



Contract Number: CTN-KSC-12\*185-01  
Effective Date : 01-30-2013  
Term Date : 08-31-2014  
Cost : \_\_\_\_\_  
Revenue : \$48,401  
Total : \_\_\_\_\_ NTE: \_\_\_\_\_  
Action  
Renewal By : 08-1-14  
Term : 08-31-2014  
Reviewed by: US

## **BOARD OF SUPERVISORS AGENDA ITEM SUMMARY**

Requested Board Meeting Date: 08/19/2013

### **ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:**

Contract Amendment for FC Tucson LLC, for their Soccer Season January 30, 2013 to August 31, 2013

CONTRACT NUMBER (If applicable): CTN 12\*185

STAFF RECOMMENDATION(S):

CORPORATE HEADQUARTERS: \_\_\_\_\_

Page 1 of 2

TO COB 8-28-13  
Agenda 9-10-13 (1)

CLERK OF BOARD USE ONLY: BOS MTG. \_\_\_\_\_

ITEM NO. \_\_\_\_\_

PIMA COUNTY COST: \_\_\_\_\_ and/or REVENUE TO PIMA COUNTY: \$ 160,000.00

FUNDING SOURCE(S): \_\_\_\_\_

(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	X

IMPACT:

**IF APPROVED:** Pima County and Stadium District will receive increased revenues from FC Tucson, LLC for their season throughout the year and will also have a multi-year contract.

**IF DENIED:** Pima County and Stadium District will not receive increased revenues from FC Tucson, LLC for their season throughout the year and will not have a multi-year contract.

DEPARTMENT NAME: Stadium District

CONTACT PERSON: Monica Banuelos TELEPHONE NO.: 434-1285

PIMA COUNTY STADIUM DISTRICT KINO SPORTS COMPLEX  PROJECT: FC TUCSON SOCCER  LICENSEE: FC TUCSON EVENTS, LLC.  CONTRACT NO.: CTN.KSC. 12*0185  CONTRACT AMENDMENT NO.: [One (#01)]	<b>CONTRACT</b>
	NO <u>CTN-KSC-12 0000 00000 00000 185</u>
	AMENDMENT NO. <u>01</u>
	This number must appear on all Invoices, correspondence and documents pertaining to this contract.

ORIG. CONTRACT TERM: 01/30/12 – 03/03/12	ORIG. CONTRACT AMOUNT \$111,599.00 Rev
ORIGINAL CONTRACT DATE: 09/27/11	PRIOR AMENDMENTS: \$00,000.00
TERMINATION DATE PRIOR AMENDMENT: 03/03/12	AMOUNT THIS AMENDMENT \$48,401.00 Est.Rev
TERMINATION THIS AMENDMENT: 08/31/2014	REVISED CONTRACT AMOUNT: \$160,000.00 Rev.

#### CONTRACT AMENDMENT

WHEREAS, Pima County Stadium District, a special taxing district of Pima County (the "DISTRICT") and F.C. Tucson Events, LLC (the "LICENSEE") entered into a License Agreement dated as of September 27, 2011 ("Contract") for use of a portion of Kino Sports Complex (the "Complex"); and

WHEREAS, LICENSEE and DISTRICT, pursuant to Article I-F "Term" wish to extend the term of the Contract; and

WHEREAS, LICENSEE and DISTRICT have agreed to use of additional portions of the Complex during the extended term of the Contract and otherwise to amend the Contract as set forth in this Contract Amendment ("Amendment").

NOW, THEREFORE, it is agreed as follows, effective as of March 4, 2012 ("the Effective Date"):

**CHANGE: ARTICLE I – F. TERM:**

Second sentence is changed

*From: "First Year: January 30, through March 3, 2012"*

*To: "First Year: January 30 through March 3, 2012.  
Second Year: March 4, 2012 through August 31, 2014."*

**CHANGE: ARTICLE I – E. Type of Event and Estimated Attendance:**

*From: "Soccer Spring Training and Four (4) Stadium Event Dates with eight (8) Exhibition Matches including the Desert Cup. Total Estimated attendance for all Matches: 20,000. "*

*To: "I-E-1: Professional Soccer Spring Training ("Spring Training") and four (4) Stadium Event Dates in 2012 with eight (8) Exhibition Matches included as part of the F.C. Tucson Diamond Desert Cup ("Desert Cup"). Total Estimated attendance for all Matches: 20,000.*

I-E-2: At least ten (10) Premier Development League Matches ("PDL Games") in 2013, Premier Development League Soccer Training ("PDL Training"), Licensee's Junior Team activities ("Junior Team Events") and youth and amateur clinics and play ("Youth Events") from May 2012 to August 2014 on North Fields 1, 2, 3, 4 and 5 and prospective North Field 6 ("New Field 6"). Total estimated attendance all Matches: 20,000, each calendar year.

