

AGREEMENT FOR CONSTRUCTION SERVICES

This Agreement is made and entered into this 21st day of NOVEMBER, 2006 by and between the Multi-Purpose Stadium Authority of Lackawanna County, 235 Montage Mountain Road, Moosic, PA 18507 ("OWNER") and The Motz Group, an Ohio corporation ("CONTRACTOR").

In consideration of the mutual covenants and agreements set forth herein, OWNER and CONTRACTOR agree as follows:

ARTICLE 1 GENERAL PROVISIONS

1.1 Definitions

- 1.1.1 The "Project" is the design and construction of a natural turf baseball playing field, including root zone profile, irrigation, specialty infield and track materials and nursery-grown bluegrass sod at the Lackawanna County Stadium (the "Project Site").
- 1.1.2 The "Work" is the design and construction services required to complete the Project and includes labor, materials and equipment necessary to perform the Work, as defined in ARTICLE 2.
- 1.1.3 The "Contract Documents" which constitute the entire Agreement between OWNER and CONTRACTOR, consist of:
- (i) This Agreement For Construction Services and the following exhibits hereto:
 - a. The Scope of Work and Specifications attached as Exhibit "A" (the "Specifications");
 - b. The Schedule of Values attached as Exhibit "B";
 - c. The Field Construction Schedule attached as Exhibit "C"; and
 - d. Record drawings of the synthetic turf installation provided by the OWNER; and
 - e. Shop and construction drawings.
 - f. Instructions to Bidders
 - (ii) Change Orders approved in accordance with this Agreement; and
 - (iii) Written amendments to this Agreement executed by both parties.
- 1.1.4 The "Contract Price" shall mean all payments due CONTRACTOR as set forth in ARTICLE 6 and for any Change Orders as set forth in ARTICLE 7.

1.1.5 Other terms are defined elsewhere in this Agreement and such defined terms shall have the meaning ascribed whether used before or after such definition appears in this Agreement.

1.2 Interpretation

In the event of any inconsistencies between provisions of the Contract Documents, such inconsistencies shall be resolved by giving precedence first to the terms of this Agreement.

1.3 Extent of Agreement

The Contract Documents represent the entire agreement between OWNER and CONTRACTOR and supersede all prior negotiations, representations or agreements. The Contract Documents may be amended only by written instrument signed by both OWNER and CONTRACTOR.

**ARTICLE 2
CONTRACTOR RESPONSIBILITIES**

2.1 CONTRACTOR Services

CONTRACTOR shall furnish or arrange for the following services which shall constitute the Work, through its employees or subcontractors:

2.1.1 CONTRACTOR herewith provides OWNER with a Schedule of Values attached as Exhibit "B" allocating the Contract Price to the major segments of Work for the Project.

2.1.2 CONTRACTOR has developed and herewith provides a Field Construction Schedule (the "Schedule") attached as Exhibit "C" for the Project indicating the critical dates for starting and completing the various stages of the work, and containing the necessary information to allow OWNER and Lackawanna County ("LC") to monitor the progress of the Work.

2.1.3 CONTRACTOR will provide or cause to be provided all materials and equipment, supervision, inspection, testing, labor, tools, construction equipment and specialty items, whether temporary or permanent, and whether or not incorporated into the Project, necessary to execute and complete the construction of the Project.

