



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: October 17, 2017

* = Mandatory, information must be provided

or Procurement Director Award ☐

***Contractor/Vendor Name/Grantor (DBA):**

Heirloom Farmers Markets, Inc.

***Project Title/Description:**

Rillito Park Farmers' Market

***Purpose:**

The amendment will allow Heirloom to continue to provide a weekly Farmers Market at Rillito Regional Park. The market showcases 85 small business vendors offering a variety of food, crafts and services. In addition, Heirloom during the amendment period will construct at their sole cost the fourth pavilion.

***Procurement Method:**

Procurement Exempt A.R.S. 11-933

***Program Goals/Predicted Outcomes:**

Goal is to provide a venue whereby a variety of vendors can showcase and sell product. This ranges from produce, arts and crafts, services, etc. Expectations include the construction and completion of the fourth ramada.

***Public Benefit:**

The public benefits by receiving a farmers market that showcases a wide variety of agricultural products, is easily accessible and accepts EBT/SNAP cards. In addition, this is a revenue generating agreement. There is no cost to Pima County.

***Metrics Available to Measure Performance:**

Construction of fourth pavilion

***Retroactive:**

No

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Contract / Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e.,15-123): _____

Effective Date: _____ Termination Date: _____ Prior Contract Number (Synergen/CMS): _____

☐ Expense Amount: \$* _____ ☐ Revenue Amount: \$ _____***Funding Source(s) required:**Funding from General Fund? ☐ Yes ☐ No If Yes \$ _____ % _____Contract is fully or partially funded with Federal Funds? ☐ Yes ☐ No***Is the Contract to a vendor or subrecipient?**Were insurance or indemnity clauses modified? ☐ Yes ☐ No*If Yes, attach Risk's approval*Vendor is using a Social Security Number? ☐ Yes ☐ No*If Yes, attach the required form per Administrative Procedure 22-73.***Amendment / Revised Award Information**

Document Type: CTN _____ Department Code: ED _____ Contract Number (i.e.,15-123): 15-039

Amendment No.: 1 _____ AMS Version No.: 3 _____

Effective Date: 10/16/17 _____ New Termination Date: 10/17/19 _____

Prior Contract No. (Synergen/CMS): _____

☐ Expense or ☒ Revenue ☒ Increase ☐ Decrease Amount This Amendment: \$ 0.00Is there revenue included? ☒ Yes ☐ No If Yes \$ 40,000.00***Funding Source(s) required:** General FundFunding from General Fund? ☐ Yes ☒ No If Yes \$ _____ % _____**Grant/Amendment Information** (for grants acceptance and awards) ☐ Award ☐ Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e.,15-123): _____

Effective Date: _____ Termination Date: _____ Amendment Number: _____

☐ Match Amount: \$ _____ ☐ Revenue Amount: \$ _____***All Funding Source(s) required:*****Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ _____ % _____***Match funding from other sources?** ☐ Yes ☐ No If Yes \$ _____ % _____***Funding Source:** _____***If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?** _____

Contact: Robert Padilla

Department: Natural Resources, Parks and Recreation

Telephone: 724-5235

Department Director Signature/Date: _____

Deputy County Administrator Signature/Date: _____

County Administrator Signature/Date: _____

(Required for Board Agenda/Addendum Items)



MEMORANDUM

Date: September 21, 2017

To: CH Huckelberry, County Administrator
Carmine DeBonis, Deputy County Administrator

From: Chris Cawein, Director

Subject: Heirloom Farmers Market Contract Extension for Rillito Park Pavillion Use

Enclosed you will find a package of information pertaining to the requested renewal of the Heirloom Farmers Market (HFM) agreement for your consideration. The Departments of Economic Development & Tourism and Natural Resources Parks and Recreation developed the original contract jointly in 2014. The relationship with HFM has been managed by NRPR since its inception due to the location of the market within Rillito Park. Therefore, we are processing the proposed renewal.

The original facility construction by the County with bond funds consisted of the development of three covered ramadas, with space allocated for a fourth ramada that was required to be completed by the vendor during the initial contract period. The original Agreement with HFM was for a three-year period beginning on October 18, 2014 with an allowance for one, two-year extension that would be granted contingent upon the construction of the fourth ramada at the site within the initial contract term.

HFM has not yet completed the required development of the fourth ramada, reportedly for several reasons, which are articulated in the attached letter from HFM. First and foremost, they have reported that they were unable to raise the required capital (estimated at \$80,000) necessary to complete the required site improvements during the initial term. NRPR has had an on-going dialog with HFM throughout the initial contract term and they have been a highly cooperative and communicative partner with NRPR.

Although they have not met that condition of the original Contract required for the proposed two-year extension, we believe it prudent to move this item forward for consideration and allow HFM the two-year extension requested in order to continue the regular operation of the market at Rillito Park and complete the construction of the fourth pavilion for the following reasons:

1. HFM has provided a valuable and popular service to the Community in providing the regular Sunday Rillito Farmers Market over the past 3 years;
2. HFM has consistently paid rent on time to the County in accordance with the Agreement, which has totaled approximately \$47,500 over the past three years. These fees help to support maintenance and other non-revenue generating community programs occurring in the park;

3. Continued occupancy of the site by HFM over the proposed 2-year extension period is expected to generate approximately \$40,000 in revenue that can be used to support continued park operations. County maintenance costs specifically attributable to the presence of the Farmers Market are very minimal;
4. The presence of HFM at this site on Sundays, when NRPR staff is not scheduled, assists us in monitoring park conditions and maintaining certain amenities of the park, such as the restrooms, that would otherwise be unchecked until County staff arrive on site each Monday;
5. HFM activity at the site occurs on Sunday mornings when park use is at a minimum so their operation does not conflict with other park users;
6. NRPR has not been contacted by any other entities or vendors requesting the regular use of the existing ramadas, therefore suggesting that if the HFM contract is not extended, the site may sit largely unused and generate no revenue;
7. HFM is confident and NRPR trusts that they will be able to complete the required fourth ramada during the proposed two-year extension period, thus providing the Department and public with a robust, privately-funded park improvement.

