

**AMENDMENT NUMBER FIVE TO
AGREEMENT DATED SEPTEMBER 10, 2012
BETWEEN CITY OF ORLANDO AND
SHINGLE CREEK REAL ESTATE ADVISORY COMPANY, LLC**

THIS AMENDMENT TO AGREEMENT ("Amendment") is made and entered into this ____ day of _____, 2016 by and between the **City of Orlando**, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as the "City" and **Shingle Creek Real Estate Advisory Company, LLC**, hereinafter referred to as the "Advisor".

WHEREAS, the City and the Advisor entered into an Agreement ("the Agreement") under the date of September 10, 2012, whereby the latter would perform certain advisory services with respect to the construction of Camping World Stadium (f/k/a the Florida Citrus Bowl); and

WHEREAS, the Parties amended the Agreement by date of May 15, 2015; and

WHEREAS, the Parties executed Amendment Number Two (2) to the Agreement by date of January 8, 2016; and

WHEREAS, the Parties executed Amendment Number Three (3) to the Agreement by date of May 10, 2016; and

WHEREAS, the Parties executed Amendment Number Four (4) to the Agreement by date of August 17, 2016; and

WHEREAS, the City and the Advisor desire to amend the scope of services of said Agreement by extending the Term of the Agreement and modifying the Compensation for provision of services relating to potential further improvements ("Phase 2") to Camping World Stadium; and

WHEREAS, the City and the Contractor desire to amend the scope of services and compensation provisions of the Agreement to include advisory services with respect to the construction of the Dr. Phillips Center for the Performing Arts Stage 2 ("Stage 2").

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

I. SCOPE OF SERVICES

The City and the Contractor desire to amend Section 7.1 of the Agreement to

include the scope of services for Camping World Stadium Phase 2 and Dr. Phillips Center Stage 2 as outlined on Exhibits “A.5.1” and “A.5.2”, respectively, attached hereto and incorporated herein. In addition to the Scope of Services attached hereto, Article 1 “Defined Terms” is hereby amended to include the Dr. Phillips Center Stage 2 located in Orlando, Florida in the definitions of “Project” and “Site.” The Effective Date of this Amendment is January 1, 2017.

II. TERM OF THE AGREEMENT

The Term of the Agreement is hereby extended through December 31, 2020, and may be extended by further mutual written assent of the Parties.

III. COMPENSATION

Compensation for the advisory services for Dr. Phillips Center Stage 2 shall be reimbursed pursuant to the staff rates as set forth on Exhibit “B.5.2” attached hereto and incorporated herein and as set forth on the applicable fee multiplier described herein.

Article 7, Section 7.2 of the Agreement is hereby amended to modify payment for the Advisor’s Fee to be \$8,500 (per month) beginning January 1, 2017, and increased to \$12,500 per month when services are provided concurrently for both DPC Stage 2 and Camping World Stadium Phase 2 projects. The Advisor’s Fee will be reduced to \$5,000 per month at the time from Substantial Completion/TCO until Final Completion of DPC Stage 2. Further, compensation for the advisory services for potential Camping World Stadium Phase 2 improvements shall be reimbursed pursuant to the staff rates as set forth on **Exhibit “B.5.1”**, set forth on the applicable fee multiplier described herein.

In all other respects, and except as specifically modified and amended herein, the Agreement dated September 10, 2012, inclusive of the Amendment to the Agreement on May 15, 2015, Amendment Number Two to the Agreement dated January 8, 2016, Amendment Number Three to the Agreement on May 10, 2016 and Amendment Number Four to the Agreement on August 17, 2016 shall continue in full force and effect as written and the parties hereto agree to be bound thereby.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first written above.

PROCUREMENT & CONTRACTS DIVISION
City of Orlando, Florida

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the
City of Orlando, Florida, only.

By: _____
Chief Procurement Officer

Date: _____, 2016

David Billingsley, CPSM, C.P.M.
Name, Typed or Printed

Date: _____, 2016

ASSISTANT CITY ATTORNEY
ORLANDO, FLORIDA

CONTRACTOR

By: _____
Signature

Name & Title, Typed or Printed

CORPORATE SEAL

Name of Company, Corp., etc.

Mailing Address

City, State and Zip

Area Code/Telephone Number

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____, as the _____, on behalf of _____

He/she (is) personally known to me or (has) produced _____ (type of identification)

WITNESS my hand and official seal this _____ day of _____, 2016.