I-E-3: Spring Training, minimum of Eight (8) Event Dates and eight (8) Exhibition Matches included as part of the Desert Cup in 2013 and 2014, an International Friendly Game between Canada and Denmark in 2013 ("International Friendly") and at least four (4) Amateur or Professional Friendly Matches ("Desert Friendlies") in 2013 and 2014 and such other soccer or soccer related events including the PDL Games in 2014, as Licensee may organize and conduct in the Stadium, the new soccer stadium to be constructed on existing North Field 1 ("North Stadium") and/or North Fields 1 through 5 and New Field 6. See Exhibit C – Map of Use Area, attached hereto and incorporated herein by reference. Total Estimated attendance for all Matches: 40,000, each calendar year."

**CHANGE:     ARTICLE I-G. USE PERIOD**

*FROM:       "Clubhouse and North Fields 1, 2, 3 and 4 = 34 Days  
              Stadium = February 22, February 25, February 29, and March 3, 2012."*

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**TO:**            "I-G-1: January 30, 2012 through March 3, 2012 Use Period

- a.       North Clubhouse and North Fields 1, 2, 3, 4 and 5 = 34 Days
- b.       Stadium = February 22, 25, and 29, 2012 and March 3, 2012.

I-G-2: March 4, 2012 through March 3, 2014 Use Period

- a.       North Clubhouse = March 4, 2012 through August 31, 2014;
- b.       North Field 5 = May 14, 2012 through March 3, 2013
- c.       North Fields 1, 2, 3, 4 and 5 and New Field 6 = August 1, 2012 through August 31, 2014. Final Use Schedule to be provided by Licensee to Stadium management no later than fifteen (15) business days in advance of first (1st) date of use for PDL Training (2013 and 2014), PDL Games (2013), Junior Team Events, Youth Events (2013 and 2014), Spring Training (2013 and 2014) and the Desert Friendlies (2013).
- d.       Stadium = Use Period: January 1, 2013 through March 3, 2013 and January 1, 2014 through March 3, 2014. Final Use Period to be provided to Stadium management by Licensee no later than forth-five (45) days in advance of first (1st) date of use for the Desert Cup (2013 and 2014) and the PDL Games (2013) and the International Friendly (2013), but in any event, no later than December 15, 2013.
- e.       North Stadium = October 1, 2013 through August 30, 2014. Final Use Period to be provided to Stadium management no later than forty-five (45) days in advance of first (1st) date of use for the Desert Cup 2014), the PDL Games (2014) and the Desert Friendlies (2014), but in any event, no later March 15, 2013 and March 15, 2014.
- f.       See Exhibit C – Map of Use Area.

g. The rights granted herein are intended to be nonexclusive and shall in no way prohibit District from having access to or the use of the subject Premises, as defined below for purposes of this Amendment, for any reason whatsoever, and without charge except as set forth herein and provided further that District agrees that:

(i) Licensee shall have, during the Term of this Amendment, the right to promote, organize, sponsor, market and plan any amateur, semi-professional and professional soccer or soccer-related event at the Complex. Events not related to soccer may be authorized by District under a separate License agreement.

(ii) Licensee shall have the reserved right to use the Stadium only during those specific dates designated for the Desert Cup which are January 20, 2013 through February 28, 2013 and January 15, 2014 through March 3, 2014. Licensee shall have the reserved right to use North Fields 1-5, New Field 6 and the North Stadium only during those specific dates designated for PDL Training, PDL Games and Spring Training which are January 1, 2013 through March 3, 2013 and April 15, 2013 through August 15, 2013 and January 1, 2014 through March 3, 2014 and April 15, 2014 through August 15, 2014. Each time period set forth above are hereinafter defined as "Reserved Use Periods".

