

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is made and executed as of the _____ day of April, 2015 (“Execution Date”), between the City of St. Petersburg, Florida, a municipal corporation (“City”), and Tampa Bay Rays Baseball, Ltd. (formerly known as Tampa Bay Devil Rays, Ltd.), a Florida limited partnership (“Club”) (collectively, “Parties”).

Recitals

Whereas, the City and the Club entered into an Agreement for the Use, Management and Operation of the Domed Stadium in St. Petersburg Including the Provision of Major League Baseball on April 28, 1995 and such agreement has been amended from time to time (such agreement, as it has been amended, is hereinafter referred to as the “Agreement”); and

Whereas, the Club wishes to begin evaluating potential future stadium sites in Pinellas County, Florida (“Pinellas”) and Hillsborough County, Florida (“Hillsborough”) for the Tampa Bay Rays to play home games prior to the end of the Major League Baseball (“MLB”) season occurring in the year 2027 (“2027 Season”); and

Whereas, the City wishes to retain the Tampa Bay Rays as a MLB franchise in the Tampa Bay region for the long term; and

Whereas, the City believes St. Petersburg offers unique opportunities for the Club’s consideration and hopes to retain the Tampa Bay Rays as a MLB franchise in St. Petersburg; and

Whereas, the City has agreed to allow the Club to engage in activities related to the evaluation of potential future stadium sites in Pinellas and Hillsborough only, subject to the terms and conditions set forth in this MOU; and

Whereas, the Club shall evaluate all potential future stadium sites in Pinellas and Hillsborough, including potential future stadium sites in St. Petersburg, in accordance with the same process and criteria, as further described herein.

Now, Therefore, in consideration of the promises and covenants contained herein (including those contained in the foregoing recitals), and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the Club agree as follows:

1. Definitions. For purposes of this MOU, the terms “DOME”, “Capital Account”, “Home Games”, “Force Majeure Event”, “Franchise”, and “Term” shall have the meanings set forth in the Agreement.
2. Acknowledgment of Club. The Club acknowledges and agrees that, as set forth, among other things, in Sections 2.04 and 11.01 of the Agreement, during the Term: (i) the Club shall cause the Franchise to play all of its Home Games in the DOME, subject to the provisions of Section 2.04 of the Agreement; (ii) the Club is not permitted to play any of the Franchise’s

Home Games in any facility other than the DOME without the City's consent, which may be withheld in the City's sole discretion, subject to the provisions of Section 2.04 of the Agreement and Paragraph 5 of this MOU; and (iii) neither the Club nor any of its respective parties, principals, directors, officers, employees, owners, or agents will enter into, initiate or conduct any agreement or negotiations (directly or indirectly) for the use of any facility other than the DOME for the Home Games of the Franchise, except to the extent permitted by Sections 2.04 and 16.03 of the Agreement.

3. Evaluation Activities.

A. As used in this MOU and Section 11.01 of the Agreement, the term “negotiations” shall not include Evaluation Activities. For purposes of this MOU and Section 11.01 of the Agreement, “Evaluation Activities” means non-binding discussions and communications, feasibility studies and analyses, cost estimation and related activities for the purpose of identifying a potential future stadium site for the Franchise in Pinellas or Hillsborough only. Without limiting Paragraph 6 below, the following are not Evaluation Activities: (i) drafting or negotiating any agreements or other legal documents of any kind; (ii) entering into or executing any agreements or other legal documents of any kind; and/or (iii) any discussions, communications or activities for the purpose of identifying a potential future stadium site in any location other than Pinellas or Hillsborough.

B. Within sixty (60) days of the Execution Date, the Club shall provide the City with a document that sets forth the process and criteria to be used by the Club in evaluating potential future stadium sites in Pinellas and Hillsborough (“Process and Criteria Document”).

C. The Club shall evaluate all potential future stadium sites in Pinellas and Hillsborough, including potential future stadium sites in St. Petersburg, in accordance with the Process and Criteria Document.

D. Within thirty (30) days of a request by the City, but no more than three (3) times per calendar year, the Club shall provide the City with a report on the status of its evaluation of potential future stadium sites in St. Petersburg.

