

## RESOLUTION NO. 1-712

**A RESOLUTION OF THE DISTRICT BOARD OF DIRECTORS OF THE ASU ATHLETIC FACILITIES DISTRICT APPROVING BYLAWS; APPOINTING DISTRICT OFFICERS, AN EXECUTIVE DIRECTOR AND LEGAL COUNSEL; APPROVING AN INTERGOVERNMENTAL AGREEMENT AMONG THE DISTRICT AND THE ARIZONA BOARD OF REGENTS, FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY, RELATING TO IMPOSITION AND COLLECTION OF ASSESSMENTS, FINANCING OF ATHLETIC FACILITY IMPROVEMENTS, AND OTHER RELATED MATTERS; AND TAKING CERTAIN OTHER ACTIONS WITH REGARD TO ORGANIZATION OF THE DISTRICT.**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ASU STADIUM FACILITIES DISTRICT** as follows:

### Section 1. Findings.

A. On November 2, 2011, the Board of Supervisors of Maricopa County, Arizona (hereinafter called the "*County*"), adopted Resolution No. C-20-12-017-M-00 (the "*Resolution*") declaring organization and establishment of the ASU Athletic Facilities District (the "*District*") and approving an intergovernmental agreement by and between Maricopa County, Arizona, and the Arizona Board of Regents for and on behalf of Arizona State University ("*ASU*") for the purpose of forming and establishing the District.

B. All conditions precedent to the formation of the District have been satisfied.

C. As provided by Title 48, Chapter 26, Arizona Revised Statutes, as amended (the "*Act*"), the District is a special purpose district for purposes of Article IX, Section 19, Constitution of Arizona, a tax levying public improvement district for the purposes of Article XIII, Section 7, Constitution of Arizona, and a municipal corporation for all purposes of Title 35, Chapter 3, Articles 3, 3.1, 3.2, 4 and 5, Arizona Revised Statutes, as amended, and, except as otherwise provided, is considered to be a municipal corporation and political subdivision of the State of Arizona.

D. Certain matters relating to the organization of the District must be determined by the District Board of Directors (the "*Board*").

E. The District is authorized by Section 48-4251 of the Act to issue and sell revenue bonds of the District to provide moneys for its activities pursuant to the Act.

### Section 2. Appointment and Composition of Board.

A. Composition of Board. The Board shall consist of seven (7) voting members. The County Board of Supervisors of Maricopa County (the "*County*") shall appoint two (2) members, who may be current members of the County or their designees. ASU shall

appoint four (4) members, who may be the persons holding the following titles or such other persons as may be designated by the ASU President: (i) ASU's Senior Vice President & General Counsel (or any successor in title); (ii) ASU's Executive Vice President, Treasurer and Chief Financial Officer (or any successor in title); (iii) ASU's Senior Associate Vice President for Finance and Deputy Treasurer (or any successor in title); and (iv) the Vice President for University Athletics and Athletic Director (or any successor in title). The seventh member shall initially be appointed by ASU (the "*Independent Member*"), after which the Board will make the appointments of the Independent Member for the term defined herein. The Chair of the Board shall be elected from among the four (4) members appointed by ASU, not including the Independent Member. The initial members and officers of the Board are set forth on the attached *Exhibit A*.

B. Term of Board Service. Each of the two (2) Board members who are appointed by the County shall serve for a term of two (2) years, at which time the County shall reappoint one or both such members or appoint new members. The Independent Member also shall serve for a term of two (2) years. After the initial Independent Member serves his/her initial term, the Board shall either reappoint such member or appoint a new member to serve as the Independent Member. The remaining Board members shall serve for so long as they hold the ASU position named above or for as long as the ASU President designates.

C. Treasurer. The County Treasurer of Maricopa County (the "*County Treasurer*") or authorized designee is designated *ex officio* as the Treasurer of the District (the "*District Treasurer*").

