

Contract Number: CTN. ED-14*150
Effective Date: 4-8-14
Term Date: 4-7-2029
Cost: _____
Revenue: \$3,029,750. -
Total: _____ NTE: _____
Action: _____
Renewal By: _____
Term: 1-1-2029
Reviewed by: HL 4-7-2029

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: April 8, 2014

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Southern Arizona Raceway, LLC (SAR) is seeking authority to fund, design, develop, construct, operate and maintain an FIA Grade 2 licensed automotive raceway facility or similar public racing facility on Pima County property which is approximately four hundred twenty five (425) acre parcel of real property located within the Southeast Regional Park located in unincorporated Pima County near 1-10 and Harrison Road.

CONTRACT NUMBER (If applicable):

CTN ED- 1400000 00000 00000150

STAFF RECOMMENDATION(S):

SAR is seeking to develop a major new entertainment attraction for Pima County and the region, bringing professional racing events to Tucson, attracting visitors to Pima County and generating tangible benefits to the local economy. Staff has reviewed and recommends the requested project plans, subject to BOS approval.

CORPORATE HEADQUARTERS: _____

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Ver. 1
Vendor. 1
Pgs 39

Addendum

To: CHH -
COB -
Agenda.

NOT RECOMMENDED

Procure Dept 03/25/14 PM0410

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: \$0.00 and/or REVENUE TO PIMA COUNTY: \$ 3,029,750.00 over a twenty five year period.

FUNDING SOURCE(S): Private Funds
(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

		YES	XX	NO
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Board of Supervisors District:

1		2		3		4		5		All	XX
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IMPACT:

IF APPROVED:

SAR will be able to develop a major new entertainment attraction for Pima County and the region, and provide a positive economic impact to the community.

IF DENIED:

SAR will not be able to develop the new entertainment complex.

DEPATRTMENT NAME: Economic Development & Tourism

CONTACT PERSON: Tom Moulton TELEPHONE NO.: 724 7355

<p>DEPARTMENT: Economic Development & Tourism</p> <p>PROJECT: Southeast Regional Park Raceway</p> <p>TENANT: Southern Arizona Raceway, LLC</p> <p>DESCRIPTION/ADDRESS OF PROPERTY: Southeast Regional Park</p> <p>REVENUE CONTRACT</p>	<table border="1"> <tr> <td data-bbox="885 200 1408 255"> <p align="center">CONTRACT</p> </td> </tr> <tr> <td data-bbox="885 255 1408 310"> <p>NO <u>CTN-ED-14/00000000000000000000150</u></p> </td> </tr> <tr> <td data-bbox="885 310 1408 357"> <p>AMENDMENT NO. _____</p> </td> </tr> <tr> <td data-bbox="885 357 1408 470"> <p>This number must appear on all invoices, correspondence and documents pertaining to this contract.</p> </td> </tr> </table>	<p align="center">CONTRACT</p>	<p>NO <u>CTN-ED-14/00000000000000000000150</u></p>	<p>AMENDMENT NO. _____</p>	<p>This number must appear on all invoices, correspondence and documents pertaining to this contract.</p>
<p align="center">CONTRACT</p>					
<p>NO <u>CTN-ED-14/00000000000000000000150</u></p>					
<p>AMENDMENT NO. _____</p>					
<p>This number must appear on all invoices, correspondence and documents pertaining to this contract.</p>					

Ground Lease Agreement

1. PARTIES; EFFECTIVE DATE This Lease ("**Lease**") is made by and between Southern Arizona Raceway, LLC, an Arizona limited liability company (hereinafter referred to as "**Tenant**") and Pima County, a political subdivision of the State of Arizona (hereinafter referred to as "**Landlord**" or "**Pima County**"). This Lease shall be effective (the "**Effective Date**") on the date it is signed by the Chair of Pima County's Board of Supervisors. Tenant shall execute this Lease before it is submitted to the Board of Supervisors for approval.

