

**AGREEMENT**

This Agreement (the "Agreement") is made as of this 7<sup>th</sup> day of December, 2000, by and among the Maryland Stadium Authority, a unit of the Executive Branch of the State of Maryland ("MSA"), Harford County, Maryland (the "County"), the City of Aberdeen, Maryland (the "City"), and Tufton Professional Baseball LLC ("TPB") (being together known as the "Parties" and individually as a "Party").

**Explanatory Statement**

The Parties desire to construct and operate a minor league baseball facility (the "Project") on certain property located in Aberdeen, Maryland, on the terms and conditions set forth below.

1. **Relationship of the Parties.**

- (a) **The City.** The City has acquired, and will be and remain the owner of, a parcel of property located in the City of Aberdeen, Maryland, consisting of approximately 30 acres, which is further described in Exhibit A to this Agreement (the "Property"), upon which the Project will be constructed. The City will hold the contract with the Contractor (which is contemplated to be Baltimore Contractors, LLC) as defined in the General Conditions of the bid documents (sometimes referred to as "G.C.") and engage MSA as its agent to manage the construction of the Project and the City shall participate in the funding for the Project in the manner described in Section 2(b) of this Agreement. The City will also be responsible for certain infrastructure improvements related to the Project, as described in Exhibit B to this Agreement.
- (b) **MSA.** MSA will act as the City's agent in coordinating and overseeing the construction services for the Project in accordance with the bid construction

documents for the Project dated March 6, 2000 (the "BD's"), the further terms of this Agreement and its Agreement with the City dated the 1<sup>st</sup> day of November, 2000 ("Intergovernmental Agreement"), a copy of which is attached hereto as Exhibit C. MSA shall not be responsible for overseeing the construction and installation of certain items of furnishings and equipment identified in the BD's which are the responsibility of TPB, which items are specifically described in Exhibit D to this Agreement.

- (c) **The County**. The County will participate in the funding for the Project in the manner described in Section 2(c) of this Agreement. The County hereby assigns to the City its duties and responsibilities under the terms of the Ripken Stadium Grant Agreement between the County and the State (a copy of which is attached hereto as Exhibit E). The City further agrees to indemnify and hold harmless the County, its officers, agents and employees from and against any and all claims, suits, actions, damages and liabilities of any kind (collectively, "Claims") arising out of the use of the Grant provided under this Agreement for the Project. The County designates the City as its agent to administer the Ripken Stadium Grant, Chapter 118, 1999 Laws of Maryland, and the Ripken Stadium and Youth Baseball Academy Grant, Chapter 204, 2000 Laws of Maryland.
- (d) **TPB**. TPB intends to be the owner of a minor league baseball team which is intended to use the Project, and will enter into a separate agreement with the City which will commit the team to play all of its regular season home games at the Project. TPB shall provide funding for the Project as provided in Section 2(d) of this Agreement. In addition, TPB shall be responsible for the construction and

installation of the items specified in Exhibit D (the "TPB Improvements"). In addition, Tufton Baseball Academy LLC, an affiliate of TPB, is involved with the construction of the Ripken Youth Academy ("Academy") on the site adjacent to the Project.

2. **Funding.**

- (a) **Budget.** The current budget for the Project is \$18,000,000, as itemized on Exhibit E to this Agreement (the "Budget"). Exhibit F also contains a projected Payment (Use of Funds) and Funding (Source of Funds) schedule for the Project.
- (b) **The City.** The City shall contribute \$4,000,000 toward the cost of the Project; \$1,500,000 of which shall be for land acquisition (the "Land Acquisition"), and \$720,000 of which shall be for a portion of certain Infrastructure Improvements as set forth in Exhibit B. The balance, \$1,780,000, is hereinafter referred to as the "City Contribution." The City Contribution shall be funded as set forth in Section 2(f), below.
- (c) **The County and the State.** The County shall contribute \$2,000,000 toward the costs of the Project ("County Contribution"). In addition, the State of Maryland ("State") is expected to appropriate \$6,000,000 for costs of the Project over a period of three years ("State Contribution") and an additional \$1,000,000 for the Academy. Three million dollars has been appropriated for fiscal year 2001 pursuant to Chapter 204, 2000 Laws of Maryland for the Ripken Stadium. If all expected funds are appropriated, the State Contribution would become available as follows: \$3,000,000 on July 1, 2000 and \$3,000,000 on July 1, 2001 and \$1,000,000 on July 1, 2002. The expected \$1,000,000 for the Academy is to be

used to pay for the costs to provide infrastructure adjacent to the Property, which appropriation is expected to become available on July 1, 2002 (the "Academy State Contribution"). The Parties understand that the State Contribution is subject to appropriation by the State legislature in each of those years, and that there is no guarantee that an appropriation will be made. The Parties also understand that no portion of the State Contribution may be expended on the Project until the County: (i) executes a grant agreement and certifies to the Board of Public Works ("BPW") that the required 50% matching funds have been received by the County from the City for the Project and (ii) applies to the State Comptroller's office for payment. The City hereby states that the County has received the requisite matching fund payment or will receive such payment so that the ordering of funds in Section 2(f) shall be effective. The County shall comply with all BPW requirements with respect to the receipt and expenditure of the State Appropriation. The County and State Contributions for the Project shall be funded as set forth in Section 2(f), below.

- (d) **TPB**. Subject to the provisions of Section 4(c), TPB shall contribute \$6,000,000 toward the cost of the Project, of which the agreed upon sum of \$2,876,000 shall be for certain TPB Improvements as set forth on Exhibit D. The balance, \$3,124,000, is hereinafter referred to as the "TPB Contribution," which shall be funded as set forth in Section 2(f), below.
- (e) **MSA**. It is understood by the Parties that MSA has no funds legally available for the Project.

