

Resolution No. 17-107

A resolution authorizing the City Manager or his designee to execute a Non-Relocation Agreement by and between Rangers Baseball LLC and the City of Arlington, Texas relative to the Ballpark Complex Project

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.


That the City Council hereby authorizes the City Manager or his designee to execute a Non-Relocation Agreement with Rangers Baseball LLC in the form and substance attached hereto, with such changes, additions, or deletions as the City Manager and the City Attorney shall approve, relative to the Ballpark Complex Project.

PRESENTED AND PASSED on this the 9th day of May, 2017, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



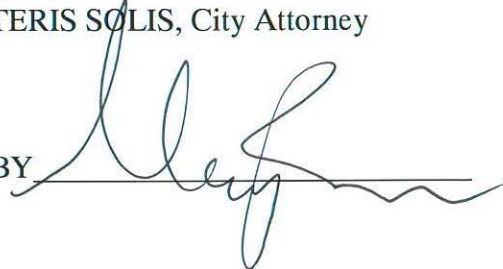
W. JEFF WILLIAMS, Mayor

ATTEST:


MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY



NON-RELOCATION AGREEMENT

This NON-RELOCATION AGREEMENT (this "Agreement"), made and entered into this ____ day of _____, 2017 (the "Effective Date"), by and between the CITY OF ARLINGTON, TEXAS, a duly incorporated home rule city of the State of Texas (the "City" or a "Party"), and RANGERS BASEBALL LLC, a Delaware limited liability company (the "Owner" or a "Party"). The Owner and the City are sometimes herein collectively referred to as the "Parties."

RECITALS:

WHEREAS, the City and the Owner have made and entered into that certain Master Agreement (the "Master Agreement"), dated as of May 24, 2016, pursuant to which the City and the Owner agreed, among other things, to the terms for the financing and construction of a new sports and community venue project and as an approved venue project in the City under and in accordance with the authority provided by and the provisions of Chapter 334 of the Texas Local Government Code, as amended or recodified from time to time (the "Act"); and

WHEREAS, as contemplated by the Master Agreement, the City and the Owner have negotiated and agreed to the terms and provisions of the Project Documents (hereinafter defined); and

WHEREAS, this Agreement is required to be executed and delivered by the Owner pursuant to the Ballpark Funding and Closing Agreement (hereinafter defined); and

WHEREAS, the Owner and the City intend by this Agreement to set forth the terms of the Owner's obligations to the City regarding the Team (herein defined) and the Franchise (herein defined), including the requirement to cause the Team to play its Home Games (herein defined) in the Existing Ballpark (herein defined) during the Development Period (herein defined) and the Ballpark (herein defined) after the Operational Date (herein defined) as and to the extent described herein; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which consideration is acknowledged and confessed by each of the Parties hereto, the Parties hereto do hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Definitions.

In each place in this Agreement wherein the following words and terms are used, the same, unless a different meaning or intent clearly appears from the context, shall have the following meanings, respectively:

“Act” – shall have the meaning assigned to such term in the preamble above.

“Affiliate” – shall mean any entity, corporation, partnership, limited liability company, sole proprietorship or other person that directly or indirectly, through one or more intermediaries controls, is controlled by, or is under common control with the person specified. For purposes of this definition, the terms “controls,” “controlled by,” or “under common control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person.

“Arbitration Procedures” – shall mean those procedures for the resolution of a Dispute or Controversy as set out in Exhibit “A” attached hereto.

“Ballpark” – shall have the meaning assigned to such term in the Lease.

“Ballpark Funding and Closing Agreement” – shall mean that certain Ballpark Funding and Closing Agreement between the City and Rangers Stadium Company LLC, pertaining to funding of the Ballpark, effective as of _____, 2017, and any and all amendments thereto (and assignments thereof).

“BOC” – shall mean the Office of the Commissioner of Baseball, an unincorporated association comprised of the Major League Clubs who are party to the Major League Constitution, and any successor organization thereto.

“City Contribution” – shall have the meaning assigned to such term in the Ballpark Funding and Closing Agreement.

“Commissioner” – shall mean the Commissioner of Baseball as elected under the Major League Constitution or, in the absence of a Commissioner, any person succeeding to the powers and duties of the Commissioner pursuant to the Major League Constitution.

“Development Period” – shall have the meaning assigned to such term in the Lease.

“Dispute or Controversy” – shall have the meaning assigned to such term in Section 6.6 hereof.

