

Note: This under separate cover document was revised (resolution and construction administration agreement). See the Revisions folder for changes.

CONSTRUCTION ADMINISTRATION AGREEMENT

BY AMONG

COBB COUNTY

AND

BRAVES CONSTRUCTION COMPANY, LLC

DATED AS OF MAY 27, 2014

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CONSTRUCTION ADMINISTRATION AGREEMENT

THIS CONSTRUCTION ADMINISTRATION AGREEMENT (this “**Agreement**”) is made and entered into this 27 day of May, 2014 (the “**Effective Date**”), by and between COBB COUNTY, GEORGIA (the “**County**”) and the BRAVES CONSTRUCTION COMPANY, LLC, a Delaware limited liability company (“**BCC**”).

RECITALS

A. The Atlanta National League Baseball Club, Inc. (“**ANLBC**”) is the owner and operator of the Atlantic Braves (“**Team**”), a Major League Baseball (“**MLB**”) franchise. ANLBC, the Cobb-Marietta Coliseum and Exhibit Authority (the “**Authority**”), and County entered into that certain Memorandum of Understanding, dated as of November 26, 2013 (the “**MOU**”).

B. The MOU contemplates that ANLBC or an ANLBC Affiliate will administer and manage the construction for the Stadium Project (as defined below) on behalf of the County.

C. BCC is an Affiliate of ANLBC.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I DEFINED TERMS

1.1 **Definitions.** As used in this Agreement, the following terms have the following meanings:

“**Affiliate**” of a specified 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.

“**Agreement**” shall mean this Construction Administration Agreement.

“**ANLBC**” shall mean the term set forth in the Recitals.

“**Applicable Law**” shall mean any and all laws (including all statutory enactments and common law), constitutions, treaties, statutes, codes, ordinances, charters, resolutions, orders, rules, regulations, guidelines, orders, standards, governmental approvals, authorizations, or other directives or requirements of any Governmental Authority enacted, adopted, promulgated, entered, implemented, ordered or issued and in force or deemed applicable by or under the authority of any Governmental Authority.

“**Application for Payment**” shall have the meaning set forth in the Stadium Construction Management Agreement.

“Approvals” shall mean all necessary permits, licenses, consents, approvals, entitlements and other authorizations required pursuant to Applicable Law in connection with the design and construction of the Stadium Project in accordance with the Definitive Documents and all of the authorizations required for obtaining a certificate of occupancy of the Stadium Project for delivery of the possession and occupancy and operation of the Stadium Project pursuant to the Stadium Operating Agreement.

“Architect” shall mean Populous, Inc., or any approved successor thereto as may be approved by ANLBC and the County.

“Architect Agreement” shall mean that certain Architectural Services Agreement by and between BCC and Architect, as the same may be amended, modified or supplemented from time to time.

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

“Authority Parking Areas” shall have the meaning set forth in the Development Agreement.

“BCC” shall mean the term set forth in the introductory paragraph hereto.

“BCC Personnel” shall have the meaning set forth in Section 7.5 of this Agreement.

“Bond Documents” shall mean the Trust Indenture and the documents utilized in connection with the Bond Transaction.

“Bonds” shall mean collectively the Cobb-Marietta Coliseum and Exhibit Hall Authority Revenue Bonds (Cobb County Coliseum Project), Series 2014, to be issued by the Authority pursuant to the Trust Indenture to finance, in part, the acquisition, construction and equipping of the Stadium Project, capitalized interest during the construction period, the costs of issuance of the Bonds and certain other costs related to the Bonds or the Stadium Project approved by the County, which Bonds will be issued in an original aggregate principal amount sufficient to deposit \$368,000,000 of Bond proceeds into the Bond Proceeds Account within the Construction Fund, and any refunding bonds of the Authority issued pursuant to the Indenture with County Board Approval to refund, in whole or in part, the Bonds.

“Bond Transaction” shall mean the issuance of the Bonds and the matters related to the Bonds so long as they remain outstanding and until the discharge of the Trust Indenture.

“Braves Parties” shall mean ANLBC, BRED, BSC and BCC, collectively.

“BRED” shall mean BRED Co., LLC, a Georgia limited liability company, an Affiliate of ANLBC.

“BSC” shall mean Braves Stadium Company, LLC, a Delaware limited liability company, an Affiliate of ANLBC.

“Business Day” shall mean any day other than a Saturday, Sunday, or any federal holiday. If any period expires on a day that is not a Business Day or any event or condition is required by the terms of this Agreement to occur or be fulfilled on a day which is not a Business Day, such period shall expire or such event or condition shall occur or be fulfilled, as the case may be, on the next succeeding Business Day.

“Change Order” shall have the meaning set forth in the Stadium Construction Management Agreement.

“Change Order Documentation” has the meaning set forth in Section 3.2(b) of this Agreement.

“Claim” shall mean any claim, demand or dispute among the Parties relating to this Agreement or the Stadium Project.

“CM at Risk” shall mean the Construction Manager at Risk retained by the County and managed by BCC pursuant to a guaranteed maximum price contract for the construction of the Stadium Project as contemplated by this Agreement.

“Construction Schedule” shall have the meaning set forth in the Stadium Construction Management Agreement.

“Contract Documents” shall have the meaning set forth in the Development Agreement.

“Cost Overrun(s)” shall have the meaning set forth in the Development Agreement.

“County” shall mean the term set forth in the introductory paragraph hereto.

“County Parties” shall mean, collectively, the County and the Authority.

“County Project Manager” shall have the meaning set forth in the Development Agreement.

“County Representative” shall have the meaning set forth in the Development Agreement.

“Definitive Documents” shall have the meaning set forth in the Development Agreement.

“Design Professionals” shall mean any architectural, engineering (other than provided through the CM at Risk), or other design professionals providing design, engineering or consulting services for to the Stadium Project.

“Development Agreement” shall mean that certain Development Agreement dated as of May 27, 2014 by and among the County, Authority, ANLBC, BCC and BSC and certain of its Affiliates in connection with the development and administration of the property and facilities described therein.

“Effective Date” shall mean the date set forth in the introductory paragraph hereto.

“Event of Default” shall have the meaning set forth in Section 6.1 of this Agreement.

“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 Stadium Project or Private Stadium Parking Areas within the control of the County taken in contravention of Applicable Law), material shortages, industry-wide strikes, boycotts, lockouts or labor disputes (including, without limitation, labor disputes involving MLB players that result in missed games), or any other similar or like event or occurrence beyond the reasonable control of a Party hereto, that causes such Party to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder.

“Final GMP” shall mean the absolute not-to-exceed limit, or guaranteed maximum price, for the cost of the Work for the Stadium Project as agreed to by the County and CM at Risk pursuant to the Stadium Construction Management Agreement.

“Final GMP Design Documents”, “IGMP Design Documents” or “Phased GMP Design Documents” shall mean, as appropriate, the documents accompanying the Final GMP, IGMP, or Phased GMP, as they case may be.

“Final GMP Qualifications and Assumptions”, “Phased GMP Qualifications and Assumptions”, or “IGMP Qualifications and Assumptions” shall mean the written statement of qualifications and assumptions prepared by CM at Risk, based on the GMP Design Documents, the Phased GMP Design Documents, or the IGMP Design Documents and corresponding Prose Statement, as the case may be.

“GMP Amendment” shall mean the amendment to the Stadium Construction Management Agreement establishing the Final GMP.

“GMP Documents” shall mean, as the context may require, the IGMP Design Documents, Phased GMP Design Documents, Final GMP Design Documents, corresponding Prose Statements, IGMP Qualifications and Assumptions, Phased GMP Qualifications and Assumptions, and Final GMP Qualifications and Assumptions.

“Governmental Authority(ies)” shall have the meaning set forth in the Development Agreement.

“Indemnified Parties” shall have the meaning set forth in Section 5.1 of this Agreement.

“Intergovernmental Agreements” shall have the meaning set forth in the Development Agreement.

“Loss” shall have the meaning set forth in Section 5.1 of this Agreement.

“Major League Baseball” or **“MLB”** or **“Office of the Commissioner”** or **“Office of the Commissioner of Baseball”** shall mean, collectively, the Office of the Commissioner of Baseball, the Commissioner of Baseball, the Major League Baseball clubs, the Ownership Committee of Baseball, and/or any other Person appointed by any of the foregoing, or any successor association or entity and which engages in professional baseball in a manner comparable to Major League Baseball.

“MOU” shall mean the term set forth in the introductory paragraph hereto.

“Non-Relocation Agreement” shall have the meaning set forth in the Stadium Operating Agreement.

“Party” shall mean any party to this Agreement, and **“Parties”** shall mean all parties to this Agreement, collectively.

“Permits” shall mean any permit, license or approval to be issued by any Person, including, but not limited to, required permits for the Stadium Project or Private Stadium Parking Areas including, without limitations, any applicable permits specified in the Development Standards.

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

“Project Claims” shall have the meaning set forth in Section 3.5.

“Program Manager” shall mean Jones Lang LaSalle or other entity designated by BCC. The designated representative for Jones Lang LaSalle for purposes of this Agreement is Mike Hall.