(iii) Notwithstanding the foregoing, District may schedule other events during such Reserved Use Periods and District shall provide Licensee with notice regarding any such other events in accordance with subsection (g) (iv) below. The parties acknowledge that the condition of the fields is of the utmost importance for FCT operations and that maintaining the field will require a high degree of expertise and care. District shall ensure that following any District event scheduled on the fields, the fields will be returned to the substantially similar and soccer-ready condition that the fields were in prior to the District event.-

(iv) During the Reserved Use Periods, Licensee will schedule all events, including Spring Training and Desert Cup events dates, through District's regular written scheduling process or otherwise as District may require of Licensee in writing ("Stadium District Rules"). Licensee and District scheduling representatives will communicate weekly to review and confirm schedules. During all time periods other than the Exclusive Use Periods, Licensee and District shall cooperate with regard to use by each other of the Premises by: (a) Richard Schantz, currently on behalf of Licensee, and Mary Arvizu, currently on behalf of District conducting weekly telephone meetings during which meetings information regarding upcoming events by both parties are shared and scheduled; and (b) each party providing written notice to the other as soon as practicable as to preplanned events at the Premises.

(v) Notwithstanding the foregoing, nothing herein contained shall prevent District from granting other similar licenses or privileges to any other person, firm, corporation, or to deny or lessen the powers and privileges

granted District under the constitutions and laws of the State of Arizona or the United States of America.

(v) As used herein, the term "Premises" shall mean and include: North Fields 1-5, New Field 6, upon completion, the North Clubhouse, the Stadium and, upon completion, the North Stadium.

**CHANGE: ARTICLE I-H. USE AREA**

*FROM: "North Fields 1-4 will be sodded over no later than 3 weeks prior to January 30, 2012 and the Stadium infields will be sodded over no later than 3 weeks prior to February 21, 2012 to provide time for sod to settle in and become a safe playing surface. Exhibit C – Map of Use Area."*

**TO:** "I – H -1: January 30 through March 3, 2012 Use Area:

North Fields 1-4 will be sodded over no later than 3 weeks prior to January 30, 2012 and the Stadium infields will be sodded over no later than 3 weeks prior to February 21, 2012 to provide time for sod to settle in and become a safe playing surface. Exhibit C – Map of Use Area.

I – H – 2: March 4, 2012 through August 31, 2014 Use Areas:

- a. North Clubhouse and North Field 5: District will provide use of approximately 10,500 square ft. (first floor) and 2,650 square ft. (second floor) in North Clubhouse from March 4, 2012 through August 31, 2014, and use of North Field 5 from May 14, 2012 through March 3, 2013. District shall convert North Field 5 for soccer and other field sport use. The parties acknowledge that North Field 5 has been excavated to depth of approximately six (6) inches, back filled with sand and re-sodded with new sod; and fencing will be moved or replaced to provide full size, professional soccer field. The parties acknowledge that portable bleachers were located at North Field 5 to provide approximately 600 bleacher seats in 2012 and approximately 1,600 seats from January 20 to February 28, 2013. For 2014, the County shall remove the portable bleachers at North Field 5 which will be installed at the North Stadium. District will provide portable restrooms at District's expense in locations designated by District. Licensee shall use food and drink (alcohol or non-alcohol) concessionaires that (i) are licensed by Pima County as concessionaires (ii) have agreed to the terms of the District-approved Concessions Management Agreement; (iii), are authorized by District's issuance of an Event Authorization Form; and (iv) agree to follow all District policies and to meet County and District insurance requirements. The parties agree that Licensee may sublet a portion of the Clubhouse Space (as hereinafter defined) to: (i) entities that are engaged in promoting or supporting the Licensee's soccer activities for the same rental rate as that charged by District to Licensee only upon the prior written approval by District as to the subtenant and the subtenant's use thereof, which approval shall not be unreasonably conditioned or denied; or (ii) any other entity only upon the prior written approval by District as to the subtenant and the subtenant's use thereof and the rental rate to be charged and paid to District above the rental rate for which Licensee is responsible, which approval may be conditioned or denied in the sole discretion of District. Licensee may request in writing to expand its use of clubhouse space beyond the current 10,500 square ft. of first floor and 2,650 of second floor space

or to lease other Kino Complex space. Approval of such request and the rate to be charged shall be at the sole discretion of the District. District further agrees to provide Licensee with thirty (30) days prior written notice before District offers any North Clubhouse space to a third party.

