

SETTLEMENT AGREEMENT

For reference this Settlement Agreement ("Agreement") is dated [February 7], 2013. This Agreement has been authorized and approved by the COT Mayor and Council and the RN Board by motions approved by each, following executive session discussions by each Party.

RECITALS

1) RN was created pursuant to A.R.S. § 48-4201 et seq. (the "MFD Laws"), Proposition 400 (approved by the voters of the cities of Tucson and South Tucson in 1999), and Intergovernmental Agreements among COT, RN and the City of South Tucson, for the purpose of developing primary and secondary components as defined in A.R.S. §48-4201(4) located generally in the areas identified and depicted as the multipurpose facility site (the "Site"). (Exhibit 1).

2) Proposition 400 and its attendant publicity pamphlet (together, "Proposition 400"), as approved by the voters, described the RN project as a planned multi-faceted development project, including cultural and recreational amenities and improvements, unique historic recreations, new and expanded museums, and mixed-use developments. Proposition 400 included the following project elements: a) Historical (such as Mission San Augustine Cultural Center, Carrillo House, Convento, Mission Gardens, the Tucson Presidio Historic Park); b) Cultural/Retail/Mixed Use (such as mixed-use space, hotel development, community plaza and open space, museum development); and c) Environmental (such as improvements to the Santa Cruz River and development of Rancho Chuk Shon).

3) Pursuant to the MFD Laws, the primary component of RN must be a facility used to accommodate sporting events and entertainment, cultural, civic, meeting, trade show or convention events or activities. The "Primary Component" of RN is the Tucson Convention Center ("TCC"), located within the Site.

4) In 2009, the Arizona Legislature adopted significant amendments to the MFD Laws with the adoption of Senate Bill 1003 (approved by the Governor on November 23, 2009) which changed the composition of the RN Board of Directors and its officers and modified a variety of other statutory provisions relating to RN (generically the "2009 Amendments"). The 2009 Amendments included the following provisions:

a) A requirement that RN cannot expend monies except for certain limited purposes (such as preexisting debt service and contractual obligations, reasonable administrative expenses, etc.) until such time that a notice to proceed is issued for convention center and hotel development located within the Site.

b) A requirement that beginning in 2010 and every three (3) years thereafter, the Auditor General shall contract with an independent auditor to conduct a performance audit, including a financial audit, of RN (the "Statutory Audit").

5) The first Statutory Audit was completed by Crowe Horwath, LLP at the direction of the Auditor General in October, 2010 (the "Crowe Horwath Audit"). Among its findings, the Crowe

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Horwath Audit noted that investment in the TCC, the Primary Component of RN, was inadequate to develop the TCC as an economic catalyst. The Crowe Horwath Audit is available for public review online at the Auditor General's website.¹

6) Since the 2009 Amendments disputes have arisen between RN and COT some of which have resulted in lawsuits being filed by RN against COT.

7) By the terms of this Agreement, RN and COT (individually "Party", collectively "Parties") desire to settle and resolve all of their differences so that each can move forward in an effort develop the Site and downtown Tucson in a manner consistent with the MFD Laws.

8) By the terms of this Agreement, RN and COT further desire to direct significant investment towards the Primary Component of RN, the TCC, as recommended in the Crowe Horwath Audit; to advance the development of certain elements of Proposition 400 as approved by the voters of the cities of Tucson and South Tucson in 1999; and to carry out the purposes of the MFD Laws and 2009 Amendments, to include moving forward with convention center and hotel development.

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

AGREEMENTS

1) **Incorporation and Representation.** The foregoing Recitals are hereby incorporated into this Agreement by this reference as if set forth in full and each of the Parties represents that such Recitals are true and accurate to the best of each signatory's knowledge, information and belief.

2) **The Audits:** RN has initiated certain forensic audits (the "Audits"). These audits include the Depot Garage and the Westside projects. The Parties agree that the purpose of this Agreement is to resolve all of the issues between the Parties, and that this Agreement settles and resolves all past disputes, known and unknown between the Parties, including those matters that are the subject of the Audits as specifically provided in Section 14 below. The Parties acknowledge and agree that the 2009 Amendments and the MFD Laws continue to require the Statutory Audits, and the Parties agree to cooperate in good faith to facilitate the timely completion of future Statutory Audits, including the Statutory Audit that will be required in 2013. As part of the 2009 Amendments the Statutory Audits shall include both a financial and a performance audit that will, among other things, examine whether RN is managing its resources in an economic, efficient manner and whether the objectives established by the Legislature are being met. They shall also include a description of the COT's match payments required by A.R.S. §42-5031(D).