- 2.1.4 CONTRACTOR will provide two (2) years of post-Substantial Completion soil testing consultation to OWNER and LC, but shall not be required to provide any post-Substantial Completion turf maintenance.
- 2.1.5 CONTRACTOR shall take all necessary precautions to ensure the safety of its employees in connection with the Project, and shall comply with all applicable provisions of federal, state and municipal safety laws and shall include in all subcontracts provisions which require its subcontractors to be responsible for the safety of their employees in connection with the Project, and to comply with all applicable provisions of federal, state and municipal safety laws. It is agreed that CONTRACTOR shall have no responsibility for the abatement of safety hazards resulting from work at the job site carried on by other persons or by OWNER's or LC's separate contractors, or by OWNER or LC, or persons for which the OWNER or LC is responsible, and OWNER and LC shall comply with, and agree to cause any such separate contractors or persons to comply fully with all applicable provisions of federal, state and municipal safety laws and regulations.
- 2.1.6 CONTRACTOR shall give all notices and comply with laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Project.
- 2.1.7 CONTRACTOR shall pay all royalties and license fees required by the Project. CONTRACTOR shall indemnify and defend both OWNER and LC from and against any and all demands, claims, suits, actions, and/or liability arising out of, based upon or relating to infringement of patent and/or other intellectual property rights and shall hold OWNER and LC harmless from any loss on account thereof, except that OWNER and LC shall be responsible for such loss when a particular design, process or product of a particular manufacturer is required by OWNER or LC.
- 2.1.8 CONTRACTOR shall keep the premises of the Project free from the accumulation of trash and other debris caused by CONTRACTOR's operations. At the completion of the Work, CONTRACTOR shall remove from the Project its tools, surplus materials, construction equipment, machinery and temporary facilities.
- 2.1.9 CONTRACTOR shall prepare Change Orders for OWNER's approval and execution in accordance with this Agreement.
- 2.1.10 CONTRACTOR shall maintain in good order at the site one set of construction drawings, specifications, product data, samples, shop drawings, Change Orders and other Modifications, marked currently to record major changes made during construction. These shall be delivered

to OWNER upon completion of the Project and shall be a condition precedent to the OWNER's obligation to make final payment.

- 2.1.11 CONTRACTOR shall be responsible for and shall coordinate all construction means, methods, techniques, sequences and procedures. CONTRACTOR shall correct at its expense Work which has not conformed to the Contract Documents.
- 2.1.12 It shall be the responsibility of CONTRACTOR to coordinate and integrate the Work on the Project with work being performed by other contractors in and about the Project Site.
- 2.1.13 CONTRACTOR shall be responsible for full and complete information concerning any requirements imposed by local or state government binding on contractors, subcontractors or material suppliers, which might impact the Cost of the Work or the Schedule, including prevailing wage obligations, Pa. Steel Procurement Act, minority or disadvantaged group hiring or subcontracting requirements, building and fire codes, local content obligations or other similar rules, regulations or policies.
- 2.1.14 CONTRACTOR shall obtain governmental permits necessary for the construction of the Project. In the event it is determined that a permit fee in whole or in part was improperly assessed or assessed, all refunds shall be made payable to the OWNER.
- 2.1.15 CONTRACTOR will pay for all materials furnished and services rendered for the performance of the contract and that any person or corporation furnishing materials or rendering services may maintain an action to recover for them against the obligor in the undertaking as though such person or corporation was named in the contract if the action was brought within one year after the time the cause of action accrued.
- 2.1.16 CONTRACTOR must obtain a certificate from the blue grass sod grower as referenced in Section 2.2.1.

2.2 Warranty Concerning Work

- 2.2.1 CONTRACTOR warrants to OWNER that the Work shall comply with the provisions of this Agreement, that all materials and equipment furnishes under this Agreement will be new, unless otherwise specified, and that all construction work will be of first class quality, free from improper workmanship and defective materials. This warranty does not include the bluegrass sod, beyond the point of substantial completion and acceptance by OWNER and LC, or defects caused by OWNER or LC modifications, abuse, improper maintenance or operation.
CONTRACTOR shall supply a certification from the blue grass sod

grower certifying that the cultivars used are suitable for its intended purpose for use in a professional baseball stadium in Northeastern Pennsylvania with an affirmative statement that the OWNER can rely upon this certification.

CONTRACTOR agrees to correct all Work performed by it under this Agreement which proves to be defective in material or workmanship within a period of one (1) year from the date of Substantial Completion as defined in Article 5.2 provided that this warranty covers equipment, accessories and parts manufactured by others only to the extent of liability to CONTRACTOR on the part of the manufacturer thereof, and no warranty is provided for OWNER or LC provided equipment. Any warranty or guarantee obtained by CONTRACTOR from any such manufacturer shall be deemed to have been obtained for the benefit of OWNER and LC.