“Executive Council” – shall mean the Major League Executive Council that is governed by Article III of the Major League Constitution, and any successor body thereto.

“Existing Ballpark” – shall mean the existing Major League Baseball ballpark located at 1000 Ballpark Way, Arlington, Texas, and presently known as Globe Life Park.

“Existing Ballpark Lease” – shall mean that certain lease agreement by and between the City (as successor to Arlington Sports Facilities Development Authority, Inc.), as landlord, and the Owner, as tenant, pertaining to the Existing Ballpark; originally executed and delivered June 13, 2007, and any and all amendments thereto (and assignments thereof).

“Existing Ballpark Lease Tenant” – shall mean the tenant under the Existing Ballpark Lease.

“Extension Period” – shall have the meaning assigned to such term in the Lease.

“First Extension Period” – shall have the meaning assigned to such term in the Lease.

“Force Majeure” – shall have the meaning assigned to such term in the Lease.

“Franchise” – shall mean the rights granted by Major League Baseball to own and operate the MLB franchise currently known as the “Texas Rangers” in the operating territory set forth in the Major League Constitution.

“Franchise Term” – shall mean the period commencing on the Effective Date and ending January 1, 2054; provided, however, said period shall automatically be extended in the following circumstances: (1) an additional ten (10) years, ending January 1, 2064, in the event the Tenant exercises the Purchase Option at the end of the Initial Term or (2) an additional five (5) years for each Extension Period entered into by the Tenant, ending January 1, 2059, if the First Extension Period is entered into and January 1, 2064, if the Second Extension Period is entered into.

“Governmental Authority(ies)” – shall have the meaning assigned to such term in the Lease.

“Home Games” – shall mean all of the Team’s regular season and postseason Major League Baseball games in which the Team is the “host” team and which Major League Baseball schedules to take place in the Team’s operating territory, as defined in the Major League Constitution.

“Initial Term” – shall have the meaning assigned to such term in the Lease.

“International Play” – shall mean any baseball-related tour, game, clinic or competition that is scheduled by Major League Baseball and/or the Major League Baseball Players Association and which is staged (a) outside of the United States or the province of Ontario, Canada, or (b) within or without the United States or the province of Ontario, Canada against a foreign club or clubs.

“League Labor Dispute” – shall mean any of the following that results in Major League Baseball canceling the Home Game in question: any (i) owners’ lock-out, (ii) players’ or umpires’ strike, or (iii) other Major League Baseball labor disputes.

“Lease” – shall mean that certain Ballpark Lease Agreement by and between the City, as landlord, and Rangers Stadium Company LLC, as tenant, pertaining to the Ballpark, effective as of _____, 2017, and any and all amendments thereto (and assignments thereof).

“Liens” – shall have the meaning assigned to such term in Section 2.2 hereof.

“Major League Baseball” or “MLB” – shall mean, depending on the context, any or all of (i) the BOC, each other MLB Entity and/or all boards and committees thereof, including, without limitation, the Executive Council and the Ownership Committee, and/or (ii) the Major League Clubs acting collectively.

“Major League Baseball Club” or “Major League Club” – shall mean any professional baseball club that is entitled to the benefits, and bound by the terms, of the Major League Constitution.

“Major League Constitution” – shall mean the Major League Constitution adopted by the Major League Clubs (which amended and superseded the Major League Agreement dated January 1, 1975, the Agreement in re Major Leagues Central Fund dated as of December 8, 1983, as amended, and the respective constitutions of the former American and National Leagues of Professional Baseball Clubs) as the same may be amended, supplemented, or otherwise modified from time to time in the manner provided therein and all replacement or successor agreements that may in the future be entered into by the Major League Clubs.

“MLB Agency Agreement” – shall mean the Amended and Restated Agency Agreement, effective as of January 1, 2013, by and among Major League Baseball Properties, Inc., the various Major League Baseball Clubs, and the BOC (and the Operating Guidelines related thereto), as may be amended, supplemented, or otherwise modified from time to time.

“MLB Approval” – shall mean, with respect to the Major League Baseball Clubs, the Commissioner, the BOC or any other MLB Entity, any approval, consent or no-objection letter required to be obtained from such person(s) pursuant to the MLB Rules and Regulations (as exercised in the sole and absolute discretion of such person(s)).

“MLB Entity” – shall mean each of the BOC, Major League Baseball Properties, Inc., The MLB Network, LLC, MLB Advanced Media, L.P., and/or any of their respective present or future affiliates, assigns or successors.