3) **Tucson Convention Center (Primary Component):**

a. From funds that may lawfully be expended for such purpose, RN agrees to expend not less than \$6,000,000 on renovation costs for the Tucson Convention Center ("TCC"); the

¹ See http://www.azauditor.gov/Reports/Other/FAD/Rio_Nuevo_Multipurpose_Facilities_District.pdf

Primary Component of the RN District. COT and RN shall cooperate and coordinate to prioritize improvements to the TCC by jointly determining which projects are best suited to provide the greatest impact to potential users of the TCC thereby increasing potential revenues from the use of the TCC. In connection with the expenditures described in this section, COT acknowledges that a notice to proceed issued by RN for the improvements funded by such expenditures shall constitute a notice to proceed for convention center improvements located on the multipurpose facility site as contemplated under A.R.S. §48-4204(B).

b. RN and COT shall cooperate and share the actual cost in researching the feasibility of upgrading, improving and expanding the existing TCC Arena, subject however to a subsequent agreement defining the scope and cost of such feasibility analysis and associated design.

c. From the date of the full execution of this Agreement and thereafter, COT reaffirms its agreement to comply with the terms and conditions of the existing TCC Lease and Sublease Agreements between the Parties, together with any amendments to those agreements as may have been or may be executed between the Parties.

d. In consideration of the above, any claims existing as of the date of the full execution of this Agreement that may exist between the Parties relating to the TCC Lease and Sublease Agreements shall be included within the mutual release of claims described in Section 14 of this Agreement.

4) **RN's claims for compensation for transfer of Fire Central Property; COT claims for compensation for prior COT loans and advances to RN:**

a. In recognition of the mutual consideration provided to each of the Parties pursuant to the terms and conditions of this Agreement, including but not limited to the transfer of the Arena Site as set forth in Section 5 below, RN shall waive and release any and all claims that it has or might have relating to the Fire Central Property (generally APN 11713069E) title to which shall not be disturbed by this Agreement.

b. In recognition of the mutual consideration provided to each of the Parties pursuant to the terms and conditions of this Agreement, including but not limited to RN's waiver and release of any and all claims regarding overcharged interest as identified in the October, 2010 Crowe-Horwath Audit as approximately \$450,000, COT shall waive and release any and all claims that it has or might have for payment of any outstanding balance of prior COT loans and advances to RN of approximately \$1,650,000.

5) **Depot Garage (the "Garage"):**

a. COT will retain ownership of the Depot Garage and RN agrees to withdraw its objection to the COT's prior agreements with any third party relating to the leasing or allocation of spaces in the Garage. The COT will be solely responsible for the operation and maintenance of Garage and shall be solely responsible for any issues with all third parties relating to the design, construction and operation of the Garage. RN shall continue to satisfy its existing debt service obligations for the Garage under the 2008 Revenue bonds.

b. In recognition of the monies expended by RN for the construction of the Garage and RN's claim to share in the Garage revenues, the COT shall pay to RN pursuant to the following schedule a flat fee on a monthly basis commencing January 1, 2013 with payments due and payable of the fifth (5th) day of the subsequent month. For example the January 2013 payment will be due on or before February 5, 2013.

Year 2013:	\$58,000.00 per year/\$4,833.33 per month
Year 2014:	\$106,000.00 per year/\$8,833.33 per month
Year 2015:	\$183,000.00 per year/\$15,250.00 per month
Year 2016:	\$285,000.00 per year/\$23,750.00 per month
Every year thereafter shall be:	These payments shall increase by 4% over the prior year.

These payments shall continue through 2050 or the termination of RN, whichever first occurs. Within ten (10) days of the full execution of this Agreement, the COT shall secure these payments by the recordation of this Agreement with the Pima County Recorder.

c. The COT shall not sell or lease the entire facility without the prior written consent of RN; and upon any sale of the Garage, RN shall be entitled to receive the lesser of the following: 1) the total of the sales proceeds; or 2) the amount of \$16,000,000.00 less the total amount of payments received by RN from the COT as of the date of the closing of the sale, pursuant to the payments described above. In the event that such a sale occurs, the COT payments to RN as described in subsection (b) above shall immediately terminate.

d. RN may not assign its rights under this Section 5 without the prior written consent of COT.

e. COT may make payments in advance of the payment schedule provided in subsection (b) above and thereby reduce subsequent payments.

6) **Arena Site:**

a. RN has asserted a claim against COT for \$894,000 for expenditure reimbursement in connection with the Arena Site [generally APNs 116201350, 116201390 & 11620136A]. COT and RN agree that the Arena Site is a location that should be considered for the development of tax-generating uses that benefit both RN and COT, and that will benefit and support RN's Primary Component and associated Secondary Components. Such beneficial uses could include, without limitation, a stadium or arena, a hotel or hotels, and/or mixed-use or multipurpose facility development and associated parking and other amenities. ["Beneficial Uses"].

b. In order to pursue the development of the Arena Site for Beneficial Uses, and in order to resolve the disputes between the Parties relating to the Arena Site, the Parties agree that:

i. Within thirty (30) days of the full execution of this Agreement, COT will represent and warrant to RN all known claims, existing and potential, relating to the Arena Site ("Known Claims") which representations shall include, without limitation, copies of all

applicable agreements or claims. Within forty-five (45) days of receipt of COT's list of Known Claims, RN shall opt to either accept or reject conveyance of title to the Arena Site. These deadlines may be extended by signed written agreement between the Parties.

ii. If RN elects to accept title, COT shall convey fee title to RN. Closing of this conveyance shall occur not more than one hundred and twenty (120) days after such election unless otherwise agreed in writing by the Parties. All closing costs and fees shall be shared equally. Except as otherwise specifically provided in Subsection (e) below, relating to the Greyhound Lines lease, RN shall indemnify COT, and agrees to defend and hold harmless COT, against all such Known Claims relating to the Arena Site, including but not limited to any claims or actions that might arise relating to prior negotiations with third parties relating to the possible sale or disposition of the Arena Site.