2. BACKGROUND AND PURPOSE.

2.1. Landlord owns the real property legally described and depicted on **Exhibits A** (Pima County Southeast Regional Park Plan Concept) and **B** (Legal Description and Map) (hereinafter referred to as the "**Land**"), which is an approximately four hundred twenty-five and 53/100ths (425.53) acre parcel of real property located within the Southeast Regional Park, located at 11900 South Harrison Road, Tucson, AZ, 85747, near I-10 and Harrison Road.

2.2. Tenant is authorized to conduct motorsports, sanctioned motorsport racing, motor sports exhibitions and auctions, motorsports education, private motorsports clubs, and similar events in Pima County.

2.3. Landlord hereby authorizes Tenant to fund, design, develop, construct, operate and maintain an FIA Grade 2 Licensed automotive raceway facility or similar public racing facility (the "**Raceway**") on the Land and such other facilities as provided herein. The presently contemplated design concept of the Raceway, although subject to change in accordance with the terms hereof, is set forth on **Exhibit C** (Phase I design concept).

2.4. Landlord has the legal authority and ability to lease the Land to Tenant. Landlord represents and warrants to Tenant that Landlord has fully complied with all applicable laws and regulations relating to the lease of the Land to Tenant, including, without limitation, that Landlord has:

(a) provided notice of the proposed lease of the Land, which notice contained the contemplated period and all material conditions of the proposed lease;

(b) appointed an experienced and qualified appraiser to determine the rental valuation of the Land; held a public auction for the lease of the Land and Tenant was the highest responsible bidder at such auction, and the terms hereof contemplate payment in an amount of at least ninety percent (90%) of the rental valuation of the Land as determined by the appraiser, all in accordance with A.R.S. §11-256.

2.5. Landlord and Tenant desire to enter into this Lease to allow Tenant to develop the Land as a major new entertainment attraction for Pima County and the region, bringing professional racing events to Tucson, attracting visitors to Pima County and generating tangible benefits to the local economy.

2.6. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the Land, together with all improvements now on or hereafter located on the Land (the "**Premises**"), under the terms and conditions set forth in this Lease.

2.7. Subject to the terms of this Lease, Tenant will develop the Raceway project, which will include the funding, design, construction, operation and maintenance of the Raceway. For all other Raceway projects, including the Arizona International Motor Sports Museum, the racing school, the motorsports club, the simulator facilities and any other activities approved by Tenant and Landlord, Tenant may contract with other entities for their implementation. Arizona International Motor Sports Museum, Inc., an Arizona non-profit corporation ("**AIMSM**"), will develop the Arizona International Motor Sports Museum. AIMSM and other entities that contract with Tenant shall be referred to herein as "**Contracting Entities**".

3. PREMISES.

3.1. Lease. In consideration of Tenant's compliance with all the terms and conditions of this Lease, and timely performance of all its obligations under this Lease, Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord. Tenant shall develop, operate, manage and maintain the Raceway upon the Premises under the terms and conditions set forth herein. Tenant shall construct, provide, operate and maintain all real and personal property and all equipment necessary for the establishment and operation of the Raceway.

3.2. Condition of Land. Tenant acknowledges that it is fully familiar with the physical and legal condition of the Land and has received the same in good order and condition. LANDLORD MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE CONDITION OR STATE OF THE LAND OR ITS FITNESS OR AVAILABILITY FOR ANY PARTICULAR USE, AND LANDLORD IS NOT LIABLE FOR ANY LATENT OR PATENT DEFECT THEREIN.

Within thirty (30) days of the Effective Date, Landlord shall provide to Tenant any and all known reports, studies, audits, assessments and other documents or materials which relate to the Land, the condition of the Land or any known issues or matters impacting or affecting the Premises, including with respect to environmental, historical and archaeological conditions.

Within thirty (30) days of the Effective Date, Landlord shall provide to Tenant all maps and drawings in Landlord's possession or control showing the locations of all utilities serving the Southeast Regional Park.