- 2.2.2 If any defect in the Work in violation of the foregoing warranties arises within the period set forth above, CONTRACTOR shall upon receipt of written notices of such defect, promptly furnish, at no cost to the OWNER design and engineering, labor, equipment and materials at the job site necessary to correct such defect and cause the Work to comply fully with the foregoing warranties.
- 2.2.3 All design and engineering, labor, equipment and materials furnished by CONTRACTOR pursuant to Article 2.2.2 to correct the defects warranted by CONTRACTOR in accordance with the warranties set forth in Article 2.2.1 shall be under warranty for a period equal to the original warranty period set forth in Article 2.2.1 from the date of completion of the correction.
- 2.2.4 If CONTRACTOR is notified of any defects in the Work in violation of CONTRACTOR's foregoing warranties, and fails to promptly and adequately correct such defects, OWNER shall have the right to correct or to have such defects corrected for the account of OWNER, and CONTRACTOR shall promptly pay OWNER the cost incurred in correcting such defects.
- 2.2.5 CONTRACTOR will secure all required certificates of inspection, testing, and/or approval required for the Work and to complete the Project and shall deliver them to OWNER.
- 2.2.6 CONTRACTOR will collect all equipment manuals and deliver them to OWNER, together with all written warranties from equipment manufacturers.

- 2.2.7 CONTRACTOR shall verify field dimensions, elevations and readily observable existing conditions prior to commencement of the Work.
- 2.2.8 The provisions of this warranty does not represent the sole remedies available to OWNER with respect to CONTRACTOR and its subcontractors, suppliers, employees, agents or representatives for defects in the Work after acceptance or first use of the Project.

ARTICLE 3 OWNER'S RESPONSIBILITIES

- 3.1 OWNER shall provide full information regarding its requirements for the Project.
- 3.2 [Intentionally omitted].
- 3.3 OWNER shall designate one or more representatives who shall be fully acquainted with the Project, and have authority to approve changes in the scope of the Project, render approvals and decisions promptly, review submittals and furnish information expeditiously and in time to meet the dates set forth in the Schedule.
- 3.4 If OWNER becomes aware of any fault or defect in the Work or nonconformance with the design or Contract Documents, it shall give prompt notice thereof to CONTRACTOR.
- 3.5 OWNER shall have no contractual obligation to CONTRACTOR's subcontractors and shall communicate with such subcontractors only through CONTRACTOR.
- 3.6 OWNER shall pay for all utility connection tap-on and impact fees and special facilities charges rendered by utilities for connection of permanent utility services to the Project.

ARTICLE 4 SUBCONTRACTS

- 4.1 All portions of the Work that CONTRACTOR does not perform with its own forces shall be performed under subcontracts. CONTRACTOR shall select competent subcontractors and shall be responsible for the management of the subcontractor's performance of their work.
- 4.2 A "Subcontractor" is a person or entity which has a direct contract with CONTRACTOR to perform Work in connection with the Project. The term

“Subcontractor” does not include any separate contractor employed by OWNER or LC.

- 4.3 No contractual relationship shall exist between any subcontractor of CONTRACTOR and OWNER and LC.
- 4.4 CONTRACTOR and all subcontractors must be fully insured and provide Certificate of Insurances naming OWNER, LC and their agents as additional insured, as provided herein. CONTRACTOR and all subcontractors shall provide appropriate indemnifications to OWNER and LC and file No Lien Stipulations prior to any work being done by them.

ARTICLE 5 CONTRACT TIME SCHEDULE AND SUBSTANTIAL COMPLETION

Contract Time

- 5.1.1 The Work to be performed under this Agreement shall commence on or about 13 November 2006 and shall substantially be completed in accordance with the Schedule provided pursuant to Paragraph 2.1.2. CONTRACTOR shall schedule and coordinate the details of the Work being performed to meet the general and specific requirements of this Agreement.
- 5.1.2 The term “day” as used in the Contract Documents shall mean a calendar day, unless otherwise specifically defined.
- 5.1.3 During the performance of the Work, CONTRACTOR shall submit to OWNER periodic Progress Reports on the actual progress and updated schedules as may be required by this Agreement or requested by the OWNER.
- 5.1.4 CONTRACTOR recognizes that OWNER, LC, or other contractors and subcontractors may be working concurrently at the job site. CONTRACTOR agrees to cooperate with other contractors so that the Project as a whole may progress with a minimum of delays.

5.2 Substantial Completion

The “Date of Substantial Completion” of the Project or a designated portion thereof is the date when the construction is sufficiently complete in accordance with the Specifications so OWNER can utilize, or in fact does utilize the Project or designated portion thereof for the use for which it is intended (“Substantial Completion”).

