

MEMORANDUM

TO: MAYOR AND CITY COMMISSION

FROM: CITY ATTORNEY'S OFFICE

DATE: November 20, 2023

RE: **Second Modification of Spring Training Facility Lease and Use Agreement with the Detroit Tigers for the Financing of New Dormitory Facility**

Attached for your consideration is a Second Modification of the Spring Training Facility Lease and Use Agreement with the Detroit Tigers, setting forth the terms and conditions for the financing of a new dormitory facility to be utilized by the Tigers. The new dormitory facility will replace the existing Fetzer Hall dormitory located southeast of Joker Marchant Stadium, as well as the nearby recreation hall and cafeteria, all of which the Tigers plan to demolish. The new facility will be an approximately \$33 million state-of-the-art building that will house the Tigers' dormitory, cafeteria and recreation hall.

Under the attached Second Modification, the City will make a capital contribution of \$4,000,000 towards the construction of the new dorm. The City previously agreed to set aside this amount for the remodel and upgrade of Fetzer Hall when it renewed its Spring Training agreement with the Tigers in 2015. The Tigers will also make an initial capital contribution of \$4,000,000 towards the project. The City will issue bonds or utilize another borrowing mechanism in an amount not to exceed \$25,000,000 to finance the remaining costs of the construction. The Tigers will repay all debt incurred by the City in the form of additional rent payments, which will mirror the repayment schedule for the City's debt. The Tigers currently pay \$300,000 annually in rent. Any additional costs of the project will be borne by the Tigers.

The Tigers will have exclusive use of the new dormitory facility, subject to the City's right to use the facility during declared emergencies. The Tigers will have exclusive naming rights to the facility as well, subject to final City approval to ensure no conflicts with existing sponsors. The City will receive 25% of any naming rights revenue and the Tigers will receive the remaining 75%. The City will contribute its 25% share towards improvements to Spring Training facilities, and the Tigers will match such amount.

Significantly, the City and the Tigers agree to extend the lease term of their Spring Training agreement an additional seven (7) years. The new lease term will expire December 31, 2044.

Finally, CPI increases to the Management Services Fee the Tigers pay to the City will be capped at an annual average of 1.9%, or a maximum increase of 9.5% every five (5) years. The current Management Services Fee paid to the City is \$274,448.

It is recommended that the City Commission approve the attached Second Modification of Spring Training Facility Lease and Use Agreement with the Detroit Tigers and authorize the appropriate City officials to execute the Second Modification.

Attachment

**SECOND MODIFICATION OF SPRING TRAINING
FACILITY LEASE AND USE AGREEMENT**

THIS SECOND MODIFICATION OF SPRING TRAINING FACILITY LEASE AND USE AGREEMENT (“Second Modification”), is made and entered into this ____ day of _____ 2023, by and between the CITY OF LAKELAND, FLORIDA, a municipal corporation existing under the laws of the State of Florida (hereinafter referred to as the “City”), and DETROIT TIGERS, INC., a Michigan corporation (hereinafter referred to as the “Tigers”) (the City and the Tigers are also individually referred to hereinafter as a “Party” and collectively as the “Parties”).

WHEREAS, on January 16, 2015, the Parties entered into a Spring Training Facility Lease and Use Agreement (“Agreement”) relating to the lease and use of Joker Marchant Stadium and related facilities owned by the City, collectively referred to in the Agreement as the “Spring Training Facility” or “Leased Premises”; and

WHEREAS, the Parties on October 17, 2016 entered into the First Modification to the Spring Training Facility Lease and Use Agreement (“First Modification”) for the purpose of identifying the lease commencement date for a 20-year term which will end on December 31, 2037; and

WHEREAS, the Parties now wish to enter into this Second Modification to extend and amend the Agreement in order to facilitate funding for and construction of a new dormitory facility to replace Fetzer Hall (as referenced in Section 14(B)(3) of the Agreement), as well as Recreation Hall and the Cafeteria;

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the following is mutually covenanted and agreed by and between the Parties:

1. Construction of New Dormitory

- a. The City and the Tigers agree to work together to replace Fetzer Hall, as well as Recreation Hall and the Cafeteria, and construct and deliver a new dormitory facility, which will include new recreation and cafeteria facilities (“New Dorm”) for the Tigers’ full and beneficial use during the term of the Agreement, as modified by the First Modification and this Second Modification. It is the intention of the Parties that the design and construction of the New Dorm be a collaborative effort and each Party agrees to make available the necessary personnel and other resources to facilitate each Party’s responsibilities during the design and construction phase of the New Dorm. The Tigers will have a right to approve the final design plans of the New Dorm, including without limitation, the overall layout, space allocation, graphics, materials used, signage, and color scheme that may be incorporated in the New Dorm.
- b. Project Completion is defined as the date on which the City delivers to the Tigers the New Dorm substantially complete and for which a Certificate of Occupancy has

been issued by the City, entitling the Tigers to occupy and enjoy the full beneficial use of the New Dorm for its intended purposes.

2. Financing of New Dormitory

- a. Per Section 14(B)(3) of the Agreement, the City will make an initial capital contribution of \$4,000,000 (the “City’s Capital Contribution”) for construction of the New Dorm. This \$4,000,000 provided by the City may be utilized for site work, demolition and construction. Additionally, the Tigers agree to make an initial capital contribution of \$4,000,000 at such time as the parties agree.
- b. The Parties agree that the City will issue bonds or borrow via another funding source, to be mutually agreed upon by the Parties, in an amount not to exceed \$25,000,000 in net proceeds in order to finance the remaining cost of the New Dorm construction. The total net amount of the City’s borrowing proceeds shall be mutually agreed upon by the Parties in writing and based on the final New Dorm budget determined by the Tigers. The Tigers agree to pay the annual debt service on the net proceeds of the bonds or other borrowing in the form of additional rent payments to the City. The Parties agree, upon securing financing, to adopt a schedule for the payment of such additional rent, which at a minimum shall provide for rent payments no later than fifteen (15) days prior to each debt payment the City must make and in an amount equal to each City debt payment. The City agrees to invest the proceeds of the bonds or other borrowing in a dedicated account earning interest for the project.
- c. The borrowing term and funding source for all financing as contemplated above shall be mutually agreed upon by the Parties. Any debt term shall not exceed the Lease Term, as modified by this Second Modification. The Parties agree to cooperate in good faith to refinance debt at any time in order to take advantage of favorable rate environments that may be available in the future.
- d. In total, the City will contribute the City’s Capital Contribution and the total net amount of the borrowing proceeds, as determined in Section 2.b. above, toward construction of the New Dorm (together, the “City’s Total Contribution”). All costs of design or construction above the City’s Total Contribution will be borne by the Tigers and the City will have no responsibility or liability for such additional costs.

3. Management Services Fee.

- a. Subject to Section 6 herein, Section 12(A) of the Agreement is hereby amended to provide as follows:
 - A. Management Services Fee: In addition to the rent, as a service fee, the Tigers shall pay to the City Two Hundred Seventy-Four Thousand Four Hundred Forty-Eight Dollars (\$274,448.00) annually (commencing with the 2023 lease year) as a Management Services Fee, which sum represents the CPI-adjusted Management Services Fee as of 2023. The Management Services Fee shall be increased every five (5) years by the percentage change in the CPI-U, US City

Average, all items not seasonally adjusted 1982-1984 = 100 base year. The City shall be responsible for payment of the Florida Sales Tax of such amount in accordance with Fla. Stat. 212.031 as it may be amended, revised or re-numbered from time to time. Notwithstanding the foregoing, the percentage increase to the Management Services Fee shall not exceed an annual average of 1.9%, or a 5-year total of 9.5%, for purposes of calculating the new Management Services Fee each 5-year period. For example, if the CPI for 5 consecutive years averages 3.0%, the increase to the Management Services Fee in year 6 would be 9.5%. As an additional example, if the CPI for 5 consecutive years averages 1.5%, the increase to the Management Services Fee in year 6 would be 7.5%.