“Program-Related Change Order” shall mean any Change Order that results in a material deviation from the Stadium Program Documents.

“Project Agreement” shall mean an agreement between the County and a third party whereby the third-party is providing work, services or materials for the Stadium Project.

“Project Milestone Schedule” shall mean the Project Milestone Schedule attached as **Exhibit A**, which has been prepared by Program Manager and approved by the County. Such schedule shall be updated as set forth in this Agreement.

“Prose Statement” shall mean, as the context may require, Architect’s description of all material incomplete design elements of the Final GMP Design Documents, IGMP Design Documents, or the Phased GMP Design Documents, as the case may be, and Architect’s statement of intended scope (including anticipated qualities and quantities) with respect to such incomplete elements.

“Public Infrastructure” shall have the meaning set forth in the Development Agreement.

“Punch List” shall have the meaning set forth in the Stadium Construction Management Agreement.

“Site” shall have the meaning set forth in the Development Agreement.

“Stadium” shall mean the multipurpose stadium to be constructed on the Stadium Site suitable for MLB baseball and a broad range of other civic, community, recreational, athletic, educational, and cultural activities, which stadium is to be used and operated by the Braves Parties pursuant to the Stadium Operating Agreement. Wherever the term “Coliseum” is used in the Bond Documents or other Definitive Documents, such term shall refer to the “Stadium”.

“Stadium Construction Documents” shall mean the drawings, specifications, and other design documents prepared by the Architect and its subconsultants under the Architect Agreement setting forth in detail the requirements for the Work by the CM at Risk for the Stadium Project under the Stadium Construction Management Agreement.

“Stadium Construction Management Agreement” shall have the meaning set forth in the Development Agreement.

“Stadium Costs” shall have the meaning set forth in the Development Agreement.

“Stadium Operating Agreement” shall have the meaning set forth in the Development Agreement.

“Stadium Program Documents” shall have the meaning set forth in the Development Agreement.

“Stadium Project” shall have the meaning set forth in the Development Agreement.

“Stadium Project Budget” shall have the meaning set forth in the Development Agreement.

“Stadium Site” shall have the meaning set forth in the Development Agreement.

“Substantial Completion” shall have the meaning set forth in the Stadium Construction Management Agreement.

“Team” shall have the meaning set forth in the introductory paragraph hereto.

“Transfer” shall have the meaning in the Development Agreement.

“Work” shall mean the construction and other services required by the Stadium Construction Documents for the Stadium Project.

1.2 **Other Terms.** Capitalized terms not defined herein, shall have the meaning set forth in the Development Agreement. Unless otherwise defined herein (or in the Development Agreement), words that have well known construction industry meanings are used in this Agreement with such recognized meanings.

ARTICLE II OBLIGATIONS OF BCC

2.1 Obligations of BCC to Design and Construct Stadium Project.

(a) BCC shall cause the Architect and CM at Risk to design and construct the Stadium Project in accordance with the Architect Agreement, Stadium Construction Management Agreement, and such other third-party agreements as may be deemed necessary by BCC to complete the Stadium Project, as well as the other Definitive Documents, all in accordance with the Project Milestone Schedule. However, notwithstanding anything to the contrary in this Agreement or any of the other Definitive Documents, BCC will not perform the actual design or construction of the Work or otherwise provide design or construction labor or building materials for the Stadium Project. BCC acknowledges that the County will execute the Stadium Construction Management Agreement. Accordingly, in furtherance of the foregoing, the County hereby designates and appoints BCC as its agent for the management and administration of the design, construction and completion of the Stadium Project in accordance with this Agreement and the other Definitive Documents.

(b) Notwithstanding any term or provision of this Agreement or any of the other Definitive Documents to the contrary, BCC, together with the other Braves Parties, shall be responsible for all costs and expenses required to complete the design and construction Stadium Project in accordance with the Stadium Construction Management Agreement, the Project Milestone Schedule and all other Definitive Documents; provided, that (i) the County shall contribute an amount not to exceed the County Contribution for the payment of Stadium Costs in accordance with the Development Agreement; and (ii) the County shall be responsible for the following: (X) any costs caused by the negligent acts or omissions of the County arising under the CA Agreement (expressly excluding from this (X) negligent acts or omissions that the County would not be responsible for under Applicable Law); (Y) any costs caused by the breach of this Agreement by the County that causes a compensable delay to the progress of the Work of the CM at Risk under the Stadium Construction Management Agreement; and (Z) any costs included in any executed Change Order expressly requested by the County. Subject to the foregoing, BCC acknowledges and agrees that the obligations of the County under this Agreement and any of the other Definitive Documents shall not exceed the County Contribution.

(c) The County acknowledges that BCC will retain Program Manager as an independent contractor / subconsultant to perform BCC's duties and obligations as set forth in this Agreement; provided, however, BCC shall remain fully responsible for all obligations of BCC under this Agreement and the other Definitive Documents and all acts and omissions of Program Manager. The County shall, unless otherwise directed by BCC, in writing, communicate with BCC through the Program Manager, acting as BCC's authorized representative for purposes of this Agreement. Unless otherwise indicated by BCC in writing, Program Manager has no authority (in writing or by course of conduct) to bind BCC to a change to this Agreement or to any changes in any of the other Contract Documents, which may only be modified in writing signed by the BCC.

(d) BCC represents and warrants that each of the County Parties are express third party beneficiaries under the Architect Agreement and are to be indemnified, defended and

held harmless from and against loss, costs, damage, claims, liability and expense arising from professional negligence by the Architect under such Architect Agreement to the same extent that the Braves Parties are so indemnified, defended and held harmless.

2.2 **Acceptance and Undertaking.** BCC hereby unconditionally accepts the appointment made by the County in Section 2.1 hereof, and undertakes, for the benefit of the County, to cause the Architect and CM at Risk to design and construct the Stadium Project, and to otherwise manage and administer the Project, in accordance with this Agreement and the other Definitive Documents, as an independent contractor for the County. BCC shall cause the Program Manager to provide sufficient personnel to carry out the requirements of this Agreement and shall take actions with such reasonable promptness as to cause no unreasonable delay to the Stadium Project.

2.3 **Performance.** BCC shall cause Program Manager to perform the services required by this Agreement with due care and as expeditiously and economically as reasonably possible within the Stadium Project Budget.

2.4 **Term.** BCC's duties under this Agreement shall commence on the Effective Date and shall terminate or expire (except for those obligations that are stated to survive the termination or expiration of this Agreement) upon the completion and expiration of all of the CM at Risk's obligations and liabilities under the Stadium Construction Management Agreement and the completion and expiration of all of the Architect's obligations and liabilities under the Architect Agreement.

2.5 **Scope of Authorizations and Duties of BCC.**

(a) **Management and Control of Construction Property.** BCC shall manage and administer the design and construction of the Stadium Project, and shall cause the Architect and CM at Risk to design and construct the Stadium Project in accordance with the approved design documents for the Stadium Project as further set forth herein, all in consultation with the County Representative and County Project Manager in accordance with this Agreement and the other Definitive Documents. As between the County and BCC, BCC shall have management responsibility for and control over (i) the Stadium Site, (ii) the means, methods, sequences and procedures with respect to the construction of the Stadium Project, and (iii) the security of the Stadium Project. As further provided in this Section 2.5, BCC shall regularly consult with the County and consider in good faith the advice and opinions of the County Representative and County Project Manager in the management of the Stadium Project construction.

(b) **Design Professionals.** BCC shall coordinate and supervise the performance of all Design Professionals for the Stadium Project and shall cause such Design Professionals to perform their services in accordance with the terms of the Architect Agreement and all other design and engineering agreements.

(c) **Stadium Construction Management Agreement; CM at Risk.**

(i) The County shall enter into a Stadium Construction Management Agreement with a CM at Risk in accordance with Applicable Law. The CM at Risk will be a nationally or internationally recognized CM at Risk experienced in the construction

of professional sports and entertainment venues and related facilities of the nature contemplated by this Agreement. The Stadium Construction Management Agreement shall provide that: (i) prior to the Bond Transaction, ANLBC will provide the necessary funding to pay for all obligations of the "Owner" pursuant to and as required by the Stadium Construction Management Agreement ("Owner Obligations"), and the CM at Risk will look solely to the ANLBC for such Owner Obligations; and (ii) after the Bond Transaction, ANLBC will be responsible for Owner Obligations in excess of the County Contribution, and the CM at Risk will look solely to ANLBC for such Owner Obligations. The Stadium Construction Management Agreement shall include a guaranty from ANLBC in favor of the CM at Risk guaranteeing the aforementioned obligations of ANLBC.

(ii) The Braves Parties, and such other Affiliates of the Braves Parties as the Parties may agree, shall be third-party beneficiaries to the Stadium Construction Management Agreement.

(iii) The form of the Stadium Construction Management Agreement shall be acceptable to BCC and the County, such acceptance not to be unreasonably withheld, conditioned, or delayed. BCC shall, on behalf of the County, require payment and performance bonds and appropriate insurance from the CM at Risk, and from such major subcontractors as the parties may reasonably agree or as may otherwise be required by any lenders or otherwise required in connection with the Definitive Documents.