**Section 3.** Posting of Notices. A statement of the District directing where all public notices of the meetings of the District shall be posted in substantially the form attached hereto as *Exhibit B* has been filed with the Clerk of Maricopa County and is hereby approved and ratified for all purposes thereof.

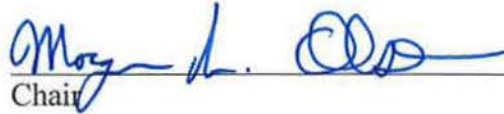
**Section 4.** Approval of Bylaws. The Bylaws as submitted to the Board are hereby approved in all respects and attached as *Exhibit C*.

**Section 5.** Approval of Intergovernmental Agreement. The Intergovernmental Agreement among the District and the Arizona Board of Regents, for and on behalf of Arizona State University, relating to imposition and collection of assessments, financing athletic facility improvements, and other related matters (the "*Agreement*") is hereby approved in substantially the form attached hereto as *Exhibit D*, and incorporated herein by reference.

**Section 6.** Authority. The Chair, the Vice-Chair, the Secretary, the Executive Director, and the Counsel to the District are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

**Section 7.** Effective Date. This resolution shall be effective immediately.

**PASSED** by the District Board of Directors of the ASU Stadium Facilities District on July 12, 2012.

  
Chair

ATTEST:

  
Secretary

EXHIBITS:

- A – Initial Members and Officers Appointed
- B – Statement Regarding Posting of Notice of Public Meetings
- C – Bylaws
- D – Agreement

EXHIBIT A  
TO  
RESOLUTION NO. 1-712

(Initial Members and Officers Appointed)

See following pages.

**University Appointees:**

Morgan R. Olsen, Chair of the Board of Directors  
Executive Vice President, Treasurer and CFO

José Cárdenas, Vice Chair of the Board of Directors  
Senior Vice President and General Counsel

Joanne Wamsley  
Senior Associate Vice President for Finance and Deputy Treasurer

Stephen Patterson  
Vice President for University Athletics and Athletic Director

**County Appointees:**

John Fees  
Chief Executive and Managing Partner, Access Venture Group, LLC

Don Kile  
President, Ellman Companies – Master Planned Communities Division  
President, Ellman Companies – Truckside Media Division

**Appointed by ASU for Initial 2-year Term; Subsequently by Board:**

Scott A. Smith, Secretary of the Board of Directors  
Director, Arizona Department of Administration

EXHIBIT B  
TO  
RESOLUTION NO. 1-712

(Statement Regarding Posting of Notice of Public Meetings)

See following page.

**STATEMENT OF LOCATIONS WHERE ALL NOTICES OF THE  
MEETINGS OF THE ASU ATHLETIC FACILITIES DISTRICT BOARD  
OF DIRECTORS WILL BE POSTED**

Pursuant to A.R.S. § 38-431.02, the ASU Athletic Facilities District Board of Directors (the "Board") hereby states that all notices of the meetings of the Board and any of its committees and subcommittees will be posted in the lobby of the ASU Fulton Center located at 300 East University Drive, Tempe, Arizona. Such notices will indicate the date, time, and place of the meeting and will include an agenda or information concerning the manner in which the public may obtain an agenda for the meeting.

Dated this 10<sup>th</sup> day of April, 2012.

ASU ATHLETIC FACILITIES DISTRICT  
BOARD OF DIRECTORS

By: Timothy A. Stratton

Name: Timothy A. Stratton

Its: General Counsel

EXHIBIT C  
TO  
RESOLUTION NO. 1-712

(Bylaws)

See following pages.

## **BYLAWS OF THE ASU ATHLETIC FACILITIES DISTRICT**

### **ARTICLE 1: ORGANIZATION, AUTHORITY AND LOCATION**

#### **Section 1.1 Organization**

There has been established a single university athletic facilities district which shall be known as the "ASU Athletic Facilities District" and further defined herein (the "District"). The District shall be governed by a Board of Directors (the "Board") as specified herein.

