

When Recorded Return to:

Sarah A. Strunk, Esquire
Fennemore Craig, P.C
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE CITY OF SURPRISE

AND

THE TOURISM AND SPORTS AUTHORITY

PERTAINING TO

THE KANSAS CITY ROYALS

AND

THE TEXAS RANGERS SPRING TRAINING FACILITIES

*** * ***

DATED TO BE EFFECTIVE: MAY 21, 2001.

FILED THIS _____ DAY OF MAY, 2001, IN THE OFFICE OF THE MARICOPA COUNTY RECORDER, PURSUANT TO A.R.S. §11-952(G).

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INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is made and entered into by and between the CITY OF SURPRISE, ARIZONA, a municipal corporation (the "City"), and THE TOURISM AND SPORTS AUTHORITY, a corporate and political body having all the rights, powers and immunities of a municipal corporation (the "TSA"). The City and the TSA may be referenced collectively below as the "Parties" and each individually as a "Party."

Recitals:

1. The City has statutory authority to enter into agreements with other governmental agencies, and the Mayor of the City is authorized and empowered by law to execute such agreements.

2. Pursuant to A.R.S. §5-804, the TSA is authorized to enter into contracts, including intergovernmental agreements under A.R.S. Title 11, Chapter 7, Article 3, as necessary to carry out the purposes and requirements of the TSA.

3. The TSA was created, among other things, to: (i) provide funds to acquire land or construct, finance, furnish, improve, market or promote the use of existing or proposed Major League Baseball spring training facilities and other structures, utilities, roads, parking areas or buildings necessary for full use of the training facilities for sports and other purposes; and (ii) do all things necessary or convenient to accomplish those purposes.

4. The City has agreed to develop and construct a spring training practice facility and stadium (hereinafter more particularly described and referred to as the "Project") to be used for Major League Baseball spring training operations and extended spring, summer and autumn training by the Royals and the Rangers, each Major League Baseball Clubs.

5. The Royals and the Rangers have each agreed to enter into agreements with the City for the use of the Project prior to or contemporaneous with the execution and delivery of this Agreement.

6. Pursuant to A.R.S. §5-808, the Board of Directors of the TSA must require that the City contribute at least one-half of the funds to be contributed, spent or distributed by the TSA.

7. The Board of Directors of the TSA has determined that the TSA should provide partial funding of the Project.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and consideration hereinafter contained, it is agreed by and between the City and the TSA as follows:

ARTICLE I DEFINITIONS

Section 1.1 In addition to the terms defined in the foregoing recitals to, and hereinafter in, this Agreement, as used in this Agreement the following terms shall have the following meanings:

(a) “Agreement” means this Intergovernmental Agreement, as amended or supplemented from time to time.

(b) “Authorized City Representative” means the City Manager or such other person or persons designated by the City Manager to act on behalf of the City.

(c) “Business Day” means a day other than a Saturday, Sunday or day on which banks are not authorized by law to close in Phoenix, Arizona.

(d) “Cactus League Promotion Account” means the account authorized pursuant to A.R.S. §5-837.

(e) “City” means the City of Surprise, a municipal corporation.

(f) “City Construction Fund” means the sub-account of the Construction Trust Account established pursuant to Section 1.02 of the Construction Trust Agreement.

(g) “City Contribution” means the Project Costs less the TSA Contribution.

(h) “Closing” means the date the City Contribution is transferred to the Construction Trust Account, which shall be no later than five (5) days after execution of this Agreement.

(i) “Code” means the Internal Revenue Code of 1986, as amended.

(j) “Construction Contract” means any agreement or agreements for the installation, acquisition or construction of all or part of the Project by and between a Contractor and the City.

(k) “Construction Trust Account” means the construction trust account created pursuant to the Construction Trust Agreement.

(l) “Construction Trust Agreement” means that certain Construction Trust Account Agreement between the City, the TSA and National Bank of Arizona, as trustee, set forth on Exhibit A hereto.

(m) “Contractor” means Barton Malow/HOK Design Build, a joint venture, or any other person or entity entering into a Construction Contract.

(n) “Event of Default” means any one of the events described in Sections 11.1 and 11.2.

(o) “Financing Documents” means this Agreement, all documents and instruments related to the issuance and delivery of the Project Bonds, and all other documents, instruments

and agreements now or hereafter governing, evidencing or securing the obligations of the City contained herein.

(p) “Plans” means the conceptual and construction plans and specifications for the Project as defined in Section 2.48 of, and attached as *Exhibit B* to, the Team Agreements, all attached hereto and made a part hereof, together with such other construction plans and specifications relating to the Project which are hereafter prepared by the City and approved by the TSA pursuant to Section 4.3(a) of this Agreement.

(q) “Project” means the project undertaken by City to construct spring training practice facilities and a stadium to be used primarily for major league baseball spring training operations and extended spring, summer and autumn training by major league baseball clubs, consisting generally of the following:

(i) Construction, development and operation of a training facility to be used initially by the Royals including 6-½ practice fields, a clubhouse and related appurtenant facilities and equipment;

(ii) Construction, development and operation of a stadium facility, seating approximately 10,500 persons, and related appurtenant facilities and equipment, including, but not limited to, parking, on-site utilities and other related infrastructure and amenities;

(iii) Construction, development and operation of a training facility to be used initially by the Rangers including 6-½ practice fields, a clubhouse and related appurtenant facilities and equipment; and

(iv) Acquisition, by purchase, lease or otherwise, of all real property required to construct, develop and operate the improvements listed above (hereafter the "Property");

all as more particularly set forth and described in the Plans.

(r) “Project Bonds” means the bonds to be issued by the TSA to fund the TSA Contribution in an aggregate principal amount that, upon sale, will produce sufficient proceeds, after deduction of the Project Financing Costs associated with the Project Bonds, equal to the TSA Contribution.

(s) “Project Financing Costs” means any fees, charges, costs and reserves incurred by the City or the TSA in order to issue, market, sell, make payment on and secure any bonds, loans, financing arrangements or the Project Bonds, including, but not limited to, all reasonable and necessary financing costs, legal fees and costs and expenses incident thereto.

(t) “Project Costs” means the total costs for development, design, survey, land acquisition, installation, construction, engineering, and expenses directly related to the construction of the Project, all as set forth in *Exhibit C* to the Team Agreements attached hereto and made a part hereof, the fees of the Trustee in connection with the Construction Trust Agreement, together with such costs as may constitute a Project Cost pursuant to Sections 4.1(b)

and (c) of this Agreement, *but excluding* any Project Financing Costs and all costs related to offsite improvements that are set forth in *Exhibit C* to the Team Agreements.

