

BASEBALL STADIUM AGREEMENT

GOVERNMENT OF THE DISTRICT OF COLUMBIA

and

DISTRICT OF COLUMBIA SPORTS AND ENTERTAINMENT COMMISSION

and

BASEBALL EXPOS, L.P.

September 29, 2004

TABLE OF CONTENTS

ARTICLE I DEFINITIONS	1
ARTICLE II REPRESENTATIONS.....	6
Section 2.01 Representations of the Commission.....	6
Section 2.02 Representations of the Team.....	7
Section 2.03 Representations of the District Government.....	8
ARTICLE III BASEBALL FRANCHISE.....	9
Section 3.01 Relocation of Franchise.....	9
Section 3.02 Interim Home Stadium.....	9
ARTICLE IV PROJECT DEVELOPMENT	13
Section 4.01 Selection of Baseball Stadium Site.....	13
Section 4.02 Construction Administration Agreement.....	13
Section 4.03 Project Program Statement.....	13
Section 4.04 Baseball Stadium Plans and Specifications.....	14
Section 4.05 Baseball Stadium Construction.....	15
Section 4.06 Baseball Stadium Cost Overruns.....	16
Section 4.07 Baseball Stadium Completion Date.....	16
Section 4.08 Infrastructure.....	16
ARTICLE V FUNDING.....	16
Section 5.01 Public Financing.....	16
Section 5.02 Uses of Ballpark Revenue Fund.....	17
ARTICLE VI LEASE.....	17
Section 6.01 Lease Agreement.....	17
Section 6.02 Term.....	17
Section 6.03 Use of Leased Property.....	17

Section 6.04	Rent and Other Expenses.....	18
Section 6.05	Allocation of Stadium Revenues.....	19
Section 6.06	Assignments and Liens.....	19
Section 6.07	Capital Reserve Fund.....	19
Section 6.08	Maintenance and Repairs.....	19
Section 6.09	Capital Improvements.....	19
Section 6.10	Targeted Taxes.....	20
Section 6.11	Insurance.....	20
Section 6.12	Community Benefit Obligations.....	21
Section 6.13	Nonrelocation of Franchise.....	22
Section 6.14	Guarantee by District of Columbia.....	22
ARTICLE VII DEADLINE DATES.....		22
Section 7.01	Legislative Action.....	22
Section 7.02	Control of Buildable Site.....	23
Section 7.03	Execution of RFK License.....	23
Section 7.04	Execution of the Lease and the Construction Administration Agreement.....	23
Section 7.05	Franchise Relocation.....	23
Section 7.06	Funding.....	24
Section 7.07	Project Completion.....	24
Section 7.08	MLB Guaranty.....	24
ARTICLE VIII REMEDIES.....		24
Section 8.01	Termination Rights in General.....	24
Section 8.02	Termination Rights of Commission and District Government.....	24
Section 8.03	Termination Rights of the Team.....	25
Section 8.04	Remedies.....	25
Section 8.05	Mediation and Arbitration.....	27

ARTICLE IX MISCELLANEOUS..... 28

Section 9.01 Parties and Interests.....28

Section 9.02 Notices.....29

Section 9.03 Amendments and Waivers.....30

Section 9.04 Governing Law.....30

Section 9.05 Captions.....30

Section 9.06 Counterparts.....30

Section 9.07 Assignment.....30

Section 9.08 MLB Requirements.....31

Exhibit A Baseball Stadium Budget

Exhibit B Baseball Stadium Site

Exhibit C Infrastructure

Exhibit D Preliminary Project Plan

Exhibit E Rent Schedule

Exhibit F RFK Improvements

BASEBALL STADIUM AGREEMENT

This is an agreement, dated September 29, 2004 ("Agreement"), among the Government of the District of Columbia, the District of Columbia Sports and Entertainment Commission, a corporate instrumentality of the Government of the District of Columbia, and Baseball Expos, L.P., a Delaware limited partnership.

Recital:

The parties have reached agreement on their respective undertakings and responsibilities for the relocation of a Major League Baseball franchise to the District of Columbia. This is that agreement.

ARTICLE I

DEFINITIONS

In this Agreement:

"Arbitration" means the dispute resolution process described in Section 8.05(b).

"Ballpark Revenue Fund" means the fund established in the legislation referenced in Section 7.01 as the repository for revenues pledged to the payment of the Bonds.

"Baseball Events" means Team home games, training, practices, exhibition games, and other Major League Baseball or Team sponsored baseball clinics, fan or sponsor theme events, press conferences or other Major League Baseball or Team sponsored, baseball or Team fan related events, activities, promotions or sales of baseball or Team fan related products, services, information or media content relating to such events, activities, or promotions held at or emanating from the Baseball Stadium.

"Baseball Rules and Regulations" means, collectively, the Major League Constitution, the Major League Rules, and any other agreements, rules, guidelines, regulations, or requirements of the Office of the Commissioner of Baseball, the Commissioner, the Ownership Committee of Baseball, or any other person appointed by the foregoing that are generally applicable to all Major League Baseball clubs, as applicable, including, without limitation, the Interactive Media Rights Agreement, and each agency agreement and operating guidelines among Major League Baseball clubs and a Major League Baseball entity, all as the same now exist or may be amended or adopted in the future.

"Baseball Stadium" means a first class, open air baseball stadium to be constructed on the Baseball Stadium Site, having a natural grass playing field, a capacity of approximately but at least 41,000 seats, including approximately but at least 2,000 club seats, approximately but at least 74 private suites, and market-appropriate concession, entertainment and retail areas,

fixtures, furnishings, equipment, features and amenities on par with comparable ballparks recently built in Cincinnati, Detroit, Philadelphia, Pittsburgh, San Diego and San Francisco.

"Baseball Stadium Budget" means the budget for the Stadium Complex set forth in Exhibit A.

"Baseball Stadium Plans and Specifications" means the detailed preliminary and final architectural drawings, plans, and specifications for the Baseball Stadium developed in accordance with Section 4.04.

"Baseball Stadium Site" means the area of land described in Exhibit B as the site for the Baseball Stadium.

"Bonds" means the bonds described in Section 5.01.

"Capital Improvements" means capital improvements to the Leased Property other than Commission Additions and Maintenance and Repairs.

"Capital Reserve Fund" means a segregated fund owned by the Commission and held by a Qualified Trustee solely for uses and purposes described in Sections 6.07, 6.08 and 6.09.

"Commission" means the District of Columbia Sports and Entertainment Commission, a corporate instrumentality of the District of Columbia created pursuant to Title 3, Chapter 14 of the District of Columbia Official Code, as amended, and its permitted successors and assigns.

~~**"Commission Additions"** means any improvements or fixtures outside the scope of the Project that are attached to or incorporated in the Baseball Stadium or Baseball Stadium Site and meet the requirements for Commission Additions in Section 6.09.~~

"Construction Administration Agreement" means an agreement to be entered into by the Commission, the District Government and the Team in respect of the Baseball Stadium and the Infrastructure having the provisions, among others, summarized in Article IV.

"Design and Construction Professionals" has the meaning given in Section 4.05.

"Discretionary Improvements" means all Capital Improvements other than Necessary Improvements.

"District Government" means the Government of the District of Columbia.

"District Guarantee" means a written guarantee by the District Government of the timely payment and performance of all financial obligations of the Commission under Section 8.04 of this Agreement, the RFK License, the Lease and the Construction Administration Agreement.

"Essential Design Elements" has the meaning given in Section 4.04.

"Infrastructure" means facilities, services and transportation linkages included in the Project that will support the Baseball Stadium as more fully described in Exhibit C.

"Lease" means a lease agreement to be entered into by the Commission and the Team in respect of the Leased Property.

"Leased Property" means all right, title and interest of the Commission in and to the Baseball Stadium Site, the Baseball Stadium and the portion of the Infrastructure located on the Baseball Stadium Site; provided, however, that the Leased Property shall not include any Commission Additions.

"MLB Debt Service Rule" means the provisions of Attachment 22 to the Basic Agreement Between the 30 Major League Clubs and the Major League Baseball Players Association, effective September 30, 2002.

"MLB Guaranty" means the Guaranty Agreement from the Office of the Commissioner of Baseball to the Commission and the District Government, dated the same date as the date of this Agreement.

"Maintenance and Repairs" means work, labor and materials reasonably required in the ordinary course of business to be performed and used to: (i) maintain the Leased Property in good, clean working order; (ii) maintain the Leased Property in compliance with all applicable governmental laws and regulations and Baseball Rules and Regulations; (iii) repair or restore components of the Leased Property as a result of ordinary wear and tear, damage or destruction; and (iv) replace, at the end of their economic life cycle, those components of the Leased Property whose reasonably expected economic life at the time of original installation was two years or less.