4. Termination Amendment. If as a result of the Evaluation Activities the Club wishes to terminate the Agreement prior to the end of the Term in order for the Franchise to play its Home Games at a stadium ~~other than the DOME~~ in Pinellas or Hillsborough through at least the end of the 2027 Season, the Club and the City shall prepare in good faith a written amendment to the Agreement that provides for such termination (“Termination Amendment”). The Termination Amendment shall establish an effective date of termination of the Agreement and address matters related to wind down of the Agreement, the Club’s move out and reacquisition of the DOME by the City. Further, the Termination Amendment shall provide for monetary and in-kind compensation to the City (in only the amounts and categories set forth below but subject to the limitations set forth below) and an indemnification for the Bonds (as defined below), as follows:

A. Annual Monetary Compensation. The City and the Club hereby agree that the annual monetary compensation required to be paid by the Club to the City pursuant to the Termination Amendment shall be as follows, provided the Franchise plays its Home Games at a stadium ~~other than the DOME~~ in Pinellas or Hillsborough through at least the end of the 2027 Season (except for Excused Games as defined below), subject to subparagraph D below:

i. For the time period commencing on the Execution Date through December 31, 2018, the Club shall pay the City four million dollars (\$4,000,000) for each year during this first time period that the Franchise does not play all of its Home Games in the DOME (except for games that were not required to be played in the DOME pursuant to Section 2.04 of the Agreement); and

ii. For the time period commencing on January 1, 2019 through December 31, 2022, the Club shall pay the City three million dollars (\$3,000,000) for each year during this second time period that the Franchise does not play all of its Home Games in the DOME (except for games that were not required to be played in the DOME pursuant to Section 2.04 of the Agreement); and

iii. For the time period commencing on January 1, 2023 through December 31, 2026, the Club shall pay the City two million dollars (\$2,000,000) for each year during this third time period that the Franchise does not play all of its Home Games in the DOME (except for games that were not required to be played in the DOME pursuant to Section 2.04 of the Agreement). In the event that the Franchise does not play all of its Home Games in the DOME during the 2027 calendar year, no additional monetary compensation shall be owed for such year, provided that the Club has paid all other annual monetary compensation owed in accordance with this subparagraph A.

iv. The first payment of annual monetary compensation owed by the Club pursuant to this subparagraph A shall be reduced by an amount equal to fifty percent (50%) of the balance of the Capital Account as of thirty (30) days prior to the effective date of termination of the Agreement.

v. The annual monetary compensation owed by the Club pursuant to this subparagraph A shall be paid to the City on or before November 30 of each year that compensation is owed. For example, if the Franchise does not play all of its Home Games in the DOME during the MLB season ending in October 2018 (except for games that were not required to be played in the DOME pursuant to Section 2.04 of the Agreement), the Club shall pay the City four million dollars (\$4,000,000) on or before November 30, 2018, and shall pay other years of compensation owed in the same manner. On or before the effective date of termination of the Agreement, the Club shall provide the City with a letter of credit in a form acceptable to the City and issued by a bank acceptable to the City (or an alternate form of security acceptable to the City) to secure the total amount of annual monetary compensation owed pursuant to this subparagraph A.

B. In-Kind Compensation. In recognition of the Franchise as a regional asset and in addition to the annual monetary compensation set forth in subparagraph A above, the Club

shall provide the City with an in-kind compensation package through the end of the 2027 Season. Such in-kind compensation package may include City use days, signage recognizing the City and/or tickets for Franchise home games for economic development and promotion of the City, as mutually agreed upon by the City and the Club in good faith. The total fair market value of the in-kind compensation owed by the Club pursuant to this subparagraph B (projected aggregate value for all the years in which in-kind compensation is owed, as calculated on the execution date of the Termination Amendment) shall not exceed one million dollars (\$1,000,000). In the event the City and the Club do not mutually agree upon an in-kind compensation package to be included in the Termination Amendment, the Termination Amendment shall require the Club to pay the City one million dollars (\$1,000,000) in lieu of in-kind compensation. Such payment shall be made by the Club to the City on a one-time lump sum basis on or before the effective date of termination of the Agreement.