(u) “Rangers” means the Texas Rangers Baseball Partners, a Texas General Partnership.

(v) “Reimbursable Costs” means certain Project Costs of the City incurred prior to the date of this Agreement, as are set forth on Exhibit B.

(w) “Royals” means the Kansas City Royals Baseball Corporation, a Missouri corporation.

(x) “Subcontractors” means persons who have actually supplied labor, materials or services in connection with or incidental to any Construction Contract.

(y) “Team Agreements” means those certain Sports Facility Use Agreements relating to the use of the Project by the Royals and the Rangers for major league baseball training operations, which are set forth on Exhibit C.

(z) “Trustee” means National Bank of Arizona and any successors thereto.

(aa) “TSA” means the Tourism and Sports Authority, a corporate and political body having all the rights, powers and immunities of a municipal corporation.

(bb) “TSA Contribution” means \$26,000,000, provided, however, that the TSA Contribution shall be no more than two-thirds of the Project Costs.

(cc) “TSA Construction Fund” means the sub-account of the Construction Trust Account established pursuant to Section 1.02 of the Construction Trust Agreement.

(dd) “TSA Percentage” means 66.66%.

(ee) “TSA Representative” means the person or persons designated by the TSA Board to act on behalf of the TSA.

ARTICLE II PURPOSE

Section 2.1 The purpose of this Agreement is to provide for the following:

(a) A means of financing the design, acquisition, installation, construction and operation of the Project; and

(b) The respective rights and obligations of the Parties with respect to the Project.

ARTICLE III
TSA AND CITY OBLIGATIONS

Section 3.1 Project Plans. The TSA and the City have reviewed and acknowledge the Plans and the Project Costs.

Section 3.2 City Contribution. At the Closing, the City shall deliver \$22,000,000 to the Trustee for deposit into the City Construction Fund. The City shall provide the TSA with a written certification signed by the Authorized City Representative certifying as to the deposit by the City into the City Construction Fund and provide written evidence of any deposit required by this Section 3.2.

Section 3.3 TSA Contribution.

(a) Issuance of the Project Bonds. The City acknowledges and agrees that the TSA Contribution will be funded by the issuance and sale of the Project Bonds. From and after the execution hereof, the TSA shall take all necessary actions in order to authorize and approve the issuance, sale and delivery of the Project Bonds and market the Project Bonds, including obtaining all necessary consents and approvals in order to issue the Project Bonds, by no later than October 31, 2001, provided, however, the TSA shall use its best efforts to issue the Project Bonds as soon as possible after the execution of this Agreement. In the event the TSA does not, cannot or is unable to issue and sell the Project Bonds, as the City's sole and exclusive remedy, the City may select one of the following remedies: (i) to immediately terminate this Agreement and the Construction Trust Agreement upon written notice to the TSA and the Trustee; or (ii) to cause the TSA to pay to the City, immediately upon the TSA's receipt thereof, monies that are lawfully deposited in the Cactus League Promotion Account in accordance with the schedule of payments attached hereto as Exhibit D.

(b) Deposit of the TSA Contribution with the Trustee. Promptly after the TSA receives the proceeds from the Project Bonds, the TSA shall deliver the TSA Contribution to the Trustee for deposit into the TSA Construction Fund. The delivery of funds by the TSA in accordance with this Section 3.3(b) shall occur only after the approval by the City of the award of a Construction Contract providing for the construction of the Project. The City shall promptly notify the TSA in writing and provide written evidence of the award of a Construction Contract provided, however, if the Construction Contract is not awarded on or prior to December 31, 2001, the TSA may, in its sole discretion and upon written notice to the City, immediately terminate this Agreement and the Construction Trust Agreement.

(c) Reimbursement of the City for Reimbursable Costs and Project Costs. As soon as practicable after deposit of the TSA Contribution into the TSA Construction Fund, the Trustee shall pay to the City Construction Fund from the monies contained in the TSA Construction Fund an amount equal to: the TSA Percentage *multiplied by* the sum of the Reimbursable Costs and any other Project Costs paid by monies withdrawn from the City Construction Fund prior to that date.

(d) No Further Obligation to Fund. After the TSA has deposited the TSA Contribution as required by Section 3.3(b), the TSA shall have no further obligation to fund the Construction Trust Account or the Project Costs.

Section 3.4 Obligation of the City to Complete the Project. The City shall complete the construction of the Project in accordance with the Plans. If the proceeds in the Construction Trust Account are at any time insufficient to pay all Project Costs or insufficient to pay for the completion of the Project, the City agrees to pay or cause to be paid to the Trustee, from its own funds or other amounts available to it, the amount of such deficiency for deposit to the Construction Trust Account. The City shall provide the TSA with a written certification signed by the Authorized City Representative certifying as to each deposit by the City into the City Construction Fund and provide written evidence of any deposit required by this Section 3.4. The TSA makes no representation or warranty express or implied that the amounts that will be credited to the Construction Trust Account will be sufficient to pay the Project Costs. The TSA's only obligation is to make the TSA Contribution and the City shall not be entitled to any other contribution or reimbursement from the TSA for any sums spent in completing the Project.

Section 3.5 Execution of Other Agreements. Concurrent with the execution and delivery of this Agreement: (i) the City, the Royals and the Rangers shall each execute a Team Agreement; and (ii) the City and the TSA shall execute and deliver the Construction Trust Agreement.

Section 3.6 Books and Records Maintained by the City. The City shall at all times keep accurate and complete books, records and accounts with respect to all of the City's activities related to the Project and the Team Agreements, such books, records and accounts to be maintained at the City's principal place of business. The TSA, or any persons designated by it, shall have the right, without hindrance or delay, but only upon three (3) Business Days prior written notice and during normal business hours, to inspect, audit, check and make extracts from the City's books, records and accounts, including, without limitation, all journals, orders, receipts and any correspondence and other data relating to the books, records and accounts related to the Project and the Team Agreements as may be maintained, generated or stored. The City hereby irrevocably authorizes any person, including, without limitation, any of the City's employees or agents, having possession or control of any such books, records and accounts to make them available for the TSA's inspection upon the TSA's request or, at the option of the TSA, make any computer programs or mechanical devices or program related thereto and related to the Project and the Team Agreements available to the TSA.