"Major League Baseball" means, collectively, the Office of the Commissioner of Baseball, the Commissioner of Baseball, the Major League clubs, Major League Baseball Enterprises, Inc., Major League Baseball Properties, Inc., Major League Baseball Properties Canada, Inc., Major League Baseball Productions, MLB Advanced Media, Inc., MLB Advanced Media, L.P., MLB Media Holdings, L.P., MLB Media Holdings, Inc., MLB Online Services, Inc., each of their respective present and future affiliates, assigns and successors, and any other entity owned equally by the Major League Baseball clubs.

"Mediation" means the mediation process described in Section 8.05(a).

"Minimum Design Criteria" has the meaning given in Section 4.04.

"Necessary Improvements" means Capital Improvements that are required (i) by applicable governmental law, regulation or order; (ii) in order to obtain insurance at commercially reasonable rates; (iii) to keep the playing field, lighting and safety features of the Baseball Stadium in compliance with Baseball Rules and Regulations; (iv) other than the Team's obligation for Maintenance and Repairs, to replace components of the Leased Property at the end of their economic life cycle; or (v) to keep the Baseball Stadium on par with the upgraded facilities in at least 50% of all Major League Baseball ballparks that are governmentally owned in whole or substantial part and are more than two years old.

"Parking Facilities" means no fewer than 1,100 parking spaces and related walkways located as part of the Stadium Complex and providing convenient ingress and egress to and from the Baseball Stadium.

"Preliminary Project Plan" means the preliminary project program statement attached as Exhibit D.

"Project" means all undertakings and work, to be described in more detail in the Construction Administration Agreement, required for substantial completion of the Stadium Complex and to have it ready and available for the play of Major League Baseball, including the acquisition of the Baseball Stadium Site and the site for the Parking Facilities, and the design, development, construction and furnishing of the Baseball Stadium and the Infrastructure.

"Project Program Statement" means a document, based on and materially consistent with the Preliminary Project Plan, that specifies, among other things: (i) the functions to be conducted at the Baseball Stadium and with the Infrastructure; (ii) the location and minimum space requirements for those functions; and (iii) the formulation of how those spaces will be used and the aesthetics of those spaces.

"Qualified Trustee" means a financial institution qualified to act as a depository for funds held by or on behalf of the District of Columbia.

"RFK Improvements" means the renovations and improvements to RFK Stadium described in Exhibit F.

"RFK License" means a license agreement to be entered into by the Commission and the Team in respect of RFK Stadium.

"RFK Property" means RFK Stadium and all adjacent property and facilities managed by the Commission, including grounds and parking areas outside of RFK Stadium.

"RFK Stadium" means the structure commonly known as the Robert F. Kennedy Memorial Stadium located at 2400 East Capitol Street, Washington D.C., including rights of ingress and egress thereto through the RFK Property.

"Related Facilities" means the following facilities to be constructed as part of or physically connected to the Baseball Stadium: (i) Parking Facilities, (ii) other ancillary facilities included within the Project, and (iii) rights of ingress and egress to the foregoing and to the Baseball Stadium.

"Stadium Complex" means the building complex composed of the Baseball Stadium and the Related Facilities.

"Stadium Revenues" means all revenues generated from or by reason of Baseball Events or other uses of the Leased Property permitted under Section 6.03, including without limitation with respect to Baseball Events and other uses permitted under Section 6.03, the proceeds from the sale of tickets or other rights to admission; proceeds from the sale of seat licenses or other rights to purchase tickets or admission; all revenues derived from the sale of rights of any sort to

televised, broadcast, transmit, record, advertise or promote in any manner the events or promotions at the Leased Property or any description or account of the events or promotions at the Leased Property; all proceeds from the sale at or from the Leased Property of concessions, memorabilia, souvenirs, or other products and services; all marketing, advertising, promotional and naming revenues derived from or arising out of the Leased Property or the events or promotions held there or products, services, information or media content sold from there; all proceeds from assignments, subleases or licenses of Leased Property; and all revenues from the sale of parking or rights to parking at the Leased Property.

"Targeted Taxes" means any taxes or government charges directly or indirectly levied against or imposed on: (i) the Team's property interest in the Leased Property; (ii) receipts from purchasers, lessees or licensees of private suites in the Baseball Stadium of amounts in excess of the face value of the admission tickets for seats in the suites; (iii) the activities conducted by the Team at the Baseball Stadium or the income therefrom unless the tax or governmental charge applies to the same or similar activities conducted by a reasonably broad range of other businesses or persons in the District of Columbia or income therefrom; (iv) receipts from the sale of any tickets or other rights to admission to the Baseball Stadium unless the tax or governmental charge is one of general application levied against or imposed generally on receipts from the sale of tickets or other rights to admission to sports, amusement and entertainment facilities within the government's jurisdiction; (v) the gross receipts or incomes of players, coaches, enterprises, teams, or team owners who use the Leased Property unless the tax or governmental charge is one of general application levied against or imposed on the gross receipts or incomes of people, enterprises or owners of enterprises, as the case may be, within the government's jurisdiction; (vi) any capital gain on or appreciation in the investment in the Team unless the tax or governmental charge is one of general application to investments in enterprises of most any type; or (vii) the sale of the Major League Baseball franchise or an ownership interest in the Team unless the tax or governmental charge is one of general application to investments in enterprises of most any type; provided, however, that "Targeted Taxes" shall not include an incremental 4.25% tax on sales of or revenues from tickets, a tax on sales of or revenues from seat licenses, and an incremental 4.25% tax on sales of or revenues from merchandise, which in each case brings the total tax on sales or revenues from such item to not more than 10%.

"Team" means Baseball Expos, L.P., a Delaware limited partnership, its successors and its assigns as permitted under Section 9.07.

ARTICLE II
REPRESENTATIONS

Section 2.01 Representations of the Commission.

As an inducement to the Team to enter into this Agreement, the Commission represents as follows:

- (a) The Commission is a corporate instrumentality of the District Government duly created and validly existing pursuant to the laws of the District of Columbia.
- (b) The Commission has full right, power and authority to enter into, execute and deliver this Agreement and to perform its obligations hereunder.
- (c) This Agreement has been duly executed and delivered by the Commission and, when duly executed and delivered by the Team and the District Government, shall constitute a legal, valid and binding obligation of the Commission enforceable against the Commission in accordance with its terms, except that
 - (i) enforceability may be limited by the application of bankruptcy, insolvency, or similar laws of general applicability relating to the enforcement of creditors' rights generally, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.
- (d) The execution, delivery and performance of this Agreement will not conflict with or constitute a breach of or default under any commitment, agreement or instrument to which the Commission is a party or by which it is bound.
- (e) There is no litigation, administrative proceeding or investigation pending (nor, to the knowledge of the Commission, is any such action threatened) which in any way adversely affects, contests, questions or seeks to restrain or enjoin any of the following: (i) the Commission's enabling legislation; (ii) any of the proceedings or actions taken by the Commission leading up to the execution, delivery or performance of this Agreement, the RFK License, the Construction Administration Agreement or the Lease; (iii) the legal existence of the Commission; (iv) any corporate boundary or geographic jurisdiction of the Commission which may affect the Project; (v) the right of the Chairman or any member of the Commission's governing body to hold his or her office; or (vi) the issuance or validity of the Bonds.

- (f) Under current law and the legislation referenced in Section 7.01:
- (i) the Baseball Stadium Site, the Baseball Stadium and the RFK Property would be subject to no ad valorem taxes of any nature;
 - (ii) the Team's leasehold interest in the Baseball Stadium Site and the Baseball Stadium would be subject to no ad valorem taxes of any nature;
 - (iii) the purchase of construction materials by the Commission for the Stadium Complex and the RFK Property would be subject to no District Government sales tax, use tax or excise tax of any nature;
 - (iv) the sale or purchase of tickets or other rights to the Baseball Stadium and the RFK Stadium would be subject to no District Government sales, use or excise tax or surcharge of any nature except the current 5.75% general sales tax and the proposed 4.25% incremental sales tax; and
 - (v) the sale, purchase, lease or license of private suites in the Baseball Stadium and the RFK Stadium would be subject to no District Government sales, use or excise tax or surcharge of any nature except the current 5.75% general sales tax and the proposed 4.25% incremental sales tax.

Section 2.02 Representations of the Team.

