

ATTACHMENT 2B

Contract No: CTN-CA-17-118 Amendment No: _____

This number must appear on all correspondence and documents pertaining to this contract

**OPTION AGREEMENT
[Cushing Street Property]**

This Ground Lease Option Agreement ("**Agreement**") is entered into, effective as of December 13, 2016 (the "**Effective Date**"), by and between Pima County, a political subdivision of the State of Arizona ("**County**") and **Rio Nuevo Multipurpose Facilities District**, a special taxing district of the State of Arizona ("**Rio Nuevo**").

1. Background and Purpose.

- 1.1. Rio Nuevo, as a multipurpose facilities district formed under 48-4202(B), has the authority to acquire property and construct, within the Rio Nuevo multipurpose facility site, commercial facilities that its board determines are necessary or beneficial to the district (A.R.S. §§ 48-4201(4)(b) and 48-4204(B)), and may issue revenue bonds for that purpose (A.R.S. §§ 48-4203(B)(3) and 48-4251). It may also "[e]nter into agreements with developers, contractors, tenants and other users of all or part of" such a facility. A.R.S. § 48-4203(B)(2).
- 1.2. County owns an unimproved parcel of real property (the "**Property**"), approximately 2 acres in size, which is located at the corner of Cushing Street and the I-10 frontage road in downtown Tucson, Arizona, within the Rio Nuevo multipurpose facility site. The Property is legally described and depicted on **Exhibit A**.
- 1.3. The Pima County Board of Supervisors (the "**Board**") has authority under A.R.S. § 11-254.04 to engage in any "activity that the board of supervisors has found and determined will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of the inhabitants of the county," including specifically the "acquisition, improvement, leasing or conveyance of real or personal property."
- 1.4. County is interested in leasing the Property to Rio Nuevo for development and sublease to companies whose presence will create economic development opportunities for the community.

2. Definitions.

- 1.1. "**Ground Lease**" means the lease for the Property that County and Rio Nuevo will enter into upon Rio Nuevo's exercise of the Option, the material terms of which will be as set forth in **Exhibit B**. The Ground Lease will be in a form substantially similar to that attached to this Agreement as **Exhibit C**.
- 1.2. "**Option**" means Rio Nuevo's option to lease the Property from County, as provided below.
- 1.3. "**Option Term**" means a 2-year period commencing on the Effective Date.
2. "**Rent Amount**" means the fair-market annual rent for the Ground Lease as established under Section 4 below.
3. "**Grant of Option**. For and in consideration of the sum of One Hundred Dollars and no cents (\$100.00), the receipt and sufficiency of which are acknowledged and in consideration of the

mutual covenants, promises and agreements contained herein, the County hereby grants Rio Nuevo an exclusive option to lease the Property from County, as provided in this Agreement.

- 3.1. **Exercise of Option.** Rio Nuevo may exercise this Option at any time prior to the expiration of the Option Term by providing the County written notice (the "**Option Notice**") of its election to do so. The Option Notice must include information about the improvements that Rio Nuevo plans to build, and the proposed tenant(s) for the improvements.
- 3.2. **Approval by Board.** The County will not be obligated to enter into the Ground Lease unless and until the Board takes formal action at a public meeting approving the Option Notice and the Rent Amount. If any of the information provided in the Option Notice is confidential, Rio Nuevo must so indicate; in that event, the Board will be provided details about the Option Notice in executive session as permitted by A.R.S. § 38-431.03(A)(7). Rio Nuevo acknowledges that the County is granting this Option for economic development purposes and that the Board is under no obligation to approve the proposed Ground Lease unless it determines that the Ground Lease will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of the inhabitants of the County. Preference will be given to a proposal that includes a sublease to one or more new or expanding high-wage, technology-driven companies.
- 3.3. **Revocation of Option.** Rio Nuevo may withdraw its Option Notice and elect not to enter into the Ground Lease at any time before the Ground Lease is executed by County.
4. **Establishing the Rent Amount.** Rio Nuevo will, in the Option Notice, include its determination of fair-market-value rent for the Ground Lease, along with a copy of an appraisal by a licensed appraiser that supports that determination. That fair-market-value rent will be the Rent Amount unless the County Administrator or his designee, within 10 business days after receipt of the notice, send Rio Nuevo a written objection, which must contain the name and contact information for another appraiser. This appraiser, together with Rio Nuevo's appraiser, will select a third appraiser. The three appraisers will then determine the fair-market-value rent for the Ground Lease. Any valuation agreed upon by 2 of the 3 appraisers will be the Rental Amount. The appraisers will make their report in writing and deliver a copy to each of the parties. The parties will equally share the cost of the additional appraisers.
5. **Final Ground Lease.** After the Rental Amount is established as provided above, and the Board has approved the proposal, the parties will negotiate diligently to agree upon the final form of the Ground Lease.
6. **Use of Property during Option Term.** County will not, during the Option Term, without Rio Nuevo's prior written consent, make any substantial changes to the physical condition of the Property, and will continue to use the Property in the same way it was being used as of the Effective Date.
7. **Assignment; Successors.** All of the terms, provisions and conditions of this Agreement are binding upon and inure to the benefit of the heirs, successors and assigns of the respective parties.

8. **Notices.** Any notices required or permitted to be given under the terms of this Agreement, or by law, must be in writing and may be given by personal delivery, or certified mail (return receipt requested) directed to the parties at the following addresses, or such other address as any party may designate in writing prior to the time of the giving of such notice, or in any other manner authorized by law:

County: Pima County Administrator
130 W. Congress, 10th Floor
Tucson, AZ 85701

Rio Nuevo: Rio Nuevo Multipurpose Facilities District
400 West Congress, Suite 152
Tucson, AZ 85701

with a copy to: Mark Collins, Esq.,
Gust Rosenfeld P.L.C.
One South Church Avenue, Suite 1900
Tucson, Arizona 85701

Any notice given will be effective when actually received, or if given by certified mail, then 72 hours after the deposit of such notice in the United States mail with postage prepaid.

9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Arizona.
10. **Default.** If either party fails or refuses to carry out any provision hereof, the other party will be entitled to such remedy or remedies for breach of contract as may be available under applicable law, including without limitation the remedy of specific performance, if such other party has fully performed all of its obligations hereunder. Time is of the essence hereof.
11. **County's Warranty.** County warrants that it has good title to the Property as of the Effective Date, and that execution of this Agreement has been duly authorized by the Pima County Board of Supervisors.
12. **Modification.** This Agreement may not be modified except by a written agreement executed by all parties.
13. **Jurisdiction and Venue.** This Agreement must be construed in accordance with Arizona law. Jurisdiction for any dispute or claim raised under this Agreement or proceeding brought to interpret the Agreement will lie solely in the State of Arizona, with venue in Pima County.
14. **Recording.** Upon the execution of this Agreement Buyer and Seller will execute a Memorandum of Option Agreement and record it in the Pima County Recorder's Office.
15. **Further Assurances.** Each party agrees in good faith to take, or cause to be taken, any reasonable actions that are necessary to ensure that both parties' rights and interests in and under this Agreement are valid and enforceable.
16. **Counterparts.** This Agreement may be executed by the exchange of faxed or electronic signatures and in any number of counterparts.