iii. If RN elects not to accept title, COT will continue to own and control the Arena Site and upon sale, long term lease or other disposition of the Arena Site by COT, RN will receive reimbursement of prior RN expenditures on the site, in the amount of \$894,000.00 out of the resulting proceeds, unless otherwise agreed by Parties. The City's obligation under this subsection 6(b)(iii) expires and terminates upon the earlier of (1) the termination of the RN District or (2) January 1, 2050.

c. Upon transfer of fee title to the Arena Site, RN shall actively solicit and pursue the development of the Arena Site for the purpose of securing and establishing Beneficial Uses on the property. COT agrees to cooperate in these efforts in good faith.

d. Upon transfer of fee title to the Arena Site, RN shall waive and relinquish the \$894,000 reimbursement claim described above.

e. Upon transfer of fee title to the Arena Site, COT shall be entitled to continue to receive the rental payments from Greyhound Lines, Inc. pursuant to the existing lease. RN shall not be responsible for either any relocation costs to a permanent facility as required by the Uniform Real Property Acquisition & Relocation Assistance Act as referenced in that certain Assignment of Lease and Amendment to Assigned Lease between City of Tucson & Greyhound Lines, Inc. dated February 2, 2004 or for contribution to the construction of a permanent facility for Greyhound. RN shall not disturb the Greyhound tenancy under the existing lease other than upon the occurrence of both: (a) final approval by COT of a development plan for the Arena Site and (b) not less than one year's prior written notice by RN to the COT and Greyhound.

7) **Westside Development.** Proposition 400, approved by the voters of the City of Tucson and the City of South Tucson in 1999, included various projects for the development of property located within the Site and west of Interstate 10. Such projects include the Mission San Agustin Cultural Center & Settlement Area, Rancho Chuk Shon, the Carrillo House, Mission Gardens, and associated interpretive facilities (generally, the "Westside Proposition 400 Projects"). The Parties agree that the Westside Proposition 400 Projects described in this Section 7 are acceptable and desirable projects for development in the area, subject to compliance with all applicable codes and regulations. To advance the development of these properties the Parties agree as follows:

a. **351 South Brickyard:** COT will retain ownership of the 351 S. Brickyard property generally described in attached Exhibit 2.

b. **Westside Parcel:**

i. COT shall convey to RN title of the property generally depicted on attached Exhibit 3 and bordered on the north by Mission Lane, on the west by Grande Avenue, on the east by the western edge of the Santa Cruz linear park and on the south at the point where the distance between the western edge of the Santa Cruz linear park and eastern edge of Grande Avenue is the smallest ("Westside Parcel"). This conveyance does not include the Mission Gardens property owned by Pima County. The conveyance of the Westside Parcel shall be "as is", without representation or warranty and without cost to RN except as provided below.

ii. To the extent a survey is needed to define the boundaries of the Westside Parcel, the Parties shall share equally in its cost. The Parties shall share equally in the cost of closing the conveyance.

c. **Mission Gardens:** RN agrees to fund the Mission Gardens project as follows:

i. Complete the Mission Gardens project within the project's walls.

ii. Fund additional improvements outside the project's walls but within the area of the Westside Proposition 400 Projects that support the Mission Gardens project.

iii. The total funding under this subsection shall not exceed \$1,100,000.

d. The Parties agree that the development of the above mentioned parcels in this Section 7, including the Westside Proposition 400 Projects, shall be subject to the following:

i. Pre-development and development planning shall be preceded by inclusive public discussion and participation that shall at a minimum include the Menlo Park, Barrio San Agustin (formerly, Barrio Sin Nombre) and Kroeger Lane Neighborhood Associations; area residents and property owners, interested developers, and the Friends of Tucson's Birthplace. By listing the specific groups in this subsection, the Parties do not intend to limit the public process to such groups, nor do the Parties intend to minimize the value of the input and participation by all interested stakeholders, including those not specifically described above.

ii. Proceeds from any sale of any portion of the Westside Parcel shall be used to help fund construction, development, maintenance and operation of the Westside Proposition 400 Projects.

iii. The Parties agree that timing is a high priority and will endeavor to have such development keep pace with current projects and the construction of the modern streetcar line.

8) **Presidio:** COT will retain ownership of the Presidio property other than the Restrooms and Museum/Office which are currently owned by RN. COT and RN have previously executed a lease by RN to the COT of the property owned by RN. The Parties reaffirm their respective obligations under such lease and agree that the lease shall be modified to extend COT's tenancy until March 1, 2015 upon which time it shall terminate without automatic renewal unless otherwise agreed by the Parties.

9) **Duplex:** The Duplex at 196-200 N. Court Avenue shall remain titled to RN, and RN and COT shall waive and release any and all claims relating to this property.

10) **Church and Council Parking Lot:** COT will convey title of the parking lot at the northeast corner of Council Street and Church Avenue, as generally depicted and described in the attached Exhibit 4, to RN. Lease revenues will continue to go to RN as they have to date. COT and RN shall waive and release any and all claims to this property.