As an inducement to the Commission and the District Government to enter into this Agreement, the Team represents as follows:

- (a) The Team is a limited partnership duly created and validly existing pursuant to the laws of Delaware and is qualified to do business in every jurisdiction where its ownership of property or its conduct of business operations gives rise to the need for such qualification, except to the extent that the failure so to qualify in any particular jurisdiction could not reasonably be expected to result in a material adverse effect on the business or financial condition of the Team or the ability of the Team to perform its obligations hereunder. True, correct and complete copies of the Certificate of Limited Partnership and the Agreement of Limited Partnership of the Team, and the articles of incorporation and bylaws of the general partner of the Team have been certified and delivered to the Commission on or before the date of this Agreement.
- (b) The Team has full right, power and authority to enter into, execute and deliver this Agreement and to perform its obligations hereunder except that the relocation of the franchise in accordance with Section 3.01 requires approval from the owners of Major League Baseball clubs in accordance with Baseball Rules and Regulations.
- (c) This Agreement has been duly executed and delivered by the Team and, when duly executed and delivered by the Commission and the District Government, shall constitute a legal, valid and binding

obligation of the Team enforceable against the Team in accordance with its terms, except that (i) enforceability may be limited by the application of bankruptcy, insolvency, or similar laws of general applicability relating to the enforcement of creditors' rights generally, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

- (d) The execution, delivery and performance of this Agreement will not conflict with or constitute a breach of or default under any commitment, agreement or instrument to which the Team is a party or by which it is bound.
- (e) Except as previously disclosed in writing to the Commission, there is no litigation, administrative proceeding or investigation pending (nor, to the knowledge of the Team, is any such action threatened) which in any way adversely affects, contests, questions or seeks to restrain or enjoin any of the following: (i) the Team's participation in the Project; (ii) any of the limited partnership proceedings or actions taken leading up to the execution, delivery or performance of this Agreement; (iii) the legal existence of the Team; or (iv) the Team's ownership of its Major League Baseball franchise.
- (f) Except as previously disclosed to the Commission in writing, no action, consent or approval of, or registration or filing with or other action by, any court, governmental authority or other third party is or will be required in connection with the execution and delivery by the Team of this Agreement, the RFK License, the Construction Administration Agreement and the Lease or the assumption and performance by the Team of its obligations hereunder or thereunder, other than the issuance of governmental permits and licenses expected in the ordinary course of business.
- (g) The Team holds a valid Major League Baseball franchise and is in compliance in all material respects with all Baseball Rules and Regulations.

Section 2.03 Representations of the District Government.

As an inducement to the Team to enter into this Agreement, the District Government represents as follows:

- (a) The District Government is, under the laws of the United States of America, a duly created and validly existing government constituted as a body corporate for municipal purposes.
- (b) The District Government has the power to contract and to be contracted with, to sue and to be sued, to plead and to be

impleaded, to have a seal and to exercise all other powers of a municipal corporation not inconsistent with the Constitution and laws of the United States of America and the laws of the District of Columbia.

- (c) The District Government has the power, authority and legal right under the Home Rule Act and the laws of the District of Columbia to (i) finance, refinance, or reimburse the Baseball Stadium Budget by issuing, selling and delivering the Bonds, (ii) execute and deliver this Agreement and the District Guarantee, (iii) assign its interest in the Bond proceeds to a Qualified Trustee, and (iv) incur and perform its obligations under this Agreement and the District Guarantee.

ARTICLE III

BASEBALL FRANCHISE

Section 3.01 Relocation of Franchise.

Upon execution and delivery of this Agreement, the Team and its agents shall discontinue all discussions, negotiations and efforts to relocate the Team's Major League Baseball franchise either temporarily or permanently to any location other than the District of Columbia, and the Team shall cause its Major League Baseball franchise and principal place of business to be relocated to the District of Columbia prior to commencement of the 2005 Major League Baseball season.

Section 3.02 Interim Home Stadium.

The Commission and the Team shall enter into the RFK License prior to the deadline date set forth in Section 7.03. The RFK License shall contain the detail for the provisions summarized in this Section 3.02.

- (a) The initial term shall commence on January 1, 2005, and shall expire when the Team commences to play its home games at the Baseball Stadium.
- (b) The Team shall pay an annual license fee to the Commission in the amount of \$5,300,000 payable in two equal installments of \$2,650,000 each on April 15 and November 15 of each year provided that the first payment shall be due prior to the opening game in 2005.
- (c) The Commission promptly shall undertake and make the RFK Improvements for completion prior to April 1, 2005. The Commission shall be solely responsible for the costs of the RFK

Improvements, which costs are currently estimated to be in the amount of \$13,000,000. Any cost overruns in respect to the RFK Improvements shall be the sole responsibility of the Commission except for program or design changes, or change orders requested by the Team, or caused by the oversight, negligence or willful misconduct of the Team, or the Team's non-compliance with deadlines or other requirements set forth in this Agreement. The Team shall have reasonable opportunity for input with respect to the program, design criteria and preliminary plans and specifications for the RFK Improvements and reasonable opportunity to approve the final plans and specifications for the RFK Improvements, which approval shall not be unreasonably withheld or delayed.

- (d) The Team shall maintain its Major League Baseball franchise and play all of its regular and post-season home games at RFK Stadium during the term of the RFK License; provided, however, that the Team shall be permitted: (i) to play elsewhere if necessary for reasons of public safety or because of rescheduling due to weather or force majeure; and (ii) once during each consecutive non-overlapping five-year period during the term of the RFK License, to schedule and play up to three regular season home games in any year in an international or other venue as requested by Major League Baseball. In the case of game(s) played elsewhere because of rescheduling due to weather, the Team shall share fairly with the Commission, in a proportionate manner based on their respective losses, any compensatory payment made to the Team in respect of the lost game(s) by Major League Baseball or anyone else.
-
- (e) The Team shall have scheduling priority over all other licensees of RFK Stadium for baseball games to be held at RFK Stadium. Rain-out scheduling and other force majeure scheduling conflicts shall be subject to reasonable multi-use facility scheduling conflict resolution, recognizing the Team as the primary licensee.
- (f) Consistent with applicable legal requirements, including Section 3-1407(b) of the District of Columbia Code, the Commission shall be responsible for the provision of day-of-game operations, including parking management, food and beverage concession, ticket vending services, merchandisc concession, crowd management, security, medical and first aid services, cleaning and custodial services, and the scoreboard and video operation. The Team shall have the right to review all existing third party agreements relating to RFK Stadium operations and to request reasonable modifications thereto. The Team shall have rights of consultation regarding day-of-game operations, to confirm that the "look and feel" of the day-of-game operations, the character of customer service, and the level of public safety meets with the

Team's reasonable approval, and the Commission shall use reasonable efforts to accommodate the Team's reasonable recommendations regarding day-of-game operations, including the provision of additional services. The Commission is authorized, in consultation with the Team, to engage third-party resources to assist in managing operations, including day-of-game operations and vendors. Following the end of the initial year of the term, and each year thereafter, the parties shall meet to review the day-of-game operations for such prior year in an effort to address and resolve any issues raised by the Team. The Team shall be obligated to reimburse the Commission for the costs incurred by the Commission in providing day-of-game operations, including amounts owing to any third-party providers of such services in accordance with procedures that include prior consultation and review with the Team and monthly and annual settlement of accounts.

- (g) The Commission shall be responsible for and will control RFK Stadium facility general maintenance, including reasonably necessary repairs, maintenance of grounds outside RFK Stadium, and in-stadium grounds keeping (subject to reasonable input from an expert hired by the Team to ensure that the playing field complies with Baseball Rules and Regulations). The Commission shall bear all reasonable costs associated with such responsibilities (except for repairs or maintenance arising specifically from Baseball Events or other Team uses or day-of-game requirements which shall be the responsibility of the Team) and will also bear the cost of providing electric, natural gas, water and sewer utilities to RFK Stadium including day-of-game utilities.
-
- (h) The Commission and the Team shall carry appropriate and commercially reasonable insurance coverage in accordance with comparable standards and terms as provided in Section 6.11.
- (i) Except as set forth in Section 3.02(1), the Team shall have the right to all day-of-game revenues. "Day-of-game revenues" include, without limitation, the following revenues (net of, where applicable, credit card fees, fees properly retained by third party concessionaires or paid by the Commission to concessionaires, and applicable taxes) generated by the Team's use of RFK Stadium in connection with the exhibition of a Major League Baseball game, but no other events, held at RFK Stadium:
- (i) the proceeds from the sale of tickets or other rights to admission; proceeds from the sale of seat licenses, private suite licenses or other rights to purchase tickets or admission;

- (ii) all revenues derived from the sale of rights of any sort to televise, broadcast, transmit, record, advertise or promote in any manner the Major League Baseball games held at RFK Stadium or any description or account thereof;
- (iii) all proceeds from the sale at or from RFK Stadium of food or beverage concessions;
- (iv) all proceeds from the sale at or from RFK Stadium of merchandise and novelties, including programs, memorabilia, souvenirs and other products;
- (v) all rights to sell temporary day-of-game and permanent signage in the areas currently designated for such advertising within RFK Stadium, exclusive of naming rights and rights to temporary or permanent signage existing outside RFK Stadium; and
- (vi) all revenues from the sale of parking or rights to parking for the RFK Stadium complex that are held by the Commission.