5.3 Delays

- 5.3.1 If Contractor is delayed at any time in the progress of the Project by an act or neglect of OWNER or LC, by any separate contractor employed by OWNER or LC, or by the action of any governmental agency or regulatory body, or by changes ordered in the Project by OWNER or LC, or by labor disputes, fire, unusual delay in transportation, unusual delay in issuance of building permits or zoning or utility services, unusual delay or shortages in material supplies, unavoidable casualties, acts of God, or any other causes beyond CONTRACTOR's control, then the date scheduled for Substantial Completion and any applicable milestone dates shall be delayed by the same number of days as the delay exists.
- 5.3.2 If CONTRACTOR is delayed for a reason set forth in Article 5.3.1, CONTRACTOR will be compensated for all costs which it incurs as a result of such delay, and a Change Order will be issued therefore.
- 5.3.3 If after a delay described in Article 5.3.1, OWNER requests that CONTRACTOR schedule overtime in order to meet the originally scheduled date of Substantial Completion or any milestone date, CONTRACTOR shall prepare and submit an estimate of the cost thereof and OWNER shall issue its Change Order as provided in Article 7.1.

5.4 Liquidated Damages

It is understood and agreed that the scope of work outlined in the Contract Documents will be installed in several milestone dates and that the entire Project must be substantially complete and ready to play for its intended use on or before April 1, 2007. If the field is not ready for play by April 1, 2007, the CONTRACTOR will pay OWNER liquidated damages at the rate of Fifteen Thousand Dollars (\$15,000) per day, or part thereof, that the field and Project is not complete.

**ARTICLE 6
BASIS OF COMPENSATION**

OWNER shall pay CONTRACTOR the lump sum amount of _____ Dollars (\$ _____) for CONTRACTOR's entire performance of the Work and the completion of the Project pursuant to this Agreement.

- 6.1 The Contract Price assumes that CONTRACTOR is not required to obtain any permits for the construction of the Project or the completion of the Work, and that the project is exempt from sales taxes. The Contract Price is based upon the laws, codes and regulations in existence at the date of its establishment and upon the Specifications set forth in the Contract Documents and information supplied to

CONTRACTOR by OWNER prior to the date of this Agreement. If CONTRACTOR is later required to obtain any permits or pay any sales taxes with respect to the Project or the completion of the Work, then the Contract Price shall be automatically adjusted to include the cost of obtaining, providing and complying with such additional requirements.

- 6.2 The Contract Price does not include applicable sales, use or excise taxes in effect on the date of the Agreement, unless otherwise specifically set forth in the Contract Documents and OWNER agrees to pay such levies.

ARTICLE 7 CHANGES IN THE WORK

7.1 Change Orders

7.1.1 There shall be no change whatsoever in the Drawings, Specifications or in the Work without an executed Change Order as herein provided. OWNER shall not be liable for the cost of any extra Work or any substitutions, changes, additions, omissions, or deviations from the Contract Documents unless the same shall have been authorized by and the cost thereof approved by Change Order. The provisions of the Contract Documents shall apply to all such changes, additions and omissions with the same effect as if originally embodied in the Drawings and Specifications.

7.1.2 Any Work not contained in the Contract Documents shall be a change and shall be performed by CONTRACTOR only pursuant to a written Change Order. Such a Change Order may increase or decrease the Work within the general scope of this Agreement. If this Change Order causes an increase in the Cost of the Work, CONTRACTOR shall be paid a lump sum acceptable to both parties and/or granted an extension of the Schedule. If the Change Order or Construction Change Directive causes a decrease in the Cost of the Work, the Contract Price shall be decreased by the amount of CONTRACTOR's determination of the net decrease of the cost in labor, materials and equipment no longer required, exclusive of fees.

7.1.3 In the event OWNER requests CONTRACTOR to develop information necessary for the consideration of a change in the Project, and such a change is not adopted, OWNER shall reimburse CONTRACTOR for the costs which it incurs in connection with such efforts.

