



Contract number: CTN-FM-CMS139840-04
 Effective Date : 6-1-14
 Term Date : 5-31-19
 Cost : _____
 Revenue : 300,090.11
 Total : _____ NTE: _____
 Action
 Renewal By : 3-1-19
 Term : 5-31-19
 Reviewed by: [Signature]

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: May 13, 2014

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Tenant Baggins has exercised its contractual right to renew its lease of 33 N. Stone, #140, for an additional five (5) years, from June 1, 2014 through May 31, 2019. Tenant has agreed to an annual 3.0% rental rate increase.

Baggins has continuously occupied this space since 1994 and has established a large customer base in the downtown area. Renewing their lease benefits Pima County by increasing the building's rental income by \$300,090 over the five year lease renewal period.

CONTRACT NUMBER (if applicable): CTN-FM-CMS 139840

STAFF RECOMMENDATION(S):

Facilities Management staff recommends approval of renewing Baggins' lease for five (5) years.

CORPORATE HEADQUARTERS: _____

Ver. - 2
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 Pgs. 7

To: COB - 4-30-14
 Agenda - 5-13-14
 (3)

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 APR 30 14 PM 03:08
 Procure Dept 04/30/14 PM 03:08

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: _____ and/or REVENUE TO PIMA COUNTY: \$300,090.11 rent income from June 1, 2014 through May 31, 2019, inclusive of office and parking rents.

FUNDING SOURCE(S): Tenant rent payments
(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

		YES	X	NO
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Board of Supervisors District:

1		2		3		4		5		All	XX
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IMPACT:

IF APPROVED:

- Baggins will remain in the space for an additional five (5) years and continue to provide quality lunches and food catering services to the downtown area.
- Pima County will receive rental income of \$300,090 over the course of the five year lease extension.

IF DENIED:

- Pima County could face litigation for breach of contract if it does not honor Baggins' contractual right to renew its lease.
- Baggins will be forced to move.
- Pima County would suffer reduced rental income and it is unlikely a comparable tenant could be secured for the space without extensive remodeling and tenant improvement costs.

DEPARTMENT NAME: Facilities Management

CONTACT PERSON: Nina Armstrong

TELEPHONE NO.: 724-2725

PIMA COUNTY DEPARTMENT OF FACILITIES MANAGEMENT REVENUE CONTRACT LANDLORD: PIMA COUNTY TENANT: BAGGIN'S, INC. LEASE NO.: CTN CMS 139840 LEASE AMENDMENT NO.: FOUR (4)	CONTRACT
	NO. <u>CTN-FM-CMS 139840</u>
	AMENDMENT NO. <u>04</u>
	This number must appear on all invoices, correspondence and documents pertaining to this contract.

ORIGINAL LEASE TERM:	06/01/94 – 05/31/99	ORIG. LEASE AMOUNT:	\$95,583.00
TERMINATION DATE PRIOR AMENDMENT:	05/31/14	PRIOR AMENDMENTS:	\$562,939.20
TERMINATION THIS AMENDMENT:	05/31/19	THIS AMENDMENT:	\$300,090.11
		REVISED LEASE AMOUNT:	\$958,612.31

**AMENDMENT NO. 4 TO LEASE
33 NORTH STONE AVENUE, SUITE 140
TUCSON, AZ**

1. **DEFINED TERMS.** For purposes of this Amendment, the following terms have the meanings set forth below:

1.1. Landlord: Pima County, a political subdivision of the State of Arizona (hereinafter referred to as "Landlord").

1.2. Tenant: Baggin's, Inc., an Arizona corporation.

1.3. Building: 33 N. Stone Avenue, Tucson, AZ, also known as the Bank of America building.

1.4. Leased Premises: Suite 140, in the Building, consisting of approximately 3,311 rentable square feet.

1.5. Lease: The lease for the Leased Premises naming Tenant as tenant, dated March 16, 1994, and all amendments thereto.

1.6. Effective Date: June 1, 2014.

2. **MODIFICATION OF LEASE.** Tenant timely exercised its Option to Extend contained in Amendment No. 3 at paragraph 3.3 and Landlord accepted Tenant's exercise of that Option. Therefore, Landlord and Tenant hereby agree to modify the Lease as follows:

2.1. Extension of Lease Term. The Lease is hereby extended for an additional five (5)

years (the "Extended Period"), from June 1, 2014 through May 31, 2019.