Section 3.7 No Assignments or Changes in Use. The City will not sell, convey, transfer, assign, dispose of or further encumber the Project, the Property or any part thereof or any interest therein or enter into a lease covering all or any portion thereof or an undivided interest therein, either voluntarily, involuntarily or otherwise, or enter into an Agreement to do so that would materially affect the City's ability to fulfill its obligations under or carry out the transactions contemplated by this Agreement or operate and maintain the Project as a spring training major league baseball facility or that would materially affect the TSA's ability to exercise any of its rights set forth in this Agreement or the Financing Documents, without the prior consent of the TSA, which consent may be conditioned on the payment to the TSA of an amount equal to the sum determined by *dividing* the TSA Contribution by the total Project Costs

multiplied by the greater of: (i) the total consideration received by the City on the sale or lease of all or any part of the Project or the Property; or (ii) the Fair Market Value of all or any part of the Project or the Property sold, leased or that has been changed in use from a spring training major league baseball facility. The aggregate amount that may be received by the TSA pursuant to this Section 3.7 shall be no greater than the TSA Contribution and provided further, that the TSA may, in its sole discretion, refuse to accept any amount that would: (i) cause the Project Bonds to become "private activity bonds" within the meaning of Section 141 of the Code or corresponding provisions of federal tax law; (ii) otherwise result in the Project Bonds bearing interest which is included in gross income for federal income tax purposes; or (iii) under current law, result in the TSA receiving an amount, on a present value basis, in excess of five percent (5%) of the debt service to be paid on the Project Bonds issued by the TSA. This Section 3.7 is not intended to apply to: (i) the uses contemplated in the Team Agreements; (ii) the substitution of the Royals and the Rangers by other Major League Baseball clubs or teams; (iii) a lease or leases of all or any portion of the Project by baseball clubs or teams that are not Major League Baseball clubs or teams but for periods of no longer than two months in duration; (iv) a lease or leases entered into by the City as part of a security or lien arrangement for the finance or refinance of the City Contribution provided, that no such lease will result in a change in use of the Project. An independent appraiser selected by the TSA and reasonably acceptable to the City shall determine the "Fair Market Value" of the affected Project or Property.

Section 3.8 No Liens on the Project. The City will not create or place, permit to be created or placed or, through any act or failure to act, acquiesce in the creation or placing of, or allow to remain, any mortgage, lien (statutory, constitutional or contractual), pledge, security interest, encumbrance or charge or conditional sale or other title retention agreement on the Project, or other property, either real or personal, comprising the Project, including the Real Property (or any portion of any thereof) other than liens, encumbrances or conveyances: (i) created or contemplated by the Team Agreements; or (ii) consented to by the TSA. The TSA shall not unreasonably withhold its consent to any lease or leases entered into by the City as part of a security or lien arrangement for the financing or refinancing of the City Contribution provided, that no such lease results in a change in use of the Project.

Section 3.9 No Impairment of the Project Bonds. The City will not permit or take any action that would impair the Project Bonds and the City agrees to modify this Agreement, the Construction Trust Agreement or any other necessary contract documents in good faith as reasonably necessary to accommodate the tax-exempt financing of the Project Bonds to be obtained by the TSA for the Project.

ARTICLE IV PROJECT COSTS, FINANCIAL PARTICIPATION AND PLANS AND SPECIFICATIONS

Section 4.1 Project Costs.

(a) Nature of Project Costs. The City represents, warrants and covenants that the Project Costs: (i) are the best estimate by the City of all of the costs of the Project; (ii) include only those costs necessary to complete the acquisition, installation and construction of the Project; and (iii) are hereby certified as an accurate estimate by the City.

(b) Changes in Project Costs. City shall not change or in any manner cause or seek a change in Project Costs except as follows:

(i) Any increase in the Project Costs relating to one item that exceeds \$20,000 or, in the aggregate any increases in Project Costs caused by two or more items that exceeds \$50,000, shall be considered for approval by the TSA or TSA Representative within five (5) calendar days and if not disapproved in writing by the end of such period shall be deemed as approved, and such approval shall not be unreasonably withheld. The TSA's approval of any increase in the Project Cost shall not increase the TSA's financial obligation to the Project beyond the TSA Contribution in any manner.

(ii) In the event that the TSA and City are unable to reach agreement on the inclusion of an increase in the Project Costs, the matter shall be submitted to expedited Alternative Dispute Resolution ("Expedited ADR") in accordance with Article XII of this Agreement.

(c) Changes in Project Costs. Any change in the Project Costs that receives the applicable approval or approvals required by Section 4.1(b) or is resolved in favor of inclusion pursuant to Article XII relating to Expedited ADR hereof shall constitute a Project Cost and shall be eligible for payment from amounts held in the Construction Trust Account in accordance with the terms of the Construction Trust Agreement.

Section 4.2 Funding of the City Contribution. The City Contribution shall be fully funded by City.

Section 4.3 Plans.

(a) Changes to Plans. Any Plans not finalized or completed at the time of Closing shall be submitted, upon their completion, to the TSA for review and written approval of the TSA Representative. The TSA Representative shall review such plans within five (5) calendar days of receipt and either approve or disapprove such Plans. Such Plans will be deemed approved if no approval or disapproval is given by the TSA within such five (5) calendar day period.

(b) No Changes Resulting in Change in Use. Except as may be provided in Section 3.7, no changes to the Plans, the Construction Contract or any contracts, leases, drawings or agreements that now or hereafter affect the ownership, construction, equipping, use or operation of the Project or the Property as a spring training facility for Major League Baseball shall be made without the prior written consent of the TSA. If there is a change in ownership or use or operation of the Project or the Property as a spring training facility for Major League Baseball, the TSA may condition its consent in the same manner as set forth in Section 3.7 of this Agreement.

(c) Minor Changes. Notwithstanding the foregoing, minor changes to the Plan and Specifications shall be allowed by the TSA provided such minor changes, individually and in the aggregate do not cause a change in the character, quality or use of the Project.

**ARTICLE V
DISBURSEMENT OF FUNDS**

Section 5.1 Deposits with the Trustee. On the date of the Closing, the deposits with the Trustee required to be made by the City into the City Construction Fund pursuant to Section 3.2 hereof shall be made and, after issuance of the Project Bonds, the deposits with the Trustee required to be made by the TSA pursuant to Section 3.3 hereof shall be made. All such funds constituting the City Contribution and the TSA Contribution shall be deposited in the Construction Trust Account for application pursuant to the Construction Trust Agreement and used solely to pay Project Costs.

Section 5.2 Disbursements. Disbursements of monies held in the Construction Trust Account shall be made pursuant to the terms of the Construction Trust Agreement.

Section 5.3 Reimbursable Costs. As soon as practicable after deposit of the City Contribution into the Construction Trust Agreement, the City will be entitled to a disbursement from the City Construction Fund in an amount equal to the sum of the Reimbursable Costs.