11) **Hotel Development:** The Parties agree that the development of a hotel or hotels located within the boundaries of the Site is critical to the successful development of the COT's downtown area and to RN's Primary Component. As more specifically set forth in Recital 4(a) of this Agreement, A.R.S. §48-4204(B) limits the expenditure of RN tax increment revenues to certain specified purposes until such time that RN issues a notice to proceed for a hotel and convention center. Accordingly, the Parties agree to cooperate and act in good faith to solicit and consider proposals for the development of a hotel or hotels that will support and benefit the Primary Component. In the event that RN participates financially in the development of a hotel project located in the Site through the execution of an agreement with the COT, in a manner mutually agreed upon by the Parties, the COT agrees that the execution of such agreement shall constitute a notice to proceed for hotel development as contemplated under A.R.S. §48-4204(b).

12) **Streetscape Development:** RN agrees that within two (2) years of the date of the full execution of this Agreement, RN will appropriate and expend lawfully available funds, in an amount not to exceed \$750,000.00, to fund City-approved streetscape improvements within the downtown core portion of the boundaries of the Site. The Parties agree that the downtown core portion of the Site includes the area within the boundaries of the Site as described in Proposition 400 that are located west of the Snake Bridge.

13) **Payment of Suspended Contracts:** There remains approximately \$6.429 million of unexpended 2008 Revenue bond proceeds ("Unexpended Proceeds"). From the Unexpended Proceeds, COT shall receive \$2,180,454.54 as reimbursement for COT's payments previously made to satisfy outstanding invoices for those contracts relating to various 2008 bond projects (to include Depot Garage; Cushing St. Bridge; Origins Infrastructure). Consistent with the 2008 Revenue bonds, COT shall make the balance of the Unexpended Proceeds available to RN for its use.

14) **Pending Lawsuits and Mutual Release of Claims:**

a. There are three "Existing Lawsuits" in which both COT and RN are named parties; *Kromko v. Rio Nuevo Multipurpose Facilities District, et al.*, Pima County Docket C2011-1105 ("Kromko Lawsuit"), *Rio Nuevo Multipurpose Facilities District v. City of Tucson*,

et al., Pima County Docket C2011-7439 ("Case 7439"), and *Rio Nuevo Multipurpose Facilities District v. City of Tucson, et al.*, Pima County Docket C2011-7440 ("Case 7440").

b. Upon the full execution of this Agreement, RN and COT shall dismiss with prejudice all claims in Case 7439 and Case 7440.

c. Upon the full execution of this Agreement, RN shall indemnify and defend COT from all claims at issue in the Kromko Lawsuit including but not limited to any damage claims by any party and COT shall remain a nominal party in that lawsuit. In the event that Kromko Lawsuit is dismissed with prejudice, this agreement to indemnify and defend shall immediately terminate.

d. Except as otherwise specifically set forth in this Agreement and/or its exhibits, upon the full execution of this Agreement RN, on its own behalf and on behalf of each of its successors and assigns (the "RN Group") hereby releases, remises and forever discharges COT as well as each and all of its predecessors, successors, assigns, employees, agents, insurers, businesses and attorneys (the "RN Group's Releasees") from any and all claims and liabilities of any nature whatsoever, whether known or unknown, now and in the future, contingent or liquidated, debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, torts, damages of every name and nature, both at law and in equity, that the RN Group, or any member thereof, has had or ever may have against the RN Group's Releasees, or any of them (the "RN Group's Released Claims"). Each member of the RN Group represents and warrants that he, she or it has not assigned or in any way alienated any of the RN Group's Released Claims. While the RN Group's Released Claims do include all claims arising out of any act or omission occurring before the date of the full execution of this Agreement, they do not include any claims that RN may have, now or in the future, against COT arising out of or resulting from allegations, claims, demands, actions or proceedings (administrative or judicial) made or brought by any governmental body or agency, bond or certificate holder, underwriter, trustee or taxpayer representative organization with standing relating to the administration, use, management or application of the 2002 COPs, 2008 Revenue Bonds and 2009 COPs proceeds in compliance with all applicable treasury, tax and securities laws and regulations, including but not limited to those relating to maintaining the tax exempt status of interest payable on these such instruments or lawfulness of the use of their resulting proceeds.

e. Except as otherwise specifically set forth in this Agreement and/or its exhibits, upon the full execution of this Agreement COT, on its own behalf and on behalf of each of its successors and assigns (the "COT Group") hereby releases, remises and forever discharges RN as well as each and all of its predecessors, successors, assigns, employees, agents, insurers, businesses and attorneys (the "COT Group's Releasees") from any and all claims and liabilities of any nature whatsoever, whether known or unknown, now and in the future, contingent or liquidated, debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, torts, damages of every name and nature, both at law and in equity, that COT Group, or any member thereof, has had or ever may have against the COT Group's Releasees, or any of them (the "COT Group's Released Claims"). Each member of the COT Group represents and warrants that he, she or it has not assigned or in any way alienated any of the COT Group's Released Claims. While the COT Group's Released Claims do include all claims arising out of any act or omission occurring before the date of the full execution of this Agreement, they do not

include any claims that COT may have, now or in the future, against RN arising out of or resulting from allegations, claims, demands, actions or proceedings (administrative or judicial) made or brought by any governmental body or agency, bond or certificate holder, underwriter, trustee, or taxpayer representative organization with standing relating to the administration, use, management or application of the 2002 COPs, 2008 Revenue Bonds and 2009 COPs proceeds in compliance with all applicable treasury, tax and securities laws and regulations, including but not limited to those relating to maintaining the tax exempt status of interest payable on these such instruments or lawfulness of the use of their resulting proceeds.

f. Each of the Parties acknowledges that part of the consideration being exchanged by this Agreement is for the above releases, and that the above releases include the release of unknown claims, regardless of their nature and regardless whether such claims have been discovered or are even discoverable at this time.