17. **Entire Agreement.** This Agreement, together with the Lease and documents related to the Lease, sets forth the entire understanding of the parties with respect to the subject matter of this Agreement, and supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date first set forth above.

RIO NUEVO

PIMA COUNTY

By: _____
Fletcher McClusker
Chair of the Board of Directors

By: _____
Sharon Bronson
Chair of the Board of Supervisors

Date: _____

Date: _____

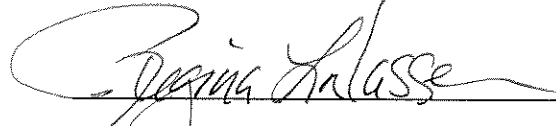
By: _____
Mark Irvine
Secretary of the Board of Directors

ATTEST:

Robin Brigode
Clerk of the Board of Supervisors

Date: _____

APPROVED AS TO FORM:



REGINA NASSEN

EXHIBIT A
LEGAL DESCRIPTION AND DIAGRAM OF PROPERTY
(Cushing Street Property)

1. Legal Description Pending
2. Property Diagram Follows

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Exhibit A, Cont.
Location of Cushing Street Property

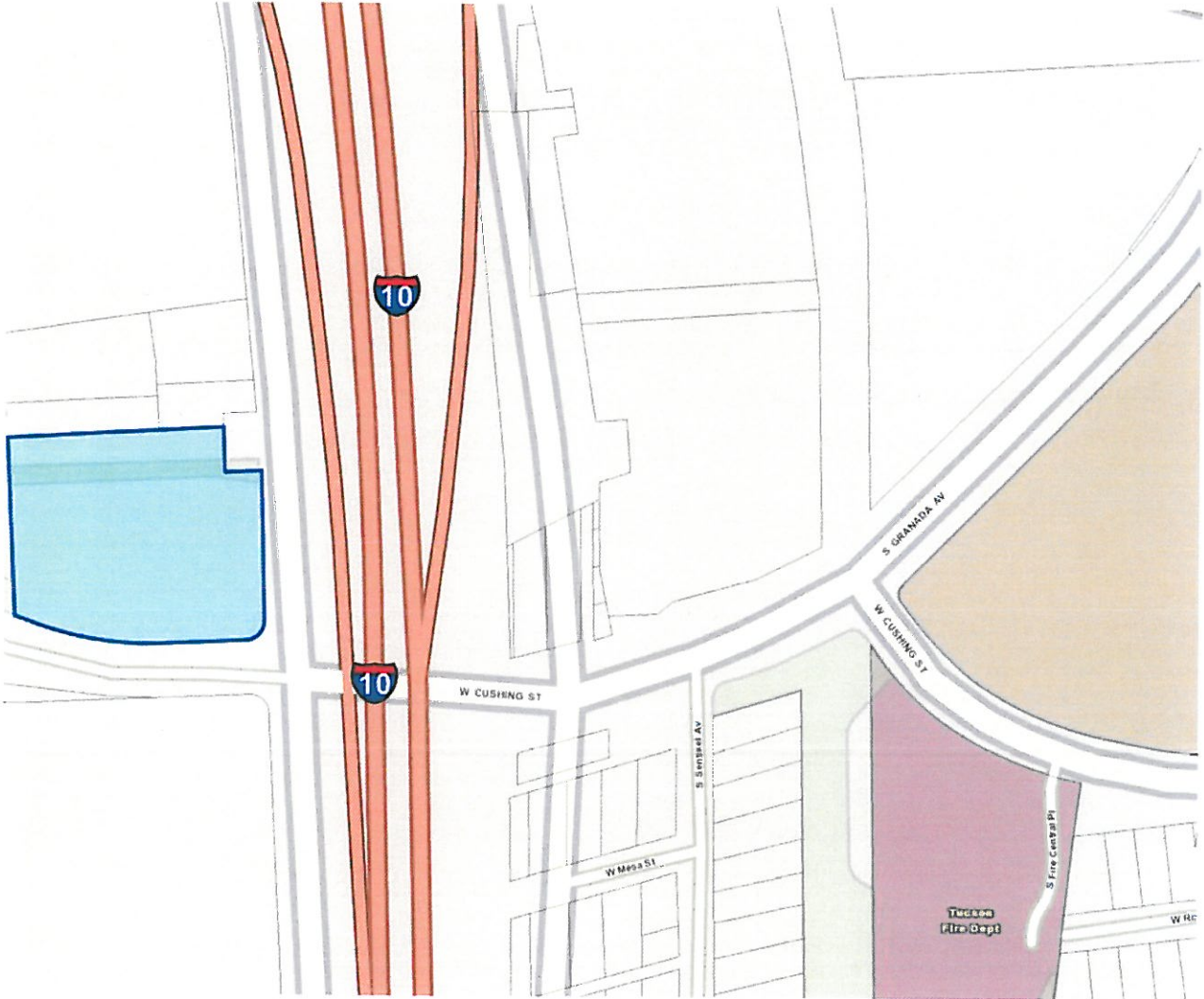


EXHIBIT B
CONDITIONS FOR GROUND LEASE
[CUSHING STREET PROPERTY]

The Ground Lease between the parties will reflect the following terms and conditions:

1. Upon acceptance of the Option Notice and Rental Amount, Rio Nuevo shall be obligated to improve the Property by constructing a Class A, multi-story, high-technology office building (the "**Building**"), together with a parking structure containing 350 parking spaces, and appropriate driveways and landscaping (all together, the "**Project**"). The Building must have at least 200,000 square feet of interior professional office or light-manufacturing space. No residential use is permitted.
2. Site development plans, including exterior architectural design, are subject to review and approval by the County. Approval will not be unreasonably withheld.
3. Rio Nuevo must contract for the construction of the Project within 18 months of the effective date of the Ground Lease and must complete the Project within 18 months after construction commences.
4. Pima County will provide building permitting and plan review services and inspections.
5. Rio Nuevo will pay rent in the Rental Amount. Payment of rent will commence upon execution of the Ground Lease.
6. The initial term of the Ground Lease shall be twenty-five (25) years, with two successive renewal terms of ten (10) years each, conditioned on Rio Nuevo (or its tenant) making improvements to the Building to keep it up-to-date.
7. Rio Nuevo will be responsible for insuring, maintaining, repairing, and operating the Project.
8. Title to the improvements comprising the Building and the Project shall be held by Rio Nuevo throughout the initial term of the Ground Lease, and any subsequent renewal(s). Title to the improvements will become the County's when the Ground Lease ends.
9. The average wages plus benefits paid by tenants of the Building must exceed 150 percent of the median regional wage.
10. County will consent to Rio Nuevo's grant of a security interest in its leasehold interest as part of its financing of the Project.