The Team shall have the right to sell, and to retain the revenues received from, certain temporary day-of-game advertising as well as permanent advertising (during the term of the RFK License) inside RFK Stadium only, subject to local regulations and standards of public decency. The Team shall have the right to enter into agreements for the broadcasting and other media distribution of games, subject to reasonable approval rights of the Commission with respect only to the access required to be granted to any such broadcaster or other media entity. The Commission shall be responsible for wiring and otherwise equipping RFK Stadium to accept and facilitate customary broadcast facilities including the provision for television and radio broadcast facilities consistent with Major League Baseball customary standards. All other costs relating to any such broadcast incurred by the Commission shall be reimbursed by the Team.

- (j) The Commission shall provide the Team with administrative office space within RFK Stadium, plus reasonably necessary additional day-of-game office space, and shall, if reasonably required to accommodate the Team's needs, permit the Team to install at the Commission's expense modular office facilities on the RFK Property; provided that the total Team office space on the RFK Property shall be approximately 10,000 square feet.
- (k) The Team shall have the right to select the ticket vendor and shall have control of the ticketing system for its baseball home games at RFK Stadium. The Team shall consult with the Commission regarding selection of and terms for a local ticket vendor and ticketing system. The Team shall make the Team's selected ticketing system available to the Commission for use by the

Commission for other events at RFK Stadium at the same rates and fees otherwise charged to the Team for such services.

- (l) The Commission shall be provided, at no cost to the Commission (subject to applicable law), the use of two private boxes or premium mezzanine areas (and related tickets and parking for baseball home games only) and 25 additional box seat tickets in RFK Stadium in mutually agreed locations "on the infield".

ARTICLE IV

PROJECT DEVELOPMENT

Section 4.01 Selection of Baseball Stadium Site.

The Baseball Stadium Site shall be the site described in Exhibit B unless the parties mutually determine that some other site should be selected instead.

Section 4.02 Construction Administration Agreement.

The Commission, the District Government and the Team shall enter into the Construction Administration Agreement by the deadline date set forth in Section 7.04. The Construction Administration Agreement shall contain the detail for the provisions summarized in Sections 4.03 through 4.08.

Section 4.03 Project Program Statement.

The Team, the Commission and the District Government have agreed upon the Preliminary Project Plan on which the Baseball Stadium Budget has been based. Using the Preliminary Project Plan as a baseline, they shall develop and include in the Construction Administration Agreement prior to the deadline set forth in Section 7.04 a Project Program Statement in accordance with the following process:

- (a) On or before January 15, 2005, the Team shall deliver a draft Project Program Statement to the Commission and District Government for approval. Approval may not be withheld unless the Commission or District Government determines in its good faith reasonable judgment that implementation of the Team's proposed Project Program Statement would: (i) materially impair the ability to complete the Baseball Stadium and the Infrastructure by the deadline date referenced in section 7.07; (ii) cause the total projected cost of the Baseball Stadium and the Infrastructure to exceed the Baseball Stadium Budget assuming that the budgeted contingency identified in Exhibit A would not be available; (iii) pose undue risks to public safety or convenience; or (iv) violate applicable legal requirements (the "District Approval Rights").

The Commission and District Government shall have 45 days after receipt of the Team's draft to deliver to the Team any proposed changes required to satisfy the District Approval Rights. The Commission and the District Government agree that District Approval Rights have been satisfied as to the Preliminary Project Plan.

- (b) Within 10 days after the Team's receipt of the Commission's and District Government's proposed changes in accordance with paragraph (a), the parties shall meet as frequently as needed to resolve any disagreements on the Project Program Statement. The Team's views shall be given precedence, subject to the District Approval Rights. In the event that the parties are unable to agree on a Project Program Statement within 15 days after commencement of the meetings, any remaining disagreement shall be resolved by Mediation, or if unsuccessful, by Arbitration scheduled to conclude within 30 days from the date of the filing of the Arbitration.
- (c) The Team may extend the January 15, 2005 date in paragraph (a) by up to 60 days, but the deadlines in Sections 7.02, 7.04, 7.06 and 7.07 shall be deferred by the number of extension days. The deadlines in Sections 7.02, 7.04, 7.06 and 7.07 shall also be deferred by the number of days that shall elapse between the end of the 15-day meeting period described in paragraph (b) and the date resolution is reached through Mediation or Arbitration.

Section 4.04 Baseball Stadium Plans and Specifications.

The Commission shall use a competitive procurement process to select the architect and other members of the design delivery team to work with the Team and the Commission. The qualification criteria for the selection of the design delivery team shall be subject to the written approval of the Team which shall not be unreasonably withheld. The Team, in consultation with the Commission, will develop written minimum design criteria and construction standards for the Baseball Stadium (the "Minimum Design Criteria"). The Team shall also identify in writing those design elements for the Baseball Stadium and the Infrastructure that the Team considers essential (the "Essential Design Elements"). The Minimum Design Criteria and the Essential Design Elements shall be subject to the written approval of the Commission and the District Government which may not be withheld unless the Commission or the District Government reasonably determines that the Team's proposed Minimum Design Criteria or Essential Design Elements, as the case may be, would: (i) be contrary to the requirements set forth in the Project Program Statement; (ii) materially impair the ability to complete the Baseball Stadium by the deadline date referenced in Section 7.07; (iii) cause the total cost of the Baseball Stadium and Infrastructure to exceed the Baseball Stadium Budget; or (iv) be contrary to the Commission's and the District Government's reasonable requirements regarding the aesthetics of the exterior of the Baseball Stadium or its integration with the surrounding neighborhood. The Construction Administration Agreement shall require the Commission to develop Baseball Stadium Plans and Specifications which shall be subject to

written approval by the Team which shall not be withheld unless there is conflict with the Project Program Statement, the Minimum Design Criteria or the Essential Design Elements.

Section 4.05 Baseball Stadium Construction.

The Construction Administration Agreement shall require the Commission to construct and complete the Baseball Stadium in accordance with the Baseball Stadium Plans and Specifications using such construction delivery systems as the Commission deems appropriate. The Construction Administration Agreement will require the Commission, the District Government and the Team to form an administrative committee (the "Project Coordination Team") to perform the following functions: (i) make recommendations to the Commission and the Team with respect to the retention of various design, engineering, construction, consulting and construction management firms (the "Design and Construction Professionals"); (ii) receive reports from the Design and Construction Professionals pertaining to schedule, budget and other aspects of the Project; and (iii) make or provide the consents, authorizations, approvals, decisions and other actions expressly required of the Project Coordination Team, to the extent legally permitted, under the Construction Administration Agreement. The Construction Administration Agreement will provide for periodic regular meetings of the Project Coordination Team and for special meetings upon reasonable prior notice. The Commission and the District Government together shall have one vote and the Team shall have one vote on the Project Coordination Team, and each will have the right to appoint and replace its voting representative by written notice to the other party. Each voting member of the Project Coordination Team will have authority to act on behalf of the party it represents and will be authorized in connection with the Project to sign documents, authorize action and otherwise bind the party that it represents in connection with matters properly before the Project Coordination Team. The Project Coordination Team will take action only by unanimous vote of its voting members. The Design and Construction Professionals may attend meetings of the Project Coordination Team upon the request of the District Government, the Commission or the Team. The Team shall be given opportunity to inspect the work and materials and to review construction documents as reasonably necessary to verify costs and that the work and materials are in conformity with the Baseball Stadium Plans and Specifications. The Commission shall carry "all risk" construction insurance, naming the Team as an additional insured, in such amounts and with coverage, including a time element rider providing business interruption insurance including extra expense and lost income coverage to be mutually determined with advice from a mutually selected insurance consultant. The Commission shall bear the cost of the insurance except that portion of the premium fairly allocable, in the opinion of the insurance consultant, to the business interruption insurance rider shall be borne equally by the Commission and the Team. The Commission shall be entitled to issue construction change orders provided that: (i) the change is not contrary to the Project Program Statement, the Minimum Design Criteria or the Essential Design Elements; (ii) the change does not impair the ability to complete the Baseball Stadium by the deadline date referenced in Section 7.07; and (iii) if the effect of the change is to increase or further increase the projected total cost of the Baseball Stadium over the Baseball Stadium Budget, the Commission shall have made arrangements satisfactory to the Team for the funding by the Commission of all amounts in excess of the Baseball Stadium Budget. The Team shall be entitled to issue construction change orders provided that (i) the Team shall have made arrangements satisfactory to the Commission for the funding by the Team of the increase in the cost of the Baseball Stadium resulting from the change order, and (ii) in the good faith reasonable judgment of the Commission, accepting and implementing the change order will not

materially impair the ability to complete the Baseball Stadium by the deadline in Section 7.07 or violate applicable legal requirements.