15) **Matching Funds.** As currently required by A.R.S. § 42-5031 (D), COT agrees that as part of this Agreement the City will make direct payments to the District from any lawful source, including municipal transaction privilege taxes, or to expend monies for land, infrastructure or other improvements directly related to the multipurpose facility or the multipurpose facility site on or before July 1, 2025 or the date all authorized debt service payments are completed as provided by A.R.S. § 48-4203(B)(3), whichever date is earlier, in an aggregate amount equal to the amount received by RN pursuant to A.R.S. § 42-5031. COT agrees to provide to the District from time to time upon request a report indicating the status of its performance with respect to this commitment but no less than semi-annually. As required by the 2009 Amendments, the Statutory Audit shall include a description of the COT's match payments required by A.R.S. §42-5031(D). Consistent with 42-5031(D), COT shall receive credit towards its match obligation for all payments and expenditures made pursuant to this Agreement including those in Section 5.

16) **General Provisions.**

a. *Timely Performance.* The Parties agree to promptly and timely perform this Agreement.

b. *No Admission.* This Agreement is a compromise and settlement of disputed claims and is entered into in order to avoid the expense and uncertainty of litigation and to allow the Parties to advance the development of the elements of Proposition 400 as approved by the voters of the cities of Tucson and South Tucson in 1999; and to carry out the purposes of the MFD Laws and 2009 Amendments, to include moving forward with convention center and hotel development. This Agreement shall in no event be construed as or be deemed to be evidence of an admission or concession by either Party of any liability or wrongdoing whatsoever. This Agreement, and each of its provisions, shall not be offered or received in evidence in any action or proceeding as an admission or concession of liability or wrongdoing of any nature on the part of either of the Parties. The Parties agree that this Agreement may be used as evidence in any action to enforce the terms of this Agreement.

c. *No Assignments.* None of the Parties' rights or obligations may be assigned, transferred, conveyed or otherwise alienated and any attempt to do so is and shall be null and void.

d. *Choice of Law.* This Agreement has been executed, delivered and accepted at, and shall be deemed to have been made in, Arizona. This Agreement shall be interpreted and the rights and liabilities of the Parties hereto, whether in tort or in contract, shall be determined in accordance with the laws of the State of Arizona.

e. *Section Headings.* The section headings of this Agreement are inserted as a matter of convenience and reference only and in no way define, limit, or describe the scope or intent of either this Agreement or its terms or provisions.

f. *Administrative, Typographic, or Ministerial Error.* This Agreement shall not be invalid as a consequence of any administrative, typographic, or ministerial error.

g. *Supplemental Instruments.* The Parties shall execute any and all additional documents necessary to effectuate the terms of this Agreement.

h. *Voluntary and Knowing Execution.* The terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings and the Parties waive the application of that rule of law dictating that ambiguous or conflicting terms in an agreement shall be interpreted or construed against the party who prepared the executed draft or earlier drafts of such agreement.

i. *Entire Agreement.* Except as otherwise specifically provided herein, this Agreement represents the entire understanding between the Parties with respect to its subject matter. No representations, warranties, inducements or oral agreements have been made by either of the Parties except as expressly set forth herein or in other contemporaneous written agreements. This Agreement may not be changed, modified or rescinded, except in writing, signed by both Parties hereto, and any attempt at oral modification of this Agreement shall be void and of no force and effect.


j. *Execution in Counterpart.* This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature pages and this Agreement may be executed by the affixing of the signature pages and all such counterpart signature pages shall be read as though part of a single document, and they shall have the same force and effect as though all the signers had signed a single signature page.

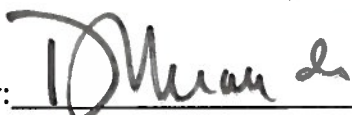
k. *Attorneys' Fees.* In the event of any dispute, action or proceeding arising out of or related to the enforcement of this Agreement or the terms and conditions provided for in this Agreement, the prevailing or successful party in such dispute, action or proceeding shall be entitled to recover its reasonable attorneys' fees, costs and expenses.

l. *No Third-Party Beneficiary.* No third-party shall be entitled to rely upon, benefit from or enforce the terms of this Agreement.

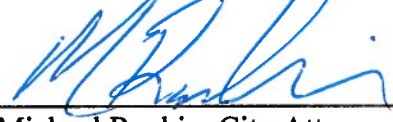
m. *Conflict of Interest.* This Agreement is subject to A.R.S. §§ 38-501 through 38-511, relating to conflicts of interest, the pertinent provisions of which are incorporated into this Agreement by this reference.