In the event archaeological conditions or other matters which would limit or affect Tenant's ability to develop the Land as presently contemplated or desired are discovered on the Land and Tenant determines that it is not commercially reasonable to:

- (i) Remediate such archaeological conditions or satisfactorily resolve or address any other matters, or
- (ii) Redesign the Raceway to preserve such archaeological conditions or satisfactorily resolve or address any other matters, Tenant shall have the right to terminate this Lease upon thirty (30) days written notice to Landlord.

3.3. Quiet Enjoyment. Landlord covenants and agrees that upon Tenant paying the Rent and performing and observing all of the Tenant's obligations under this Lease, Tenant may peaceably and quietly have, hold and enjoy the Premises for the Term, without hindrance or molestation by anyone claiming paramount title or claims through Landlord.

3.4. Entry by Landlord. Landlord reserves the right to enter the Premises to formally inspect the same pursuant to this Lease; provided that Landlord will give Tenant at least twenty-four (24) hours advance written notice and Tenant shall be permitted to accompany Landlord during any such inspection. Landlord shall make a reasonable effort to not interrupt Tenant's business or any activities conducted by Tenant or its affiliates, agents or representatives at the Premises.

Landlord at any and all times shall have the right to use any and all means which Landlord may deem reasonably proper to open gates or doors in an emergency in order to obtain entry to the Premises, without liability to Tenant, except for any failure to exercise due care for Tenant's property, and any entry to the Premises obtained by Landlord by any such means, or otherwise, will not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof. The entry notice provisions of this Lease do not apply to any regulatory inspection of any portion of the Premises authorized by applicable law, or to any entry by Landlord or its agents in case of actual emergency.

4. TERM.

4.1. Design and Construction Period. The design and construction term of this Lease commences as of the Effective Date and runs until the earlier of:

- a) thirty-six (36) months (the "**Maximum Design and Construction Period**") after the Effective Date, or
- b) the completion of construction of the first phase and the opening of the Raceway for operation.

In the event that either:

- a) Tenant has not commenced construction of the Raceway within eighteen (18) months of the Effective Date, or
- b) Tenant has not, subject to force majeure events, as defined in **Section 6.6**, or other circumstances beyond the control of Tenant, completed construction of the first phase of the Raceway ("**Phase One**") and opened the Raceway for operation within the Maximum Design and Construction Period, this Lease will automatically terminate and will be of no further force or effect.

Phase One shall refer to completion of all improvements designated for Phase One as provided in **Exhibit C**. In the event that Tenant has not completed construction of Phase One within the Maximum Design and Construction Period, and such failure is due to force majeure events or other circumstances beyond the control of Tenant, then in such case Tenant shall be given such additional period of time to complete Phase One equal to the period of force majeure plus a reasonable amount of time to address foreseeable consequences of the force majeure, and Tenant shall not be in default of this Lease as a result of same, and this Lease shall not automatically terminate nor shall Landlord have a right to terminate this Lease unless and until Tenant is given such commercially reasonable time to complete Phase One and has nonetheless failed to do so.

4.2. Initial Term. Upon the timely commencement by Tenant of construction of Phase One, this Lease will extend for a term of twenty-five (25) years (the "**Initial Term**") from the date construction commences, subject to automatic termination pursuant to

Section 4.1 for failure of Tenant to complete construction of Phase One and open the Raceway for operation within the Maximum Design and Construction Period.

4.3. Option Period. Provided that Tenant is not then in material default after having an opportunity to cure such alleged default of any provision of this Lease, upon expiration of the Initial Term, Tenant shall have the right and option, in its sole and absolute discretion, to renew and extend the term of this Lease for an additional twenty-five (25) year term (the "**Option Period**").