#### **Section 1.2 Authority**

The purpose, authority, powers and duties of the District and its Board are derived from the Constitution, statutes and laws of the State of Arizona, specifically A.R.S. Title 48, Chapter 26 (the "Act"), as such Act is in existence as of the date these Bylaws are approved by the Board. Pursuant to the Act, the District was authorized by an intergovernmental agreement between the Arizona Board of Regents for and on behalf of Arizona State University ("ASU") and the County of Maricopa, a political subdivision of the State of Arizona (the "County") entered into on November 2, 2011 (the "IGA").

#### **Section 1.3 Location**

The principal office of the Board shall be in Tempe, Arizona, on the campus of ASU. Meetings shall be held pursuant to these Bylaws and pursuant to such additional direction as provided by the Board.

### **ARTICLE 2: DISTRICT BOARD OF DIRECTORS**

#### **Section 2.1 District Board of Directors**

A. Composition of Board. The Board shall consist of seven (7) voting members. The County shall appoint two (2) members, who may be current members of the County or its designees. ASU shall appoint four (4) members, who may be the persons holding the following titles or such other persons as may be designated by the ASU President: (i) ASU's Senior Vice President & General Counsel (or any successor in title); (ii) ASU's Executive Vice President, Treasurer and Chief Financial Officer (or any successor in title); (iii) ASU's Senior Associate Vice President for Finance and Deputy Treasurer (or any successor in title); and (iv) the Chief Operating Officer of Sun Devil Athletics (or any successor in title). The seventh member shall initially be appointed by ASU (the "Independent Member"), after which the Board will make the appointments of the Independent Member for the term defined herein. The Chair of the Board shall be elected from among the four (4) members appointed by ASU, not including the Independent Member.

B. Term of Board Service. Each of the two (2) Board members who are appointed by the County shall serve for a term of two (2) years, after which time the County shall reappoint one or both such members or appoint new members. The Independent Member also shall serve for a term of two (2) years. After the initial Independent Member serves his/her initial term, the Board shall either reappoint such member or appoint a new member to serve as the Independent Member. The remaining Board members shall serve for so long as they hold the ASU position named above or for as long as the ASU President designates.

C. Powers of the Board. The Board shall have all of the powers granted to it pursuant to the Act, as such Act is in existence as of the date these Bylaws are approved by the Board.

### **Section 2.2 Meetings Open to the Public**

The District shall conduct its meetings in accordance with A.R.S. Title 38, Chapter 3, Article 3.1 as amended from time to time (the "Open Meeting Law").

### **Section 2.3 Regular Meetings**

Meetings of the Board of Directors shall be held on the dates determined by the Board of Directors. The Board of Directors shall meet, at a minimum, not less than once a year for an annual meeting. The Chair shall determine the time and place of the annual meeting.

### **Section 2.4 Special Meetings**

The Chair may call a special meeting of the Board of Directors at any time. The special meeting shall be held at such time, date and place as may be determined by the Chair of the Board of Directors with the concurrence of two other members of the Board of Directors.

### **Section 2.5 Place of Meetings**

The Board of Directors may hold meetings, both regular and special, at any place within Maricopa County, Arizona.

### **Section 2.6 Notice of Meetings to the Public**

The Board of Directors shall give notice to the public of any meeting in accordance with the Open Meeting Law.

### **Section 2.7 Notice of Meetings to Directors**

A. Regular Meeting. The Board of Directors shall not give notice of the regular annual meeting to any director unless this meeting is deferred.

B. Special Meeting. The Chair shall cause written notice of the time and place for any meeting to be given to each director. Notice to any director will be duly given when delivered personally or by facsimile at least two (2) business days before the meeting

day; three (3) business days after being sent prepaid by overnight commercial courier service for next business day delivery, or five (5) calendar days after being deposited in the United States mail with postage prepaid, before beginning the meeting.