(iv) The County agrees that completion of the Stadium, Authority Parking Areas, and on time is of great importance to ANLBC and the County and that the parties will suffer damages in the event this work is not completed on time.

(v) The Parties agree that completion of the Stadium and the Authority Parking Areas on time is of great importance to the Braves Parties and that the Braves Parties will suffer substantial damages in the event the Stadium and the Authority Parking are not completed on time. As such, the Parties agree that the Stadium Construction Management Agreement with the CM at Risk shall contain a provision that if the Stadium and the Authority Parking Areas are not substantially completed on or before the date(s) in the Stadium Construction Management Agreement, the CM at Risk agrees to compensate the Braves Parties through late delivery liquidated damages in an amount acceptable to the Braves Parties and to be set forth in the Stadium Construction Management Agreement for each home game for which the Stadium is not available for the Team to play its home games, and to compensate other Parties through other liquidated damages as deemed appropriate by the Parties and set forth in the Stadium Construction Management Agreement.

(d) Contracts Generally. BCC, on behalf of the County and in consultation with the County Representative and County Project Manager, shall negotiate the terms of the Stadium Construction Management Agreement, and all other contracts related to and necessary for the construction of the Stadium Project to be entered into by the County. BCC shall recommend the execution of any such contract to the County in writing, which shall be executed by them in compliance with Applicable Law. Subject to the provision of Section 3.2 of this

Agreement regarding Change Orders, the County shall have the right to approve all drafts and changes of the Stadium Construction Management Agreement and any other contract to be entered into by the County.

(e) General Duties Pertaining to the Stadium Project. BCC is hereby authorized to and shall, as agent of the County and for its benefit (and for the benefit of BCC and its Affiliates, as third-party beneficiaries), enforce the terms of the Stadium Construction Management Agreement and take all actions necessary for the design and construction of the Stadium Project on behalf of the County and as its agent pursuant to this Agreement and in accordance with the other Definitive Documents. BCC's obligations include generally, but without limitation, the obligations to:

(i) review, monitor and enforce the Stadium Construction Documents produced by the Architect;

(ii) negotiate and make recommendations to the County as to the execution of contracts to be entered into by the County for the provision of labor, materials, equipment and services necessary for the design, construction, testing and commissioning of the Stadium Project;

(iii) deliver to the County copies of all contracts and subcontracts relating to the construction of the Stadium Project and all amendments thereto;

(iv) develop a Project Milestone Schedule, which Project Milestone Schedule shall be updated at reasonable intervals and delivered to the County Representative and County Project Manager;

(v) manage and administer the performance of the obligations (other than any obligation requiring the payment of money) of the County under contracts and arrangements relating to the construction of the Stadium Project;

(vi) manage the process by which the CM at Risk shall award subcontracts, as permitted by and in compliance the Georgia Local Government Public Works Construction Law and other Applicable Law;

(vii) obtain the Approvals;

(viii) monitor Stadium Costs in relation to the Stadium Project Budget and Final GMP. BCC shall maintain current records showing actual costs for activities in progress and estimates for uncompleted tasks by way of comparison with the Stadium Project Budget;

(ix) review the amounts due the CM at Risk, and authorize for payment the costs due to the CM at Risk under the Stadium Construction Management Agreement or other Definitive Documents in accordance with the terms and conditions of the Development Agreement and the other Definitive Documents;

(x) conduct and coordinate Stadium Project team meetings with knowledgeable supervisory representatives of the CM at Risk, the County Representative and County Project Manager and other key Stadium Project participants to discuss the progress of the Stadium Project construction;

(xi) assist the Architect in performing interim and final inspections and in monitoring corrective work completion;

(xii) assist the Architect and CM at Risk in developing Punch List and monitoring its resolution;

(xiii) assist the CM at Risk, Architect, and any other Design Professionals in equipment and building startup activities;

(xiv) maintain all books and records with respect to the construction of the Stadium Project;

(xv) monitor and cause the completion of all Stadium Project closeout activities including submittal of operation manuals, warranties, and as-built drawings;

(xvi) perform such other acts as may be reasonably necessary in connection with the construction of the Stadium Project in accordance with the Definitive Documents as contemplated by this Agreement;

(xvii) provide copies of all notices of claims or disputes from the Architect or CM at Risk;

(xviii) taking all action reasonably required to comply with all Applicable Law in connection with the performance of its obligations under this Agreement;

(xix) notifying promptly the County of any suit, proceeding or action that is initiated or threatened in writing against a Braves Party or the County in connection with the Stadium Project; and

(xx) maintaining, or causing to be maintained, complete and accurate books and records regarding the design and construction of the Stadium Project, including the Design Documents, shop drawings, Change Orders, Applications for Payment, permits, insurance policies, bills, vouchers, receipts, lien waivers, customary periodic reports, inspector daily reports, bonds, estimates, correspondence and bid calculation sheets.

(f) Specific Duties Pertaining to Development of Final GMP. BCC is hereby authorized to and shall, as agent of the County and for the benefit of the County, in consultation with the County Representative and County Project Manager, take all actions necessary or desirable for the development and finalization of the Final GMP pursuant to this Agreement and in accordance with the other Definitive Documents, provided that both BCC and the County shall approve the GMP Amendment. BCC's obligations include generally, but without

limitation, the obligations to do the following within the time frames provided in the Stadium Construction Management Agreement:

(i) cause the Architect to deliver the IGMP Design Documents, Phased GMP Design Documents, and Final GMP Design Documents, and corresponding Prose Statements, as required for the CM at Risk to develop the IGMP, Phased GMP, and Final GMP, respectively;

(ii) cause the CM at Risk to prepare and deliver the IGMP, Phased GMP, and proposed Final GMP and the corresponding IGMP Qualifications and Assumptions, Phased GMP Qualifications and Assumptions, and Final GMP Qualifications and Assumptions for BCC's review and approval;

(iii) following receipt of the IGMP, Phased GMP, and proposed Final GMP, as applicable, meet with the CM at Risk, Architect and the Architect's consultants, to reconcile any questions, discrepancies or disagreements relating to the above and document the reconciliations by addendums to the foregoing qualifications and assumptions that shall be approved in writing by BCC (after consultation with the County Representative and County Project Manager), Architect and the CM at Risk; and

(iv) BCC, on behalf of the County and in consultation with the County Representative and County Project Manager, shall negotiate the terms of the GMP Amendment, which shall be consistent with the approved, reconciled GMP Documents and the Stadium Project Budget. BCC shall recommend execution of the GMP Amendment to the County in writing, which shall be signed by and in the name of the County, not BCC. BCC shall cause the Architect to produce Stadium Construction Documents based on the approved, reconciled GMP Documents as set forth in the GMP Amendment.

(g) Approval of Applications for Payment. BCC and the Program Manager shall receive, review and approve all Applications for Payment from the CM at Risk under the Stadium Construction Management Agreement. BCC shall cause the Architect to perform all obligations under the Architect Agreement relating to each Application for Payment, including but not limited to, any inspections of the Work and approval of such Application for Payment as required. BCC shall cause the CM at Risk to perform all obligations under the Stadium Construction Management Agreement relating to each Application for Payment. BCC shall provide copies of all Applications for Payment to the County Project Manager for review and approval; provided, however, in no event shall the County Project Manager's approval of any Application for Payment relieve BCC from any obligation under this Agreement or under any of the other Definitive Documents. BCC shall assemble all Applications for Payment, and upon the County's approval thereof, coordinate the inclusion thereof into each Construction Fund Requisition.

(h) Construction Fund Requisitions. BCC shall prepare each Construction Fund Requisition and provide copies thereof to the County Representative, County Project Manager and ANLBC. Upon approval of the Construction Fund Requisition by BCC, ANLBC and County Representative, BCC shall submit each such approved Construction Fund

Requisition to the Bond Trustee in accordance with the Trust Indenture. Each Construction Fund Requisition shall be in substantially the form attached to the Trust Indenture; provided, however, for convenience, a preliminary form of the Construction Fund Requisition is attached hereto as **Exhibit B**. Payments shall be made in accordance with the Construction Fund Requisition as set forth in the Trust Indenture and Article 6 of the Development Agreement.

(i) BCC shall have the right to enter into any additional contracts as may be required to complete the Stadium Project, as may be allowed by applicable law.

2.6 **County Representative and County Project Manager.** BCC shall coordinate with the County Representative and County Project Manager and keep them informed regarding the progress of the Stadium Project construction and any material issues that arise that may impact the Stadium Project or schedule for its completion. All communications required to be given to the County Representative may be sent through the County Project Manager. BCC shall develop with the County a schedule for regular meetings to discuss the Stadium Project's progress. BCC shall consider, in good faith, the recommendations and advice of the County relating to the construction of the Stadium Project. The County Representative and County Project Manager shall have access to the Stadium Site at reasonable times to inspect the Work and to review Stadium Construction Documents issued for construction to the CM at Risk as reasonably necessary to determine that the Work is in general conformance with the intent of the Stadium Program Documents. The County Representative and County Project Manager shall be allowed to attend and participate in Stadium Project meetings, and BCC shall provide the County Project Manager with copies of monthly status reports from the CM at Risk.