**ARTICLE VI
CONSTRUCTION OF THE PROJECT**

Section 6.1 Construction of the Project. The City shall promptly commence and diligently pursue construction of the Project to completion. The City shall perform such duties as may be necessary to complete construction of the Project pursuant to the Plans and in a good and workmanlike manner and all in full compliance with all applicable laws, zoning ordinances, municipal ordinances, regulations and orders of Federal, State, County, City, local and regulatory authorities of every kind and with all covenants, conditions and restrictions affecting the Project.

Section 6.2 Inspection by the TSA. The City shall permit TSA's Representative and agents to enter upon the Project and to inspect the Project and all materials to be used in the construction thereof and will cause the Contractor and all subcontractors to cooperate with TSA's Representative and agents during such inspections, provided, however, that the TSA shall provide to the City a certificate of insurance providing automobile liability insurance coverage of at least one million dollars (\$1,000,000) per occurrence and comprehensive general liability insurance coverage with a combined single limit of coverage of at least one million dollars (\$1,000,000), which certificate shall (i) be issued by an insurance company which is authorized to write such insurance in the State of Arizona and is rated "A-" or better by A.M. Best Co., in Bests' Key Guide; and (ii) name as insured parties the City and the TSA. The TSA shall use its best efforts to cause any agents of the TSA who will enter upon the Real Property to deliver to the City a certificate of insurance as required by in this Section 6.2 naming the City and the TSA as insured parties.

Section 6.3 Deviations or Defects During Construction. Upon discovery by the TSA of any deviation from the Plans or of defective or unworkmanlike labor or materials being used in the construction of the Project, the TSA may immediately demand in writing that any unsatisfactory work be replaced and that the condition be corrected, whether or not any unsatisfactory work has already been incorporated into the Project. If the City disagrees with the

TSA's determination that there is a deviation or defect in the construction of the Project, the matter shall be submitted to Expedited ADR in accordance with Article XII of this Agreement. The City shall correct such condition (or shall have initiated and shall be diligently and continuously pursuing correction of the condition) within fifteen (15) days from the date of such demand by the TSA or the decision of the arbitrator in the Expedited ADR. The TSA shall have the right to stop all further disbursements of the TSA Construction Fund or the proceeds assigned pursuant to Section 3.3(a), as the case may be, that are requested for or related to the payment of the item or the subject matter of the TSA's demand until the condition is corrected and no other work shall be done on the item or subject matter of the TSA's demand without the prior written consent of the TSA unless, and until, such condition has been fully corrected.

Section 6.4 Licensing and Bonding. Each Contractor shall be fully licensed and bonded for payment and performance so as to be in full compliance with the provisions of Article 2, Title 34 of the Arizona Revised Statutes, as amended. The TSA shall be named as an additional beneficiary on any bonds issued in connection with the Project.

Section 6.5 Owner's Policy. The City shall maintain an "Owners and Contractors Protective Liability" insurance policy in a full amount of the estimated Project Costs (the "Owner's Policy"). The TSA shall be named as an additional insured under the Owner's Policy.

Section 6.6 Notice of Design Meetings. The City shall provide the TSA Representative with reasonable written notice of the date, time and place of all Project design meetings, including, but not limited to, all pre-construction meetings, weekly progress meetings, pre-bid conferences and bid openings.

ARTICLE VII FINANCING

Section 7.1 Funding of the Project. Except for the TSA Contribution, the City shall provide all funds to finance land acquisition, design, installation and construction relating to the Project, all in accordance with this Agreement and the Construction Trust Agreement.

Section 7.2 Limited Obligation. No obligation of the TSA under or arising out of this Agreement or any document executed by the TSA in connection with the Project or the issuance, sale or delivery of the Project Bonds shall impose, give rise to or be construed to authorize or permit a debt or pecuniary liability, or a charge against the general credit of the TSA but such obligation shall be limited to monies lawfully deposited into the Cactus League Promotion Account.

Section 7.3 Right to Prepay or Defeas the Project Bonds. The TSA shall have the right to prepay or defeas the Project Bonds, in whole or in part at any time, subject to any requirement for prepayment and defeasance set forth in the Project Bonds and in any documents entered into in connection with the issuance of the Project Bonds.

Section 7.4 Certain Provisions Related to the Project Bonds. The City, to the extent within its control, covenants that it will not knowingly take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest on any of the Project Bonds under Section 103(a) of the Internal Revenue

Code of 1986, as amended (the “Code”) or to cause the interest on any of the Project Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Code, and in the event of such action or omission, it will, promptly upon having such brought to its attention, take such reasonable actions based upon an opinion of bond counsel to the TSA, as may rescind or otherwise negate such action or omission. The City, to the extent within its control, will not knowingly directly or indirectly use or permit the use of any proceeds of any of the Project Bonds or any other funds of the TSA to take or omit to take any action, that would cause any of the Project Bonds to be or become “arbitrage bonds” within the meaning of Section 148(a) of the Code or to fail to meet any other applicable requirement of Sections 103, 141, 148, 149 and 150 of the Code to the extent applicable to the Project Bonds.

ARTICLE VIII MANAGEMENT, OPERATION AND MAINTENANCE

Section 8.1 Management, Operation and Maintenance by the City. The City, at its own cost and expense, shall manage, operate, maintain and insure the Project in a manner that is in compliance with the terms and provisions of the Team Agreements until the expiration of the full term of the Team Agreements.

Section 8.2 Maintenance of Required Insurance. The City shall maintain, and the City shall require that the Royals and the Rangers maintain, all insurance required pursuant to Section 16 of the Teams Agreements, provided such program is in full compliance with all applicable laws, or through financially sound and generally recognized responsible insurance companies selected by the City. Such insurance companies shall be authorized to write such insurance in the State of Arizona. The company issuing the policies shall be rated “A-” or better by A.M. Best Co., in Bests’ Key Guide provided, that the City may maintain its policies of insurance through the Arizona Municipal Risk Retention Pool.

ARTICLE IX WARRANTIES, REPRESENTATIONS AND COVENANTS

Section 9.1 Representations by the City. The undersigned, on behalf of the City, but not individually, represents and warrants to, and covenants with, the TSA that:

(a) The City is a municipal corporation duly organized and existing under the laws of the State of Arizona, and has, and as of the date of the Closing will have, full legal right, power and authority to: (i) enter into this Agreement; and (ii) carry out and consummate the transactions contemplated by this Agreement, the Construction Trust Agreement and the Team Agreements.