Exhibit C to Option Agreement
Form of Ground Lease

GROUND LEASE AND OPTION AGREEMENT

This Ground Lease and Option Agreement (the “**Agreement**”) is entered into as of _____, 201_, (the “**Agreement Date**”) by and between Rio Nuevo Multipurpose Facilities District, a special taxing district of the State of Arizona (“**District**”), and Pima County, a political subdivision of the State of Arizona (“**County**”). District and County are sometimes individually referred to as a “**Party**” and jointly referred to as the “**Parties**”.

RECITALS

A. County owns an unimproved parcel of real property (the “**Premises**”), approximately ___ acres in size, which is located [describe location] in downtown Tucson, Arizona, within the Rio Nuevo Multipurpose Facilities boundary. The Premises is legally described and depicted on Exhibit A.

B. The District has the authority to acquire property within the Rio Nuevo Multipurpose Facilities boundary, and construct commercial facilities that its board determines are necessary or beneficial to the district (A.R.S. §§ 48-4201(4)(b) and 48-4204(B)), and may issue revenue bonds for that purpose (A.R.S. §§ 48-4203(B)(3) and 48-4251). It may also “[e]nter into agreements with developers, contractors, tenants and other users of all or part of” such a facility. A.R.S. § 48-4203(B)(2).

C. The Pima County Board of Supervisors (the “**Board**”) has authority under A.R.S. § 11-254.04 to engage in any “activity that the board of supervisors has found and determined will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of the inhabitants of the county,” including specifically the “acquisition, improvement, leasing or conveyance of real or personal property.”

D. The District and the County executed a Ground Lease Option Agreement dated _____, 2016 (the “**Option Agreement**”) pursuant to which the County granted to District an exclusive option (the “**Option**”) to lease the Premises in accordance with the terms and conditions of the Option Agreement.

E. District has exercised the Option, and the Parties, as provided in the Option Agreement, have agreed on the Rent Amount. The Board has determined that entering into this Agreement and leasing the Premises to District will assist in the creation or retention of jobs and will improve and enhance the economic welfare of the inhabitants of the County.

F. District intends to improve the Premises by constructing a Class A, multi-story, high-technology office building (the “**Building**”), together with a parking structure containing 350 parking spaces, and appropriate driveways and landscaping (all together, the “**Project**”). The District will sublease the Project to one or more new or expanding high-wage, technology-driven companies.

G. The District has determined that Project is a related commercial facility located within the Rio Nuevo Multipurpose Facilities boundary, that the District’s primary component is in

close proximity to the Project and will benefit from the Project, and that District will benefit from the tax revenues to be generated by the Project.

H. The Parties desire that County: **(i)** lease the Premises to District and **(ii)** grant an option to purchase the Premises to District (the **“Purchase Option”**), all upon the terms and conditions of this Agreement.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises of the Parties in this Agreement, the Parties agree as follows:

1. **Accuracy of Recitals.** The Parties hereby acknowledge the accuracy of the Recitals.
2. **Ground Lease.** Effective upon the Agreement Date, County hereby lets the Premises to District, and District hereby leases and takes the Premises from County (the **“Lease”**).
3. **Condition of Premises.** District has inspected the Premises and accepts possession of the Premises in its **“AS IS”** condition on the Commencement Date (as defined below), and except for those representations and warranties of County contained in this Agreement, without representation or warranty of any kind, express or implied, including, without limitation, any warranty of income potential, future operating expenses or uses or fitness for a particular purpose. Except as otherwise expressly provided in this Agreement, District has full responsibility for the repair, alteration, maintenance, and replacement of the Premises, and any portion thereof, and any Improvements (as defined below). County has no obligation whatsoever for the repair, alteration, maintenance and replacement of the Premises, or any portion thereof, or the Improvements, except as expressly provided in this Agreement. District expressly acknowledges and agrees that the County has not made and is not making, and District is not relying upon, any warranties or representations regarding the Premises or any Improvements, except as expressly set forth in this Agreement.
4. **Term.**
 - A. **Initial Term.** The initial term of this Lease is twenty (25) years, commencing upon Substantial Completion as defined in Section 7(E), below (the **“Commencement Date”**) and ending on the same day and month in the year 204_. **“Term”** means and includes this initial term and any exercised extensions.
 - B. **Extensions.** So long as District is in full compliance with all the terms and conditions of this Lease, it may extend the Term of this Lease for two successive terms of ten years each, provided that [describe reinvestment/improvement requirements for extensions]. Each extension option may be exercised no more than 12 months nor less than 3 months before the expiration of the initial term or preceding extension term.
5. **Rent.** Rent for the Premises from the Agreement Date through the Commencement Date (**“Initial Rent”**) will be _____ and no/100 Dollars (\$ _____ .00) per year, payable by District to County, in advance, in equal monthly installments. Rent for the Premises after the Commencement Date (**“Net Rent”**) will be _____

_____ and no/100 Dollars (\$_____.00) per year, payable by District to County, in advance, in equal monthly installments.

6. **Possession and Enjoyment.** County acknowledges and agrees that District, by paying the Rent and performing the other terms and conditions of this Lease, may peaceably hold and enjoy the Premises without any interruption by County or any person lawfully claiming by, through or under County, during the Term, except that County may enter upon and inspect the Premises by providing District with written notice of its intent to do so not less than 24 hours in advance.
7. **District's Improvements to the Premises.**
 - A. **Construction.** District will develop and construct the Project together with parking and driveway areas and other installations necessary or incidental to the operation or maintenance thereof (collectively, referred to as the "**Improvements**"). The Improvements will include a building (the "**Building**"), which will be a complete, independent structure containing not less than _____ square feet of interior space. [Insert any other design requirements or restrictions.] The Improvements will be constructed and developed in accordance with the approved Final Plans (as provided below) and all local development and building codes, and in compliance with Title 34 of the Arizona Revised Statutes. The Building must be designed and constructed using the U.S. Green Building Council's LEED Silver standard as a design guideline, but District is not required to obtain LEED certification.
 - B. **Commencement.** Construction of the Improvements will be commenced upon the closing of the debt and equity financing for the Project, no later than 18 months after the Agreement Date. Construction will not commence until each of the following has occurred:
 - i. Plan Approvals. County approves the Final Plans.
 - ii. Contract. District provides to County a copy of District's contract with the general contractor that will construct the Project. The contract must give County the right, but not the obligation, to assume District's obligations and rights under that contract if District defaults.
 - iii. Insurance. District furnishes County with proof that District has obtained the liability and worker's compensation insurance required in this Agreement.
 - iv. Builder's Risk Insurance. District furnishes County with proof that District, or District's contractor, has obtained "all risks" builder's risk insurance including vandalism and malicious mischief, in broad form and with a company reasonably acceptable to County, covering improvements in place and all material and equipment at the job site furnished under contract, but excluding contractor's, subcontractor's and construction manager's tools and equipment and property owned by contractor's or subcontractor's employees, with limits of at least \$_____ per loss single limit for all work at the job site. District must maintain

this insurance in effect until the Project is complete and a permanent Certificate of Occupancy has been issued for the Project.