“MLB Governing Documents” – shall mean the following documents as in effect from time to time and any amendments, supplements, or other modifications thereto and all replacement or successor documents thereto that may in the future be entered into: (a) the Major League Constitution, (b) the Basic Agreement between the Major League Baseball Clubs and the Major League Baseball Players Association, (c) the Professional Baseball Agreement between the BOC, on behalf of itself and the Major League Baseball Clubs, and the National Association of Professional Baseball Leagues, (d) the Major League Rules (and all attachments thereto), (e) the Interactive Media Rights Agreement, effective as of January 20, 2000, by and among the BOC, the various Major League Baseball Clubs, MLB Advanced Media, L.P. and various other MLB Entities and (f) each agency agreement and operating guidelines among the Major League Baseball Clubs and any MLB Entity, including, without limitation, the MLB Agency Agreement.

“MLB Ownership Guidelines” – shall mean the “Memorandum re: Ownership Transfers – Guidelines & Procedures” issued by the Commissioner on February 16, 2017, as the same may be amended, supplemented, or otherwise modified from time to time.

“MLB Rules and Regulations” – shall mean (a) MLB Governing Documents, (b) any present or future agreements or arrangements entered into by, or on behalf of, the BOC, any other MLB Entity or the Major League Baseball Clubs acting collectively, including, without limitation, agreements or arrangements entered into pursuant to the MLB Governing Documents, and (c) the present and future mandates, rules, regulations, policies, practices, bulletins, by-laws, directives or guidelines issued or adopted by, or on behalf of, the Commissioner, the BOC or any other MLB Entity as in effect from time to time, including, without limitation, the MLB Ownership Guidelines and the MLB Securitization Guidelines.

“MLB Securitization Guidelines” – shall mean, collectively, the “Memorandum re: Securitization of Major League Club Assets” issued by the BOC on November 9, 2005, and the “Memorandum re: Securitization of Major League Club Assets – Amended & Restated Guidelines & Procedures” issued by the BOC on November 11, 2016, in each case, as the same may be amended, supplemented, or otherwise modified from time to time.

“New Franchise Agreement” – shall mean that certain New Franchise Agreement by and among the City, Arlington Sports Facility Development Authority, Inc., and Texas Rangers Baseball Partners, executed June 13, 2007, and any and all amendments thereto (and assignments thereof).

“North Texas” – shall mean the following counties in Texas: Tarrant, Dallas, Ellis, Johnson, Parker, Wise, Denton, Collin, Hunt, Delta, Rockwall, and Kaufman.

“Operational Date” – shall have the meaning assigned to such term in the Lease.

“Owner” – shall mean Rangers Baseball LLC and any successor in interest to the ownership rights in the Franchise and the Team, including a purchaser or mortgagee (that acquires such rights by foreclosure or otherwise) of such ownership rights.

“Ownership Committee” – shall mean the Ownership Committee of Major League Baseball, and any successor body thereto.

“Project Documents” – shall have the meaning assigned to such term in the Ballpark Funding and Closing Agreement.

“Purchase Option” – shall mean the option to purchase the Rangers Complex granted by the City to Tenant in the Purchase Option Agreement.

“Purchase Option Agreement” – shall mean that certain Purchase Option Agreement between the City and Rangers Stadium Company LLC, effective as of _____, 2017, and any and all amendments thereto (and assignments thereof).

“Rangers Complex” – shall have the meaning assigned to such term in the Lease.

“Second Extension Period” – shall have the meaning assigned to such term in the Lease.

“Team” – shall mean collectively the players, coaches, trainers, and administrative employees who represent the Franchise from time to time in competitive baseball games in Major League Baseball, known as the “Texas Rangers.”

“Tenant” – shall have the meaning assigned to such term in the Lease.

“Term” – shall have the meaning assigned to such term in the Lease.

“Zoning District Ordinance” – shall have the meaning assigned to such term in the Lease.

ARTICLE II LOCATION AND OTHER TEAM OBLIGATIONS

Section 2.1 Location Commitments.

- (a) During the Development Period. Subject to Section 2.6 below, and further subject to the provisions set forth in Section 2.3 hereof, the Owner shall during the Development Period: (i) cause the Team to play all of its Home Games at the Existing Ballpark continuously and throughout the Development Period, and (ii) locate and maintain its principal corporate and executive offices at the Existing Ballpark.
- (b) From and After the Operational Date. Subject to the rights of termination set forth in Section 2.6 hereof, and further subject to the provisions set forth in Section 2.3 hereof, the Owner shall, commencing on the Operational Date and

continuing throughout the remainder of the Franchise Term: (i) cause the Team to play all of its Home Games at the Ballpark, and (ii) locate and maintain its principal corporate and executive offices at the Ballpark.

