

## **FORT LOWELL SOCCER FLSC**

### **TUCSON UNIFIED SCHOOL DISTRICT NUMBER ONE**

#### **Financial Participation Agreement (Revised)**

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between Tucson Unified School District No. One, hereinafter referred to as "TUSD", and the Ft. Lowell Soccer Club Inc., a non-profit organization, hereinafter referred to as "FLSC".

#### **RECITALS**

WHEREAS, the activities of FLSC are in the public interest and are such as to improve and promote the public welfare;

WHEREAS, FLSC proposes to organize and schedule soccer activities at the proposed lighted soccer/multi-use fields located in the area of Doolen Middle School, 2400 N. Country Club Road;

WHEREAS, the TUSD has entered into an agreement with the City of Tucson for the use and maintenance of the proposed lighted soccer/multi-use fields located at Doolen Middle School;

WHEREAS, the TUSD Governing Board has determined that to participate in the promotion of soccer activities with the FLSC is a public purpose in that the activities confer direct benefit of a general character to a significant part of the public through youth soccer;

NOW THEREFORE, in consideration of the mutual covenants and conditions hereafter set forth, the parties do mutually agree as follows:

#### **Section 1: Statement of Purpose**

TUSD and FLSC are dedicated to the design and construction of a lighted soccer/multi-use field complex (the Project), as depicted in Exhibit "A".

#### **Section 2: Services to be Performed FLSC**

FLSC shall:

1. Provide all funding to complete the field lighting element of the soccer/multi-use field construction project.
2. Be responsible to contract for the portions of the lighting work not completed under the TUSD contract including the wiring, poles and lights; essentially the "above-ground" portions.
3. Solicit a minimum of three (3), written quotes from contractors for the FLSC portion of the lighting contract.
4. Submit the selected contract to TUSD for approval.
5. Keep the property free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of FLSC. Any and all of FLSC's contractors and/or sub-contractors constructing any alterations, improvements, additions, utility installations or removing any fixtures shall sign a "Contractors Hold Harmless Agreement"

in the form attached hereto as Exhibit A to be provided to TUSD prior to commencement of such work. Contractor(s)/sub-Contractor(s) who do not currently have a certificate of insurance on file with TUSD shall provide TUSD with a certificate of insurance in which the commercial general liability coverage shall not be less than \$2,000,000, combined single limit, naming TUSD as an additional insured.

6. Designate an organization contact person(s) to provide communication and coordination with the TUSD and associated project representatives.

7. Comply with all applicable provisions of the City of Tucson-TUSD Intergovernmental Agreement at for the soccer fields at Doolen Middle School.

### **Section 3: Services to be Provided by TUSD**

TUSD shall:

1. Provide all funding for the design and construction of two soccer/multi-use fields and features/amenities as described the City of Tucson-TUSD Intergovernmental Agreement at Doolen Middle School.

2. Include the conduit and pole footings for the lights as part of the TUSD contract, which portion will be funded by FLSC; essentially the “below-ground” portions.

3. Provide a contact person for communication and coordination with all with the FLSC and associated project representatives.

### **Section 4: Americans with Disabilities Act**

All construction shall comply with all applicable provisions of the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act (28 CFR Parts 35 and 336).

### **Section 5: Term of Agreement**

This Agreement between parties as described above shall be effective upon execution and shall terminate on the \_\_\_\_\_ day of \_\_\_\_\_, 2038, unless terminated earlier, as provided herein.

### **Section 6: Termination**

This agreement may be terminated at any time by mutual written consent, or by either party giving thirty (30) days written notice to the other party.

### **Section 6a: Disposition of Property Upon Termination**

Upon termination of this agreement, all personal property and equipment owned by either party for use at the facilities shall be the property of the original purchaser. If TUSD terminates the agreement, TUSD will pay the FLSC for their property at one hundred percent (100%) of the residual value as amortized, straight line, over 25 years.

### **Section 7: Indemnification**

The FLSC shall indemnify, defend and save harmless the TUSD, Board, appointed boards and committees, and commission officers, employees, and insurance carriers, individually and

collectively, from all losses, claims, suits, demands, expenses, subrogation's, attorney's fees, or actions of any kind and nature resulting from the personal injury to any person, including bodily injury and death, or damages to any property, arising or alleged to have arisen out of the FLSC's use of and scheduling of the said premises of this agreement, except any such injury or damages arising out of the sole negligence of TUSD, its officers, agents, or employees.

**Section 8: Insurance**

The Ft. Lowell Soccer FLSC shall provide evidence of insurance as follows: Commercial general liability in the amount of \$1,000,000 bodily injury, \$1,000,000 property damage. TUSD shall be named as additional insured for all operations performed within the scope of this Agreement. All certificates of insurance must provide for a guaranteed thirty (30) days written notice of cancellation, non-renewal and material change.

WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2013

TUCSON UNIFIED SCHOOL DISTRICT NUMBER ONE

\_\_\_\_\_  
Bryant Nodine, AICP  
Planning Services Program Manager

FT. LOWELL SOCCER FLSC

\_\_\_\_\_  
Curt Cannon  
As Agent Representative and not personally

**EXHIBIT A**

**CONTRACTOR'S HOLD HARMLESS AGREEMENT**

The undersigned \_\_\_\_\_ (the "Contractor"), hereby agrees to protect, defend, indemnify and hold harmless Tucson Unified School District (the "Owner") and its successors in interest and assigns (collectively, the "Indemnitees"), the Indemnitees' members, managers, partners and affiliates, and each of their respective officers, agents, servants, employees and independent contractors from and against any and all loss, cost, expense, liability, damage, claim and demand incurred in connection with, or arising from, any cause relating to the performance of any work done on and around the soccer fields at Doolen Middle School by the Contractor, or its agents, servants, or employees (collectively, the "Contractor's Agents"), including, without limiting the generality of the foregoing, any default in the observance or performance of any of the terms, covenants or conditions of the Contract (as hereinafter defined), any injury to persons, including death, or damage to property in connection with the performance of the Contract, or any acts, omissions or negligence of Contractor or Contractor's Agents or any person claiming by, through or under Contractor or Contractor's Agents. Contractor hereby agrees that Contractor shall, at Contractor's sole cost and expense, defend any and all actions brought against Indemnitees based upon any of the foregoing with attorneys reasonably acceptable to Owner and shall pay any and all costs and expenses incurred in such actions, including, without limitation, court costs and professional fees such as appraisers', accountants', and attorneys' fees, and promptly discharge any judgments arising therefrom. This covenant by Contractor shall survive the expiration or sooner termination of the Contract and the lease in connection with which Contractor performed the Contract. Indemnitees, their members, managers, partners and affiliates and each of their respective officers, agents, servants, employees and independent contractors shall not be liable for any damage either to person, including death, or property, which is sustained by Contractor or Contractor's Agents or by any other person or entity claiming through Contractor or Contractor's Agents in connection with Contractor's or Contractor's Agents' performance of the Contract or any subcontracted operations. Contractor hereby agrees to insert the provisions of the preceding sentence in any subcontract relating to the Owner's property.

Contractor hereby further agrees that Contractor will perform the work and services in connection with the Contract as an independent contractor and not as an employee or agent of Indemnitees.

As used herein, the term "Contract" shall include any agreement, whether oral or written, relating to any work performed and/or required to be performed by Contractor or Contractor's Agents on or around the soccer fields at Doolen Middle School.

IN WITNESS WHEREOF, the undersigned has executed this Contractors Hold Harmless Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

Contractor:

By: \_\_\_\_\_

Its: \_\_\_\_\_