

Summary of Stadium Parking Lot Project Agreement and Lease

State law allows for the lease of an athletic facility to a related nonprofit foundation to make facility improvements. The Board of Regents must approve the lease agreement and certify to the budget director that the conditions of 20-25-309(1), MCA, have been satisfied. The terms of the proposed lease between MSU-Bozeman and the MSU Foundation are summarized below.

Joint planning and budget committee. A project oversight committee consisting of officers of the campus and the foundation will oversee the project programming, design and budget. The committee will review plans, specifications, and other construction documents, participate in a pre-construction conference, and review supplies and equipment.

Responsibilities of Foundation. The Foundation will: (1) plan, design and construct the improvements; (2) enter into all design and construction projects; (3) accept and manage funds and be responsible for all project financial obligations; (4) lease portions of the premises as necessary to complete each improvement project; (5) acquire required permits and inspections, give required notices and pay applicable taxes and fees; (6) carry necessary insurance on the project; and, (7) transfer all premises and improvements back to the university free of any encumbrances upon completion of the project.

Responsibilities of the university. The university will: (1) recommend an architect and oversee his or her work; (2) manage the construction procurement process; (3) recommend award of a construction contract; and, (4) review and recommend all related requests for payment.

Lease provisions. The Foundation will use the leased premises solely for the purposes of the improvement project. University personnel will at all times have access to the leased premises. The Foundation will allow use of the premises by the University for public events and activities.

Provisions relative to claims. Claims against contractors, supplies or others will be assigned to the university. The university will not sue the Foundation. The parties indemnify each other to the extent of each party's negligent or tortious acts.

Funding. Construction contracts will not be awarded until sufficient funds have been identified.

Compliance with laws and policies. The Foundation will comply with all applicable laws, ordinances, lawful orders and rules, regulations of applicable public authorities, federal and state non-discrimination laws, and all federal and state health and safety standards.

Project construction. The Foundation will protect the university's property, shoulder the entire risk for the project, and make reasonable efforts to minimize disruption of the campus during construction.