C. Indemnification For Bonds.

i. The Termination Amendment shall provide for the Club to indemnify and hold harmless the City from and against any and all losses, liabilities and fees incurred by the City in connection with the Bonds (as defined below), including but not limited to liability incurred by the City in connection with a pledged revenue source for the Bonds and/or tax exempt status of the Bonds being adversely affected by the Termination Amendment or demolition of the DOME prior to the end of the Term. For purposes of this MOU, "Bonds" means all bonds and other indebtedness issued or incurred prior to the Execution Date and associated with financing or refinancing the DOME and capital expenditures associated therewith, including but not limited to land acquisition and parking facilities. Specifically, "Bonds" includes but is not limited to (a) the Professional Sports Facility Refunding Revenue Bond, Series 2014; (b) the Excise Tax Secured Revenue Bonds, Series 1993; and (c) the First Florida Governmental Financing Commission, 2001 Notes.

ii. The Club acknowledges and agrees that the scope and form of the indemnification to be included in the Termination Amendment must be adequate to fully protect the City against any and all losses, liabilities and fees in connection with the Bonds, as determined by the City Attorney after consultation with the City's bond counsel. Accordingly, the indemnification generally described in this subparagraph C is subject to modification prior to inclusion in the Termination Amendment.

iii. On or before the effective date of termination of the Agreement,
~~The the~~ Club shall provide the City with a letter of credit in a form acceptable to the City and issued by a bank acceptable to the City (or an alternate form of security acceptable to the City) to secure the Club's obligations pursuant to this subparagraph C.

iv. The Club's obligations pursuant to this subparagraph C are in addition to the compensation required to be paid and provided by the Club pursuant to subparagraphs A and B above.

D. Limitations.

i. The Club acknowledges and agrees that the City is entering into this MOU in an effort to keep the Franchise in Pinellas or Hillsborough for the long term and that a portion of the consideration for a Termination Amendment would be the value to the City of retaining the Franchise as a regional asset. Accordingly, without limiting Paragraph 6 below, (a) the compensation set forth in subparagraphs A and B above shall be applicable only in the event the City and the Club enter into a Termination Amendment in order for the Franchise to play its Home Games at a stadium ~~other than the DOME~~ in Pinellas or Hillsborough through at least the end of the 2027 Season (except for Excused Games as defined below); ~~Without limiting the generality of the foregoing, and (b)~~ the compensation set forth in subparagraphs A and B above shall have no application or evidentiary relevance whatsoever in the event the Franchise relocates to a stadium outside of Pinellas or Hillsborough prior to the end of the Term. Moreover, without limiting Paragraph 6 below, the Club recognizes that relocation of the Franchise to a stadium outside of Pinellas or Hillsborough prior to the end of the Term will result in irreparable harm to the City and damages that are not readily calculable.

ii. Except as specifically set forth in this MOU, the Termination Amendment shall not relieve the Club of any liabilities incurred or arising prior to the effective date of termination of the Agreement (e.g., claims arising out of events prior to the effective date of termination of the Agreement, amounts owed pursuant to third party contracts, tax liability, etc.).

iii. Notwithstanding the Termination Amendment, the City shall be paid the balance of the Capital Account on or before the effective date of termination of the Agreement and the City shall remain entitled to any and all proceeds, funds and other monies (e.g., ticket stub funds, naming rights proceeds, etc.) payable to the City pursuant to the Agreement through the effective date of termination of the Agreement.

iv. The Termination Amendment shall not include any provision requiring the City to pay damages or incur any liability (including but not limited to delay related damages or liability) in connection with a declaratory judgment action commenced pursuant to Paragraph 5 of this MOU.

v. The Termination Amendment shall provide that the Club is not entitled to any proceeds pursuant to Section 3.05 of the Agreement in the event the City exercises its rights under Section 3.05 of the Agreement following the execution date of the Termination Amendment; provided, however, that the Termination Amendment shall also provide that the Club shall retain its approval rights under Section 3.05 of the Agreement until the effective date of termination of the Agreement.

vi. The Club shall cause the Franchise to play all of its Home Games in the DOME for a minimum of one (1) MLB season (except for games that are not required to be played in the DOME pursuant to Section 2.04 of the Agreement) following the execution date of the Termination Amendment and prior to the effective date of termination of the Agreement.

vii. For purposes of this MOU, “Excused Games” means ~~all Home Games except for~~ (a) ~~those games~~ those Home Games that are not played due to a Force Majeure Event; and (b) up to ten (10) Home Games ~~games~~ per MLB season played at a facility that is not located in Pinellas or Hillsborough.