C. Waiver of Notice. Any director may waive notice of any meeting at any time before, during or after the meeting. A meeting notice to a director will not be required if all directors have waived notice of a meeting in writing or by attendance. A director's attendance at a meeting will automatically be evidence of his or her waiver of notice for that meeting unless the director is attending the meeting for the purpose of objecting to the meeting because there was not proper notice of the meeting and the director states this purpose and his or her objection at the meeting.

D. Rescheduling. A majority of those directors attending a meeting may adjourn the meeting and select another time and place for the meeting if adequate notice of the meeting was given (or notice was properly waived) and a quorum was established at that meeting.

## **Section 2.8 Participation In Meetings**

Directors may participate in any meeting, except for an Executive Session (as defined in the Open Meeting Law), through audio conference or videoconference equipment if all members can hear one another. Any director's participation through these means shall constitute the person's presence at such meeting.

## **Section 2.9 Quorum**

Four (4) directors shall be a quorum for voting or transacting business at any meeting, but a number less than four (4) may adjourn from time to time.

## **Section 2.10 Voting**

The Board of Directors will resolve any matter submitted to it during any meeting by the vote of a majority of those directors present and eligible to vote. Each member shall have one (1) vote. Voting on all matters at the Board of Directors meetings shall be by voice vote. The secretary or acting secretary shall record affirmative, negative and abstaining votes in the minutes of the meeting, except that the director's individual votes on the election of officers shall not be recorded. Notwithstanding the foregoing, voting on all matters at the Board of Directors meetings where one or member is participating by audio conference or videoconference shall be by roll call vote.

## **Section 2.11 Compensation and Reimbursement**

Members of the Board of Directors shall not be compensated but shall be reimbursed for necessary expenses while performing the members' duties.

### **Section 2.12 Presumption of Assent**

When a director is present at a meeting of the Board of Directors or at a meeting of any committee where action is taken on any matter, then that director is presumed to have assented to the action taken unless his or her dissent or abstention was either entered into the minutes of the meeting or the director filed a written notice of dissent or abstention with the secretary of the District immediately prior to the meeting. Any director who voted in favor of an action will not have the right to dissent.

### **Section 2.13 Resolutions and Effective Dates**

All resolutions of the District shall be in writing and shall be stated in the minute books of the District. A resolution is effective immediately upon its adoption unless the resolution provides otherwise.

## **ARTICLE 3: OFFICERS**

### **Section 3.1 Designation of Titles**

The Board of Directors at its first meeting and thereafter at each annual meeting shall choose from its members the officers of the District which shall be a Chair, a Vice Chair, a Secretary. The Board of Directors may at any time appoint executive or administrative officers, legal counsel or other such assistants, each of whom shall serve at the Board of Directors' discretion and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors. Each assistant officer (in the order, if any, designated by the Board of Directors) will be vested with all the powers and charged with all the duties (including those specifically set forth herein) of his or her superior officer in the event of such superior officer's absence, disability or inability to act for any reason. The appointment of officers shall at all times be subject to the provisions of Section 2.1 of these Bylaws.

### **Section 3.2 Appointment**

After its first meeting, the Board of Directors will appoint officers at its regular annual meeting of the Board of Directors but may also appoint officers when necessary to fill a vacancy in any office. Officers will continue in office until the election of a successor unless they resign or are removed in accordance with these Bylaws. The appointment of officers shall at all times be subject to the provisions of Section 2.1 of these Bylaws.

### **Section 3.3 Removal or Delegations**

The Board of Directors may remove any officer who is not a member of the Board of Directors, with or without cause, upon a majority vote of the Board of Directors. The Board of Directors may also remove the officer duties of any member of the Board of Directors, with or without cause, upon a majority vote but the director in question shall abstain from voting on this issue.

### **Section 3.4 Chair**

The Chair shall preside at all meetings of the Board of Directors and shall have general supervision over the business and affairs of the District as well as perform such other duties as may be assigned to him or her from time to time by the Board of Directors. Except as otherwise provided in these Bylaws or by resolution of the Board of Directors, the Chair shall sign all orders, contracts and other instruments to be executed on behalf of the District.