- (c) Notwithstanding the provisions of Section 2.1(a) and (b), (i) the Owner's obligations to cause the Team to play its Home Games at the Existing Ballpark pursuant to Section 2.1(a), and at the Ballpark pursuant to Section 2.1(b), shall be subject to reasonable exceptions for International Play and play in neutral venues, and (ii) in the case of postseason games, the Team shall be permitted to play at any location required by Major League Baseball.

Section 2.2 Sale or Mortgage of Franchise; Involuntary Liens.

- (a) The Owner may at its sole election at any time or from time to time assign, sell, or otherwise transfer, or grant or place security interests or mortgage liens (collectively, the "Lien(s)") upon, any and all ownership rights in the Franchise; provided, however, that any such assignment, sale, transfer, or Liens shall be made or granted subject to the requirements and obligations of Owner under this Agreement, so that any person or party who acquires the Franchise either: (i) pursuant to any such assignment, sale or transfer, or (ii) pursuant to any foreclosure or other transaction under any such Liens, shall acquire and take the Franchise strictly subject to the requirements and burdens imposed on the Owner under Section 2.1 hereof and under the other provisions of this Agreement, and such person or party shall thereafter be deemed the Owner for purposes of this Agreement. Upon any such assignment, purchase or transfer, or granting of any such Liens, Owner shall (i) obtain from each such assignee, purchaser, or transferee, and use commercially reasonable efforts to obtain from the holder of any such Lien (or, if more than one holder, their authorized agent or representative (such holder or such authorized agent or representative, as the case may be, the "Lien Holder")), as the case may be, a written acknowledgment and acceptance of the terms, provisions, and restrictions contained herein, and shall provide an executed copy thereof to the City, and (ii) in the case of the granting of any such Liens, use commercially reasonable efforts to obtain from the Lien Holder a written acknowledgement in the instrument creating such Lien that any sale is subject to the terms of this Agreement.
- (b) In the event that involuntary liens or material encumbrances are placed on the Franchise that, upon foreclosure thereof, would result in a violation of this Agreement, the Owner will use its good faith efforts promptly to remove such liens or material encumbrances after reasonable contest periods.

Section 2.3 Team Play of Home Games if Existing Ballpark or Ballpark Untenantable; League Labor Disputes.

- (a) Notwithstanding Owner's obligations to cause the Team to play its Home Games at the Existing Ballpark pursuant to Section 2.1(a) above, and the Ballpark

pursuant to Section 2.1(b) above, and subject to the rights of termination set forth in Section 2.6 below, from and after the Effective Date, if the Existing Ballpark, during the Development Period, or the Ballpark, after the Operational Date, becomes unsuitable for playing Home Games by reason of: (1) Force Majeure, or (2) casualty (any such period of unsuitability pursuant to the foregoing conditions (1) and/or (2) referred to herein as an “Untenantable Period”), the Owner:

- (i) Shall continuously designate during the Untenantable Period a ballpark of its selection that is located in North Texas as the location in which the Home Games shall be played to the extent required by Section 2.1, provided that a ballpark of reasonable size, quality, and configuration is located in North Texas and is available on reasonable terms and is in compliance with MLB Rules and Regulations as a venue for playing Home Games, and shall cause the Team to play all of its Home Games at that ballpark to the extent required by Section 2.1; provided, however, during any Untenantable Period at the Ballpark, after the Operational Date, the Owner shall cause the Team to play all of its Home Games at the Existing Ballpark so long as the Existing Ballpark is in compliance with MLB Rules and Regulations as a venue for playing Home Games; and
- (ii) If, at any time, during any Untenantable Period, a stadium meeting the standards required by Section 2.3(a)(i) above is not available in North Texas, may play Home Games in any facility approved by Major League Baseball, regardless of its location, until such time as a ballpark in North Texas becomes available meeting the characteristics and conditions contemplated in Section 2.3(a)(i) above.

From and after the first date on which the Existing Ballpark, if during the Development Period, or the Ballpark, if after the Operational Date, is repaired or restored and the Untenantable Period ends, the Team shall return to the Existing Ballpark, if during the Development Period, or the Ballpark, if after the Operational Date, and play all subsequent Home Games therein to the extent required by Section 2.1 throughout the remainder of the Franchise Term.

