this Agreement; provided, however, that the foregoing indemnification shall not extend to those claims, losses, damages, liabilities, costs or expenses asserted against or suffered by any other Party (or its officers, employees, attorneys, agents or instrumentalities) which are due to the grossly negligent or willful acts or omissions of such other Party (or its officers, employees, attorneys, agents or instrumentalities), or to any action taken by such other Party in violation of this Agreement or any action not taken that is required under this Agreement; provided further that the foregoing indemnification shall only apply to the express monetary limits of Section 768.28 Fla. Stat., and without constituting a waiver of the County's sovereign immunity, subject to the provisions of that Statute whereby the County shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum set forth in said statute, or any claim or judgments or portions thereof, which, when totaled with all other occurrences, exceeds the sum set forth in said statute. The Parties expressly understand and agree that the County's obligation to indemnify pursuant to this Section 11.3 is solely to the extent such claims are not satisfied by insurance; provided that the obligations of the County to indemnify, defend and hold harmless as outlined in this Section 11.3 are in no way limited to the amount(s) of insurance required under Article 10. Notwithstanding the foregoing, the County shall not be liable for any liabilities, damages, suits, claims and judgments of any nature (including reasonable attorneys' fees and expenses) arising from or in connection with any loss or liability due to a Force Majeure.

11.5 Indemnification Procedures.

11.5.1. If any Person entitled to indemnification pursuant to this Article 11 (an "Indemnified Party") shall discover or have actual notice of facts that have given rise, or which may give rise to, a claim for indemnification under this Article 11, or shall receive notice of any action or proceeding of any matter for which indemnification may be claimed (each, a "Claim"), the Indemnified Party shall, within twenty (20) Days following service of process or other written notification of such Claim (or within such shorter time as may be necessary to give the Person obligated to indemnify the Indemnified Party (the "Indemnitor") a reasonable opportunity to respond to such service of process or notice of claim), and within twenty (20) Days after any other such notice, notify the Indemnitor in writing thereof together with a statement of such information respecting such matter as the Indemnified Party then has; provided, however, the failure to notify the Indemnitor shall not relieve the Indemnitor from any liability which it may have to the Indemnified Party except and solely to the extent that such failure or delay in

notification shall have adversely affected the Indemnitor's ability to defend against, settle or satisfy any such Claim.

11.5.2. The Indemnitor shall be entitled, at its cost and expense, to contest or defend any such Claim by all appropriate legal proceedings through attorneys of its own choosing, provided the Indemnitor shall have first notified the Indemnified Party of its intention to do so within twenty (20) Days after its receipt of notice of a Claim from the Indemnified Party. If within twenty (20) Days following such notice of a Claim from the Indemnified Party, the Indemnified Party has not received notice from the Indemnitor that such Claim will be contested or defended by the Indemnitor, the Indemnified Party shall have the right to (i) authorize attorneys satisfactory to it to represent it in connection therewith and/or (ii) subject to the approval of the Indemnitor, which approval shall not be unreasonably withheld or delayed, at any time settle, compromise or pay such Claim, in either of which events the Indemnified Party shall be entitled to indemnification thereof as provided in this Article 11. These provisions in no way prevent the Indemnified Party from taking whatever actions are necessary to defend the Claim during the time before the Indemnified Party learns whether the Indemnitor will contest or defend the Claim. Attorneys' fees and costs accrued by the Indemnified Party during this time are indemnifiable. If required by the Indemnitor, the Indemnified Party shall cooperate fully with the Indemnitor and its attorneys in contesting or defending any such Claim or, if appropriate, in making any counterclaim or cross complaint against the Person asserting the Claim against the Indemnified Party, but the Indemnitor will reimburse the Indemnified Party for any expenses reasonably incurred by the Indemnified Party in so cooperating.

11.5.3. The Indemnitor shall pay to the Indemnified Party in cash all amounts to which an Indemnified Party is entitled by reason of the provisions of this Article 11, such payment to be made within thirty (30) Days after such amounts are finally determined either by mutual agreement or by judgment of a court of competent jurisdiction. Notwithstanding that the Indemnitor is actively conducting a defense or contest of any Claim against an Indemnified Party, such Claim may be settled, compromised or paid by the Indemnified Party without the consent of the Indemnitor; provided however that if such action is taken without the Indemnitor's consent and the Indemnitor's consent was not unreasonably withheld or delayed, its indemnification obligations with respect thereto shall be terminated and the Indemnitor shall have no obligation to the Indemnified Party. The Indemnitor shall have the right to settle, compromise or pay any Claim being defended by the Indemnitor without the Indemnified Party's consent so long as such settlement or compromise does not cause the Indemnified Party to incur any present or future material costs, expense, obligation or liability of any kind or nature, or require any admission or action or forbearance from action by the Indemnified Party that would have a material adverse effect on the Indemnified Party.

11.6 Survival. Subject to Section 18.19, the obligations contained in this Article 11 will survive the expiration or earlier termination of this Agreement but only with respect to an event that may give rise to a Claim that in turn gives rise to a right of indemnification under this Article 11 and such event occurs prior to such expiration or termination.

11.7 Interpretation. To the extent these indemnification clauses or any other indemnification clause in this Agreement do not comply with Chapter 725, Florida Statutes, as may be amended,

these provisions shall hereby be interpreted as the Parties' intention to provide the maximum indemnification allowed by Chapter 725, Florida Statutes, as may be amended.

ARTICLE 12

LIMITATION OF REMEDIES

12.1 Waivers as to Damages. Each of the Parties knowingly, voluntarily and intentionally waives any right or recourse to seek recovery from WVID, its Affiliates, members, officers, directors, employees, agents, lawyers, managers, servants and representatives of any and all of the foregoing, for any damages attributable to any Consultant, Contractor, Construction Administrator or Subcontractor, respectively, as set forth herein, provided that WVID fulfills its obligations in good faith and seeks recovery on behalf of the other Parties as set forth in Sections 12.1.1 and 12.1.2. Notwithstanding the prior sentence, and for the avoidance of confusion, nothing herein shall be interpreted as precluding any Party from exercising any rights it may have under the Guaranty. All liability of WVID hereunder shall be limited to the extent of WVID's applicable insurance limits.

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

12.1.2. Prior to Final Completion, and subject to the Review and Consultation and assistance of ANLBC, WVID hereby agrees to seek recovery: (i) directly from a Consultant, its surety or insurers, for any damages that WVID or any other Party may incur as a result of such Consultant's failure to perform in accordance with the Consultant Contract, or the Consultant's deficient or nonconforming performance under the Consultant Contract, as the case may be, or as a result of such Consultant's negligence; or (ii) directly from the Contractor, its surety and insurers, for any damages that WVID or any other Party may incur as a result of the Contractor's failure to perform in accordance with the Construction Contract, or the Contractor's deficient or nonconforming performance under the Construction Contract, as the case may be, or as a result of such Contractor's negligence; provided, however, that any funds expended by WVID pursuant to its performance of this Section 12.1.2 shall be reimbursed from the Project Budget, and any such recovery would be credited to the Project Budget, subject to Section 5.9.

12.1.3. In performing its obligations under Sections 12.1.1 and 12.1.2 hereof, WVID shall have the right to consult with the County and/or ANLBC to seek a waiver of the obligation to take any action set forth in Sections 12.1.1 and 12.1.2, which may be granted or denied by each of the County and ANLBC in such Party's sole discretion, and to the extent each of the County and ANLBC provide a written waiver of such requirement, WVID is not required to take such action. If the County and/or ANLBC do not consent to such a waiver, such non-consenting Party shall pay all costs associated with such action.

12.1.4. Following Final Completion, the County, as owner of the Facility and the Facility Site, shall be responsible to determine whether to make warranty claims with respect to the Project and whether to pursue claims against the Contractor(s) or Consultant(s) relating to contract performance or construction defects; provided, however, that the County shall not settle any such claims in a way that would cause harm to WVID, without the prior written consent of WVID.

12.2 Waivers Regarding Delays. Except as provided in the Operative Agreements, each Party knowingly, voluntarily and intentionally waives any right or recourse to seek recovery from each of the other Parties for any damages caused by, or resulting from, delays in the Project unless such delays are directly attributable to such other Party's gross negligence or nonperformance of a material term of this Agreement; provided, however, the foregoing shall not limit any other Party's obligation to pay for Cost Overruns for which such Party is responsible, as provided in Section 6.11 hereof.

12.3 Pursuit of Remedies. Notwithstanding anything contained herein, each of WVID, the County and ANLBC may, at its sole option, respectively, pursue recovery against a Consultant and/or Contractor as set forth in Sections 12.1.1 or 12.1.2 for County or ANLBC damages, respectively, in collaboration with, in the case of the County, ANLBC, and in the case of ANLBC, the County, and in collaboration with, or in place of, WVID. Additionally, in the event that WVID is in Default of any of its obligations under this Agreement, each of the County and ANLBC may pursue any and all remedies that it may have against WVID, available at law and in equity, subject to the requirements of Article 11 of this Agreement. Notwithstanding the above, it is acknowledged by each of WVID, the County and ANLBC, respectively, however, that except for those provisions intended to survive the termination of this Agreement as set forth in Section 8.2, such liability to WVID, the County and ANLBC, respectively, shall cease at the same time as the Contractor's liability to WVID ceases pursuant to the Construction Contract.

ARTICLE 13 **DISPUTE RESOLUTION**

13.1 Negotiation. In the event of any claim or dispute among the Parties or their Affiliates arising out of or relating to this Agreement or the breach thereof (each, a "Dispute"), the Parties shall use their best efforts to settle such Dispute in a reasonable manner through amicable negotiations. Upon written request from any Party to conduct such negotiations (the "Dispute Notice"), each Party and their counsel, upon the request of any Party, shall meet or confer via telephone as soon as conveniently possible, but in no case later than ten (10) Days following receipt of the Dispute Notice, to attempt to resolve such Dispute. Prior to any meetings between the Parties, said Parties shall exchange relevant information, as reasonably requested, that will assist the Parties in resolving their Dispute; provided, that for a dispute resolution regarding Change Orders, if requested by a Party in writing, the Parties shall use reasonable best efforts to meet as soon as possible, ideally within forty-eight (48) hours following receipt of the Dispute Notice, to attempt to resolve such Dispute.

13.2 Mediation. In the event the Parties (as applicable, and provided that this Section 13.2 shall not apply to the City) cannot resolve any dispute within thirty (30) Days after such a Dispute Notice, any Party may deliver to the other Party or Parties a notice of private mediation

(the “Mediation Notice”) and such participating Parties shall promptly discuss the selection of a mutually acceptable mediator (the “Mediator”); provided, that for a dispute resolution regarding Change Orders, if requested by a Party in writing, the participating Parties may deliver to the other participating Party or Parties a Mediation Notice within two (2) Business Days. If, within ten (10) Days following the delivery of the Mediation Notice, the participating Parties are unable to mutually agree upon a Mediator; provided, that for a dispute resolution regarding Change Orders, if requested by a Party in writing, the participating Parties shall use reasonable best efforts to agree upon a Mediator within five (5) Days. Any mediation pursuant to this Section 13.2 shall commence within forty-five (45) Days after selection of the Mediator; provided, that for a dispute resolution regarding Change Orders, if requested by a Party in writing, the applicable Parties shall use reasonable best efforts to commence mediation pursuant to this Section 13.2 within ten (10) Days after selection of the Mediator. Upon commencement of such mediation, each participating Party shall use commercially reasonable efforts to resolve the Dispute in good faith. The cost and expense of the Mediator shall be equally shared by the participating Parties and each participating Party shall submit to the Mediator any information or position papers that the Mediator may request to assist in resolving the Dispute. The participating Parties will not attempt to subpoena or otherwise use as a witness any person who serves as a Mediator, and will assert no claims against the mediator as a result of the mediation, and will hold the Mediator harmless from claims by third parties arising out of or relating to the mediation provided for in this Section 13.2. Notwithstanding anything in the above to the contrary, if a Dispute has not been resolved, then any participating Party to the mediation may elect to proceed pursuant to Section 13.4 below. Mediation shall be a condition precedent to any litigation.

13.3 Performance by Parties During Dispute. For the duration of any Dispute, each Party shall continue to perform as required under this Agreement notwithstanding the existence of such Dispute. In the event of a Dispute involving the payment of money, the Parties shall make any required payments, excepting only such amount as may be disputed. For the avoidance of doubt, this Section 13.3 shall be subject to the Custodian Agreement and the Note Purchase Agreement and shall not apply to the Annual Fee.

13.4 Litigation. If a Dispute has not been settled or resolved within the timeframe for mediation set forth in this Article 13, any Party to the Dispute shall further notify the other Party or Parties to such Dispute of its intent to pursue litigation in connection with the Dispute, whereupon any such Party may then commence litigation, and the venue for such litigation shall be the 12th Judicial Circuit Court of Florida located in Sarasota County, Florida. For the avoidance of doubt, this Section 13.4 shall not apply to the City.

ARTICLE 14

DEFAULTS AND REMEDIES

14.1 WVID Default. Each of the following shall constitute a default by WVID hereunder (a “WVID Default”):

- A. The filing by WVID of a petition commencing a voluntary proceeding under the Federal Bankruptcy Code or any other federal, state or local law or statute pertaining to bankruptcy or insolvency; a general assignment by WVID for the

benefit of creditors; an admission in writing by WVID of its inability to pay debts as they become due; the filing by WVID of any petition or answer in any proceeding seeking for itself, or consenting to, or acquiescing in any insolvency, receivership or similar relief under any laws pertaining to bankruptcy or insolvency, or the filing by WVID of an answer or other pleading admitting or failing to deny, or to contest, the material allegations of a petition filed against it in any such proceeding; the seeking or consenting to, or acquiescence by WVID in the appointment of any custodian, trustee, receiver or liquidator of it, or any part of its property; and the commencement against WVID of any involuntary proceeding under the Federal Bankruptcy Code, or a proceeding under any law or statute pertaining to insolvency, which case or proceeding is not dismissed or vacated within ninety (90) Days.

- B.** If any representation or warranty made by WVID in this Agreement shall at any time prove to have been incorrect in any material respect as of the time made, and WVID fails to cause such representation or warranty to become correct within thirty (30) Days after written notice thereof is given to WVID by the County or ANLBC; provided, however, that if it is not reasonably possible to cause such representation or warranty to become correct within such thirty (30) Day period, such cure period shall be extended for up to one hundred eighty (180) Days following the date of the original notice if within thirty (30) Days after such written notice WVID commences and thereafter diligently continues to cause such representation or warranty to become correct.
- C.** The failure of WVID to transmit amounts due to any Contractor or any Consultant under any Construction Contract or any Consultant Contract as and when due under this Agreement, except (i) to the extent that such failure is due to dispute of Contractors' or Consultants' payment, as determined by WVID to be appropriate, subject to ANLBC's Review and Consultation, in accordance with the Local Government Prompt Payment Act, (ii) to the extent such failure is due to the failure of another Party (including, but not limited to, the Construction Administrator) to fund an undisputed funding obligation or request hereunder or otherwise carry out its obligations under this Agreement (including any Disputes resolved through mediation hereunder), or (iii) if the monies due represent a Cost Overrun attributable to another Party as provided in Section 6.11; provided that the County or ANLBC has provided to WVID written notice of such failure, and such failure continues for fifteen (15) Business Days after the receipt by WVID of such written notice.
- D.** If WVID's gross negligence or willful misconduct results in a breach any of its other covenants or agreements in this Agreement (including, without limitation, the obligation of WVID to convey title to the Facility and Facility Site to the County as set forth at Section 3.2B above) other than as referred to in Sections 14.1B and C and such breach is not cured within thirty (30) Days after written notice thereof is given to WVID by the County or ANLBC; provided, however, that if it is not reasonably possible to cure such breach within such thirty (30) Day period, such cure period shall be extended for up to one hundred eighty

(180) Days following the date of the original notice if within thirty (30) Days after such written notice WVID commences and thereafter diligently continues to cure such breach.

14.2 ANLBC Default. Each of the following shall constitute a Default by ANLBC hereunder (an “ANLBC Default”):

- A.** The filing by ANLBC of a petition commencing a voluntary proceeding under the Federal Bankruptcy Code or any other federal, state or local law or statute pertaining to bankruptcy or insolvency; a general assignment by ANLBC for the benefit of creditors; an admission in writing by ANLBC of its inability to pay debts as they become due; the filing by ANLBC of any petition or answer in any proceeding seeking for itself, or consenting to, or acquiescing in any insolvency, receivership or similar relief under any laws pertaining to bankruptcy or insolvency, or the filing by ANLBC of an answer or other pleading admitting or failing to deny, or to contest, the material allegations of a petition filed against it in any such proceeding; the seeking or consenting to, or acquiescence by ANLBC in the appointment of any custodian, trustee, receiver or liquidator of it, or any part of its property; and the commencement against ANLBC of any involuntary proceeding under the Federal Bankruptcy Code, or a proceeding under any law or statute pertaining to insolvency, which case or proceeding is not dismissed or vacated within ninety (90) Days; or
- B.** If any representation or warranty made by ANLBC in this Agreement shall at any time prove to have been incorrect in any material respect as of the time made, and ANLBC fails to cause such representation or warranty to become correct within thirty (30) Days after written notice thereof is given to ANLBC by WVID; provided, however, that if it is not reasonably possible to cause such representation or warranty to become correct within such thirty (30) Day period, such cure period shall be extended for up to one hundred eighty (180) Days following the date of the original notice if within thirty (30) Days after such written notice ANLBC commences and thereafter diligently continues to cause such representation or warranty to become correct.
- C.** If ANLBC fails to pay any amount payable by ANLBC under this Agreement and fails to cure the same within thirty (30) Days after written notice to ANLBC from WVID, except (i) to the extent such failure is due to the failure of another Party to fund an undisputed funding obligation or request hereunder (including any Disputes resolved through mediation hereunder), or (ii) if the monies due represent a Cost Overrun attributable to another Party as provided in Section 6.11; provided, however, that (x) no cure period shall apply to, and no right to cure exists for, the failure of ANLBC to pay any amount it is obligated to pay under this Agreement prior to or on the Funding Date, and (y) the cure period for any failure of ANLBC to pay any amount it is obligated to pay under Section 6.6.2.A shall be limited to any cure period provided in the Facility Operating Agreement. For the avoidance of doubt, in no event shall a Default by the County exempt ANLBC from its Annual Fee payments.

- D.** If ANLBC, in its own right or as Construction Administrator, through its gross negligence or willful misconduct, shall breach any of its other covenants or agreements in this Agreement or any other Operative Agreement other than as referred to in Sections 14.2B and C and such breach is not cured within thirty (30) Days after written notice thereof is given to ANLBC by WVID (or such other cure periods applicable pursuant to such other Operative Agreement); provided, however, that if it is not reasonably possible to cure such breach within such thirty (30) Day period, such cure period shall be extended for up to one hundred eighty (180) Days following the date of the original notice if within thirty (30) Days after such written notice ANLBC commences and thereafter diligently continues to cure such breach.

ANLBC acknowledges and agrees that in the event of an ANLBC Default and failure to cure within the timeframes set forth in this Agreement, ANLBC shall become obligated to pay to WVID the amounts set forth in the Note Purchase Agreement, which may include, without limitation, outstanding balance of principal and interest of the WVID Debt as well as any call premiums, and all revenues due to ANLBC or an ANLBC Affiliate. In the event WVID is unable to obtain specific performance of this Agreement for any reason, WVID shall have the rights to such other remedies as available by law or in equity as a result of such Default.

14.3 Developer Default. Each of the following shall constitute a Default by Developer hereunder (a “Developer Default”):

- A.** The filing by Developer of a petition commencing a voluntary proceeding under the Federal Bankruptcy Code or any other federal, state or local law or statute pertaining to bankruptcy or insolvency; a general assignment by Developer for the benefit of creditors; an admission in writing by Developer of its inability to pay debts as they become due; the filing by Developer of any petition or answer in any proceeding seeking for itself, or consenting to, or acquiescing in any insolvency, receivership or similar relief under any laws pertaining to bankruptcy or insolvency, or the filing by Developer of an answer or other pleading admitting or failing to deny, or to contest, the material allegations of a petition filed against it in any such proceeding; the seeking or consenting to, or acquiescence by Developer in the appointment of any custodian, trustee, receiver or liquidator of it, or any part of its property; and the commencement against Developer of any involuntary proceeding under the Federal Bankruptcy Code, or a proceeding under any law or statute pertaining to insolvency, which case or proceeding is not dismissed or vacated within ninety (90) Days; or
- B.** If any representation or warranty made by Developer in this Agreement shall at any time prove to have been incorrect in any material respect as of the time made, and Developer fails to cause such representation or warranty to become correct within thirty (30) Days after written notice thereof is given to Developer by the County or ANLBC; provided, however, that if it is not reasonably possible to cause such representation or warranty to become correct within such thirty (30) Day period, such cure period shall be extended for up to one hundred eighty (180) Days following the date of the original notice if within thirty (30) Days after such

written notice Developer commences and thereafter diligently continues to cause such representation or warranty to become correct.

- C. If Developer fails to pay any amount payable by Developer under this Agreement and fails to cure the same within thirty (30) Days after written notice to Developer from the County or ANLBC, except (i) to the extent such failure is due to the failure of another Party to fund an undisputed funding obligation or request hereunder (including any Disputes resolved through mediation hereunder), or (ii) if the monies due represent a Cost Overrun attributable to another Party as provided in Section 6.11; provided, however, that no cure period shall apply to, and no right to cure exists for, the failure of Developer to pay any amount it is obligated to pay under Section 6.5.
- D. If Developer's gross negligence or willful misconduct results in a breach of any of its other covenants or agreements in this Agreement (including, without limitation, the covenants regarding the construction of the Mixed-Use Project and the recordation of the Deed Restriction set forth in Section 5.13, and the obligation of Developer to convey title to the Facility Site to WVID as set forth at Section 3.2A above) other than as referred to in Sections 14.3B and C and such breach is not cured within thirty (30) Days after written notice thereof is given to Developer by the County or ANLBC; provided, however, that if it is not reasonably possible to cure such breach within such thirty (30) Day period, such cure period shall be extended for up to one hundred eighty (180) Days following the date of the original notice if within thirty (30) Days after such written notice Developer commences and thereafter diligently continues to cure such breach.
- E. Notwithstanding anything to the contrary herein, in all cases a Developer Default will be subject to cure by the Developer Guarantor pursuant to the terms of the Guaranty.

14.4 Government Party Default. Each of the following shall constitute a Default by either of the County or the City, respectively (a "Government Party Default"):

- A. If any representation or warranty made by the County or the City, respectively, in this Agreement shall at any time prove to have been incorrect in any material respect as of the time made, and such defaulting Party fails to cause such representation or warranty to become correct within thirty (30) Days after written notice thereof is given to such defaulting Party by WVID or ANLBC; provided, however, that if it is not reasonably possible to cause such representation or warranty to become correct within such thirty (30) Day period, such cure period shall be extended for up to one hundred eighty (180) Days following the date of the original notice if within thirty (30) Days after such written notice such defaulting Party commences and thereafter diligently continues to cause such representation or warranty to become correct.
- B. If the County fails to pay any amount payable under this Agreement and fails to cure the same within thirty (30) Days after written notice from WVID or ANLBC;

provided, however, that such cure period shall not apply to, and no right to cure exists for, the failure to pay the amounts set forth in Section 6.4.