(SEAL)

Signature of Person Taking Acknowledgment

Typed, Printed or Stamped Name of Person
Taking Acknowledgment

My Commission Expires:

EXHIBITS

EXHIBIT A.5.1	Scope of Services for Camping World Stadium Phase 2
EXHIBIT A.5.2	Scope of Services for Dr. Phillips Center Stage 2
EXHIBIT B.5.1	Staff Rates and Project Staffing Plan for Camping World Stadium Phase 2
EXHIBIT B.5.2	Staff Rates and Project Staffing Plan for Dr. Phillips Center Stage 2

EXHIBIT A.5.1 - SCOPE OF SERVICES FOR CAMPING WORLD STADIUM PHASE 2**I. Project Planning, Selection & Design Phase**

1. Assist City with RFQ/RFP Process for selection of CM
 - a. Includes developing documents for RFQ/RFP, advertisements, selection procedures, and defining project scope, minimum qualifications and scoring systems
 - b. Coordinate the procurement process with City
 - c. Assist City in negotiations with final CM Contract
2. Negotiate new Amendment to Architect's Agreement for design services associated with Phase 2
3. Review and provide comments to City regarding other Professional Service Agreements
4. Review Blueprint including MBE/WBE documentation and program and assist City in the implementation of the Blueprint and MBE/WBE program by monitoring and regularly reporting to City the Project Team's performance relative to the Blueprint and by assisting the City obtain participation by the Project Team in the goals of the Blueprint program
5. Review and provide comments to City regarding the Project Budget
6. Assist City with review and analysis of all cost estimates prepared by CM
7. Assist City with developing cost control systems enabling monthly reconciliation of Project Budget
8. Assist City with managing all contingency accounts
9. Review and provide comments to City regarding the Project Schedule
10. Assist City with general design input including programming, space allocation and adjacency requirements
11. Review and provide comments to City regarding the Schematic Design Documents, Design Development Documents, Construction Documents and bid packages
12. Attend, as requested by City, meetings of City or the Project Team
13. Attend, as requested by City, public forum and community meetings related to the Project as requested by City
14. Assist, as requested by City, in design coordination with local municipalities/representative(s) to endeavor to obtain compliance and timely approvals
15. Review with Program Manager, Architect and consultants the project specifications with particular emphasis on material selections, product life-cycle expectations, budget impacts, construction phasing and sequencing

16. Assist, as requested by City, review of design
17. Assist, as requested by City, in preparing FF&E schedule that includes cost information and integration requirements

II. Construction Phase

1. Assist City with required planning and zoning applications to obtain necessary approvals
2. Assist, as requested by City, in preparation of "IGMP/Final GMP pricing"
3. Assist, as requested by City, in the administration of the Architect and CM Agreements
4. Assist, as requested by City, with value engineering/cost saving suggestions
5. Assist, as requested by City, in:
 - a. Pre-Bid meetings
 - b. Bid meetings
 - c. Bid analyses
 - d. PCO Log reviews
 - e. MEP Systems reviews
 - f. Other meetings/reviews (as required)
6. Review and provide comments to City regarding Project Specifications for consistency with facility program and Project Budget
7. Review and provide comments to City regarding monthly cash flow estimates; forecast project costs and schedules as they relates to project financing and cash flow requirements
8. Review and provide comments to City regarding construction allowances, contingences and General Conditions; identify areas within proposed IGMP for possible inflated pricing; outline potential risks relating to all Contractor and Subcontractor pricing; monitor CM Contingency usage
9. Monitor, as requested by City, construction administration by Architect
10. Review and provide comments to City regarding all proposed changes relating to cost and schedule impacts
11. Review and provide comments to City regarding all monthly project invoices, construction payment applications, soft costs, fees, FF&E, signage, landscaping and other related project costs
12. Assist, as requested by City, with Project Team procurement and coordination of delivery and installation of all City directed FF&E systems and components.
13. Prepare Monthly Draw Requests for City approval/ payment

14. Assist City in obtaining all governmental approvals, including permits, inspections and completion certificates to allow for occupancy of the facility
15. Assist City in document controls/filing systems

III. Facility Opening / Project Closeout Phase

1. Review, comment and offer recommendations for, as requested by City, all close-out related construction issues
2. Monitor, as requested by City, Project closeout, including Punch List generation and completion, acceptance of equipment, and compilation/review of all operations and maintenance manuals
3. Assist City with Contractor/Operator in commissioning and assist in preparation and implementation of opening events
4. Assist City in developing an "Operations Task Force" that will monitor vital building systems which include HVAC, vertical transportation, electrical, plumbing, security, audio/visual, and life safety

Notwithstanding anything in this Agreement to the contrary:

1. Advisor shall not be required to provide professional services that constitute the practice or law, architecture, engineering, or contracting or any other professional service requiring licensure under the laws of the State of Florida.
2. While Advisor shall endeavor to guard City against deficiencies in the Work, City agrees that Advisor shall have no control over nor charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, safety precautions and programs, or any acts or omissions of Contractor or any other persons performing portions of the Work, other than Advisor's consultants.
3. Advisor shall not be responsible for the Project Team's failure to carry out the Work in accordance with the respective Contract Documents and plans and specifications and City agrees that this responsibility is borne solely by CM under their separate contracts with City.