(b) Any and all hearings, ordinances and approvals prerequisite to the execution and delivery of this Agreement, the Construction Trust Agreement and the Team Agreements have been held, enacted or granted and in the processing thereof all notice and hearing requirements under applicable law have been fully complied with, including, but not limited to, open meeting laws of the State of Arizona.

(c) The Mayor and Council of the City: (i) have duly authorized and approved the execution and delivery of, and the performance of its obligations under this Agreement, the Construction Trust Agreement and the Team Agreements; and (ii) have duly authorized and approved the consummation of all other transactions contemplated by this Agreement, the Construction Trust Agreement and the Team Agreements.

(d) As of the date of the Closing, this Agreement, the Construction Trust Agreement and the Team Agreements will have been duly executed and delivered by the City and will be legal, valid and binding agreements of the City enforceable in accordance with their terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws in effect from time to time affecting the rights of creditors generally and subject to the availability of equitable relief.

(e) The consummation of the transactions contemplated in this Agreement, the Construction Trust Agreement and the Team Agreements will not conflict with or constitute a breach of or default under any provision of applicable law or administrative regulation of the State of Arizona or the United States of America or any department, division, agency or instrumentality thereof or any applicable judgment or decree or any loan agreement, bond, note, resolution, ordinance, indenture, agreement or other instrument to which the City is a party or may be otherwise subject, to the extent that such conflict, breach or default adversely affects or impacts the terms or performance of this Agreement, the Project, the Project Bonds or any of the transactions contemplated by this Agreement or the Construction Trust Agreement. The City is not in breach of or default under any such provision, and no event has occurred and is continuing that constitutes, or that with the passage of time or the giving of notice or both would constitute, a breach of or a default under any such provisions, to the extent that such conflict, breach or default adversely affects or impacts the terms or performance of this Agreement, the Project, the Project Bonds or any of the transactions contemplated by this Agreement or the Construction Trust Agreement. There are no such provisions that, either in any single case or in the aggregate, materially adversely affect or in the future might (so far as can reasonably be foreseen) materially affect the City's condition, financial or otherwise, or materially affect the City's ability to fulfill its obligations under or carry out the transactions contemplated by this Agreement or the Construction Trust Agreement.

(f) There is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or body pending or, to the knowledge of the City, threatened (i) in any way affecting the City's powers or the existence of the City (ii) seeking to restrain or enjoin the issuance, sale or delivery of the Project Bonds, (iii) in any way contesting or affecting the validity or enforceability of this Agreement, the Construction Trust Agreement, the Team Agreements, or any agreements entered into in connection therewith, or (iv) that may adversely affect the City or the Project.

(g) The City has made all required filings with and has obtained all material approvals, consents and orders of any government authority, board, agency or commission having jurisdiction that would constitute a condition precedent to performance by the City of its obligations under this Agreement.

(h) Construction of the Project will be in accordance with the Plans and the operation of the Project will comply with Team Agreements and all applicable laws, zoning ordinances, municipal ordinances, regulations and orders of Federal, State, County, City, local and regulatory authorities of every kind and with all covenants, conditions and restrictions affecting the Project.

(i) All building permits, authorizations and approvals required for construction of the Project in accordance with the Plans have been or will be obtained prior to the start of construction.

Section 9.2 Representations by the TSA. The undersigned, on behalf of the TSA but not individually, represents and warrants to, and covenants with, the City as follows:

(a) The TSA is organized and existing under the laws of the State of Arizona as a corporate and political body having all the rights, powers and immunities of a municipal corporation, and has, and as of the date of the Closing will have, full legal right, power and authority to: (i) enter into this Agreement and the Construction Trust Agreement; and (ii) carry out and consummate the transactions contemplated by this Agreement and the Construction Trust Agreement.

(b) Any and all hearings, ordinances and approvals prerequisite to the execution and delivery of this Agreement and the Construction Trust Agreement have been held, enacted or granted and in the processing thereof all notice and hearing requirements under applicable law have been fully complied with, including, but not limited to, open meeting laws of the State of Arizona.

(c) The Board of Directors of the TSA: (i) have duly authorized and approved the execution and delivery of, and the performance of its obligations under this Agreement and the Construction Trust Agreement; and (ii) have duly authorized and approved the consummation of all other transactions contemplated by this Agreement and the Construction Trust Agreement.

(d) As of the date of the Closing, this Agreement and the Construction Trust Agreement will have been duly executed and delivered by the TSA and will be legal, valid and binding agreements of the TSA enforceable in accordance with their terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws in effect from time to time affecting the rights of creditors generally and subject to the availability of equitable relief.

(e) The consummation of the transactions contemplated in this Agreement and the Construction Trust Agreement will not conflict with or constitute a breach of or default under any provision of applicable law or administrative regulation of the State of Arizona or the United States of America or any department, division, agency or instrumentality thereof or any applicable judgment or decree or any loan agreement, bond, note, resolution, ordinance, indenture, agreement or other instrument to which the TSA is a party or may be otherwise subject, to the extent that such conflict, breach or default adversely affects or impacts the terms or performance of this Agreement, the Project, the Project Bonds or any of the transactions contemplated by this Agreement or the Construction Trust Agreement. The TSA is not in breach of or default under any such provision, and no event has occurred and is continuing that

constitutes, or that with the passage of time or the giving of notice or both would constitute, a breach of or a default under any such provisions, to the extent that such conflict, breach or default adversely affects or impacts the terms or performance of this Agreement, the Project, the Project Bonds or any of the transactions contemplated by this Agreement or the Construction Trust Agreement. There are no such provisions that, either in any single case or in the aggregate, materially adversely affect or in the future might (so far as can reasonably be foreseen) materially affect the TSA's condition, financial or otherwise, or materially affect the TSA's ability to fulfill its obligations under or carry out the transactions contemplated by this Agreement or the Construction Trust Agreement.

(f) There is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or body pending or, to the knowledge of the TSA, threatened (i) in any way affecting the TSA's powers or the existence of the TSA (ii) seeking to restrain or enjoin the issuance, sale or delivery of the Project Bonds, (iii) in any way contesting or affecting the validity or enforceability of this Agreement or the Construction Trust Agreement or any agreements entered into in connection therewith, or (iv) that may adversely affect the TSA or the Project.

(g) The TSA has made or will make all required filings with and has obtained all material approvals, consents and orders of any government authority, board, agency or commission having jurisdiction that would constitute a condition precedent to performance by the TSA of its obligations under this Agreement.