Section 4.06 Baseball Stadium Cost Overruns.

The Construction Administration Agreement shall provide that any excess of the total cost of the Baseball Stadium over the Baseball Stadium Budget shall be borne by the Commission except: (i) implemented program changes requested by the Team after approval of the Project Program Statement; (ii) implemented design changes requested by the Team after approval of the Baseball Stadium Plans and Specifications; (iii) other implemented change orders requested by the Team or caused by the oversight, negligence or willful misconduct of the Team that cause an overrun in the budget allocation for such item; (iv) Project delays resulting from the Team's non-compliance with deadlines or other requirements set forth in this Agreement or the Construction Administration Agreement; and (v) design changes necessitated by changes in Baseball Rules and Regulations.

Section 4.07 Baseball Stadium Completion Date.

The Construction Administration Agreement shall require the Commission to use reasonable best efforts to complete the Baseball Stadium prior to the deadline date referenced in Section 7.07. The Construction Administration Agreement shall provide for the assignment to the Team of liquidated damages payable by the Design and Construction Professionals in amounts estimated to be fairly commensurate with losses expected to be sustained in the event the Baseball Stadium and the Infrastructure are not completed by that date.

Section 4.08 Infrastructure.

The Construction Administration Agreement shall require the Commission to design, construct and install the Infrastructure. The Team shall be given opportunity to review and comment upon program and design features and to inspect plans and specifications and construction work to verify that there is conformity with the Project Program Statement. The Construction Administration Agreement shall provide that any excess of the total cost of the Infrastructure over the amount allocated to the Infrastructure in the Baseball Stadium Budget shall be borne by the Commission. The Construction Administration Agreement shall require the Commission to use reasonable best efforts to complete the Infrastructure prior to the deadline date referenced in Section 7.07.

ARTICLE V

FUNDING

Section 5.01 Public Financing.

The District Government shall issue and sell taxable and tax-exempt Bonds in an aggregate amount sufficient (taking into account financing costs, interest costs and earnings during construction, and available cash on hand) to generate net proceeds that will fully fund the

Baseball Stadium Budget. The net proceeds of the Bonds will be deposited prior to the deadline date specified in Section 7.06 into a fund held by a Qualified Trustee. The Construction Administration Agreement and Bond documents for the Bonds shall provide the procedure for disbursements from the fund to pay the costs of the Baseball Stadium and the Infrastructure.

Section 5.02 Uses of Ballpark Revenue Fund.

Prior to repayment of the Bonds, the funds in the Ballpark Revenue Fund may be used only to pay the costs of the RFK Improvements, debt service on the Bonds, and costs of the Project. On or prior to the fifth anniversary of the completion of the Project the District Government or the Commission shall deposit at least \$5,000,000 into a general contingency reserve with the Commission in accordance with the Lease and thereafter maintain such reserve to be used solely for capital improvements to the Baseball Stadium.

ARTICLE VI

LEASE

Section 6.01 Lease Agreement.

The Commission and the Team shall enter into the Lease prior to the deadline date set forth in Section 7.04. The Lease shall contain the detail for the provisions summarized in Sections 6.02 through 6.14.

Section 6.02 Term.

The term of the Lease shall commence on the first March 1st following completion of the Baseball Stadium and the Infrastructure (or such later date as may be acceptable to the Team) and continue for 30 consecutive years, plus any renewal periods. For this purpose "completion" means substantial completion together with the issuance of an occupancy certificate so that the Baseball Stadium and the Infrastructure are available for the play of Major League Baseball with full available seating capacity in accordance with Baseball Rules and Regulations. The Lease shall grant the Team five consecutive two-year renewal options exercisable upon reasonable prior written notice.

Section 6.03 Use of Leased Property.

The Lease shall require the Team to operate and maintain a Major League Baseball franchise with the Baseball Stadium as its home stadium. The Lease shall permit the Team: (i) to play elsewhere if necessary for reasons of public safety or because of rescheduling due to weather or force majeure; and (ii) once during each of the consecutive, non-overlapping five-year periods during the term of the Lease, to schedule and play up to three regular season home games in any year in an international or other venue as requested by Major League Baseball. In the case of games played elsewhere because of rescheduling due to weather, the Team shall share fairly with the Commission, in a proportionate manner based on their respective losses, any compensatory payment made to the Team in respect of lost game(s) by

Major League Baseball or anyone else. The Lease shall permit the Team to use the Leased Property for Baseball Events and, subject to Commission approval which shall not be unreasonably withheld, conditioned or delayed, for any other lawful purpose. The Lease shall grant the Team exclusive use and quiet enjoyment of the Leased Property for the foregoing purposes; provided, however, that the Commission shall have the right to use the Baseball Stadium, excluding the private suites, for 12 event days per Lease year for amateur athletic, public service, or other events not including professional baseball games, subject to the following: (i) written notice to the Team of dates to be selected given not less than 10 days prior to contractual commitment and not less than 30 days prior to the event; (ii) no more than six of the events shall be during the baseball season and none of the events shall be within five days preceding a scheduled or previously rescheduled baseball home game; (iii) the Commission will bear all costs and expenses of the event; (iv) the Commission will provide proper security and police protection during the event; (v) the Commission will hold the Team harmless from liabilities and damage arising out of such usage; (vi) the proposed usage will not include the infield unless the usage is for a baseball game; and (vii) the Commission will return the Leased Property to the same or better condition than existed prior to the usage. The Team may reject any proposed usage by the Commission if: (i) the Team reasonably believes the usage presents an unacceptable risk of damage to the playing field that cannot be repaired before the next scheduled or previously rescheduled home baseball game; (ii) the usage would violate Baseball Rules and Regulations relating to the public image of a Major League Baseball team or the Baseball Stadium; or (iii) the promotional sponsorship connected with the usage, in the opinion of the Team, is incompatible with any major sponsorships or other exclusive advertising or promotional arrangements connected with the Team or the Baseball Stadium. Subject to applicable law, the Commission shall be provided, at no cost to the Commission (i) the use of two private suites for all events at the Baseball Stadium; and (ii) in the case of regular season baseball games, the Commission shall also be provided, at no cost to the Commission, with the related private suite tickets and parking plus 25 additional box seat tickets in the Baseball Stadium in mutually agreed locations "on the infield". In addition, in the case of any baseball games other than regular season games, the Team shall provide the Commission at no cost to the Commission with the right to purchase such related private suite tickets and such 25 additional box seat tickets and in no event shall the Commission be treated less favorably with respect to the allocation of such ticket purchase rights than paid holders of private suites or season box tickets in the Baseball Stadium. The Team shall be responsible for the cost of providing security on the Leased Property (except as provided in clause (iv) above), and the Team shall not be responsible for the cost of providing traffic control and other security in the areas surrounding the Leased Property.

Section 6.04 Rent and Other Expenses.

The Lease shall obligate the Team to pay rent to the Commission in accordance with the schedule or formula set forth in Exhibit E. The Lease shall require the Team to bear all ordinary and necessary expenses associated with the operation and maintenance of the Stadium Complex, including, but not limited to, game day operations, security on the Baseball Stadium Site, utilities, custodial services, snow removal on the Baseball Stadium Site, and supplies and other consumable goods. The Team's obligation to pay rent and operating expenses shall be a general unsecured obligation for so long as the Team is in compliance with the MLB Debt Service Rule. In the event the Team shall violate the MLB Debt Service Rule and shall fail to cure the violation within 60 days after written notice from the Commission demanding that the

violation be remedied, the Team shall provide the Commission with reasonable collateral (consistent with the market for Major League Baseball club financing) to secure the Team's obligation to pay rent.

Section 6.05 Allocation of Stadium Revenues.

The Lease shall provide that, as between the Commission and the Team, all Stadium Revenues shall belong to the Team. Revenues from the Commission's permitted usage of the Baseball Stadium as described in Section 6.03 and from any Commission Additions shall belong to the Commission. Other revenues that may be derived from the Baseball Stadium shall be allocated as mutually agreed between the Team and the Commission.

Section 6.06 Assignments and Liens.

The Lease shall grant the Team rights to assign or sublet the portions of the Leased Property for uses permitted under the Lease, and to sell or grant sponsorships, licenses, easements or similar rights in and to the Leased Property or any portion of it for uses permitted under the Lease; provided that (i) no assignment, sublease or grant shall relieve the Team of any obligations under the Lease, and (ii) the Team shall indemnify and hold harmless the Commission from any claims by, or damage caused to the Stadium Complex by, any assignee, sublessee or grantee arising out of their usage of the Leased Property. The Lease shall not permit the Commission to transfer or assign the Leased Property or the Lease or to grant or allow any liens or encumbrances on the Leased Property or the Lease, except: (i) to the District Government if it assumes all obligations of the Commission under the Lease, (ii) the Commission may collaterally assign the Lease or pledge rental income from the Team to secure some or all of the Bonds, and (iii) the Commission may grant or allow liens or encumbrances that are subordinate to the Lease and do not impair the Team's permitted uses or quiet enjoyment of the Leased Property.