If Tenant wishes to renew and extend the Lease, Tenant shall do so by providing written notice to Landlord not more than two (2) years and not less than one (1) year prior to the end of the Initial Term; provided, however, that should Tenant fail to deliver such written notice prior to the time that is one (1) year before the expiration of the Initial Term, Landlord shall in writing advise Tenant, within thirty (30) days, of Tenant's failure, and Tenant shall have a period of ten (10) days after receipt of notice from Landlord to elect to exercise the Option Period.

5. RENT.

5.1. Initial Operation Fee: In consideration of the initial pre-construction use and occupancy of the Premises as described in **Section 4.1** of this Lease, Tenant shall pay Landlord an initial operations rental fee of one hundred dollars (\$100.00) per year, payable annually, and commencing as of the Effective Date.

5.2. Annual Rent. Commencing on the earlier of

- (i) the first day of the sixth (6th) full month following opening of the Raceway, or
- (ii) the first day of the forty-second (42nd) full month after the Effective Date (i.e. six (6) months following the Maximum Design and Construction Period) (the "**Rent Commencement Date**"),

Tenant will pay an annual rent ("**Rent**") equal to the greater of

- (i) two percent (2%) of Gross Revenues ("**Percentage Rent**"), or
- (ii) One Hundred Thirty Seven Thousand, Seven Hundred Dollars (\$137,700.00) (the "**Annual Minimum Rent**").

When the Rent payable hereunder exceeds the Annual Minimum Rent, Landlord shall create a special revenue fund for capital improvements (the "**Special Revenue Fund**").

The Special Revenue Fund shall consist of any payments of Rent which are in excess of the Annual Minimum Rent, and Landlord agrees to and shall deposit into the Special Revenue Fund any such excess Rent payments.

AIMSM may apply to Landlord for disbursement of funds from the Special Revenue Fund for payment of AIMSM's actual capital expenditures for the development of the *Arizona International Motor Sports Museum*, including, without limitation, for development, design, engineering, planning and construction, it being acknowledged and understood that the development of the *Arizona International Motor Sports Museum* is for the benefit of the public. Any application by AIMSM for disbursement of funds shall be subject to review and approval of Landlord and Landlord may request reasonable documentary evidence of any such expenditure by AIMSM.

In no event shall the disbursement to AIMSM exceed any amounts in the Special Revenue Fund. Landlord agrees that during the term of this Lease and any extension hereof, no funds in the Special Revenue Fund shall be used for any other purpose except as provided in this Section. Landlord's obligations with respect to the Special Revenue Fund shall inure to the benefit of AIMSM. AIMSM is an intended third party beneficiary of this Section 5.2 with respect to the Special Revenue Fund, and AIMSM shall have the right as an intended third party beneficiary to enforce this Section 5.2 with respect to disbursement of funds from the Special Revenue Fund.

In the event that:

- i. AIMSM has not submitted plans and specifications for the *Arizona International Motor Sports Museum* to Landlord for approval that comply in all respects with section 6.3 of this Lease (including but not limited to the bonding requirements of subsection 6.3.8) within seven (7) years after commencement of operations of Phase I of the Raceway improvements, or
- ii. AIMSM has not commenced construction of the *Arizona International MotorSports Museum* within eight (8) years after commencement of operations of Phase I of the Raceway improvements, or
- iii. this Lease terminates for any reason, or
- iv. all funds in the Special Revenue Account are not disbursed pursuant to this section within ten (10) years of the Commencement Date, then the Special Revenue Fund shall cease to exist, any funds contained in the Special Revenue Fund shall revert to Landlord as rent, and Landlord shall have no further obligation to Tenant or to AIMSM with regard to the Special Revenue Fund.

5.3. Payment of Rent. Beginning on the Rent Commencement Date, and continuing thereafter on the first day of the third (3rd) month following the Rent Commencement Date (the "**Rent Due Date**") and every three (3) months thereafter during the term that this is Lease is in full force and effect, Rent shall become due and payable in quarterly installments. Each quarterly installment shall be in the amount

of Thirty-Four Thousand, Four Hundred Twenty-Five Dollars (\$34,425.00) (the ***"Minimum Rent Quarterly Payment"***), which equals one-fourth of the Annual Minimum Rent.