ARTICLE X ASSIGNMENT

Section 10.1 This Agreement may not be assigned by the TSA or the City without the prior written consent of the Parties, provided, that, upon the prior written consent of the City, which consent shall not be unreasonably withheld, the TSA may assign all or any part of its rights under this Agreement to the Maricopa County Stadium District or its successor organization or to any other public entity with responsibility for Major League Baseball Spring training activities and facilities in Maricopa County.

ARTICLE XI EVENTS OF DEFAULT

Section 11.1 TSA Events of Default. The following shall be "events of default" by the TSA under this Agreement:

(a) If any warranty or representation of the TSA herein contained shall prove to be false, misleading, untrue or incorrect in any material respect.

(b) If the TSA breaches or defaults in the performance or observance of any of its covenants, promises, undertakings or agreements contained in this Agreement or the Construction Trust Agreement, and shall fail to cure the same or shall fail to diligently and continuously pursue or perform the actions necessary to cure the same within thirty (30) days after written notice to the TSA by the City of such breach or default; provided, however, if the failure stated in the written notice cannot be corrected within the applicable period, the City shall

not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the TSA, as appropriate, within the applicable period and diligently pursued until the default is corrected.

(c) If any action, rule, law or decision of any legislative or administrative body or of any court should materially impair or materially and adversely affect the enforceability of any of this Agreement.

(d) Filing by the TSA of a voluntary petition in bankruptcy, failure by the TSA promptly to lift any execution, garnishment or attachment, adjudication of the TSA as a bankrupt, the TSA's failure or inability to pay its debts generally as they become due, the TSA's admission in writing of its inability to pay its debts, general assignment by the TSA for the benefit of creditors, entry by the TSA into an agreement of composition with creditors, or filing of a petition applicable to the TSA in any proceedings instituted under the provisions of the Federal Bankruptcy statute, as amended, or under any similar acts that may hereafter be enacted, and such petition is not dismissed within sixty (60) days after service on the TSA; or if a receiver or trustee or custodian has been appointed in any proceeding for all or substantially all of the TSA's property or assets; or if the TSA has requested the appointment of such receiver, trustee or custodian; or if the TSA is adjudged insolvent under any state insolvency law.

Section 11.2 City Events of Default. The following shall be "events of default" by the City under this Agreement:

(a) If any warranty or representation of the City herein contained shall prove to be false, misleading, untrue or incorrect in any material respect.

(b) If the City breaches or defaults in the performance or observance of any of its covenants, promises, undertakings or agreements contained in this Agreement, the Construction Trust Agreement or the Team Agreements, and shall fail to cure the same or shall fail to diligently and continuously pursue or perform the actions necessary to cure the same within thirty (30) days after written notice to the City by the TSA of such breach or default; provided, however, if the failure stated in the written notice cannot be corrected within the applicable period, the TSA shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City as appropriate, within the applicable period and diligently pursued until the default is corrected.

(c) If any action, rule, law or decision of any legislative or administrative body or of any court should materially impair or materially and adversely affect the enforceability of any of this Agreement.

(d) Filing by the City of a voluntary petition in bankruptcy, failure by the City promptly to lift any execution, garnishment or attachment, adjudication of the City as a bankrupt, the City's failure or inability to pay its debts generally as they become due, the City's admission in writing of its inability to pay its debts, general assignment by the City for the benefit of creditors, entry by the City into an agreement of composition with creditors, or filing of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy statute, as amended, or under any similar acts that may hereafter be enacted, and

such petition is not dismissed within sixty (60) days after service on the City; or if a receiver or trustee or custodian has been appointed in any proceeding for all or substantially all of the City's property or assets; or if the City has requested the appointment of such receiver, trustee or custodian; or if the City is adjudged insolvent under any state insolvency law.

(e) If any suit or legal action materially affecting the Project, the construction of the Project or the operation and use of the Project is filed and the City fails to take steps that the TSA in its reasonable discretion determines is satisfactory to defend or resolve such action within ninety (90) days after written notice to the City by the TSA.

(f) If the construction work on the Project is abandoned or stopped for a continuous period of thirty (30) days (except for temporary stoppages not to exceed one hundred eighty (180) days in the aggregate due to strikes, shortages or unavailability of materials, or acts of God).

(g) If the Project shall be damaged or destroyed by fire or other casualty; provided, however, that it shall not be an Event of Default if the City receives insurance proceeds or uses other funds sufficient to repair or restore the Project to a condition and quality sufficient to conduct Major League Baseball spring training pursuant to the Team Agreements, and the City promptly repairs or restores the Project.

Section 11.3 TSA Remedies. Provided the TSA is not in default under this Agreement, upon the occurrence of any default by the City set forth in Section 11.2, at its option and not less than ten (10) business days after written notice has been provided to the City, the TSA may do any one or more of the following in any order or combination as the TSA shall elect in its sole and unfettered discretion:

(a) Withhold making any further payments from the TSA Construction Fund or from the Cactus League Promotion Account, as the case may be, it being agreed that the TSA may also take such action upon the occurrence of an event that would be an event of default except for any notice or cure periods set forth herein;

(b) Take possession of the Project through agents, employ security watchmen and cause the Project to be completed at the expense of the City, using the proceeds of any bonds issued in connection with the Project, insurance covering the Project or any remaining Construction Trust Account proceeds for such purpose and charging any additional expenses to the City;

(c) Obtain the appointment of a receiver for the Project;

(d) Foreclose any lien, cause the exercise of the power of sale, exercise the right of entry to the Project and exercise any rights and remedies given to the TSA in all other documents;

(e) Seek legal remedies for any sums owing or for damages; and

(f) Take such other actions as may be allowed by law or as the TSA may deem necessary to protect its interest.

Section 11.4 Cumulative and Nonexclusive Remedies of the TSA. Any and all remedies conferred upon the TSA shall be deemed cumulative with, and nonexclusive of any other remedy conferred hereby or by law, and the TSA in the exercise of any one remedy shall not be precluded from and shall not be deemed to have waived the exercise of any other remedy or remedies.

Section 11.5 Remedies of the City. If the TSA defaults or breaches its duties under Section 3.3(a), the remedies of the City are limited to the provisions of Section 3.3(a). With respect to any other default or breach by the TSA under or arising out of this Agreement, the Construction Trust Agreement, or any document executed by the TSA in connection with the Project or the issuance, sale or delivery of the Project Bonds, no judgment for damages against the TSA shall impose, give rise to or be construed to authorize or permit a debt or pecuniary liability, or a charge against the general credit of the TSA but satisfaction of such judgment shall be limited to monies lawfully deposited into the Cactus League Promotion Account. Nothing in the Section 11.5 shall limit the City's right to pursue any equitable remedy that the City can demonstrate it is entitled to under the law.