- C. If the City fails to pay the City Contribution pursuant to Section 6.3 herein, for which there is no right to cure.
- D. If the County's gross negligence or willful misconduct results in a breach of any of the other covenants or provisions in this Agreement other than as referred to in Sections 14.4A and B and such breach is not cured within thirty (30) Days after written notice thereof is given to the County by WVID or ANLBC; provided, however, that if it is not reasonably possible to cure such breach within such thirty (30) Day period, such cure period shall be extended for up to one hundred eighty (180) Days following the date of the original notice if within thirty (30) Days after such written notice County commences and thereafter diligently continues to cure such breach; provided, further, that no cure period shall apply to, and no rights to cure exists for, any covenant that is required to be performed by a specified date or during a specified period of time.

14.5 Remedies.

14.5.1. Subject to complying with Article 13 with respect to matters that must be addressed through mediation prior to commencing litigation, and in addition to any other rights or remedies, and except as otherwise specifically provided in this Agreement or any of the Operative Agreements, any Party may institute litigation to recover damages for any Default or to obtain any other remedy at law or in equity (including, without limitation, specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy) consistent with the purposes of this Agreement. For the avoidance of doubt, the fact that a Party is not named as a third party beneficiary under another Operative Agreement shall not preclude a Party from enforcing any rights granted to it pursuant to this Agreement; provided, however, that this shall not make such Party a third party beneficiary under such Operative Agreement. Subject to Article 13, to the extent applicable, neither the existence of any claim or cause of action of a Party against another Party, whether predicated on this Agreement or otherwise, nor the pendency of mediation proceedings involving another Party, shall (a) constitute a defense to specific enforcement of the obligations of such other Party under this Agreement or (b) bar the availability of injunctive relief.

14.5.2. Any failure of a Party to exercise any right or remedy as provided in this Agreement shall not be deemed a waiver by that Party of any claim for damages it may have by reason of the Default.

14.6 Termination. Notwithstanding any other provision in this Agreement to the contrary, this Agreement may not be terminated by any Party (upon a Default or otherwise), and each Party waives any right to terminate it may have at law or in equity, except where a specific right of termination is granted to a Party under this Agreement or any other Operative Agreement.

14.7 Exclusive Remedies. The rights and remedies conferred upon or reserved to the Parties in this Article 14 are intended to be the exclusive remedies available to each of them upon a breach

or Default by the other Parties, except as may be otherwise expressly set forth in this Agreement or in any of the other Operative Agreements.

ARTICLE 15

LIMITATIONS OF LIABILITY

15.1 Consequential Damages. Notwithstanding the terms of Article 11, and except where expressly provided for in the Operative Agreements, each of the County, WVID (on behalf of itself and on behalf of WVID Personnel), Developer (on behalf of itself and on behalf of Developer Parties) and ANLBC (on behalf of itself and on behalf of the ANLBC Parties) does hereby knowingly, voluntarily and intentionally waive any claims against the other Parties for any incidental, special, punitive, indirect, or consequential loss or damage (including, without limitation, lost profits), under contract, or in tort (including negligence, fault and strict liability), warranty, or any other theory of law or equity of any nature arising, at any time, however the same may be caused, including the fault or negligence of the other Parties, in any way related to the Facility or the Project.

15.2 Failure to Waive Consequential Damages. In the event that any Party subject to Section 15.1 does not waive any claim against one or more of the other Parties as required in Section 15.1, such non-waiving Party agrees to indemnify, defend, and save harmless the other Parties from all such claims made by the non-waiving Party, respectively, including reasonable attorneys' fees and costs.

15.3 No Liability for Assigned Contracts or Plans. Each of the County, the City, and ANLBC (on behalf of itself and on behalf of ANLBC Parties) does hereby knowingly, voluntarily and intentionally waive any claims against Developer and WVID for any loss or damage, under contract, or in tort (including negligence, fault and strict liability), warranty, or any other theory of law or equity of any nature arising out of or related to the provisions of any contract or plan assigned to the Developer Parties or WVID Personnel, in such form as such contract or plan is assigned (including, without limitation, any Design Contract assigned pursuant to Section 5.2).

15.4 ANLBC Waiver of Claim. Notwithstanding anything to the contrary herein, ANLBC acknowledges and agrees that neither WVID nor Developer shall be liable for any decisions made (on behalf of themselves, WVID Personnel, and Developer Parties) in which ANLBC or the Construction Administrator participated or was provided notice (including, without limitation, through the ANLBC Representative, the County Representative, City Representative and the WVID Representative) and did not object within seven (7) Business Days.

15.5 WVID Standard of Care. Notwithstanding anything to the contrary herein, the Parties understand and agree that WVID intends to perform its obligations under Article 5 through its Contractors and Consultants, and, subject to the provisions of Article 12, the Parties agree that, as third party beneficiaries under such agreements, the Parties shall first look to such Contractors and Consultants and the Construction Administrator, and not WVID, for any failure of performance relating to Article 5. Accordingly, in the performance of its obligations under Article 5, WVID shall not be liable to any Party except for acts of gross negligence or willful misconduct by WVID. The limitations set forth herein apply not only to WVID's Contractors

and Consultants, but also to WVID's contractors and consultants working on the design and construction of the Off-Site Infrastructure Work and the Irrigation Improvements Work.

ARTICLE 16 **REPRESENTATIONS**

16.1 Developer Representations. Developer represents and warrants that, as of the Effective Date:

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

16.1.2. **No Violation of Law.** Developer is not in violation of any applicable Public Laws, which violations, individually or in the aggregate, could reasonably be expected to adversely affect its ability to perform its obligations under this Agreement.

16.1.3. **Consents.** To its knowledge, neither the execution and delivery by Developer of this Agreement nor the consummation of any of the transactions by Developer that may be contemplated hereby requires the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any regulatory authority or agency.

16.1.4. **Execution and Delivery.** This Agreement has been duly executed and delivered by Developer and constitutes the legal, valid and binding obligation of Developer enforceable in accordance with the terms hereof.

16.1.5. **Litigation.** Developer is not a party to any legal, administrative, arbitration, investigative (to the best of its knowledge) or other proceeding or controversy pending or, to the best of its knowledge, threatened, which could reasonably be expected to have a material adverse effect on its business, operations, condition (financial or otherwise) or its ability to perform under this Agreement.

16.2 ANLBC Representations. ANLBC represents and warrants that, as of the Effective Date:

16.2.1. **Corporate Standing.** ANLBC is a duly organized limited liability company, validly existing and in good standing under the laws of the State of Georgia, is qualified to do business in the State of Florida and that the execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action and will not violate any material provision of any Public Laws, or violate any material provisions of ANLBC's Certificate of Formation, Limited Liability Company Agreement or any other agreement or instrument to which it is a party or by which it or its property may be bound or affected.

16.2.2. **No Violation of Law.** ANLBC is not in violation of any applicable Public Laws, which violations, individually or in the aggregate, could adversely affect its ability to perform its obligations under this Agreement.

16.2.3. **Consents.** To its knowledge, neither the execution and delivery by ANLBC of this Agreement nor the consummation of any of the transactions by ANLBC that may be contemplated hereby requires the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any regulatory authority or agency.

16.2.4. **Execution and Delivery.** This Agreement has been duly executed and delivered by ANLBC and constitutes the legal, valid and binding obligation of ANLBC enforceable in accordance with the terms hereof.

16.2.5. **Litigation.** ANLBC is not a party to any legal, administrative, arbitration, investigative (to the best of its knowledge) or other proceeding or controversy pending or, to the best of its knowledge, threatened, which could have a material adverse effect on its business, operations, condition (financial or otherwise) or its ability to perform under this Agreement.

16.3 County Representations. The County represents and warrants that, as of the Effective Date:

16.3.1. **Standing, Execution and Delivery.** The County is a duly organized and validly existing political subdivision of the State of Florida; and that this Agreement has been authorized by all necessary bodies and parties required for its execution, is validly executed by the County, and is binding upon and enforceable against the County in accordance with its terms.

16.3.2. **No Conflicts.** Except as previously disclosed to the other Parties in writing, the execution, delivery and performance of this Agreement and the Facility Operating Agreement by the County are not prohibited by and do not conflict with any other agreements, instruments, judgments or decrees to which the County is a party.

16.3.3. **Litigation.** Except as otherwise disclosed to the other Parties in writing, to its actual knowledge, no suit is pending which has been served upon the County or of which the County has actual knowledge, before or by any court or governmental body seeking to restrain or prohibit, or seeking damages or other relief in connection with, the execution and delivery of, or the consummation of the transactions contemplated in and by, this Agreement or which might materially and adversely affect the construction, use and operation of the Facility as contemplated in and by this Agreement.

16.4 City Representations. The City represents and warrants that, as of the Effective Date:

16.4.1. **Standing, Execution and Delivery.** The City is a duly organized and validly existing Florida municipal corporation; and that this Agreement has been authorized by all necessary bodies and parties required for its execution, is validly executed by the City, and is binding upon and enforceable against the City in accordance with its terms.

16.4.2. **No Conflicts.** Except as previously disclosed to the other Parties in writing, the execution, delivery and performance of this Agreement by the City is not prohibited by and

does not conflict with any other agreements, instruments, judgments or decrees to which the City is a party.

16.4.3. **Litigation.** Except as otherwise disclosed to the other Parties in writing, to its actual knowledge, no suit is pending which has been served upon the City or of which the City has actual knowledge, before or by any court or governmental body seeking to restrain or prohibit, or seeking damages or other relief in connection with, the execution and delivery of, or the consummation of the transactions contemplated in and by, this Agreement or which might materially and adversely affect the construction, use and operation of the Facility as contemplated in and by this Agreement.

16.5 WVID Representations. WVID represents and warrants that, as of the date of the Effective Date:

16.5.1. **Standing, Execution and Delivery.** WVID is a duly organized and validly existing independent special district created pursuant to Chapter 189, Florida Statutes and Chapter 2004-456, Laws of Florida, as amended; and that this Agreement has been authorized by all necessary bodies and parties required for its execution, is validly executed by WVID, and is binding upon and enforceable against WVID in accordance with its terms.

16.5.2. **No Conflicts.** Except as previously disclosed to the other Parties in writing, the execution, delivery and performance of this Agreement by WVID is not prohibited by and does not conflict with any other agreements, instruments, judgments or decrees to which WVID is a party.

16.5.3. **Litigation.** Except as otherwise disclosed to the other Parties in writing, to its actual knowledge, no suit is pending which has been served upon WVID or of which WVID has actual knowledge, before or by any court or governmental body seeking to restrain or prohibit, or seeking damages or other relief in connection with, the execution and delivery of, or the consummation of the transactions contemplated in and by, this Agreement or which could reasonably be expected to materially and adversely affect the construction, use and operation of the Facility as contemplated in and by this Agreement.

16.6 Developer Guarantor Representations. Developer Guarantor represents and warrants that, as of the Effective Date:

16.6.1. **Corporate Standing.** Developer Guarantor is a duly organized corporation, validly existing and in good standing under the laws of the State of Delaware, is qualified to do business in the State of Delaware and that the execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action and will not violate any material provision of any Public Laws, or violate any material provisions of Developer Guarantor's certificate of incorporation, bylaws or any other agreement or instrument to which it is a party or by which it or its property may be bound or affected.

16.6.2. **No Violation of Law.** Developer Guarantor is not in violation of any applicable Public Laws, which violations, individually or in the aggregate, could reasonably be expected to adversely affect its ability to perform its obligations under this Agreement.

16.6.3. **Consents.** To its knowledge, neither the execution and delivery by Developer Guarantor of this Agreement nor the consummation of any of the transactions by Developer Guarantor that may be contemplated hereby requires the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any regulatory authority or agency.

16.6.4. **Execution and Delivery.** This Agreement has been duly executed and delivered by Developer Guarantor and constitutes the legal, valid and binding obligation of Developer Guarantor enforceable in accordance with the terms hereof.

16.6.5. **Litigation.** Developer Guarantor is not a party to any legal, administrative, arbitration, investigative (to the best of its knowledge) or other proceeding or controversy pending or, to the best of its knowledge, threatened, which could reasonably be expected to have a material adverse effect on its business, operations, condition (financial or otherwise) or its ability to perform under this Agreement.

16.7 Mutual Covenants.

16.7.1. Should any Party receive knowledge about any matter which may constitute a breach of any of its warranties or covenants set forth in this Article 16 which arises after the Effective Date, it shall promptly notify the other Parties of the same in writing.

16.7.2. In exercising its rights and fulfilling its obligations under this Agreement, each of the Parties shall act in good faith. Notwithstanding the foregoing, each Party acknowledges that in each instance under this Agreement where a Party is obligated to exercise good faith or to use good faith efforts, such Party shall not be required to expend any funds, or grant any other consideration of any kind, in the performance of such undertaking (unless otherwise required pursuant to this Agreement), and each Party further acknowledges that the obligation of any Party to act in good faith, or undertake good faith efforts does not constitute a warranty, representation or other guaranty that the result which the Parties are attempting to achieve will be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

ARTICLE 17 **ASSIGNMENT**

17.1 Developer Assignment. Developer shall not sell, assign, convey, transfer, pledge, delegate, or otherwise dispose of voluntarily or involuntarily (each, a “Transfer”) this Agreement or any of its rights under this Agreement without the prior written consent of the City, the County, WVID and ANLBC; provided, however, that such consent shall not be unreasonably withheld, conditioned or delayed. Except as provided in Section 18.4 herein, Developer shall not be unreasonably required to provide confidential information to the City, the County, WVID and ANLBC pursuant to acquiring such Parties’ consent to any such Transfer; provided, further, that that Developer may, without the prior written consent of the City, the County and WVID, (a) Transfer any or all of its rights hereunder to one or more Affiliates of Developer, pursuant to which Developer shall be relieved of its obligations under this Agreement from and after the date

of such a Transfer; (b) a pledge or collateral assignment of any or all of its rights hereunder to any provider, guarantor or insurer of financing to Developer or its Affiliates, provided that such pledge or collateral assignment shall not relieve Developer of its obligations under this Agreement; or (c) a Transfer in connection with a sale of all or substantially all of (i) the real property directly adjacent to the Facility that is currently owned by Developer or (ii) the ownership interest in Developer. Notwithstanding the foregoing, any such Transfer will be subject to a guarantee from a replacement guarantor pursuant to the terms of the Guaranty.

17.2 ANLBC Assignment. ANLBC shall not Transfer this Agreement or any of its rights under this Agreement without the prior written consent of the City, the County and WVID; provided, however, that ANLBC may, without the prior written consent of the County and WVID, (a) Transfer all of its rights hereunder to any Person (or Affiliate of any Person) that acquires directly or indirectly the controlling interest in ANLBC or the Team with the approval of MLB, or (b) Transfer any or all of its rights hereunder to one or more Affiliates of ANLBC, provided that (x) such transferee executes and delivers to the County and WVID its agreement, in form and substance reasonably satisfactory to the County and WVID, to assume all of the obligations of ANLBC under this Agreement and to keep and perform all provisions of this Agreement, and (y) such transferee or its Affiliates assume all of the other obligations of ANLBC and its Affiliates under the other Operative Agreements; provided that in no event will such assumption relieve ANLBC of its obligations under this Agreement.

17.3 Governmental Assignment. The County, the City and WVID shall not Transfer this Agreement or any of their rights hereunder, and the County shall not Transfer its ownership of the Facility, without the prior written consent of the Parties.

17.4 Transfers Voided. Any Transfer or attempted Transfer by a Party in violation of this Article 17 shall be void.

ARTICLE 18

MISCELLANEOUS PROVISIONS

18.1 Public Entity Crimes. As provided in Section 287.133, Florida Statutes, by entering into this Agreement or performing any Work in furtherance hereof, each of the Parties certify that it (and for ANLBC, the Construction Administrator), and to the best of its knowledge, information and belief, its Affiliates, suppliers, Contractors, Subcontractors and Consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the Effective Date. This notice is required by Section 287.133(3)(a), Florida Statutes. WVID will contractually obligate the Contractor to submit to WVID, and to cause its Subcontractors and consultants to submit to WVID, the certification set forth in this Section 18.1, with respect to such Subcontractors and Consultants.

18.2 Scrutinized Companies. Pursuant to Section 287.135, Florida Statutes, and by entering into this Agreement or performing any Work in furtherance hereof, each of the Parties certify that it (and for ANLBC, the Construction Administrator), and to the best of its knowledge, information and belief, its respective Affiliates, suppliers, Contractors, Subcontractors and Consultants who will perform hereunder:

- A. Has not been found to have submitted a false certification as provided under Section 287.135, Florida Statutes;
- B. Has not been placed on the Scrutinized Companies that Boycott Israel List, and has not engaged in a boycott of Israel;
- C. Has not been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- D. Has not been engaged in business operations in Cuba or Syria.

WVID will contractually obligate the Contractor to submit to WVID, and to cause its Subcontractors and consultants to submit to WVID, the certification set forth in this Section 18.2, with respect to such Subcontractors and Consultants.

18.3 Sovereign Immunity. The Parties agree that nothing in this Agreement shall be deemed a waiver of WVID's, the County's or the City's sovereign immunity or WVID's, the County's or the City's limits of liability as set forth in Section 768.28, Florida Statutes or other statute or law, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

18.4 Access and Audits and Public Records

18.4.1. WVID shall maintain adequate records to reasonably justify all charges, expenses and costs incurred in completing the Project for at least twelve (12) months after Substantial Completion or as otherwise required by Chapter 119, Florida Statutes, or other laws. Pursuant to Chapter 119, Florida Statutes, and without intending to amend the same, each of the County and ANLBC shall have access to such books, records, and documents at WVID's local records office in Sarasota County as required in this Section 18.4 for the purpose of inspection or audit during normal business hours, provided however that, subject to Chapter 119, Florida Statutes, the County or ANLBC, as relevant, shall make reasonable best efforts to notify WVID no less than ten (10) Days prior to the date of such inspection or audit.

18.4.2. The Parties understand and agree that all documents of any kind provided to WVID, the City or the County in connection with this Agreement may be considered public records in accordance with Chapter 119, Florida Statutes, and other Florida law. Accordingly, the Parties agree to comply with all such laws, cooperate to retain such records for the applicable time periods established under Florida law, and provide such records in response to any public records requests. Each Party shall promptly notify the other Parties in the event that the Party receives a request for any such records.

18.4.3. The Parties shall comply with the requirements of Section 119.0701, Florida Statutes, as amended, and, as part of any public agency contract for services where a contractor is acting on behalf of the public agency, shall require the contractor to comply with Florida law relating to public records, including but not limited to the following requirements:

- A. Keep and maintain public records that ordinarily and necessarily are required by WVID in order to complete the Project as provided under this Agreement.
- B. Maintain all public records in a readily accessible, organized format consistent with the requirement of identifying, retrieving and providing prompt and frequent access to records.
- C. Provide the public with access to public records on the same terms and conditions that WVID is by law required to furnish, and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- D. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements pursuant to Florida law are not disclosed, including but not limited to, records that are exempt pursuant to Sections 255.047, Florida Statutes and 125.0104(9), Florida Statutes, except as may be authorized by law.
- E. In the event that all or a portion of such documents are exempt and/or confidential and exempt in accordance with Florida law, the Party shall state the basis for the exemption and provide the statutory citation for same, and shall redact part of a record if an exemption applies to part of a record, while producing the remainder of the record.

IF THE PARTIES HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THEIR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT WVID'S CUSTODIAN OF PUBLIC RECORDS AT DISTRICT MANAGER, WEST VILLAGES IMPROVEMENT DISTRICT, c/o TODD WODRASKA, SPECIAL DISTRICT SERVICES, INC., 2501A BURNS ROAD, PALM BEACH GARDENS, FLORIDA 33410, TWODRASKA@SDSINC.ORG, (877) 737-4922.

18.4.4. Failure to comply with the requirements of this Section 18.4 constitutes a material breach of this Agreement.

18.5 Indebtedness. No Party shall pledge the credit of another Party or make another Party a guarantor of payment or a surety for any contract, debt, obligation, judgment, Lien or any form of indebtedness; provided however, this provision shall not be deemed or construed to abrogate or diminish any Party's obligations under the Operative Agreements. Each of Developer and ANLBC further warrant and represent that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

18.6 Notice. All notices and elections (collectively, "Notices") to be given or delivered by or to any Party hereunder shall be in writing and shall be (as elected by the Party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any Notice shall be the date of delivery of the Notice if by personal delivery, courier services, or national overnight delivery service, or if mailed, upon the date which the

return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The Parties hereby designate the following addresses as the addresses to which Notices may be delivered, and delivery to such addresses shall constitute binding notice given to such Party (except that any Party may change the address for service of Notices required or permitted hereunder upon ten (10) Days' prior written notice) (and notices may be given, on behalf of a Party, by the attorney for such Party in accordance with the terms of this Section 18.6):

For notice to the County:

County Administrator
1660 Ringling Blvd.
Sarasota, FL 34236

With a copy to:

County Attorney
1660 Ringling Blvd.
Sarasota, FL 34236

For notice to the City:

City Manager
City of North Port
4970 City Hall Blvd.
North Port, FL 34286

With a copy to:

City Attorney
City of North Port
4970 City Hall Blvd.
North Port, FL 34286

For notice to WVID:

C/o Special District Services
The Oaks Center
2501A Burns Road
Palm Beach Gardens FL 33410
United States of America
Attn: District Manager
Email: pm@westvillagesid.org

With copies (which shall not constitute notice) to:

O'Melveny & Myers LLP
Times Square Tower
7 Times Square
New York, NY 10036
Attention: Irwin Raij, Esq.
E-mail: irajj@omm.com

And

Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, FL 32301
Attention: Jonathan Johnson, Esq.
E-mail: jonathanj@hgslaw.com

For notice to Developer:

Manasota Beach Ranchlands, LLLP
Attn: Leslie Candes
4901 Vineland Road, Suite 450
Orlando, FL 32811

With copies (which shall not constitute notice) to:

7350 Point of Rocks Road
Sarasota, Florida 34242
Attention: John Peshkin

And

Williams Parker Harrison Dietz & Getzen
Attn: E. John Wagner, II, Esq.
200 South Orange Avenue
Sarasota, FL 34236
Telephone: 941-536-2037
Facsimile: 941-366-5109

For notice to ANLBC:

Mr. Terry McGuirk
CEO
Atlanta National League Baseball Club, LLC
755 Battery Avenue SE
Atlanta, GA 30339

With copies to:

Mr. Greg Heller
Executive Vice President & Chief Legal Officer
Atlanta National League Baseball Club, LLC
755 Battery Avenue SE
Atlanta, GA 30339

And

DLA Piper LLP (US)
1201 West Peachtree Street, Suite 2800
Atlanta, GA 30309
Attention: Maxine Hicks, Esq.
E-mail: maxine.hicks@dlapiper.com

18.7 Most Favored Nation Provision. In the event the County, the City, or any agency created by the County or the City, or Developer or WVID, enters into or permits (including, without limitation, any grant by such party's acquiescence in a third party's exercise of rights not expressly granted to it) any agreement or other arrangement with any other MLB team or affiliate of an MLB team for a Spring Training facility with financial terms more favorable than the financial terms set forth herein, the County, the City, Developer and/or WVID, as applicable, shall provide written notice of such financial terms to ANLBC and ANLBC shall have the right to modify the financial terms of this Agreement to reflect such more favorable financial terms, with such more favorable terms to be substituted for the corresponding terms of this Agreement for the term hereof, and which shall be retroactive to the effective date of such more favorable terms. ANLBC and its designees shall be provided with such further information as may be reasonably necessary in connection with the foregoing, and shall be afforded a reasonable opportunity to review and audit the records of the County, the City, and/or any agency created by the County or the City, or Developer or WVID during normal business hours in connection with the exercise of the foregoing. Notwithstanding the foregoing, this Section 18.7 shall not apply to agreements or arrangements with the Baltimore Orioles that may involve modifications to the existing Memorandum of Understanding between the County and the Baltimore Orioles or other agreements with respect to renovations, improvements, expansions or the provision of additional facilities at either the Ed Smith Stadium Complex or the Buck O'Neil Baseball Complex.

