

ADDENDUM NO. 1 TO LEASE AGREEMENT WITH CORPUS CHRISTI BASEBALL CLUB, L.P.

Whereas, on January 28, 2020, the City of Corpus Christi (herein referred to as “the City”) and Corpus Christi Baseball Club, L.P., a Texas Limited Partnership (herein referred to as “Lessee”) entered into the Second Amended and Restate Stadium Lease Agreement (herein referred to as the “Lease”) regarding Whataburger Field;

Whereas, the Lease authorized Lessee to make certain capital improvements to the Baseball Stadium;

Whereas, the Lessee has proposed a capital improvement project to improve field lighting and the women’s personnel clubhouse (the “Project”);

Whereas, the Corpus Christi Business and Job Development Corporation (the “Corporation”) has approved funding in the amount of \$701,800.00 for the completions of the Project, which funding will be transferred to the City for payment of the reimbursement under this Addendum; and

Whereas, the intent of this addendum is to layout the responsibilities of each Party specifically related to the Project.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The Parties enter into this addendum, effective on the date of last signature, to authorize the Project under the terms of the Lease.
2. City and Lessee agree that, in accordance with Sections 5.5 and 7.1 of the Lease and according to state law, the City authorizes the Lessee to proceed with the Project, as more fully described in **Attachment A**, which is attached hereto and incorporated by reference.
 - a. **Project Completion.** Lessee must cause the contractor to complete all work for the Project within one year following the Effective Date of this addendum. Lessee shall ensure that any contract with the engineer or architect for design includes the terms on attached **Attachment B**. The specifications and contract terms for construction must include terms outlined in attached and incorporated **Attachment C**. Lessee shall be responsible to provide oversight and contract management services including inspection services to verify work is timely and properly completed. Lessee shall obtain all required City permits for the Project.
 - b. **Quarterly Updates.** Lessee must provide quarterly updates on the Project to the City in October, January, April, and July until final completion of the Project.
3. City will provide funding for the Project, up to \$701,800.00 on a reimbursement basis.
 - a. **City Maximum Funding Amount.** The Parties agree that the funding from the City or Corporation required to complete the Project are not to exceed \$701,800.00 which is defined herein as the “City Maximum Funding Amount.” The City shall only be responsible for payments up to the City Maximum Funding Amount for

completion of the Project. Lessee agrees to be responsible for payment of any costs which exceed the City Maximum Funding Amount.

b. **Reimbursement Payments.** The City will pay the City Maximum Funding Amount to the Lessee in accordance with Section 7.4 of the Lease.

4. During the Project construction, City Director of Engineering Services and City Director of Parks and Recreation, or their designees, have the right but not the obligation to inspect the Project. Lessee agrees to timely resolve any issues identified by City staff that represent non-conformance with the Project design and construction plans.

5. **Indemnification.** *The Parties agree that Lessee’s indemnification obligations in the Lease apply to this project and that such obligations are incorporated here by reference as if fully set out here in their entirety.*

6. This addendum is governed by the terms and conditions of the Lease, as amended, and is considered part of the Lease for all intents and purposes. Failure to comply with the terms of this addendum may be considered Lessee or City Default in accordance with Article XI of the Lease.

7. This addendum may be executed in multiple counterparts and all such counterparts will be deemed one and the same agreement among the parties whether or not the signatures of all parties appear on any given counterpart.

AGREED TO BY:

Corpus Christi Baseball Club, L.P.,
through its general partner, RSB Operations, LLC

By: _____

N. Reese Ryan, Member

Date: _____

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on _____ by N. Reese Ryan, Member of RSB Operations, LLC, as the general partner for Corpus Christi Baseball Club, L.P., on behalf of said partnership.

Notary Public

CITY OF CORPUS CHRISTI

By: _____

Peter Zanoni, City Manager

Date: _____

STATE OF TEXAS

COUNTY OF NUECES

This instrument was acknowledged before me on _____ by Peter Zanoni as the City Manager for the City of Corpus Christi, Texas a Texas municipality on behalf of said municipality.