ARTICLE III CONSTRUCTION

3.1 Schedule, Commencement, and Completion.

(a) Subject to the terms and conditions set forth in the Definitive Documents, the Parties agree to use their collective best efforts to cause the commencement of construction of the Stadium Project no later than November 1, 2014, and to cause Substantial Completion of the construction, in the case of the Stadium office space, clubhouse and associated storage areas for occupancy by ANLBC, on or before December 15, 2016 and in the case of the entire Stadium on or before January 24, 2017; provided that the Stadium Site, Authority Parking Areas and Public Infrastructure for the Stadium Site shall have received all necessary Approvals including, without limitation, regulatory, MLB and ANLBC approval, such that the Stadium Site, Authority Parking Areas and Public Infrastructure for the Stadium Site can be used for the intended purpose of the Team playing its home games at the Stadium commencing in March of 2017.

(b) BCC shall provide to the County Representative and County Project Manager the Construction Schedule for the Work issued by the CM at Risk and all updates to such Construction Schedule.

(c) BCC shall update the Project Milestone Schedule to reflect changes to the milestone dates reflected in the Construction Schedule relating to the Work. Copies of the monthly updates shall be provided to the County Representative and County Project Manager.

(d) BCC shall provide the County Project Manager and County Representative with a monthly Master Executive Project Report, indicating updates as to the current and projected Stadium Project activities, including development, design, construction activities, and any obligations that may be required of the County.

(e) The County Representative shall have the right to approve all material elements of the Stadium Construction Documents in accordance with Section 4.2 of the Development Agreement.

3.2 Change Orders.

(a) Change Order Acceptance and Approval. All Change Orders shall be subject to the approval of BCC, regardless of the party requesting such change. Subject to the provisions of this Section 3.2, BCC shall be entitled to undertake and effectuate Change Orders unilaterally in accordance with the CM Agreement.

(b) Change Order Documentation. Before entering into or approving any Change Order (where appropriate), the party requesting such Change Order shall deliver to the County Representative and County Project Manager, or the Program Manager (as the case may be), the following: (i) a description of the proposed change to the Work; and (ii) a calculation of the additional costs, if any, resulting from implementing such Change Order, together with reasonable documentation supporting such calculation (collectively, the "Change Order Documentation"). BCC shall assist the County in the preparation of all Change Orders desired to be initiated by the County including the assemblage and delivery of all Change Order Documentation.

(c) Program-Related Change Orders. BCC shall not enter into or approve all or any portion of a Program-Related Change Order until such Program-Related Change Order is approved or deemed approved by the County pursuant to this Subsection 3.2(c). Within seven (7) Business Days following the County's receipt of the Change Order Documentation related to a Program-Related Change Order, the County shall deliver written notice either approving or disapproving such Program-Related Change Order and specifying the reasons for such disapproval, including any supporting documentation. The County shall not unreasonably withhold, delay, or condition such approval. If the County fails to deliver any such written notice within such seven (7) Business Day period, then the County shall be deemed to have approved such Program-Related Change Order. Once the Program-Related Change Order is approved or deemed approved by the County, BCC shall be permitted to enter into or approve such Program-Related Change Order.

(d) Change Order Funding. For Change Orders requested by BCC, Change Orders shall be paid for first from any project contingency set forth in the Stadium Project Budget, and thereafter with funds from the Braves Parties outside Stadium Project Budget. The County shall pay for any Change Orders it requests in writing executed by the County with funds outside the Stadium Project Budget.

3.3 Punch List. In consultation with the County Representative and County Project Manager, BCC shall cause Punch List items to be completed by the CM at Risk as required by

the Stadium Construction Management Agreement, or shall otherwise cause such Punch List items to be satisfactorily resolved. BCC shall provide the County Representative and County Project Manager with a copy of the list of Punch List items.

3.4 **Warranties.** BCC shall cause the CM at Risk, relevant subcontractor, supplier and manufacturer warranties with respect to the Stadium to name BCC, BSC and each of the County Parties as intended beneficiaries of the warranties.

3.5 **Third Party Disputes.**

(a) The County shall not expressly waive, forego, settle, or otherwise resolve any claim or dispute by or against any third party (including but not limited to the CM at Risk) arising out of or related to the development, design or construction of the Stadium Project (“**Project Claim**”) without the prior written approval of BCC. If the County fails to obtain BCC’s prior written approval before waiving, foregoing, settling, or otherwise resolving any Project Claim, then the Braves Parties shall not be responsible for payment of any resulting cost, damage, expense or other loss, regardless of whether such cost, damage, expense or other loss results in Cost Overruns. In addition, if the County fails to obtain BCC’s prior written approval before waiving, foregoing, settling, or otherwise resolving any Project Claim that results in a waiver of any of the Braves Parties’ rights to damages, the County shall, to the extent permitted by Applicable Law, indemnify the Braves Parties for any and all such damages.

(b) The County shall promptly notify BCC in writing of any Project Claim. Upon request, the County shall allow one or more of the Braves Parties (at their choice) to prosecute or defend the Project Claim and make determinations on whether to settle such Project Claim. The County shall also cooperate and coordinate with the Braves Parties to allow them to enforce their rights as third-party beneficiaries under any Project Agreement.

(c) Notwithstanding anything to the contrary in this Agreement or the Development Agreement, or any of the other Definitive Documents, the Program Manager has no authority on behalf of BCC to grant written approval to the County to waive, forego, settle, or otherwise resolve any Project Claim as contemplated by Section 3.5(a). The only person with such authority on behalf of the BCC shall be such individual as may be designated in writing by BCC.

ARTICLE IV COMPENSATION

4.1 **Budget.** The compensation of the Program Manager and County Project Manager shall be set forth in the Stadium Project Budget. BCC and the County shall be responsible to pay additional amounts owed, if any, to the Program Manager and County Project Manager, respectively, as may be required by their respective agreements.

ARTICLE V INDEMNIFICATION AND INSURANCE

5.1 **Indemnification.** To the extent permitted by Applicable Law, BCC undertakes and agrees to indemnify, hold harmless and defend each of the County Parties and their

respective elected and appointed officials, officers, employees, attorneys, representatives, agents, and instrumentalities (the “**Indemnified Parties**”), from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, reasonable attorney’s fees and costs of litigation and litigation-related matters, damage or liability (“**Loss**”) to the extent arising out of the following: (a) the breach or failure of any obligation under this Agreement by BCC under this Agreement; and (b) any personal or bodily injury, including death, to any person or destruction of property resulting from the negligent performance by BCC or Program Manager of BCC’s obligations under this Agreement.

5.2 **Insurance Requirements.**

(a) **BCC**: BCC shall purchase and maintain the following insurance policies:

(i) **Builder’s Risk Insurance**: Builder’s risk insurance for direct physical loss or damage resulting from an insured peril to the building, structures and other improvements comprising all or part of the Stadium Project, including materials and equipment that are intended for incorporation into the Stadium Project, including temporary structures (e.g. including but not limited to, formwork, falsework, scaffolding) any material and/or labor provided by BCC or others for incorporation in construction of the Stadium Project, whether located at the Stadium Project, in storage, or in transit. The policy shall include coverage for (i) all risks of physical loss or damage incurred by the Braves Parties and each of the County Parties and be written on an “all risk” or equivalent policy form; (ii) the Braves Parties’ and each of the County Parties’ loss of income, extra expense, contractor’s extra expense, expediting expense, and incurrence of soft costs from any delay in the opening or completion of the Stadium which is the result of a covered peril, for a minimum delay in opening period of twenty-four (24) months or as ultimately deemed appropriate by BCC; (iii) resultant damage from faulty design, materials, and/or workmanship which shall be London Engineering Group (LEG) 03/06 or equivalent wording; (iv) mechanical breakdown and testing of all building machinery & equipment until acceptance of the Stadium Project; and (v) terrorism coverage to the extent available under TRIA or an extension of TRIA. Policy limits shall be equal to the replacement cost of the Stadium Project (or an agreed loss limit equal to a Probable Maximum Loss amount) plus the amount of delay in opening and soft cost coverage values for the Braves Parties’ and each of the County Parties’ exposures. Deductible shall not be greater than \$250,000 per occurrence. Delay in opening waiting period shall not be greater than 30 Days. Policy shall be non-cancelable by insurers except for non-payment of premium. The builder’s risk insurance shall include CM at Risk and contractors of all tiers as insureds, as their interests may appear. BCC shall receive and disburse the proceeds of such builders’ risk policy in accordance with the terms of the Development Agreement.

(ii) **Professional Liability Insurance and OPPI**: Professional liability insurance for losses that arise out of any professional services provided by BCC in connection with the Stadium Project. Policy limits shall be at least \$1,000,000 per claim/annual aggregate. BCC will also procure Owners Protective Professional Insurance (“OPPI”) with minimum limits of at least \$10,000,000 each claim/annual aggregate, if available at commercially reasonable rates. Should limits of \$10,000,000 not be available

or not be commercially reasonable, a lower limit to be determined by the Parties will be acceptable. Each of the County Parties and Braves Parties shall be named as insureds on the OPPI policy.

