

## APPENDIX B

### Stadium Construction Funding and Oversight Issue Summary by Major Category

#### CATEGORY 1 | Structure, Powers and Responsibilities of the Stadium Authority Board

1. Makeup of the Stadium Authority (Section 7 and Section 29)
  - a. The development group proposed the following distribution:
    - i. **Two** members appointed by the Governor;
    - ii. **One** member appointed by the board of county commissioners of the county in which the district created by Section 10 of this act is located; and
    - iii. **Four** members appointed by the Stadium Events Company.
  - b. **NOTE:** The developers note that this should be either (a) proportional to contribution with public **less than 50 percent** or (b) an entirely public body with no continuing role in the operation of the stadium. The developers further indicate that 71 percent (5/7) public representation when the public is contributing 30 percent (\$550 million) to 41.6 percent (\$750 million) of the cost is not a reasonable expectation.
    - i. The percentages noted above assume the cost of the stadium is slightly greater than \$1.8 billion.
    - ii. The calculations provided by the developer above omit any consideration of tax increment funding allocated to the stadium project.
  - c. **NOTE:** The developers added an element to Section 27, which removes the staggered terms for the stadium authority members, noting “(d) After the initial terms described above, all members shall serve three-year terms, beginning on September 1.” It is unclear what the purpose of this recommended revision is.
  - d. **NOTE:** It would seem that the timing of the appointments to the stadium authority cannot initially include any membership from the development team, operators or NFL team, as none of these will be known until the authority makes these decisions. Once these selections have been made, the SAB membership can be expanded to include representatives from these entities.
  - e. **NOTE:** Counsel also indicated:
    - i. The development partners are not technically known at the time of creation of the stadium authority, so no person could be appointed to represent them initially.
    - ii. Representatives of the development partners would have a conflict of interest in any vote that affects the development partner and requiring that the development partner be represented on the authority **raises questions as to the nature of the stadium authority for federal tax purposes.**
    - iii. If it is an entity with representatives of governmental entities and representatives of the developer on its governing body, the internal revenue service may raise questions as to **whether the authority is a truly public entity.**
    - iv. The other statute involving such a board in Nevada (244A.830) only allows the authority to “assist” the county in operating the stadium; here the authority has much broader powers and it will be important that it be treated as a governmental entity for federal tax purposes and not a partnership.
    - v. The authority can then have a contract or “partnership agreement” with the development partners describing the relationship between the development partners and the stadium authority, and giving the appropriate amount of control to the development partners in operating the stadium.
2. Makeup of the Stadium Authority in the event an NFL Team is not secured and collegiate stadium is constructed instead.