District agrees to allow Licensee to expand its use of the first floor beyond the current 10,500 square ft. at the same rate specified herein to be paid by Licensee for use of the first floor if Licensee requests same in writing. District further agrees to provide Licensee with thirty (30) days prior written notice allowing Licensee the right of first refusal to lease such additional space at the second floor to the North Clubhouse at the same rate specified herein to be paid by Licensee for use of the second floor before District offers any such space to a third party.

b. Stadium and North Fields Numbers 1 through 4 and New Field 6: District will convert North Fields 1-4 for soccer and such other uses including Spring Training from August 1, 2012 through August 31, 2014 and will reserve the Stadium for the Desert Cup and related match use from January 20 through February 28, 2013 and January 20 through March 3, 2014. The parties acknowledge that North Fields 1 through 4 have been excavated to depth of approximately six (6) inches, back filled with sand and re-sodded with new sod; and fencing will be moved or replaced to provide full size, professional soccer field. District may convert New Field 6 to soccer use and other field sport use, upon completion, New Field 6 shall be reserved for soccer and other field sport use. New Field 6 shall be excavated to depth of approximately six (6) inches, back filled with sand and re-sodded with new sod; and fencing will be moved or replaced to provide full size, professional soccer field. District shall also convert North Field 1 to the North Stadium as provided for in Article 1-E-3 and Article 1-K of this Amendment. The Stadium infield shall be sodded over by District at least three (3) weeks prior to beginning of each Use Period in order for sod to settle in and become a safe playing surface. See Exhibit C – Map of Use Area. The parties acknowledge that the condition of the fields is of the utmost importance for FCT operations and that maintaining the field will require a high degree of expertise and care. District shall ensure that following any District event scheduled on the fields, the fields will be returned to the substantially similar and soccer-ready condition that the fields were in prior to the District event.

#### **CHANGE: ARTICLE I – I. USE FEE**

The original Use Fee section is deleted in its entirety and replaced with the following:

1. For Use Period January 30, 2012 through March 3, 2012, the total Use Fee paid by Licensee to District was \$128,980.49, which equal the costs for building rental and field renovations plus a fee of \$8,800.00 (\$2,200.00 per day) for parking services. Revenue distributions to District as defined in Exhibit A – Special Services and Fees were credited toward total Use Fee.

2. For Use Period March 4, 2012 through August 31, 2014

a. Concessions Revenue 2012-2014:

(1) For the period March 4, 2012 through July 31, 2012 Licensee shall receive fifteen percent (15%) and District shall receive ten percent (10%) of gross sales of food and beverage concessions related to this

Agreement. The parties acknowledges that, as of January 21, 2013, Licensee has not collected its portion of gross sales of food and beverage for the period March 4, 2012 through July 31, 2012 from District and that Licensee's concession revenue of \$2,332.77 for the period March 4, 2012 through July 31, 2012 shall be credited toward and reduce the Use Fee due District by Licensee for the period March 4, 2012 through February 28, 2013.

(2) For the period August 1, 2012 through August 31, 2014, District shall receive twenty-five percent (25%) of gross sales of all food and beverage concessions which are related to this Amendment, including from concession sales during the Desert Cup (2013 and 2014), the International Friendly (2013), the Desert Friendlies (2013 and 2014), Spring Training (2013 and 2014), PDL Training (2013 and 2014) and PDL Games (2013 and 2014). Licensee shall use food- and drink (alcohol or non-alcohol) concessionaires that: (i) are licensed by Pima County as concessionaires (ii) have agreed to the terms of the approved Concessions Management Agreement; (iii) are authorized by District's issuance of an Event Authorization Form; and (iv) agree to follow all District policies and to meet County and District insurance requirements. For purposes of this Agreement gross sales is defined as total sales minus sales tax.

b. Ticket Surcharge 2012-2014: The parties acknowledge that no ticketed events were organized or conducted by Licensee at the Premises from July 31, 2012 through January 25, 2013 for which District is due any Ticket Surcharge.

For 2013, Licensee shall pay District a surcharge of: (i) \$2.00 per ticket sold for the Desert Cup, Spring Training, the International Friendly and any other event Licensee conducts at the Stadium; (ii) \$1.00 per ticket sold for the Desert Friendlies, PDL Training and the PDL Games; (iii) \$0.50 per ticket scanned or weighed for attendance at the Desert Cup, Spring Training, the International Friendly and any other event Licensee conducts at the Stadium above the number of tickets sold; and (iv) \$0.25 per ticket scanned or weighed for attendance at the Desert Friendlies, PDL Training and the PDL Games above the number of tickets sold.