(iii) Workers' Compensation and Employer's Liability: Workers' compensation insurance meeting the statutory requirements and Employer's Liability insurance, with limits of not less than \$500,000 (per accident for bodily injury by accident) / \$500,000 (policy limit for bodily injury by disease) / \$500,000 (per employee for bodily injury by disease).

(iv) General Liability: Commercial general liability insurance coverage for third party bodily injury or property damage claims arising out of the Stadium Project, including terrorism coverage to the extent commercially and reasonably available, with limits of \$1,000,000 per occurrence and \$2,000,000 General and Products Completed Operations Aggregate. The completed operations coverage under the commercial general liability insurance shall continue for a period of ten (10) years after Substantial Completion.

(v) Business Automobile Liability: Business automobile liability insurance covering all owned, non-owned, leased and hired vehicles used in connection with the Stadium Project in an amount not less than \$1,000,000 combined single limit.

(vi) Umbrella/Excess Liability: Umbrella or excess liability insurance with limits of at least \$15,000,000 per occurrence and \$15,000,000 General and Products Completed Operations Aggregate. The policy terms and conditions will be substantially similar to the primary layer of Business Automobile Liability, General Liability, and Employer's Liability coverages, detailed in paragraphs (iii), (iv) and (v) above.

(vii) Contractor's Pollution Liability: BCC will purchase Contractor's Pollution Liability ("CPL") insurance, with limits of at least \$10,000,000 per occurrence and \$10,000,000 in the aggregate.

(viii) Site Pollution Legal Liability: BCC will purchase Site Pollution Legal Liability insurance with limits of at least \$10,000,000 per incident/policy aggregate, except for a limit of \$2,000,000 for each incident/aggregate limit for emergency response costs. All of the Braves Parties and each of the County Parties shall be included as named insureds.

(ix) Other Insurance: BCC shall have the right to procure such other insurance coverages for the Stadium Project that, in BCC's opinion, are appropriate for the risk exposures that are incidental to the design and construction of a major professional sports facility or that are incidental to the Stadium Project.

The foregoing policy limits may be achieved by any combination of primary and excess policies so long as the overall minimum limits are procured. The County acknowledges that BCC is considering an "owner controlled" or "contractor controlled" insurance program for general liability insurance and/or workers' compensation (including employers' liability) insurance (as more fully set out in the CM at Risk Agreement). The County agrees to provide to BCC general

assistance and information as reasonably required by BCC or the insurance underwriters in connection with BCC's procurement, implementation and management of an "owner controlled" insurance program.

(b) County. The Parties acknowledge that the County self-funds regarding certain risks and liabilities. The County shall maintain its practice of self-funding for such risks and liabilities, as follows:

(i) Workers' Compensation and Employer's Liability: The County will self-fund workers' compensation and employer's liability coverage up to \$650,000 (per accident for bodily injury by accident)/ \$650,000 (policy limit for bodily injury by disease)/ \$650,000 (per employee for bodily injury by disease). The County shall continue to purchase and maintain policies of insurance for such coverage in excess of \$650,000.

(ii) General Liability: General Liability: The County will self-fund commercial general liability coverage for third party bodily injury or property damage claims arising during the construction phase of the Stadium Project to the extent such claims are not covered by the general liability insurance of the CM at Risk (to which the County shall be an additional insured) or by any "owner controlled" or "contractor controlled" insurance program for general liability insurance.

(iii) Business Automobile Liability: The County will self-fund business automobile liability coverage for all owned, leased and hired vehicles used in connection with the Stadium Project.

(c) CM at Risk. The Parties have reviewed and approved the insurance requirements in the CM at Risk Agreement, attached hereto as **Exhibit C**, including the insurance requirements to be met by the CM at Risk and all subcontractors of every tier.

(d) Architect. Parties have reviewed and approved the insurance requirements in the Architect Agreement attached hereto as **Exhibit D**.

5.3 General Insurance Provisions. All insurance required by Section 5.2 shall be primary and non-contributing with any other insurance carried by the other Parties. Written evidence showing that the insurance requirements in Section 5.2 have been met shall be provided to the other Parties on or before the Effective Date or such later date on which the Parties may agree, annually thereafter, and more frequently if requested by a Party. All such insurance shall be issued by insurers that have an A.M. Best Rating of A-/VIII or better. The Parties' respective General Liability and Business Automobile Liability policies shall name the other Parties, their Affiliates, the CM at Risk, the Project Manager, any lenders in connection with the Stadium Project, and their respective officers, directors, members, and employees as additional insureds with respect to liability arising out of the operations of the named insured on ISO Form 20 10 11 85 or a form providing equivalent coverage. Such coverage shall be primary and noncontributory in connection with the operations of the named insured. Each Party shall immediately (but not more than thirty (30) days, with the exception of ten (10) days for nonpayment of premium) notify the other Parties upon receiving notice that any policy required

by Section 5.2 has been or will be cancelled or nonrenewed. For all insurance required by Section 5.2, except BCC's professional liability insurance, the insurer must waive its subrogation rights against the Parties, their Affiliates, the CM at Risk, the Program Manager, any lenders in connection with the Stadium Project, and their respective officers, directors, members, and employees. Each Party waives any claims against the foregoing entities and persons to the extent such claims are covered by the insurance required by Section 5.2, and such insurance shall not prohibit the foregoing waiver.

ARTICLE VI DEFAULT AND TERMINATION

6.1 **BCC Event of Default.** Each of the following events constitutes a "Event of Default":

- (a) The Stadium Operating Agreement or Development Agreement has been terminated as a result of a default thereunder; or
- (b) Either party breaches a material provision of this Agreement.

6.2 **Notice and Cure Procedure; Remedies.** Upon the occurrence of an Event of Default under Section 6.1(a) above, either Party may terminate this Agreement upon written notice to the other Party and pursue the remedies in Subsections (2) and (3) below. Upon the occurrence an Event of Default under Section 6.1(b) above, the non-defaulting party shall first notify the defaulting Party in writing of its purported breach or failure, giving the Party thirty (30) days from receipt of such notice to cure such breach or failure, or if it cannot be cured within such thirty (30) day period, then giving it the obligation to commence and continue curing such default within the thirty (30) day period. In the event such default is not cured (or the defaulting Party does not continue curing such default, as applicable) within such thirty (30) day period, then the notifying Party shall be entitled to any rights afforded it at law or in equity by pursuing any or all of the following remedies:

- (a) terminating this Agreement upon ten (10) days prior written notice to the other party;
- (b) prosecuting an action for damages (excluding punitive damages and Consequential Damages) for an Event of Default; or
- (c) seeking any other remedy available at law or in equity (excluding punitive damages and Consequential Damages). If a Party elects to terminate this Agreement, the provisions of this Agreement that are specified to survive such termination shall remain in full force and effect.

ARTICLE VII MISCELLANEOUS

7.1 **Notices.** Any notice, consent or other communication under this Agreement shall be in writing and shall be considered given when delivered in person or sent by electronic mail (provided that any notice sent by electronic mail shall simultaneously be sent via personal

delivery, overnight courier or certified mail as provided herein), one (1) Business Day after being sent by a reputable overnight courier, or three (3) Business Days after being mailed by certified mail, return receipt requested, to the parties at the addresses set forth below (or at such other address as a party may specify by notice given pursuant to this Section to the other Party hereto):

To BCC: Executive Vice President, Business Operations
Atlanta National League Baseball Club, Inc.
755 Hank Aaron Drive
Atlanta, GA 30315

with a copy to: General Counsel
Atlanta National League Baseball Club, Inc.
755 Hank Aaron Drive
Atlanta, GA 30315

Maxine Hicks
DLA Piper LLP
One Atlantic Center
1201 West Peachtree Street, Suite 2800
Atlanta, GA 30309

To County: Chairman,
Cobb County Board of Commissioners
100 Cherokee Street, Suite 300
Marietta, GA 30090

With a copy to: Clerk
Cobb County Board of Commissioners
100 Cherokee Street, Suite 300
Marietta, GA 30090

Cobb County Manager
County Manager's Office
100 Cherokee Street, Suite 300
Marietta, GA 30090

Cobb County Attorney
County Attorney's Office
100 Cherokee Street, Suite 350
Marietta, GA 30090

Finance Director/Comptroller
Office of Finance & Economic Development
100 Cherokee Street, Suite 400
Marietta, GA 30090

Notwithstanding the foregoing, periodic and ordinary course notices, deliveries and communications between BCC and the County Representative and County Project Manager may be given (and shall be considered given when provided) by any of the means set forth above. Each Party hereto shall have the right at any time and from time to time to specify additional parties (“**Additional Addressees**”) to whom notice hereunder must be given, by delivering to the other Party five (5) days’ notice thereof setting forth the address(es) for each such Additional Addressees.

7.2 **Amendment.** This Agreement may not be amended or modified except in a writing signed and duly executed by the Parties.

7.3 **Binding Effect.** This Agreement is binding upon and will inure to the benefit of the successors and assigns of the County and BCC, subject to the limitations on assignment set forth in Section 7.7 below. Where each term “County”, “Authority”, “County Parties” or “BCC” is used in this Agreement, it means and includes the respective successors and assigns of each applicable entity.