- v. **Payment and Performance Bonds.** District delivers to County payment and performance bonds meeting the requirements of Title 34 of the Arizona Revised Statutes, issued by a surety company licensed to do business in the State of Arizona, running to County as obligee, conditioned on the completion of the Project in accordance with the Final Plans and the provisions of this Lease, free and clear of all mechanics' and other liens.

C. **Plans and Specifications.** District must obtain County's approval of plans and specifications for the Project. County will not unreasonably withhold its approval of plans and specifications, will communicate its approval or disapproval in writing, and will explain the grounds for any disapproval. If County disapproves of submitted plans and specifications, District will submit revised plans and specifications addressing the County's concerns. The Director of the County's Facilities Management Department is authorized to conduct the review and give approvals and disapprovals on behalf of County.

- i. **Preliminary Plans.** District will submit three full hard-copy sets, and an electronic (Autocad) set of preliminary construction plans and specifications for the Project, no later than 2 months after the Agreement Date. The plans must be prepared by an architect or engineer licensed to practice in Arizona, and must include preliminary grading and drainage plans, soil tests, utilities, sewer and service connections, locations of ingress and egress to and from public thoroughfares, curbs, gutters, parkways, street lighting, designs and locations for outdoor signs, storage areas, and landscaping. The plans must be sufficiently clear and detailed for the County make an informed judgment about the design and quality of construction, and about the impact of the Project on adjacent and nearby properties.

- ii. **Final Plans.** Within 2 months after County's approval of the preliminary plans, District will prepare and deliver to County three full hard copy sets and one electronic (Autocad) set of final plans and specifications ("**Final Plans**") substantially conforming to the preliminary plans previously approved by County. Any subsequent modification of the Final Plans must be submitted for County review and approval.

D. **Cost of Improvements.** All costs, expenses and charges incurred in the construction of the Improvements will be District's sole and exclusive obligation, and District will defend, hold the County harmless and indemnify it from all such costs, expenses, and charges, including attorneys' fees relating thereto.

E. **Substantial Completion.** Construction must be substantially completed within 18 months after it commences, subject to delays occasioned by "force majeure." If it is not substantially completed in a timely manner, the County may cancel this Lease by written notice to the District, subject to a period of 30 days during which the District may cure the failure to substantially complete the Project. The Project will be deemed

to be substantially complete upon issuance of a Certificate of Occupancy by the City of Tucson.

F. **County Inspection.** County representatives may, but are not obligated to, inspect the Project as it is being constructed, and District will provide them access to the work for that purpose.

8. **Title to Improvements.** At all times during the Term of the Lease, the Improvements will be owned by District and District alone will be entitled to all of the tax attributes of ownership, including, without limitation, the right to claim depreciation or cost recovery, and District will have the right to amortize capital costs and to claim any other federal or state tax benefits attributable to the Premises. Provided District has not exercised the Purchase Option, at the expiration or earlier termination of the Term, or any portion thereof, Tenant will peaceably leave, quit and surrender the Premises. Upon such expiration or termination and provided District has not exercised the Option, the Improvements will become the sole property of County at no cost to County, and will be free of all liens and encumbrances and in good condition, subject only to reasonable wear and tear.
9. **Fixtures and Furnishings.** District will retain ownership of all personal property, fixtures, equipment and furnishings (collectively, "**Fixtures**") from time to time installed in the Premises by District or its sublessees. District may remove any Fixtures at any time during the Term and will remove all Fixtures prior to the expiration of the Term, except those Fixtures that County agrees, in writing, may be left on the Premises. Any Fixtures not removed at the expiration of the Term will, at the election of County, become the property of County without payment to the District, or be deemed abandoned and removed by County at County's expense. Upon any removal of Fixtures, the District will promptly repair any and all resulting damage to the Premises.
10. **Subordination to Lenders.** The cost of the Project will be funded in part by loans from various lenders (the "**Lenders**").
 - A. Provided the County has received at least 10 days written notice of any intended encumbrance of the Premises, it will allow the Lenders to hold a deed of trust or other security interest (a "**Leasehold Deed of Trust**") in District's leasehold interest in the Premises only to the extent necessary to secure repayment of Project loans, and County will execute such subordination agreements or similar document(s) as may be required by the Lenders, provided that such documents contain terms and conditions and are in a form reasonably satisfactory to County. A Lender, in the event of any foreclosure or assignment in lieu of foreclosure, must cure all District defaults, and any reletting of the Premises by a Lender must comply with all the terms and conditions of this Lease.
 - B. District will keep the Premises free and clear of all other liens, claims, and encumbrances, including, but not limited to, mechanics' liens, laborers' liens and materialmen's liens. County agrees not to place any liens or encumbrances of any kind on the Premises without the prior written consent of District and its Lenders.

11. **Sublease and Assignment.**
 - A. **Assignment.** District will not assign or encumber this Lease or any interest in it, except as permitted under Section 10 above, without County's prior written consent, which will not be unreasonably withheld.
 - B. **Sublease.** County acknowledges that District does not intend to occupy or use the Premises itself, and instead intends to sublet the Premises to one or more subtenants. County hereby approves the following proposed subtenants [list any identified subtenants] ("**Initial Subtenant(s)**"). Consent to any such subletting will in no way relieve District of any liability under this Lease and will not impose any additional burden or obligation on County. Every subtenant is required to comply with all District's obligations under this Lease.
 - C. **Salary Requirement.** Each subtenant must pay its employees an average annual wage, including benefits, of at least one-hundred fifty percent (150%) of the median regional wage for Pima County.
12. **Memorandum of Ground Lease and Option Agreement.** Upon the execution of this Agreement, the Parties will also execute a Memorandum of Ground Lease and Option Agreement to be recorded in the official records of the Pima County, Arizona Recorder (the "**Official Records**") in substantially the form attached hereto as **Exhibit B**.
13. **Payment of Additional Amounts.** The Lease described in this Agreement is a completely net lease. As such, except as specifically provided herein, District is solely responsible for any and all capital, operating, maintenance, and replacement costs and any other costs and expenses that result from District's development and use of the Premises, including, but not limited to, the construction of the Improvements. District's payment of insurance, taxes, utilities and any other charges, costs or fees charged and prorated to District under the terms of this Lease (collectively "**District's Obligations**") will accrue and be payable by District from and after the Agreement Date throughout the Term. County will forward to District any invoices, bills, or other charges representing District's Obligations ("**District Bills**"). District will pay any District Bills on or before the date such payment becomes due or if no due date is provided, then within ten (10) days of receipt of any such District Bill. District's failure to timely pay a District Bill will constitute a breach of this Agreement.
14. **Utilities.** District will promptly pay when due all charges for sewer, water, gas, electricity, telephone, garbage, and any other utilities or services delivered in connection with District's use and operation of the Premises during the Term, including connection and disconnection charges, if any.
15. **Taxes.** District will pay and discharge as and when the same become due, and prior to delinquency, all real and personal property, Government Property Lease Excise Tax ("**GPLET**"), and ad valorem taxes, assessments, levies, and other charges, general and special, which are or may be during the Term levied, assessed, imposed or charged against the Premises. District's obligation to pay such real and personal property and ad valorem taxes, assessments, levies, and other charges will begin with respect to amounts first accruing from and after the Agreement Date. District will also pay any taxes that County,