For 2014, Licensee shall pay District a surcharge of: (v) \$2.50 per ticket scanned or weighed for the Desert Cup, Spring Training and any other event Licensee conducts at the Stadium; (vi) \$1.50 per ticket scanned or weighed for the Desert Friendlies, PDL Training and the PDL Games.

(c) Advertising Revenue: The parties agree that Licensee shall be solely responsible for the planning and management of any and all marketing and advertising associated with any amateur, semi-professional and professional soccer or soccer-related event which Licensee may promote, organize and plan at the Complex during the Term of this Agreement ("Marketing Plan"). Licensee agrees to consult with District's marketing person and County Communications with regard to its Marketing Plan. Notwithstanding the foregoing, Licensee agrees to provide a copy of its Marketing Plan to District and the District agrees to maintain the confidentiality thereof as with regards to third parties and further

agrees not to use the Marketing Plan, in whole or in part, to compete with Licensee in its business of promoting, organizing, sponsoring, marketing and/or planning any amateur, semi-professional and professional soccer or soccer-related event at the Complex or elsewhere in Pima County.

The parties agree that they shall identify each available physical space for advertising at the Premises and shall agree as to the advertising value for each such physical space at which (a) tangible and temporary advertising signs, banners or other such items may be installed at the Stadium (excluding Licensee's portable pad trac system) or on the buildings(s) or on District fixture(s) existing at the Stadium; or (b) tangible and permanent advertising signs, banners or other such items may be installed at North Fields 1 through 5, the New Field 6 or the North Stadium (excluding Licensee's portable pad trac system) or on the buildings(s) or on District fixture(s) existing at North Fields 1 through 5, the New Field 6 or the North Stadium (including the Gateway and Bleacher Panels), each such location being herein referred to as "Advertising Space".

District shall receive fifteen percent (15%) of: (i) the net value of any sponsorship monies received by Licensee under sponsorship agreements entered into after February 23, 2013 and used for Advertising Space; and (ii) the net value of any in-kind sponsorship provided by a sponsor after February 23, 2013 for Advertising Space. The parties agree that Licensee shall be the sole and exclusive sales agent for any such sponsorship monies or in-kind donations regarding any and all soccer-related events which Licensee shall or may organize and conduct after February 23, 2013 pursuant to this Amendment. Licensee may also (on a non-exclusive basis), act as sales agent for long-term advertising (extending beyond Licensee's Restricted Use Periods, but not beyond August 31, 2014 without prior District approval) to be installed at the Gateway and Bleacher Panels at the North Stadium. The parties further agree that any Advertising Space not sold by Licensee prior to two weeks before each event may be sold or used by District and District alone shall be entitled to any and all revenue so generated, provided that District first obtains prior written confirmation from Licensee that such Advertising Space identified by District is indeed available.

Licensee shall conform to generally accepted advertising guidelines to ensure that any such advertising to be used, issued, published or displayed by Licensee or any of its sponsors or other authorized third party shall not be offensive to the general public and shall be appropriate for public display at the Premises. District may require any such advertising that District deems inappropriate or offensive to be removed. District's determination as to whether advertising is offensive or inappropriate shall be final.

District shall retain any and all venue naming sponsorship rights for the North Stadium and any such sponsorship monies paid to District for the naming of the North Stadium in such individual's or entity's honor shall belong to District. Notwithstanding the foregoing, District does hereby grant Licensee permission to seek to procure potential sponsorships for the naming of the North Stadium, which potential naming sponsorships are subject to District's approval in its sole discretion. In the event Licensee is solely responsible for the procurement of any

naming sponsorship monies, District shall pay Licensee fifty percent (50%) of any such sponsorship monies so procured by Licensee.