### **Section 3.5 Vice Chair**

A Vice Chair shall be elected from among the members of the Board of Directors of the District. Except as prohibited by law, the Vice Chair shall serve as the acting Chair of the Board of Directors and perform the duties of the Chair in the event of the Chair's absence, disability or inability to act until such a time as a new Chair shall be selected by the remaining Board of Directors members.

### **Section 3.6 Secretary**

The Secretary shall see that the minutes of all Board of Director meetings and the minutes or records of any committee meetings are kept. The Secretary shall give or cause to be given the required notices of meetings and shall be the custodian of the records and the seal, if any, of the District. He or she shall attest to the signature of the Chair or Vice Chair when necessary or appropriate. The Secretary shall also perform any other duties as determined by the Board of Directors.

### **Section 3.7 Treasurer**

A. Treasurer Designation. The Treasurer of Maricopa County is designated *ex officio* as the Treasurer of the District (the "Treasurer"). The Treasurer shall not be a member of the Board.

B. Treasurer's Duties. The Treasurer shall have all powers and perform all duties as set forth in the Act. The Treasurer shall collect any assessments from prime commercial lessees of Arizona Board of Regents' property in the District, as set forth in A.R.S. § 48-4235 in the manner determined by the Board, and shall, immediately upon receipt, deposit the net revenues from the assessments received in a fund established by and for the exclusive benefit of the District for such purposes allowed by the Act. At the Treasurer's resignation, retirement, removal, death or other dissolution of office, the Treasurer shall deliver to the District, or arrange for the delivery of, all books, papers, vouchers, records, ledgers, money and other property under his or her possession or control that relate to or belong to the District.

## **ARTICLE 4: RESIGNATIONS AND VACANCIES**

### **Section 4.1 Resignations**

Any Director or officer may resign at any time by written notice delivered and addressed to the District at its principal office. Resignations properly given will either be effective upon acceptance by the District, or if the resigning person specifies a later date, then upon the later date, if the later date is specifically accepted by a majority of the Board of Directors.

### **Section 4.2 Vacancies**

The County or ASU may fill any vacancies on the Board of Directors for the remaining term in accordance with the same requirements as in Section 1 of Article 1 and Section 2 of Article 3 of these Bylaws. If there are any officer positions that are vacant, the Board of Directors may choose a qualified successor for the unexpired term, subject to the limitations of these Bylaws.

## **ARTICLE 5: OTHER MATTERS**

### **Section 5.1 Indemnification**

The District may and, to the extent required by law, shall indemnify any and all of its present or former Directors, officers, employees and agents to the fullest extent and in the manner provided by the laws of the State of Arizona as in effect from time to time. The indemnification shall not be exclusive of any rights to which any present or former Director, officer, employee or agent of the District may be entitled to otherwise. The District may purchase and maintain insurance on behalf of any present or former District Director, officer, employee or agent against any liability incurred by him or her in any such capacity or arising out of his or her status, whether or not the District would have the power to indemnify such person under these Bylaws.

### **Section 5.2 Fiscal Year**

The fiscal year of the District shall end each June 30.

### **Section 5.3 Conflicts of Interest**

The Directors, officers and employees of the District are subject to A.R.S. Title 38, Chapter 3, Article 8 relating to conflicts of interest. In the event that any matter being considered at any time by the Board of Directors involves any entity, transaction or other matter in which any Director, officer or employee is or has been involved or associated, in a professional capacity or otherwise, then that relationship must be immediately and fully disclosed to the Board of Directors. The Board of Directors may seek advice of counsel concerning the manner and extent that the Director, officer or employee may participate in connection with the matter being

considered by the Board. If the Board of Directors determines that the Director, officer or employee will benefit from the matter being considered, then that director shall abstain from any voting on the matter.