now or hereafter, is required to pay based on the Rent paid or other benefits conferred to County hereunder, including any income, franchise, excise, gross receipts, sales, or transaction privilege taxes.

16. **Insurance.**

A. **Types of Insurance Required.** District and any subtenants will procure, prior to beginning any activities on the Premises, and maintain throughout the Term of this Lease, the following insurance from an insurance company or companies reasonably acceptable to County:

- i. Commercial General Liability (CGL): Occurrence Form covering liability arising from premises, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations with minimum limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate.
- ii. Business Automobile Liability: Coverage for any owned, leased, hired, and/or non-owned autos assigned to or used in connection with the Premises, with minimum limits not less than \$1,000,000 Each Accident.
- iii. Workers' Compensation (WC) and Employers' Liability: Workers' Compensation with Employers Liability limits of \$1,000,000 each accident and \$1,000,000 each employee – disease. Workers' Compensation statutory coverage is compulsory for employers of one or more employees.
- iv. Property: Commercial Property, Boiler and Machinery insurance with coverage at least as broad as ISO forms CP 00 01 and BM 00 20, covering the full replacement cost of all improvements on the Premises.

B. **Additional Coverage Requirements:**

- i. Claims Made Coverage: If any part of the required insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Lease, and District must maintain such coverage for a period of not less than three (3) years following expiration or termination of this Lease.
- ii. Insurer Financial Ratings: Coverage must be placed with insurers acceptable to County with A.M. Best rating of not less than A- VII, unless otherwise approved by County.
- iii. Additional Insured: The General Liability policy must be endorsed to include County and all its related special districts, elected officials, officers, agents, employees and volunteers (collectively "County and its Agents") as additional insureds with respect to liability arising out of the activities performed by or on behalf of District. The full policy limits and scope of protection must apply to County and its Agents as an additional insured, even if they exceed the limits required by this Lease.

- iv. Waiver of Subrogation: Commercial General Liability and Workers' Compensation coverages must each contain a waiver of subrogation in favor of County and its Agents for losses arising from work performed by or on behalf of District.
- v. Primary Insurance: The required insurance policies, with respect to any claims related to this Lease or the Premises, must be primary and must treat any insurance carried by County as excess and not contributory insurance. The required insurance policies may not obligate the County to pay any portion of District's deductible or Self Insurance Retention (SIR).

C. Verification of Coverage:

- i. Certificates. District's Insurer or Broker must evidence compliance with the insurance requirements by furnishing certificates of insurance executed by a duly authorized representative of each insurer. Each certificate must include a notation of policy deductibles or SIRs relating to the specific policy, and must specify that the policy is endorsed to include additional insured and subrogation waiver endorsements for the County and its Agents.
- ii. Renewal Certificate: A renewal certificate must be provided to County not less than 15 days prior to the policy's expiration date, along with actual copies of the additional-insured and waiver-of-subrogation endorsements.
- iii. Policies: County reserves the right to, at any time, require complete copies of any or all required insurance policies.
- iv. Cancellation Notice: District must notify the County in advance, in writing, if a required insurance policy will expire, be cancelled, be suspended, or be materially changed. The notice must be provided to the County by the earlier of (a) 30 days before the change will take effect, and (b) 2 business days after District receives notice of the change from its insurer. For cancellation for non-payment, Insurer must provide County with written notice ten (10) days prior to cancellation of policy.

D. Approval and Modifications: The Pima County Risk Manager may approve a modification of the above insurance requirements without the necessity of a formal contract amendment, but the approval must be in writing. Neither the County's failure to receive a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from District, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

17. **Repairs and Maintenance.** District will, at its sole cost and expense, keep and maintain, and replace where necessary, all Improvements on the Premises, including without limitation, buildings, sidewalks, fencing, paving, landscaping, wiring, heating, air conditioning, ventilating, plumbing, parking areas, ingress and egress, and other installations in good condition and repair in all material respects (normal wear and tear excepted), except if caused by County. District agrees to maintain, and replace where necessary, all underground and unexposed service facilities of the Premises.

18. **Permits, Laws and Ordinances.** District will, at its sole cost and expense, comply, and cause its contractors and subcontractors and subtenants to comply, in all material respects with all laws of all applicable governmental authorities which may now or hereafter, from time to time, be established and which are or will be applicable to the Premises and any operations on the Premises, and will take all actions necessary to cause the Premises to comply in all material respects with all provisions of the Project Documents and this Agreement.
19. **Environmental Compliance.**
- A. **Hazardous Materials Prohibited; Clean Air Act.** District and its sublessees will not cause or permit any Hazardous Material (as defined below) to be brought upon, kept, or used in or about the Premises without the prior written consent of County, other than such Hazardous Materials as are customarily necessary or useful to the type of operations permitted under this Lease and actually being carried out by District or its sublessees on the Premises which will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Materials. District's operations on the Premises will comply with applicable provisions of the Clean Air Act, 42 U.S.C. 7401 et seq. and Arizona Revised Statutes, Title 49, Chapter 3 and any other applicable environmental laws or regulations.
- B. **Hazardous Material.** As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of Arizona or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous waste" under NRS 459.400 et. seq., (ii) petroleum, (iii) asbestos, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq. (42 U.S.C. 6903), (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et. seq. (42 U.S.C. 9601) or (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. 6991 et. seq.
- C. **Clean-Up.** If the presence of any Hazardous Material on or in the Premises, or the soil or ground water under or adjacent to the Premises caused or permitted by the District, its sublessee(s) or their agents, employees, contractors or invitees results in any suspected contamination of the Premises, the soil or ground water under or adjacent to the Premises, the District will promptly notify County in writing and take all actions at its sole expense as are necessary to return the Premises, or such soil or ground water to the condition existing prior to the introduction of any such Hazardous Material to the Premises, or to such soil or ground water; provided that County's approval of such actions will first be obtained, which approval will not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises.