## APPENDIX B

### Stadium Construction Funding and Oversight Issue Summary by Major Category

- a. UNLV would like Stadium Authority to be replaced with new members appointed consistent with the makeup of the campus improvement authority board (CAIB). (See, [https://www.unlv.edu/sites/default/files/page\\_files/27/UNLVNow-AssemblyBillNo335.pdf](https://www.unlv.edu/sites/default/files/page_files/27/UNLVNow-AssemblyBillNo335.pdf), legislative reference provided appears incorrect, Chapter 507, Section 17).
  - b. As proposed, authority members' terms would expire 90 days after notification of a president of a university located in the district that the NFL team has not been secured and the university president, in turn, notifies the governor that the university intends to raise funds to meet the requirements of Section 14(4)(a).
3. Appointment of the Chair of the Stadium Authority (**Section 8**)
- a. The development group is recommending that the "stadium authority" appoint the chair of the committee as opposed to the Governor. (**Section 8(1)**)
4. Establishing a quorum and limited discretion of the Stadium Authority (**Section 8**)
- a. The developers also noted that the committee should revisit the number of Stadium Authority members required to have a quorum. This is currently set at 4. (**Section 8(5)**)
  - b. The developers would like Section 8(5)(b) to be amended to read as follows: "(b) The stadium authority may take action only by a motion or resolution adopted with the approval of at least XX members of the stadium authority when a quorum is present, ***and only actions complying with this act may be taken by the stadium authority. Notwithstanding anything to the contrary in this act, the NFL Team shall have absolute discretion to approve all elements of stadium location, design, and construction of the building.***"
5. Roles and responsibilities of the Stadium Authority (**Sections 9 through 12 and Section 14(2)**)
- a. The developers would like to make all staffing of the authority a matter of public record by amending section 9(1) to read, "1. The stadium authority may retain such staff as it determines to be necessary to conduct the activities of the stadium authority. **All aspects of the retention of such staff members, including but not limited to all compensation, shall be matters of public record.** The stadium authority may:"
    - i. **NOTE:** Because the authority is a public body, pursuant to section 8(6) of the act, this may already be the case. Need to confirm with counsel.
  - b. The developers would like to strictly limit the roles and responsibilities of the Stadium Authority by revising section 11(1) to read "1. **The business of the stadium authority shall be expressly limited to involvement in the business (a) of financing and constructing the stadium itself, (b) in connection with the collection of room tax revenues authorized by this act and any bonds or the sale of PSLs described in this act, (c) related to the receipt and distribution of revenues from the increment district, as provided in this act; (d) related to reviewing and approving annual capital expense budgets and funding capital improvements, and (e) owning the stadium and entering into a long-term lease for year round use of the stadium. After the opening of the stadium, the stadium authority shall have absolutely no role, responsibility, or decision making authority related to the ongoing operation of the stadium and all specifically enumerated responsibilities of the stadium authority listed herein shall be limited to completing the above specified tasks. Subject to this limitation,** the stadium authority may:"
    - i. **NOTE:** Allocation of the PSL proceeds has been added to the Stadium Authority expenditure waterfall (**Section 15(1)(b)**).

## APPENDIX B

### Stadium Construction Funding and Oversight Issue Summary by Major Category

- c. The developers would like to limit the Stadium Authority's ability to contract or enter into other agreements to be **"in consultation with and subject to the approval of the Stadium Events Company and the NFL Team."** (Section 11(1)(a))
- d. The developer would like to further limit the Stadium Authority abilities to take future actions by removing the provision giving the authority the ability to **"Proceed with any undertaking and enter into any contracts or other agreements that the stadium authority determines to be necessary or desirable."** (Section 11(1)(d))
  - i. **NOTE:** for remaining agreements relating to "design, planning, construction, acquisition, lease, lease-purchase, license, gift, equipment, maintenance, insurance, operation, management, promotion or advertising of any undertaking or any part thereof", the developer would like to make such agreements **"in consultation with and subject to the approval of the Stadium Events Company and the NFL Team."**
- e. The developers would like to amend the approval authority for the stadium project as follows:
  - i. ~~"(g) Approve, in consultation with the development partners, the site selected for the undertaking,~~ **with the understanding that such site shall be selected by the NFL team and the development partners."** (Section 11(1)(g))
  - ii. "h) Approve **that the stadium design meets minimum NFL design standards and complies with all applicable building codes,** ~~in consultation with the development partners and subject to the approval of the NFL Team,~~ **with the understanding that the overall design, scope and specifications of the undertaking stadium project shall be determined by the NFL Team in consultation with the development partners."** (Section 11(1)(h))
- f. The developers would like to have greater control over capital improvement expenditures by the Stadium Authority by amending section 11(1)(m) to read, "(m) Consider, approve or disapprove an annual capital improvement budget submitted by the Stadium Events Company and approve or disapprove specific requests for capital improvements made by the Stadium Events Company, **which approvals shall not be unreasonably withheld or conditioned, understanding that the stadium project shall make capital improvements to keep the stadium consistent with the first class, premier NFL facilities and that the stadium authority may not disapprove requests that are similar in scope and magnitude to capital improvements made at top tier, premier NFL facilities."**
- g. The developers would like to limit the scope of the Stadium Authority by amending section 11(1)(n) to read, "(n) Perform any other acts that may be necessary, convenient, desirable or appropriate to carry out the powers and duties of the stadium authority, **in consultation with and subject to approval of the Stadium Events Company and the NFL Team."**
- h. The developers would like to limit the Stadium Authority's ability is issue bonds until such time as Stadium Events Company and the NFL Team has approved the qualified undertaking. (Section 12(1)(b)).
  - i. **NOTE:** The developer would also like to limit any "proceedings" for the issuance of securities to be subject to the approval of the Stadium Events Company and the NFL Team.
- i. The developers would like the use of tax funds collected to be subject to approval of the Stadium Event Company (at, Section 14(2)).
  - i. "Except as otherwise provided in subsection 3 or 4, before the issuance of any securities pursuant to section 12 of this act, the stadium authority shall use the proceeds of the taxes imposed by subsection 2 of section 13 of this act **and**