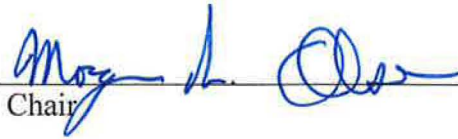
**Section 5.4 Affiliated Entity**

Pursuant to the Financial Services Manual of Arizona State University (the "FIN"), the District is deemed to be an affiliated entity, as defined therein, and to the extent permitted by statute, bound by the terms and provisions of FIN 130.

**ARTICLE 6: REPEAL, ALTERATION OR AMENDMENT**

These Bylaws may be repealed, altered or amended, or substitute or restated Bylaws may be adopted, at any time, only by a majority of the Board of Directors.

Attest:  
  
Secretary

  
Chair

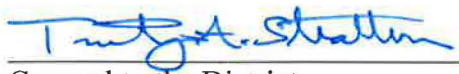
Approved as to form:  
  
Counsel to the District

EXHIBIT D  
TO  
RESOLUTION NO. 1-712

(Agreement)

See following pages.

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE ASU ATHLETIC FACILITIES DISTRICT  
AND  
THE ARIZONA BOARD OF REGENTS  
FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY**

THIS INTERGOVERNMENTAL AGREEMENT (this "*Agreement*") is made and entered into as of July 1, 2012 by and between the ASU Athletic Facilities District, a county stadium district established under Arizona Revised Statutes Title 48, Chapter 26 (the "*District*") and the Arizona Board of Regents ("*ABOR*") for and on behalf of Arizona State University ("*ASU*"). The District and ASU are referred to hereinafter individually as a "Party" or collectively as the "Parties."

RECITALS

A. This Agreement is authorized by ARIZ. REV. STAT. §§ 11-952, 15-1625(B), 48-4204, and 48-4235.

B. By Resolution No. C-20-12-017-M-00, Maricopa County (the "*County*") approved the organization of the District pursuant to the provisions of ARIZ. REV. STAT. Title 48, Chapter 26 (the "*Act*").

C. Pursuant to the Act, ASU and the County entered into that certain Intergovernmental Agreement effective November 15, 2011 for the purposes of establishing the Board of Directors for the District and such other matters as ASU and the County deemed appropriate (the "*Enabling IGA*").

D. Pursuant to the Enabling IGA and the Act, the District and ASU have determined that an intergovernmental agreement is necessary to provide for a funding mechanism for the construction, reconstruction, furnishing, maintenance and improvement (the "*Improvements*") of existing intercollegiate athletic facilities located on ABOR property (the "*Athletic Facilities*"), including utilities, roads, parking areas or buildings necessary for full use of the athletic facilities.

E. The District and ASU each desire to enter into this Agreement for the purposes of establishing (i) the parameters within which the District shall impose and collect assessments from prime commercial lessees of ABOR's real property located within the District (the "*Assessments*") to fund Improvements or other authorized uses from the Assessments or other lawfully available funds, (ii) the uses to which the Assessments or other funds may be applied, and (iii) any other matters deemed necessary and appropriate by the District and ASU.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Powers and Duties of District Board of Directors. The District Board of Directors (the “*Board*”) shall have all of the powers and duties set forth in ARIZ. REV. STAT. § 48-4203.

2. Executive Director.

a. Powers and Duties. Pursuant to ARIZ. REV. STAT. § 48-4203, the District may appoint an Executive Director to carry out the purposes of the District. The Executive Director shall be an employee of ASU, and shall receive no salary, benefits, or any other form of compensation from the District.

b. Authority to Act. The Executive Director may act on behalf of the District Board on all matters that do not require action by the Board or on which the Executive Director has not been expressly directed to report to the District Board.

c. Authority to Appoint. The Executive Director may designate, retain or hire experts and/or consultants as necessary and in accordance with law to carry out all duties and responsibilities of the District with regard to the Improvements. Notwithstanding the foregoing, administrative functions such as secretarial, filing, and other ministerial tasks shall be handled by ASU employees at no cost to the District. To the extent such administrative functions are not provided by ASU, and if ASU consents, the Executive Director may hire and retain staff necessary to provide such functions at the expense of the District.

d. Oversight Responsibility. The Executive Director is directed to carry out all oversight responsibilities of the District with regard to any Improvements.