(d) Other Payments to District: In addition, for the period from March 4, 2012 through August 31, 2014, Licensee shall pay District the following:

1. \$143.84 per day (basic utility and maintenance costs) for use of 10,500 square ft. first (1st) floor) in the North Clubhouse, at a rate of \$0.42 per square foot per month (\$5.00 per square foot per year), which cost may be reasonably increased by District if there is a significant increase in utility costs. Notwithstanding the foregoing, the parties acknowledge and agree that Licensee was not in possession of the first (1st) floor of the North Clubhouse except the equipment room and the manager's office from August 6, 2012 to December 1, 2012 and that rental shall abate accordingly.
2. \$0.42 per month per square ft. for use of 2,650 square ft. of second (2nd) floor office space or other additional space in the North Clubhouse, as Licensee and District shall agree with District providing written confirmation to Licensee of the square footage so determined.. Notwithstanding the foregoing, the parties acknowledge and agree that Licensee did not occupy any portion of the second (2nd) floor of the North Clubhouse until December 1, 2012 and that rental shall be charged accordingly.
3. Standard District rental fees for Licensee's use, or for use by other parties which are scheduled by Licensee, of the following Use Areas for the period March 4, 2012 through March 3, 2013 set forth below. The rental for March 4, 2013 to August 31, 2014 shall be the standard District rental fees in effect as of March 4, 2013 ("Rental Fees").

a. Schedule For North Fields

- |                               |                      |
|-------------------------------|----------------------|
| i. North Field Rentals        | \$ 35.00 per hour    |
| ii. North Field Lights        | \$ 72.00 per hour    |
| iii. Field Marking            | \$150.00 each        |
| iv. Field Staffing for Events | \$ 22.50/person hour |

b. Schedule For Stadium

- |   |                     |
|---|---------------------|
| i. Parking –2013 International Friendly       | \$1,390.00 daily    |
| ii. Parking – Stadium ≤ 4,000 attendance      | \$1,750.00 daily    |
| iii. Parking - Stadium 4K to 7,500 attendance | \$2,125.00 daily    |
| iv. Stadium Rental                            | \$ 3,000.00 daily   |
| v. Field Marking                              | \$150.00 each       |
| vi. Field staffing for Events                 | \$22.50/person hour |

4. Licensee will be invoiced monthly for lighting and other utility costs at North Field 5 and will pay Rental Fees for any special field preparation costs required by Licensee including any restriping required after the initial field striping. Licensee will not be charged for routine irrigation water cost. Licensee will pay Rental Fees whenever North Fields 1 through 4 and/or New Field 6 are scheduled for Youth Events that Licensee organizes and conducts.

Notwithstanding the foregoing, the parties agree that: (a) Licensee shall not be charged a Stadium Rental during the Spring Training period for any day of the Desert Cup (2013 and 2014) or for the International Friendly (2013) or for any day of the Desert Friendlies (2013 and 2014); (b) Licensee shall not be charged for use of any fields used by Major League Soccer teams or other participants in the Desert Cup, Desert Friendlies or the International Friendly; and (c) Licensee shall be charged only \$17.50 per hour for North Field rentals for all days of PDL Training , PDL Games and Licensee's Junior Team; and (d) Licensee shall pay \$297.00 per day for use of the entire first floor of the North Clubhouse during the Spring Training and Desert Cup periods (December 26, 2012 through February 24, 2013) and those days to be determined during the period January 1, 2014 through March 3, 2014, during which periods the \$143.84 utility and maintenance fee shall be waived.

- 5 Actual cost to the District for other special services that Licensee requests from District.
- 6 Invoices for the charges listed in Article I-I shall be provided periodically, generally monthly, by County Revenue Management or Stadium. Notwithstanding the foregoing, invoices for the period March 4, 2012 through February 28, 2013 shall be due and payable on Tuesday, April 30, 2013, following Licensee's realization of revenue from the 2013 Desert Cup. Invoices for the period March 1, 2013 through February 28, 2014 shall be due and payable on Tuesday, April 29, 2014, following Licensee's realization of revenue from the 2014 Desert Cup.
- 7 Fees for use of the North Fields by groups other than Licensee but which is scheduled by Licensee shall be payable in advance, pursuant to standard District policy, either by Licensee or by the user group.
- 8 In order to further the County objective of promoting increased use of the Complex for professional and amateur soccer and other field sports or to accommodate changes in utility or other basic costs to District the County Administrator or his designee is authorized to adjust fees and costs specified herein and to authorize additional uses and establish reasonable and appropriate fees for such uses.