18.8 Major League Baseball Subordination. Notwithstanding any other provision of this Agreement, this Agreement and any rights or exclusivities granted by ANLBC hereunder shall in all respects be subject and subordinate to the MLB Rules and Regulations to the extent uniformly applied to Major League Clubs and not with a purpose to change or affect this Agreement, other Operative Agreements, or the Facility without materially affecting other stadium facilities. The issuance, entering into, amendment or implementation of any of the MLB Rules and Regulations shall be at no cost or liability to any MLB Entity. ANLBC will cause MLB to deliver a no objection letter with respect to this Agreement, and no amendment of this Agreement may be made without first obtaining all necessary MLB approvals.

18.9 Governing Law and Venue. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. The Parties acknowledge that personal jurisdiction upon proper service will be valid in the State of Florida, and that venue of all actions arising out of or related to this Agreement shall be proper only in the Circuit Court of the Twelfth Judicial Circuit in Sarasota County, Florida.

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

18.11 Construction. No Party shall be considered the author of this Agreement since the Parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final agreement. Thus, the terms of this Agreement shall not be strictly construed against one Party as opposed to the other Party based upon who drafted it. In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

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

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

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

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

18.16 Compliance with Laws. None of the Parties hereto shall in any manner, directly or indirectly, violate the laws, ordinances, rules or regulations of any federal, state, county, city or

other governmental authority or agency in connection with the development, construction, use, operation and occupancy of the Facility under the terms of this Agreement.

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

18.18 Attorney's Fees. In the event of litigation arising under, or in connection with, this Agreement, the prevailing Party shall be entitled, in addition to all other relief, to reasonable attorneys' fees and taxable court costs relating to such litigation, including attorneys' fees and costs incurred in pre-trial, trial and appellate levels and any proceeding to compel mediation. The nonprevailing Party shall be responsible for all taxable court costs of the litigation. This provision shall survive the termination of this Agreement for any reason.

18.19 Survival Following Substantial Completion. The warranties and indemnities provided under this Agreement shall survive for a period of five (5) years after Substantial Completion of the Facility; however, the rights and obligations under Article 12 shall survive during the entire term of the Facility Operating Agreement.

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

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

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

18.23 Force Majeure. Except as otherwise provided herein, no Party shall be in default under, or breach of, this Agreement to the extent it is unable to perform due to an event of Force Majeure. The Party claiming the occurrence of a Force Majeure event shall promptly notify the other Parties of such occurrence, and the likely duration and termination thereof.

18.24 Counterparts. This Agreement may be executed and electronically mailed by each of the Parties to the other Parties and the executed electronic mail copy shall be binding and enforceable as an original. This Agreement may be executed in as many counterparts as may be required and it shall not be necessary that the signature of, or on behalf of, each Party or that the signatures of all Persons required to bind any Party, appear on each counterpart; it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the Persons

required to bind any Party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.

18.25 No Agency. No Party shall be an employee, agent, or servant of any other Party in its performance of the services and activities under this Agreement, but rather, any such Party shall be an Independent Contractor, and in all respects the relationship of any such Party and the relationship of its employees to the other Parties shall be that of an Independent Contractor and not as employees or agents of such Parties. Nothing herein shall be deemed to create a joint venture, agency or partnership relationship between any of the Parties.

18.26 Non-Discrimination. Each of the Parties warrants and represents that all of its employees are treated equally during employment without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information. Each of Developer and ANLBC have submitted to County a copy of its non-discrimination policy which is consistent with this paragraph, or in the alternative, if either of Developer or ANLBC does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to County that it will conform to the County's non-discrimination policy.

18.27 Third Party Beneficiary. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any Person or entity not a party to this Agreement, including but not limited to any citizen of the City or the County or any employee, other agent, or customer of, or other person associated with, the Parties.

18.28 Further Assurances and Corrective Instruments. Subject to Public Laws, the Parties each agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements and amendments hereto and such further instruments as may be reasonably required for carrying out the intentions of the Parties or facilitating the performance of this Agreement and the other Operative Agreements, including but not limited to minor boundary line adjustments or easement grants relating to the Facility Site or the Academy Site and adjustments of the WVID Construction Account, the WVID Debt Account, and other similar accounts, to be in compliance with Public Laws and best practices for financing the Project, provided that the rights of the Parties in connection with this Agreement are not impaired thereby.

THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK

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

COUNTY:

SARASOTA COUNTY,
a charter county and political subdivision of the State of Florida

By: _____

Name: _____

Title: _____

CITY:

NORTH PORT, FLORIDA,
a Florida municipal corporation

By: _____
Name: _____
Title: _____

WVID:

WEST VILLAGES IMPROVEMENT DISTRICT,

an independent special district created pursuant to Chapter 189, Florida Statutes and Chapter 2004-456, Laws of Florida, as amended

By: _____

Name: _____

Title: _____

DEVELOPER:

MANASOTA BEACH RANGLANDS, LLLP,
a Florida limited liability limited partnership

By: Thomas Ranch Villages GP, LLC,
a Delaware limited liability company, its general partner

By: Thomas Ranch Manager, LLC,
a Delaware limited liability company, its manager

By: _____
Name: _____
Title: _____

DEVELOPER GUARANTOR:

CALBEN (US) CORPORATION,
a Delaware corporation

By: _____
Name: _____
Title: _____

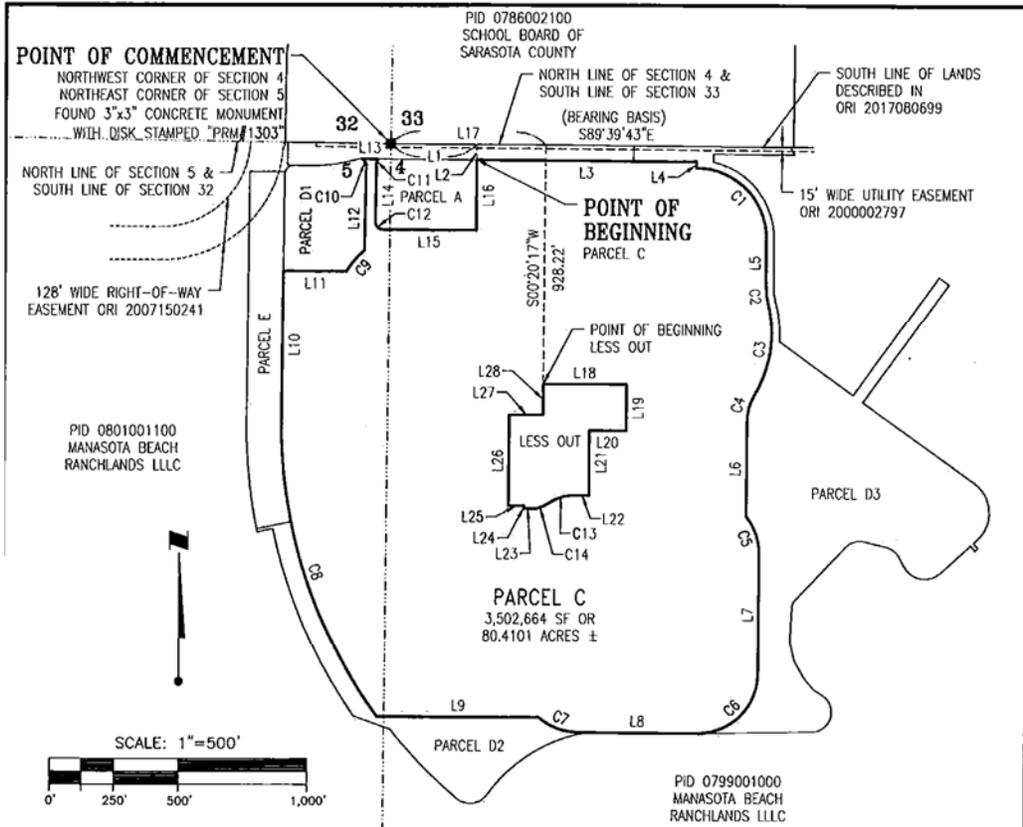
ANLBC:

ATLANTA NATIONAL LEAGUE BASEBALL CLUB, LLC,
a Georgia limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A
LEGAL DESCRIPTION OF FACILITY SITE

See attached.



ABBREVIATIONS:

- ORI -- OFFICIAL RECORD INSTRUMENT NUMBER
- PID -- PROPERTY IDENTIFICATION NUMBER
- SF -- SQUARE FEET

SEE SHEET 2 FOR TABLES
SEE SHEET 3 FOR LEGAL DESCRIPTION

PARCEL C

REV. "A"; REVISED 15' UTILITY EASEMENT AND REMOVED HATCH; 8/14/17; EDM
FOR: MANASOTA BEACH RANCHLANDS, LLLC

This is NOT a Survey and Not valid without all sheets.

Aug 14, 2017 - 14:01:15 EDM\JAK\2156\active\215614091\survey\drawing\S & D\215614091v--spsk03.dwg

SKETCH & DESCRIPTION OF A
TRACT OF LAND LYING IN
SECTIONS 4 & 5, TOWNSHIP 40 S., RANGE 20 E.,
SARASOTA COUNTY, FLORIDA



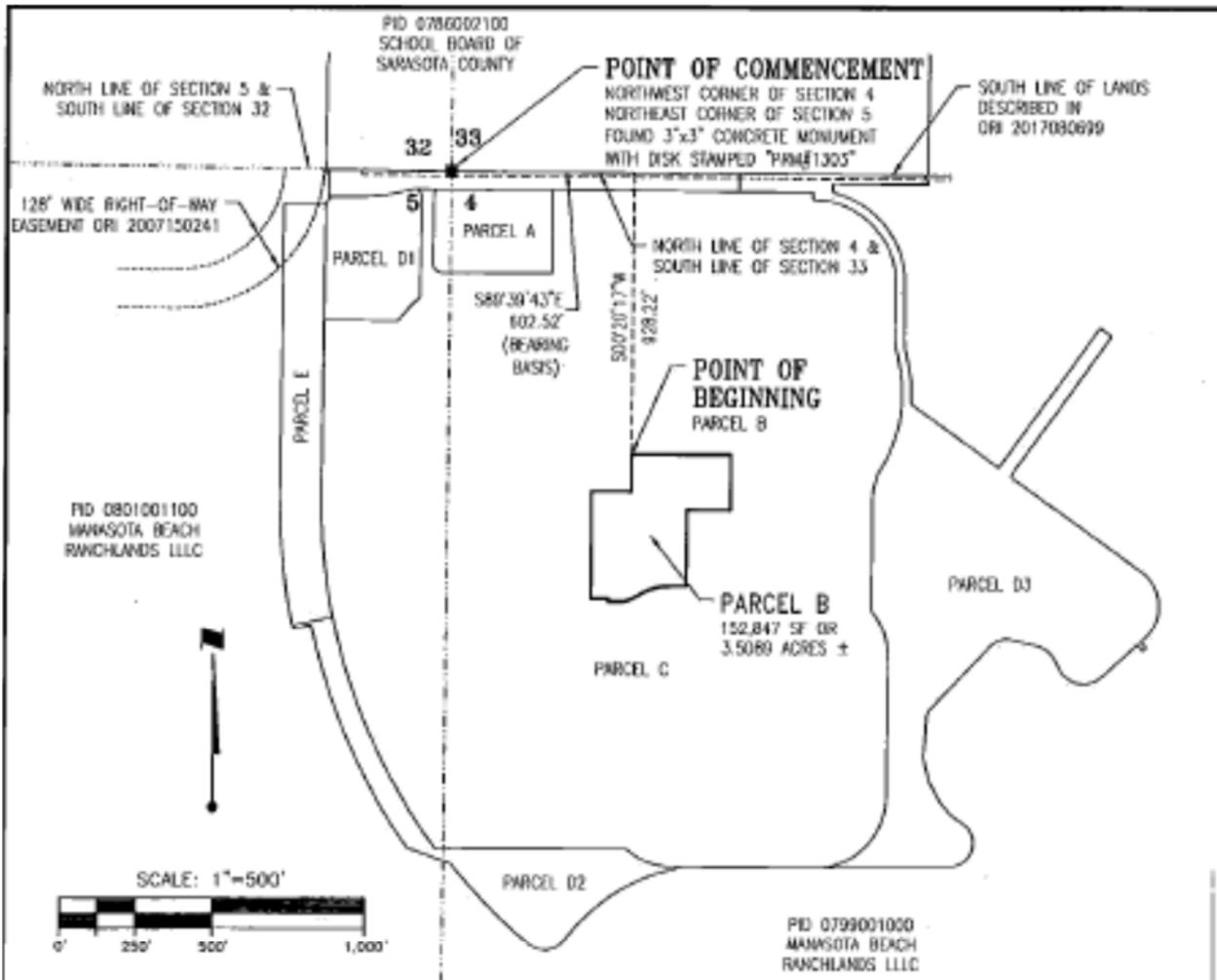
Stantec

6900 Professional Parkway East, Sarasota, FL 34240-8414
Phone 941-907-6900 • Fax 941-907-6919
Certificate of Authorization #02713 • www.stantec.com
Licensed Business Number 7286

TASK CODE: 220	DRAWN BY: EDM	CHECKED BY: JAK	CAD FILE: 215614091v--spsk03	PROJECT NO: 215614091	SHEET 1 OF 3	DRAWING INDEX NO: 215614091v--spsk03	REV. A
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EXHIBIT A-1
LEGAL DESCRIPTION OF ACADEMY SITE

See attached.



ABBREVIATIONS:

- ORI - OFFICIAL RECORD INSTRUMENT NUMBER
- PID - PROPERTY IDENTIFICATION NUMBER
- SF - SQUARE FEET

SEE SHEET 2 FOR DETAIL.
SEE SHEET 3 FOR LEGAL DESCRIPTION

PARCEL B

REV. "A"; REVISED 15' UTILITY EASEMENT AND REMOVED HATCH; 8/14/17; EDM
FOR: MANASOTA BEACH RANCHLANDS, LLC

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Aug 14, 2017 - 14:09:06 EDM:AR\2156\active\215614091\survey\drawing\5 & 0\215614091v-spsk02.dwg

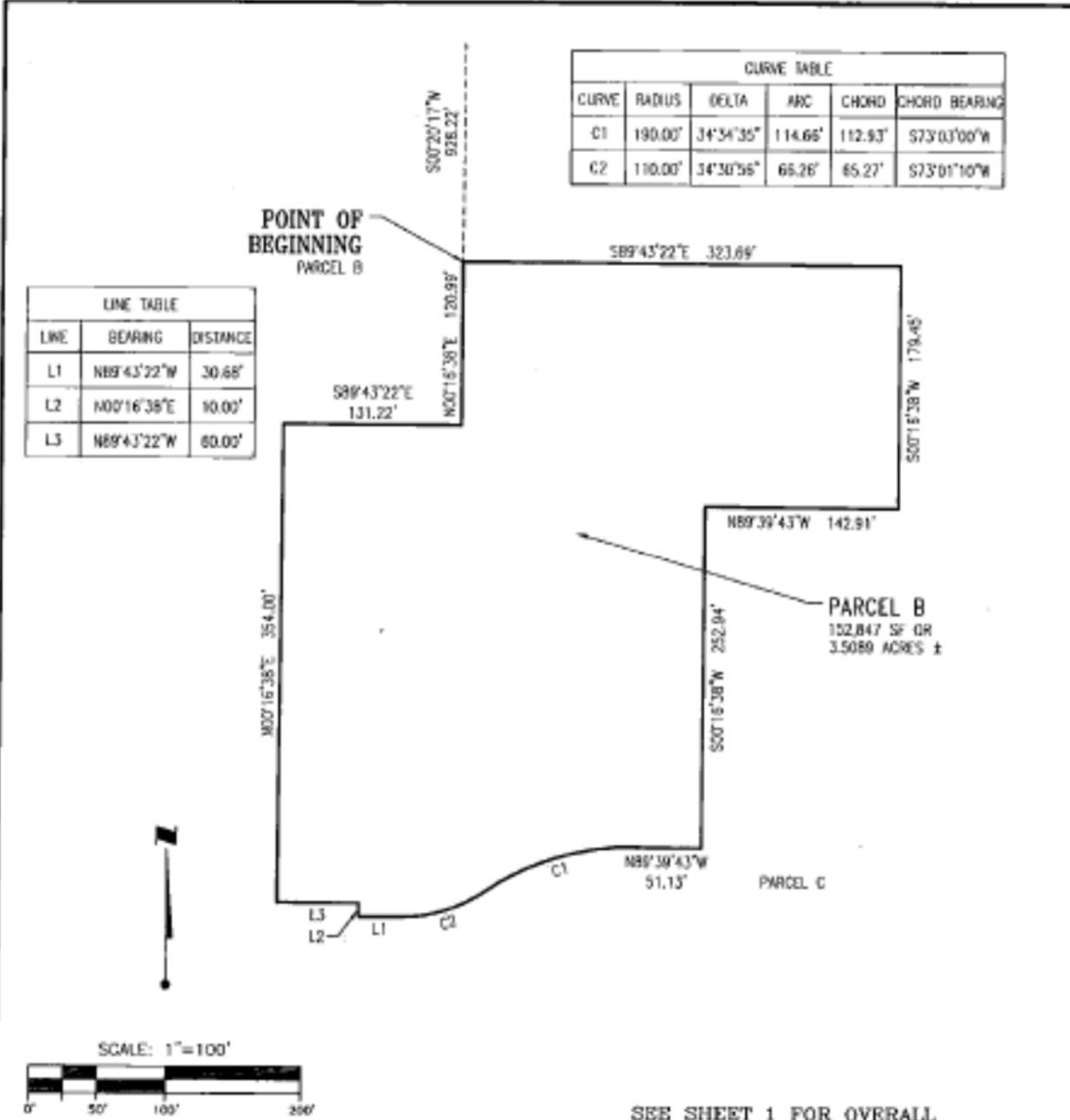
SKETCH & DESCRIPTION OF A
TRACT OF LAND LYING IN
SECTION 4, TOWNSHIP 40 S., RANGE 20 E.,
SARASOTA COUNTY, FLORIDA



Stantec

605 Professional Parkway East, Sarasota, FL 34240-4111
Phone 941.557.1500 • Fax 941.557.4510
Certified Professional Surveyors • www.stantec.com
Equal Opportunity Employer

TASK CODE: 220	DRAWN BY: CDM	CHECKED BY: JMK	CAD FILE: 215614091v-spsk02	PROJECT NO: 215614091	SHEET 1 OF 3	DRAWING INDEX NO: 215614091v-spsk02	REV. A
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CURVE TABLE					
CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	190.00'	34°34'35"	114.66'	112.93'	S73°03'00"W
C2	110.00'	34°30'56"	66.26'	65.27'	S73°01'10"W

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N89°43'22"W	30.68'
L2	N00°16'38"E	90.00'
L3	N89°43'22"W	80.00'

PARCEL B

SEE SHEET 1 FOR OVERALL
SEE SHEET 3 FOR LEGAL DESCRIPTION

REV. "A"; REVISED 15' UTILITY EASEMENT AND REMOVED HATCH; 8/14/17; EDM
FOR: MANASOTA BEACH RANCHLANDS, LLC

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Aug 14, 2017 -- 14:00:36 EDM:\AP\2156\active\215614091\asrmy\ukrwing\5 & 0\215614091v--spk02.dwg

SKETCH & DESCRIPTION OF A
TRACT OF LAND LYING IN
SECTION 4, TOWNSHIP 40 S., RANGE 20 E.,
SARASOTA COUNTY, FLORIDA



Stantec

1000 Professional Parkway East, Sarasota, FL 34236-6844
Phone: 941-551-6586 • Fax: 941-551-6119
Circle K of Florida #100 • www.stantec.com
Landscape Architecture Division

TASK CODE: 220	DRAWN BY: EDM	CHECKED BY: JAK	CAD FILE: 215614091v--spk02	PROJECT NO: 215614091	SHEET: 2 of 3	DRAWING INDEX NO: 215614091v--spk02	REV: A
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EXHIBIT B **PROGRAM**

Ballpark

- Playing field dimensions should mirror those of SunTrust Park:
 - Starting in LF corner, at each break in the wall: 335/375/385/400/402/375/325
 - The outfield wall height(s), foul territory area and distance from home plate to the backstop should be similar to those in SunTrust Park
- ~6,200 Fixed Seats and areas to accommodate at least 800 General Admission
- ~1,000 Berm Seating
- Approximately 50% of the seating bowl to be under shade at start of game (excludes berm, outfield and boardwalk seating).
- 360-degree concourse
- Indoor press box to accommodate 25 people
- 6 ticket windows
- 3 separate gates for entrance and exit
- 2 suites and 2 larger hospitality areas that may be subdivided
- 2 suites for Braves staff with outdoor seating
- A dedicated bar/picnic area is on the left field concourse with other multiple gathering spaces scattered throughout the facility
- At least 4 TV truck hookups
- 4 broadcast booths
- At least 2 auxillary booths.
- Scoreboard operation booth
- Field lighting system commensurate with television broadcast standards
- Visiting team clubhouse with player lockers, training room, staff locker room with lockers and separate bathroom/showers and manager's office with private bathroom/shower.
- Major league umpires' locker room with 6 lockers and direct access to the playing field.
- Media dining room to accommodate 25-40 people.
- ~2,500 parking spaces within ¼ mile of stadium entrance (3:1 ratio of seats to parking spaces). At least 750 of the spaces will be paved.
- Team merchandise store.
- Loading and delivery dock.

Complex Fields

- Six Full Fields and Two Half Fields
 - Two of the full fields and one of the half fields should be located in proximity to the Clubhouse & Office building. Both of these full fields should utilize the same playing field configuration as SunTrust Park, including outfield fence dimensions and fence height, foul territory space, and distance from home plate to the backstop. Each of these two full fields should have grandstand that accommodates approximately 125 people. One of these fields should be equipped with field lights. One modular batting cage with two hitting tunnels should be located in an area between these two fields. Each cage should have electrical outlets for pitching machines and should be covered with a fabric (or similar) roof.
 - The four remaining full fields should be located in a “cloverleaf” arrangement with the other half field nearby. Bleachers should be located on both the first base and third base sides of each cloverleaf field. Two modular batting cages, each with two hitting tunnels, should be located in separate areas between or adjacent to the cloverleaf fields. Each cage should have electrical outlets for pitching machines and should be covered with a fabric (or similar) roof.
 - Each of the six full fields should be equipped with the following:
 - A regulation batter’s eye, regulation foul poles, chain link dugouts, electronic scoreboard, subsurface conduit for future field lighting and two bullpens on each side of the field
 - Electrical outlets behind home plate, behind the pitcher’s mound and at each end of both dugouts.
 - Covered, platformed seating area behind home plate to accommodate scouts and pitchers performing charting duties
 - PA/speaker system to make announcements and play music
 - Storage space for field maintenance equipment
- 8-pack of major league mounds and AstroTurfed home plates in close proximity to major league clubhouse.
- 12-pack of minor league mounds and AstroTurfed home plates in close proximity to minor league clubhouse with two of the mounds among these 12 mounds should be a 5-inch mound and a flat mound.
- A total of 11 enclosed, lighted batting cages.
 - Four major league batting cages should be located in close proximity to the major league clubhouse area.
 - Seven minor league batting cages should be located in close proximity to the minor league clubhouse area.