ARTICLE XII ALTERNATIVE DISPUTE RESOLUTION

Section 12.1 All claims, demands, disputes, controversies and differences that may arise between the TSA and the City under this Agreement shall be resolved by Alternative Dispute Resolution as set forth below and in accordance with A.R.S. §12-1501, et seq.

(a) Any Party by written notice to the other involved Parties within ten (10) business days after a controversy has arisen shall select a person to act as an arbitrator.

(b) The other involved Party may by written notice within ten (10) business days after receipt of such written notice by the first Party appoint a second arbitrator.

(c) If two arbitrators have been appointed as provided above, they shall agree on a third arbitrator within five (5) business days after their appointment and shall appoint him or her by written notice signed by both of them and a copy mailed to each Party involved. In the event that the Parties fail to appoint a third arbitrator, the Parties authorize the appointment of a third arbitrator by the American Arbitration Association.

(d) The City or TSA may join any other party to the arbitration proceeding who is needed for just adjudication to the arbitration. The standard for joinder of any other party shall be that provided under Rule 19, Arizona Rules of Civil Procedure.

(e) On appointment of three arbitrators (hereinafter, "the Panel") as provided for above, the Panel shall hold a hearing within fifteen (15) days after the appointment of the third member of the Panel, or upon the expiration of the time period in Subsection (b) if no other arbitrator is appointed. The hearing shall be held at the City of Surprise, or at any other place agreed to by the Parties involved. The Parties shall be entitled to reasonable discovery prior to the arbitration.

(f) At least five (5) days prior to the hearing, the Parties shall meet, exchange exhibits, stipulate and agree on nondisputed facts. No exhibit shall be admitted unless exchanged between the Parties. Prior to or at the hearing, the Parties shall submit memorandums not to exceed five (5) pages outlining the relevant issues for the arbitrators. At the hearing, the laws of evidence of the State of Arizona shall apply, and the arbitrator, or the Panel, as the case may be, shall allow each Party to present that Party's case, evidence and witnesses and render the decision as to the disputed matter. Each Party shall bear their respective expenses of arbitration.

(g) The award of the arbitrator or the majority of the Panel shall be final and binding on the Parties to this Agreement.

ARTICLE XIII COMPLETION BY THE TSA

Section 13.1 Grant of Power of Attorney to the TSA. If the TSA takes possession of the Project pursuant to Section 11.3 hereof, the City agrees that the TSA may use the proceeds of any bonds issued by the City in connection with the Project, the proceeds of any payment and performance bond delivered by any Contractor in connection with the Project, the proceeds of any insurance covering the Project pursuant to this Agreement or the Team Agreements and any monies remaining in the Construction Trust Account that are necessary to complete construction of the Project in whole or in part. For this purpose, the City hereby irrevocably constitutes and appoints the TSA its true and lawful attorney-in-fact with full power of substitution to complete the construction of the Project in the name of the City and hereby empowers the TSA as said attorney:

(a) To take all actions necessary in connection therewith for the purpose of completing the Project in whole or in part;

(b) To make such additions, changes and corrections in the Plans that may be necessary or desirable to complete the Project in whole or in part;

(c) To employ such contractors, subcontractors, agents, architects and inspectors as shall be required for said purposes;

(d) To pay, settle or compromise all existing or future bills and claims that are or may be liens against the Project or may be necessary or desirable for the completion of the Project in whole or in part or the clearance of title to the Project; provided, however, if any disposition of an existing claim shall require the consent of the City, that consent shall not be unreasonably withheld; and

(e) To execute all applications and certificates in the name of the City that may be required and to do any and every act with respect to construction of the Project that the City may do in its own behalf.

Section 13.2 Irrevocability of Power of Attorney; Term. The power of attorney granted to the TSA pursuant to Section 13.1 hereof shall be deemed to be a power coupled with an interest that cannot be revoked, provided, however, the power of attorney shall expire upon the final completion of construction of the Project in the reasonable opinion of the TSA.

**ARTICLE XIV
MISCELLANEOUS**

Section 14.1 Recording. Pursuant to A.R.S. §11-952(B)(1) and (G), this Agreement shall be in full force and effect upon filing with the County Recorder of Maricopa County, Arizona, as provided for by A.R.S. §11-952(G) and shall continue in full force and effect and shall be binding on the Parties until all Project Bonds have been repaid and retired or until the expiration of the full term of the Team Agreements, whichever is later.

Section 14.2 Waiver. In the event any agreement contained in this Agreement should be breached by any Party and thereafter waived by the other Party, such waiver shall be in writing and signed by an authorized representative of the Party granting the waiver and shall not be deemed to waive any other breach hereunder.

Section 14.3 Accuracy of Representations and Warranties. The Parties acknowledge that each and every representation, warranty, term and condition in this Agreement shall be true and accurate as of the date of execution of this Agreement, shall constitute a material part of the consideration hereunder and shall survive the execution of this Agreement.

Section 14.4 Indemnification.

(a) The City shall (to the extent permitted by law) indemnify and hold harmless, jointly and severally, the TSA and each director, official, independent contractor or employee thereof (any such person being herein sometimes called an “Indemnified Party”), for, from and against any and all losses, claims, damages or liabilities, joint or several to which any such Indemnified Party may become subject, whether under any statute or regulation at law or in equity or otherwise, whether arising under statute, contract or tort, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon the actions or inaction of the City under this Agreement, the Construction Trust Agreement or the Team Agreements, including without limitation, Section 7.4 of this Agreement and shall reimburse any legal or other expenses reasonably incurred by any Indemnified Party in connection with investigating or defending any such loss, claim, damage, liability or action, including the fees of expert witnesses. The City may settle any litigation commenced or threatened arising from a claim subject to indemnification pursuant to this Section 14.4(a) if such settlement is effected with the written consent of the TSA (which consent shall not be unreasonably withheld).

(b) An Indemnified Party shall, promptly after the receipt of written notice of a threat of, or the commencement of, any action against such Indemnified Party in respect of which indemnification may be sought against the City pursuant to Section 14.4(a), notify the City in writing of the commencement thereof. The failure of the Indemnified Party to give such notice shall not reduce the liability of the City unless the City is actually prejudiced by such failure to receive notice. In case any such action shall be brought against an Indemnified Party and such Indemnified Party shall notify the City of the commencement thereof, the City shall defend the Indemnified Party therein, with counsel reasonably satisfactory to such Indemnified Party and the City (it being understood that, except as hereinafter provided, the City shall not be liable for the expenses of more than one counsel representing the Indemnified Parties in such action). If the City shall not have employed counsel to defend any such action, the Indemnified Parties may

retain counsel to defend the action and the legal and other expenses of such counsel incurred by such Indemnified Party shall be borne by the City.