- (b) Notwithstanding the provisions of Section 2.1 hereof to the contrary, if there occurs, from time to time, a League Labor Dispute, then, during the pendency thereof, the Team shall not be obligated to play at the Existing Ballpark, at the Ballpark, or in North Texas, as applicable, any Home Games that have been canceled by Major League Baseball as a result of such League Labor Dispute; provided, that any replacement or substitute Home Games played under the auspices and authority of Major League Baseball must be played at the Existing Ballpark, at the Ballpark, or in North Texas, as applicable and to the extent required by Section 2.1, subject to the terms of Section 2.3(a) hereof.

Section 2.4 Unconditional Requirements; Access to Ballpark.

- (a) Owner's Unconditional Obligations. Subject to the provisions of Section 2.6 hereof, the Owner's obligations under this Agreement are not conditioned or contingent upon the completion of construction or continued suitability for use by the Team of the Existing Ballpark or the Ballpark, or the presence of adequate and convenient parking facilities and the locations thereof.
- (b) Access to Ballpark. So long as City has not terminated the Lease in accordance with its terms, the Owner shall be authorized, with the joinder of the City if required, to directly enforce the obligations of the Tenant under the Lease to provide to it continuous access to and use of the Ballpark pursuant to the requirements of Section 5.1(c) of the Lease and any other applicable provisions of the Project Documents. If the Lease, or Tenant's right of possession under the Lease, is terminated by the City, access will be provided under and subject to the provisions of Section 2.4(c).
- (c) Owner Lease on Same Terms as Tenant Lease. If Tenant's right to possession under the Lease is terminated by the City pursuant to the terms of the Lease, the Owner shall automatically assume the obligations of the "Tenant" under the Lease without further action required by the City or the Owner; provided, however, the City and the Owner shall, at the request of either party, enter into a new lease containing identical terms as the Lease, except that the term of such new lease will be for the then unelapsed Term (subject to extension upon the exercise of any then remaining extension options). If the Lease is terminated by the City pursuant to the terms of the Lease, the Owner shall immediately and in connection with such termination enter into a new lease as "Tenant" with the City containing identical terms as the Lease, except that the term of such new lease will be for the then unelapsed Term (subject to extension upon the exercise of any then remaining extension options) (any new lease described in this Section 2.4(c), a "New Lease"). Within thirty (30) days after becoming "Tenant" under the Lease (or New Lease) and provided that no obligations guaranteed by the Owner as "Guaranteed Obligations" under that certain Lease Guaranty dated _____ from the Owner to the City are outstanding, the Owner may designate a third party to assume the Owner's obligations as Tenant under the Lease (or under a New Lease executed and delivered as provided in this Section 2.4(c)).
- (d) Notwithstanding anything herein to the contrary, the City and the Owner shall negotiate in good faith to modify the provisions of the above subsection 2.4(c) in order to facilitate the satisfaction of the requirements of third-party lenders to Tenant and/or the Owner; provided, however, the City shall not be obligated to agree to any modification of this Agreement that materially and adversely modifies, alters, affects, or impairs the City's rights under this Agreement.

Section 2.5 Replacement of Prior Agreements.

The City and Owner hereby acknowledge and agree that this Agreement replaces all prior agreements between the Parties, including the New Franchise Agreement, with respect to the obligations of the Owner to operate the Franchise and the Team at the Existing Ballpark during the Development Period and the Ballpark from and after the Operational Date, and that this Agreement is the only agreement of the Parties with respect to such obligations.

Section 2.6 Limited Rights of Termination.

Notwithstanding the other provisions of this Agreement, the Owner shall have the right to terminate this Agreement in the following, but under no other, circumstances:

- (a) Breach of Agreements. If, during the Development Period, the City fails to provide the City Contribution as required under the Ballpark Funding and Closing Agreement (and such default is continuing beyond the expiration of any applicable cure period); or if the City defaults in its warranties or covenants contained in Article V or Section 3.1 of this Agreement.
- (b) Termination of Lease. If the Lease is terminated pursuant to Sections 5.3(d), 10.3, 11.3, or 11.4(b) of the Lease (or the similar provisions of a New Lease, as the case may be, pursuant to Section 2.4(c) hereof).
- (c) Termination of Existing Ballpark Lease. If, during the Development Period, the Existing Ballpark Lease is terminated pursuant to Sections 1.3(b), 5.3(b)(i), 10.2 (following a breach by the City of Section 12.1(f) thereof), 11.3, or 11.4(b) of the Existing Ballpark Lease.
- (d) If the City modifies or repeals any portion of the Zoning District Ordinance relating to property owned by the City and leased to the Owner or its Affiliate, without the prior agreement of the Owner or its Affiliate.