Attached to this memo you will find the original contract, the letter received from HFM requesting the two-year extension, as well as the Board of Supervisor's Agenda Item request and the proposed two-year contract amendment for your consideration to forward for Board consideration at their October 17, 2017 meeting.

Please do not hesitate to contact me should questions arise.

Attachments (4)

C: Diane Frisch, Director, Attractions & Tourism

**PIMA COUNTY DEPARTMENTS OF :
NATURAL RESOURCES PARKS AND RECREATION and
ECONOMIC DEVELOPMENT & TOURISM**

PROJECT: FARMERS MARKET

CONTRACTOR: HEIRLOOM FARMERS MARKETS, INC.

TERM: 10-18-2014 to 10-17-2017

CONTRACT NO.: CTN ED 1500000 00000 00000 039

CONTRACT	
NO. <u>CTN-ED-1500000000000000039</u>	
AMENDMENT NO. _____	
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

**AGREEMENT FOR NON-EXCLUSIVE OPERATION OF A FARMERS' MARKET AT RILLITO REGIONAL
PARK**

- 1. PARTIES.** This Agreement for the non-exclusive operation of a farmers' market at Rillito Regional Park ("Agreement") is entered into between Pima County ("County") and Heirloom Farmers Markets, Inc., an Arizona Non-profit Corporation, ("Market") for the non-exclusive use of portions of Rillito Regional Park for the operation of a farmers' market, pursuant to the provisions of A.R.S. section § 11-933.
- 2. BACKGROUND.** County and Market are mutually interested in providing facilities for and conducting a professional farmers' market at portions of Rillito Regional Park for the benefit of the residents of Pima County.
- 3. TERM.** The term of this Agreement shall be three (3) years commencing on October 18, 2014 and ending on October 17, 2017, (the "Initial Term") unless otherwise terminated. The term of this Agreement may be extended, for one (1), two (2)-year option upon written approval of the parties and provided the required capital improvements as required in Section 7 of the Agreement are completed. Market must notify County six (6) months in advance of its request for renewal of this Agreement.
- 4. PURPOSE.** County grants Market the non-exclusive use of portions of Rillito Regional Park including the parking lot and the new external booth structures (the "Farmers Market Structure"), located at 4502 N. First Avenue, Tucson, AZ 85718, as noted in Exhibit A, herein after referred to as the "Premises," for the purpose of conducting the Farmers' Market under the terms and conditions of this Agreement, subject to the structure construction being completed and deemed safe to occupy by County. In the event the new structure is not deemed safe to occupy, Market and County may agree via separate document that Market may continue operating in the temporary location as noted in Exhibit A until such time the new structure may be occupied.

Market may use the Premises on Saturdays and Sundays, herein referred to as "Weekend" for the purpose of holding a Farmers Market on the following terms and conditions as detailed below:

4.1 For the purpose of setting up:

Each "Weekend" beginning October 18, 2014, no earlier than 6:30 A.M.

4.2 For the purpose of holding the daily sessions:

Each "Weekend" during the term of this agreement from 8:00 A.M to 1:00 P.M.

4.3 During actual live racing days during the racing season, scheduled between January 1 and April 5 of each year, County may require Market to end the daily session by noon each day.

5. COUNTY'S RIGHT TO CANCEL DAILY SESSIONS.

5.1 Market recognizes that County is engaged in ongoing construction projects within Rillito Regional Park that may affect Market's activities under this Agreement. County reserves the right to cancel any or all of Market's daily sessions with forty-eight (48) hours' notice in the event that construction activities are anticipated to interfere with any or all of Market's daily sessions. County may exercise the right to cancel Market's daily sessions for construction activities on as many occasions as may be necessary in the County's sole discretion to accommodate construction.

5.2 Market recognizes that County provides access to Rillito Park for other users and events, and that some such events require the entire parking capacity of Rillito Park. County reserves the right to cancel Market's daily session with sixty (60) days' notice in the event that another event will require the entirety or a significant portion of the available parking.

5.3 Market is not entitled to compensation or consideration of any kind for cancelation of any of its daily sessions by County under this Agreement.

6. FEES. Market shall pay County fees for its use of the Premises as follows;

6.1 Market shall pay the greater of three hundred dollars (\$300.00) per day or twelve percent (12%) of all Gross Revenues received by Market for all space rentals and any other direct revenue to Market, for each daily session of the farmers' market that Market operates on the Premises, payable monthly on the first Monday of each month during the first year of the initial term.

- 6.2 At the beginning of the second year and continuing throughout the third year of the initial term, Market shall pay the greater of four hundred dollars (\$400.00) per day or twelve percent (12%) of all Gross Revenues received by Market for all space rentals and any other direct revenue to Market, for each daily session of the farmers' market that Market operates on the Premises. Payments to continue as described herein.
- 6.3 For the purposes of this agreement, the term "Gross Revenues" means all income receipts from any source arising from operations or activities that Market conducts on the Premises.
- 6.4 Market shall provide County a security deposit of One Thousand Dollars (\$1,000.00) in advance of the first day of the site occupancy. County will refund the security deposit within thirty (30) days after the termination or expiration of this Agreement, less any daily session clean up and damage expenses as listed below.
- 6.5 In the event the Pima County Board of Supervisors adopt amendments to the Rillito Regional Park facility fee schedule for the Pima County Department of Natural Resources, Parks and Recreation during the term of this Agreement, the fees due from Market to County shall automatically adjust to correspond with the amended fee schedule without the necessity of a formal amendment to this Agreement. Notice of such changes to the fee schedule shall be provided by County to Market within ten (10) days of occurrence, and Market shall enter into compliance with the amended fee schedule within ten (10) days of receipt of notice.
- 6.6 In the event that County cancels a daily session as per Section 5, or Market cancels a daily session due to inclement weather no Market fee shall be due.
- 6.7 Market shall make all checks payable to PIMA COUNTY.