D. **Pre-existing Contamination.** District, at District's cost, may obtain a Phase I Environmental Report (the "**Phase I**") for the Property. County agrees that any Hazardous Materials contaminating the Premises prior to possession of the Premises by the District will not result in liability for the District under this Paragraph, 42 U.S.C. § 9607(b)(3) or A.R.S. § 49-283(D), except to the extent such contamination is aggravated by the action or inaction of District.

E. **Notices Regarding Environmental Conditions.** The District will, within ten (10) business days following receipt thereof, provide County with a copy of (i) any notice from any local, state or federal governmental authority of any violation or administrative or judicial order or complaint having been filed or about to be filed against the District, its sublessee(s), or the Premises alleging any violation of any local, state or federal environmental law or regulation or requiring District or County to take any action with respect to any release on or in the Premises or the soil or ground water under or adjacent to the Premises of Hazardous Material, or (ii) any notices from a federal, state or local governmental agency or private party alleging that the District may be liable or responsible for cleanup, remedial, removal, restoration or other response costs in connection with Hazardous Material on or in the Premises or the soil or ground water under or adjacent to the Premises or any damages caused by such release.

20. **Indemnification.** To the fullest extent permitted by law, the District will indemnify, defend, and hold harmless County, its officers, employees and agents ("**Indemnified Parties**") from and against any and all losses, costs, or expenses (including reasonable attorney fees) incurred or suffered by County as a result of any damages to property or injuries to persons (including death), or any suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of or directly related to any act, omission, fault or negligence by the District, its agents, employees, invitees, contractors, subtenants, or anyone under its direction or control or acting on its behalf, or anyone permitted by District to conduct any activity on the Premises, or in connection with any use or occupancy of the Premises under the terms of this Lease. District's indemnity obligations under this paragraph shall not extend to any claims for damages arising out of or directly related to any act, omission, fault or negligence of any of the Indemnified Parties, or any other persons or entities unrelated to the District.

21. **Default/Termination.** Either party may present written notice of default or non-performance to the other party.

A. **District Default.** The occurrence of any one or more of the following events will constitute a default and breach of this Lease by District for which County may terminate this Lease:

i. **Operation of Premises.** The vacating or abandonment of the Premises, or cessation of activities thereon, where such abandonment will continue for a period of thirty (30) calendar days after notice of such default is sent by County to District.

- ii. **Monetary Obligations.** The failure by District to make any payment required to be made by District hereunder, as and when due, where such failure will continue for a period of ten (10) calendar days after notice from County that such payment is due.
 - iii. **Insurance.** The failure by District to maintain insurance policies as set forth above for any period of time, in which event District must immediately cease all operations at the Premises until such insurance is obtained. In the event of such a default, County may, in County's sole discretion, obtain necessary insurance coverage in which event District will, within ten (10) business days of demand, reimburse and pay to County the full amount of any costs and premiums expended by County to obtain such coverage.
 - iv. **Violation of Law.** Violation of any law by District, or the conduct of any unlawful activities on the Premises that are permitted by District, either tacitly or explicitly, or that District has not taken reasonable means to prevent after it becomes or in the exercise of reasonable diligence should have become aware that such activities are being conducted.
 - v. **Health and Safety Violation.** Any action or omission by District that, in the County's reasonable judgment, causes a threat to the health or safety of the general public.
 - vi. **Other Covenants.** The failure by District to observe or perform any other of the covenants, conditions or provisions of this Lease to be observed or performed by District, where such failure continues for a period of thirty (30) days after written notice thereof by County to District; provided, however, that if the nature of District's default is such that more than thirty (30) days are reasonably required for its cure, then District will not be deemed to be in default if District commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- B. **County Default.** County will be in default if it fails to comply with any material obligation under this Lease, and fails to cure that failure within 30 days after receiving a written default notice from District detailing the nature of the obligation. If, however, the nature of County's default is such that more than 30 days are reasonably required for its cure, then County will not be deemed to be in default if County commences such cure within that period and thereafter diligently prosecutes such cure to completion.
- C. **Remedies.** Either party may pursue any remedies provided by law and in equity for the breach of this Lease, including termination of the Lease. No right or remedy is intended to be exclusive of any other right or remedy and each will be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this Lease.

22. **Purchase Option.**

- A. **Grant of Option.** County hereby grants to District an option to purchase the Premises in fee together with all easements and other rights appurtenant to or for the benefit of

the Premises (the “**Purchase Option**”). Fee title to the Premises will be conveyed to District via special warranty deed (the “**Deed**”) free and clear of all liens and encumbrances except exceptions permitted under the Original Agreement or those approved in writing by District.

B. **Option Purchase Price.** District will pay to County, in cash at closing, the fair market value of the Premises, appraised as vacant land. The Parties will establish this value (the “**Purchase Price**”) using the appraisal process set forth in the Option Agreement.

C. **Term of Option.** The Purchase Option will commence on the Agreement Date and will continue during the Term of the Lease.

D. **Exercise of Option.** At any time during the Term, District may exercise the Purchase Option by giving County and _____ Title Agency (“**Title Company**”) at least thirty (30) days’ written notice of its intent to exercise the Purchase Option with a direction to Title Company to prepare an updated Title Commitment for the Premises. The date upon which District pays the Purchase Price to County and Title Company records the Deed will be referred to as the “**Purchase Option Closing Date**”.

E. **Title Commitment and Closing.**

- i. Within four (4) days of the Opening of Escrow, the Title Company will issue and deliver to District and County a preliminary title commitment for the Premises, as well as copies of all instruments referred to therein, including all deeds, easements or other instruments which provide for access to the Premises (collectively the “**Title Commitment**”). The Title Commitment will be an irrevocable commitment by the Title Company to issue the Title Policy (defined below) subject to the satisfaction of the requirements contained in the Title Commitment.
- ii. District will have twenty (20) days after receipt of the Title Commitment to object to any exceptions or requirements contained in the Title Commitment or identified on the ALTA/ACSM survey of the Premises (“**Survey**”) to be provided and paid for by District (“**Title Issues**”) by providing written notice thereof to the County. If District has no objection, it may provide notice thereof to County, in which case the 20-day period will cease. In the event of any such objection, County will have ten (10) days after receipt of District’s notice of the Title Issues to review and evaluate the Title Issues and give written notice to District whether or not the County will cure or cause to be removed the Title Issues (“**Title Review Period**”). If the initial Title Commitment or Survey is updated and/or amended by any new exception(s) or requirement(s) (by endorsement, amendment, or otherwise) that District deems to be adverse to its anticipated title (“**Amended Title Commitment**”), the Title Review Period will be extended by three (3) business days following District’s receipt of the Amended Title Commitment (including the best available copies of all new exceptions) to notify the County in writing of District’s objections to any new exceptions (“**Extended Title Review Period**”). If District timely objects to any matter disclosed in an Amended Title Commitment, County may give written notice to District within three (3) business days after receipt of the new objections as to

whether or not the will cure or cause to be removed an objected to matter. If County timely gives District written notice that the County will not cure or cause to be removed the objected to matter (or if the County fails to provide any written notice within the applicable response period), then District will have three (3) business days after receipt of such written notice (or, in the case of no written notice, three (3) business days after the expiration of the County's applicable response period) within which to terminate this Option Purchase Agreement. If District fails to timely terminate the Option under this provision, the Title Review Period and the Extended Title Review Period will expire.