**ARTICLE III
WARRANTIES AND SPECIAL COVENANTS**

Section 3.1 By the City.

The City warrants, covenants, and agrees as follows:

- (a) The City is authorized by the Act and other applicable law to execute and deliver the Existing Ballpark Lease, the Lease, the Purchase Option Agreement, and this Agreement; and
- (b) The City has irrevocably committed pursuant to the Ballpark Funding and Closing Agreement to deposit the City Contribution from lawfully available funds and the

same are not subject to withdrawal or recall for any purpose at any time except in accordance with applicable Project Documents.

Section 3.2 By the Owner.

The Owner warrants, covenants, and agrees as follows:

- (a) The execution and delivery of this Agreement does not violate any contract, covenant, agreement, loan document, mortgage, judgment of a court, or regulatory proceeding to which the Owner is a party or is subject.
- (b) The Owner is the owner of the Franchise and the Team, has full power and authority to execute this Agreement and to honor the restrictions contained herein, and promises to use all efforts to keep the Franchise in full force and effect and in good standing in accordance with the contracts, rules, and regulations of Major League Baseball, including the MLB Rules and Regulations.
- (c) This Agreement is binding and enforceable against the Owner and all necessary approvals with respect to Owner's execution and performance of this Agreement have been obtained. Upon transfer of the Franchise as referenced in Section 2.2 above, the transferor Owner shall have no further obligations under this Agreement.

**ARTICLE IV
SPECIFIC PERFORMANCE**

Section 4.1 Adoption of Act.

The City and the Owner acknowledge and agree that this Agreement is an agreement of the kind and type and substance described in Section 334.005 of the Act and that said section is applicable hereto.

Section 4.2 Acknowledgments and Findings.

The Owner acknowledges and agrees that: (i) the presence of the Team in the City and at the Existing Ballpark and Ballpark, as applicable, in accordance with the terms hereof, provides a unique value to the City that cannot be adequately valued in money; and (ii) the City will suffer irrevocable injury if the Owner breaches its obligations to play the Home Games of the Team at the Existing Ballpark and the Ballpark when and as herein required; and, accordingly, the Owner and the City agree that this Agreement is enforceable by specific performance in the courts of the State of Texas, and by other equitable remedies, including injunctive remedies. The Owner expressly waives the right to require the City to post any bonds or other security as a condition to the granting of any equitable relief by a court.

ARTICLE V
EXCLUSIVE RIGHT TO EXHIBIT PROFESSIONAL BASEBALL

Section 5.1 Exclusive Right.

As part of the consideration for this Non-Relocation Agreement and the other Project Documents, it is agreed that so long as Owner is not in default of this Non-Relocation Agreement and so long as Tenant is not in default of the Lease then the Owner shall have the sole and exclusive right and privilege of exhibiting professional baseball in not only the Ballpark, but any other stadium owned or controlled by the City, or any Affiliate or instrumentality of the City, within the limits of the City of Arlington. In addition, the City agrees that, without the Owner's prior written consent (which consent may be withheld in the Owner's sole discretion), the City will not enter into a lease or other contractual arrangement with any other person for, or that allows, the exhibition of professional baseball during the Franchise Term. For purpose of this Agreement, "professional baseball" shall mean baseball as regularly played in the United States between member teams within a baseball association such as Major League Baseball or other similar league or leagues now or hereafter organized, and including any teams without league affiliation playing a comparable style and brand of professional baseball. During any time period in which there is an uncured default by Owner of this Non-Relocation Agreement or an uncured default by Tenant of the Lease, the City shall be permitted, but not obligated, to enter into a lease or other contractual arrangement with any other person that allows for the exhibition of professional baseball at the Ballpark or any other stadium owned or controlled by the City, or any Affiliate or instrumentality of the City, within the limits of the City of Arlington. The hereinabove stated provisions of this Section 5.1 shall constitute restrictive covenants which run with and bind the Rangers Complex, including the Ballpark, and any other stadium owned or controlled by the City or any Affiliate or instrumentality of the City within the limits of the City during the Franchise Term. The Owner is deemed the beneficiary of the aforesaid restrictive covenants.