7.4 **Waiver.** Waiver by any Party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement. Any waiver must be in writing and signed by all Parties whose interests are being waived.

7.5 **Nonrecourse Liability of BCC Personnel.** Notwithstanding and prevailing over any contrary provision or implication in this Agreement and except for their criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts), the officers, directors, partners, shareholders, members, employees and agents of BCC (the “**BCC Personnel**”) shall not in any way be liable under or with respect to this Agreement; no deficiency or other monetary or personal judgment of any kind shall be sought or entered against any of BCC Personnel with respect to liability under or with respect to this Agreement; no judgment with respect to liability under or with respect to this Agreement shall give rise to any right of execution or levy against the assets of any of BCC Personnel.

7.6 **Nonrecourse Liability of County Parties Personnel.** Notwithstanding and prevailing over any contrary provision or implication in this Agreement, no member, elected or appointed official, officer, employee, agent, volunteer, independent contractor or consultant of the County Parties shall be liable to any of the Braves Parties, or any successor in interest to Braves Parties, in the event of any default or breach by the County Parties for any amount which may become due the Braves Parties or any successor in interest to under this Agreement, or on any other obligation under the terms of this Agreement, except for their criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts).

7.7 **No Indirect Damages.** In no event shall any Party be liable under any provision of this Agreement for any special, indirect, incidental, consequential, exemplary, treble or punitive damages, in contract, tort or otherwise, whether or not provided by statute and whether or not caused by or resulting from, breach of contract, tort, the sole or concurrent negligence or intentional acts of such Party or any of its Affiliates or related parties, and the parties hereby

waive any claims against each other for such damages. The provision shall survive the expiration or earlier termination of this Agreement.

7.8 **Assignment.** Except for a permitted Transfer as provided in the Development Agreement, neither Party shall assign this Agreement or any of its rights under this Agreement, and any such purported assignment shall be void.

7.9 **Headings.** The headings in this Agreement are included for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or of its provisions.

7.10 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable Laws, but if any provision of this Agreement is held to be prohibited by or invalid under Applicable Law, the Parties shall, to the extent possible, negotiate a revised provision which (a) complies with Applicable Law, (b) does not alter any of the substantive rights, obligations or liabilities of any Party under this Agreement or any of the other Definitive Documents, and (c) confers upon the Parties the benefits intended to be conferred by the invalid provision; and the remaining provisions of this Agreement, if capable of substantial performance, shall be enforced as if this Agreement was entered into without the invalid provision.

7.11 **Absence of Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to (a) confer upon any Person other than the Parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise except as specifically provided in this Agreement or in a Project Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement.

7.12 **Governing Law.** This Agreement and the interpretation of its terms shall be governed by the laws of the State of Georgia, without application of conflicts of law principles.

7.13 **Jurisdiction.** Venue and jurisdiction for any judicial, administrative or other action to enforce or construe any term of this Agreement or arising from or relating to this Agreement shall be exclusively in the Superior Court of Cobb County, Georgia. The Parties irrevocably submit to such jurisdiction.

7.14 **Time of Essence.** Time is of the essence with respect to the performance of each of the covenants and obligations contained in this Agreement.

7.15 **Relationship of Parties.** No partnership or joint venture is established among the Parties under this Agreement. Except as expressly provided in this Agreement, no Party or its officers, elected or appointed officials, employees, agents, independent contractors or consultants shall be considered employees or agents of any other Party or to have been authorized to incur any expense on behalf of any other Party or to act for or to bind any other Party. No Party shall be liable for any acts, omissions or negligence on the part of the other Parties or their employees, officials, agents, independent contractors, licensees and invitees. BCC is an independent contractor of the County.

7.16 **Context.** As the context of this Agreement may require, terms in the singular shall include the plural (and vice versa) and the use of feminine, masculine or neuter genders shall include each other. Wherever the word “including” or any variation thereof is used herein, it shall mean “including, without limitation,” and shall be construed as a term of illustration, not a term of limitation. Wherever the word “or” is used herein, it shall mean “and/or”.

7.17 **Incorporation by Reference.** All exhibits, schedules or other attachments referenced in this Agreement are hereby incorporated into this Agreement by such reference and shall be considered a part of this Agreement as if fully rewritten or set forth herein.

7.18 **Calculation of Time.** Unless otherwise stated, all references to “day” or “days” shall mean calendar days. If any time period set forth in this Agreement expires on other than a Business Day, such period shall be extended to and through the next succeeding Business Day.

7.19 **Force Majeure.** If any Party shall be delayed in the performance of any obligation hereunder as a result of a Force Majeure, then the performance of such obligation shall be extended by the length of such delay. In response to and during any delay caused by a Force Majeure, the Parties shall at all times act diligently and in good faith to bring about the termination or removal of the Force Majeure as promptly as reasonably possible and any Party seeking an excuse of performance due to such Force Majeure shall work diligently and in good faith to reduce or eliminate any damage, cost or delay caused by such Force Majeure.

7.20 **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all Parties had executed the same document. All counterparts shall be construed together and shall constitute one instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly appointed representatives as of the Effective Date.

Sworn to and subscribed before me this
____ day of _____, 2014.

COBB COUNTY, GEORGIA

Notary Public

By: _____
Timothy D. Lee, Chairman
Cobb County Board of Commissioners

My Commission Expires:

(NOTARIAL SEAL)

Sworn to and subscribed before me this
____ day of _____, 2014.

Notary Public

Attest: _____
County Clerk

My Commission Expires:

(NOTARIAL SEAL)

BRAVES CONSTRUCTION COMPANY, LLC, a
Delaware limited liability company

Sworn to and subscribed before me this
____ day of _____, 2014.

By: Braves Holdings, LLC, a Delaware limited
liability company, its sole Member

Notary Public

Name: _____
Title: _____

My Commission Expires:

(NOTARIAL SEAL)

EXHIBIT A

PROJECT MILESTONE SCHEDULE

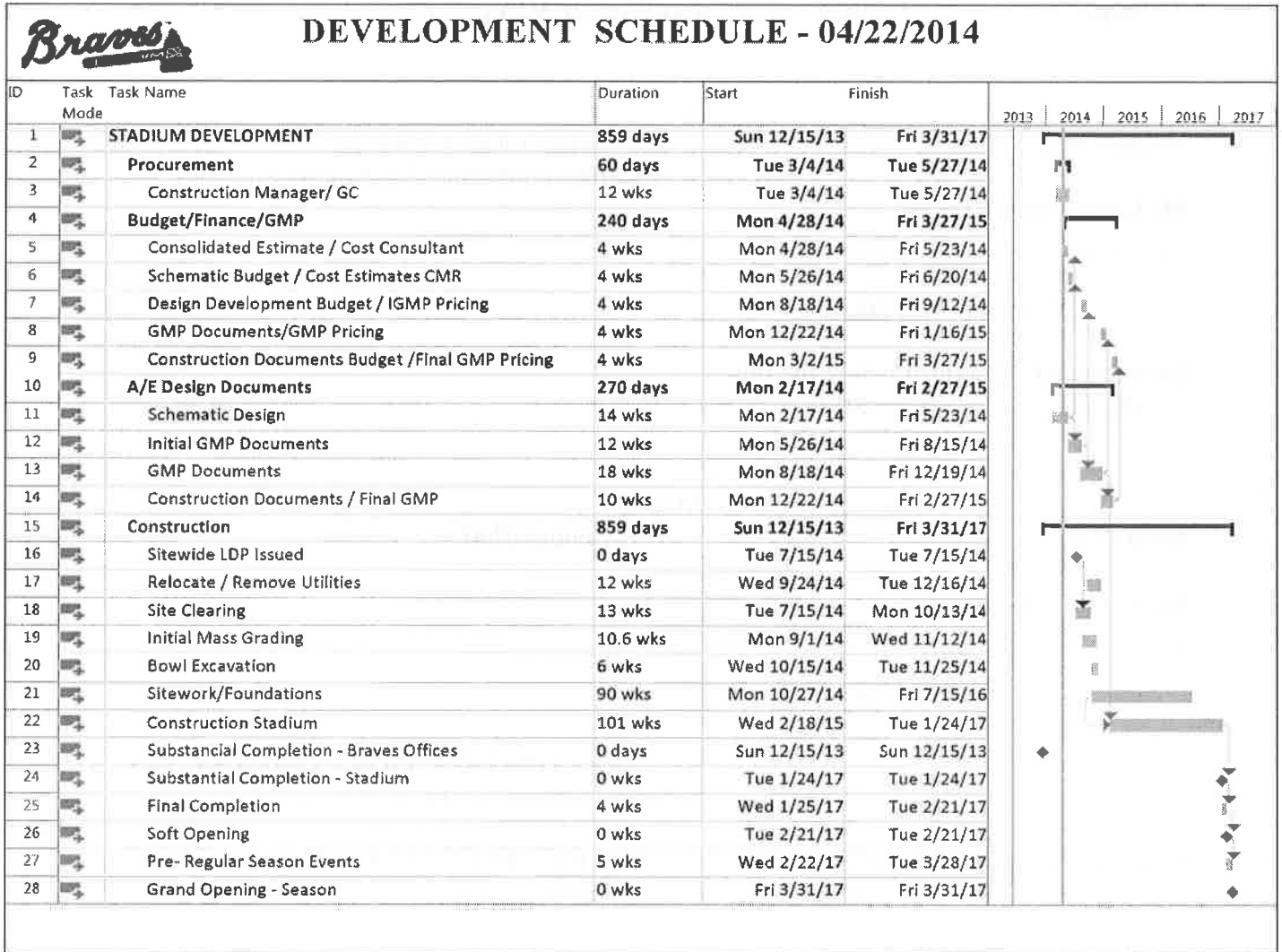


EXHIBIT B

CONSTRUCTION FUND REQUISITION FORM

[\$BOND AMOUNT**]**

**Cobb-Marietta Coliseum and Exhibit Hall Authority
Revenue Bonds (Cobb County Coliseum Project),
Series 2014**

Requisition No. ____
_____, 20__

U.S. Bank National Association, as Trustee under the Trust Indenture, dated as of **[**MONTH**]** 1, 2014 (the "Indenture") relating to the hereinabove referenced revenue bonds (the "Bonds")