- All batting cage nets should have ability to lift hydraulically to ceiling to provide covered infield and bullpen area
 - All batting cages should be field turf
 - All batting cages should include electrical outlets and side wall exhaust fans
 - All major league batting cages should include clay pitching mounds
 - 3 of the 7 minor league batting cages should include clay pitching mounds
 - All batting cages should have an adjacent storage area
 - Enclosed equipment cart storage/service area with roll up garage doors
 - Minor League Cages should also house space for 9 minor league umpires, to include oversized lockers, restroom and shower facilities, space should include separate area for female umpires
- Agility/conditioning/rehab field located immediately adjacent to the outside turf area of the performance center.
 - Covered observation tower in the center of the cloverleaf area that provides visibility to all four fields. The tower should be wired for both video and Trackman technology as well as high speed wireless internet. The viewing level should include built in perimeter tablespots with chairs and ceiling fans. The ground level should include men's and women's restrooms, concession stand, water fountains, an ice machine and ample storage space for field maintenance and miscellaneous equipment. The field storage is included in the MiLB batting tunnel and is not in the structure below the observation tower.
 - Standalone, grounds maintenance building and outdoor storage bays.

Clubhouse & Office Building

- Approximately 55,000 square foot building housing the major league clubhouse area, minor league clubhouse area and executive office area. If more cost effective, space can be utilized within ballpark to fulfill square footage requirement
- Building should be a minimum of two stories with clubhouse areas on bottom floor and offices on upper level(s). Building is a partial 3 story structure with offices on the 2nd and 3rd floors overlooking the stadium
- Entire facility should include a television distribution system, 24-hour security system, electronic key system and high speed wireless internet.
- All meeting rooms and multi-function space should have full A/V capabilities, including video conference and projector equipment.
- Loading and delivery area.

Clubhouse Areas

- Approximately 42,260 sf of clubhouse areas on the first floor with an additional approximately 9,516 of MiLB coaches areas in the stadium.
- Separate major and minor league clubhouses, training rooms and video rooms, with a combined performance center and a combined hydrotherapy area. As noted, separate locker rooms will exist for major and minor league coaches, medical staff, executive staff and clubhouse/miscellaneous staff.
- Adequate storage space throughout the clubhouse areas (some of this will be located to the practice fields and batting tunnel buildings).
- Major league clubhouse with at least 65 lockers (exact locker size and design TBD).
- Major league coaches' locker room with up to 25 lockers and adjacent work room/lounge.
- Major league manager's office with private bathroom/shower and adjacent conference room for up to 30 people. This area should be located near the major league coaches' locker room.
- Major league equipment room with generous storage areas, laundry facilities and separate offices for clubhouse/equipment manager and director of team travel.
- "Spacesaver" storage units and separate ball and bat storage areas should be included in the design.
- Four separate minor league locker room "pods" with up to 44 lockers each (or approximately 176 lockers).
- Medical personnel locker room (major and minor league trainers, major and minor league strength & conditioning coaches, mental skills coach, etc.) with up to 25 lockers.
- Staff locker room (major and minor league clubhouse personnel, interns, miscellaneous personnel, etc.) with up to 25 lockers.
- Auxiliary locker rooms with up to 15 lockers located on office floors, exact location to be determined. Space should be allocated to accommodate separate male and female locker room facilities. 16 male stacked lockers, 6 female stacked lockers
- Minor league coaches' locker room with up to 60 lockers.
- Minor league coaches' conference room (70-person capacity).
- Minor league field coordinator's office with private bathroom/shower and working space for six (6) people. This office should be located near the minor league coaches' locker room and the minor-league coaches' conference room/lounge.
- Minor league equipment room with generous storage areas, laundry facilities and separate office for equipment manager. "Spacesaver" storage units and separate ball and bat storage areas should be included in the design.
- Major and minor league training rooms should be separate but both adjacent to two open office areas, one of which will be shared by major league trainers and major league

strength & conditioning staff (up to 8 work stations). The other will be shared by minor league trainers and minor league strength & conditioning staff (10 MiLB trainers and 14 strength and conditioning staff). Four (4) flexible rooms are provided to accommodate exam/meeting/offices in the training rooms.

- The major league/minor league hydrotherapy room should contain 2x hot and cold spas (6 to 8 people each), 2x upper extremity tubs, a HydroWorx underwater treadmill, a large ice machine, and a shower and bathroom or urinal nearby.
- MLB player lounge located adjacent to the locker room.
- A fully functional kitchen with food prep area to service the major league player dining area (seating for 24 inside and 24 outside).
- Media relations offices (two private offices and working space for three other people).
- Florida operations offices (Minimum of four private offices and open work area).
- Media work room with outside entrance and partitioned seating to accommodate 14 people with a drink cooler and coffee area. Unisex restroom nearby.
- Separate designated golf cart parking area with charging stations adjacent to clubhouse/office building.
- Convenient, private access from major league clubhouse area to stadium.
- Player and staff parking for approximately 418 cars (282 paved and 136 grass parking).

Executive Offices

- Large conference room with seating for up to 14 people (406 square feet).
- Copy area/kitchenette
- Ample space for 11 private office, 13 cubicles, 12 itinerary workstations
- Dining room/break room on second floor
- Lounge/sitting area.
- Adequate storage areas.
- Separate ground level reception area with player family room nearby.

EXHIBIT C
CONTRACTOR(S) AND CONSULTANTS

Design Professional – Fawley Bryant Architects, Inc.
Construction Contractor – Brasfield & Gorrie, L.L.C.

EXHIBIT D
EXCLUDED COSTS

The following are Excluded Costs:

- ANLBC fees in negotiating the agreements (including, without limitation, attorneys' fees and costs of travel)
- Developer's fees in negotiating the agreements (including, without limitation, attorneys' fees and costs of travel)
- WVID's owner's representative fees in excess of \$75,000 (pursuant to Section 4.3.1)
- WVID's fees in negotiating the agreements not compensable from the cost of issuance of the Facility Debt in excess of \$200,000
- Construction Administrator costs
- County fees negotiating the agreements (including, without limitation, attorneys' fees) and County's representative's fees and County's payment toward the title insurance premium pursuant to Section 3.2B
- City fees negotiating the agreements (including, without limitation, attorneys' fees) and City's representative's fees
- Off-Site Infrastructure and Irrigation Improvements costs

EXHIBIT E
OFF-SITE INFRASTRUCTURE

1. Off-Facility Site roadway design, permitting and construction to facilitate ingress and egress to the Facility Site meeting all applicable governmental standards and requirements (including Preto Boulevard).
2. Off-Facility Site water and wastewater infrastructure design, permitting and construction bringing utilities (stubbed to the Facility Site) to serve the Facility for its intended purpose.
3. TECO (Gas) to the Facility Site.
4. FP&L (Power) to the Facility Site.
5. Telecommunications lines to the Facility Site.

The following documents prepared by Stantec depict the improvements related to Items 1 and 2 above as they are currently contemplated:

- Index Number 215613877-01C-814EX
- Index Number 215613877-01C-815EX

EXHIBIT F
PERMITTED EXCEPTIONS

1. Declaration of Covenants, Conditions, Easements and Restrictions recorded in Instrument Number 2004216589, as amended in Instrument Number 2005257191 and 2007018906 of the Public Records of Sarasota County, Florida, limited to provisions creating easements in paragraphs 5.1 and 5.3.
2. Declaration of Covenants, Conditions, Easements and Restrictions recorded in Instrument Number 2005197548 as amended under Instrument Number 2008099652 of the Public Records of Sarasota County, Florida, limited to provisions creating easements in paragraph 3.3.
3. Amended and Restated Utility Agreement recorded in Instrument Number 2007064870 of the Public records of Sarasota County, Florida, which contain provisions creating easements, use restrictions, and charges in favor of the City of North Port.
4. Notice of Establishment of West Villages Improvement District, Declaration of Consent to Jurisdiction, Agreement between West Villages Improvement District and Fourth Quarter Properties XXXII, LLC, and other instruments pertaining to said District recorded in Instrument Numbers 2004223490, 2006023618, 2007048565, 2007086623, 2007176566, 2008055051, of the Public Records of Sarasota County, Florida, which contain provisions creating assessments, which assessments would apply as to any owner of the land subsequent to the insured.
5. General Principles of Agreement by and between City of North Port, Florida, West Villages Improvement District and Fourth Quarter Properties XXII, LLC, dated June 26, 2006; First Amendment to General Principles of Agreement by and between City of North Port, Florida, West Villages Improvement District and Fourth Quarter Properties XXII, LLC, dated June 9, 2008; Second Amendment to General Principles of Agreement by and between City of North Port, Florida, West Villages Improvement District and Fourth Quarter Properties XXII, LLC, dated February 23, 2009; Third Amendment to General Principles of Agreement by and between City of North Port, Florida, West Villages Improvement District and Fourth Quarter Properties XXII, LLC, dated January 26, 2010; Fourth Amendment to General Principles of Agreement by and between City of North Port, Florida, West Villages Improvement District and Fourth Quarter Properties XXII, LLC, dated January 30, 2012.
6. Real Property Dedication Agreement recorded in the Official Records as Instrument Number 2016136666, as amended by instrument recorded in the Official Records as Instrument Number 2017082888, Public Records of Sarasota County, Florida.
7. General or special taxes and assessments required to be paid in the year of closing and subsequent years.
8. Water and Well Restrictive Covenant to be recorded.

EXHIBIT G
SPECIAL WARRANTY DEED

SEE ATTACHED.

This instrument prepared by,
And when recorded, return to:

Property appraisers parcel identification (Folio) numbers:

SPECIAL WARRANTY DEED

THIS INDENTURE is made this ____ day of _____, 201 ____, by and between _____, whose address is _____ (“Grantor”); and _____, whose address is _____ (“Grantee”).

The words “Grantor” and “Grantee” include the neuter, masculine and feminine genders, and the singular and the plural.

W I T N E S S E T H:

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) in hand paid to Grantor by Grantee at and before the execution, sealing and delivery hereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto Grantee, and the successors, legal representatives and assigns of Grantee, all that tract or parcel of land lying and being in Sarasota County, Florida, being more particularly described on Exhibit A, attached hereto and incorporated herein by reference (the “Property”).

TO HAVE AND TO HOLD the Property, together with any and all of the rights, members and appurtenances thereof to the same being, belonging or in anywise appertaining to the use, benefit and behoof of Grantee forever, in fee simple; and

This conveyance is subject to the matters listed on Exhibit B, attached hereto and incorporated herein by this reference (“Permitted Exceptions”); provided, however, that the reference to the Permitted Exceptions shall not be deemed to reimpose any of the same.

Grantor does hereby covenant with Grantee that, except as to the Permitted Exceptions, at the time of the delivery of this Deed, the Property is free from any encumbrance made by Grantor, and that Grantor will specially warrant title to the Property and will defend it against the lawful claims of all persons claiming by through or under Grantor, but against none other.

Grantor hereby affirms that Sarasota County, a charter county and political subdivision of the State of Florida, is exempt and immune from any assessments or taxes that may otherwise

be levied by West Villages Improvement District on the Property.¹

IN WITNESS WHEREOF, Grantor has caused its duly authorized representative to execute, seal and deliver this indenture, all the day and year first written above.

Signed, sealed and delivered
in the presence of:

GRANTOR:

Witness:

Name: _____

By: _____

Name: _____

Title: _____

Witness:

Name: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 201__, by _____, as _____ of _____, on its behalf. He/She is personally known to me or has produced _____ as identification.

Notary Public

Name: _____

State of Florida at Large

Commission Expires: _____

(NOTARY SEAL)

¹ This language will only be included in the deed from the West Villages Improvement District to Sarasota County.

EXHIBIT A

The land referred to herein below is situated in the County of Sarasota, State of Florida, and is described as follows:

EXHIBIT B
Permitted Exceptions

1.

Note: All recording references are to the public records of Sarasota County, Florida.

EXHIBIT H
PAYMENT AND PERFORMANCE AND CONSTRUCTION GENERAL GUARANTY

THIS PAYMENT AND PERFORMANCE AND CONSTRUCTION GENERAL GUARANTY (this “**Guaranty**”) is made this ____ day of _____, 2017, by CALBEN (US) CORPORATION, a Delaware corporation (the “**Developer Guarantor**”) in favor of ATLANTA NATIONAL LEAGUE BASEBALL CLUB, LLC, a Georgia limited liability company (“**ANLBC**”).

WITNESSETH:

WHEREAS, ANLBC, Sarasota County, Florida (“**County**”), the City of North Port, Florida, a municipal corporation of the State of Florida (“**City**”), West Villages Improvement District, an independent special district created pursuant to Chapter 189, Florida Statutes and Chapter 2004-456, Laws of Florida, Acts of 2004, as amended (“**WVID**”), Manasota Beach Ranchlands, LLLP, a Florida limited liability limited partnership (“**Developer**”), and Developer Guarantor have entered into that certain Letter of Intent and Term Sheet dated March 9, 2017 (collectively, the “**Term Sheet**”);

WHEREAS, ANLBC is the owner and operator of a Major League Baseball franchise known as the Atlanta Braves (the “**Team**”);

WHEREAS, per the terms of the Term Sheet, ANLBC, County, City, WVID, Developer and Developer Guarantor have set forth the material terms pursuant to which Developer shall contribute certain property (the “**Facility Site**”) and certain offsite roadway improvements to facilitate ingress and egress to the Facility Site, and WVID will design, build, construct and finance a new baseball stadium (the “**Facility**”) for Spring Training and convey such Facility to the County upon receipt of all necessary permits and approvals for the license of the facility to ANLBC and its use by the Team starting with the 2019 MLB Spring Training season;

WHEREAS, in order to memorialize certain portions of the Term Sheet in definitive documentation, the County, the City, WVID, Developer, Developer Guarantor and ANLBC are entering into that certain Development Agreement dated _____, 2017 (the “**Development Agreement**”), which contemplates that ANLBC and Developer Guarantor will enter into this Guaranty;

WHEREAS, as contemplated by the Development Agreement, Developer is entering into certain additional agreements listed on **Exhibit A** attached hereto and made a part hereof (such additional agreements are referred to herein collectively with the Development Agreement as the “**Guaranty Operative Agreements**”);

WHEREAS, ANLBC is or will be a third-party beneficiary to the Guaranty Operative Agreements;

WHEREAS, the Developer Guarantor has agreed to execute and deliver this Guaranty;

NOW, THEREFORE, for good and valuable consideration, the mutual receipt and sufficiency of which are hereby acknowledged and to satisfy one of the conditions precedent to execution and delivery of the Guaranty Operative Agreements, Developer Guarantor agrees as follows:

1. **Guaranty**. The Developer Guarantor hereby unconditionally and irrevocably guarantees to ANLBC the due and punctual payment in full (and not merely the collectability), and the due and punctual performance, of the Guaranteed Obligations, as such term is defined in **Exhibit A** attached hereto and made a part hereof.

2. **Guaranty Unconditional**. The Developer Guarantor expressly agrees that ANLBC may, in its sole and absolute discretion, without in any way releasing, affecting or impairing the obligations and liabilities of the Developer Guarantor hereunder: (a) waive compliance with, or any defaults under, or grant any other indulgences with respect to any of the Guaranty Operative Agreements; (b) modify, amend, change or terminate any provisions of any of the Guaranty Operative Agreements; (c) effect any release, subordination, compromise or settlement in connection with any of the Guaranty Operative Agreements; (d) make advances for the purpose of performing any term or covenant contained in any of the Guaranty Operative Agreements with respect to which the Developer shall be in default; (e) assign or otherwise transfer any of the Guaranty Operative Agreements or this Guaranty or any interest therein or herein; and (f) deal in all respects with the Developer as if this Guaranty were not in effect. The obligations of the Developer Guarantor under this Guaranty shall be unconditional, irrespective of the genuineness, validity, regularity or enforceability of any of the Guaranty Operative Agreements, or any other circumstances which might otherwise constitute a legal or equitable discharge of a surety or guarantor. ANLBC shall endeavor to deliver written notices of default to Developer Guarantor of any matters under any of the Guaranty Operative Agreements giving rise to a claim hereunder; provided, however, that the failure to deliver any such notice to Developer Guarantor shall not limit or impair any rights or remedies of ANLBC in any way hereunder.

3. **Guaranty Primary**. The obligations and liability of the Developer Guarantor under this Guaranty shall be primary, direct and immediate, subject to the notice and cure provisions set forth herein and in any of the Guaranty Operative Agreements; shall not be conditional or contingent upon pursuit by ANLBC of any remedies such Person may have against the Developer with respect to any of the Guaranty Operative Agreements, whether pursuant to the terms thereof or by law; and shall not be subject to any counterclaim, recoupment, set-off, reduction or defense based upon any claim that the Developer Guarantor may have against ANLBC, except for claims by the Developer Guarantor against ANLBC, as the case may be, in respect of its compliance with the notice, cure and assignment provisions set forth in any of the Guaranty Operative Agreements. Without limiting the generality of the foregoing, ANLBC shall not be required to make any demand on the Developer, or to otherwise pursue or exhaust its remedies against the Developer, before, simultaneously with or after enforcing its rights and remedies hereunder against the Developer Guarantor, subject to notice and cure provisions set forth in applicable Operative Agreement. Any one or more successive and/or concurrent actions may be brought hereon against the Developer Guarantor either in the same action, if any, brought against the Developer or in separate actions, as often as ANLBC may deem advisable.

4. **Waivers by Developer Guarantor.** The Developer Guarantor hereby unconditionally and irrevocably waives: (a) notice of acceptance of this Guaranty and of presentment, demand and protest; (b) notice of any default under this Guaranty; (c) , subject to the notice and cure provisions set forth herein and in any of the Guaranty Operative Agreements, as the case may be, demand for observance, performance, or enforcement of any terms or provisions of this Guaranty, any of the Guaranty Operative Agreements; (d) any right or claim of right to cause a marshalling of the assets of the Developer; and (e) all other notices and demands otherwise required by law which the Developer Guarantor may lawfully waive.

5. **Reimbursement for Expenses.** If ANLBC shall prevail in any action or proceeding for the enforcement of this Guaranty, the Developer Guarantor shall reimburse ANLBC promptly upon demand, for all expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees.

6. **Subordination; Subrogation.** If the Developer Guarantor shall advance any sums to the Developer or if the Developer shall hereafter become indebted to the Developer Guarantor, such sums and payments or other financial obligations shall be subordinate in all respects to the amounts then or thereafter due and owing to ANLBC under any of the Guaranty Operative Agreements.

7. **Representations and Warranties.** The Developer Guarantor hereby represents and warrants that:

A. the Developer Guarantor is a duly organized and validly existing corporation in good standing under the laws of the jurisdiction of its organization;

B. the execution, delivery and performance of this Guaranty have been duly authorized by all necessary action and do not contravene any provision of the Developer Guarantor's certificate of incorporation, bylaws or any applicable law binding on the Developer Guarantor or any of its property or assets;

C. this Guaranty constitutes a legal, valid and binding obligation of the Guarantor, enforceable against the Developer Guarantor in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, and other similar laws of general applicability relating to or affecting creditors' rights or general equity principles (regardless of whether considered at law or in equity); and

D. the Developer Guarantor has provided true and correct financial statements to ANLBC, prepared in accordance with generally accepted accounting principles, and had annual revenues in 2015 and 2016 in excess of \$300,000,000 (U.S.).

8. **No Recourse.**

A. Notwithstanding anything that may be expressed or implied in this Guaranty or any document or instrument delivered contemporaneously herewith, and notwithstanding the fact that the Developer Guarantor is a corporation, by its acceptance of the benefits of this Guaranty, ANLBC acknowledges and agrees that (i) no Person other than the Developer Guarantor has any obligations hereunder and (ii) it has no remedy, recourse or right of recovery against, and no

personal liability shall attach to, any former, current or future director, officer, employee, agent, attorney, direct or indirect equityholder, controlling person, general or limited partner, manager, member, stockholder, Affiliate, or assignee of the Developer Guarantor or any former, current or future director, officer, employee, agent, attorney, direct or indirect equityholder, controlling person, general or limited partner, manager, member, stockholder, Affiliate, or assignee of any of the foregoing (each, a "**Related Party**"), whether by or through attempted piercing of the corporate (or limited liability company or limited partnership) veil, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any applicable law or otherwise, by or on behalf of Developer against any Related Party, except for claims by ANLBC against the Developer Guarantor (but not any Related Party) under and to the extent provided in this Guaranty and subject to the other limitations described herein ("**Retained Claims**"). Notwithstanding the foregoing, in the event the Developer Guarantor (A) consolidates with or merges with any other Person and is not the continuing or surviving entity of such consolidation or merger or (B) transfers or conveys all or a substantial portion of its properties and other assets to any Person such that the sum of the Developer Guarantor's remaining net assets plus uncalled capital is less than the amount of Developer Guarantor's obligations hereunder, then, and in each such case, ANLBC may seek recourse, whether by the enforcement of any judgment or assessment or by any legal or equitable proceeding or by virtue of any applicable law, against such continuing or surviving entity or such Person (in either case, a "**Successor Entity**"), as the case may be. As used herein, unless otherwise specified, the term "Developer Guarantor" includes the Developer Guarantor's Successor Entity. For the avoidance of doubt and notwithstanding anything herein to the contrary, ANLBC hereby expressly acknowledges that the only manner in which ANLBC or any of its Affiliates can obtain any form of money damages or other remedy, in connection with the Agreement or the transactions contemplated thereby, against the Developer Guarantor or a Successor Entity, is for a Retained Claim pursuant to the express provisions of this Guaranty.

B. ANLBC hereby covenants and agrees that it shall not institute, and shall cause each of its Affiliates and their respective representatives not to institute, directly or indirectly, any action or bring any other claim arising under, or in connection with, this Guaranty, any of the Guaranty Operative Agreements, or the transactions contemplated hereby or thereby, against the Developer Guarantor or any Related Party except for Retained Claims brought by ANLBC against the Developer Guarantor. Nothing contained in this paragraph shall serve to limit any rights or remedies of ANLBC against Developer pursuant to any of the Guaranty Operative Agreements.

C. Recourse against the Developer Guarantor solely with respect to the Retained Claims shall be the sole and exclusive remedy of ANLBC and all of its Affiliates against the Developer Guarantor in respect of any liabilities or obligations arising under, or in connection with, any of the Guaranty Operative Agreements, or the transactions contemplated thereby, and such recourse shall be subject to the limitations described herein and therein.

9. **Governing Law.** The provisions of this Guaranty shall be construed, interpreted and enforced in accordance with the laws of the State of Florida as the same may be in effect from time to time.

10. **Consent to Jurisdiction.** The Developer Guarantor irrevocably submits to the jurisdiction of any state or federal court sitting in the State of Florida over any suit, action, or proceeding arising out of or relating to this Guaranty. The Developer Guarantor irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action, or proceeding brought in any such court and any claim that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum. Final judgment in any such suit, action, or proceeding brought in any such court shall be conclusive and binding upon the Developer Guarantor and may be enforced in any court to whose jurisdiction the Developer Guarantor is subject, by a suit upon such judgment provided that service of process is effected upon the Developer Guarantor in a manner specified in this Guaranty or as otherwise permitted by applicable law.

11. **WAIVER OF JURY TRIAL.** THE DEVELOPER GUARANTOR AND ANLBC HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH THE DEVELOPER GUARANTOR AND ANLBC MAY BE PARTIES, ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS GUARANTY OR ANY OF THE GUARANTY OPERATIVE AGREEMENTS. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTY. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY THE DEVELOPER GUARANTOR, AND THE DEVELOPER GUARANTOR HEREBY REPRESENTS AND WARRANTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THE DEVELOPER GUARANTOR FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTY AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

12. **Voidable Preference; Fraudulent Conveyance.** If at any time any payment, or portion thereof, made by, or for the account of, the Developer Guarantor on account of any of the obligations and liabilities hereunder is set aside by any court or trustee having jurisdiction as a voidable preference or fraudulent conveyance or must otherwise be restored or returned by ANLBC under any insolvency, bankruptcy or other federal and/or state laws or as a result of any dissolution, liquidation or reorganization of the Developer or upon, or as a result of, the appointment of any receiver, intervenor or conservator of, or trustee or similar officer for, the Developer or any substantial part of its properties or assets, the Developer Guarantor hereby agrees that this Guaranty shall continue and remain in full force and effect or be reinstated, as the case may be, all as though such payments) had not been made.