2.2. Basic Rent. Basic Rent for the Premises during the Extended Period shall be:

<u>Lease Year</u>	<u>Monthly</u>	<u>Yearly</u>	<u>Per Sq. Ft.</u>
06/01/14 - 05/31/15	\$ 4,522.27	\$ 54,267.29	\$ 16.39
06/01/15 - 05/31/16	4,657.47	55,889.68	16.88
06/01/16 - 05/31/17	4,798.19	57,578.29	17.39
06/01/17 - 05/31/18	4,941.67	59,300.01	17.91
06/01/18 - 05/31/19	5,087.90	61,054.84	18.44

2.3. Late Fee. Article 3.00 (d) Late Charges is modified to read as follows:

Tenant agrees that if any money due hereunder from Tenant to Landlord remains unpaid ten (10) calendar days after said amount is due, a late charge shall be paid to Landlord by Tenant in the amount of ten (10) percent of such delinquent payment, provided that in no event shall such charge be greater than that permitted by state law. Tenant agrees that such amount is a reasonable estimate of Landlord's collection and administrative expenses.

2.4. No Right to Early Termination. Tenant's right to early termination contained in Lease Amendment No. 3 at Paragraph 3.5 is hereby deleted in its entirety.

2.5. Parking and Loading Dock.

2.5.A. PARKING: Paragraph 3.6 of Amendment No. 3, dated June 15, 2009, is deleted in its entirety and replaced by the following: Tenant may rent from Landlord two (2) reserved parking spaces in the Building's garage when they become available. The rental rate per parking space will be \$100.00 per month; rental rates for parking spaces may be adjusted as determined by the Pima County Parking Operations Department. Tenant will abide by all published or posted Building parking garage rules and regulations including but not limited to size and height of vehicles allowed in the Garage.

2.5.B. LOADING DOCK: Tenant understands and agrees that the intended purpose of the Building's loading dock is to benefit all occupants of the Building by providing safe off-street parking for vendors' delivery vehicles and for Landlord's repair and maintenance vehicles. Therefore, Tenant may not use the loading dock for parking vehicles owned by it or its employees except that it may park one (1) small passenger vehicle in one (1) bay of the loading dock for the sole purpose of loading Tenant's delivery orders during normal business hours. Each vehicle shall have a five (5) minute time limit in the loading dock. Vehicles violating this provision are subject to citation and/or towing at Tenant's expense.

2.6. Option to Extend. Provided Tenant is neither in default nor owes unpaid monies to Landlord, Landlord grants Tenant one (1) option to extend the Lease Term for an additional five (5) years (the "Option Period"), which is exercisable only by Tenant giving Landlord written notice of Tenant's election to exercise this option before March 1, 2019. The basic rent during each year of the Option Period shall be 3% over the basic rent for the immediately preceding year.

2.7. Commercial Lease Taxes. Tenant shall each month pay to Landlord all applicable commercial lease taxes related specifically to this Lease, including but not necessarily limited to the Arizona State Tax of 0.5% (1/2 of 1%) and the Government Property Lease Excise Tax ("GPLET") pursuant to A.R.S. § 42-6202.

2.8. Conflict of Interest. The Lease is subject to cancellation for conflict of interest provisions of A.R.S. § 38-511, the pertinent provisions of which are incorporated into and made part of this lease as if set forth in full.

2.9. Applicable Law. The parties will comply with all federal, state and local laws, rules, regulations, standards, Executive Orders, and Pima County Board of Supervisors' policies, including Policy Number C. 3.18 entitled "Tobacco-Free Environment" attached hereto as Exhibit A, without limitation to those designated within this Lease. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Lease and any disputes hereunder. Any action relating to this Lease shall be brought in a court of the State of Arizona in Pima County. Any changes in the governing laws, rules, regulations, and Board of Supervisor policies during the terms of this Lease shall apply but do not require an amendment.

2.10. Notice. Any notice required or permitted to be given under this Lease shall be in writing and shall be served by personal delivery, United States mail service, electronic transmission, or by fax, upon the other party.

Notice to Landlord shall be addressed and mailed as follows:

Pima County
c/o Facilities Management Department
150 West Congress Street, 3rd Floor
Tucson, AZ 85701-1317

Notice to Tenant shall be addressed and mailed as follows:

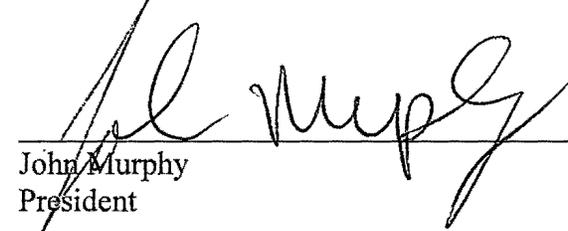
John Murphy, President
Baggin's, Inc.
5403 East Pima Street
Tucson, AZ 85712-3674

3. **REMAINING LEASE TERMS UNCHANGED.** Except as modified as provided in this Amendment, all of the terms and conditions of the Lease shall remain in full force and effect.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day, month and year written below.