CITY OF TUCSON


By: 
Jonathan Rothschild
Its: Mayor
Date: 2-7-13


By: 
Richard Miranda
Its: City Manager
Date: 2-7-13

Approved as form by Michael Rankin, City Attorney, City of Tucson:

By: 
Michael Rankin, City Attorney

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

By: 
Fletcher McCusker
Its: Chairman
Date: 2-5-13

By: 
Alberto Moore
Its: Secretary
Date: 2-5-13

Approved as form by Gust, Rosenfeld P.L.C. for Rio Nuevo Multipurpose Facilities District:

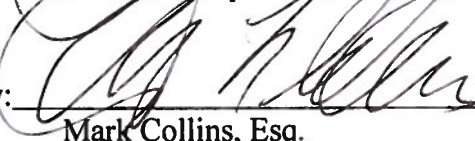
By: 
Mark Collins, Esq.





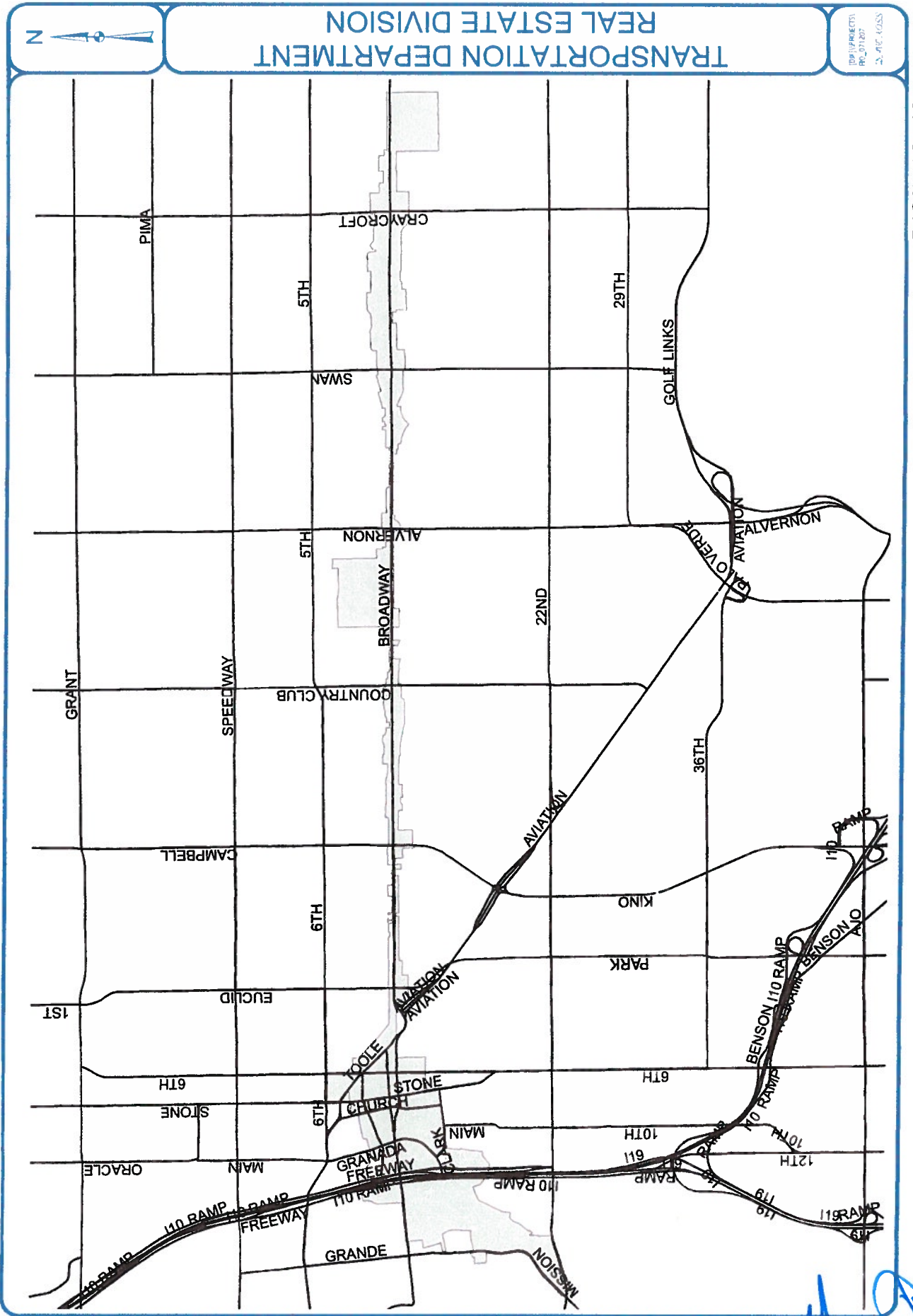
Exhibit 1

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RIO NUEVO



TRANSPORTATION DEPARTMENT
REAL ESTATE DIVISION

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Exhibit 2

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Exhibit 3

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Exhibit 4

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CITY OF TUCSON
EXTENDED OCCUPANCY AGREEMENT

The City of Tucson, a municipal corporation, hereinafter referred to as LESSOR, authorizes US Parking Systems, Inc., an Arizona corporation, hereinafter referred to as LESSEE, to occupy the Subject Property located at the Northeast Corner of Council Street and North Church Avenue, known as Parcel 10-567 by the Arizona Department of Transportation records, and including Pima County Tax ID #'s 117-10-0720, 0730, and 0740.