7.2 Concealed, Unknown or Hazardous Conditions

~~7.2.1~~ If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from

those indicated in the Contract Documents or (2) physical conditions of an unknown nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given promptly to the other party and, if possible, before conditions are disturbed. The Contract Price shall be equitably adjusted for such concealed or unknown conditions by Change Order upon claim made by CONTRACTOR.

7.2.2 In the event CONTRACTOR encounters on the site material reasonably believed to be asbestos or a hazardous substance which has been rendered harmless, CONTRACTOR shall immediately stop work in the area affected and report the condition to OWNER. Work in the affected area shall not thereafter be resumed except by written agreement of OWNER and CONTRACTOR. CONTRACTOR shall not be required to perform any Work relating to asbestos or hazardous substances without its consent. OWNER will issue a Change Order in connection with any such condition if the condition affects the cost of the Work or the Schedule.

7.3 Regulatory Issues

7.3.1 CONTRACTOR shall be compensated for changes in the Work necessitated by the enactment or revision of codes, laws or regulations subsequent to the date of this Agreement.

7.4 Cost of Change Orders

Within Ten (10) days after a request for any such change or event causing a change or such lesser period of time as may be reasonably required by OWNER, CONTRACTOR shall provide OWNER, in writing, an estimate of the effect of the proposed Change Order upon the Contract Price and the actual cost of construction, which shall include a complete itemized cost breakdown. Changes may be made by OWNER by an appropriate written Change Order or at OWNER's option such changes shall be implemented immediately upon CONTRACTOR's receipt of an appropriate Construction Change Directive.

ARTICLE 8 PAYMENTS TO CONTRACTOR

8.1 Progress Payments

8.1.1 On a monthly basis, after Work has commenced, CONTRACTOR shall submit to OWNER's Representative an Application for Payment which shall indicate (i) the percentage of Work completed or material stored at the site for each major segment of Work on the Schedule of Values, (ii)

any costs incurred in connection with any Change Orders and (iii) the current amounts due therefore. OWNER's Representative shall have the right of inspection and verification pursuant to the Application for Payment and shall have ten (10) days within which to approve the Application to OWNER for payment. Representatives' failure to disapprove within ten (10) days shall constitute approval. Each application for Payment shall be accompanied by a partial waiver of lien duly executed by CONTRACTOR for all Work, the cost of which has been paid by OWNER to the date of the most recent payment received by CONTRACTOR.

- 8.1.2 CONTRACTOR shall promptly pay each subcontractor the amount of any payment received from OWNER on account of the Work by the subcontractor, without any further retainage by CONTRACTOR. OWNER reserves the right to make checks payable jointly to CONTRACTOR and applicable subcontractors, but in any event all payments will be made through CONTRACTOR. CONTRACTOR shall, with the second and each succeeding Application for Payment submit a statement from each subcontractor showing all payments made for labor and materials on account of all Work covered in the preceding Application for Payment. Notwithstanding any of the above, OWNER shall not have any obligation to verify payment of any monies to any subcontractor except as may be otherwise required by law.
- 8.1.3 Within thirty (30) days after approval of a properly submitted and correct Application for Payment, OWNER shall pay directly to CONTRACTOR the full and total amount currently shown as due on the Application.
- 8.1.4 If OWNER is unable to certify any portion of the amounts in the Application, it shall promptly notify CONTRACTOR. If the OWNER and CONTRACTOR cannot agree on a revised amount, OWNER shall make payment for that part of the Application not in dispute. If OWNER should fail to pay CONTRACTOR at the time the payment of any undisputed amount becomes due, then CONTRACTOR may, at any time thereafter, upon serving written notice that it will stop Work within five (5) days after receipt of the notice by OWNER, and after such five (5) day period, stop the Work until payment of the amount owing has been received. Written notice shall be deemed to have been duly served when received if sent by certified mail to the last business address known to it, who gives the notice or by personally giving a copy to a representative of OWNER.
- 8.1.5 OWNER may withhold a retainage of ten percent (10%) on all payment requests and payments until Project is completed.

8.2 Title

CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will pass to the OWNER upon receipt of such payment by CONTRACTOR, free and clear of all liens, claims, security interests or encumbrances hereinafter referred to as Liens. CONTRACTOR, at its own expense, shall indemnify, defend and save harmless OWNER and LC against Liens filed on the property of OWNER by subcontractors, materialmen or suppliers of CONTRACTOR for amounts due them from CONTRACTOR for Work, the cost of which has been paid by OWNER to CONTRACTOR and shall reimburse OWNER for all attorney's fees and costs resulting from such Liens or claims.