TENANT: Baggin's, Inc., an Arizona corporation



John Murphy
President

4/23/14
Date

LANDLORD: Pima County, a political subdivision of the State of Arizona

Sharon Bronson
Chair, Board of Supervisors

Date _____

ATTEST:

Robin Brigode
Clerk of the Board

Date _____

APPROVED AS TO CONTENT:



Lisa Josker
Interim Director, Facilities Management

Date 4/23/14

APPROVED AS TO FORM:



Tobin Rosen, Deputy County Attorney

Date 4/22/14

EXHIBIT A

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PIMA COUNTY, ARIZONA
BOARD OF SUPERVISORS POLICY
Subject: Tobacco-Free Environment
Policy Number: C 3.18
Page 1 of 2

Purpose:

Smoking and the use of tobacco related products are a major cause of preventable disease and death. As a leading employer and health proponent Pima County is committed to the promotion of health, wellness, and the prevention / treatment of diseases. Pima County also serves as a model for the public influencing attitudes about smoking and the dangers of tobacco products. The purpose of this tobacco-free policy is to create tobacco-free environments for all Pima County facilities, public buildings and adjacent properties, to provide Pima County employees and the public with guidelines for managing and supporting this policy, and to encourage a healthy lifestyle for all personnel and visitors.

Background:

As a major entity involved in the promotion of public health and safety within Pima County, the Board of Supervisors promotes and encourages the establishment of a tobacco-free zone on County facilities, public buildings and adjacent properties. The Board of Supervisors has previously established wellness as a priority for all County employees, by the adoption of the long-range Sustainability Program and employee incentives in the way of premium discounts for health insurance benefits. The establishment of a tobacco-free policy is the natural continuance of those efforts.

Policy:

It is the policy of the Board of Supervisors that to provide a safe and healthy environment for all employees, and the general public.

The Board of Supervisors prohibits the use of tobacco products at all times on County facilities, public buildings and adjacent properties, and in County vehicles. This prohibition applies to all employees, and to all visitors and other persons at any County sponsored activity or event conducted on County facilities, in public buildings or on adjacent properties.

Definitions:

Tobacco Products include cigarettes, cigars, pipes, smokeless tobacco, water pipes, hookah, e-cigarettes, chewing tobacco, snuff and other products containing tobacco.

County Facilities, Public Buildings and Adjacent Properties including County owned or leased properties and a facility occupied or used by any County personnel, visitor, or vendor, and includes but is not limited to

EXHIBIT A

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PIMA COUNTY, ARIZONA
BOARD OF SUPERVISORS POLICY
Subject: Tobacco-Free Environment
Policy Number: C 3.18
Page 2 of 2

buildings, courtyards, walkways, breeze-ways, parking lots, parking structures, County vehicles (owned or leased), loading docks or construction sites.

Compliance:

County personnel are responsible for compliance with the policy.

Visitors and vendors observed to violate this policy shall be respectfully informed of the Tobacco-Free Environment Policy and asked to comply. If a visitor or vendor neglects to comply, that neglect to comply may be used as grounds for prohibiting access to premises or facilities by said visitor or vendor.

If any individual violating the policy appears agitated or otherwise confrontational regarding compliance, then County personnel shall immediately inform the staff responsible for the facility or security personnel if available and shall engage in no further intervention.

All vendors doing business with Pima County shall be notified of the Tobacco-Free policy and shall be expected to comply with the policy. Organizers and supervisors of public events, conferences, meetings and work activities on County facilities, work sites, public buildings and adjacent properties shall be responsible to communicating the requirements of the Tobacco-Free Policy to such events or conferences for attendees.

All new employees of Pima County will be informed on and educated about the Tobacco-Free Policy and the requirement that employees comply with the policy. Additionally, new employees shall be made aware of the availability of tobacco cessation programs sponsored or funded by Pima County.

References:

Pima County Ordinance, Chapter 2.12
Pima County Code, Section 8.50
Adopted Date: November 13, 2012
Effective Date: January 1, 2013

Website: <http://www.pima.gov/cob/POLICY/C3-18.pdf>