3. Assessments. As soon as practicable after formation of the District, the District shall impose and collect the Assessments upon each prime commercial lessee of ABOR property located within the District in an amount and pursuant to the procedures prescribed by ARIZ. REV. STAT. § 48-4235, as and if amended. The District may collect the Assessments at such times as the District may direct, and the District shall receive and deposit the Assessments as required by this Agreement. The District and ASU shall establish procedures related to the levy and collection of the assessments not later than December 31, 2012.

4. District Fund. The District shall maintain and administer an ASU Athletic Facilities District Fund (the “*AFD Fund*”). Any monies, including any Assessments, received by the District, shall be deposited, immediately upon receipt, in the AFD Fund. Any unexpended monies in the AFD Fund may be invested as provided in ARIZ. REV. STAT. § 48-4231(C) and in other investment guidelines established by the Board.

5. Athletic Facilities Improvements.

a. Generally. ASU shall cause the construction of any Improvements to the Athletic Facilities. Improvements shall be procured and constructed in accordance with (i) the requirements for construction projects as set forth in ARIZ. REV. STAT. § 48-4204(E) and (ii) ASU procurement policies and procedures. The Improvements may be procured in one or more parts or phases by and in the name of ASU.

b. Construction by District. At the authorization and direction of ASU, the District may procure and construct any Improvements to the Athletic Facilities in accordance with the Act. Improvements authorized and directed by ASU to be procured and constructed by the District may be procured and constructed in one or more parts or phases and in accordance with (i) the requirements for construction projects as set forth in ARIZ. REV. STAT. § 48-4204(E) and (ii) ASU procurement policies and procedures, which policies and procedures are hereby adopted by the District for the purposes described herein. Upon completion of any Improvement authorized and directed by ASU to be procured and constructed by the District, title to such Improvement shall be dedicated or otherwise conveyed to ASU, and the District shall have no ownership interest, control, management, or other interest in the Improvements or Athletic Facilities, except as may be provided in this Agreement.

c. Financing Improvements.

i. ASU may finance any Improvement to the Athletic Facilities with any lawfully available funds and in any manner authorized by law. ASU may submit an invoice to the District for reimbursement of any or all amounts actually paid by ASU for procurement, construction, and financing of any part or phase of any Improvements to the Athletic Facilities. Upon receipt of one or more invoices from ASU, the District shall reimburse ASU for any or all amounts actually paid by ASU for procurement, construction, and financing of and ASU administrative charges for any part or phase of any Improvements to the Athletic Facilities from any lawfully available funds.

ii. The District may finance any Improvement, whether procured, constructed, or financed by ASU or by the District, in any manner authorized by and in accordance with the Act. The District may pay debt service of any bonds or other obligations of ASU in whole or in part from the Assessments or other revenues of the District of any kind.

6. Matters Relating to Bond Financing.

a. Sale of Bonds; Amount. The District may take all reasonable action necessary to issue, sell, and refund bonds pursuant to the Act in order to finance the Improvements in whole or in part. Bonds issued by the District shall be secured by the Assessments and any other lawfully available funds of the District and may be sold in one or more series, in an amount sufficient (i) to pay all costs of procuring and constructing any Improvements to the Athletic Facilities, (ii) to pay all costs of issuance related to the applicable series of the Bonds, (iii) to pay capitalized interest for a period not in excess of that permitted by law, and (iv) to the extent permitted by law, to fund any debt service or other reserve fund.