8.3 Final Payment

For purposes of final payment, the procedure under this Agreement will be as follows:

- 8.3.1 CONTRACTOR shall give written notice to OWNER upon Substantial Completion of the Project. If OWNER has not in fact utilized the Project, the parties, within five (5) days of receipt of such notice, shall determine on the basis of a joint inspection that the Work is substantially complete.
- 8.3.2 When the parties have mutually agreed upon the date of Substantial Completion, CONTRACTOR shall submit to OWNER's Representative an Application for Payment of the unpaid balance of the Contract Price for the Project. Within thirty (30) days after receipt of the Application for Payment, OWNER shall make payment to CONTRACTOR. Failure of OWNER to pay the amount specified shall constitute a breach of this Agreement and CONTRACTOR shall have no further obligations or responsibility to OWNER under this Agreement.
- 8.3.3 Neither final payment nor amounts retained shall become due until CONTRACTOR submits to OWNER:
- (i) An affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Project for which OWNER or OWNER's property might be liable have been paid or otherwise satisfied;
 - (ii) A Certificate that insurance required by the Contract Documents is in force following completion of the Work; and
 - (iii) If required by OWNER, all the data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of Lien to the extent such form may be designated by OWNER.

**ARTICLE 9
INDEMNITY AND INSURANCE**

9.1 Indemnity

9.1.1 CONTRACTOR shall defend, indemnify and hold harmless the OWNER and LC, its agents and employees, from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from CONTRACTOR's performance of the Work on the Project including, but not limited to:

- (i) CONTRACTOR's or its subcontractors' use of the Project site;
- (ii) CONTRACTOR's or its subcontractors' construction of the Project, or failure to construct the Project or any portion thereof;
- (iii) The use, misuse, erection, maintenance, operation or failure of any machinery or equipment, whether or not such machinery or equipment was furnished, rented or loaned by any of the indemnitees; or
- (iv) Willful, misconduct of CONTRACTOR or its subcontractors or respective agents, employees, invitees, or licensees, in the course of their employment, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or persons described in this Article.

9.1.2 CONTRACTOR and its subcontractors shall indemnify, defend and hold OWNER and LC and its respective agents, employees, officers and directors harmless, from all claims arising out of any injury or death to any person, or damage to property of any person, including CONTRACTOR's employees, agents, contractors, consultants or representatives occurring in, or about the Project as a result of negligence and/or willful misconduct of CONTRACTOR, or any contractor, licensee, invitee, agent, visitor, vendor, servant or employee of CONTRACTOR at, in or about the Project.

9.1.3 Upon final acceptance or actual use of the Project, whichever shall first occur, OWNER shall indemnify, defend and hold CONTRACTOR and its respective agents, employees, officers and directors harmless, from all claims arising out of any injury or death to any person, or damage to property of any person, including OWNER's employees, agents, contractors, consultants or representatives occurring in, or about the Project as a result of the condition or playability of the field, negligence and/or willful misconduct, or field maintenance by OWNER, or any

contractor, licensee, invitee, agent, visitor, vendor, servant or employee of OWNER, in or about the Project. Use of the Project shall be conclusively deemed to constitute assumption of the risk by OWNER of such injury or damage.

9.2 CONTRACTOR's Insurance

Before any part of the Work on the Project Site is commenced, CONTRACTOR shall purchase and maintain at CONTRACTOR's sole cost, the following insurance to cover its operations under this Agreement whether such operations be by itself or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- 9.2.1 Worker's Compensation Insurance in full compliance with workers' compensation laws of the state in which the Project Site is located.
- 9.2.2 Comprehensive Automobile Liability Insurance covering all owned, hired and non-owned vehicles with the following minimum limits of liability:
Combined single limit – \$1,000,000 each occurrence.
- 9.2.3 Commercial General Liability Insurance written on an occurrence basis with the following minimum limits of liability:
 - (i) General Aggregate \$2,000,000
 - (ii) Products/Completed Operations Aggregate \$2,000,000
 - (iii) Personal and Advertising Injury \$1,000,000
 - (iv) Each Occurrence \$1,000,000
 - (v) Fire Damage \$100,000
 - (vi) Medical Expense \$5,000
 - (vii) CONTRACTOR's Commercial General Liability policy shall also include blanket Contractual Liability and Broad Form Liability and Property Damage coverage.