5. Approval of Termination Amendment.

A. City Council shall vote on whether to approve the Termination Amendment within sixty (60) days following notice from the Mayor that the Termination Amendment has been executed by the Club and the Mayor subject to City Council approval. Further, City Council shall approve the Termination Amendment provided that the Termination Amendment is consistent with the terms and conditions of this MOU.

B. In the event City Council does not approve the Termination Amendment, either the Club or the City may seek a declaratory judgment from a court of competent jurisdiction as to whether the Termination Amendment considered by City Council is consistent with the terms and conditions of this MOU. If a court of competent jurisdiction issues a final order (after the exhaustion of any and all appellate remedies) that the Termination Amendment considered by City Council is not consistent with the terms and conditions of this MOU, such Termination Amendment shall be void and the Club and the City shall remain fully bound by the Agreement and this MOU; provided, however, that the Club may propose an alternative Termination Amendment for City Council’s consideration. If a court of competent jurisdiction issues a final order (after the exhaustion of any and all appellate remedies) that the Termination Amendment considered by City Council is consistent with the terms and conditions of this MOU, the Termination Amendment shall be fully enforceable by the Club and the City, effective as of the date the Termination Amendment was executed by the Club and the Mayor.

C. For purposes of a declaratory judgment action pursuant to this Paragraph 5 only, (i) venue for such declaratory judgment action shall be the Circuit Court for the Twelfth Judicial Circuit, in and for Manatee County, Florida; (ii) each party waives any defense, whether asserted by motion or pleading, that the aforementioned court is an improper or inconvenient venue for such declaratory judgment action; and (iii) the City and the Club consent to the personal jurisdiction of the aforementioned court and irrevocably waive any objections to said jurisdiction with respect to such declaratory judgment action.

D. Each party shall bear its own attorneys’ fees and costs associated with a declaratory judgment action pursuant to this Paragraph 5. Further, neither the City nor the Club shall have any liability to the other in connection with such declaratory judgment action or any delay associated therewith; provided, however, that the City and the Club shall remain responsible for any amounts due pursuant to the Agreement, this MOU and the Termination Amendment (if the Termination Amendment is enforceable and effective).

6. No Waiver. Except as specifically set forth in this MOU, (i) this MOU is not intended as, and does not operate as, any species of consent to nullify, excuse, or waive in any way or manner, neither express or implied, direct or indirect, nor by any operation of law, any of the requirements or prohibitions set forth in the Agreement; and (ii) both the City and the Club

expressly reserve any and all rights, remedies, claims and defenses they have or may have under or with respect to the Agreement; provided, however, the Club expressly waives any defense, whether asserted by pleading or motion, that this MOU operates as any species of consent to allow the Club to act or fail to act in any manner that causes the Club not to comply with any of the requirements or prohibitions set forth in the Agreement, except as specifically set forth in this MOU.

7. Term and Survival. The term of this MOU shall commence on the Execution Date and terminate at midnight on December 31, 2017, unless this MOU is earlier terminated as provided herein. Paragraphs 1, 2, 4, 5, 6, 11, 12, 15 and 16 of this MOU shall survive expiration or earlier termination of this MOU.

8. Default and Termination. The City may terminate this MOU in the event of failure by the Club to observe or perform any term or condition of this MOU if such failure shall continue for thirty (30) days after notice thereof from the City to the Club, or as otherwise provided in this MOU. The Club may terminate this MOU in the event of any failure by the City to observe or perform any term or condition of this MOU if such failure shall continue for thirty (30) days after notice thereof from the Club to the City. The Club and the City agree that, in the event of a violation of this MOU, the party not in default shall be entitled as a non-exclusive remedy, and in addition to an action for damages, to seek and obtain an injunction or decree of specific performance or an equitable remedy from a court of competent jurisdiction to enjoin or remedy any violation of this MOU; provided, however, that the sole remedy for City Council not approving a Termination Amendment shall be as set forth in Paragraph 5 of this MOU.