7. CAPITAL IMPROVEMENTS.

- 7.1 **Initial Improvements.** Market may, anytime during the first three (3) years of the Agreement term, construct capital improvements on the Farmers' Market Structure, as provided in Exhibit B. Capital Improvements must meet the standards as prescribed by County. If Market fails to complete the capital improvements provided in Exhibit B by the end of the initial term, Market's option to renew this Agreement for an additional two years shall be of no further force or effect and this Agreement shall terminate as of the end of the initial term.

7.2 Design Approval.

- 7.2.1** Any variation from the approved designs, specified in Exhibit B, construction materials, and standards specified in Exhibit B must be approved in advance of any improvements in writing by County.
- 7.2.2** Any additional improvements proposed by Market must be submitted to County and approved in writing by County before implementation.

8. DAILY SESSION REQUIREMENTS.

8.1 Market shall use only qualified vendors who may include:

- 8.1.1** Producers of Food Products on agricultural lands, farms and gardens.
- 8.1.2** "Producers" includes owners, proprietors or tenants of agricultural lands, orchards, farms and gardens whereon food products are grown, raised or prepared for market.
- 8.1.3** "Food Products" include every product of the soil and sea in its natural or manufactured state, livestock processed for consumption (including but not limited to swine and fowl), eggs, milk, and the products thereof. No live animals shall be sold or offered for sale at any farmers' market.
- 8.1.4** Market shall permit vendors to participate in the Farmers' Market based on criteria established by Market and approved by County.
- 8.1.5** Vendors that sell kitchen or other crafts, limited to five percent (5%) of the overall mix of vendors.
- 8.1.6** Market shall not permit vendors to affix or anchor anything to County property. All Vendor equipment shall be freestanding.
- 8.1.7** County agrees to provide electricity and water as available for each Farmers' Market weekend session until and unless separate utility metering is available for the Premises. If separate electrical metering for the Premises is installed, Market will be responsible for electrical costs associated with each weekend session. County may require Market to provide temporary restroom facilities at Market's sole cost.

Market agrees to furnish normal janitorial and trash removal service for the Premises including the parking lot and nearby restrooms, and to return all utilized facilities and grounds to the same condition of cleanliness that the facilities were in prior to each weekend's use.

8.1.8 Parking at Rillito Park is provided free of charge. Market may not charge members of the public for parking.

8.2 Market shall take all precautions to ensure that no damage to the Premises occurs. If any damage occurs, Market shall, at its sole expense, make the necessary repairs under County's supervision. County may, at its sole option, make the necessary repairs and invoice Market for County's documented costs. Market shall pay any such invoices within thirty (30) days of receipt.

8.2.1 Market shall be solely responsible for all damages to the Premises caused by the Farmers' Market, its vendors, its employees, its volunteers, or its patrons.

8.3 Market shall be responsible for supplying a sufficient number of properly placed trash receptacles to manage all waste products generated from each weekend session.

8.4 Market shall be responsible to keep the nearby restrooms clean and well supplied during the operation of the Farmers' Market. County will provide clean and well supplied restrooms at the beginning of each weekend. Additional restroom supplies may be available for Market to use as needed.

8.4.1 It will be the responsibility of the Market to provide adequate portable toilets during any sponsored special promotion that may require additional toilets to meet all applicable health and safety requirements.

8.5 Market shall provide a trash roll-off and ensure all trash from each weekend session is properly deposited in the roll-off immediately upon completion of each daily session. Roll-offs must be emptied in a timely manner. All fees associated with garbage removal occasioned by the Farmers' Market shall be borne by Market.

8.6 Market shall leave the Premises in pre-activity condition. No equipment may be removed or relocated without authorization by Pima County Department of Natural Resources, Parks and Recreation Supervisor, Martina Gonzales (520-419-2369) and a Pima County Department of Economic Development & Tourism representative.

9. **DAILY SESSIONS CLEAN UP.** Market shall be responsible for clean-up after each daily session. All refuse shall be deposited in waste containers. Failure to clean-up shall result in County invoicing Market for County's reasonable costs for clean-up.

10. **SESSION SECURITY.** Market shall be responsible to provide all necessary security services for the daily sessions at Markets' sole cost and expense.

11. **DAMAGES.** In addition to terminating this Agreement, County may recover all damages and payments accrued, accruing or arising out of any breach by Market of any of the terms and conditions of this Agreement. With the exception of permitted vehicle parking in the parking lot during the Farmers' Market, no vehicles shall be permitted on turf or any other areas within the Rillito Racetrack.

11.1 Any damage resulting from the parking of vehicles on the lot during any Farmers' Market shall be repaired at Market's sole expense and to the satisfaction of County.

12. LIENS.

12.1 With respect to improvements undertaken by Market, Market shall pay all liens of contractors, subcontractors, mechanics, laborers, or material providers and all items of like character that are the responsibility of the Market, and shall indemnify and defend County against all legal costs and charges resulting from Market's failure to do so.