b. District Bonds Not Obligations of ASU, State, or County: Disclosure of Limited Liability. Bonds issued by the District under the Act are obligations of the District, are payable only according to their terms from revenues from the Assessments imposed pursuant to article 2 of the Act and are not general, special or other obligations of the State of Arizona (the “State”) or the County. Bonds issued by the District do not constitute a legal debt of ASU, this State, the County, or any political subdivision of either (other than the District) and are not enforceable against ASU, this State, the County, or any political subdivision of either (other than the District). Payment of the bonds is not enforceable out of any monies other than the income and revenue pledged and assigned to, or in trust for the benefit of, the holder or holders of the bonds. Any disclosure document prepared in connection with the offer or sale of bonds by the District must clearly indicate that neither ASU, the County, nor the State or any political subdivision of either (other than the District) shall be liable for the payment or repayment of any obligation, liability, bond or indebtedness of the District, and neither the credit nor the taxing power of the State, the County, nor any political subdivision of either (other than the District) shall be pledged therefor.

c. Additional Procedures. The Board may, by resolution, address any of the issues permitted to be addressed by ARIZ. REV. STAT. § 48-4251 in conjunction with the approval and issuance of the District Bonds.

7. General.

a. Entire Agreement. This Agreement embodies the entire understanding of the parties and supersedes any other agreement or understanding between the parties relating to the subject matter. The parties agree that should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the parties.

b. Waivers. No waiver, amendment or modification of this Agreement shall be valid or binding unless written and signed by the parties. Waiver by either party of any breach or default of any clause of this Agreement by the other party shall not operate as a waiver of any previous or future default or breach of the same or different clause of this Agreement.

c. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

d. Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. §38-511.

e. Dispute Resolution. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the parties hereto shall use their reasonable efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. Pursuant to ARIZ. REV. STAT. § 12-1518, the parties acknowledge and agree, subject to the Arizona Board of Regents Policy 3-809, that they will be required to make use of mandatory

arbitration of any legal action that is filed in the Arizona superior court concerning a controversy arising out of this IGA if required by ARIZ. REV. STAT. § 12-133.

f. Nondiscrimination. The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.

g. News Release. The District may not use the name of ASU in news releases, publicity, advertising, or other promotion, without the prior written consent of ASU, except for documents used for internal consumption by the District.

h. Service Marks and Trademarks. Neither party shall use any service marks, trademarks, logos or other marks of the other party without the express written approval of the other party. The use of any marks must comply with the owner's requirements, including using the "circle R" indication of a registered trademark.


i. Term. The term of this Agreement shall commence on the date first set forth above and shall remain in effect for so long as the District validly exists pursuant to the Act.

j. Cancellation for Nonappropriations. The parties recognize that performance by ASU depends upon appropriation of funds by the State Legislature of Arizona. If the Legislature fails to appropriate the necessary funds, or if ASU's appropriation is reduced during the fiscal year, ASU agrees to use other legally available funds to perform its obligations hereunder or reduce the scope of this Agreement if appropriate.

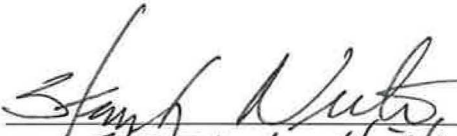
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first set forth above.

ARIZONA BOARD OF REGENTS,  
FOR AND ON BEHALF OF  
ARIZONA STATE UNIVERSITY

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_


ASU ATHLETIC FACILITIES DISTRICT

By:   
Name: STEVEN L. NIELSEN  
Title: EXEC DIRECTOR

**Approval of Attorneys**

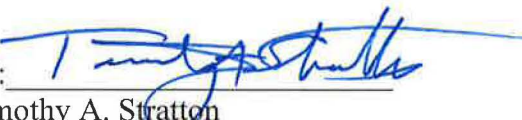
Pursuant to A.R.S. § 11-952, this Agreement has been submitted to Counsel. The undersigned has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Board of Regents.

Arizona Board of Regents for and on behalf of Arizona State University

By:   
Lisa Loe, Deputy General Counsel  
Arizona State University

Pursuant to A.R.S. § 11-952, this Agreement has been submitted to Counsel. The undersigned has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the ASU Athletic Facilities District, a county stadium district formed by Maricopa County.

ASU Athletic Facilities District

By:   
Timothy A. Stratton  
Gust Rosenfeld, PLC  
Counsel to the ASU Athletic Facilities District