**ADD: ARTICLE I – J. USE CONDITIONS**

Licensee will pay District as stipulated in Article I-I above for its use of the North Clubhouse and will itself provide daily janitorial and maintenance of the space rented by it in the North Clubhouse ("Clubhouse Space"). At end of the Term of this Agreement, Licensee will return the Clubhouse Space to District in the same condition as it is received, normal wear and tear excepted. Licensee will maintain the Clubhouse Space in good repair and publicly presentable condition at all times, will allow use of remaining Clubhouse space by District or other District licensees, will not make any physical changes or install any appliance, equipment, or lock without prior written permission of District Director, and will permit entry by personnel or agent of District or County Facilities Management during normal business hours upon twenty-four (24) hours prior notice and otherwise at any time in the case of an emergency. If as the result of any such entry, either County or District, as the case may be, believes that the Clubhouse

Space is in need of immediate janitorial services, then the County or District shall notify Licensee thereof in writing and allow Licensee ten (10) business days after delivery of such written notice to address the janitorial concerns of either County or District as noted in such writing. If Licensee fails to address such janitorial concerns within said ten (10) business day period, then either County or District, as the case may be, may cause such janitorial services to be performed at the Clubhouse Space and bill Licensee for the cost thereof. Any renovation, repair or change to the Clubhouse Space must be performed by County Facilities Management or its agent unless another contractor or trades person is authorized in advance in writing by both the District and the County Facilities Management directors. The cost of any renovation, repair or change to the Clubhouse Space that is requested by Licensee and performed by County Facilities Management or its agent must first be presented to Licensee in writing for Licensee's approval and, in such event, Licensee will immediately reimburse District for such cost of any renovation, repair or change requested by Licensee.

**ADD: ARTICLE I –K CAPITAL IMPROVEMENTS**

County, on behalf of District, will undertake the following capital improvements to North Field 1 through 6 with the purpose of making the North Field area a quality soccer and field sport complex suitable for high level youth and amateur tournaments and competitions, professional level training and including a small stadium suitable (at North Field 1) for small professional level and amateur competitions. Facility design shall commence in the Fall of 2012 and is expected to be completed by February, 2013. Construction is expected to begin in May, 2013 and to be completed by October, 2013. Budget for the project is approximately \$2,200,000.00. Licensee will, without compensation, participate and advise in design of the County Improvement Project ("CIP"). Desirable elements to be included in the CIP design are listed below, however, these elements are subject to the limitations of budget and space. Final design will be determined by the County Facilities Management Director based on input and priorities recommended by District, the Licensee and the CIP design consultant. The desirable elements are:

- Permanent conversion of North Field 1 to a professional level competition and tournament field including removal of all clay and re-sodding, as detailed in Article 1-E-3 and Article 1-H-2 (b) to create a uniform, full size, professional soccer field of approximately 120 yards long and 75 yards wide;
- Similar, permanent conversion of North Fields 2 through 5 (and potentially New Field 6), as detailed in Article 1-H-2 (a) and (b) to professional level competition and tournament fields;
- Addition of approximately 3,000 bleacher seats to North Field 1 and construction of a permanent shade roof and surround around primary bleachers;
- Installation of public safety lights and field lights sufficient to light converted North Field 1 to 75 foot candles;
- Installation of professional quality goals and of remote control soccer score board of a size and design agreeable to Licensee at converted North Field 1;
- Construction of a concession preparation and vending building and a rest room building of sufficient sizes to service 3,000 fans near to converted North Field 1 and located so as to be easily accessible to both soccer fans, primary users, and other participants at North Field 1 and North Fields 2 through 5 and New Field 6 (if included as part of the final CIP;

- Construction of an entrance walk and gate for the North Stadium and North Fields 2 through 5 and New Field 6 (if included as part of the final CIP) appropriate to a professional sports venue;
- Expansion or realignment of parking in so far as possible to maximize the number of spaces and accessibility to the North Stadium and North Fields 2 through 5 and New Field 6 (if included as part of the final CIP);
- Meet ADA requirements throughout the CIP.

**CHANGE: ARTICLE III. INSURANCE**

The original Insurance section is deleted in its entirety and replaced with the following insurance requirements:

III. Insurance: Licensee shall maintain at its sole expense during the Term of this Amendment the following insurance:

III-A Liability Insurance:

1. Commercial general liability insurance ("CGL Policy") against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the use of the Complex and the Premises. Such insurance shall be issued on an occurrence basis, providing single limit coverage in an amount not less than \$3,000,000 per occurrence (which may consist of \$2,000,000 primary per occurrence and \$1,000,000 per occurrence from the excess insurance) with not less than \$5,000,000 in the aggregate. The policy shall be endorsed to include District and Pima County as additional insured language. Policy shall include broad form contractual liability and products and completed operations coverage and shall include the following limits of coverage per occurrence: (a) products completed operations of \$3,000,000; (b) personal and advertising injury of \$3,000,000; (c) spectator liability of \$3,000,000; and (d) non-professional athletic participant's coverage of \$10,000.