Section 5.2 Remedies.

- (a) Notwithstanding anything to the contrary contained in this Agreement (other than Section 2.6), the Owner's sole and exclusive remedies for any violation of Section 5.1 by the City, or any Affiliate of the City, shall be as follows: (i) the Owner shall have the right to obtain an injunction prohibiting any such violation, or (ii) so long as any such violation exists, the Owner also shall have the continuing rights to either (X) abate all payments to be made under the Lease or Existing Ballpark Lease, as applicable, and any of the other Project Documents, or (Y) upon sixty (60) days' written notice to the City, during which time the City may cure such breach, to terminate this Agreement and the other Project Documents and to relocate the Team to any other location whether within or outside the limits of Tarrant County, Texas, without any accountability or liability to the City, and be deemed thereupon released from all obligations under this Agreement and the

Project Documents, except those that expressly survive the expiration or termination of this Agreement or any such Project Document.

- (b) In connection with the rights granted to the Owner in this Article V, the City recognizes that the Owner has contributed and/or shall contribute significant capital costs to the construction of the Ballpark; and the City acknowledges and agrees that monetary damages could not be calculated to compensate the Owner for any violation by the City of the covenants, duties, and obligations contained in this Article V. Accordingly, the City agrees that (i) the Owner may restrain or enjoin any violation as provided above in this Article V or threatened violation of any covenant, duty, or obligation contained in this Article V without the necessity of posting a bond or other security and without any further showing of irreparable harm, balance of harms, consideration of the public interest or the inadequacy of monetary damages as a remedy, (ii) the administration of an order for injunctive relief would not be impracticable and, in the event of any violation of any covenant, duty or obligation contained in this Article V the balance of hardships would weigh in favor of entry of injunctive relief, (iii) the Owner may enforce any such covenant, duty or obligation contained in this Article V through specific performance, and (iv) the Owner may seek injunctive or other form of equitable relief from a court of competent jurisdiction in order to maintain the status quo and enforce the terms of this Article V on an interim basis pending the outcome of the controversy. The City further agrees and irrevocably stipulates that the rights of the Owner to injunctive relief pursuant to this Article V shall not constitute a “claim” pursuant to Section 101(5) of the United States Bankruptcy Code and shall not be subject to discharge or restraint of any nature in any bankruptcy proceeding involving the City.

ARTICLE VI GENERAL PROVISIONS

Section 6.1 Severability.

If any term or provision of this Agreement, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable in any jurisdiction, as to such jurisdiction, the remainder of this Agreement, or the application of such term or provisions to the persons or circumstances other than those as to which such term or provision is held invalid or unenforceable in such jurisdiction, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 6.2 Amendment and Waiver.

Neither this Agreement nor any of the terms hereof, including, without limitation, this Section 6.2, may be terminated, amended, supplemented, waived, or modified orally

or by conduct of the Parties, but only by an instrument in writing (a) signed by the party against which the enforcement of the termination, amendment, supplement, waiver, or modification shall be sought and (b) for which any required MLB Approval has been granted.

Section 6.3 Parties in Interest; Limitation of Rights of Others.

The terms of this Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their permitted successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any person (other than Major League Baseball, the Parties and their permitted successors and assigns as expressly provided herein) any legal or equitable right, remedy, or claim under or in respect of such instrument, or any covenants, conditions, or provisions contained therein, or any standing or authority to enforce the terms and provisions of such instrument.

Section 6.4 Counterparts.

This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same Agreement. All signatures hereto need not be on the same counterpart.

Section 6.5 Governing Law.

This Agreement, and the actions of the Parties hereunder, shall in all respects be governed by, and construed in accordance with, the laws of the State of Texas.

Section 6.6 Dispute Resolution.