13. **Notices.** Notice, demand, request or other communication which either party may desire to give to the other with respect to this Guaranty, shall be deemed to have been properly given if in writing and delivered by hand, sent by overnight courier or mailed by certified mail, postage prepaid, addressed as follows:

If to ANLBC, at: Atlanta National League Baseball Club, LLC
755 Battery Avenue SE
Atlanta, GA 30339

With copies to: Atlanta National League Baseball Club, LLC
755 Battery Avenue SE
Atlanta, GA 30339
Attention: Greg Heller, Executive Vice
President & Chief Legal Officer

And: DLA Piper LLP (US)
One Atlantic Center
1201 West Peachtree Street, Suite 2800
Atlanta, GA 30309
Attention: Maxine Hicks

If to the Developer Guarantor, at: Calben (US) Corporation
4901 Vineland Road, Suite 450
Orlando, FL 32811
Attn: Leslie C. Candes, Chief Legal Counsel –
US

With copies to: Goldbold, Downing, Bill & Rentz, P.A.
222 W Comstock Ave., Suite 101
Winter Park, FL 32789
Attn: Grant T. Downing

Any of the parties hereto may designate a change of address by delivering notice in writing to the other parties. Whenever in this Guaranty the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person or persons entitled to receive such notice.

14. **Remedies Cumulative**. All rights and remedies afforded to ANLBC by reason of this Guaranty, any of the Guaranty Operative Agreements, or by law are separate and cumulative and the exercise of one shall not in any way limit or prejudice the exercise of any other such rights or remedies. Every right, power and remedy given by this Guaranty to ANLBC shall be concurrent and may be pursued separately, successively or together against the Developer Guarantor and each such right, power and remedy may be exercised from time to time as often as ANLBC may deem expedient. No delay or omission by ANLBC in exercising any such right or remedy shall operate as a waiver thereof. No waiver of any rights and remedies hereunder, and no modification or amendment hereof, shall be deemed made by ANLBC unless in writing and duly signed by ANLBC. Any such written waiver shall apply only to the particular instance specified therein and shall not impair the further exercise of such right or remedy or of any other right or remedy of ANLBC and no single or partial exercise of any right or remedy hereunder shall preclude any other or further exercise thereof or any other right or remedy.

15. **Severability.** If any provision (or any part of any provision) contained in this Guaranty shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision (or remaining part of the affected provision) of this Guaranty, but this Guaranty shall be construed as if such invalid, illegal or unenforceable provision (or part thereof) had never been contained herein but only to the extent it is invalid, illegal or unenforceable.

16. **Successors and Assigns.** Developer Guarantor may not assign its rights, interests or obligations hereunder to any other Person (except by operation of law) without the prior written consent of ANLBC; *provided, however,* that, without the prior written consent of ANLBC, the Developer Guarantor may assign all or a portion of its obligations under this Guaranty to (a) one or more of its Affiliates or to an entity managed by an Affiliate of the Developer Guarantor or (b) in connection with a Transfer by Developer of the Agreement or any of its rights or obligations thereunder, in each case so long as the assignee (i) provides true and correct financial statements to ANLBC, prepared in accordance with generally accepted accounting principles, and (ii) had annual revenues in excess of \$300,000,000 (U.S.) for the two fiscal years preceding the assignment. Any attempted assignment in violation of this section shall be null and void. Any permitted assignee shall sign any documents reasonably requested by ANLBC or its lenders to ratify its obligations under this Guaranty.

17. **Remedies.**

A. ANLBC may institute litigation to recover actual damages incurred for any default or to obtain any other remedy at law (provided that ANLBC may not institute litigation to recover or to claim lost profits or speculative, consequential or punitive damages) or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy) consistent with the purposes of this Guaranty.

B. Litigation permitted by, arising under, or with respect to this Guaranty shall only be instituted in the Twelfth Judicial Circuit Court of Florida in Sarasota County or the Tampa Division of the United States District Court for the Middle District of Florida or, in the event of any changes to such circuit, district or division, in the circuit court in the judicial circuit and county or the federal district court and division within which the Facility Site is located at the time such litigation is filed. Developer Guarantor and ANLBC consent to the jurisdiction and venue of such courts for such permitted litigation. ANLBC and Developer Guarantor hereby irrevocably submit to the exclusive jurisdiction of such courts in any suit, action or proceeding permitted by, arising under, or with respect to this Guaranty.

C. Any failure of ANLBC to exercise any right or remedy as provided in this Guaranty shall not be deemed a waiver of any claim for damages or future enforcement rights it may have.

18. **Amendments and Waivers.** This Guaranty and any exhibits attached hereto constitute the sole and entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous negotiations, proposals, undertakings, understandings, agreements, representations and warranties, both written and oral, among the Developer Guarantor, on the one hand, and ANLBC or any of its Affiliates, on the other hand,

with respect to such subject matter Developer Guarantor agrees that the Guaranteed Obligations shall not be released, diminished, impaired, reduced or adversely affected by any renewal, increase, extension, modification, or alteration of all or any part of the Guaranteed Obligations.

19. **No Third-Party Beneficiaries.** Except for the provisions of this Guaranty that reference Related Parties (each of which shall be for the benefit of and enforceable by each Related Party), the parties hereto hereby agree that their respective representations, warranties and covenants as set forth herein are solely for the benefit of the other parties hereto, in accordance with and subject to the terms of this Guaranty, and this Guaranty is not intended to, and does not, confer upon any Person other than ANLBC, Developer Guarantor, and any Related Party, any rights or remedies hereunder, including the right to rely upon the representations and warranties set forth herein.

20. **No Presumption Against Drafting Party.** The parties hereto acknowledge that each party and its counsel have reviewed this Guaranty and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Guaranty.

21. **Headings.** The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the interpretation of this Guaranty.

[SIGNATURE PAGE TO FOLLOW]

WITNESS the signature and seal of the Developer Guarantor as of the day and year first above written.

WITNESS/ATTEST:

CALBEN (US) CORPORATION

By: _____ (SEAL)
Name: _____
Title: _____

STATE OF _____, _____ OF _____ TO WIT:

I HEREBY CERTIFY, that on this ___ day of _____, 2017, before me, the undersigned Notary Public of said State, personally appeared _____, who acknowledged himself/herself to be a _____ of Calben (US) Corporation, a Delaware corporation, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained as the duly authorized _____ of said corporation by signing the name of the corporation by himself/herself as _____.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:

EXHIBIT A

**GUARANTY OPERATIVE AGREEMENTS
AND
GUARANTEED OBLIGATIONS**

The following are the Guaranty Operative Agreements (with the name of each such agreement having the meaning ascribed thereto in the Development Agreement):

1. Development Agreement;
2. Developer License Agreement;
3. Deed Restriction;
4. Drainage License Agreement; and
5. Off-Site Infrastructure Agreement.

The term “**Guaranteed Obligations**” means the Payment Obligations and the Performance Obligation.

“**Payment Obligations**” means the following obligations of the Developer:

1. Funding of the Developer Contribution (as defined in the Development Agreement), in accordance with **Section 6.5** of the Development Agreement, which shall be satisfied by Developer’s delivery of a one-time lump sum payment in the amount of \$4,700,000 (U.S.) to be applied toward the design, development, construction and financing of the Facility;
2. Funding the financial obligations of Developer set forth in **Section 2** of the Off-Site Infrastructure Agreement;
3. Funding any indemnification obligations of Developer set forth in **Section 11.3** of the Development Agreement;
4. If and when applicable, funding the prevailing party’s attorney’s fees in accordance with **Section 13.1** of the Development Agreement and **Section 4** of the Off-Site Infrastructure Agreement;
5. Funding the financial obligations of Developer set forth at **Section 3** of the Drainage License Agreement;
6. Funding any indemnification obligations of Developer set forth in **Section** of the Developer License Agreement; and
7. Funding any indemnification obligations of Developer set forth in **Section 6** of the Drainage License Agreement.

“**Performance Obligations**” means the performance obligations of Developer arising under any of the Guaranty Operative Agreements; provided that the Performance Obligations of Developer Guarantor do not include any disclaimer of warranties to ANLBC or liability limitations by WVID or the Developer vis-à-vis ANLBC under (i) the Off-Site Infrastructure Agreement; (ii)

Sections 5.11, 12.1, and 12.2 of the Development Agreement, solely to the extent such sections relate to the Offsite Infrastructure Work or the Irrigation Infrastructure Work; and (iii) Section 15.5 of the Development Agreement, solely to the extent such section relates to the limitation of liability to gross negligence and willful misconduct in the Offsite Infrastructure Work or Irrigation Infrastructure Work.

[The section references highlighted in yellow above are subject to modification.]

EXHIBIT I
PLAN OF FINANCE

Sources and Uses of Funds

<u>Sources</u>	<u>Amount</u>
Par Amount of State Sales Tax Payment Bonds	\$14,430,270
Par Amount of WVID Debt using ANLBC Annual Fee for 30 years	\$37,451,404
Net Proceeds of County Bonds	\$21,262,000
City Contribution	\$4,700,000
Developer Contribution	\$4,700,000
ANLBC funding contribution (approx. \$5.5MM in A&E fees, approx. \$12.4MM in CM fees)	\$18,016,966
Total	\$100,560,640

<u>Uses</u>	
Construction costs	\$89,200,000
Deposit to WVID Debt service reserve fund	\$3,864,270
State Sales Tax Payment Bonds issuance expense	\$525,900
WVID Debt issuance expenses	\$1,058,000
Other Project expenses	\$5,912,470
Total	\$100,560,640

Combined Financing Schedule
Financing Schedule as of August 25, 2017

August							September							October						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5						1	2	1	2	3	4	5	6	7
6	7	8	9	10	11	12	3	4	5	6	7	8	9	8	9	10	11	12	13	14
13	14	15	16	17	18	19	10	11	12	13	14	15	16	15	16	17	18	19	20	21
20	21	22	23	24	25	26	17	18	19	20	21	22	23	22	23	24	25	26	27	28
27	28	29	30	31			24	25	26	27	28	29	30	29	30	31				

November							December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4						1	2
5	6	7	8	9	10	11	3	4	5	6	7	8	9
12	13	14	15	16	17	18	10	11	12	13	14	15	16
19	20	21	22	23	24	25	17	18	19	20	21	22	23
26	27	28	29	30			24	25	26	27	28	29	30
							31						

Legend

- FA Financial Advisor – *PFM Financial Advisors LLC*
- C Bond Counsel – *Bryant Miller Olive* (PP & Sales Tax) | *Holland & Knight*. (CIRB)
- DC Disclosure Counsel – *Hopping Green & Sams* (PP & Sales Tax) | *Bryant Miller Olive*. (CIRB)
- TC Trustee Counsel – *Akerman LLP*
- IC Investor Counsel – *Greenberg Traurig*
- Bk Placement Agent – *SunTrust Robinson Humphrey, Inc.*
- UW Underwriter – *SunTrust Robinson Humphrey, Inc.*

Week 1

August 16	Distribute 1 st Draft of Financing Documents ^(Sales Tax)	BC
August 21	Drafting of Private Placement Memorandum (“PPM”), Rating Agency Presentation (“RAP”), and Term Sheet ^(PP)	Bk
August 22	Distribute 1 st Draft Preliminary Official Statement (POS) ^(Sales Tax)	DC
August 23	1 st Draft of Resolution ^(CIRB)	BC
August 23	Finalize preliminary plan of finance, deal structure, and ratings strategy ^(PP)	All
August 23	Distribute draft of Custody Agreement ^(PP)	TC
August 25	1 st Draft Preliminary Official Statement (POS) ^(CIRB)	DC
<u>Weeks 2-3</u>		
August 28	Continue drafting PPM, RAP, and Term Sheet ^(PP)	Bk
August 28	Schedule management discussion with Fitch ^(PP)	All
August 28	Establish private data room (Intralinks) for Fitch review process and investor marketing ^(PP)	Bk
August 29	Conference Call to discuss documents & Plan of finance ^(Sales Tax)	All
August 31	Documents Review Call ^(CIRB)	All
September 6	1 st Draft of Notice of Sale (NOS) and Summary NOS ^(CIRB)	FA
September 6	2 nd Draft of Bond Resolution & Financing Documents ^(Sales Tax)	BC
September 7	2 nd Draft POS ^(Sales Tax)	DC
September 7	2 nd Draft of Resolution ^(CIRB)	BC
<u>Week 4</u>		
September 12	County Commission Meeting ^(PP & Sales Tax)	County/WVID
	Approval of County/WVID Interlocal Agreement	
September 12	2 nd Draft POS ^(CIRB)	DC
September 14	WVID Board Meeting ^(PP and Sales Tax)	WVID
	Approval of County/WVID Interlocal Agreement	
September 15	Documents Review ^(CIRB)	All
September 15	Finalize Developer upfront contribution, Braves upfront contribution, Braves license fee, and total project cost ^(PP)	All
September 15	Finalize PPM, RAP, and Term Sheet ^(PP)	All
September 15	Finalize cash flow model for Fitch ^(PP)	Bk
September 15	Load Intralinks dataroom with PPM, RAP, Term Sheet, cash flow model, and Project Agreements ^(PP)	Bk
September 15	Drafting of Note Purchase Agreement (“NPA”) and Issues Memo ^(PP)	IC
September 15	Drafting of Collateral Agency Agreement (“CAA”) ^(PP)	BC
<u>Week 5</u>		
September 18	Convert RAP into Investor Presentation ^(PP)	Bk
September 18	Continue drafting of NPA, CAA, and Issues Memo ^(PP)	IC/BC
September 20	Presentation to Fitch ^(PP)	All
September 22	Final Documents to County for Agenda Package ^(CIRB)	BC, DC, FA
<u>Weeks 6-9</u>		
September 25	Fitch ratings analysis ^(PP)	Fitch
September 25	Continue drafting of NPA, CAA, and Issues Memo ^(PP)	IC/BC

September 28	Submit Bond Documents for WVID Board Meeting ^(Sales Tax)	BC/DC/WVID
Week of Oct 2 nd	Distribute Rating Package ^(CIRB)	FA
October 4	Braves commit to equity contribution amount ^(PP)	All
TBD	Final Approval/Agreement from DEO ^(Sales Tax)	WVID
October 10	Board Approval of Bond Resolution ^(CIRB)	County
October 12	WVID Board Meeting ^(Sales Tax)	WVID
October 13	Submit Rating Agency(s) Packages ^(Sales Tax)	FA
Week of Oct 16 th	Rating Agency Call ^(CIRB)	County, FA
<u>Week 10</u>		
Week of Oct 23 rd	Rating Calls ^(Sales Tax)	WVID/FA/UW
October 23	Fitch issues Preliminary Ratings Letter ^(PP)	Fitch
October 25	Finalize Investor Presentation, NPA, and CAA ^(PP)	All
October 26	Submit Legal Documents for WVID Board meeting ^(PP)	BC/DC/WVID
<u>Week 11</u>		
October 30	Load Intralinks dataroom with Fitch Preliminary Ratings Letter, Investor Presentation, NPA, and CAA ^(PP)	Bk
October 30	Preliminary discussions with PP investors ^(PP)	Bk
October 31	Receive Rating ^(CIRB)	County, FA
November 1	Final POS Printed and Summary NOS Advertised ^(CIRB)	DC, FA
November 3	Due Diligence Call ^(Sales Tax)	All
<u>Week 12</u>		
November 7	Receive Credit Ratings ^(Sales Tax)	WVID/FA
November 8	Post POS ^(Sales Tax)	DC
November 9	WVID Board Meeting ^(PP)	WVID
November 10	Launch 2017-B Offering and open Intralinks dataroom ^(PP)	Bk
<u>Week 13</u>		
November 13	Investor Marketing ^(PP)	Bk
<u>Week 14</u>		
Week of Nov 20 th	Bond Sale ^(Sales Tax)	WVID/FA/UW
Week of Nov 20 th	Bond Sale ^(CIRB)	County, FA
November 21	Circle and price 2017-B Offering and distribute Pricing Memo ^(PP)	All
November 24	Distribute Draft OS ^(Sales Tax)	DC
<u>Week 15</u>		
November 28	Comments due on OS ^(Sales Tax)	All
November 29	Print/Mail OS ^(Sales Tax)	DC
November 30	Investor due diligence ^(PP)	Bk
November 30	Distribute Closing Documents ^(Sales Tax)	BC
<u>Week 16</u>		
December 5	Paper closing of 2017-B ^(PP)	All

December 6	Comments Due on Closing Documents ^(Sales Tax)	All
December 8	Distribute Final Closing Documents ^(Sales Tax)	BC
<u>Week 17</u>		
Week of Dec 11 th	Pre-Closing and Closing ^(CIRB)	All
December 12	Pre-Closing ^(Sales Tax)	All
December 13	Closing ^(Sales Tax)	All
December 13	Closing and funding of 2017-B ^(PP)	All

*Tentative

EXHIBIT J
SALES TAX EXEMPT PROCUREMENT OF CONSTRUCTION MATERIALS

In connection with the Construction Contract, WVID in its sole discretion may elect to directly purchase certain materials or equipment from vendors and provide the same to the Contractor for incorporation into the Project. WVID shall have no liability for the failure to make any direct purchase of materials or equipment for the Project. WVID's election to direct purchase may be the result of certain tax advantages (including sales tax exemptions afforded by Section 212.08(6), Florida Statutes) or for the purpose of other discounts or deductions, including, without limitation, those in kind.

The following provisions shall apply to such WVID direct purchases: (a) the Contractor shall prepare and provide to WVID a purchase order containing the name and address of the material supplier, a list of required items, the quantity needed, the price of the materials and WVID's Consumer Certificate of Exemption number, (b) WVID shall issue a purchase order directly to the material supplier for such materials, (c) WVID shall attach a completed Certificate of Entitlement to each purchase order, (d) the materials shall be delivered to WVID at the Project site and title to the materials shall be transferred directly from the material supplier to WVID, (e) the Contractor shall be responsible for all matters relating to the receipt of the materials, including verifying correct quantities, inspection and acceptance of the materials at the time of delivery, (f) WVID shall be billed directly by the material supplier, (g) WVID shall pay the material supplier directly from public funds, and (h) WVID shall bear all risk of loss or damage to the materials from the time of purchase and prior to their installation into the Project. Title to the materials purchased directly by WVID shall vest in WVID at the time the materials are delivered to the Project site (F.O.B. Project site). The Guaranteed Maximum Price shall be reduced by a deductive Change Order equal to the full value of the materials directly purchased by the WVID, plus all sales tax savings associated with such directly purchased materials. The Contractor shall cooperate with WVID and shall assist WVID with any other processes necessary for WVID to take full advantage of any available tax advantages, discounts or deductions associated with the purchase of materials. The Contractor's Fee will not be reduced by virtue of WVID purchased materials pursuant to this Section. WVID shall attach Contractor's addendum to its purchase order to give Contractor the right to deal with vendors providing materials to WVID pursuant to WVID direct purchase agreements.

In addition, and again in WVID's sole discretion, WVID may elect to directly purchase or lease certain equipment and services from vendors related to the construction of the Project, which will not be incorporated into the Project. WVID's election in this regard may be the result of certain tax advantages (including sales tax exemptions afforded by Section 212.08(6), Florida Statutes) or for the purpose of other discounts or deductions, including, without limitation, those in kind. Examples of equipment and services that may be directly purchased by WVID include leases of heavy equipment or cranes and purchases of taxable pest control, cleaning, and security services. WVID may only purchase or lease equipment and services used exclusively for the Project. If WVID elects to directly purchase or lease equipment and services which will not be incorporated into the Project, then WVID and Contractor shall follow the same provisions for the direct purchase of materials incorporated into the Project, except WVID shall issue its Consumer Certificate of Exemption to the equipment or service vendor instead of a Certificate of

Entitlement. The Contractor shall cooperate with WVID and shall assist WVID with any other processes necessary for WVID to take full advantage of any available tax advantages, discounts or deductions associated with the purchase or lease of equipment or services. The Guaranteed Maximum Price shall be reduced by a deductive Change Order equal to the full value of the equipment or services directly purchased by WVID, plus all sales tax savings associated with such directly purchased equipment or services. The Contractor's Fee will not be reduced by virtue of WVID purchased equipment or services pursuant to this Section. WVID shall attach Contractor's addendum to its purchase order to give Contractor the right to deal with vendors providing equipment or services to WVID pursuant to WVID direct purchase agreements.

EXHIBIT K
DEED RESTRICTION

Prepared by and return to:
Patrick W. Ryskamp, Esq.
Williams Parker Harrison Dietz & Getzen
200 South Orange Avenue
Sarasota, Florida 34236
(941) 366-4800

MIXED USE PROJECT RESTRICTIVE COVENANT

This Mixed Use Project Restrictive Covenant (“**Restrictive Covenant**”) is made as of the ____ day of _____ 2017 by **MANASOTA BEACH RANGLANDS, LLLP**, a Florida limited liability limited partnership (“**Manasota**”), **MAIN STREET RANGLANDS, LLLP**, a Florida limited liability limited partnership (“**Main Street**,” with Manasota and Main Street each, to the extent of its fee simple interest in the property described herein, “**Property Owner**”), and **ATLANTA NATIONAL LEAGUE BASEBALL CLUB, LLC**, a Georgia limited liability company (“**ANLBC**”).

RECITALS:

A. Property Owner is the owner of that certain property located in Sarasota County, Florida, more particularly described in **Exhibit A** attached hereto (the “**Facility Site**”). The Facility Site is to be developed as a Spring Training facility (the “**Facility**”) for the Atlanta Braves, a Major League Baseball franchise owned and operated by ANLBC (the “**Braves**”), pursuant to a Development Agreement dated _____, 2017, between Property Owner, ANLBC, and other parties (the “**Development Agreement**”). Following its construction, the Facility is to be owned by Sarasota County and operated by ANLBC pursuant to that certain Facility Operating Agreement dated as of May 27, 2017 (the “**Facility Operating Agreement**”).

B. The Development Agreement requires the imposition of restrictions on certain real property owned by Property Owner, as more particularly described in **Exhibit B** attached hereto (the “**Mixed Use Restricted Parcel**”), which restrictions will benefit the Facility Site. For the avoidance of doubt, the Mixed Use Restricted Parcel shall specifically exclude the Facility Site, property owned by West Villages Improvement District, and property owned by The School Board of Sarasota County, Florida, all as depicted on Exhibit B.

C. Property Owner has additionally agreed to implement heightened restrictions on an approximately two and one-half (2.5) acre portion of the Mixed Use Restricted Parcel located in the immediate vicinity of the Facility as more particularly described in **Exhibit C** attached hereto (the “**Stadium Area Site**”).

D. Property Owner has further agreed to apply a certain architectural theme within the areas visible from the baseball stadium to be developed on a portion of the Facility Site (the “**Stadium**”) or from the public plaza area immediately adjacent to the Stadium (the “**Plaza**”), as the Stadium and Plaza collectively are more particularly described in **Exhibit D** attached hereto (the “**Architectural Theme Viewing Area**”).

Now, therefore, in consideration of the premises and other good and valuable consideration, receipt of which is acknowledged, Property Owner does hereby establish this Restrictive Covenant and place upon the Mixed Use Restricted Parcel the following covenants, conditions, and restrictions:

1. Recitals. The foregoing Recitals are true and are incorporated into this Restrictive Covenant; provided that neither the reference in the recitals to the Development Agreement nor the other terms of the Recitals shall create restrictions on the Mixed Use Restricted Parcel (including, without limitation, the Stadium Area Site), which are not expressly set forth in Section 2 or thereafter of this Restrictive Covenant.