THIS AGREEMENT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. Term of the Agreement
That the term of this Agreement shall continue for a period of one month, commencing February 1, 2004 through February 29, 2004 and each successive month thereafter. Either party may terminate this Extended Occupancy Agreement by sending a written notice of such action at least thirty (30) days prior to the intended effective date of cancellation. However, LESSOR may only effect termination under this Section of the Agreement in the event LESSOR has definite and immediate plans to construct either a structured parking garage facility, or a mixed-use commercial and/or residential project on the property;
2. Rental Rate
That the rental is established at \$1,395.00 per month, plus all applicable governmental use taxes currently estimated at \$27.90 (or 2% of the monthly total) for a total monthly payment of \$1,422.90. The rent will become due and payable commencing February 1, 2004 and all subsequent payments are due and payable monthly, in advance, on the first day of each successive calendar month thereafter, and will be by check or cashier's check payable to the City of Tucson and mailed or delivered to LESSOR. This rental rate is subject to an increase of 3% (three percent) on the annual anniversary date of the lease (February 1). LESSOR agrees to notify LESSEE in writing by certified mail thirty (30) days prior to the effective date of any adjustment in the rental rate. Upon termination, LESSOR will refund without interest, the unused portion of any prepaid rent. Prorated rents are calculated on a 30-day basis. LESSEE shall be in default under this Agreement if rent is not paid by the seventh day of the month;
3. Use of Subject Property
That the Subject Property is for the sole use of LESSEE, and shall only be used for the purpose of a surface parking lot. LESSEE shall make no alteration, addition or improvement or demolition without first obtaining written permission from the LESSOR. LESSEE also agrees to use Subject Property without creating or causing to be created, nuisances or hazards to the public health or safety and also not to use or permit any use of Subject Property for any illegal or immoral purposes and to comply with all State laws or local ordinances concerning Subject Property and the use thereof. LESSEE agrees that use of Subject Property shall be conducted in such manner so as to insure the quiet enjoyment of the neighboring properties;
4. Improvements to Subject Property
That if LESSEE desires to construct improvements on the Subject Property, LESSEE shall first submit a request in writing to LESSOR. LESSEE must have written permission from LESSOR prior to the start of any construction. All construction approved by LESSOR must be completed by a licensed and bonded contractor. On or before termination of this Extended Occupancy Agreement, LESSEE at LESSEE's expense, shall remove any and all improvements placed on the parcel by LESSEE. If removal of improvements impairs the

security or structural integrity of the Subject Property, LESSEE, at LESSEE's expense, shall be responsible for replacing or repairing any damage caused by such removal prior to termination of this Agreement. Should it be the LESSEE's desire to allow improvements to remain on the leased Subject Property and the LESSOR does not object to improvements remaining on the leased Subject Property, the improvements shall become the sole and separate property of the LESSOR at no cost to LESSOR;

5. Repairs to Subject Property – NA – No buildings.

6. Maintenance of Subject Property

That LESSEE will keep Subject Property in a neat, clean and orderly condition at all times during occupancy, including the watering, weeding and trimming of shrubs, trees, lawns, planters, and other landscaped areas; will not permit debris to accumulate at any time; and will not commit to, suffer or permit any waste of Subject Property or any acts to be committed in violation of any laws or ordinances;

7. Mechanics Liens

That LESSEE shall keep the Subject Property free from any liens arising from work performed, materials furnished or obligations incurred by LESSEE and shall indemnify, hold harmless and defend LESSOR from any liens and encumbrances or legal liability arising from any work performed or materials furnished by or at the direction of LESSEE. Upon completion of any approved construction activity, copies of signed lien waivers shall be supplied to LESSOR by LESSEE;

8. Untenantable Subject Property Due to Damage

That in the event the Subject Property is partially damaged or totally destroyed by flood, accident or acts of God, or deemed to be dangerous or uninhabitable by a qualified governmental agency, the LESSOR shall have the option to repair/restore Subject Property or terminate this Agreement by delivering written Notice of Immediate Termination to LESSEE. If this Agreement is terminated, LESSEE shall be entitled to the proration of the unused monthly rent. If any portion of the Subject Property is rendered untenantable by damage, LESSOR shall reduce the rental rate proportionately until repairs have been completed, and should LESSOR decide to effect such repairs, all repairs will be completed in a timely manner;

9. Right of Entry by LESSOR

That LESSEE acknowledges the LESSOR's needs and requirements may necessitate surveys, engineering studies, or safety inspections to be made from time to time. Therefore LESSOR specifically reserve a right of entry to the occupied Subject Property, provided LESSEE is given 48 hours advance notice, and all inspections occur during LESSEE's normal business hours, for such purposes as shall be required by LESSOR;

10. Inspections by LESSOR

That LESSOR reserves the right to inspect the Subject Property periodically during LESSEE's normal business hours to determine the general condition and upkeep of the Subject Property. LESSOR will give LESSEE not less than a two-day notice of such inspection. LESSEE will not unreasonably withhold permission for such inspection. In the event of an emergency, LESSOR may enter the Subject Property without notice solely to deal with an emergency;