12.2 Market is not the agent of County and shall have no authority to create any liens for labor or material in County's interest in the Premises and all material providers, contractors, mechanics, and laborers are charged with the notice that they must look to Market only, to secure payment of all bills for any work done or material furnished during the term of this Agreement. Market shall not purchase any materials, equipment, or supplies on the credit of County. Market shall not pledge in any manner the credit of County for any materials, stock or other items that Market may purchase for use at the Premises.

13. **HEALTH PERMITS.** Market shall obtain all necessary health permits from Pima County Health Department at Market's sole cost and expense.

14. **INDEMNIFICATION.** Market shall indemnify, defend and hold harmless County, its officers, employees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands, or damages of any kind or nature arising out of Market's use of the Premises pursuant to this Agreement to the extent arising from any act, omission, fault, or negligence by Market or its officers, employees, agents, vendors, patrons or anyone under its direction or control or on its behalf in connection with the Agreement.
15. **STATUS OF USER.** The status of Market shall be that of an independent contractor and neither Market nor its employees shall be considered an employee of Pima County and they shall not be entitled to receive any fringe benefits associated with regular or other County employment and shall not be subject to the provisions of the Pima County Merit System. Market shall be responsible for development and operation of the Farmers' Market without supervision of the County.
16. **ALCOHOL.** With prior written approval of County, Market may serve and sell alcoholic beverages for consumption on the Premises provided Market complies with applicable County and State liquor laws and provides County with certificates proving that Market has acquired the required insurance set forth herein.
17. **NOISE.** Market shall not violate any of the noise provisions of the City of Tucson Code Article IV, Section 16-31, Excessive Noise and the Pima County Code Title 9, Chapter 9.30 Regulation of Excessive, Unnecessary and Annoying Noises. Music/sound must be played at a level as not to disturb other park patrons or neighbors (NRPR Park Rule 5.020). No excessive sound shall occur before 10:30 a.m. or later than 10:00 p.m.
18. **KEYS, VEHICLE ACCESS, LIGHTING.** County may provide to Market access to facility keys and lighting controls and vehicle access to restricted areas. Market must contact Martina Gonzales prior to any daily session to request keys or special access.
19. **VIDEO CAMERAS.** Market and County may use video and/or digital cameras to photograph and/or record Market's daily session. County reserves the right to use any images recorded at daily sessions for any future advertising or use on County's web site.
20. **SIGNS, BANNERS, AND DECORATIONS.** Market must seek prior approval from County for placement of signs, banners, and decorations. County will determine the method of attachment of such items, and County will not unnecessarily withhold approval for such items. Costs incurred for the purchase, installation, and removal of such items are the sole responsibility of Market.

21. INSURANCE. Market shall obtain and maintain, at its own expense, during the entire term of this Agreement, the following type(s) and amounts of insurance.

21.1 Commercial General Liability –Occurrence Form,

Policy shall include Bodily Injury, Property Damage as well as the following Coverage's:

• General Aggregate	\$2,000,000.00
• Products: Completed Operations Aggregate	\$2,000,000.00
• Broad Form Contractual Liability	\$2,000,000.00
• Personal and Advertising Injury	\$2,000,000.00
• Each Occurrence	\$2,000,000.00
• Damage to Rented Property	\$50,000.00

21.2 Liquor Liability Policy Occurrence Form (may be under CGL Policy or by specialized policy) With Policy limit at least \$2,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

21.2.1 Market may acquire the additional insurance by purchase from a private broker.

21.3 Commercial General Liability policy shall contain a waiver of transfer of the rights of recovery (subrogation) against Pima County.

21.4 Liability Insurance policy shall be endorsed to include the following language: "Pima County is named as Additional Insured's with respect to liability arising out of the activities performed by or on behalf of the Market".

21.5 Automobile Liability Insurance Bodily Injury and Property Damage with a \$1,000,000.00 Combined Single Limit (CSL) for any owned, non-owned and hired vehicles used in the performance of this Agreement.

21.6 Workers' Compensation and Employers Liability Statutory coverage for Workers' Compensation and for Employees' Liability coverage not less than \$100,000.00 for each accident, \$100,000.00 disease for each employee, and \$100,000.00 disease policy limit.

21.7 Pima County will not be responsible for damages to loss of personal property belonging to Market or its vendors or patrons.

21.8 Market's insurance shall be primary insurance and any insurance carried by Pima County shall be considered non-contributory with respect to all other available sources.

21.9 Market shall provide Pima County with current *Certificates of Insurance* ten (10) days prior to beginning of this agreement. With the exception of ten (10) days' written notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require thirty (30) days' written notice to Pima County.

22. NOTICES. Wherever this Agreement requires or permits notice or demand to be given by either party to the other, such notice or demand shall be in writing and given or served either personally or by either regular mail, certified mail (return receipt requested), or by commercial delivery service, addressed to the parties at the addresses specified below and to the following individuals. Either party may change such address by written notice to the other herein provided.

If notice to County:

Tom Moulton, Director
Pima County Economic Development and Tourism Department
33 N. Stone Avenue, Suite 830
Tucson, AZ 85701
(520)724-7355

Chris Cawein, Director
Pima County Natural Resources Parks and Recreation Department
3500 W. River Road
Tucson, AZ 85741
(520)877-6000

If notice to Manager:

Manish Shah
Heirloom Farmers Markets, Inc.
225 W. Flores Street
Tucson, AZ 85705
(520) 882-2157

23. COUNTY AND CHARITABLE PARTICIPATION.

23.1 County reserves, and at all times shall have the sole right to participate in any Farmers' Market at no charge for the purpose of promoting the County and/or County activities.

23.2 Market shall additionally provide one (1) vendor booth without cost for use by a non-profit arts/cultural/heritage group at County's discretion each day that the Farmers' Market is held.