## APPENDIX B

### Stadium Construction Funding and Oversight Issue Summary by Major Category

- collected by the stadium authority** and any applicable penalty or interest solely to pay all or part of the cost to acquire, construct, lease, improve, equip, operate and maintain within the boundaries of the district a stadium project, **and if necessary and advisable**, ~~or~~ to establish a bond reserve fund and other reserves to secure any securities issued pursuant to section 12 of this act, or any combination thereof, as directed by the stadium authority **and in consultation with and subject to the approval of the Stadium Events Company and the NFL Team.**”
- ii. **NOTE:** The stadium authority will not collect taxes of any kind. Note similar “taxes collected” language not included in section 14(5)(a) and (b).
6. Section 11(1)(c) has been amended to allow the stadium authority to acquire property by various means (e.g., purchase, lease, gift, devise, condemnation or otherwise) as well as to own “in its own name” interest in land and improvements including air rights and personal property.
    - a. **NOTE:** The developers also requested that these acquisition powers be “**in consultation with and subject to the approval of the Stadium Events Company and the NFL Team.**” This language is not adopted in the current draft; a note has been added the *Points Requiring SNTIC Consideration* section of this summary.
  7. Audit powers of the Stadium Authority have been limited to the Stadium Events Company and not business of the NFL Team generally or the business of any of the developer partners generally. **(Section 11(k)).**
  8. The Stadium Authority becomes responsible for the sale of the personal seat licenses. **(Section 11(l))**
    - a. **NOTE:** Need to understand ramifications if PSL revenue is different than \$200 million.
    - b. **NOTE:** Additional provision recommended by the developer is that a third party can be contracted to sell seat licenses; however, the stadium authority’s retention of this third part is “**subject to the approval of the NFL Team.**”
    - c. **NOTE:** Based on the recommendation of counsel, the following sentence has been added to section 11(l): “The Stadium Authority may not grant any other person the right to enter into such agreements, but it may in its contract with the development partners agree that any agreements regarding seat licenses will be made only in consultation with the development partners, or if applicable, the Stadium Events Company and the NFL Team.”
  9. Section 11(1)(c) allows the stadium authority to received property in its own name. Section 12(2) appears to do the exact same thing. I would appear that Section 12(2) is unnecessary, but we need to confirm.
  10. Section 11(1)(m) creates additional responsibility of the Stadium Authority to “Consider, approve or disapprove an annual capital improvement budget submitted by the Stadium Events Company and approve or disapprove specific requests for capital improvements made by the Stadium Events Company.”
    - a. **NOTE:** May need to define the cap for these contributions. Models have ranged from \$2.5M to \$7.0M per year.
  11. Section 14(2) removes the concept of the board of directors of the stadium authority relative to allocation and use of tax dollars collected by the stadium authority.

## APPENDIX B

### Stadium Construction Funding and Oversight Issue Summary by Major Category

- a. **NOTE:** This would appear to make these allocations an administrative function not requiring board approval, which seems like it could be potentially problematic.