Section 6.07 Capital Reserve Fund.

The Lease shall provide for the creation of the Capital Reserve Fund and shall require annual contributions by the Commission of \$1,500,000 into the Capital Reserve Fund. All earnings and profits from the investment of the Capital Reserve Fund shall be for the account of the Capital Reserve Fund. The Commission and the Team intend that the Capital Reserve Fund is an asset of the Commission designed to protect its residual interest in the Baseball Stadium and shall not be an asset of the Team.

Section 6.08 Maintenance and Repairs.

The Lease shall require the Team to undertake and bear the cost of all Maintenance and Repairs.

Section 6.09 Capital Improvements.

The Lease shall permit the Team to make such Capital Improvements as it deems necessary or appropriate subject to the prior approval of the Commission which shall not be unreasonably withheld or delayed. The Lease shall provide that the cost of Necessary Improvements shall be paid or reimbursed to the Team from funds in the Capital Reserve Fund

and that, to the extent that the funds are insufficient, the Commission shall be responsible for the difference. However, in the case of Necessary Improvements described in clause (v) of the definition of Necessary Improvements, the Team shall contribute to the cost thereof to a degree commensurate with the contributions from the Major League Baseball teams to the same or similar upgraded facilities in other Major League Baseball ballparks that are governmentally owned in whole or substantial part and are more than two years old. The Lease shall provide for an arbitration process to resolve any disputes over what constitutes a Necessary Improvement and, in the case of clause (v), the extent of the Team's required contribution toward its cost. The Team shall bear the cost of Discretionary Improvements. The Lease shall grant the Commission the right to make and install Commission Additions, subject to the following: (i) written notice to the Team not less than 30 days prior to commencement of the proposed Commission Additions containing a detailed description thereof and identifying them as Commission Additions; (ii) the Commission Additions shall not impair the Team's permitted usage or quiet enjoyment of the Leased Property; (iii) the Commission shall bear all costs and expenses of the Commission Additions (other than from the Capital Reserve Fund); and (iv) the Commission shall hold the Team harmless from liabilities and damage arising out of the construction and use of the Commission Additions. The Team may reject any proposed Commission Additions if: (i) the Team reasonably believes the Commission Additions present an unacceptable public safety risk or a risk of damage to the playing field that cannot be repaired before the next scheduled or rescheduled home baseball game; (ii) the Commission Additions would violate Baseball Rules and Regulations relating to the public image of a Major League Baseball team or the Baseball Stadium; or (iii) promotional sponsorship, if any, connected with the Commission Additions, in the opinion of the Team, is incompatible with any major sponsorships or other exclusive advertising or promotional arrangements connected with the Team or the Baseball Stadium.

Section 6.10 Targeted Taxes.

The Lease shall provide that if any Targeted Taxes shall be imposed or enabled by the District Government or the Commission, the Team shall be entitled to deduct the amount of any Targeted Taxes that are paid by the Team (or others whose relationship to the Team or the Leased Property gave rise to the tax) from the amount of rent otherwise payable by it under the Lease. To the extent the deduction from rent is in respect of Targeted Taxes paid by someone other than by the Team, the Team shall deposit the applicable amount into an escrow account that may be disbursed only to the person(s) who paid Targeted Taxes or if unclaimed for such purpose after five years, then paid to the Commission. Unless and until the amount of any paid Targeted Taxes is recouped in full through rent offsets or direct payment by the Commission, the Commission shall lose its rights (i) to use the Leased Property under Section 6.03; (ii) to private suites and tickets under Section 6.03; and (iii) under Section 6.12(g).

Section 6.11 Insurance.

The Lease shall require subject to availability on commercially reasonable terms: (i) the Commission to carry replacement value property and casualty insurance in respect of the Baseball Stadium naming the Team as an additional insured with a time element rider providing business interruption insurance including extra expense and lost income coverage in such amounts as determined to be reasonable by a mutually selected insurance consultant, (ii) the Team to carry property and casualty insurance on its own personal property; and (iii) the Commission and the Team each to carry general liability insurance, naming the other as an

additional insured, with such coverages and in such amounts as shall be specified in the Lease. Each party shall bear the costs of the insurance required of it, except that the cost of business interruption insurance rider required in clause (i) above shall be paid by the Team.

Section 6.12 Community Benefit Obligations.

The Team acknowledges a civic responsibility to promote and contribute to charitable, educational and community organizations and other public works in the District of Columbia. Accordingly, the Lease shall require a commitment by the Team to deliver a strong and substantial community benefits package that will be developed taking into account, inter alia, best practices of Major League Baseball clubs and that will include the following:

- (a) The Team will establish, fund, and vigorously promote a charitable foundation which will benefit primarily youth and other residents of the District of Columbia. The Chairman of the Commission will be a member of the governing board of the foundation.
- (b) The Team will endeavor to maximize benefits for youth and other residents of the District of Columbia from Major League Baseball's various affiliated charitable organizations and programs such as: Major League Baseball Charities, Reviving Baseball in Inner Cities, Baseball Tomorrow Fund, Join the Major Leagues @ Your Library, Breaking Barriers, Baseball Assistance Team, Jackie Robinson Foundation, and Commissioner's Initiative for Kids.
- (c) The Team will request and encourage its advertisers and sponsors to contribute to the foundation referenced in (a) above to benefit youth and other residents of the District of Columbia.
- (d) The Team will request and encourage its players and other Team personnel to contribute financially and through personal appearances and other means to the foundation referenced in (a) above, or directly to other organizations that benefit youth and other residents of the District of Columbia.
- (e) The Team will provide attractive and meaningful programs designed to keep Major League Baseball games affordable for youth to be distributed through programs operated in partnership with the District of Columbia public schools.
- (f) The Team will take affirmative steps to: (i) promote the employment of residents of the District of Columbia in the Team's operations, and (ii) afford local, small and disadvantaged businesses in the District of Columbia an equal opportunity to compete for business for the supply of goods and services to the Team.
- (g) Upon either a sale of a "control interest" (as defined in the Major League Constitution in Baseball Rules and Regulations) in the

Team or a sale of the Team's franchise in either case within the first five years after the commencement of the RFK License (excluding the initial sale of the control interest by the current owner of the Team or of the franchise by the Team while the current owner of the Team owns the Team), the Team will or will cause the seller to pay to the Commission an amount equal to: (i) in the case of a sale of a control interest in the Team, 15% of the excess, if any, of the sale price over the seller's total investment in the interest being sold; or (ii) in the case of a sale of the Team's franchise, 15% of the excess, if any, of the sales price less any cumulative net operating losses over the Team's acquisition price for the franchise.

Section 6.13 Nonrelocation of Franchise.

The Lease shall require the Team to maintain its Major League Baseball franchise at the Baseball Stadium in the District of Columbia for the term of the Lease. The Lease shall also include such other provisions and remedies as shall be necessary to ensure enforcement of the obligation.

Section 6.14 Guarantee by District of Columbia.

The District Government agrees to deliver the District Guarantee. The Lease shall require the District Guarantee to be in full legal force and effect during the entire term of the RFK License and the Lease. The RFK License and the Lease shall give the Team the right to take any or all of the following actions in the event the District Government shall fail, subject to reasonable cure periods, to appropriate any funds required from the District of Columbia under the District Guarantee, namely the Team in such event may, but only to the extent necessary to mitigate the impact on the Team of the failure of appropriations, (i) elect to have the amount of license fees or rent payable by it under the RFK License or the Lease, as the case may be, reduced to the extent of the Team's damages attributable to the failure to appropriate for so long as the failure to appropriate shall continue, (ii) terminate the RFK License or the Lease, as the case may be, (iii) terminate the nonrelocation obligation described in Section 6.13; (iv) terminate the Commission's rights to use the Leased Property under Section 6.03; (v) terminate the Commission's rights to private suites and tickets under Section 6.03; and (vi) terminate the Commission's rights under Section 6.12(g).

ARTICLE VII

DEADLINE DATES

Section 7.01 Legislative Action.