24. TRAFFIC CONTROL. Market shall be responsible at Market's sole cost and expense for any and all necessary traffic control measures for the Farmers' Market. In the event the County determines that additional traffic control is necessary, Market shall hire and utilize qualified traffic control professionals.

25. MARKET PLAN AND REVIEW. Market shall provide County with a Market Plan, fifteen (15) days prior to the opening of the initial opening day to be reviewed by the County, as needed, to require compliance with any applicable life safety codes. The Market Plan shall contain a dimensioned site plan indicating the layout of the Rillito Regional Park property to include the following:

25.1 Estimated parking to be used by patrons and vendors.

25.2 Additional security and maintenance measures and traffic control to be employed if applicable.

25.3 The location of any and all temporary structures.

County hereby reserves the right by written notice to Market within five (5) days of receipt of the Market Plan, to require Market to make changes, deletions and additions to the Market Plan and the operation policies described therein as the County may deem reasonably necessary or desirable to the safe and efficient operation of the daily sessions on the Premises. Upon receipt of such notice the Market may request a walk through survey of the Premises with the County Officials. Failure to make any such reasonable changes, deletions or additions requested by the County within five (5) days after receipt of notice thereof shall constitute a default, and County may deny use of the Premises to Market until the County's requested amendments to the Market Plan are made by Market or the Market Plan is otherwise deemed satisfactory by County.

26. ASSIGNMENT AND SUBLETTING. Market shall have no right to assign or sublet any of its rights or obligations under this Agreement.

27. NON DISCRIMINATION/ADA. Market agrees to comply with all applicable provisions and requirements of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive Order 99-4 and amends Executive Order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf which is hereby incorporated into this Agreement as if set forth in full herein. During the performance of this Agreement, Market shall not discriminate against any employee, client, or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

28. CONFLICT OF INTEREST. This Agreement is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of County is, at any time while this Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement with respect to the subject matter of the Agreement.

29. COMPLIANCE WITH LIGHT ORDINANCES. Market shall fully comply with any applicable light ordinances of the City of Tucson or Pima County.

30. TERMINATION AND REMEDIES. In the event that County determines Market or its invitees are in breach of any of the conditions set forth in this Agreement, or are causing damage to County facilities, County shall provide written notice to Market detailing the breach within five (5) days of making such determination.

30.1 Upon receiving notice, Market shall have fifteen (15) days to cure the breach. Should Market require additional time to cure, Market may request in writing an additional fifteen (15) days, which County shall grant, in the event County determines, in its sole discretion, that Market is making a demonstrable effort to cure the breach.

30.2 In the event that Market fails to cure the breach within the period provided in section 30.1 above, County may terminate this Agreement upon thirty (30) days written notice to terminate.

30.3 In addition to terminating this Agreement, County may recover all damages and payment accrued, accruing or arising out of any breach of the conditions set forth in this Agreement.

31. COMPLIANCE WITH ALL LAWS. Market shall comply with all federal, state, and local laws, states, ordinances, rules, regulation, standards, policies, and executive orders, without limitation to those designated within this Agreement. The laws of the State of Arizona shall apply to this Agreement. Any court action pursuant to this Agreement shall be brought and maintained in an Arizona court in Pima County.

32. AUDITS. Market shall make available to County, all records and books related to this Agreement upon request by County and within thirty (30) days of receipt of such request at such time and place as shall be designated by County for examination thereof for the purpose of an audit to be performed by an auditor designated by County. Additionally, Market shall provide county an annual financial statement covering the preceding calendar year, containing Balance Sheet, Income Statement, and Statement of Cash Flows, or equivalent documents, by September 30th of each year.

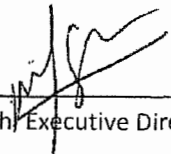
33. FORCE MAJEURE. Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of *force majeure*.

The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, *force majeure* includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts; injunctions-interventions-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring *force majeure*; which such party is unable to prevent by exercising reasonable diligence. The *force majeure* shall be deemed to commence when the party declaring *force majeure* notifies the other party of the existence of the *force majeure* and shall be deemed to continue as long as the results or effects of the *force majeure* prevent the party from resuming performance in accordance with this Agreement.

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The parties hereto have executed this Agreement on the day, month and year written below.

HEIRLOOM FARMERS MARKETS, INC:



Manish Shah, Executive Director

Date: 17 SEPTEMBER 2014

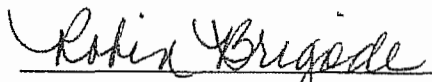
PIMA COUNTY:



Sharon Bronson, Chair, Board of Supervisors

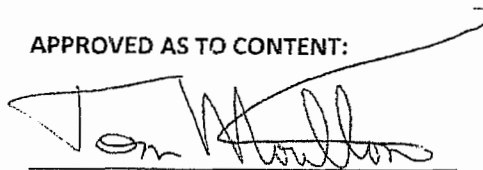
Date: OCT 07 2014

ATTEST:

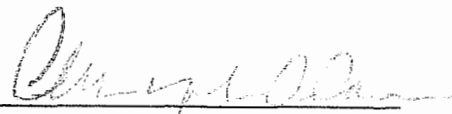


Robin Brigode, Clerk of the Board

APPROVED AS TO CONTENT:

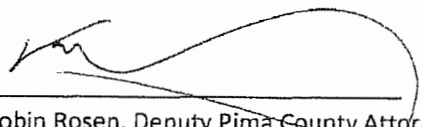


Tom Moulton, Director, Economic Development & Tourism



Chris Cawein, Director, Natural Resources, Parks and Recreation

APPROVED AS TO FORM:



Tobin Rosen, Deputy Pima County Attorney, Civil Division

EXHIBIT A

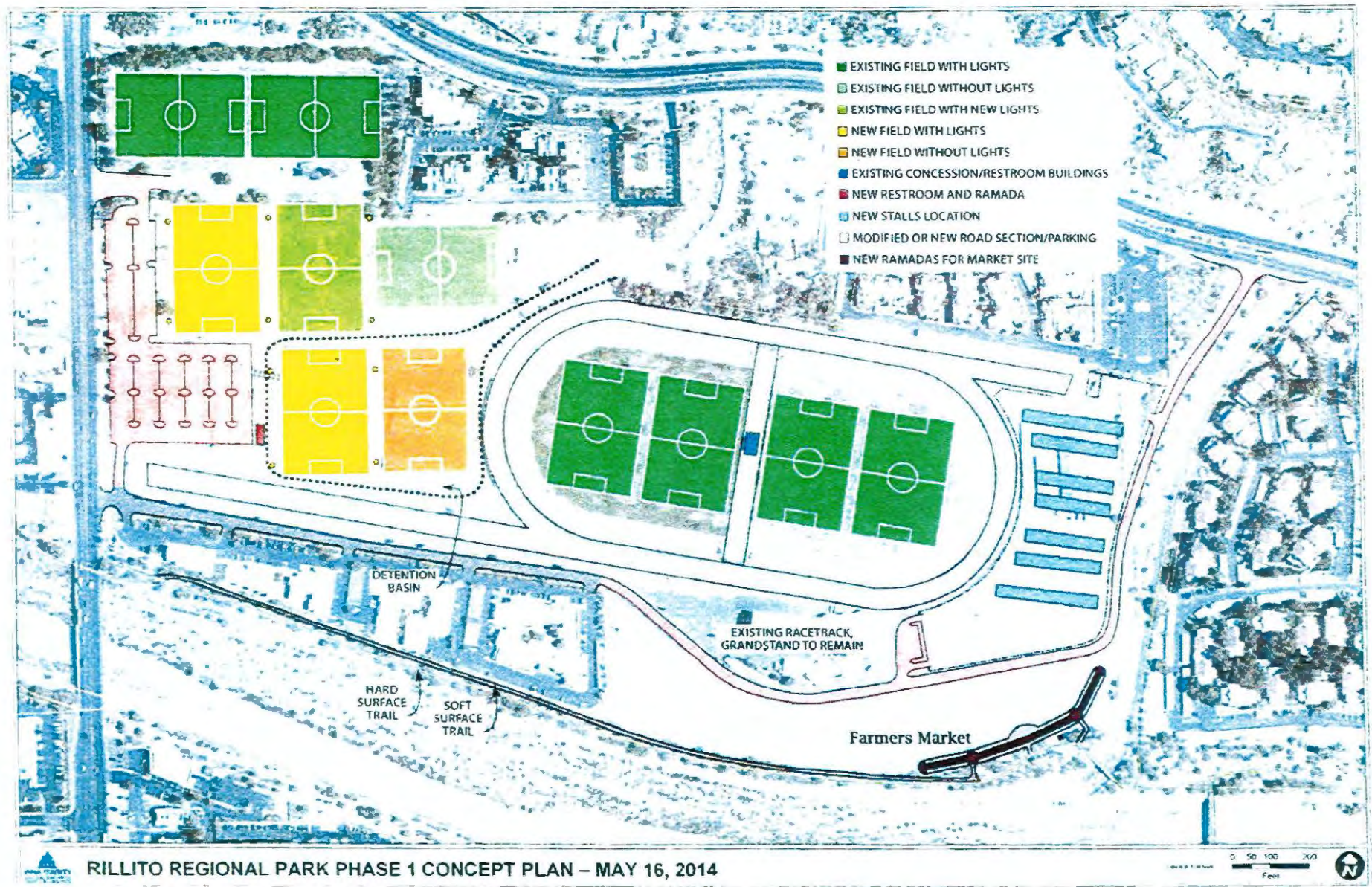
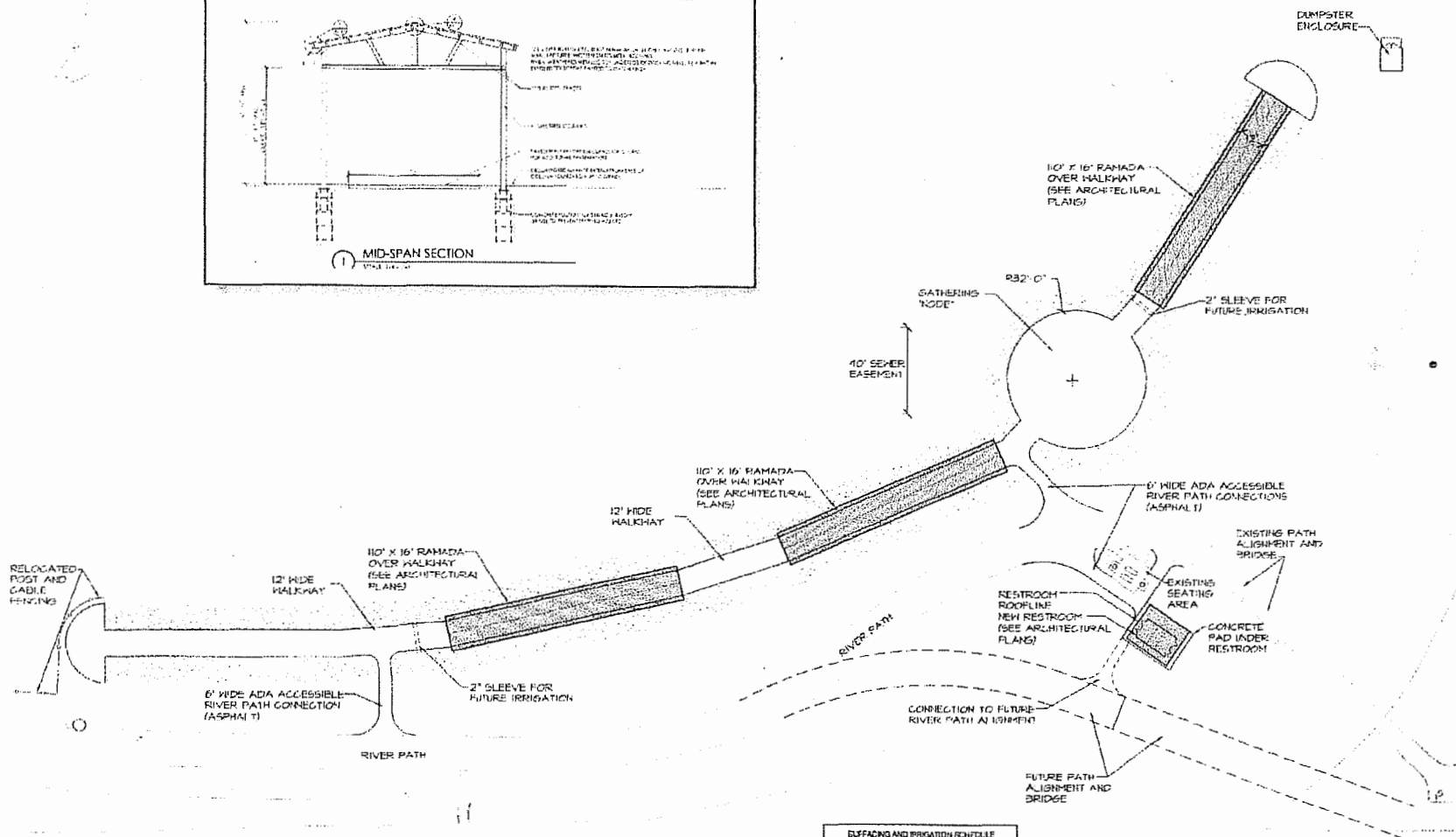
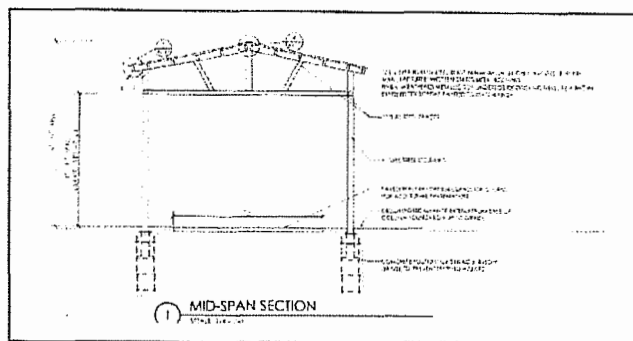