- (a) In the event any dispute, controversy, or claim between or among the Parties hereto arises under this Agreement or any right, duty, or obligation arising here from or the relationship of the Parties hereunder (a “Dispute or Controversy”), including, but not limited to, a Dispute or Controversy relating to the effectiveness, validity, interpretation, implementation, termination, cancellation, or enforcement of this Agreement, the Parties shall first attempt in good faith to settle and resolve such Dispute or Controversy by mutual agreement in accordance with the terms of this Section 6.6(a). In the event a Dispute or Controversy arises, any party hereto shall have the right to notify the other party hereto that the notifying party has elected to implement the procedures set forth in this Section 6.6(a). Within fifteen (15) days after delivery of any such notice by one party to the other party regarding a Dispute or Controversy, a representative of each of the Parties shall meet at a mutually agreed time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy. Should a mutual resolution not be obtained within fifteen (15) days after the meeting of the Parties’ representatives for such purpose, or such longer period as the Parties may mutually agree upon, then either party may by notice to the other

party submit the Dispute or Controversy to arbitration in accordance with the provisions of Section 6.6(b) and Exhibit "A" hereto (the "Arbitration Procedures"). Upon the receipt of notice of referral to arbitration hereunder, the receiving party shall be compelled to arbitrate the Dispute or Controversy in accordance with the terms of this Section 6.6 and Exhibit "A" hereto without regard to the justifiable character or executory nature of such Dispute or Controversy.

- (b) Each party hereto hereby agrees that any Dispute or Controversy which is not resolved pursuant to the provisions of Section 6.6(a) above shall be submitted to binding arbitration hereunder and shall be resolved exclusively and finally through such binding arbitration in accordance with the Arbitration Procedures. This Section 6.6(b) and Exhibit "A" hereto are and hereby constitute a written agreement by the Parties hereto to submit to arbitration any such Dispute or Controversy arising after the effective date of this Agreement within the meaning of Section 171.001 of the Texas Civil Practice and Remedies Code.
- (c) Notwithstanding any provision of this Agreement to the contrary, any party hereto may seek injunctive relief or other form of ancillary relief at any time from any court of competent jurisdiction in Tarrant County, Texas. In the event that a Dispute or Controversy requires emergency relief before the matter may be resolved under the Arbitration Procedures, notwithstanding that any court of competent jurisdiction may enter an order providing for injunctive or other forms of ancillary relief, the Parties hereto expressly agree that the Arbitration Procedures will still govern the ultimate resolution of that portion of the Dispute or Controversy not resolved pursuant to said court order.

Section 6.7 Interpretation and Reliance.

No presumption will apply in favor of any party in the interpretation of this Agreement or in the resolution of any ambiguity of any provision thereof. All headings used in this Agreement are for convenience of reference only, are not part of this Agreement and shall not affect the construction of or be taken into consideration in interpreting this Agreement.

Section 6.8 Attorneys' Fees.

Subject to Section 6.6 hereof, should the City or Owner engage the services of attorneys or institute legal proceedings to enforce its rights or remedies under this Agreement, the prevailing party to such dispute or proceedings shall be entitled to recover its reasonable attorneys' fees and similar costs incurred in connection with the resolution of such dispute or the institution, prosecution, or defense in such proceedings, as adjudged by the applicable court, from the non-prevailing party. This provision is separate and several and shall survive the merger of this Agreement into any judgment on such instrument.

Section 6.9 Notices.

All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by first-class mail, postage prepaid, or delivered by hand, messenger, or reputable overnight courier, and shall be deemed given when received at the addresses of the Parties set forth below, or at such other address furnished in writing to the other Parties hereto:

If to the City

City of Arlington, Texas
City Manager's Office
c/o City Manager
101 W. Abram Street
Arlington, Texas 76004-3231

If to the Owner

Rangers Baseball LLC
1000 Ballpark Way, Suite 400
Arlington, Texas 76011
Attn: Rob Matwick
Copy to: Katie Pothier

This Non-Relocation Agreement has been executed and delivered on and as of the Effective Date, as above defined.

CITY OF ARLINGTON, TEXAS

BY: _____

Signature

Typed or Printed Name

Typed or Printed Title

ATTEST:

MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY: _____

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

CITY OF ARLINGTON, TEXAS
Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of the **CITY OF ARLINGTON**, a municipal corporation of Tarrant County, Texas, and as _____ thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2017.

Notary Public in and for
The State of Texas

My Commission Expires

Notary's Printed Name

RANGERS BASEBALL LLC

BY: _____

Signature

Typed or Printed Name

Typed or Printed Title

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

RANGERS BASEBALL LLC
Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, who is known to me or who was proved to me on the oath of _____ (*name of person identifying the acknowledging person*) or who was proved to me through _____ (*description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person*) to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **RANGERS BASEBALL LLC**, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2017.

Notary Public in and for
The State of Texas

My Commission Expires

Notary's Printed Name

EXHIBIT "A"

Arbitration Procedures

[To be reviewed by MLB; should include concept that arbitrator cannot rule in a manner that conflicts with MLB R&R]