- iii. In the event that the County fails to cure any exceptions that County agreed to cure, to the reasonable satisfaction of the District prior to closing, the Purchase Option may be canceled by the District giving notice thereof to the County and Title Company as provided above.
- iv. County and District hereby agree and acknowledge that electronic delivery of the Title Commitment and any Amended Title Commitments by the Title Company (whether in the form of an attachment to electronic mail or in the form of a link to a website where the Title Commitment or Amended Title Commitment can be downloaded) is an acceptable form of delivery, and the Title Commitment or Amended Title Commitment will be deemed delivered on the day it is electronically transmitted to and received by County and District.
- v. Notwithstanding anything mentioned herein to the contrary, on or before the Purchase Option Closing Date, County will satisfy and remove all voluntary monetary liens placed on the Premises by County, without the need of any objection from District.
- vi. As used in this Agreement, the term "**Permitted Exceptions**" will collectively mean the exceptions to title reflected in the Title Commitment or any amendment thereto which are approved (or deemed approved) by District pursuant to this section.
- vii. At the Purchase Option Closing, the Title Company will deliver to District either an ALTA extended form of title insurance (the "**Title Policy**") with respect to the Premises in the full amount of the Purchase Price, which will insure that fee simple title to the Premises is vested in District, subject only to: (i) the usual printed exceptions and exclusions contained in the Title Policy; and (ii) the Permitted Exceptions or an endorsement to its existing Owner's Policy in connection with the Project. If a new policy is issued, the cost of a basic premium policy will be paid for by County with any extended coverage paid for by District.
- viii. The escrow agent's fee will be evenly divided and paid by the Parties. Each Party will pay its own attorneys' fees. All other fees and costs relating to the Closing will be paid by the parties as is customary in similar real estate transactions in Pima County, Arizona.
- ix. The Parties understand, acknowledge and agree that no real estate broker is involved in this transaction and that no real estate brokerage commission will be paid as a

result of the sale of the Premises. District acknowledges that District Board Members Mark Irvin and Chris Sheafe are each licensed real estate brokers in Arizona. Each Party will defend, indemnify and hold the other harmless from and against any and all claims, costs, liabilities or damages for any real estate brokerage commissions or fees, including any attorneys' fees incurred in connection therewith, which may result from the conduct of the party from whom indemnification is sought.

- x. The Parties agree to execute escrow instructions that the escrow agent may require in connection with the Closing.

23. Representations and Warranties.

A. District Representations and Warranties. As of the Agreement Date and on the Purchase Option Closing Date, if any, District hereby represents and warrants to County as follows:

- i. District is organized and lawfully existing as a special taxing district of the State of Arizona.
- ii. District has the full right, power and authority to make, execute, deliver and perform this Agreement.
- iii. District's execution and delivery of this Agreement has been authorized by all requisite action on the part of the District, and the execution and delivery of this Agreement by District and the performance of its obligations hereunder will not violate or contravene any agreement or obligation to which District is a party or by which it is bound.
- iv. There is no action, suit, litigation or proceeding pending or, to District's knowledge, threatened against District that could prevent or impair District's entry into this Agreement and/or performance of its obligations hereunder.
- v. The persons signing this Agreement on behalf of District are duly and validly authorized to do so.

B. County's Representations and Warranties. As of the Agreement Date and on the Purchase Option Closing Date, if any, County hereby represents and warrants to District that, to the best of the County Administrator's and the Manager of Real Property Services' knowledge:

- i. County owns fee simple title to the Premises, free and clear of all liens, charges, encumbrances, encroachments, easements, restrictions, leases, tenancies, occupancies or agreements and other matters affecting title, except for those matters previously approved by District in writing, or created by District or by County with District's approval. The Premises is in compliance with all easements, restrictions and other matters of record affecting title as of the date hereof.

- ii. County has full right, power and authority to make, execute, deliver and perform its obligations under this Agreement. County has obtained and received all required and necessary consents and approvals to enter into this Agreement with District. The entry by County into this Agreement with District and the performance of all of the terms, provisions and conditions contained herein does not and will not violate or cause a breach of or default under any agreement or obligation to which County is a party or by which it is bound.
- iii. There are no tenants, lessees or other occupants of the Premises having any right or claim to possession or use of the Premises or a claimed preference for occupancy in the Premises.
- iv. County is not obligated under any other option, contract, lease or agreement, oral or written, with respect to the ownership, use, operation, management, maintenance, lease, sale or financing of the Premises except as previously disclosed to District.
- v. No representation, statement or warranty by County contained in this Agreement or in any exhibit attached hereto contains any untrue statement or omits a material fact necessary to make the statement of fact therein recited not misleading.
- vi. There is no action, suit, litigation or proceeding pending or, to County's knowledge, threatened against County and/or the Premises which could prevent or impair County's entry into the Premises and/or performance of its or any of District's obligations hereunder or materially and adversely impact District's rights hereunder.
- vii. The person signing this Agreement on behalf of County is duly and validly authorized to do so.
- viii. There are no pending condemnation proceedings relating to any portion of the Premises, and County has received no notices of the institution or the proposed institution of condemnation proceedings relating to any portion of the Premises or of any other proceedings against or any taking of all or any part of the Premises.
- ix. There is no pending or threatened litigation, governmental proceeding, notice of action required to be taken, judgment or cause of action against or related to the Premises, or any portion thereof, or against County or County's agents with respect to the Premises or any portion thereof.
- x. Except as may be referenced in any environmental assessment, neither the Premises nor any part thereof has been used for the disposal of refuse or waste, or for the generation, processing, manufacture, storage, handling, treatment, transportation, or disposal of any Hazardous Materials, as defined in will have the meaning ascribed in, and will include those substances listed in Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. and the regulations promulgated thereunder (as amended from time to time) and the Clean Air Act, 42 U.S.C. 7401, et seq. and the regulations promulgated thereunder (as amended from time to time).

- xi. County represents and warrants that no person on its behalf significantly involved in the initiating, negotiating, securing, drafting, creating or consulting with respect to this Agreement, the Lease or the Option is or will be at any time from the Agreement Date and for a period of 3 consecutive years thereafter, and if the District exercised the Option, for a period of 3 consecutive years after the Purchase Option Closing Date, be an employee or agent of District or act as a consultant on behalf of District or any of its affiliated entities.