EXHIBIT B




DUFFING AND IRRIGATION SCHEDULE	
PROGRAMMING	
	1" MINIMUM RECOMMENDED DRAINAGE FIELD: 1800' x 1400'
	ASPHALT PAVEMENT MATERIAL PLACE
	CONCRETE PAVEMENT SILL MATERIAL
PERMANENT DRAINAGE	
	PERMEABLE DRAINAGE PAVING: 1800' x 1400'
	PERMEABLE DRAINAGE PAVING: 1800' x 1400'


McGarr & Associates
Landscape Architects and Planners
2014 Adams Road, Suite 210
Fort Worth, Texas 76104
Telephone: (817) 491-4444 Fax: (817) 491-2244

GLHN
ARCHITECTS & ENGINEERS, INC.
2000 E. Central Expressway, Suite 200, San Jose, CA 95128
Tel: 408/291-4444 Fax: 408/291-4445
www.glhn.com

NORTHSIDE COMMUNITY PARK
4502 N. 1ST AVENUE
TUCSON, AZ 85718

PROJECT OWNER:
PIMA COUNTY NATURAL RESOURCES, PARKS & REC
3550 W. RIVER ROAD, TUCSON, AZ
LANDSCAPE PLAN

 **CITY OF TUCSON, ARIZONA**
350 EAST NIEMERD, PHOENIX, AZ 85016


 REPUBLIC OF SERBIA
 MINISTRY OF THE INTERIOR
 Belgrade, 15.07.2014
 No. 1111
 L111

HeirloomFM Office
225 W. Flores Dr.
Tucson, AZ 85705



09/14/17 PM01:58 NRPR ACCT

p 520.882.2157
f 520.918.9812
www.heirloomfm.org

12 September 2017

Chris Cawein, Director
Pima County Natural Resources Parks & Recreation
3500 W. River Road
Tucson, AZ 85741

Dear Mr. Cawein,

During the past three years, Heirloom Farmers Markets has made its home at Rillito Park. While there have been challenges, much has been accomplished over these three years:

- Heirloom now accepts EBT/SNAP allowing neighbors who receive food assistance to shop at the farmers market and support their local vendors.
 - Heirloom received a 3-year Wholesome Wave grant allowing "Double your Dollars" towards the purchase of locally grown produce through EBT/SNAP
 - SNAP service - SNAP-related purchases increasing from \$15,000 in 2015 to more than \$30,000 in 2016, with the Double Up sales accounting for more than \$13,000 of that total
- Heirloom received a 2-year promotional grant of nearly \$100,000 to promote the Rillito Park Farmers Market.
 - Television Commercials – KGUN9, KOLD
 - Radio Ads – 94.9FM, 91.3FM
 - Farm Tour Features – Markley Farms, Zamudio Eggs, Aravaipa Creekside Growers, and Larry's Veggies. PLUS, upcoming releases of La Oesta, Desert Treasures, and Southwind Farms
 - Education offered to the public through special events featured around seasonal produce
 - Community Non-Profit Partnerships at the Market: County Master Gardeners, Tucson Organic Gardeners, Community Food Bank, Living Streets Alliance, Pima County Department of Transportation, Rillito Park Foundation, Tucson Village Farm, UofA Nutrition Network
 - Featured Chef Demonstrations – Food education and promotion of a wide variety of locally owned restaurants

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FRIDAYS
Trail Dust Town
Home of Pinnacle Peak
6541 E. Tanque Verde Rd.