9. Notice. Any notice required by or permitted under this MOU shall be in writing and shall be deemed delivered when delivered by hand or by overnight delivery service, addressed as follows:

If to the City:

City of St. Petersburg
175 Fifth Street North
St. Petersburg, FL 33701
Attn: Mayor

With a copy to:

City Attorney of St. Petersburg
One 4th Street North, 10th Floor
St. Petersburg, Florida, 33701

If to the Club:

Tampa Bay Rays Baseball, Ltd.
Attn: John Higgins, Senior VP/General Counsel
Tropicana Field
One Tropicana Drive
St. Petersburg, FL 33705

10. Amendment. This MOU may be amended only in writing executed by the City and the Club, subject to City Council approval.

11. Drafting of Agreement. This MOU has been prepared by the City and reviewed by the Club and its professional advisors. The City, the Club and the Club's professional advisors believe that this MOU expresses their agreement and that it should not be interpreted in favor of either the City or the Club or against the City or the Club merely because of their efforts in preparing it.

12. No Third Party Beneficiary. No person other than the Club and the City shall have any rights whatsoever under this MOU.

13. Control Person. The Club shall notify the City within five (5) days if the Control Person for the Club ceases to be either Stuart Sternberg or Matthew Silverman. The City may terminate this MOU with five (5) days prior notice to the Club in the event that the Control Person for the Club ceases to be either Stuart Sternberg or Matthew Silverman. For purposes of this MOU, "Control Person" means the person designated by the Club and approved by MLB who is accountable to MLB for the Club's operation and its compliance with the rules of MLB and who is responsible for and empowered to make all Club decisions, including voting on behalf of the Club at MLB owners meetings.

14. City Approval. For purposes of this MOU, (i) any required written permission, consent, acceptance, approval, or agreement ("Approval") by the City means the Approval of the Mayor or his authorized designee, unless otherwise set forth in this MOU or unless otherwise required to be exercised by City Council pursuant to the City Charter or applicable laws; and (ii) any right of the City to take any action permitted, allowed, or required by this MOU may be exercised by the Mayor or his authorized designee, unless otherwise set forth in this MOU or unless otherwise required to be exercised by City Council pursuant to the City Charter or applicable laws.

15. Due Authority. Each party to this MOU represents and warrants to the other party that (i) it is a duly organized, qualified and existing entity authorized to do business under the laws of the State of Florida; (ii) this MOU is independently enforceable in accordance with its terms; and (iii) all appropriate authority exists so as to duly authorize the person executing this MOU to so execute the same and fully bind the party on whose behalf he or she is executing.

16. Governing Law and Venue. This MOU shall be governed by and construed in accordance with the laws of the State of Florida. Except as provided in Paragraph 5 of this

MOU, (i) venue for any legal proceeding arising out of or related to this MOU shall be the Circuit Court for the Sixth Judicial Circuit, in and for Pinellas County, Florida, St. Petersburg Division; (ii) each party waives any defense, whether asserted by motion or pleading, that the aforementioned court is an improper or inconvenient venue; and (iii) the City and the Club consent to the personal jurisdiction of the aforementioned court and irrevocably waive any objections to said jurisdiction with respect to any legal proceeding arising out of or related to this MOU.

In Witness Whereof, the undersigned have executed this Memorandum of Understanding as of the day and year first above written.

CITY OF ST. PETERSBURG, FLORIDA

ATTEST:

By: _____
Richard Kriseman, Mayor

Chan Srinivasa, City Clerk

(seal)

TAMPA BAY RAYS BASEBALL, LTD.,
a Florida Limited Partnership
by 501SG, LLC
Its Manager General Partner

By: _____
Stuart Sternberg, Manager

Approved as to Content and Form

City Attorney (designee)

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