Not later than December 31, 2004, subject to Section 9.04, the Commission shall provide the Team with reasonable evidence that all federal and District of Columbia legislative action to enable the construction, funding and operation of the Stadium Complex and the

Commission's and the District Government's participation in the foregoing, is valid and in full force and effect, subject only to: (i) D.C. Code §602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1); (ii) routine District Council approvals of contracts, bond authorizing acts or resolutions; (iii) laws regarding the availability of appropriated funds of the District Government, and (iv) federal legislation, if necessary, relating to a particular Baseball Stadium Site. The Commission shall be excused from meeting the deadline in this Section 7.01 if on or prior to December 31, 2004 it notifies the Team that: (i) the Team, in the reasonable judgment of the Commission, failed to meet the deadlines in Section 7.05 or Section 7.08; or (ii) the Office of the Commissioner of Baseball breached the MLB Guaranty in any material respect.

Section 7.02 Control of Buildable Site.

Not later than December 31, 2005, the Commission shall provide the Team with reasonable evidence that: (i) the Commission has acquired fee simple title or leasehold rights to the Baseball Stadium Site sufficient under commercial standards for the timely construction, completion, occupancy and usage of the Baseball Stadium as contemplated by this Agreement, (ii) the Commission's property interests in the Baseball Stadium Site will be subject to no liens, encumbrances or restrictions that could interfere with usage of the properties for their intended purposes; (iii) the soil and subsoil condition of the Baseball Stadium Site will support the Baseball Stadium without having to expend funds not included in the Baseball Stadium Budget; (iv) the Baseball Stadium Site is properly zoned for the uses contemplated under this Agreement; (v) there are no material environmental liabilities associated with the ownership, lease or use of the Baseball Stadium Site that would or could delay the completion of the Baseball Stadium or the Infrastructure beyond the deadline date referenced in Section 7.07; and (vi) necessary permits for the construction, occupancy and use of the Stadium Complex can be expected to issue in the ordinary course and without jeopardy to the completion date referenced in Section 7.07.

Section 7.03 Execution of RFK License.

Not later than January 15, 2005, the Commission and the Team shall execute and deliver the RFK License. The Commission shall be excused from meeting the deadline in this Section 7.03 if on or prior to December 31, 2004, it notifies the Team in writing of the Commission's reasonable belief that the Team failed to meet the deadline in Section 7.05 or Section 7.08 or the Office of the Commissioner of Baseball breached the MLB Guaranty in any material respect.

Section 7.04 Execution of the Lease and the Construction Administration Agreement.

Not later than December 31, 2005, the Commission and the Team (with all requisite approvals from Major League Baseball) shall execute and deliver the Lease and the Construction Administration Agreement.

Section 7.05 Franchise Relocation.

Not later than December 6, 2004, the Team shall provide the Commission with reasonable evidence that, assuming the deadlines in Sections 7.01 and 7.03 are met, the Team's Major League Baseball franchise will be relocated as described in Section 3.01.

Section 7.06 Funding.

Not later than December 31, 2005, the Commission shall make the deposit described in Section 5.01.

Section 7.07 Project Completion.

The Commission shall use reasonable best efforts to complete the Baseball Stadium and the Infrastructure and make them available to the Team for the play of Major League Baseball not later than March 1, 2008.

Section 7.08 MLB Guaranty.

Contemporaneously with the execution and delivery of this Agreement, the Team shall cause the Office of the Commissioner of Baseball to have executed and delivered the MLB Guaranty.

ARTICLE VIII

REMEDIES

Section 8.01 Termination Rights in General.

The Commission, the District Government and the Team entered into this Agreement to set forth their respective undertakings to bring about the relocation of a Major League Baseball franchise to the District of Columbia. Each understands that a successful result is dependent upon their mutual cooperation and adherence to the deadline dates set forth in Article VII. Accordingly, each is willing to proceed under this Agreement knowing that, as a practical matter, proceeding under this Agreement forecloses or alters the timing of other possible desirable courses of action. Subject to Section 9.04, no party shall have the right to terminate this Agreement pursuant to Section 8.02 or Section 8.03 if the party's own action or inaction is the proximate cause of the missed deadline. Unless otherwise provided in the Construction Administration Agreement, the RFK License or the Lease, as the case may be, a termination of this Agreement shall have no effect on the Construction Administration Agreement, the RFK License or the Lease.

Section 8.02 Termination Rights of Commission and District Government.

The Commission or the District Government may, by written notice to the Team, terminate this Agreement and be relieved of all obligations and liabilities under this Agreement if: (i) a deadline specified in Section 7.05 or Section 7.08 shall not be met; (ii) the Office of the Commissioner of Baseball shall have breached the MLB Guaranty in any material respect and failed to remedy the breach within 60 days following written notice specifying the breach and demanding that it be remedied; or (iii) despite their respective good faith efforts, the deadline specified in Section 7.01 shall not be met; provided, however, that in the event of a termination pursuant to clause (iii), the Commission shall nevertheless make RFK Stadium available for use

by the Team under a license agreement having terms to be negotiated in good faith and providing for reasonable arms' length economic and other terms, including, without limitation, appropriate amortization of the RFK Improvements. It is agreed that time is of the essence with respect to such deadline dates.

Section 8.03 Termination Rights of the Team.

The Team may, by written notice to the Commission and District Government, terminate this Agreement and be relieved of all obligations and liabilities under this Agreement if the deadline specified in Section 7.01 shall not be met, or a deadline specified in Section 7.02, Section 7.04, Section 7.06 or Section 7.07 shall be missed by more than 24 months. It is agreed that time is of the essence with respect to such deadline dates.

Section 8.04 Remedies.

The Commission, the District Government and the Team agree that their respective remedies for any breach of or default under this Agreement shall be as set forth below:

- (a) The Commission, the District Government or the Team, as the case may be, shall have the right to terminate this Agreement as set forth in Section 8.02 or Section 8.03, as applicable.
- (b) The Team shall have the remedies set forth in Section 6.10 and Section 6.14.
- (c) If the deadline in Section 7.07 is not met, the Team shall be entitled to recover from the Commission any compensatory damages suffered by the Team, including, without limitation, lost profits (revenues net of all applicable costs, taxes and other expenses) derived from private suites, club or other premium seats, parking, concessions, naming rights and other advertising, signage and sponsorships that would have been available to the Team if it were operating in the Baseball Stadium, and costs and expenses incurred by the Team as a result of the deadline being missed. The Team shall be entitled to recover the compensatory damages in respect of any period after the missed Section 7.07 deadline; provided, however, that: (i) if the Team exercises the termination right under Section 8.03, the Team waives the right to recover from the Commission compensatory damages in respect of any period after the termination date; (ii) the Team shall be required to vigorously pursue and enforce all available insurance claims and the amount of compensatory damages shall be net of any applicable insurance recovery by the Team; and (iii) to the extent that the Section 7.07 deadline is missed notwithstanding the Commission's reasonable best efforts to meet the deadline, the Team's entitlement to compensatory damages under this paragraph (c) shall be calculated in respect of the period following the missed deadline up to a maximum period of 24 months and shall be 50%

of the excess of the Team's compensatory damages over the amount of lost (taking into account continuing Team operations at RFK Stadium) ticket tax, sales tax and other excise tax revenues (including, without limitation, the tax revenues required to be deposited into the Baseball Revenue Fund pursuant to the legislation of referenced in Section 7.01) on ticket sales, parking revenues, food and beverage sales, and merchandise sales at the Stadium Complex.

- (d) Except as set forth in paragraph (c) (and without derogation of the parties' rights in respect of a breach or default under another Article that is also a breach or default under Article VII), there shall be no recovery for damages resulting from any breach or default under Article VII. The Team may recover from the Commission, and the Commission and the District Government may recover from the Team, Incidental Damages resulting from any breach or default of this Agreement other than in Article VII. "Incidental Damages" means actual out-of-pocket expenses incurred by a party to this Agreement in reliance upon another party's performance of its obligations under this Agreement or in reliance on the truth of the representations in Article II. By way of illustration, Incidental Damages would include amounts actually expended or obligated by the Commission or the District Government in preparing RFK Stadium for the RFK License but would not include any claim for lost profits. As a second illustration, Incidental Damages would include expenses for architects or other consultants incurred or obligated by the Commission or the District Government for the design or construction of the Baseball Stadium but would not include any claim for lost profits relating to the Baseball Stadium or the Lease or any claim for lost benefits of redevelopment of the area in which the Baseball Stadium is to be built.
- (e) The Team, the Commission and the District Government, as applicable, shall have the right to seek an injunction, mandamus, or other equitable relief in the nature of an injunction or mandamus, for violations of this Agreement, including particularly, but without limitation, a violation of Section 3.01 by the Team.
- (f) The Team, the Commission and the District Government agree that the remedies set forth in paragraphs (a) through (e) shall be the sole and exclusive remedies for any breach of or default under this Agreement and hereby waive any and all other remedies, including, without limitation, any form of equitable relief and any and all claims to any form of compensatory damages, consequential damages, incidental damages and punitive damages other than the remedies allowed in paragraphs (a) through (e). The remedies in paragraphs (a) through (e) are cumulative, except that

if the Team, the Commission, or the District Government elects to exercise its termination rights under Section 8.02 or Section 8.03, it shall not have the right to recover damages in respect of any period of time subsequent to the termination date.