Further, Advisor is not required hereunder to perform any of the following, except to the extent agreed in writing by City and Advisor:

4. Authorize deviations from the Contract Documents
5. Approve substitute materials or equipment
6. Personally conduct or participate in tests or third party inspections
7. Assume any of the responsibilities of CM's or any Contractor's superintendents or of Subcontractors
8. Expedite the Work for CM

9. Prepare or certify to the preparation of a record copy of the Construction Documents, Contract Documents, Design Documents, Design Development Documents, Schematic Design Documents, Change Orders, RFIs and other Modifications
10. Reject Work or require special inspection or testing
11. Accept, distribute, or transmit submittals made by Contractor except as expressly required by this Agreement
12. Order the contractors to stop the Work or any portion thereof

Exhibit A.5.2**Scope of Work for City of Orlando Project Director (PD)/ City Construction Representative (CCR)
for Dr. Phillips Center Stage 2**

The following activities are representative, but not totally inclusive, of the types of services that will be provided by the Orlando PD/ CCR:

1. Perform City's Construction Representative responsibilities as designated in the OPAC/ City Agreement and Stage 2 CM Agreement.
2. Evaluate design and construction delivery methods proposed by the DPC project team, and advise the City of any recommendations.
3. Ensure a master project schedule is created and maintained, and monitor and report progress to the City.
4. Ensure that budget estimates are created, maintained, and monitor and report progress to the City.
5. Identify, manage and/ or coordinate the delivery of all on-site and off-site improvements that are the responsibility of the City.
6. Coordinate in-house use of City personnel with regard to projects.
7. Coordinate City procurement/ purchasing opportunities with regards to supplies and materials where economically beneficial and feasible as appropriate with venue partners.
8. Attend or conduct project meetings with City staff, DPC project team, contract service providers, affiliate partners, oversight committee(s) and the public.
9. Review and evaluate plans, schedule and budgets at all stages of design and construction. Provide value-engineering recommendations to the City as requested.
10. Evaluate delivery schedule, including infrastructure construction, and identify potential conflict points.
11. Review all iterations of the GMP for compliance with the project budget, project program and the Interlocal Agreement.
12. Evaluate and approve pay requests from contract service providers and at all stage of design and construction.
13. Ensure the coordination of the maintenance of draw schedule as well as actual draws to be taken from the construction fund with the Department of Finance.
14. Ensure Owner Direct Purchase Program is implemented and utilized. Review requisitions and make recommendation to the City.
15. Evaluate and make recommendations to the City on all design and construction change requests.
16. Monitor the status of the Construction Manager's and Developer's Contingencies.
17. Assist with obtaining permits.
18. Assist with negotiation of construction claims and contract disputes.
19. Coordinate, organize, and provide staff support for the Mayor's CitizensOversight Committee(s).
20. Provide briefings to the Mayor and City Council members.
21. Advise the City on insurance including wrap-up insurance, bonding and safety issues.
22. Coordinate with and support the Blueprint Project Manager with the implementation of the City's Blueprint for Using Community Venues to create a sustainable economic impact.
23. Review project consultant/ contractor procurement and contract documents, participate in procurement evaluation as assigned, and coordinate City (including City Council) approvals as required.
24. Ensure a tracking system is in place and being utilized for quality concerns/ issues and that items are being resolved in a timely manner.

25. Assist in the building opening and project close-out, as requested, with the DPC project team (i.e. Temporary Certificate of Occupancy, disputed punchlist items and permanent Certificate of Occupancy).

**EXHIBIT B.5.1—STAFF RATES
AND PROJECT STAFFING PLAN FOR CAMPING WORLD STADIUM PHASE 2**

Project Staff	Position	Hourly Rate	Projected Staffing (In Total Months)
Brent Daubach	Senior Project Director	\$107.90	12
TBD*	Project Manager/ Engineer*	\$95.00*	As Needed*
TBD*	Interiors/FF&E Consultant*	\$125.00*	As Needed*

The Hourly Rates set forth above shall be increased by 3% annually beginning January 1, 2017, and every twelve (12)-month period thereafter, as may be applicable.

The staffing levels and durations set forth in the above Project Staffing Plan shall not be exceeded by Advisor. Only with City's prior consent may additional staff be added to the above Staffing Plan.

The projected staffing (in total months) is based on a January 1, 2017 start of Phase 2 services.

*Subcontractor rates include the respective subcontractor's multiplier and shall not be subject to the multiplier set forth in section 7.2 of the Agreement. An Advisor's mark-up of 5% shall be applied to rates indicated above for services provided by a subcontractor.

**EXHIBIT B.5.2–STAFF RATES
AND PROJECT STAFFING PLAN FOR DR. PHILLIPS CENTER – STAGE 2**

Project Staff	Position	Hourly Rate	Projected Staffing (In Total Months)
Brent Daubach	Senior Project Director	\$107.90	34
TBD*	Project Manager/ Engineer*	\$95.00*	As Needed*

The Hourly Rates set forth above shall be increased by 3% annually beginning January 1, 2017, and every twelve (12)-month period thereafter, as may be applicable.

The staffing levels and durations set forth in the above Project Staffing Plan shall not be exceeded by Advisor. Only with City's prior consent may additional staff be added to the above Staffing Plan.

The projected staffing (in total months) is based on a January 1, 2017 start of Phase 2 services.

*Subcontractor rates include the respective subcontractor's multiplier and shall not be subject to the multiplier set forth in section 7.2 of the Agreement. An Advisor's mark-up of 5% shall be applied to rates indicated above for services provided by a subcontractor.