Notary Public

Approved as to form:

By: _____

Assistant City Attorney

Date

ATTACHMENT A – PROJECT DESCRIPTION

Lessee will provide construction improvements to the field lighting and the women's personnel clubhouse in accordance with this Scope of Work and the requirements of the Professional Development League (PDL) or other Sanctioning Association.

Field Lighting Scope of Work: PDL Lighting Requirement: 7.7 Field Lighting - All lighting systems shall maintain the following minimum brightness requirements: Infield: 100 fc average. Outfield: 70 fc average. Bullpen: 50 fc average. All lighting systems shall operate with a maximum uniformity ratio of 1.2/1 in the infield and 2/1 in the outfield. The uniformity ratios shall be computed by comparing the highest and lowest footcandle readings in the infield and the outfield. The evaluation grid used to assess compliance with the standards above shall include 16 light measurements taken in the infield, starting at home plate on a 30'x30' grid pattern. Outfield readings shall be taken on a 60'x 60' grid pattern starting 15' in from each foul line and 45' out from each infield base line. 29 outfield readings shall be taken. All readings shall be taken 3' off the ground. The cell of the light meter shall be self-leveling and mounted on a fixed tripod. The bullpen grid shall include pitcher's mound, bullpen home plate and midpoint for each pitching location. All new field lighting systems for which construction commenced on or after October 1, 2020, including both new facilities and substantial modifications to existing lighting systems (e.g., a modification that involves the installation of new lighting poles), shall be submitted to Major League Baseball for approval in advance of construction. All new lighting systems shall utilize an LED source, follow IES RP-6-15 standards (unless specified otherwise under this provision), and meet the following minimum standards: Color temperature shall be greater than or equal to 5000°K Color Rendering Index (CRI) shall be minimum of 75 Light Loss Factor (LLF) shall be minimum of 0.88 Average footcandle readings in foul territory shall be a minimum of 70% of the standard applicable to the immediately adjacent area in fair territory.

- Factory aimed and assembled LED event lighting luminaries
- Factory aimed and assembled LED ball-tracking luminaries
- Retrofit six (6) existing poles
- Infield 100fc, Outfield 70fc light level
- Remote Driver Enclosures for all fixtures
- 10-year Parts and Labor warranty including guaranteed light levels 100fc/70fc
- Gateway cabinet to interface dimming network to DMX controller
- ETC Mosaic DMX control system with two (2) touchscreens to provide dimming and theatrical effects
- Turnkey installation
- Final aiming/commissioning of the sports lighting system for approval of owner's representation
- Includes materials/equipment delivery to the jobsite, unload and full installation

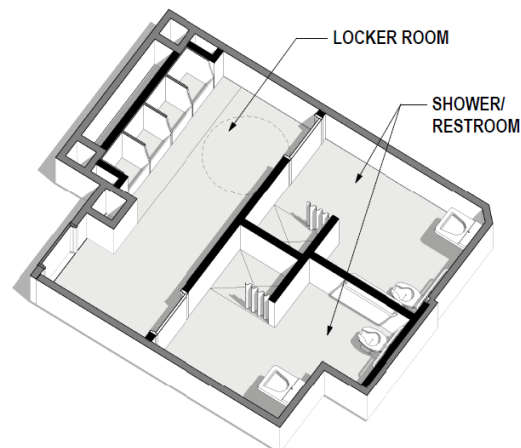
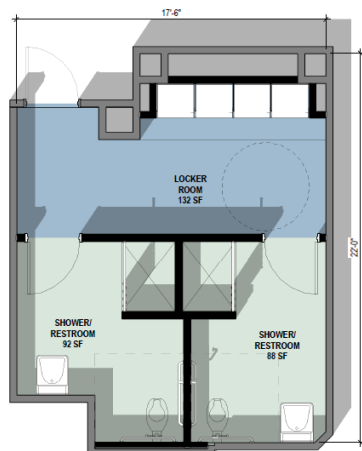