9.3 Certificate of Insurance

CONTRACTOR shall furnish to OWNER promptly following the execution of this Agreement, certificates evidencing the maintenance of said insurance. OWNER and LC and their agents shall be named as an additional insured under said insurance. Subrogation against OWNER and LC under all CONTRACTOR's insurance coverage shall be waived and all certificates issued shall evidence such waiver.

ARTICLE 10 TERMINATION

10.1 Termination by OWNER for Cause

If CONTRACTOR defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, OWNER may give written notice that OWNER intends to terminate this Agreement. If CONTRACTOR fails to correct the defaults within fifteen (15) days after being given notice, OWNER may, without prejudice to any other remedy, make good such deficiencies and may deduct the cost thereof from the payments due CONTRACTOR or, at OWNER's option, may terminate this Agreement and take possession of the Work and/or Project and of all materials, equipment, tools and construction equipment and machinery thereon owned by CONTRACTOR and finish the Work by whatever method the OWNER deems most expedient.

10.1.1 In the event of termination by OWNER under Article 10.1, CONTRACTOR shall, upon request of OWNER, promptly advise OWNER of all outstanding subcontracts, lease agreements and purchase orders that CONTRACTOR has with others pertaining to the performance of the Work and furnish OWNER with complete copies thereof. Upon request of OWNER, CONTRACTOR shall assign to OWNER, in form and content satisfactory to OWNER, CONTRACTOR's title to materials and equipment to be incorporated into the Work and those subcontracts, lease agreements and purchase orders designated by OWNER.

10.1.2 In the event of termination by OWNER under Article 10.1, CONTRACTOR shall not be entitled to receive any further payment until the Work is completed. If the Contract Price for the completed Work exceeds the sum of the total cost to the OWNER for completing the Work, plus all amounts previously paid to CONTRACTOR for the Work, such excess shall be paid to CONTRACTOR. If the sum of the total cost to the OWNER of completing the Work, plus all amounts previously paid to CONTRACTOR for the Work, shall exceed the Contract Price for the completed Work, CONTRACTOR shall promptly pay the difference to OWNER. OWNER shall have the right and is authorized to settle against and deduct from any excess payable to CONTRACTOR any other damages suffered by OWNER due to said default. CONTRACTOR shall continue to be liable to OWNER for all such other damages. A waiver by OWNER of one default shall not be considered to be a waiver of any subsequent default by CONTRACTOR, nor be deemed to amend or modify the terms of this Agreement.

10.2 Termination by OWNER Without Cause

In addition to termination under Article 10.1, OWNER may terminate this Agreement without cause upon thirty (30) days written notice to CONTRACTOR. Upon such termination, OWNER shall reimburse CONTRACTOR for any unpaid portions of the Contract Price due it for the Work to the date of termination. In addition, OWNER shall also pay to CONTRACTOR the unpaid balance of the Contract Price less the amount of any cost of work that will not be incurred by CONTRACTOR due to the termination of this Agreement.

In the case of such termination, OWNER shall further assume and become liable for obligations, commitments and unsettled claims that CONTRACTOR has previously undertaken or incurred in good faith in connection with said Work, actual cancellation penalties for outstanding contracts and undelivered materials or equipment on order, and any demobilization costs. CONTRACTOR shall, as a condition of receiving the payments referred to in this Article, execute and deliver all documents and take all steps, including the legal assignment of its contractual rights, as OWNER may require for the purpose of fully vesting in OWNER the rights and benefits of CONTRACTOR under such obligations or commitments.