SATURDAYS
Oro Valley
Steam Pump Ranch
10901 N. Oracle Rd.

SUNDAYS
Rillito Park
Food Pavilion
4502 N. 1st Ave.

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- Rillito Park Farmers Market has finally reached its maximum capacity with 85 small businesses at peak season (Jan-May 2017)
 - Featuring 17 actual farmers/growers from Southern Arizona
 - 10 additional local food producers (Ranchers, Eggs, Cheese, Honey)
 - Busy season (December – May) upwards of 2500+ patrons, including a large population of bicyclists from the adjacent loop
 - Rillito Park Food Pavilion is a community food destination in the first city in the US to be honored with the UNESCO City of Gastronomy designation

We are very proud and appreciative of the work that Heirloom has completed and the contribution of the community partnerships and countless volunteers that have put in the time to make the market such an amazing community experience. What Heirloom has accomplished over the past 3 years has been truly remarkable and would not have been possible without the support of the community, Pima County Board of Supervisors, Natural Resources Parks & Recreation, Rillito Park Foundation, and of course the producers and vendors from local farms, orchards, and gardens that have made the last 3 years so successful at the park. These relationships and supporters have allowed us to meet the fees and session requirements within the terms of the lease. Since inception Heirloom has paid rent to Pima County in the amount of \$47,532 that support the operation of the non-revenue generating park activities.

What has been accomplished in such a short term has been remarkable, but there have been some difficult challenges:

- For the first 18 weeks, we endured sweltering heat while the farmers market pavilions were being built.
- Heirloom attempted to start a Saturday farmers market at Rillito Park that we had to stop due to lack of attendance. The failure of this market was very costly.
- Confusion around the Rillito Park's future as a multi-purpose facility left donors reluctant to commit to capital improvements for the space
- While we celebrate the economic recovery, a significant portion of the vendor pool chose to close their small business and return to the general workforce. A smaller vendor pool decreased much needed revenue.
- Finally, we had the challenge of competing with St Philip's. As St Philip's chose to add dozens of vendors that do not meet Heirloom's criteria such as crafts, services, multilevel marketing companies. Where once there were 70

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high quality vendors in one location on a Sunday suddenly became 150 vendors of mixed quality competing for the same customer base. Heirloom struggled enormously to move its customer base from St Philip's Plaza over to Rillito Park. While people are generally resistant to change, we didn't anticipate the enormous effort it would take to inform and entice customers to shop at Rillito Park. It took us years to clear up the confusion around two competing markets.

As a result, Heirloom has not yet been able to raise the necessary capital to meet the conditions in section 7, Exhibit B Capital Improvements requiring us to complete the construction of the fourth pavilion in time for the 2-year lease extension. Now that the farmers market is at capacity much of the year and Rillito Park has a clear future as a multi-use facility, we believe we can have success in raising the funds required to meet that condition. We respectfully ask for a two year contract extension to allow us the opportunity to get the fourth pavilion built. We have established a separate bank account where Heirloom has budgeted deposits and where donations can be placed. Heirloom will provide monthly statements of this account to NRPR along with its current monthly paperwork so progress toward our goal can be monitored. It is our hope that you can acknowledge the great work that has already been accomplished and allow us more time to complete this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Manish Shah".

Manish Shah
Founder

A handwritten signature in black ink, appearing to read "Brian Warde".

Brian Warde
President

FRIDAYS

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SUNDAYS

Rillito Park
Food Pavilion
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**Pima County Department of Natural Resources,
Parks and Recreation**

Project: Rillito Park Farmers' Market

Contractor: Heirloom Farmers' Market, Inc.

Contract No.: CTN-ED-15-039

Contract Amendment No.: One (1)

CONTRACT

NO. CTN-ED-15-039

AMENDMENT NO. 01

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

(STAMP HERE)

Orig. Contract Term: 10/18/2014 – 10/17/2017

Termination Date Prior Amendment: 10/17/17

Termination Date This Amendment: 10/17/19

Orig. Amount: \$ 31,200.00

Prior Amendments Amount: \$ 0.00

This Amendment Amount: \$ 40,000.00

Revised Total Amount: \$ 71,200.00

CONTRACT AMENDMENT

The parties agree to amend the above-referenced contract as follows:

1. **Term.** The Contract terminates on 10/17/19. No further contract renewal options remain.
2. Notwithstanding the requirements of Section 7 of the Contract, Heirloom Farmers' Market will construct the improvements required pursuant to Exhibit B to the Contract during this renewal term.

The effective date of this Amendment is October 16, 2017.

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

PIMA COUNTY

Heirloom Farmer's Market, Inc.

Sharon Bronson, Chair, Board of Supervisors

Authorized Officer Signature

Date

MANESH SHAH - FOUNDER / BOARD MEMBER
Printed Name and Title

18 SEPTEMBER 2017
Date

ATTEST

Julie Castaneda, Clerk of the Board

Date

APPROVED AS TO FORM

Tobin Rosen, Deputy County Attorney

9/21/17
Date

APPROVED AS TO CONTENT

Christopher Cawein, Director, Natural Resources, Parks & Recreation

9/21/17
Date