GRID SUMMARY		
Name:	AA Baseball	
Size:	Irregular 325' / 400' / 315'	
Spacing:	30.0' x 30.0'	
Height:	3.0' above grade	

ILLUMINATION SUMMARY		
MAINTAINED HORIZONTAL FOOTCANDLES		
	Infield	Outfield
Guaranteed Average:	100	70
Scan Average:	102.41	70.68
Maximum:	109	95
Minimum:	95	58
Avg / Min:	1.07	1.21
Guaranteed Max / Min:	1.2	2
Max / Min:	1.14	1.63
UG (adjacent pts):	1.11	1.18
CU:	0.59	
No. of Points:	25	105

Women's Clubhouse Renovation Scope of Work: PDL Requirement: 5.4 Female Staff Facilities - All facilities shall provide a private dressing, shower, and toilet facility that is available only to female umpires and female staff of the home and visiting Major League organizations. Such dressing area shall be located in reasonable proximity to the home and visiting clubhouses and shall include a minimum of four lockers (each a minimum of 24" w x 72" h), two showerheads, two water closets, and two lavatories. Minimum floorspace requirements for the female staff facilities shall be 200 sq. ft. (as measured from the base of each wall). Notwithstanding the forgoing, facilities may include multiple separate dressing areas for home and visiting female staff and umpires, provided that at least two lockers, one shower, one water closet, and one lavatory are available in each location for female staff. For the avoidance of doubt, the combined requirements of such facilities remain as outlined above.

- Address compliance requirement of private dressing area featuring:
 - Four (4) standard lockers (min 24")
 - Two (2) lavatories
 - Two (2) water closets
 - Two (2) shower heads



WOMEN'S LOCKER ROOM - CONCEPT 2
1/4" = 1'-0"

ATTACHMENT B

Required Terms for Contract with Architect or Engineer (“Consultant”)

ADDITIONAL SCOPE OF SERVICES. In addition to preparation of plans and specifications in compliance with all applicable City Codes and State laws, Consultant will conduct regular on-site inspections and observations of construction contractor’s work in progress, materials and equipment to assist in determining if the work is in general proceeding in accordance with construction documents.

INDEMNIFICATION

A. Consultant shall fully indemnify and hold harmless the City of Corpus Christi and its officials, officers, agents, employees, excluding the engineer or architect or that person’s agent, employee or subconsultant, over which the City exercises control (“Indemnitee”) from and against any and all claims, damages, liabilities or costs, including reasonable attorney fees and court costs, to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement or failure to pay a subcontractor or supplier committed by Consultant or its agent, Consultant under contract or another entity over which Consultant exercises control while in the exercise of rights or performance of the duties under this agreement. This indemnification does not apply to any liability resulting from the negligent acts or omissions of the City or its employees, to the extent of such negligence.

B. Consultant shall defend Indemnitee, with counsel satisfactory to the City Attorney, from and against any and all claims, damages, liabilities or costs, including reasonable attorney fees and court costs, included in the indemnification above if the claim is not based wholly or partly on the negligence of, fault of or breach of contract by Indemnitee. If a claim is based wholly or partly on the negligence of, fault of or breach of contract by Indemnitee, the Consultant shall reimburse the City’s reasonable attorney’s fees in proportion to the Consultant’s liability.

C. Consultant must advise City in writing within 24 hours of any claim or demand against City or Consultant known to Consultant related to or arising out of Consultant’s activities under this Agreement.

INSURANCE. Consultant must not commence work under this Agreement until all insurance required has been obtained and such insurance has been approved by the City. Consultant must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained. Insurance Requirements for the Consultant are shown in **ATTACHMENT B-1**

ATTACHMENT B-1

Architect/Engineer ("Consultant")

1. Insurance Requirements

1.1 Consultant must not commence work under this agreement until all required insurance has been obtained and such insurance has been approved by the City. Consultant must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.

