

November 16, 2022

The Honorable Lindsey Perry
Auditor General
State of Arizona
2910 North 44th Street
Phoenix, Arizona 85019

RE: Rio Nuevo Response to Auditor General Audit November 2022

Dear Ms. Perry:

This is our official response to the triennial audit of the Rio Nuevo District. Staff were thorough and comprehensive in the evaluation of Rio Nuevo over the last three years, and we appreciate the diligence they bring to our use of state tax dollars. Three of the five recommendations will likely require legislative input given the lag time receiving revenue results from ADOR and the lack of clarity around our reporting requirements to the Joint Committee on Capital Review. Rio Nuevo is not required to seek JCCR approval for capital projects but has been asked to submit projects over \$500,000 to the JCCR for review. It is not clear how often, prospective or retrospective, in writing or in person. Previously JLBC staff have asked us to appear before the committee and present any project where a development contract was executed and signed, meaning backward looking, and cover the entire year as opposed to a project-by-project report. We will meet with the committee chairs and staff and hope to get an agreement on how to best proceed going forward, which may require a statutory amendment. The other two recommendations suggest a Master Plan for the remaining 13-year term and a succession plan for the period after 2035. Staff and members have already begun those efforts.

Since 2010 when the State of Arizona seized control of the ten-year-old runaway Tax Increment Financing District (TIF) known as Rio Nuevo the legislature has required a triennial audit from the Auditor General, as described in A.R.S. §48-4231.01. This sort of audit was not required of the city run Rio Nuevo from 1999-2009. This lack of accountability to the State was rectified in the 2010 legislative take over, along with the installation of a new board appointed by the Governor, Speaker of the House, and President of the Senate.

Consequently, audits have been published for 2010, 2013, 2016, 2019 and 2022. The 2022 audit was published on November 9, 2022, and continues to praise the District's improvement, transparency, economic development, increased tax base and private sector investment incentives. A far cry from the 2010 audit findings below:

From 2000 to 2010 The District's TIF Funds were to be strategically invested in public and public/private projects focused on developing a vibrant Tucson city center. This did not occur in the initial 10-years of the District, and the District was off mission by not focusing on improvements to the TCC as its priority. Additionally, the estimated cost of each project was significantly underestimated, which, in many cases, resulted in the projects being cancelled or delayed.

Consequently, the residents of Tucson experienced little overall improvement to the area given the level of expenditure by the District during this period. Other adverse consequences included a general lack of significant growth related to incremental sales tax revenues, few needed enhancements to the Primary Component of the District, and no significant movement towards the construction of a convention center hotel to create destination interest for the area and infuse the District with additional sales tax and tourist dollars.

The 2022 audit particularly praised the total renovation of the aging Tucson Convention Center, “The level of transformation of the convention center district is continually improving and growing.” (AG Audit 2022 P5)

Rio Nuevo continues to be an economic development juggernaut, even during the pandemic, as evidenced by Figure 1-3 on page 8 of the audit report. For the last three years The Auditor General identified \$350,423,218 dollars of private investment into the urban core subsidized by \$37,817,200 of state tax dollars spent, or 9.3 times leverage ratio, one of the best in the country.

Since the state took over Rio Nuevo private developers have invested \$1,122,400,000 of their own money into downtown Tucson projects incentivized by only \$123,000,000 of state tax dollars, administered by Rio Nuevo, or 9.8 times leverage ratio in the last six years. Prior to the state takeover Rio Nuevo spent \$261,400,000 with no private sector investments, and virtually no projects completed. That lack of leverage and abandoned projects is part and parcel of why the State took over the Rio Nuevo TIF.

The 2022 Auditor General audit made five recommendations for improvement to the District’s performance. Three of the recommendations are statutory and will likely require some sort of legislative intervention to prevent ongoing compliance issues. The other two are future planning recommendations, namely, creating a long-term Master Plan and providing for the District’s succession after 2035, the identified statutory sunset.