- (f) **Funding of Contributions.** The Parties shall provide funds in accordance with the following formula to pay for the items as detailed on Exhibit F:
- (1) First, the County's initial \$1,000,000 shall be utilized, then
  - (2) Second, the State FY2000 Contribution \$3,000,000 shall be utilized, then
  - (3) Third, the City Contribution \$1,780,000 shall be utilized, then
  - (4) Fourth, the County's second \$1,000,000 shall be utilized, then
  - (5) Fifth, the State FY2001 Contribution \$3,000,000 shall be utilized, then
  - (6) the TPB Contribution \$3,124,000 shall be utilized.
- (g) **Landscaping.** If the Project costs exceed the Budget, the City, at its discretion, shall delete landscaping from the scope of the Project.
- (h) **Programmatic Changes.** In the event that any Party seeks changes to the BD's which cause the Project costs to exceed the Budget, without taking into account any Project contingencies, such Party shall be fully responsible for such excess costs.
- (i) **Claims.** If, upon the completion of the Project, outstanding claims from contractors cause the Project cost to exceed the Budget, the City shall be responsible for such claims except those claims related to TPB Improvements or those claims which are attributable to changes to the BD's requested by TPB, which shall be the responsibility of TPB.

3. **Schedule.**

The schedule for completion of the Project, the completion of the Infrastructure Improvements and the completion of the TPB Improvements shall be agreed upon by the Parties (and when agreed to shall be attached to this Agreement as Exhibit G-1. A preliminary schedule

is attached as Exhibit G (the "Project Schedule"). The Parties shall work together cooperatively in an effort to meet the Project Schedule. TPB shall be responsible for any costs incurred by the City in connection with any request to accelerate the construction schedule (provided that TPB shall not be responsible for any acceleration associated with any existing delay which has not been caused by TPB) and/or provide for early occupancy or temporary use of the Stadium.

4. **Duties of the Parties.**

- (a) **MSA.** MSA shall provide the City with Project management services in accordance with the Intergovernmental Agreement to assist the City in coordinating and overseeing the preparation for and execution of construction services for the Project (other than the TPB Improvements).
- (b) **City.** The City as Owner shall hold the contract with the Contractor as defined in the General Conditions of the bid documents and shall be responsible for the completion of all Infrastructure Improvements in accordance with the Project Schedule at its expense. The City shall be responsible for the identification and removal of all hazardous materials on the Property. It is understood and agreed by the Parties that all remaining funds at the completion of the Project, excepting any excess or savings, as the case may be, regarding TPB Improvements, shall be used to reduce the Parties respective contributions in the inverse order set forth in Sections (f)(1)-(6).
- (c) **TPB.** TPB shall be responsible for the construction and installation of the TPB Improvements in accordance with the Project Schedule at its expense. It is understood and agreed by the Parties that in the event that the cost of such TPB Improvements shall be greater or less than the agreed upon sum of \$2,876,000,

then TPB shall pay such excess, or receive such savings, as the case may be. TPB acknowledges the importance of a professional minor league team to the financial success of the Project and agrees to use its best efforts to arrange for a professional minor league team to play its home games at the Stadium.

- (d) **County**. The County shall take all actions necessary to make available the State Stadium Contribution and State Academy Contribution in accordance with Section 2(c) of this Agreement, including the execution of a Grant Agreement and the provision of all necessary certifications to the State. The County further acknowledges the importance of a Stadium Beer/Wine License to the financial success of the Project and agrees to use its best efforts to support the issuance of such a license to the City and/or TPB.
- (e) **Party Representatives**. Each of the City, County, MSA and TPB shall:
  - (i) Designate a representative who will be available to assist when appropriate, and who will have authority to make timely decisions regarding the Project.
  - (ii) Have the specific roles and responsibilities with respect to the Project as are described in Exhibit H to this Agreement.

4. **Miscellaneous**:

- (a) **Compliance with Law**. The Parties shall comply with all federal, State and local laws, rules and regulations with respect to construction of the Project.
- (b) **Laws of Maryland**. This Agreement shall be interpreted in accordance with the laws of the State.

- (c) **Entire Agreement; Amendments.** This Agreement and the Exhibits hereto constitute the entire agreement among the Parties with respect to the construction of the Project, and supercede all previous understandings, correspondence and memoranda. This Agreement may only be amended by a written instrument signed by all of the Parties.
- (d) **Expiration.** This Agreement shall expire upon the City's and TPB's completion of their respective responsibilities under this Agreement, which shall be the issuance of the Final Use and Occupancy Permit for the Project.
- (e) **Ripken Youth Academy.** The City, MSA and TPB shall coordinate the construction of the Project with the construction of the Ripken Youth Academy, which is planned to be constructed on land adjacent to the Property in order to foster an orderly progression of construction activities and a cooperative atmosphere at both construction sites.

This Agreement is executed by the Parties as of the day and year set forth above.

WITNESS:

CITY OF ABERDEEN

*David Dunne, Jr.*

By: *Douglas S. Wilson, Mayor*

HARFORD COUNTY

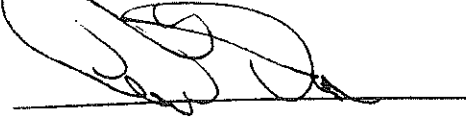
*[Signature]*

By: *James M. Harkins*

[SIGNATURES CONTINUED ON PAGE 9]




WITNESS:

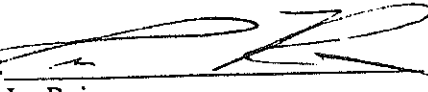
  
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MARYLAND STADIUM AUTHORITY

By:   
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TUFTON PROFESSIONAL  
BASEBALL LLC

  
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By:   
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Ira Rainess  
Authorized Person