2. Architectural theme. On the portions of the Mixed Use Restricted Parcel that are visible from Architectural Theme Viewing Area, Property Owner shall cause the improvements to be constructed and maintained in accordance with an architectural theme that is consistent with the architectural theme of the Facility and which is in compliance with all relevant West Villages Improvement District design guidelines (collectively, the “**Design Guidelines**”).

3. Use restrictions. Property Owner shall use commercially reasonable efforts to ensure that construction activities on the Mixed Use Restricted Parcel do not materially interfere with competitive Spring Training baseball games conducted at the Facility or ANLBC’s contemplated use of the Facility (which may include, by way of example, Gulf Coast League and/or Florida State League baseball games). Property Owner also hereby imposes on the Mixed Use Restricted Parcel the following prohibited uses which shall not be allowed on the Mixed Use Restricted Parcel without the express prior written consent of ANLBC which consent shall be not be unreasonably withheld:

- a) “adult entertainment uses”, which term shall mean and refer to any theater, establishment, equipment or system which: (i) shows, previews, sells, rents, distributes, displays, depicts or promotes in any way “adult” movies, films, motion pictures, videos, television shows, cable media, magazines, books or other medium, media or electronic experience (whether now or hereafter developed); or (ii) sells, rents, or distributes sexually explicit games, toys, devices, or similar merchandise (provided that nothing herein is intended to require the blocking of access to the same from any personal computer or internet access point or any future technological equivalent, and nothing herein shall prevent legally permissible activities incidental to an establishment which does not carry on such activities as a significant purpose and which does not provide external signage, interior signage visible from the outside of an

establishment, or advertising of such activities at its physical location). For the purposes of the foregoing, the term “adult” shall mean and refer to any material that is (i) obscene or pornographic as determined by prevailing community standards, or (ii) rated X or NC-17 or its equivalent by the movie production industry (or any successor rating established by the movie production industry);

- b) a facility for the sale of paraphernalia for use with illicit drugs;
- c) gambling for money facility or operation, including, but not limited to: off-track or sports betting parlor, table games such as black-jack, poker, slot machines, video poker/black-jack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, such prohibition shall not apply to governmental sponsored gambling activities (including, without limitation, Florida Lottery activities), or charitable gambling activities, so long as such activities are incidental to the business operation being conducted by the occupant, or to activities which might be associated with gambling but whereby no money changes hands;
- d) any use involving the sale or distribution of any flammable liquids, gases or other hazardous materials. Notwithstanding the foregoing, such prohibition shall not apply to the sale or distribution of: (i) bottled propane; (ii) alcoholic beverages (iii); gasoline, diesel fuel, or other fuel of a type typically sold in Sarasota County for use in automobiles, trucks, watercraft, lawn maintenance equipment; and (iv) without limiting the foregoing, other products commonly sold or distributed for consumer use in Sarasota County; or
- e) any illegal activity.

Property Owner shall not use and shall make commercially reasonable efforts to prevent the use on the Mixed Use Restricted Parcel or improvements thereon (including but not limited to any roof tops, balconies, patios, and terraces) that has an unobstructed view of the Stadium: (i) for the establishment or operation of ticketed viewing areas for a private “stadium club,” to view events occurring in the Facility Site; or (ii) to install, operate or use any photographic, video, or broadcasting or webstreaming camera or equipment, to generate revenues in connection with the viewing of an event being conducted on or within the Stadium, without the prior written consent of ANLBC which consent may be granted or denied in its sole and absolute discretion. For the avoidance of doubt, the operation of businesses that do not sell event tickets, including, without limitation, a hotel, in the usual and customary manner in which such businesses not located next to an event venue operate in Sarasota County shall not violate the covenant in the preceding sentence.

4. Additional Restrictions Regarding Stadium Area Site. The Stadium Area Site shall be subject to the following further restrictions:

- a) No improvements shall be made to the Stadium Area Site (including, without limitation, exterior lighting) which would adversely impact the use of the Facility or the Facility Site for their intended purposes. In order to ensure compliance with the foregoing, ANLBC's prior written approval (such approval not to be unreasonably withheld, delayed or conditioned) of building plans and specifications shall be required in connection with the construction of any improvements on the Stadium Area Site; provided that ANLBC shall be deemed to have approved in writing building plans and specifications if ANLBC does not object thereto within twenty (20) business days of delivery thereof.
- b) No advertising or signage shall be permitted on any portion of the Stadium Area Site which is visible or intentionally audible from the Facility Site, other than (i) identifying signage in accordance with Section 5(b) below, and (ii) advertising and signage to which ANLBC has provided its prior written consent, which consent may be granted or denied in its sole and absolute discretion.

5. Sponsorship/Non-Compete.

- a) With respect to the Mixed Use Restricted Parcel, third parties are hereby put on notice of these restrictions and Property Owner shall not sell or display, and shall make commercially reasonable efforts to prevent any third party from selling and displaying, any signage or advertising competitive with any of the Braves' exclusive sponsor categories (not to exceed six (6) categories), as such categories are defined by ANLBC (which, by way of example and not limitation, may include alcohol, automobiles, banks, gaming, technology, telecommunications, sodas and sports drinks) (collectively, the "**Sponsor Categories**") in an area within the Mixed Use Restricted Parcel that is visible or intentionally audible from the Facility Site.
- b) Notwithstanding the foregoing, owners or operators of property within the Mixed Use Restricted Parcel subject to the restrictions set forth at Section 5(a) above may affix signage identifying tenants or owners that is customary in size and appearance to similar facilities in the Sarasota, Florida area and consistent with applicable law and the Design Guidelines then in effect and may, from time to time, replace such signs with signs of similar size and number in a similar location that remain consistent with the Design Guidelines. Except as provided in the previous sentence, if any sign within the Mixed Use Restricted Parcel that is visible or intentionally audible from the Facility Site is modified, or if a party desires to erect a new or modified sign within the Mixed Use Restricted Parcel that is visible or intentionally audible from the Facility Site, the party attempting such erection or modification will submit a rendering of the proposed new sign for ANLBC's prior written approval, which approval may not be unreasonably

withheld, delayed conditions. For the avoidance of doubt, ANLBC may withhold such consent for any signage it reasonably determines may impair the use of the Stadium for its intended purposes or violates Section 5(a) above.

- c) ANLBC shall provide written notice to Property Owner of such Sponsor Categories (the “**Initial Sponsor Categories**”) no later than three (3) months prior to the opening of the Facility to the general public (with such notice date, the “**Initial Sponsor Categories Notice Date**”), and Property Owner shall record an amendment to this Restrictive Covenant in the Official Records of Sarasota County, Florida evidencing such designation. From time to time thereafter during the Term, ANLBC may update the list of protected Sponsor Categories (in each case, “**Revised Sponsor Categories**”) by recording a further amendment to this Restrictive Covenant setting forth the Revised Sponsor Categories (the date of each amendment recording, a “**Revised Sponsor Categories Notice Date**”). Any amendment to this Restrictive Covenant designating or updating the Sponsor Categories shall not require the consent of any person subject to this Restrictive Covenant. However, upon request by ANLBC, any person subject to this Restrictive Covenant shall execute such additional documents as ANLBC may reasonably request to acknowledge that this Restrictive Covenant and any amendment thereto runs with the title to the Mixed Use Parcel. The designation of a Sponsor Category and the restrictions related thereto shall apply until such time as ANLBC provides written notice to Property Owner that the respective advertising display period or contract has expired in accordance with its terms or a Revised Sponsor Categories Notice Date. Notwithstanding anything to the contrary in this Section 5, (i) any advertising conflicting with the Initial Sponsor Categories existing on the Initial Sponsor Categories Notice Date, and (ii) any advertising which complies with the terms of this Section 5 immediately before a Revised Sponsor Categories Notice Date, but conflicts with the Revised Sponsor Categories on such Revised Sponsor Categories Notice Date, is excluded from the restriction set forth in Section 5(a) until such time as its advertising display period or contract expires by its terms.
- d) With respect to the Mixed Use Restricted Parcel, third parties are hereby put on notice of these restrictions and Property Owner shall not sell, and shall make commercially reasonable efforts, to prevent any other person, firm or entity from selling (or re-selling, as applicable) ANLBC “Braves” merchandise or tickets to Stadium events on the Mixed Use Restricted Parcel.

6. Term. This Restrictive Covenant will expire and be of no further effect upon the expiration/termination of the Facility Operating Agreement.

7. Enforcement. Upon the failure of Property Owner to comply with the provisions of Section 2 or Section 3, ANLBC may commence an action against Property Owner for any relief

allowed by law, including money damages, injunctive relief, or any combination thereof. In any such action, the prevailing party will be entitled to recover its reasonable costs and attorney's fees. Notwithstanding the foregoing and anything to the contrary in this Restrictive Covenant, Property Owner shall not be in breach hereof and ANLBC shall not commence an action against Property Owner for the failure to comply with this Restrictive Covenant unless and until (i) ANLBC gives Property Owner written notice of such failure and (ii) Property Owner fails to cure such failure within twenty (20) business days of delivery of such written notice.

8. Notices. Notice, demand, request or other communication which either party may desire to give to the other with respect to this Restrictive Covenant, shall be deemed to have been properly given if in writing and delivered by hand, sent by overnight courier or mailed by certified mail, postage prepaid, addressed as follows:

If to ANLBC, at: Atlanta National League Baseball Club, LLC
755 Battery Avenue SE
Atlanta, GA 30339

With copies to: Atlanta National League Baseball Club, LLC
755 Battery Avenue SE
Atlanta, GA 30339
Attention: Greg Heller, Executive Vice
President & Chief Legal Officer

And: DLA Piper LLP (US)
One Atlantic Center
1201 West Peachtree Street, Suite 2800
Atlanta, GA 30309
Attention: Maxine Hicks, Esq.

If to Property Owner, at: Manasota Beach Ranchlands, LLLP
Attention: Leslie Candes
4901 Vineland Road, Suite 450
Orlando, FL 32811

With copies to: 750 Point of Rocks Road
Sarasota, FL 34242
Attention: John Peshkin

And: Williams Parker Harrison Dietz & Getzen
Attention: E. John Wagner, II, Esq.
200 South Orange Avenue
Sarasota, FL 34236

Any notice delivered by hand shall be deemed delivered on the day of such delivery, and any notice not delivered by hand shall be deemed delivered on the business day following delivery if sent via overnight mail or the third (3rd) business day after the date the notice is sent if via mail. Any party hereto may designate a change of address by delivering notice in writing to the other parties. Whenever in this Restrictive Covenant the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person or persons entitled to receive such notice.

9. Governing Law. The construction, validity, and enforcement of the provisions of this Restrictive Covenant will be determined according to the law of the State of Florida. The exclusive venue of any action or suit brought to enforce or construe this Restrictive Covenant will be Sarasota County, Florida.

10. Waiver. Failure of ANLBC to insist upon strict performance of any provision of this Restrictive Covenant will not be deemed to be a waiver of such provision unless ANLBC has executed in writing a waiver thereof. Any such written waiver of any provision of this Restrictive Covenant by ANLBC with respect to any circumstance will not constitute a waiver of such provision as to any other circumstance.

11. Severability. The invalidation of any provision of this Restrictive Covenant by lawful court order will not affect or modify any of the other provisions of this Restrictive Covenant, which other provisions will remain in full force and effect.

12. Usage. Whenever used herein, the singular number will include the plural and the plural the singular, and the use of any gender will include all genders. When the word “including” (or some derivation thereof, such as “include”) is used in this Restrictive Covenant to refer to something that, in that context, may be part of a larger group of similar items, the reference is without limitation, and it should be interpreted as if followed by “but not limited to,” “without limitation,” or appropriate equivalent language for the context.

13. Binding Effect. The provisions of this Restrictive Covenant constitute a covenant running with the title to the Mixed Use Restricted Parcel and will be binding upon and inure solely to the benefit of the Facility Site, Property Owner and ANLBC and their respective successors and assigns. Notwithstanding anything to the contrary herein, (i) the covenants herein shall only impose duties on a Property Owner with respect to the portion of the Mixed Use Parcel to which the Property Owner owns the fee simple interest, and (ii) in the event of a sale or conveyance by an owner (including, without limitation, Property Owner) of its fee simple interest in all or a portion of the Mixed Use Restricted Parcel (a “**Transferred Interest**”), the owner so conveying such Transferred Interest shall (i) be relieved, from and after the date of transfer, and shall be relieved of all obligations and liabilities with respect to the Transferred Interest accruing thereafter pursuant to this Restrictive Covenant and the successor owner shall become responsible for such obligations and liabilities to the extent and for the period it owns such fee

simple interest, and (ii) promptly after such transfer give ANLBC written notice identifying the name and notice address of the transferee of such Transferred Interest.

14. Amendments. Except as set forth in Section 5(c) above, no amendment to Restrictive Covenant or other modification to this Restrictive Covenant shall be made without the prior written consent of ANLBC during the Term hereof.

[Signatures on following pages]

In witness whereof, Property Owner has caused this Restrictive Covenant to be executed in its name as of the day and year first above written.

WITNESSES:

**MANASOTA BEACH
RANGLANDS, LLLP**

By: Thomas Ranch Villages GP, LLC,
a Delaware limited liability company
As its General Partner

By: Thomas Ranch Manager, LLC,
a Delaware limited liability
company
As its Manager

Signature of Witness

Print Name of Witness

Signature of Witness

Print Name of Witness

By: _____

Name: _____

Its: _____

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this ____ day of _____, 201__ by _____, as _____ of Thomas Ranch Manager, LLC, a Delaware limited liability company and Manager of Thomas Ranch Villages GP, LLC, a Delaware limited liability company and Manager of **MANASOTA BEACH RANGLANDS, LLLP**, a Florida limited liability limited partnership, on behalf of the companies and the partnership. The above-named person is personally known to me or who has produced _____ as identification. If no type of identification is indicated, the above-named person is personally known to me.

(Notary Seal)

Signature of Notary Public

Print Name of Notary Public

I am a Notary Public of the State of Florida,
and my commission expires on _____.

In witness whereof, ANLBC has caused this Restrictive Covenant to be executed in its name as of the day and year first above written.

WITNESSES:

**ATLANTA NATIONAL LEAGUE
BASEBALL CLUB, LLC**

By: Braves Baseball Holdco, LLC,
a Delaware limited liability company
As its Authorized Member

Signature of Witness

Print Name of Witness

Signature of Witness

Print Name of Witness

By: _____
Print Name: _____
As its _____

STATE OF GEORGIA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 201__ by _____, as _____ of Braves Baseball Holdco, LLC, a Delaware limited liability company and authorized member of **ATLANTA NATIONAL LEAGUE BASEBALL CLUB, LLC**, a Georgia limited liability limited partnership, on behalf of the companies. The above-named person is personally known to me or who has produced _____ as identification. If no type of identification is indicated, the above-named person is personally known to me.

(Notary Seal)

Signature of Notary Public

Print Name of Notary Public

I am a Notary Public of the State of Georgia, and my commission expires on _____.

EXHIBIT "A"

Legal description of Facility Site

EXHIBIT “B”

Legal description of Mixed Use Restricted Parcel

[NOTE: THE LEGAL DESCRIPTION WILL INCLUDE ONLY THE AGREED UPON PROPERTY WITHIN ¼ MILE AND SHALL INCLUDE THE ACADEMY SITE AND THE STADIUM AREA SITE BUT SHALL EXCLUDE: A) THE FACILITY SITE AND B) WHAT HAS BEEN CONVEYED TO THE SARASOTA COUNTY SCHOOL BOARD AND STATE COLLEGE OF FLORIDA. IT WILL NOT BE BROADER/WILL NOT INCLUDE THE ENTIRE MIXED USE PROJECT.]

EXHIBIT “C”

Legal description of Stadium Area Site

[ATTACH LEGAL PER STANTEC SURVEY]

EXHIBIT “D”

Legal description of Architectural Theme Viewing Area

[ATTACH LEGAL]

Shaded Area subject to covenant

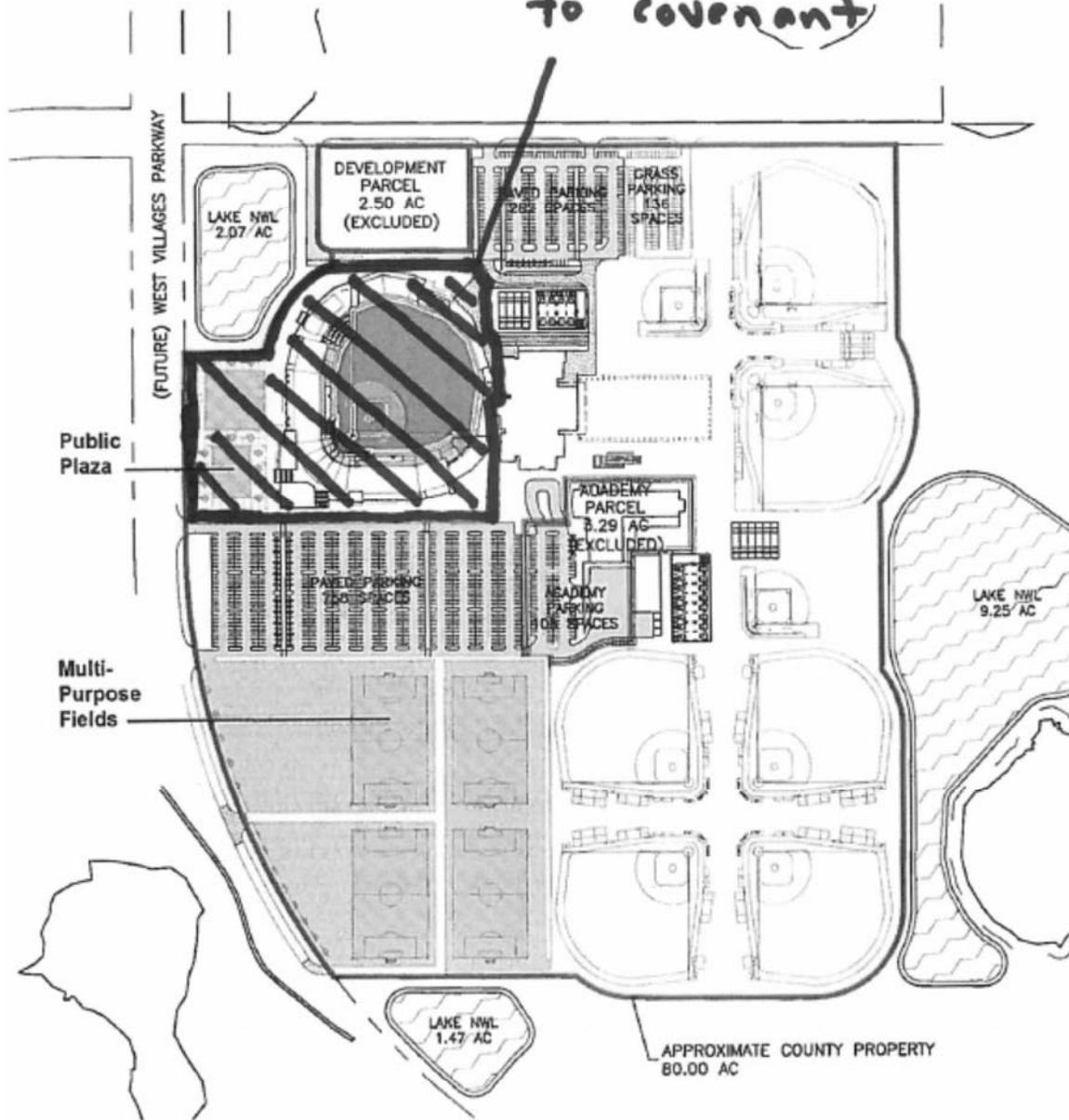


Exhibit D
~~Multi-Purpose Fields and Public Plaza~~
stadium



To be replaced prior to recording with legal description

EXHIBIT L
MASTER SITE PLAN

See attached.

EXHIBIT M
MIXED USE PROJECT

ANLBC acknowledges that the components of the Mixed Use Project will be phased, and the components and timing of the Mixed Use Project will be subject to market conditions, potential delays, and Developer's sole discretion, none of which shall subject Developer to any liability. The preliminary component(s) may include but will not be limited to the following:

- Residential For-Sale
- Hotel or condo-hotel
- Residential For-Rent
- Commercial or Retail
- Office
- Recreational
- Adult living facility
- Civic or Municipal

In particular, the preliminary concept for nearby commercial development (subject to change in Developer's sole discretion) is as follows:

- **Main Street.** Phase 1 of this area is planned for a Spring 2019 opening (subject to change) and is planned to include approximately 45,000 sf major grocery store anchor, 13,000 sf of attached retail shops, and 16,000 sf of retail, restaurant and entertainment out-parcels. Developer currently contemplates that future development of the Main Street area may include retail, service, entertainment, office, multi-family dwellings and other uses, with development continuing over a 3-10 year period. Currently, the concept plan includes approximately 1,200 attached villa, single family, multi-family and other residential products around the Main Street area.
- **Stadium Area Mixed Use.** Phase 1 of this mixed use area is planned for Fall 2019 opening, located in the left field side, outside the Stadium.
- **Residential.** There are currently 4 existing residential communities within 2 miles of the stadium site. These communities are currently selling ~900 homes per year. Together, they are the 4th fastest selling master-planned development in the United States. There are 3 new planned residential subdivisions north of US 41 (all are under construction). Currently, "Renaissance" is planned to include attached villas and single family homes and will consist of approximately 675 units at build-out. "The Preserve" is planned to include attached villas and single family homes and will consist of approximately 220 units at build-out. "Oasis" is planned to include wider single family homes and will consist of approximately 140 units at build-out. In addition to the foregoing communities, there are future plans for a 250 unit multi-family site north of US 41.

EXHIBIT N-1
CONTRACTOR(S) INSURANCE

**[THIS DOCUMENT IS IN SUBSTANTIAL FORM
AND SUBJECT TO FURTHER REVISIONS]**

INSURANCE REQUIREMENTS

Except as may otherwise be set forth in the Agreement or elsewhere in the Construction Documents, the Construction Manager shall purchase and maintain the following types of insurance with limits of liability and deductible amounts and subject to such terms and conditions, as set forth in this Exhibit N-1.

1. Construction Manager shall, at its sole cost and expense, obtain and maintain in force and effect insurance of the types and in the amounts described in Exhibit N-1a, which includes the Construction Manager Insurance Schedule. The insurance shall be written by insurance companies acceptable to Owner on agreed forms in accordance with the provisions set forth in this Exhibit N-1. Construction Manager shall require all subcontractors providing construction Work to maintain in force and effect insurance of the types and amounts described in the Subcontractor Insurance Schedule. The coverage amounts specified in this Exhibit N-1 and within the Schedules attached hereto are minimum requirements, only. Nothing herein is intended to prevent Construction Manager from requiring a subcontractor or subconsultant to provide more than the minimum coverage amounts or types specified herein.

a. Commercial General and Umbrella Liability Insurance

Construction Manager shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$10,000,000 each occurrence subject to a \$10,000,000 general aggregate. Such limit may be satisfied by combining primary and excess (Umbrella) layers of insurance. If such CGL insurance contains a general aggregate limit, it shall apply separately to the Project. CGL insurance shall be written on ISO occurrence form CG 00 01 12 07 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, contractual liability, independent contractors, products-completed operations, personal injury and advertising injury and fire damage legal liability. Owner (and its agents, officers, directors supervisors, managers, lawyers, engineers, staff and employees), County and ANLBC shall be included as an additional insured under the CGL insurance, using ISO Additional Insured Endorsement CG 20 10 11 85 or as a substitute CG 20 10 07 04 AND CG 20 37 07 04 providing equivalent coverage, and under the commercial umbrella, if any. This insurance, including insurance provided under the commercial umbrella, if any, shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to, or maintained by, Owner. There shall be no endorsement or modification of the CGL policy limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage. Construction Manager waives all rights and shall require its insurance providers to waive all their rights of subrogation against Owner and its agents, officers, directors, supervisors, managers, lawyers, engineers, staff and employees for recovery of damages to the extent these damages are covered by the CGL or commercial umbrella liability insurance.