Rio Nuevo was cited for having only 7 of 9 allowed board seats filled by State appointment. The Governor has elected to keep seats open with an understanding that a seven-member board is easier to manage and more productive than a nine- member board. Rio Nuevo has no control over the appointments made by state leadership. Members have no term limits and serve at the pleasure of the appointer: Governor, Speaker of the House, and President of the Senate. Rio Nuevo has enjoyed only seven appointed members throughout Governor Ducey’s term.

The second non-compliance issue identified is related to the October 1 deadline for filing the required annual report and audit established when the state took over The District. Virtually all of Rio Nuevo’s revenue comes from a share of state tax dollars collected, reported, and transferred to the District by the Arizona Department of Revenue. The receipt of monthly tax collections takes two to three months behind the actual reporting month. June receipts then must be reconciled and the audit disclosures have to be modified. For 2022 the annual audit was published on October 22, 2022, missing the statutory deadline of October 1. This will continue to be a compliance issue unless the statute is changed.

The third statutory compliance issue cites the District for not presenting projects over \$500,000 to the Joint Capital Review Committee in 2020 and 2021. Under the legislation that extended the Rio Nuevo

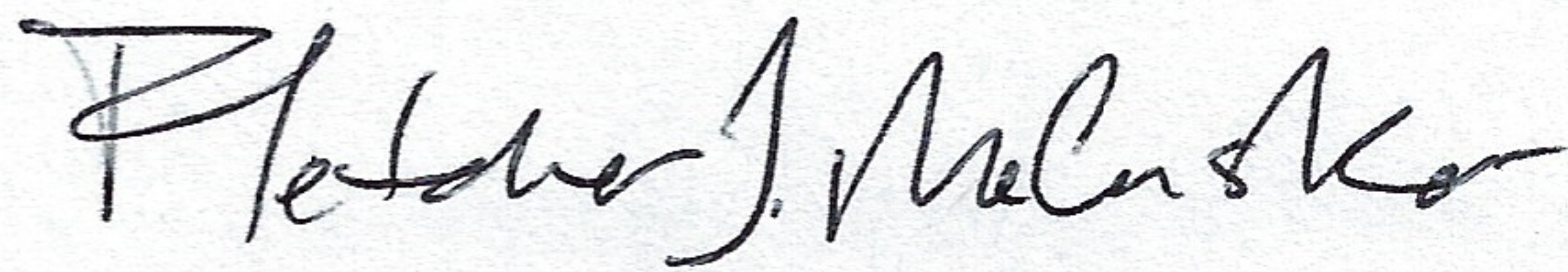
sunset from 2025 until 2035 this requirement was added by a late bill amendment designed to create more legislative oversight into Rio Nuevo expenditures. The statute, however, does not require approval by the JCCR but instead just a presentation from Rio Nuevo to the committee. The statute is also not clear as to if that presentation must include an appearance before the committee since committee approval is not required.

For the 2019 report JLBC staff suggested that Rio Nuevo send in one report covering the prior year's activity and was invited by the committee to present that report for review purposes only. Given the mandatory covid shutdowns in Tucson there was no activity for the fiscal year ended June 30, 2020, or any new projects scoped in for June 30, 2021. The District took advantage of the closure of the Tucson Convention Center by renovating the public areas, but that project was reported in the 2019 JCCR presentation on a smaller scale. Rio Nuevo has filed the fiscal year 2022 report and is awaiting committee direction, likely post-election. Rio Nuevo will work with legislative leadership and the JLBC to refine the statute.

The planning recommendations are heard loud and clear, and The District staff and members will begin work on the two planning recommendations immediately. The District was not certain it would survive the pandemic as monthly revenue dropped to zero. With record receipts post covid and long-term project viability the Master Plan recommendation is timely.

We look forward to the 2025 audit.

Sincerely,

A handwritten signature in black ink, reading 'Fletcher J. McCusker'.

Fletcher J. McCusker

Chairman