1.2 **The City must be listed as an additional insured on the General liability and Auto Liability policies, and a waiver of subrogation is required on all applicable policies. Endorsements must be provided with COI. Project name and or number must be listed in Description Box of COI.**

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-written day notice of cancellation, required on all certificates or by applicable policy endorsements	Bodily Injury and Property Damage Per occurrence - aggregate
Commercial General Liability including: 1. Commercial Broad Form 2. Premises - Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$500,000 Combined Single Limit
PROFESSIONAL LIABILITY (Errors and Omissions)	\$1,000,000 Per Claim If claims made policy, retro date must be prior to inception of agreement, have extended reporting period provisions and identify any limitations regarding who is insured.

ATTACHMENT C- REQUIRED TERMS AND CONDITIONS FOR CONSTRUCTION OF THE PROJECT

1. **Performance and Payment Bonds.** Bonds furnished must be the requirements of Texas Insurance Code Chapter 3503, Texas Government Code Chapter 2253, and all other applicable laws and regulations. The contractors who are awarded contracts for construction of the capital improvement project to improve field lighting and the women's personnel clubhouse shall furnish the following bonds by surety companies authorized to do business in Texas:

A. **Payment Bond** - A payment bond in the amount of One Hundred Percent (100%) of the contract for construction of the Improvements shall be furnished for the protection of all persons, firms and corporations who may furnish materials or perform labor. The payment bond shall be made with City of Corpus Christi as an Obligee.

B. **Performance Bond** - A performance bond in the amount of One Hundred Percent (100%) of the contract for construction of the Improvements shall be furnished covering the faithful performance of the contract. The performance bond shall be made with City of Corpus Christi as an Obligee.

2. All construction agreements for the Project shall include the following provisions. The Indemnity section shall be in large bold face font.

A. INDEMNITY. THE CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF CORPUS CHRISTI AND ALL OF ITS OFFICIALS, AGENTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEY FEES WHICH MAY ARISE BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGE TO, OR LOSS OF USE OF ANY PROPERTY OCCASIONED BY ERROR, OMISSION, OR NEGLIGENT ACT OF CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, INVITEES OR ANY OTHER PERSON, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT, AND CONTRACTOR SHALL AT HIS OR HER OWN COST AND EXPENSE DEFEND AND PROTECT THE CITY OF CORPUS CHRISTI FROM ANY AND ALL SUCH CLAIMS AND DEMANDS.

B. Project shall be constructed in accordance with all applicable Federal, State and City codes, laws and regulations.

C. Contractor and any subcontractors employed on this Project will comply with Chapter 2258 of the Texas Government Code by paying Contractor's employees or subcontractors not less than the general prevailing wage rates.

D. Contractor warrants that the goods and services provided under this Contract shall be warranted against any defaults for five years from final acceptance.

E. Contractor shall provide insurance as required by Attachment C-1.

ATTACHMENT C-1 INSURANCE REQUIREMENTS

I. CONTRACTOR’S LIABILITY INSURANCE

- A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Contractor must furnish to the City’s Risk Manager and Director of Facilities & Property Management one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City’s Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	Bodily Injury and Property Damage Per occurrence - aggregate
COMMERCIAL GENERAL LIABILITY including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$1,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
WORKERS’S COMPENSATION (All States Endorsement if Company is not domiciled in Texas) Employers Liability	Statutory and complies with Part II of this Exhibit. \$500,000/\$500,000/\$500,000

INSTALLATION FLOATER	Value of the equipment
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C. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

A. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.

B. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.

C. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Manager
P.O. Box 9277
Corpus Christi, TX 78469-9277

D. **Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**

- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
- Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.

E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's

performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

- F. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.