

ARCHITECT AND CONSULTANT AGREEMENT AND RELEASE

CORRECT LEGAL NAME OF CONSULTANT (called "Consultant") and HKS Inc. (called "Architect") are desirous of performing, directly or indirectly, services for Minnesota Sports Facilities Authority (called "Owner"), relative to the Minnesota Vikings Stadium (called "Project"). Consultant understands and agrees 1) that Architect is or will be in the process of negotiating an agreement with the Owner ("Prime Agreement"), and 2) that it is not certain that the Owner will execute such an agreement and, 3) that the Owner may not pay for any or all invoices submitted by the Architect, including those invoices for services provided by the Consultant. In the event the Owner does not pay the Architect for amounts due to the Consultant for services rendered and expenses incurred, the Consultant hereby agrees not to take any legal action against the Architect relative to such amounts and agrees to release Architect from any and all liability arising out of non-payment to the Consultant for any amounts of money due the Consultant and/or for the services rendered by the Consultant.

Consultant acknowledges that as consideration for this agreement and release, Architect shall pay Consultant \$10 upon receipt of Consultant's first invoice. Payments of compensation for services rendered and for Reimbursable Expenses incurred shall be made in accordance with the payment protocol for payments to the Architect, with the following conditions:

- (1) The Architect having been paid by the Owner for the portion of the compensation and expenses, ("Amounts Due"), of the Consultant is a condition precedent to when the Architect shall pay the Consultant such compensation and expenses and this condition of the Agreement shall not be construed as a time of payment clause. The Architect shall pay the Consultant for the portion of such fees and expenses due the Consultant within ten (10) days of receipt of payment by the Architect from the Owner for such fees and expense. The Consultant agrees that the Architect shall never be obligated to pay the Consultant unless and until Amounts Due are in hand received by the Architect. The Architect shall pay the Consultant in proportion to funds received from the Owner which are attributable to the Consultant's services rendered and Reimbursable Expenses incurred.
- (2) The Architect shall exert reasonable and diligent efforts to collect prompt payment from the Owner.
- (3) The conditions of payment by the Architect to the Consultant shall not be construed to limit, waive, affect, or impair any rights of the Consultant to file or enforce any mechanic's lien arising from non-payment of any Amounts Due the Consultant that remain unpaid to the Consultant. The Architect agrees to assign any lien rights it may have related to the Consultant's services to the Consultant so it may file a statutory mechanic's lien.
- (4) To the extent the payment terms of this Agreement are held to be void or unenforceable by a court of competent jurisdiction in an action filed against the Architect pursuant to this Agreement, the Consultant agrees that the payments of Amounts Due the Consultant shall be paid when the Architect is paid, and in the event the Architect is not paid Amounts Due the Consultant, the Consultant shall pursue the Owner directly for such payment and hereby releases the Architect from any obligation to pay the Consultant such Amounts Due.

Furthermore, the Consultant understands and agrees to the following: A copy of a proposed Architect-Consultant agreement for the Project, (called the "Consultant Contract") has been provided to Consultant for review. Consultant acknowledges that all terms and conditions are acceptable, and no changes will be considered or made to the Consultant Contract. After the Prime Agreement is executed, the Consultant will be provided a copy of the Prime Agreement for review; the Consultant will then have thirty (30) days to return an executed copy of the Consultant Contract to the Architect. In the event that the Consultant Contract is not executed by the Consultant within 30 days, all payments that may otherwise be due and payable to the Consultant will be held by the Architect until the Consultant Contract is executed by the Consultant.

This agreement shall be governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule. Any judicial proceeding brought with respect to this Agreement must be brought in any federal or state court of competent jurisdiction located in Dallas County, Texas.

Agreed:

NAME OF CONSULTANT:

By: _____

Title: _____

Date: _____

HKS INC.

By: Kevin A. Taylor

Title: Senior Vice President

Date: October 4, 2012

Project Number: 16246