Construction Manager shall maintain CGL and, if necessary, commercial umbrella liability insurance, with a limit of not less than \$10,000,000 each occurrence for at least 5 years following substantial completion of the Work. Continuing CGL insurance shall be written on ISO occurrence form CG 00 01 12 07 (or a substitute form providing equivalent coverage) and shall, at minimum, cover liability arising from products-completed operations and liability assumed under an insured contract. Continuing CGL insurance shall have a products-completed operations aggregate of at least two times its each occurrence limit. Continuing commercial umbrella coverage, if any, shall include liability coverage for damage to the insured's completed Work equivalent to that provided under ISO form CG 00 01.

b. Business Auto and Umbrella Liability Insurance

Construction Manager shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$10,000,000 each accident. Such limit may be satisfied by combining primary and excess (Umbrella) layers of insurance. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos). Business Auto Coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01. If the Contract Documents require Construction Manager to remove and haul hazardous waste from the Project site, or if the Project involves such similar environmental exposure, pollution liability coverage equivalent to that provided under the ISO Pollution Liability-Broadened Coverage for Covered Autos Endorsement CA 99 48 shall be provided, and the Motor Carrier Act Endorsement (MCS 90) shall be attached. Construction Manager waives all rights and shall require its insurance providers to waive all their rights of subrogation against Owner and its agents, officers, directors supervisors, managers, lawyers, engineers, staff and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by Construction Manager or under any applicable auto physical damage coverage. Owner (and its agents, officers, directors supervisors, managers, lawyers, engineers, staff and employees), County and ANLBC shall be included as an additional insured under the Business Auto Coverage, using ISO Additional Insured Endorsement or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance, including insurance provided under the commercial umbrella, if any, shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to, or maintained by, Owner, County, or ANLBC.

c. Workers Compensation Insurance

Construction Manager shall maintain workers compensation and employers liability insurance. The workers compensation limits shall be as required by applicable statute. The employers liability, and if necessary commercial umbrella, limits shall not be less than \$10,000,000 each accident for bodily injury by accident or \$10,000,000 each employee for bodily injury by disease. Such limit may be satisfied by combining primary and excess (Umbrella) layers of insurance. The alternate employer endorsement (WC 00 03 01 A) shall be attached showing Owner in the schedule as the alternate employer.

Where applicable, the U.S. Longshore and Harborworkers Compensation Act Endorsement shall be attached to the policy. Where applicable, the Outer Continental Shelf Lands Act Endorsement shall be attached to the policy. Where applicable, the Maritime Coverage Endorsement shall be attached to the policy. Construction Manager waives all rights and shall require its insurance providers to waive all their rights of subrogation against Owner and its agents, officers, directors supervisors, managers, lawyers, engineers, staff and employees for recovery of damages to the extent these damages are covered by the workers compensation or employers liability or commercial umbrella liability insurance.

d. Contractors' Protective Professional Liability Coverage as provided under the Construction Manager's Annual Practice Policy (not Project Specific).

Each Claim: \$10,000,000
Annual Aggregate: \$10,000,000
Maximum Deductible / SIR Permissible: \$750,000

Retroactive Date shall be no later than the date of first service by the Construction Manager on the Project Site. Construction Manager is required to continuously carry this coverage for a term of ten (10) years or the applicable Project Site state statute of repose (whichever is less).

e. Aviation Liability

The Construction Manager shall provide or require Aviation Liability insurance covering all owned, non-owned, leased, chartered or hired aircraft, whether manned or unmanned, used, operated, or hired by the Construction Manager or the applicable Subcontractor or Sub-subcontractor in connection with the Work, including bodily injury, property damage, and Passenger Liability with a minimum limit of \$10,000,000 each occurrence (limits for drones is \$5,000,000). (If Applicable)

f. Watercraft Liability

Watercraft Liability and/or Protection and Indemnity insurance covering all owned, non-owned, and hired watercraft, used, operated, or hired by the Construction Manager or the applicable Subcontractor or Sub-subcontractor in connection with the Work, including bodily injury with a minimum limit of \$10,000,000 each occurrence. (If Applicable)

g. Contractor's Equipment or Property (owned, leased, rented or borrowed)

Contractor's Equipment or Property insurance covering all tools, molds, forms and all other property that is not specifically included in the Builder's Risk insurance provided by the Owner. Construction Manager, Sub-contractor, or a Sub-subcontractor may elect to self-insure this exposure; however, in such case respective Construction Manager, Subcontractor or Sub-subcontractor waives any claims against the Owner, and its agents, officers, directors supervisors, managers, lawyers, engineers, staff and employees, and the Indemniteses for theft, loss or destruction of such property, and any deductibles and/or self-insurance shall be treated as insurance for the purposes of the waiver of subrogation or recovery in the waiver of subrogation section herein.

h. Contractors Pollution. Contractors Pollution Liability insurance for the duration of this contract for construction activities at the Project Site. The policy will be written with a limit of at least \$5,000,000.

QUALIFICATION OF INSURERS

Each Insurer who provides any insurance coverage required by this Agreement must meet each of the following requirements:

The Insurer must be duly licensed and/or authorized by the State of Florida to transact property and/or casualty insurance business in the State of Florida. The Insurer must have an A.M. Best Policyholder Rating of at least "A" and a Financial Rating of Class X or higher, except that insurers of Subcontractors and Sub-subcontractors of any tier shall have a Policyholder Rating of at least "A-" and a Financial Rating of Class VII or higher.

EVIDENCE OF INSURANCE

Prior to commencing the Work, Construction Manager shall furnish Owner with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, setting out compliance with the insurance requirements set forth above, as well as copies of all applicable endorsements. All policies shall be endorsed to provide and the certificates shall evidence 30 days written notice to Owner prior to the cancellation or material change of any insurance referred to therein. Failure of Owner to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Owner to identify a deficiency from evidence that is provided, or failure of any party to provide such certificate or other evidence of full compliance with these insurance requirements shall not be construed as a waiver of or relief from Construction Manager's or such other party's obligation to carry and maintain such insurance. Owner shall have the right, but not the obligation, to prohibit Construction Manager or any subcontractor or subconsultant from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by Owner. Upon request, Construction Manager shall submit to Owner copies of the provisions in its insurance policies complying with the requirements of this Agreement. With respect to insurance maintained after final payment in compliance with a requirement above, an additional certificate(s) evidencing such coverage shall be promptly provided to Owner with closeout documents and when requested. Construction Manager shall provide copies of all insurance policies required above within 10 days of Owner's written request for said copies. Failure to maintain the insurance required shall constitute an event of default of the Agreement and shall allow Owner to terminate the Agreement at Owner's option.

For Construction Manager, all Subcontractors, all Sub-subcontractors and all Subconsultants, coverage must include and Certificates of Insurance must evidence:

- .1 Reference: PROJECT: ATLANTA BRAVES SPRING TRAINING FACILITY PROJECT AT WEST VILLAGES, FL
- .2 Additional Insured:

West Villages Improvement District, a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, Laws of Florida, and its agents, officers, directors supervisors, managers, lawyers, engineers, staff and employees.

Sarasota County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents

Atlanta National League Baseball Club, LLC

as additional insureds (as respects Automobile, General and Excess/Umbrella Liability) with respect to liability arising out of the Work. Coverage must be primary and non-contributory.

The Commercial General Liability insurance policy shall include a provision or endorsement, at least as broad as the CG 20 10 07 04 in combination with the CG 20 37 07 04 (or CG 20 10 11 85 by itself), as published by Insurance Services Offices (ISO).

IN THE EVENT THAT THE LAW OF THE STATE IN WHICH THE PROJECT IS LOCATED (OR APPLICABLE LAW) LIMITS THE ADDITIONAL INSURED COVERAGE THAT SPONSOR MAY REQUIRE FROM CONSTRUCTION MANAGER, THEN CONSTRUCTION MANAGER SHALL BE REQUIRED TO OBTAIN ADDITIONAL INSURED COVERAGE TO THE FULLEST EXTENT OF COVERAGE AND LIMITS ALLOWED BY APPLICABLE LAW AND THIS CONTRACT SHALL BE READ TO CONFORM TO SUCH LAW.

- .3 Waiver of Subrogation: in favor of Additional Insureds. In addition, Construction Manager waives, and shall require all Subcontractors and Sub-subcontractors of every tier to waive, all claims against Additional Insureds to the extent such claims are covered by insurance required by this Exhibit N-1. Such insurance shall not prohibit the foregoing waiver. Any such deductibles or self-insured retentions shall be borne by the respective party at its sole expense, without reimbursement by Owner, and shall be treated as “insurance” for purposes of the waiver in this Section.
- .4 Notice of Cancellation: All required policies shall be endorsed to provide that notice of cancellation shall be given to Owner by insurance agent/broker or carrier; or if unavailable, Construction Manager must provide Owner with thirty (30) days advance written notice of cancellation or non-renewal (ten (10) days in the event of cancellation for non-payment of premium).
- .5 Primary and Noncontributory: The terms of all insurance required by this Exhibit N-1 shall be reasonably satisfactory to Owner. All such insurance

shall be primary and noncontributory and shall not be excess over other available insurance.

GENERAL INSURANCE PROVISIONS

By requiring the insurance as set out, Owner does not represent that coverage and limits will necessarily be adequate to protect Construction Manager and such coverage and limits shall not be deemed as a limitation on Construction Manager's liability under the indemnities provided to Owner in the Contract Documents. If Construction Manager's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage. The insurance requirements set out are independent from all other obligations of Construction Manager under the Contract Documents and apply whether or not required by any other provision of the Contract Documents. Construction Manager shall cause each subcontractor and subconsultant employed by Construction Manager to purchase and maintain insurance set forth in the Subcontractor Insurance Schedule. When requested by Owner, Construction Manager shall furnish to Owner copies of certificates of insurance evidencing coverage for each subcontractor or subconsultant.

If Owner is damaged by the failure of Construction Manager to comply with the requirements of this Article, then Construction Manager shall bear all reasonable costs properly attributable to that failure. Before the commencement of Work, Construction Manager shall declare to Owner any decision on its part not to obtain any or all of the insurance coverage as hereby required. Upon such declaration or should Construction Manager otherwise fail to provide any insurance required by this Article, Owner shall have the right to obtain insurance equivalent in coverage to that required and, by appropriate change order, charge the cost of such insurance to Construction Manager. If at any time any of the above required insurance policies should expire or be canceled, terminated or changed such that the required insurance is no longer in effect, Owner may require Construction Manager to suspend the Work. No extension of time or additional compensation shall be allowed to Construction Manager in the event of any such suspension. Owner may, at its option, obtain replacement coverage in whole or in part whether or not the Work is suspended and the cost of any such insurance to Owner shall be the responsibility of Construction Manager.

Partial occupancy or use of the Work shall not commence until the insurance company or companies providing insurance as required in this section have consented to such partial occupancy or use. Owner and Construction Manager shall take reasonable steps to obtain consent of the insurance company or companies, and agree to take no action, other than upon mutual written consent, with respect to occupancy or use of the Work that could lead to cancellation, lapse, or reduction of insurance.

INSURANCE REQUIRED BY LAW

Nothing in the requirements of this Article or in the "Construction Manager Insurance Schedule" incorporated herein shall relieve Construction Manager from any obligation to provide any additional insurance or any additional limits which may be required by the laws of the jurisdiction where the Work is to be performed.

Exhibit N-1a

CONSTRUCTION MANAGER INSURANCE SCHEDULE
Provide this to your Insurance Broker

As a minimum, the below insurance is required. Excess / Commercial Umbrella Liability is acceptable to broaden existing primary limits to increase them to sufficiently meet requirements:

TYPE OF COVERAGE	LIMITS & COMMENTS
<p>Commercial General Liability (with a combined single limit for Bodily Injury and Property Damage)</p> <p>CGL Insurance shall be ISO Occurrence form CG 00 01 12 07 (or equivalent)</p> <p>Coverage shall provide for both ongoing and completed operations hazards. CG 20 10 07 04 is acceptable but endorsement CG 20 37 07 04 must also be included</p> <ul style="list-style-type: none"> • Personal Injury Liability • Products and Completed Operations (Maintain for 5 years following final payment) • Contractual Liability • Independent Contractors Liability • Fire Damage Legal Liability 	<p>\$10,000,000 Each Occurrence and \$10,000,000 General Aggregate</p> <p><i>*Coverage on Occurrence Basis</i></p> <p><i>*Explosion, Collapse or Underground Damage</i></p> <p><i>*Contractual</i></p> <p><i>*Independent Contractors Property Damage</i></p> <p>\$1,000,000 Each Occurrence</p> <p>\$10,000,000 Aggregate</p> <p>\$1,000,000</p> <p>\$1,000,000</p> <p>\$300,000</p>
<p>Automobile Liability (for all vehicles owned, non-owned, hired or otherwise used in connection with business operations on or from the Project/ premises/location/job site)</p> <p>Business Automobile Coverage provided on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20 or substitute form providing equivalent liability coverage</p> <p>If transportation of hazardous materials is required Pollution Liability-Broadened Coverage for Covered Autos Endorsement CA 99 48 shall be provided by Construction Manager and any subcontractor(s) and subconsultant(s) undertaking such work, and Motor Carrier Act Endorsement (MCS 90) shall be provided by the party undertaking such work.</p>	<p>\$10,000,000 Combined Single Limit for Bodily Injury and Property Damage per accident or in such greater limitations as may be required by statute under the applicable law in the jurisdiction where the Project is located or the Work is provided.</p>

<p>Workers' Compensation Insurance or equivalent as prescribed by law for operations performed by insured party, its agents and employees</p> <p>with Employers Liability</p>	<p>Statutory Limits</p> <p>\$10,000,000 each accident, \$10,000,000 each person for disease and \$10,000,000 aggregate for disease</p> <p>Alternate Employer Endorsement</p> <p><i>*United States Longshoreman and Harbor-workers Act Endorsement – If required</i></p> <p><i>*Voluntary Compensation Endorsement – “If Any” Basis</i></p>
<p>Umbrella or Excess Liability (not less broad than primary policies)</p>	<p>\$10,000,000 Each Occurrence</p> <p>\$10,000,000 Aggregate</p>
<p>Pollution Liability (If such exposure exists, including, but not limited to removal or hauling of hazardous wastes)</p>	<p>And, maintain a Contractor's Pollution Legal Liability Policy: \$5,000,000</p>
<p>Professional Liability (Errors & Omissions) Maintain 10 years following acceptance</p>	<p>\$10,000,000 Each Claim</p> <p>\$10,000,000 Annual Aggregate (with a deductible not greater than \$750,000.00)</p> <p><i>*Must include pollution coverage</i></p>
<p>Aviation Liability (if applicable)</p>	<p>\$10,000,000 Each Occurrence</p>
<p>Watercraft Liability (if applicable)</p>	<p>\$10,000,000 Each Occurrence</p>
<p>Contractors' Protective Professional Liability Coverage Maintain 10 years following acceptance</p>	<p>\$10,000,000 Each Claim</p> <p>\$10,000,000 Annual Aggregate (with a deductible not greater than \$750,000)</p>

1. All insurance policies shall be issued by insurance companies duly licensed in the state where the project is located and having a minimum AM Best Policyholder Rating of "A" and Financial Rating of Class X (or shall otherwise be acceptable to Owner) and shall not be suspended, voided, cancelled, materially changed except after thirty (30) days prior written notice shall have been given to owner by insurance carrier(s).

2. Certificates of liability insurance shall be on the most current version of the ACORD Form 25
3. The Certificate Holder must read:

West Villages Improvement District
[Insert Address]

4. The following must be listed as Additional Insured (under all policies except Workers' Compensation and Professional Liability) and provided a Waiver of Subrogation (where permitted by law) as evidenced with an attached endorsement:

West Villages Improvement District, a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, Laws of Florida, and its agents, officers, directors supervisors, managers, lawyers, engineers, staff and employees

Sarasota County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents

Atlanta National League Baseball Club, LLC

5. Prior to commencement of Work, Construction Manager shall deliver to Owner certificates of insurance acceptable to Owner to evidence all such insurance coverages, and copies of applicable endorsements.
6. Construction Manager's insurance shall be primary, non-contributory, and not excess coverage and shall not seek contribution from any insurance provided by Owner.
7. Annual renewals of Certificates of Insurance must be received by Owner prior to expiration of insurance dates.
8. All of Construction Manager's subcontractors and subconsultants must comply with the preceding requirements in items 1-7 above.

Exhibit N-1b

**SUBCONTRACTOR INSURANCE SCHEDULE
REQUIRED INSURANCE COVERAGE**

1. **Insurance Coverage To Be Provided By Subcontractor.** This Schedule (the “Insurance Requirements”) is attached as part of the Subcontract. In the event of conflict between any of the following Insurance Requirements and any other provision in the Subcontract, these Insurance Requirements control, amend, and supplement the conflicting provision. The following insurance shall be maintained by Subcontractor with coverage and limits of not less than those set forth below at all times during the term of the Subcontract and thereafter as required.

No.	Specifications	Coverages, Limits, and Other Requirements
1.0	Commercial General Liability.	Subcontractor is to maintain Commercial General Liability (“CGL”) insurance issued on an Occurrence Basis meeting at least the following specifications:
	Minimum Limits	The limits of coverage shall not be less than the following amounts: \$1,000,000 Per Occurrence \$2,000,000 General Aggregate Per Project \$2,000,000 Products-Completed Operations Aggregate \$1,000,000 Personal & Advertising Injury \$50,000 Damage To Premises Rented To You \$5,000 Medical Expense
	General Aggregate	A Designated Construction Project(s) General Aggregate Limit shall be provided for this Project
	Post-Completion Coverage	Subcontractor agrees to maintain Products-Completed Operations coverage with respect to the Work performed under the Subcontract in identical amount, including required endorsements, for a minimum of three (3) years following Date of Substantial Completion of the Work. Subcontractor shall provide written representation to Contractor stating Work completion date.
	Form	This insurance is to be issued on an ISO form CG 00 01 or equivalent form.
	Insured Contracts	Coverage shall include but not be limited to liability assumed by Subcontractor under the Subcontract, including the tort liability of another assumed in a business contract, and shall include unmodified Separation of Insureds coverage.
	Personal Injury Contractual Liability	The Personal Injury Contractual Liability Exclusion shall be deleted.
	Prohibitions	Prohibited exclusions/limitations or their equivalents include but are not limited to: a. Amendment of Insured Contract Definition; b. Contractual Liability Exclusion; c. Damage to Work Performed by Subcontractors On Your Behalf; d. Explosion, Collapse and Underground Property Damage Hazard; e. Earth Movement; f. Work Height; and g. Cross-suits (named v. additional insureds exclusion)
2.0	Commercial Auto Liability.	Subcontractor is to maintain business auto insurance meeting at least the following specifications:
	Minimum Limits	The limits of liability shall be no less than \$1,000,000 Combined Single Limit

		(CSL).
	Form	This insurance is to be issued on ISO form CA 00 01 or equivalent form.
	Scope	This insurance is to cover damages because of bodily injury or property damages caused by an accident and resulting from the ownership, maintenance or use (1) of any auto, including owned, hired and non- owned autos, and (2) of any mobile equipment subject to compulsory insurance or financial responsibility laws or other motor vehicle insurance laws.
	Notice of Cancellation	This insurance shall be endorsed to provide a thirty (30) day notice of cancellation to Contractor.
3.0	<u>Workers' Compensation and Employer's Liability.</u> Contractor is to maintain Workers' Compensation and Employer's Liability insurance meeting at least the following specifications:	
	Workers' Compensation Limits	The minimum limits of this insurance shall be no less than the statutory limits, even if Subcontractor is otherwise exempted under applicable state law.
	Employer's Liability Limits	The minimum limits of this insurance shall be no less than \$500,000 each accident and disease (each employee and policy limit).
	Territory	The state in which the Work is to be performed must be listed under Item 3.A. on the Declaration Page of the policy, or on the certification from Subcontractor's workers' compensation fund.
	Scope	This insurance is to cover liability arising out the Contractor's employment of workers and anyone for whom the Contractor may be liable for workers' compensation claims. Workers' Compensation insurance is required and no alternative form of insurance is permitted.
	Prohibitions	Employees leased through a Professional Employment Organization ("PEO") are not permitted unless approved in writing by Contractor. If PEO is allowed by Contractor, an Alternate Employer Endorsement in the name of the Contractor must be provided.
	Stop Gap	Stop Gap coverage must be provided if Work is to be performed in a monopolistic state, listing the state(s) in which Work is to be performed.
	United States Longshoremen and Harbor Workers ("USL&H")	USL&H coverage must be provided where such exposure exists listing the state(s) in which Work is to be performed.
4.0	<u>Excess Liability.</u> Subcontractor is to maintain Excess Liability insurance meeting at least the following specifications:	
	Minimum Limits	\$3,000,000 Each Occurrence and Aggregate Limit of Liability
	Scope	This insurance shall be excess over and be no less broad than all coverages and conditions described above. The policy limits required herein may be provided by a combination of primary and excess policies, but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required herein.
	General Aggregate	A Designated Construction Project(s) General Aggregate Limit shall be provided for this Project.
	Concurrency	Such coverage shall have the same inception date as the Commercial General Liability and Employer's Liability coverages.
	Drop-Down Coverage	Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits.
	Defense Costs	This insurance is to include a duty to defend any insured.