Ladies and Gentlemen:

Each undersigned entity hereby certifies as set forth herein. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture. This is a Construction Fund Requisition in the amount of \$_____ for payment from the Construction Fund created under the Indenture of certain Costs of Construction (as defined in the Indenture), which total amount is comprised of the following components to be paid from money held in the specified Account within the Construction Fund: (a) \$_____ shall be funded from money held in the Bond Proceeds Account within the Construction Fund, (b) \$_____ shall be funded from money held in CID Contribution Account within the Construction Fund and (c) \$_____ shall be funds from money held in the ANLBC Contribution Account within the Construction Fund.

Each of the Costs of Construction was incurred in connection with the acquisition, construction and installation of the Project (as defined in the Indenture) and is a proper charge against the Construction Fund. Said Costs of Construction are required to be disbursed pursuant to a contract or purchase order entered into therefor by and on behalf of **[**_____**]** and were necessarily and reasonably incurred. Said amount is not being paid in advance of the time, if any, fixed for payment. No amount set forth in this Construction Fund Requisition was included in any Construction Fund Requisition previously filed with, and paid by, the Trustee from said Construction Fund. This Construction Fund Requisition contains no item representing any retained percentages which the County, at the date of this Construction Fund Requisition, is entitled to retain.

Purpose and circumstances of such obligation:

Owing to:

A statement of such account is attached hereto.

[*_____***]** has and will retain in its records the bill, invoice or statement of account, or a copy thereof, for each expenditure and has attached to this Construction Fund Requisition a copy of each such bill, invoice or statement of account.

As of the date of this Construction Fund Requisition, each undersigned entity hereby certifies that it has no knowledge of, nor has received any notice of, vendor's, mechanics or other liens, chattel mortgages, conditional sales contracts or any security interest, which should be satisfied or discharged before this Construction Fund Requisition can be paid.

Each undersigned hereby further certifies that if this Construction Requisition is for Equipment, (1) the bill of sale conveying title to the Equipment to the Authority has been delivered to the County Project Manager, (2) the Equipment has been inspected and is acceptable, and (3) if title to the Equipment is required by law to be evidenced by a certificate of title, a bond of title (or an application therefor) has been delivered to the County Project Manager.

[Add the following if this Construction Fund Requisition is the final Construction Fund Requisition: all Costs of Construction have been, or are hereupon being paid, and the Project has been finally accepted in accordance with the Completion Certificate delivered simultaneously herewith.]

BRAVES CONSTRUCTION COMPANY, LLC

By: **JONES LANG LASALLE**, its authorized
representative

Date: _____

By: _____

Name: _____

Title: _____

**ATLANTA NATIONAL LEAGUE BASEBALL
CLUB, INC., a Georgia corporation**

Date: _____

By: _____

Name: _____

Title: _____

[COUNTY REPRESENTATIVE SIGNATURE ON FOLLOWING PAGE]

COBB COUNTY

County Representative

Date: _____

By: _____

Name: _____

EXHIBIT C

CM AT RISK INSURANCE REQUIREMENTS

Project Insurance Summary

Braves Stadium Company ("BSC"), Braves Construction Company, LLC ("BCC"), Cobb-Marietta Coliseum and Exhibit Hall Authority ("Authority"), and Cobb County, Georgia ("County") (collectively "Owner Parties") are considering the following approaches for this project –

- A. Owner Controlled Insurance Program (OCIP) – will include General Liability and Excess Liability Only based on insurances and procedures outlined herein.
- B. Traditional Approach – Owner Parties will consider simply requiring Contractors to provide their own insurance based on requirements herein.
- C. Contractor Controlled Insurance Program (CCIP) – Owner Parties will consider a CCIP that includes
 - i. Same coverages and limits as outlined in Option B
 - ii. Must include excess limits of \$100,000,000
 - iii. Owner Parties and Program Manager must be included as Named Insureds
 - iv. Must Include the flexibility to provide Workers' Compensation/Employer's Liability only
 - v. Cost Proposals should detail all CCIP cost components
- D. Owner Parties will provide the Builders' Risk and Contractors' Pollution Liability as outlined herein

CM's should identify all cost components for insurance in the proposals, including at a minimum costs for requirements outlined in Section B, Traditional Approach.

Prior to program implementation, Construction Manager shall provide and maintain the finalized insurance requirements as approved by the Owner.

A - OWNER CONTROLLED INSURANCE PROGRAM OPTION

Owner Parties intend to procure an Owner Controlled Insurance Program including the insurance coverages described below for the Construction Manager and Enrolled Contractors. The limits of liability purchased apply collectively to all Insureds. As defined in the policy, Products/Completed Operations coverage is extended for 10 years or the Statute of Repose, whichever is less. In addition, this program includes an extended warranty/repair work provision which extends coverage in the event an Enrolled Contractor returns to the project site to perform warranty or repair work as defined by the policy.

Summaries of the insurance coverages to be provided by the Insurer(s) are as follows:

1. Commercial General Liability ("CGL") Insurance

CGL insurance is provided for activities at the Jobsite with the following minimum limits of liability:

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate (per Project)

\$2,000,000 Products/Completed Operations Aggregate*

\$1,000,000 Personal Injury and Advertising Liability

\$ 50,000 Damages to Rented Premises

\$ 10,000 Property Damage Reimbursement Payable by Responsible Party

** The Products/Completed Operations Aggregate is a single limit for entire policy term, including the extension period.*

[Owner Parties are considering all options]

2. Excess Liability Insurance

Excess Liability (over the limits of CGL insurance) will be provided with limits of at least

\$100,000,000 each occurrence and in the aggregate. The limits are excess of the primary limits described in Item 1 above.

RFQ OCIP Steps:

1. The Construction Manager and all Trade Contractors or Subcontractors will carry insurance as outlined in Section B, items 1,2,5,6,7,8. In addition, if enrolled in the OCIP, Contractors must carry CGL and Excess Insurance for offsite activities; if excluded from the OCIP, Contractors must carry CGL and Excess Insurance for all activities.
2. CM will include its insurance costs for General Liability and Excess Liability (in excess of the General Liability limits) in the Schedule of Values, same as would be done absent a OCIP. Subcontractors will be instructed to bid gross (include cost for General and Excess Liability insurance in all bids).
3. These insurance costs will later be identified and verified by the OCIP Administrator, and deducted from the original contract amount via a deductive change order (or a net contract will be issued).
4. Once a letter of intent or contract is issued, Contractors will be required to complete enrollment forms for the OCIP. Contractors shall not begin work until they have received a certificate confirming their enrollment in the OCIP program.
5. At the end of the project, the insurance cost will be adjusted based on the difference between the original estimate and the actual earned per the payroll and/or receipts reports submitted at the end of the project (and/or audited payroll or receipts).

Additional Information:

- A. Contractors covered under the OCIP shall cooperate with claims reporting investigation and process.
- B. Complete OCIP details and insurance requirements will be provided in a Project Insurance Manual which will be incorporated into the final contract.

B – TRADITIONAL INSURANCE APPROACH REQUIREMENTS

The Construction Manager and all Trade Contractors or Subcontractors will carry and maintain at least the following insurance policies and minimum limits of liability on forms and with insurance companies acceptable to the Owner Parties:

1. Automobile Liability Insurance

Automobile Liability insurance covering the operation, maintenance and use, loading and unloading of all owned, hired, leased, and non-owned vehicles used in connection with the Projects.

Limits of liability of at least \$1,000,000 for each accident for bodily injury and property damage combined.