- b. In the event of termination of this Second Modification pursuant to Section 6 below, all terms of this Section 3 shall be void and revert back to the original language of Section 12(A) of the Agreement. In such instance, the Tigers shall make retroactive true-up payments, if necessary, to adjust for the difference in Management Service Fees owed under the original language of Section 12(A).
4. **Lease Extension.** Subject to Section 6 herein, the Lease Term, as defined in the First Modification, shall be extended seven (7) years from Lease Commencement Date, ending December 31, 2044. The Parties may mutually agree in writing to extend the Lease Term further to align with the debt term as described above.
5. **Naming Rights.** The Tigers shall have exclusive naming rights to the New Dorm, subject to City approval as provided below. In the event the Tigers acquire a naming rights sponsor for the New Dorm, 25% of the naming rights revenue will be provided to the City and 75% of the revenue will be retained by the Tigers. The Parties agree that the City will contribute its 25% share of naming rights revenues to the Capital Improvements Fund (as established in Section 14.B. of the Agreement) to be used on mutually agreed upon Spring Training Facility projects. The Tigers may use its 75% share in its sole discretion, except that the Tigers agree to match the City's contributions to the Capital Improvements Fund from naming rights revenue over the Lease Term. The City will be provided final approval authority on any naming rights partner to ensure there are no conflicts with existing business partners.
6. **Financing Contingency.** The terms of this Second Modification are contingent on the City obtaining financing as described in Section 2(b) above. If for any reason financing is not secured within a reasonable time after execution of this Second Modification, which, unless agreed to by the Tigers, shall not be less than six (6) months following written notice from the Tigers to seek financing, the Tigers may terminate this Second Modification and, upon such termination, all terms of this Second Modification shall be null and void, and the terms of the Agreement, as modified by the First Modification, shall control, including the Lease Term and Management Services Fee specified therein. Notwithstanding the

foregoing, the Parties agree to cooperate in good faith on the timing of financing in order to take advantage of favorable rate environments that may be available in the future.

7. **Exclusive Use.** The Tigers shall have exclusive use of the New Dorm during the Lease Term, subject only to a City Emergency Use as defined in Section 3.E. of the Agreement.
8. **Operating Maintenance and Capital Improvements.** The Parties agree that the MOU attached to this Second Amendment, which may be mutually amended from time to time, shall establish the respective duties of each Party described in Section 14 (Operating Maintenance and Capital Improvements) of the Agreement.
9. **Complete Agreement; Counterparts.** Except as modified by this Second Modification, the Agreement and First Modification shall continue in full force and effect. The Agreement, as modified by the First Modification and this Second Modification, constitutes the complete agreement of the Parties and may not be amended except by a written amendment duly executed by each of the Parties hereto. This Second Modification may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same instrument. Facsimile or electronic copies (PDF) of this Second Modification and the signatures thereon shall have the same force and effect as if the same were originals.
10. **Effective Date.** This Second Modification shall become effective when fully executed by both of the Parties hereto.

IN WITNESS WHEREOF, this Second Modification of Spring Training Facility Lease and Use Agreement has been duly executed by Parties below.

City of Lakeland, Florida	Detroit Tigers, Inc.
Signature	Signature
Name	Name
Title	Title
Date	Date

City of Lakeland / Detroit Tigers

Capital & Maintenance MOU for all Shared Property

City of Lakeland: City will pay the capital and maintenance costs related to the following:

Structural Elements, Roof, Walls, Insulation, Windows, Doors, Door Hardware, Built in Cabinetry, Plumbing, Electrical, HVAC/Mechanical, Fire Alarm and Suppression, Painting, Elevators, Ceiling Systems, Clay and Grass on Fields, Stadium Lighting, Parking Lot Maintenance (Recoating and Lighting), Fencing, Walk-in Coolers/Freezers

Detroit Tigers: Tigers will pay the capital and maintenance costs related to the following:

Interior Furnishings, Tables, Chairs, Mattress's, Dressers, Appliances, Kitchen Specialty Items, Kitchen Hood Systems, Grease Traps, Ice Machines, Security Systems, Card Access, Gates and Openers, Closed Circuit TV, General and Annual Cleaning, Computers, Electronics, Audio Visual and Sound Equipment, Window Treatments, Pest Control, Interior Modifications/Renovations That Add or Change the Functionality of a Structure

Shared Capital: Capital and maintenance costs related to the following will be paid from the Capital Improvements Fund:

Flooring Systems, Video Boards, Artificial Turf, Stadium Seating, Any large projects to be mutually agreed upon as best use of funds