5.0 <input type="checkbox"/>	Professional Liability. If indicated in the box to the left or included in the “Scope” section below, Subcontractor is to maintain Professional Liability insurance meeting at least the following specifications:	
	Minimum Limits	Limits of coverage shall be no less than: \$2,000,000 Each Loss \$2,000,000 Annual Aggregate If a combined Pollution Liability and Professional Liability policy is utilized, the limits shall be \$3,000,000 Each Loss and Aggregate.
	Scope	Such insurance shall cover services rendered by the Subcontractor (or lower-tier subcontractor) under the Agreement, including design-build work, architecture, engineering, design, surveying, and other similar professional services. In the event Subcontractor subcontracts any design or engineering services to a lower-tier party, Subcontractor shall require such party to abide by the Professional Liability insurance requirements set forth in Schedule D of this Subcontract, and Subcontractor shall remain responsible for any consequences resulting from the failure to do so. Subcontractor shall also require that Contractor be named as an intended third-party beneficiary in any agreement with a lower-tier party that performs design or engineering services.
	Retroactive Date	Any retroactive date must be effective prior to beginning of services for the Contractor.
	Prohibitions	This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from: a. bodily injury or property damage where coverage is provided on behalf of design professionals or design/build contractors; b. mold and/or microbial matter and/or fungus and/or biological substance; or c. punitive, exemplary, or multiplied damages, where insurable by law A professional liability endorsement to a general liability policy is not acceptable.
	Term	Policies written on a Claims-Made basis shall be maintained for a minimum of three (3) years beyond termination or completion of the Work. The purchase of an extended discovery period or an extended reporting period on a Claims-Made policy will not be sufficient to meet the terms of this provision.
6.0 <input type="checkbox"/>	Pollution Liability. If indicated in the box to the left, designated in the Agreement, or Subcontractor’s Work (or lower-tier subcontractor’s Work) involves potential pollution risk to the environment or losses caused by pollution conditions (including asbestos) that may arise from the operations of the Subcontractor, Subcontractor is to maintain Pollution Liability insurance meeting at least the following specifications:	
	Minimum Limits	Limits of coverage shall be no less than: \$2,000,000 Each Loss \$2,000,000 Annual Aggregate If a combined Pollution Liability and Professional Liability policy is utilized, the limits shall be \$3,000,000 Each Loss and Aggregate.
	Scope	The policy must provide coverage for: a. the full scope of the named insured’s operations (on-going and completed) as described within the scope of work for this Subcontract; b. loss arising from pollutants including but not limited to fungus, bacteria,

		<p>biological substances, mold, microbial matter, and low-level radioactive materials;</p> <p>c. third party liability for bodily injury, property damage, clean up expenses, and defense arising from the operations;</p> <p>d. diminution of value and Natural Resources damages; e. contractual liability;</p> <p>f. claims arising from owned and non-owned disposal sites utilized in the performance of this Subcontract; and</p> <p>g. claims arising from transportation of material, including loading and unloading</p> <p>Coverage extensions to the General Liability insurance policy without a separate insurance agreement for Subcontractors Pollution Liability insurance will not fulfill this requirement.</p>
	Insured Contracts	Coverage shall include but not be limited to liability assumed by Subcontractor under the Subcontract, including the tort liability of another assumed in a business contract.
	Retroactive Date	If coverage is provided on a Claims Made basis, coverage will at least be retroactive to the earlier of the date of this Subcontract or the commencement of Subcontractor's services in relation to the Work.
	Prohibitions	<p>This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from:</p> <p>a. insured vs. insured actions. However, exclusion for claims made between insureds within the same economic family are acceptable.</p> <p>b. impaired property that has not been physically injured</p> <p>c. materials supplied or handled by the named insured. However, exclusions for the sale and manufacture of products are allowed. Exclusionary language pertaining to materials supplied by the insured shall be reviewed by the certificate holder for approval.</p> <p>d. property damage to the completed work performed by the contractor or property damage to the work performed by a Subcontractor.</p> <p>e. faulty workmanship as it relates to clean up costs</p> <p>f. punitive, exemplary or multiplied damages, where insurable by law</p> <p>g. work performed by lower-tier subcontractors</p> <p>h. contractual liability incurred as a result of an injury to an employee of the insured</p> <p>i. asbestos, lead, or silica</p>
	Term	Completed Operations Coverage shall be maintained for a minimum of three (3) years after the completion of Work. The extended reporting period on a claims made-based policy does not fulfill this requirement. Pollution Liability insurance policies insuring a specific project shall have Completed Operations Coverage for at least the duration of the work plus three (3) years.

2. General Insurance Requirements.

.1 Definitions. For purposes of this Agreement:

- a. "Agreement" or "Subcontract" means the Subcontract to which this Schedule is attached.
- b. "ISO" means Insurance Services Office.
- c. "Subcontractor" shall include subcontractors of any tier.
- d. "Contractor" shall mean "Brasfield & Gorrie, L.L.C." and its respective shareholders, members, partners, joint ventures, affiliates, subsidiaries, successors, and assigns, and its directors, officers, employees, or agents of such persons or entities.

.2 Limits. "Limits" set out in these specifications are the minimum dollar amount of insured coverage for the risk, cause of loss, or peril specified. If Subcontractor maintains greater limits, then these specifications shall not limit the amount of recovery available to Contractor and the limits specified above as the minimum limits are increased to the greater limits.

- .3 **Additional Insureds.** Additional Insured status shall be provided in favor of Contractor, Owner (and its agents, officers, directors supervisors, managers, lawyers, engineers, staff and employees), and their Officers, Agents and Employees, and any other entity(s) and or person(s) required by the contract between the Contractor and the Owner, on the Commercial General Liability, Commercial Auto Liability, Excess Liability, and Pollution Liability coverages. Additional Insured status shall be provided in favor of Contractor Parties on ISO forms CG 20 10 07 04 and CG 20 37 07 04, or substitute endorsement(s) providing “equivalent” coverage. In the event that the law of the state in which the Project is located (or applicable law) limits the additional insured coverage that Contractor may require from Subcontractor, then Subcontractor shall be required to obtain additional insured coverage to the fullest extent of coverage and limits allowed by applicable law, and this requirement shall be read to conform to such law.
- .4 **Primary and Noncontributory.** It is the specific intent of the parties that all insurance required herein (with the exception of Workers Compensation, Employer’s Liability, and Professional Liability) shall be primary to and shall seek no contribution from all insurance held by Contractor or Owner, with Contractor’s and Owner’s insurance being excess, secondary, and noncontributory.
- .5 **Notice of Cancellation.** The insurance coverages required herein shall be endorsed to provide a thirty (30) day notice of cancellation to Contractor.
- .6 **Waiver of Subrogation.** Subcontractor and its lower-tier subcontractors shall cause all insurance required by this Schedule to be endorsed to waive all rights of subrogation against Contractor, Owner, and any other party required by the Contract Documents.
- .7 **Policies.** Except for Professional and Pollution Liability coverages required herein, all policies held by Subcontractor and required herein must be written through insurance companies authorized to do business in the state in which the work is to be performed and rated no less than A-/VII in the most current edition of A. M. Best’s Key Rating Guide at all times Work is to be performed.
- .8 **Residential Exclusion.** The insurance provided shall not exclude residential work; such exclusion shall be considered a material breach of the Agreement.
- .9 **Deductibles and Retentions.** All deductibles and/or retentions shall be paid by, assumed by, for the account of, and at the Subcontractor’s sole risk. The Subcontractor shall not be reimbursed for same.
- .10 **Forms.** If the forms of policies, endorsements, certificates, or evidence of insurance required by this Schedule are superseded or discontinued, Contractor will have the right to require other equivalent forms. Any policy or endorsement form other than a form specified in this Schedule must be approved in advance by Contractor.
- .11 **Evidence of Insurance.** Subcontractor is to provide Contractor with evidence of insurance prior to entry by Subcontractor on the property and thereafter is to provide Contractor refreshed evidence of continued insurance after the expiration of the current policies prior to the expiration of the current policies. Insurance must be evidenced as follows:
 - a. ACORD Form 25 Certificate of Liability Insurance for liability coverages which shall specify:
 - 1) Additional Insured status in favor of Contractor, Owner, and their Officers, Agents and Employees, and any other entity(s) and or person(s) required by the contract between the Contractor and the Owner, on forms required herein on General Liability, Auto Liability, Excess Liability and, when required herein, Pollution Liability;
 - 2) Designated Construction Project(s) General Aggregate Limit on General Liability and Excess Liability;
 - 3) Primary and non-contributory status on all insurance required herein (with the exception of Workers Compensation, Employer’s Liability, and Professional Liability);
 - 4) Pollution Liability when required herein;
 - 5) Professional Liability when required herein;
 - 6) Waivers of subrogation on all coverages; and
 - 7) Thirty (30) Day Notice of Cancellation on all coverages
 - b. Copies of the following shall also be provided:
 - 1) General Liability Additional Insured endorsement(s)

If requested in writing by Contractor, Subcontractor will provide to Contractor a certified copy of any or all insurance policies required herein including endorsements within thirty (30) days of any such request.

Commencement of Work without provision of the required certificate of insurance, evidence of insurance, and/or required endorsements, or without compliance with any other provision of this Subcontract, shall not constitute a waiver by Contractor of any rights. The Contractor shall have the right, but not the obligation, of prohibiting the Subcontractor or any lower-tier subcontractor from performing any Work until such certificate of insurance, evidence of insurance, and/or required endorsements are received and approved by the Contractor.

.12 Insurance Requirements of Subcontractor's Lower-Tier Subcontractors

- a. Insurance similar to that required of the Subcontractor shall be provided by all lower-tier subcontractors (or provided by the Subcontractor on behalf of lower-tier subcontractors) to cover operations performed under any subcontract agreement. The Subcontractor shall be held responsible for any modification to these insurance requirements as they apply to lower-tier subcontractors. The Subcontractor shall maintain certificates of insurance from all lower-tier subcontractors containing provisions similar to those listed herein (modified to recognize that the certificate is from a lower-tier subcontractor) enumerating, among other things, the waivers of subrogation, additional insured status, and primary and non-contributory liability as required herein, and make them available to the Contractor upon request.
- b. The Subcontractor is fully responsible for loss and damage to its property on the Project site, including tools and equipment, and shall take necessary precautions to prevent damage to or vandalism, theft, burglary, pilferage, and unexplained disappearance of property. Any insurance covering the Subcontractor's or its lower-tier subcontractor's property shall be the Subcontractor's and its lower-tier subcontractor's sole and complete means of recovery for any such loss. To the extent any loss is not covered by said insurance or subject to any deductible or co-insurance, the Subcontractor and its lower-tier subcontractors shall not be reimbursed for same. Should the Subcontractor or its lower-tier subcontractors choose to self-insure this risk, it is expressly agreed that the Subcontractor hereby waives, and shall cause its lower-tier subcontractors to waive, any claim for damage or loss to said property in favor of the Contractor and Owner.

3. Miscellaneous

- .1 **Release and Waiver.** The Subcontractor hereby waives all rights of recovery and releases, and shall cause its lower-tier subcontractors to release, the Contractor and Owner from any and all claims or causes of action whatsoever that the Subcontractor and/or its lower-tier subcontractors might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required herein or not, or that should have been covered by insurance required herein, including the deductible and/or uninsured portion thereof, maintained and/or required to be maintained by the Contractor and/or its subcontractors pursuant to this Agreement. **THE FOREGOING RELEASE AND WAIVER APPLY EVEN IF THE LOSS OR DAMAGE IS CAUSED IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF THE CONTRACTOR OR OWNER.**
- .2 **No Waiver.** Failure of Contractor to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Contractor to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Subcontractor's obligation to maintain such insurance.
- .3 **Suspension.** Contractor shall have the right, but not the obligation, of suspending Subcontractor's services, without an increase in the sum payable by Contractor to Subcontractor due to such suspension, until such certificates or other evidence that the required insurance has been placed in compliance with these requirements is received and approved by Contractor.
- .4 **Post Completion Coverage.** With respect to the insurance to be maintained after final payment to Subcontractor, an additional certificate(s) evidencing such coverage shall be provided to Contractor with final application for payment if prior certificate has expired, and thereafter upon renewal or replacement of such insurance until the expiration of the time period for which such insurance must be maintained.

- .5 Compliance With Laws.** If any insurance requirements are deemed to violate any law, statute, or ordinance, the insurance requirements shall be reformed to provide the maximum amount of protection to Contractor as allowed under the law.
- .6 Use of the Contractor's Equipment.** The Subcontractor, its agents, employees, subcontractors, or suppliers shall use the Contractor's equipment only with express written permission of the Contractor's designated representative and in accordance with the Contractor's terms and condition for such use. If the Subcontractor or any of its agents, employees, subcontractors, or suppliers use any of the Contractor's equipment for any purpose, including machinery, tools, scaffolding, hoists, lifts, or similar items owned, leased, or under the control of the Contractor, the Subcontractor shall defend, indemnify, and be liable to the Contractor for any and all loss or damage that may arise from such use.
- .7 Subcontractor Insurance Representations to Owner Parties**
- a. It is expressly understood and agreed that the insurance coverages required herein (a) represent Contractor's minimum requirements and are not to be construed to void or limit the Subcontractor's indemnity obligations as contained in this Subcontract nor represent in any manner a determination of the insurance coverages the Subcontractor should or should not maintain for its own protection; and (b) are being, or have been, obtained by the Subcontractor in support of the Subcontractor's liability and indemnity obligations under this Subcontract. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy, or failure of any insurance company carrying insurance of the Subcontractor, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate, or waive any of the provisions of this Subcontract.
- b. Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under, this Subcontract. If the Subcontractor shall fail to remedy such breach within five (5) business days after notice by the Contractor, the Subcontractor will be liable for any and all costs, liabilities, damages, and penalties resulting to the Contractor from such breach, unless a written waiver of the specific insurance requirement(s) is provided to the Subcontractor by the Contractor. In the event of any failure by the Subcontractor to comply with the provisions of this Subcontract, the Contractor may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to the Subcontractor, purchase such insurance, at the Subcontractor's expense, provided that the Contractor shall have no obligation to do so and if the Contractor shall do so, the Subcontractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.
- .8 Survival.** This Schedule is an independent contract provision and shall survive the completion of the Work or termination or expiration of the Subcontract.

EXHIBIT N-2
CONSULTANTS INSURANCE

At its sole expense, Architect shall maintain, at a minimum, the following insurance coverages and limits through insurers eligible to do business in Florida and having an A.M. Best Rating of no less than A- and with a size rating of no less than VII:

1. Professional Liability (Errors and Omissions) Insurance:
 - a. Per Claim Limit \$2,000,000; Annual Aggregate Limit \$2,000,000.
 - b. The maximum deductible or self-insured retention permissible shall be \$25,000.00 per claim, which shall be the sole responsibility of the Architect.
 - c. Retroactive Date shall be no later than the date Architect began providing any design or professional services, even if prior to execution of this Agreement.
 - d. Coverage shall be continuously maintained during the term of this Agreement and for three years after Substantial Completion of the Project.
 - e. Coverage shall not contain any limitations related to pollution or mold/fungi.

2. Workers' Compensation and Employer's Liability Insurance:
 - a. Workers' Compensation coverage providing statutory benefits for Florida and including all states coverage.
 - b. Employer's Liability Limits:
 - Each Accident \$500,000
 - Each Employee – Disease \$500,000
 - Policy Limit – Disease \$500,000

3. Commercial General Liability ("CGL") Insurance:
 - a. Limits of Liability:
 - General Aggregate Limit \$2,000,000 (Per Project)
 - Products - Completed Operations Aggregate Limit \$2,000,000
 - Personal & Advertising Injury Limit \$1,000,000
 - Each Occurrence Limit \$1,000,000
 - b. Coverage afforded shall be provided on an occurrence basis and shall be subject to the terms of the Insurance Services Office ("ISO") Commercial General Liability Coverage Form CG 0001, or a substitute form providing coverage at least as broad as the ISO form specified. There shall be no limitations or exclusions of coverage beyond those contained in the standard coverage form and coverage shall include liability arising from premises, operations, independent contractors, products-completed operations, contractual liability, and personal injury / advertising injury.
 - c. If any work is to be performed within 50 feet of a railroad, coverage shall include ISO endorsement CG 24 17 or its equivalent.

4. Automobile Liability Insurance:
 - a. Limits of Liability: Combined Single Limit \$1,000,000 each accident
 - b. Coverage shall be subject to the terms of ISO Business Auto Coverage Form CA 0001 (1990 edition or later), or a substitute form providing equivalent coverage. Such insurance shall cover liability for bodily injury and property damage arising from the

use or operation of any auto, including those owned, hired or otherwise operated or used by or on behalf of Architect.

5. Excess/Umbrella Liability Insurance (excess over Employer's Liability, CGL, and Automobile Liability):

a. Limits of Liability:

Each Occurrence Limit \$3,000,000

Annual Aggregate Limit \$3,000,000

b. Coverage shall be no less broad than required for the underlying Employer's Liability, CGL, and Automobile Liability Insurance.

6. Additional Insured. Atlanta National League Baseball Club, LLC and its Affiliates, Sarasota County, Florida, City of North Port, Florida, West Villages Improvement District, Manasota Beach Ranchlands, LLLP, and Calben (US) Corporation (the "Additional Insureds") shall be named as Additional Insureds with respect to liability arising out of Architect's negligent performance pursuant to this Agreement under the coverages outlined in items 3, 4, and 5 above. Additional insured coverage shall be primary and non-contributory with respect to any insurance or self-insurance program carried by the Additional Insureds.

7. Waiver of Subrogation. For all required coverages, insurer shall waive its subrogation rights against the Additional Insureds.

8. Sub-consultants. Architect shall cause each of its sub-consultants to be subject to the same insurance requirements as Architect, with the exception of the following:

a. Professional Liability:

- \$1,000,000 per claim and annual aggregate
- \$2,000,000 per claim and annual aggregate for structural and MEP engineering
- Other limits to be mutually agreed by the parties in writing

b. Excess/Umbrella Liability - \$2,000,000 each occurrence/annual aggregate limit.

Architect shall require its sub-consultants to furnish Owner with copies of certificates of insurance evidencing required coverage, upon request by Owner.

9. Notice of Cancellation/Non-renewal. All required policies must contain a provision or endorsement that the coverage afforded will not be canceled or renewal refused until at least 30 days prior written notice has been given to Owner; provided, however, that a ten (10) day prior notice requirement may apply in the event of cancellation due to nonpayment of premium. Failure of the Architect to keep the required insurance policies in force and effect shall constitute a breach of this Agreement. If such insurance is not replaced as of the effective date of the cancellation or non-renewal, Owner shall have the right to immediately terminate this agreement for cause.

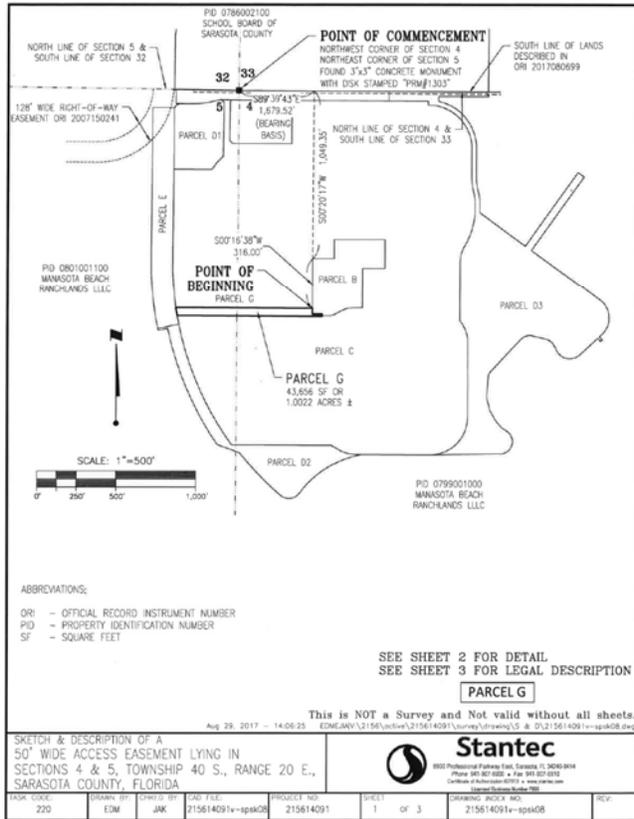
10. Compliance. Architect will furnish Owner with copies of certificates of insurance evidencing coverage for the Architect and confirming that the insurance requirements in this Agreement have been met. Such certificates of insurance shall be accompanied by copies of endorsements evidencing coverage afforded to the Additional Insureds, and

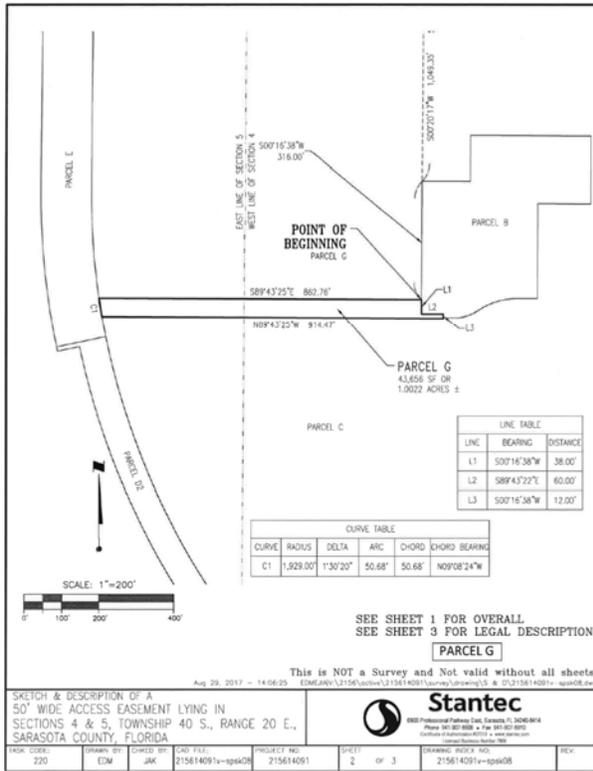
endorsements reflecting insurer's concurrence with waiver of subrogation requirements. Renewal certificates shall be provided to Owner upon renewal of the required insurance policies. Certificate(s) of insurance shall be subject to approval of Owner, but failure of Owner to request such certificate or other evidence of compliance with insurance requirements, or failure of Owner to identify deficiencies from evidence that is provided, shall in no way limit or relieve Architect of its obligations to maintain such insurance.

11. In specifying minimum insurance requirements, Owner does not represent that such insurance is adequate to protect Architect for loss, damage or liability arising from its work. Architect is solely responsible to inform itself of types or amounts of insurance it may need beyond these requirements to protect itself. The insurance requirements set forth in minimum amounts shall not be construed to relieve Architect for liability in excess of such coverage, and to the extent Architect maintains insurance greater than these minimum requirements, Architect agrees that such insurance shall be applicable to any of Architect's liability obligations hereunder.

EXHIBIT O
ACADEMY DEVELOPMENT EASEMENT

See attached.





DESCRIPTION (as prepared by the certifying Surveyor and Mapper):

A tract of land lying in Sections 4 & 5, Township 40 South, Range 20 East, Sarasota County, Florida, being more particularly described as follows:

COMMENCE at the northwest corner of Section 4; thence S.89°39'43"E, along the north line of said Section 4 and the south line of lands described in Official Record Instrument Number 2017385669 of the Public Records of Sarasota County, Florida, a distance of 1,679.52 feet; thence S.00°20'17"W, a distance of 1,049.35 feet; thence S.00°16'38"W, a distance of 316.00 feet to the POINT OF BEGINNING; thence continue S.00°16'38"W, a distance of 38.00 feet; thence S.89°43'22"E, a distance of 60.00 feet; thence S.00°16'38"W, a distance of 12.00 feet; thence N.89°43'25"W, a distance of 914.47 feet to the point of curvature of a non-tangent curve to the right, having a radius of 1,929.00 feet and a central angle of 01°30'20"; thence northerly along the arc of said curve, a distance of 50.68 feet, said curve having a chord bearing and distance of N.05°08'24"W, 50.68 feet, to the end of said curve; thence S.89°43'25"E, along a line non-tangent to said curve, a distance of 862.76 feet to the POINT OF BEGINNING.

Said tract contains 43,656 square feet or 1.0022 acres, more or less.

NOTES:

1. Unless it bears the signature and the original raised seal of a Florida Surveyor and Mapper, this sketch, drawing, plot or map is for informational purposes only.
2. Bearings shown hereon are relative to the north line of Section 4 having a bearing of S.89°39'43"E.
3. This is a sketch only and does not represent a field survey.
4. Subject to easements of record.

By:  8/30/17
Joseph A. Kelly, P.S.M. No. 7141 Date of signature

SEE SHEET 1 FOR OVERALL
SEE SHEET 2 FOR DETAIL

PARCEL G

This is NOT a Survey and Not valid without all sheets.
Aug 28, 2017 - 14:06:25 EDM\amb\13156\active\215614091\locus\drawing\5 & 2\215614091v-aps08.dwg

SKETCH & DESCRIPTION OF A
50' WIDE ACCESS EASEMENT LYING IN
SECTIONS 4 & 5, TOWNSHIP 40 S., RANGE 20 E.,
SARASOTA COUNTY, FLORIDA



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