2. Workers' Compensation and Employer's Liability

Workers' Compensation and Employer's Liability insurance covering all operations relating to the Projects. The policy must provide at least the following limits:

a. Workers' Compensation - Statutory Limits

b. Employer's Liability -

| | |
|-----------|------------------------------|
| \$500,000 | Each Accident |
| \$500,000 | Each Disease - Each Employee |
| \$500,000 | Each Disease - Policy Limit |

3. Comprehensive General Liability Insurance (CGL)

CGL coverage shall include, but not be limited to, Premises-Operations, Personal Injury, Blanket Contractual Liability, Broad Form Property Damage, Damage to Rented Premises, Independent Contractors, Products/Completed Operations, Cross Liability endorsements (or equivalent), and no third-party-over action exclusions or similar endorsements or limitations. Provided below are the minimum insurance limits required:

| <u>Limits</u> | <u>All Parties</u> |
|---------------|---|
| \$1,000,000 | Each Occurrence |
| \$2,000,000 | General Aggregate |
| \$2,000,000 | Products/Completed Operations Aggregate* |
| \$1,000,000 | Personal Injury and Advertising Liability |
| \$ 50,000 | Damages to Rented Premises |

*Including term up to 10 years after completion [**Owner Parties are considering all options**]

4. **Excess/Umbrella Liability** (above CGL, Employer's Liability and Automobile Liability insurance)
[Owner Parties are considering options for minimum limits]

Construction Managers: \$100,000,000 Occurrence/Aggregate

Trade Contractors: \$ 10,000,000 Occurrence/Aggregate

All Others: \$ 1,000,000 Occurrence/Aggregate

5. **Aviation Liability**

If required by the Owner Parties, Aviation Liability insurance covering all owned, non-owned, leased, and hired aircraft, used, operated, or hired by the Construction Managers or the applicable Trade Contractor or Subcontractor in connection with the Projects, including bodily injury, property damage, and Passenger Liability with a minimum limit of \$10,000,000 each occurrence.

6. **Watercraft Liability**

If required by the Owner Parties, Watercraft Liability and/or Protection and Indemnity insurance covering all owned, non-owned, and hired watercraft, used, operated, or hired by the Construction Managers or the applicable Trade Contractor or Subcontractor in connection with the Projects, including bodily injury with a minimum limit of \$10,000,000 each occurrence.

7. **Contractors' Protective Professional Liability Coverage as provided under the Construction Managers Annual Practice Policy (not Project Specific)**

Each Claim: \$10,000,000

Annual Aggregate: \$10,000,000

Maximum Deductible Permissible: \$250,000

Retroactive Date shall be no later than the date of first service by the Construction Managers on the Projects. Construction Managers are required to carry coverage for a term extending through the full 10-year Statute of Repose beyond completion of the Project.

Note if the Construction Manager is a joint venture, this requirement may be met by either JV party adding the JV entity name/project to their annual practice policies and/or each JV party evidencing limits above under their respective annual practice policies.

8. **Professional Liability for Trade Contractors and Subcontractors**

At the Construction Manager's discretion, applicable Trade Contractors and Subcontractors of any tier may be required to provide professional liability insurance with the following minimum limits:

| | |
|--------------------------------|--------------|
| Each Claim/Annual Aggregate: | \$ 1,000,000 |
| Annual Aggregate: | \$ 1,000,000 |
| Maximum Deductible Permissible | \$25,000 |

Retroactive Date shall be no later than the date of first service by the Contractor on the Projects, even if prior to execution of this Agreement.

At the Construction Manager's discretion, coverage may be required to continue through the full 10-year Statute of Repose beyond completion of the Project.

C – CONTRACTOR CONTROLLED INSURANCE PROGRAM OPTION

Contractor Controlled Insurance Program options shall include:

- i. Same coverages and limits as outlined in Option B
- ii. Must include excess limits of \$100,000,000
- iii. Owner Parties and Program Manager must be included as Named Insureds
- iv. Must Include the flexibility to provide Workers' Compensation/Employer's Liability only

Cost Proposals should detail all CCIP cost components

D – OTHER INSURANCE OWNER WILL PROVIDE

1. Builder's Risk

Apart from the OCIP, Owner Parties shall procure and maintain Builder's Risk insurance that provides "all risk" coverage on the buildings, structure or work, and property of the Owner Parties in the care, custody and control of a Contractor. The policy or policies shall be in the name of the Owner Parties, and Contractors as their interests shall appear, and this shall be so stated on the ACORD certificate of insurance.

The policy will cover structures and materials during the course of construction that are part of the Projects and will provide coverage for materials while in domestic transit, or while stored temporarily away from the Project sites subject to policy sublimits.

Contractors will assume the responsibility for the first \$25,000 of any claim that is within the purview of this policy.

Owner Parties and Contractors waive all rights against each other for damages caused by fire or other perils to the extent covered by the Builder's Risk insurance or by any other property insurance applicable to the work.

2. Contractors Pollution Liability

Apart from the OCIP, Owner Parties will maintain Contractors Pollution Liability insurance for the duration of this contract for onsite activities. The policy will be written with a limit of at least \$10,000,000 per claim.

The first \$25,000 of any claim that stems from the operations of a Contractor will be fully borne by the Contractor as determined by the Owner Parties and will be handled via a deductive change order.

EXHIBIT D

ARCHITECT INSURANCE REQUIREMENTS

The Architect shall maintain at a minimum, the following insurance coverages and limits for this Project:

A. Commercial General Liability ("CGL") Coverage Limits - Occurrence Basis:

| | |
|---|-------------|
| General Aggregate | \$1,000,000 |
| Products - Completed Operations Aggregate | \$2,000,000 |
| Personal & Advertising Injury | \$1,000,000 |
| Each Occurrence | \$1,000,000 |
| Fire Damage (any one fire) | \$100,000 |
| Medical Expense (any one person) | \$10,000 |

Contractual Liability coverage as provided by the Standard ISO Policy form CG 00 01.

B. Automobile Liability – Any Auto (including Hired and Non-Owned Autos):

| | |
|-----------------------|---------------------------|
| Combined Single Limit | \$1,000,000 each accident |
|-----------------------|---------------------------|

C. Statutory Worker's Compensation and Employer's Liability:

Workers' Compensation as per Georgia Statutory Requirements

| | |
|-------------------------------|-------------|
| Employer's Liability Coverage | |
| Each Accident | \$1,000,000 |
| Disease - Each Employee | \$1,000,000 |
| Disease - Policy Limit | \$1,000,000 |

Broad Form All States Coverage

D. Excess/Umbrella Liability (over CGL, automobile liability, and employer's liability):

| | |
|------------------|--------------|
| Each Occurrence | \$20,000,000 |
| Annual Aggregate | \$20,000,000 |

E. Professional Liability – Errors and Omissions Coverage:

| | |
|--------------------------------|----------------------|
| Per Claim | \$10,000,000 |
| Annual Aggregate | \$10,000,000 |
| Maximum Deductible Permissible | \$ 100,000 per claim |

Retroactive Date shall be no later than the date the Architect began providing any Design Services, even if prior to execution of the Design Services Agreement.

Architect is required to carry coverage for a term of 5 years beyond Substantial Completion.

- F. Additional Insured: BCC and its Affiliates, BRED, ANLBC, BSC, Authority, County, Construction Manager, and Program Manager 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 A, B & D above.
- G. Primary and Non-Contributory: For coverages outlined in items A, B and D above, these limits shall be primary and non-contributory with respect to any insurance or self-insurance program carried by BCC and its Affiliates, BRED, ANLBC, BSC, Authority, County, Construction Manager, and Program Manager
- H. Waiver of Subrogation: For coverages outlined in items A, B, C, and D above, insurer must waive its subrogation rights against the BCC and its Affiliates, BRED, ANLBC, BSC, Authority, County, Construction Manager, and Program Manager. Architect waives any claims against BCC and its Affiliates, BRED Co., LLC, "Authority," "County," Construction Manager, and Program Manager to the extent such claims are covered by insurance required by this exhibit. Such insurance shall not prohibit the foregoing waiver.
- I. Notice of Cancellation: The insurance provided in this section shall not be cancelled unless BCC and its Affiliates, BRED, ANLBC, BSC, Authority, County, Construction Manager, and Program Manager are given thirty (30) days written notice in advance of the cancellation date and Architect has made arrangements for replacement insurance under this section provided that coverage is available at commercially reasonable rates. Failure of the Architect to keep the insurance policies required above in force and effect shall constitute a breach of this Agreement. Architect shall be allowed 90 days to purchase comparable insurance. If such insurance is not obtained, BCC shall have the right, in addition to and without prejudice to any other rights, to purchase such insurance on behalf of the Architect, and the Architect shall pay the cost thereof to BCC upon demand and shall furnish such information needed by BCC to obtain such insurance or, alternatively, to immediately terminate this agreement for cause pursuant to Article 6 of this Agreement.
- J. Insurer Qualification: All insurance will be provided through companies authorized to do business in Georgia and having a Best Rating of no less than A-/VII, except that insurers of Architect's subconsultants shall have a Best Rating of no less than A-/VII.
- K. Subconsultants - The Architect will cause each consultant employed by the Architect to purchase and maintain insurance of the types specified above, with the exception of the following –
> Item E – Professional Liability - \$1,000,000 per claim/annual aggregate limit.
> Item D – Excess/Umbrella Liability - \$1,000,000 each occurrence/annual aggregate limit.
- L. When requested by the BCC, the Architect will furnish copies of certificates of insurance evidencing coverage for the Architect and each consultant and confirming that all the insurance requirements in this Agreement have been met