2. Statutory workers' compensation and employers' liability coverage with policy limits of \$1,000,000. Policy shall contain a waiver of subrogation against District.

3. Commercial or Business Automobile liability for bodily injury and property damage arising from the use of Licensee's owned, non-owned, and hired vehicles, in an amount not less than \$1,000,000 per accident. The policy shall be endorsed to include District and Pima County as additional insured language.

4. Fireworks – Occurrence Form (may be under CGL Policy or by specialized policy.) Policy shall include bodily injury and property damage and completed operations coverage:

- \$2 million general aggregate and each occurrence
- Insurance coverage for fireworks shall be supplied by the person or entity engaged by Licensee to provide the fireworks display.

The policy shall be endorsed to include the additional insured language as written for the CGL Policy.

5. Liquor Liability - Occurrence Form (may be under CGL Policy or by specialized policy):

- \$5 million general aggregate and each occurrence
- Insurance coverage for Liquor Liability shall be supplied by the entity providing the liquor.

The policy shall be endorsed to include the additional insured language as written for the CGL Policy.

**III – B. Property Insurance**

1. District and Pima County shall maintain property insurance for 100% of full replacement value of the Complex and the Premises (including all improvements and personal property belonging to District and Pima County), against loss by so-called "all risk" perils, including but not limited to fire, extended coverage, windstorm, vandalism, malicious mischief, flood and earthquake. Such insurance is to contain a replacement cost endorsement, and endorsements eliminating any and all coinsurance provisions.

2. District will not be responsible for damage to loss of personal property belonging to Licensee and Licensee is to provide property insurance for their personal property.

**III – C. Additional Insurance Requirements**

General. All insurance policies obtained pursuant to this Section 8 shall be with companies legally authorized to do business in the State of Arizona and which possess a minimum rating of B+ or better and a minimum class VIII financial size category (as listed at the time of issuance by A.M. Best Insurance Reports), and reasonably acceptable to both parties.

Additional insured All policies, excluding Workers' Compensation, shall name as an additional insured, District, Pima County and such other affiliated persons or entities as shall be requested by District.

On insurance policies where Pima County is named as additional insured, District shall be an additional insured to the full limits of liability purchased by the Licensee even if those limits of liability are in excess of those required by this contract. On policies where District is named as additional insured, Pima County shall be an additional insured to the full limits of liability purchased by Licensee even if those limits of liability are in excess of those required by this contract.

Upon commencement of the Term, Licensee shall furnish or cause to be furnished to the District a certificate of insurance evidencing all insurance policies required by this Section 8.

Renewal certificates shall be delivered by Licensee to the District at least ten (10) days prior to the expiration of any policy of insurance. No such policy shall be cancelable or subject to reduction of coverage except after thirty (30) days' prior written notice to all parties hereto.

Remedies. If Licensee fails to obtain, keep in force or provide evidence of any of the insurance policies or insurance coverage required by this Section 8, District may give written notice to Licensee, and Licensee shall have until the earlier of:

- five (5) days after its receipt of such notice, or
- regardless of whether notice shall have been given, one (1) business day before the date the required insurance will lapse, to cure the default.

If the default is not cured within such period, then District shall have the remedies set forth in Section 13 below.

## CHANGE – ARTICLE XV – NON-EXCLUSIVE RIGHT

The original Non-Exclusive Right provision is deleted in its entirety.

All other provisions of the Contract, not specifically changed by this Amendment, shall remain in effect and be binding upon the parties.

IN WITNESS THEREOF, the parties have affixed their signatures to this Amendment on the dates written below.

APPROVED:

Procurement Director

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

LICENSEE:

Gregory Foster, Member/Manager

Date: 6/6/13

APPROVED AS TO FORM:

Deputy County Attorney  
*for Marc Nadelky*

Print Name: **TOBIN ROSEN**

Date: 7/11/13

APPROVED AS TO CONTENT

Department Head (if required by County Department or delete)

Print Name: Christopher Barber

Date: 7/15/13