- (g) Nothing contained herein is intended to waive any right or remedy available to the Team, the Commission or the District Government under any of the other agreements contemplated under this Agreement, including, without limitation, the MLB Guaranty, the Construction Administration Agreement, the District Guarantee, the Lease, and the RFK License.
- (h) The Team, the Commission and the District Government agree that, except for the remedies in paragraph (e), all claims for damages or other remedies under this Agreement shall be resolved by Arbitration.
- (i) The Commission hereby waives its right to assert or raise the defense of sovereign or governmental immunity in any civil action, whether at law or in equity, whether brought in the courts of the District of Columbia or elsewhere, or in resistance to any arbitration proceeding or in the arbitration proceeding itself or in enforcement thereof, which action or proceeding arises under or is based upon the Agreement or any of the agreements contemplated herein. This waiver of immunity shall also encompass, without limiting the foregoing, actions to impose and enforce equitable liens and related devices such as attachment or garnishment, irrespective of the source of funds to be attached or garnished. This waiver of immunity shall not be in derogation of any other waiver of immunity that may also be applicable to such action, proceeding or agreement.
- (j) The parties agree that the specification of remedies hereunder, including without limitation the caps on damages and the extension of the periods following the deadlines set forth in Article VII before which a party may exercise its termination rights as provided in this Section 8.04, shall not be interpreted to extend the time for, or otherwise relieve a party from, its common law duties of mitigation in respect of any breach or default hereunder.

Section 8.05 Mediation and Arbitration.

- (a) If the parties are unable to reach mutual agreement with respect to any matter requiring the parties' mutual agreement under this Agreement, within 10 days following the unmet deadline prescribed herein for such agreement, the parties shall submit such matter to mediation under the Mediation Procedures of the American Arbitration Association. Real estate development or

construction matters shall be subject to the Construction Industry Mediation Procedures and other matters shall be subject to the Commercial Mediation Procedures. Once commenced, no such mediation shall be permitted to proceed for more than 15 days. Each party shall bear its own expenses, and the costs and expenses of the mediator and any administrative expenses of the mediation shall be borne 50% by the Team and 50% by the Commission. Failure of the parties to reach mutual agreement pursuant to this mediation procedure shall be deemed to be a dispute arising under this Agreement.

- (b) Except as otherwise provided in Section 8.04(e) of this Agreement, all disputes arising out of this Agreement shall be resolved by binding arbitration in the District of Columbia before a panel of three independent arbitrators under the auspices and pursuant to the rules of the American Arbitration Association. Any dispute regarding real estate development or construction matters shall be governed by the Construction Industry Arbitration Rules then in effect, and any dispute regarding other matters shall be governed by the Commercial Arbitration Rules then in effect. Unless otherwise provided in this Agreement, the arbitration hearing will be scheduled so that it is concluded within six months from the date of the filing of the arbitration and the panel shall render its decision within one month after the closing of the hearing. Arbitrators will be chosen under the usual procedures and from the usual panels of the American Arbitration Association except that none of the arbitrators shall have performed, directly or indirectly, a material amount of work for the Team, the Commission or the District Government within the five-year period immediately preceding the date of their selection or intend or desire to perform work for the Team, the Commission or the District Government within one year following the date of their selection. Issues determined by arbitration pursuant to this provision shall be given preclusive or collateral estoppel effect. Each party shall bear its own attorneys' fees and costs relating to the arbitration, but the costs and fees of the panel, the fees to the American Arbitration Association, and any other costs of such arbitration shall be borne equally by the Team and the Commission.

ARTICLE IX

MISCELLANEOUS

Section 9.01 Parties and Interests.

This Agreement sets forth the entire agreement of the Commission, the District Government, and the Team with respect to the subject matters covered by this Agreement. Any prior understandings or agreements, whether oral or written, with respect to subject matters

covered by this Agreement are terminated and replaced by this Agreement. This Agreement is solely for the benefit of the Commission, the District Government, and the Team, and no other person shall have any rights under or by virtue of this Agreement.

Section 9.02 Notices.

All notices, demands, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when hand delivered or when mailed by certified or registered mail postage prepaid, or delivered by commercial overnight courier, with proper address as follows:

If to the District Government: Government of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue N.W.
Washington, D.C. 20004
Attention: Deputy Mayor for Planning and
Economic Development

With a copy to:

Office of the Attorney General
John A. Wilson Building
1350 Pennsylvania Avenue N.W.
Washington DC 20004
Attention: Attorney General

If to the Commission:

District of Columbia Sports and
Entertainment Commission
2400 East Capitol Street S.E.
Washington, D.C. 20003
Attention: Chairman

With a copy to:

Covington & Burling
1201 Pennsylvania Avenue N.W.
Washington DC 20004
Attention: W. Andrew Jack

If to the Team:

Baseball Expos, L.P.
c/o Major League Baseball
245 Park Avenue
New York, NY 10167
Attention: General Counsel

With a copy to:

Foley & Lardner LLP
3000 K Street N.W.
Washington, D.C. 20007-5101
Attention: Richard Weiss

Any party, by written notice to the others, may change its address for purposes of this Agreement.

Section 9.03 Amendments and Waivers.

No amendment to this Agreement shall be binding upon any of the Commission, the District Government or the Team until the amendment is reduced to writing and executed by each of the Commission, District Government and the Team. No waiver of any terms of this Agreement shall be binding on the party granting the waiver until the waiver is reduced to writing and executed by the party granting the waiver.

Section 9.04 Governing Law.

The internal laws of the District Government shall govern this Agreement excluding the conflicts of laws principles thereof. Notwithstanding any other provision of this Agreement to the contrary, the obligations and representations of the Commission and the District Government and the rights of the Team under this Agreement and in connection with the transactions contemplated hereby are subject to the adoption of the legislation described in Section 7.01 and the availability of lawfully appropriated funds generally, and the obligations of the Commission are further subject to any applicable statutory or other limitation on its legal powers, including, but not limited to, any statutory requirement to obtain District Council approval of a contract for the expenditure of \$1,000,000 or more in a twelve-month period. Notwithstanding any other provision of this Agreement to the contrary, the obligations of the Team and the rights of the Commission and the District Government under this Agreement and in connection with the transactions contemplated hereby are subject to any court orders arising out of any litigation disclosed to the Commission pursuant to Section 2.02(e).

Section 9.05 Captions.

The captions and headings in this Agreement are only for convenience and do not define, limit or describe the scope or intent of any of the provisions of this Agreement.

Section 9.06 Counterparts.

This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 9.07 Assignment.

The Team shall not have any right to assign its rights or delegate its obligations under this Agreement, other than to a purchaser of the Team's Major League Baseball franchise in a transaction approved in accordance with Baseball Rules and Regulations, without the prior written consent of the Commission, which consent shall not be unreasonably withheld or delayed. The Commission shall not have any right to assign its rights or delegate its obligations

under this Agreement, other than to another entity of the District Government, without the prior written consent of the Team, which consent shall not be unreasonably withheld or delayed.

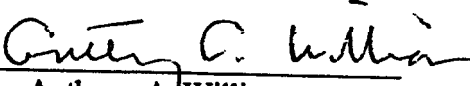
Section 9.08 MLB Requirements.

Notwithstanding any other provision of this Agreement, the obligations of the Team under this Agreement shall in all respects previously disclosed pursuant to Section 2.02(f) be subordinate to the approval requirements and other Baseball Rules and Regulations as they are applied generally to all Major League Baseball clubs.

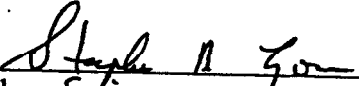
[End of Agreement. Signatures are on the following page.]

The Commission, the District Government, and the Team have executed this Agreement with the intention that it be legally binding and effective as of September 29, 2004.

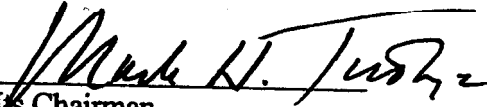
THE DISTRICT OF COLUMBIA

By 
Anthony A. Williams,
Mayor

Approved for Legal Sufficiency

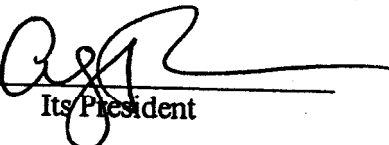

Title: Senior Counsel

**DISTRICT OF COLUMBIA SPORTS AND
ENTERTAINMENT COMMISSION**

By 
Its Chairman

BASEBALL EXPOS, L.P.

By **BASEBALL EXPOS GP, INC.**
Its General Partner

By 
Its President