#### **CATEGORY 2 | Funding and Financing of the Stadium**

12. Suitable financial security, such as a performance bond (**Section 11(2)**).
  - a. The developers would like to revise this section as follows: "If the stadium authority enters into a development agreement with development partners, the stadium authority shall ensure that the development partners will provide **mutually agreeable** suitable financial security for their funding obligations as a part of the project financing."
13. Amount of tax issues and amount of bonds (**Section 13(2)(a)**)
  - a. The developers would like the amount of the room tax imposed to be sufficient to generate \$750 million in public capital funding toward the stadium project.
14. Section 13(1) has been amended from creating a stadium district to giving the board of county commissioners the ability to create the district.
  - a. **NOTE:** The question was raised as to whether the center point of the district should be the location of the stadium or the location of regular county meetings. The concern being that the latter is a known location in every county and the former is not.
15. Section 13(2) has been modified to require the board of county commissioners to impose the room tax as opposed to the state legislature.
16. Source of UNLV's funding (**Section 14(4)**)
  - a. UNLV would like to modify the requirement that it secure \$200 million in private funding to securing \$200 million from "**a funding source other than the State of Nevada.**"
  - b. **NOTE:** If this is revised, the "private" reference will need to be revisited in subsection (b) as well.
  - c. **NOTE:** If this is revised, the "private" reference will need to be revisited in section 17(2) as well.
17. Debt service coverage (**Section 17(1)(c)**)
  - a. The developer is recommending that both the room tax element and tax increment funds to be used in determining the debt service coverage ratio for the issuance of stadium authority bonds.
  - b. The developer would like the debt service coverage ratio language to be changed from "at least 1.5x" to "from 1.25x to 1.5x."
18. Requirement to issue bonds (**Section 17(1)(c)**)
  - a. Request was made to modify the county's obligation to issue bonds from "shall" to "may":  
"(c) The stadium authority determines that the proceeds of the taxes imposed by subsection 2 of section 13 of this act are sufficient to establish a debt service coverage ratio of at least 1.5 on securities issued, to defray in whole or in part the cost to acquire, construct, lease, improve, equip, operate and maintain a stadium project, the board of county commissioners in which the district is located, at the request of the stadium authority, **may shall** issue special obligations of the county in an amount not to exceed \$XXXX payable solely from and

## APPENDIX B

### Stadium Construction Funding and Oversight Issue Summary by Major Category

secured solely by all or any portion of the proceeds of the taxes imposed by subsection 2 of section 13 of this act. The securities authorized by this subsection must be issued pursuant to the Local Government Securities Law. The proceeds of any bonds issued pursuant to this subsection, after payment of the costs of issuing those bonds, and making provision for any required reserves, must be allocated to the stadium authority to be used for the stadium project.”

19. Issuance of bonds for a collegiate stadium (**Section 17(2)(c)**)

- a. In the event that an NFL stadium is not constructed, UNLV is requesting that the language that would enable the state of Nevada to issue bonds for the construction of a collegiate stadium be replaced with language that would enable Clark County to issue such those bonds.

20. Sections 18 through 28 deal with the creation of a tax increment area as well as the use and allocation of tax increment area funds. It is unclear at this time how the developer partners recommend the area be structured or funds be used.

- a. **NOTE:** There are currently some mixing of concepts here, which needs to be addressed.
- b. **NOTE:** Section 19(3) relates to the allocation of tax increment dollars. It is unclear at this point the extent to which these funds are allocated to the developer and/or the Stadium Authority. Noting that this is currently assumed to be a project funding tradeoff determined, for example, by the total value of direct stadium bond funding, additional clarity is required in the recommendation language.

### **CATEGORY 3 | Stadium Authority Board Waterfall**

21. Reimbursement of pre-development cost (**Section 12(2)**).

- a. The developers would like the stadium authority to reimburse them for “appropriate development costs.” Section 12(1)(a) limits expenditures by indicating that the Stadium Authority shall not spend any money out of the tax increment account until it has entered into a lease or development agreement. The developer would like this section to be amended to exclude “pre-development costs” from this exemption and would like to add that **“To the extent the stadium authority, the NFL Team, or the developer partner cover any pre-development costs related to design, site acquisition or other construction-related matters, such costs shall be reimbursed by the stadium authority.”**
  - i. **NOTE:** As currently drafted this would appear to require reimbursement even if there was no contractual engagement between the stadium authority and the developer/NFL Team.