10.3 Termination by Contractor

If OWNER fails to make payment for amounts not in dispute when due, CONTRACTOR may, at its option, give written notice of its intention to terminate this Agreement. If CONTRACTOR fails to receive such a payment with thirty (30) days after receipt of such notice by OWNER, CONTRACTOR may, at its option, terminate this Agreement and recover from OWNER payment for that portion of the Work completed through the date of termination. In addition, OWNER shall also pay to CONTRACTOR the unpaid balance of the Contract Price less the amount of any cost of work that will not be incurred by CONTRACTOR due to the termination of this Agreement. In the case of such termination, OWNER shall further assume and become liable for obligations, commitments and unsettled claims that CONTRACTOR has previously undertaken or incurred in good faith in connection with said Work, actual cancellation penalties for outstanding contracts and undelivered materials or equipment on order, and any demobilization costs. CONTRACTOR shall, as a condition of receiving the payments referred to in this Article, execute and deliver all documents and take all steps, including the legal assignment of its contractual rights, as OWNER may require for the purpose of fully vesting in OWNER the rights and benefits of CONTRACTOR under such obligations or commitments.

**ARTICLE 11
MISCELLANEOUS**

11.1 Successors and Assigns

This Agreement shall be binding on the successors, assigns and legal representatives of OWNER and CONTRACTOR. Neither party shall assign or transfer an interest in this Agreement without the written consent of the other. However, OWNER may assign or transfer its rights under this Agreement to LC.

11.2 Governing Law

This Agreement shall be governed by the law of the State of Pennsylvania. Jurisdiction and venue for any litigation or other proceedings arising out of this Agreement shall be commenced and maintained in a Court of Common Pleas in Lackawanna County, Pennsylvania.

In Witness Whereof, OWNER and CONTRACTOR have caused their duly authorized representatives to execute this Agreement for and on their behalf as of the date first above written.

OWNER:

**MULTI-PURPOSE STADIUM
AUTHORITY OF LACKAWANNA
COUNTY**

By: 

Its: Chairman

CONTRACTOR:

THE MOTZ GROUP

By: 

Its: Senior V.P.

MOTZ Group

**Construction Services Agreement
Change Order No. 1**

Project: Lackawanna County Stadium – Field Replacement

Owner: Multi-Purpose Stadium Authority, Lackawanna County

The following modifications, additions or deletions are hereby proposed for acceptance by the Owner with respect to the Scope of Work to be completed by the Contractor:

1. Description of Change to Work:

Contractor will add to its Scope of Work: Purchase and installation of an additional 3,000 tons of crushed #57 limestone to the field base and an additional 1,200 tons of rootzone sand to the field profile. The changes are necessitated by a deeper than reported asphalt base layer (removed to accommodate the grass field) and the wish of the Yankees to have the field's sand rootzone no less than 6" deep.

2. Adjustments in Contract Price:

a. Original Contract Price:	\$522,040.00
b. Prior Adjustments to Contract Price:	\$0.00
c. Contract Price Prior to this Change Order:	\$522,040.00
d. Amount of this Change Order:	\$85,500.00
e. New Contract Price, including this Change Order:	\$607,540.00

3. Adjustments in Contract Time: No additional time needed

4. Approvals

Owner:

Multi-Purpose Stadium Authority

By: *[Signature]*

Its: *Chairman*

Date: *2/28/07*

Contractor:

The Motz Group, Inc.

By: _____

Its: _____

Date: _____

**Construction Services Agreement
Change Order No. 2**

Project: Lackawanna County Stadium – Field Replacement

Owner: Multi-Purpose Stadium Authority, Lackawanna County

The following modifications, additions or deletions are hereby proposed for acceptance by the Owner with respect to the Scope of Work to be completed by the Contractor:

1. Description of Change to Work:

Contractor will add to its Scope of Work: Purchase and installation of bluegrass sod cut to 1.25" soil depth. The change is required to assure the sod is stable for opening day play.

2. Adjustments in Contract Price:

a. Original Contract Price:	\$522,040.00
b. Prior Adjustments to Contract Price:	\$85,500.00
c. Contract Price Prior to this Change Order:	\$607,540.00
d. Amount of this Change Order:	\$30,500.00
e. New Contract Price, including this Change Order:	\$638,040.00

3. Adjustments in Contract Time: No additional time needed

4. Approvals

Owner:

Multi-Purpose Stadium Authority

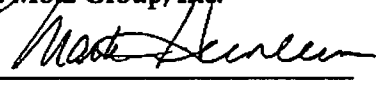
By: 

Its: Chairman

Date: 3/28/07

Contractor:

The Motz Group, Inc.

By: 

Its: Summit VP

Date: 14 March 07