23. **General Provisions.**

- A. **Waivers.** No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, whether or not similar, nor will any waiver be a continuing waiver. Unless expressly provided for in this Agreement, no waiver will be binding unless executed in writing by the Party making the waiver. Any Party may waive any provision of this Agreement intended for its sole benefit; however, unless otherwise provided for herein, such waiver will in no way excuse the other Party from the performance of any of its other obligations under this Agreement.
- B. **Construction, Governing Law and Venue.** This Agreement will be interpreted according to Arizona law, and will be construed as a whole and in accordance with its fair meaning and without regard to, or taking into account, any presumption or other rule of law requiring construction against the Party preparing this Agreement or any part hereof. Any dispute or controversy relating to this Agreement, including the breach and enforcement thereof, will take place in the Superior Court of Pima County, Arizona.
- C. **Time.** Time is strictly of the essence of each and every provision of this Agreement.
- D. **Attorneys' Fees.** If any action is brought by any Party in respect to its rights under this Agreement, the prevailing Party will be entitled to reasonable attorneys' fees and court costs as determined by the court, including attorneys' fees incurred prior to any court or enforcement action that relate to the enforcement hereof.
- E. **Binding Effect.** This Agreement and all instruments or documents entered into pursuant hereto are binding upon and will inure to the benefit of the Parties and their respective successors and assigns.
- F. **Further Assurances and Documentation.** Each Party agrees in good faith to take such further actions and execute such further documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.
- G. **Time Periods.** If the time for the performance of any obligation under this Agreement expires on a Saturday, Sunday or legal holiday, the time for performance will be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.
- H. **Headings.** The headings of this Agreement are for purposes of reference only and will not limit or define the meaning of any provision of this Agreement.

- I. **Entire Agreement.** This Agreement, together with all exhibits referred to herein, which are incorporated herein and made a part hereof by this reference, constitute the entire agreement between the parties pertaining to the subject matter contained in this Agreement. No supplement, modification or amendment of this Agreement will be binding unless in writing and executed by the Parties.
- J. **Counterparts.** This Agreement may be executed by the exchange of faxed or electronic signatures and in any number of counterparts.
- K. **Approvals and Notices.** Any objection, approval, disapproval, demand, document or other notice ("Notice") that any Party may desire or may be obligated to give to any other Party will be in writing and may be given by personal delivery, registered or certified mail (return receipt requested), email transmission (with delivery receipt) or by commercial courier to the party or its successors or assigns to whom the Notice is intended at the address of the party set forth below or at any other address as the parties may later designate. Change of address by a party will be given by Notice as follows:
- If to the District: Rio Nuevo Multipurpose Facilities District
400 West Congress, Suite 152
Tucson, Arizona 85701
- with a copy to: Mark Collins, Esq.,
Gust Rosenfeld P.L.C.
One South Church Avenue, Suite 1900
Tucson, Arizona 85701
- If to the County: Director, Pima County facilities Management
150 W. Congress Street, 5th Floor
Tucson, Arizona 85701
- L. **Conflict of Interest.** This Agreement is subject to and may be cancelled in accordance with the provisions of A.R.S. § 38-511.

SIGNATURES APPEAR ON THE FOLLOWING PAGES

This Ground Lease and Option Agreement is dated as of the date first above written.

DISTRICT:

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

By: _____

Its: Chairman

By: _____

Its: Secretary

COUNTY:

PIMA COUNTY, ARIZONA

By: _____

Chair of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO CONTENT:

By: _____

Director, Facilities Management Department

APPROVED AS TO FORM:

By: _____

Deputy County Attorney

EXHIBIT A
(TO GROUND LEASE AND OPTION AGREEMENT)
(LEGAL DESCRIPTION OF THE PREMISES)

EXHIBIT B
(TO PURCHASE AND SALE AGREEMENT)
(MEMORANDUM OF GROUND LEASE AND OPTION)

When recorded, return to:

Mark Collins, Esq.,

Gust Rosenfeld P.L.C.

One South Church Avenue, Suite 1900

Tucson, Arizona 85701

MEMORANDUM OF GROUND LEASE AND OPTION AGREEMENT

THIS MEMORANDUM OF GROUND LEASE AND OPTION AGREEMENT is entered into this ___ day of _____, 201_, by and between Pima County, a political subdivision of the State of Arizona (“**County**”), and Rio Nuevo Multipurpose Facilities District, a special taxing district of the State of Arizona (“**District**”).

County and District have entered into an unrecorded Ground Lease and Option Agreement dated _____, 201_ (the “**Lease**”) whereby County has (i) leased to District all of the tract of land located in Tucson, Arizona, which is more fully described on **Exhibit A** attached hereto, and all rights, alleys, ways, privileges, appurtenances and advantages appurtenances and advantages, to the same belonging or in any way appertaining (“**Property**”) for a term of 20

years, and **(ii)** granted to District an option to purchase the Property at any time for the term of the Lease on the terms more fully described therein.

A copy of the Lease and Option Agreement is available for person having a legitimate interest in the Property at the following address:

Rio Nuevo Multipurpose Facilities District
400 West Congress, Suite 152
Tucson, Arizona 85701

This Memorandum of Ground Lease and Option Agreement is dated as of the date first above written.

SIGNATURES APPEARS ON THE FOLLOWING PAGES

DISTRICT:

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

By: _____

Its: Chairman

By: _____

Its: Secretary

STATE OF ARIZONA)

) ss.

COUNTY OF PIMA)

I HEREBY CERTIFY that on this ___ day of _____, 201_, before me, a Notary Public for the state aforesaid, personally appeared Fletcher McClusker, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing Memorandum of Lease and Option Agreement, who acknowledged that he is the Chairman of the Board of Directors for Rio Nuevo Multipurpose Facilities District and that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth.

Notary Public

My commission expires on _____

STATE OF ARIZONA)

) ss.

COUNTY OF PIMA)

I HEREBY CERTIFY that on this ___ day of _____, 201_, before me, a Notary Public for the state aforesaid, personally appeared Fletcher McClusker, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing Memorandum of Lease and Option Agreement, who acknowledged that he is the Chairman of the Board of Directors for Rio Nuevo Multipurpose Facilities District and that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth.

Notary Public

My commission expires on _____

COUNTY:

PIMA COUNTY, ARIZONA

By: _____

Chair of the Board of Supervisors

STATE OF ARIZONA)

) ss.

COUNTY OF PIMA)

I HEREBY CERTIFY that on this ___ day of _____, 2016, before me, a Notary Public for the state aforesaid, personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing Memorandum of Lease and Option Agreement, who acknowledged that he/she is the Chairperson of the Pima County Board of Supervisors and that he/she has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth.

Notary Public

My commission expires on _____