11. Liability of LESSOR

That this Agreement is made upon the express condition that LESSOR does not protect or insure against loss of personal property or improvements owned by LESSEE. LESSEE waives the right to claim damages from LESSOR for any damage resulting to Subject Property in the event damaged or destroyed by fire or any other cause which is not the direct result of gross negligence of LESSOR. Further, LESSEE shall indemnify, defend,

and hold harmless LESSOR, or any of its departments, agencies, boards, commissions, agents, or employees from all costs and damages to any person arising out of any injuries or losses caused by LESSEE, its agents or employees, licensees or invitees willful or negligent act during occupancy of the Subject Property;

12. Insurance

- a. LESSEE agrees to obtain insurance coverage of the types and amounts required in this section and keep such insurance coverage in force throughout the life of this contract. LESSEE will provide satisfactory certificates of the required coverage to LESSOR. All policies will contain an endorsement providing that written notice be given to the City at least ten (10) calendar days prior to termination, cancellation, or reduction in coverage in any policy.
- b. The Comprehensive General Liability Insurance policy will include the City as additionally insured with respect to liability arising out of the performance of this Contract. LESSEE agrees that the insurance required hereunder would be primary and that any insurance carried by the City will be excess and not contributing.
- c. Provide and maintain commercial general liability insurance with minimum insurance limits as follows:

Coverage Afforded	Limits of Liability
Workman's Compensation	Statute
Employer's Liability	\$300,000 per occurrence
Comprehensive General Liability Insurance, including	\$1,000,000 Bodily Injury
1. Products & Completed Operations	Combines Single Limit
2. Blanket Contractual	\$100,000 Property Damage

13. Utilities

That all utilities including but not limited to electric, water, gas, trash collection, telephone and television and computer cable shall be in the name of and paid by LESSEE;

14. Prior Leases & Agreements

That in the event there is any prior or existing lease or rental agreement covering the Subject Property, this Agreement shall cancel and terminate prior lease or rental agreement as of the effective date of this Agreement;

15. Assignment of Agreement by LESSEE

That LESSEE shall not assign his/her interest herein. LESSEE shall not sublease the aforesaid Subject Property or permit the same to be used by an entity, person or firm;

15a. Subject Property Residents— NA – No buildings.

16. Nondiscrimination Regulations

That the LESSEE shall use the Subject Property in compliance with all the nondiscrimination provisions found in Chapter 17 of the Tucson Code. Also, LESSEE shall use the Subject Property in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination of Federally-assisted programs of the Department of Transportation and as the Regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, LESSOR shall have the right to terminate this Agreement and to re-enter and repossess the land and dwelling thereon, and hold the same as if Agreement had never been made or issued;

17. Default by LESSEE

In the event of default of by LESSEE, LESSOR shall have all remedies as provided by law. Unless otherwise provided by statute, LESSOR or LESSEE will pay to the prevailing



party, court costs and attorney's fees in a reasonable sum in any legal action brought forth;

18. Return of Subject Property to LESSOR

That upon vacating, LESSEE agrees to leave the Subject Property in as good a condition or better than existed on the first day of occupancy, allowing for ordinary and normal usage during occupancy, and to reimburse LESSOR for any damage done to Subject Property caused by LESSEE's occupation or tenancy, other than due to normal use. Nothing herein shall be deemed a waiver of any rights to LESSOR to demand and obtain possession of Subject Property in accordance with the law in the event of a violation on part of LESSEE of any of the terms or conditions hereof;

19. Addenda

That any addenda to this Agreement are by this reference made a part hereof as though fully set forth herein;

20. Environmental Waste Indemnification by LESSEE

That LESSEE shall indemnify and hold harmless LESSOR, its employees, and agents from and against any and all loss, damage, and expense (including, but not limited to, reasonable investigation, legal fees, and expenses) including, but not limited to, any claim or action for injury, liability, or damage to persons or Subject Property, and any and all claims or actions brought by any person, firm governmental body, or other entity, alleging or resulting from or arising from or in connection with contamination of, or adverse effects on the environment, or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment, or order of any government or judicial entity, and from and against any damages, liabilities, costs and penalties assessed as a result of any activity or operation on the leased area during the term of this Agreement caused by Lessee. LESSEE's obligations and liabilities under this paragraph shall continue so long as LESSOR bears any liability or responsibility under the Environmental Laws for any action that occurred on the leased area during the term of this Agreement. LESSEE's failure to abide by the terms of this paragraph shall be restrainable by injunction;

21. Addresses of LESSOR and LESSEE

That any notices to or demand upon either party hereto by the other pursuant to this Extended Occupancy Agreement shall be in writing and shall be delivered in person to the other party or forwarded by registered mail, postage prepaid, addressed as follows:

To LESSOR at: Rio Nuevo Office
52 West Congress
Tucson, AZ 85701

To LESSEE at: 2836 E Shermans
Phoenix AZ 85016

With Copy to: City of Tucson
Real Estate Division
P.O. Box 27210
Tucson, AZ 85726-7210

or elsewhere, as either party may from time to time designate by written notice to the other.

Dated this 30 day of January, 2004.

Leon Woodell
By: _____
As: Pres. U.S. Banking System

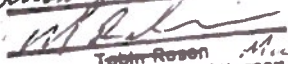

4 [Signature]

[Handwritten mark]

For: LESSEE

Accepted this 1st day of April, 2004.


By: John Updike
As: Real Estate Administrator
For: City of Tucson (LESSOR)

Approved as to form
January 20, 2004

Tobin Rosen
Principal Asst. City Attorney

Michael Rankin