(c) In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in this Section 14.4 is applicable but for any reason is held to be unavailable to any Indemnified Party from the City, the City (to the extent permitted by law) and the Indemnified Parties (to the extent permitted by law) shall contribute to the aggregate losses, claims damages and liabilities (including any investigation, legal and other expenses incurred in connection with, and any claims asserted) to which the City may be subject in such proportion as is appropriate to reflect the relative fault of the Indemnified Parties on the one hand and the City on the other in connection with the matter that resulted in such losses, claims, damages or liabilities (or actions in respect thereof) as well as other equitable considerations. No person guilty of fraudulent activity shall be entitled to contribution from any person who is not guilty of such fraudulent activity. Any Party entitled to contribution shall, promptly after receipt of notice of commencement of any action, suit or proceeding against such Party in respect of which a claim for contribution may be made against another Party or Parties under this paragraph, notify in writing such Party or Parties from whom contribution may be sought, but the omission to so notify such Party from whom such contribution may be sought shall not relieve the Party or Parties from whom contribution may be sought from any other obligation it or they may have hereunder or otherwise than under this section. No Party shall be liable for contribution with respect to any action or claims settled without its consent.

(d) The provisions of this Section 14.4 shall survive the term of the Agreement and any termination hereof.

(e) All amounts due or otherwise arising pursuant to this Section 14.4 shall be paid to the TSA in the calendar month immediately after such amounts become due or otherwise arose.

Section 14.5 Amendments. This Agreement may not be changed, modified or rescinded, except in writing, signed by the Parties hereto, and any attempt at oral modification of this Agreement shall be void.

Section 14.6 Notices.

(a) The TSA and the City shall notify each other in writing:

(i) Promptly of any claim, demand, action, or dispute that involves the rights, interests, properties or obligations of the Parties, particularly that which involves the interpretation of any of the provision of, or the rights of the Parties under, this Agreement, the Construction Trust Agreement or the Team Agreements or any other claim, demand, action or dispute that may, directly or indirectly, materially affect the Project.

(ii) Immediately of the attachment or seizure, by process of law or otherwise, the Project, the Project Bond proceeds or any monies in the Construction Account.

(b) All notices herein required shall be in writing, signed by the proper officers and either delivered to the proper officers of the City and/or the TSA or sent by first class, certified

mail, postage prepaid, not later than the date herein required to the following addresses or to such other addresses as shall be designated by the Parties in like fashion:

As to the TSA: President and Chief Executive Officer
Tourism and Sports Authority
8585 East Hartford Drive
Scottsdale, Arizona 85255
Facsimile: (480) 505-0534

With a copy to: General Counsel
Tourism and Sports Authority
C/o Fennemore Craig, P.C.
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012
Facsimile: (602) 916-5560

As to the City: City Manager
City of Surprise
12425 West Bell Road, Suite D-100
Surprise, Arizona 85374
Facsimile: (623) 583-1399

With a copy to: City Attorney
City of Surprise
12425 West Bell Road, Suite D-100
Surprise, Arizona 85374
Facsimile: (623) 583-1399

Section 14.7 Entire Agreement. This Agreement and the Construction Trust Agreement represent the entire agreement of the Parties with respect to its subject matter, and all agreements, oral or written, entered into prior to this Agreement are revoked and superseded by this Agreement.

Section 14.8 Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect.

Section 14.9 Time is of the Essence. Time is of the essence of this Agreement in each and all of its provisions.

Section 14.10 Governing Law. This Agreement shall be construed in accordance with the law of the State of Arizona.

Section 14.11 Disadvantaged Business Entities. The TSA has a strong desire and interest in encouraging disadvantaged business enterprises in the same manner and respect as for the multipurpose facility as contemplated by A.R.S. §5-813. Therefore, the TSA strongly

encourages the City to consider implementing disadvantaged business enterprise participation goals for the design, engineering, construction and operation of the Project.

Section 14.12 Conflicts of Interest. The provisions of A.R.S. § 38-511 are applicable to this Agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective May 21, 2001.

CITY OF SURPRISE, ARIZONA

DATE: _____

By _____
Name: Joan H. Shafer
Title: Mayor

ATTEST:

City Clerk

**APPROVED AS FORM AND IN
ACCORDANCE WITH A.R.S. §11-952(D)**

City Attorney

THE TOURISM AND SPORTS AUTHORITY

By _____ DATE: _____
Name: Ted A. Ferris
Title: President and Chief Executive Officer

ATTEST:

General Counsel

**APPROVED AS TO FORM AND IN
ACCORDANCE WITH A.R.S. §11-952(D)**

General Counsel

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 21st day of May, 2001, by Joan H. Shafer, the Mayor of the City of Surprise, Arizona, a municipal corporation, on behalf of the City.

(Seal and Expiration Date)

Notary Public

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 21st day of May, 2001, by Ted A. Ferris, the President and Chief Executive Officer of the Tourism and Sports Authority.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

CONSTRUCTION TRUST AGREEMENT

EXHIBIT B

REIMBURSABLE PROJECT COSTS PREVIOUSLY INCURRED BY THE CITY

DATE	PAYEE	SERVICES PROVIDED	AMOUNT
2/16/01	Dennis Lopez & Associates	Appraisal services for site condemnation	\$ 4,378.00
2/23/01	HOK Sports Facilities Group	Architectural services, master plan	56,771.93
3/9/01	Greenburg, Traurig	Legal services for site condemnation and design build contract advice and negotiation	22,121.50
3/23/01	Greenburg, Traurig	Legal services for site condemnation and design build contract advice and negotiation	4,240.75
3/30/01	CMX Group, Inc.	Architectural services, master plan	13,481.00
3/30/01	HOK Sports Facilities Group	Architectural services, mater plan	225,619.45
4/13/01	Barton Malow Company	Design/construction consultation	169,716.20
4/13/01	Speedie & Associates	Geotechnical analysis	5,458.00
4/27/01	Greenburg, Traurig	Legal services for site condemnation and design build contract advice and negotiation	<u>1,154.50</u>
		Total amount of Reimbursable Costs which should be paid to the City:	<u>\$502,941.34</u>

EXHIBIT C

TEAM AGREEMENTS

EXHIBIT D

SCHEDULE OF ASSIGNED MONTHLY PAYMENTS
FROM CACTUS LEAGUE PROMOTION ACCOUNT

SSTRUNK/1171753/91396.014