22. Public contribution to infrastructure costs (**Section 15(1)**)

- a. The developers would like to add **“Infrastructure costs associated with the project”** to the stadium authority’s revenue allocation waterfall.
  - i. **NOTE:** If this concept is included, it also needs to be added from Section 19(3), which deals with the creation and allocation of tax increment funds.

## APPENDIX B

### Stadium Construction Funding and Oversight Issue Summary by Major Category

23. Payments made to UNLV (**Section 15(1)**)
  - a. The developers would like to restrict payments to UNLV to only where UNLV **“has donated land at no cost on which the stadium project is built.”**
24. Stadium Authority waterfall to include operating and maintenance costs of the stadium (**Section 15**)
  - a. UNLV is recommending that the waterfall include **“The operation and maintenance costs of the stadium in that year to the extent not paid from other sources.”**
25. The use of excess funds in the event a collegiate stadium is constructed (**Section 15**)  
UNLV is recommending that the all excess funds be used as follows, **“(e) If securities are issued under subsection 2 of section 16 hereof any remaining monies shall be paid to the Nevada System of Higher Education to be used for academic programs at the university identified in subsection 2 of section 16, that directly benefit the State of Nevada.”**
26. Section 15 treatment of the review waterfall requires additional treatment, including definitions and amounts.
27. The allocation of PSL proceeds has been added to the Stadium Authority expenditure waterfall. It is in the second position immediately following bond repayment. (**Section 15(1)(b)**).
28. Section 16 requires, “the equal distribution of stadium operating net revenues to the stadium authority and Stadium Events Company once the Stadium Events Company has received the preferred annual rate of return.”
  - c. **NOTE:** Revisions to this section are required to preserve the tax exempt status of stadium bonds.
  - d. **NOTE:** The developers “preferred annual rate of return” is not currently defined anywhere in the draft recommendation.
29. Provisions specific to the structure and administration of the Event Fund are not currently treated in the draft.

#### **CATEGORY 4 | Other Issues Not Otherwise Classified**

30. The term “large events center” has been replaced with “stadium project” throughout the document.
  - a. **NOTE:** “Stadium project” is not currently defined in the draft and there is some ambiguity between a football stadium and collegiate football stadium in the draft. This needs to be clarified throughout the draft.
  - b. **NOTE:** cross reference in Section 21 also requires this definition as the tax increment area needs to define what a “stadium project” is relative to a qualifying undertaking.
31. Replaced the commitment(s) of the NFL to the commitment(s) of the NFL franchise.
  - a. **NOTE:** Need to make sure that franchise can’t commit until NFL approves. Intention here was to make language accurate, not change the process flow.
32. Sections 2 and 4 have been modified to make it clear that some combination of an NFL Team (Section 4) and one or more developer partners (Section 2) will be the owners of the Stadium Events

**APPENDIX B**  
**Stadium Construction Funding and Oversight Issue Summary by Major Category**

Company (Section 6).

33. Seems like Section 6 needs to be developed a bit more. This simply says that the Stadium Events Company will lease the facility. It may be helpful to have other responsibilities of the Stadium Events Company be enumerated.
  - a. **NOTE:** What the operator will be allowed to do needs to be set forth in the lease or in statute.
  
34. Section 13(5) requires an enhanced definition of “gaming corridor”
  - e. **NOTE:** This will define the proposed split rate in the room tax.
  
35. Sections 14(3) and (4) the developers remove the language that includes the “location or relocation” of the NFL franchise.
  - a. **NOTE:** This is probably not material; however, to the extent this language is passed without a tacit agreement by an NFL team, lawmakers may not want to limit their options.
  - b. **NOTE:** Same issue exists at Section 16, which requires the county to issue the bonds
  
36. Section 17(3) has been added, which limits “new or additional” taxes that can be imposed on revenues related to the stadium project for NFL-related events.
  - a. **NOTE:** How does this affect LET?
  - b. **NOTE:** The purpose of this provision is to prevent “piling on” new taxes; however, clarity is required to ensure what is in and what is out is clear.
  - c. **NOTE:** One legislature cannot restrict the actions of another.
  
37. Sections 30 and 31 effective dates need to be revisited and confirmed.