5.4. Adjustments to Annual Minimum Rent. Beginning on the first (1st) day of the sixtieth (60th) month following the Rent Commencement Date, and every sixty (60) months thereafter during the Initial Term and any renewal term, the Rent shall be increased by the increase, if any, in the Consumer Price Index—U.S. City Average—All Urban Consumers (***"Index"***) as published by the U.S. Department of Labor, Bureau of Labor Statistics (***"Bureau"***) for the five (5) year period ending prior to the rent adjustment date. Should the Bureau discontinue the publication of the Index, or publish it less frequently, or alter it in any other manner, then Tenant shall adopt a substitute index or substitute procedure that reasonably reflects and monitors consumer prices, that is reasonably acceptable to Landlord.

5.5. Percentage Rent. In addition to the Minimum Rent Quarterly Payment, Tenant shall pay Percentage Rent; to the extent it exceeds the Minimum Rent, as provided in this Section 5.

5.5.1. Gross Revenues defined. For purposes of this Lease, the term ***"Gross Revenues"*** means all income and receipts from any source arising out of operations or activities conducted by Tenant on the Premises, including all income derived by Tenant from other agreements with Contracting Entities related to the use or occupancy of the Premises. It is the intent of the parties that Gross Revenues be interpreted as broadly as possible to include all revenue derived by Tenant from use or occupancy of the Premises regardless of the source of the revenue.

5.5.2. Exclusions from Gross Revenues. Notwithstanding the foregoing, Gross Revenues shall not include direct taxes charged on admissions or other monies collected for and paid to a taxing authority such as transaction privilege, sales, use, excise or other taxes, or normal charge-backs such as rebates to charities using the Premises, refunds, returns, credit card fees, transaction fees or uncollected amounts.

5.5.3. Reporting Percentage Rent. On or before forty-five (45) days after Rent is due (the ***"Reconciliation Date"***), Tenant shall provide to Landlord a reconciliation of the Percentage Rent due for the three (3) month period immediately preceding the Rent Due Date (the ***"Rent Reconciliation"***). If the Rent Reconciliation shows Percentage Rent greater than the Minimum Rent Quarterly Payment, Tenant shall pay to Landlord, on the Reconciliation Date, the difference between the Percentage Rent due and the Minimum Rent Quarterly Payment.

5.6. Interest on Late Due Amounts. Tenant shall pay interest (simple interest, not compounded) on any payments of Rent not received by Landlord within five (5) days after the Rent Commencement Date, the Rent Due Date, the Reconciliation Date, or any other sum due under this Lease, from the date due until paid, at the rate of seven and one half percent (7.5%) per annum.

5.7. Rental Taxes. Tenant shall pay to Landlord any occupancy tax, rent tax or government property lease excise tax now in effect or hereafter enacted, which Landlord is now or hereafter required to collect from Tenant or to pay with respect to the Premises or this Lease.

5.8. Other Taxes. Tenant is responsible for payment of all taxes, whether real property taxes, personal property taxes, income taxes, or any other taxes, if any, that are or may be assessed relating to the Premises, the Project, this Lease, or any use of the Premises pursuant to this Lease. Tenant may elect, and shall have the right, to contest or challenge, at its own cost and expense, any such tax, excise, levy or assessment.

6. CONSTRUCTION OF RACEWAY.

6.1. Construction of Raceway. Subject to Tenant's right of cancellation as provided herein:

6.1.1. Scope. Tenant will construct a paved road course racing circuit and related improvements which must include at a minimum a +/- three (3) mile championship racecourse, pit road, pit area, and all requirements as mandated by the FIA Grade 2 license upon the Premises as described in the attached **Exhibit D: Phase I Scope of Motor Sports Activities.**

6.1.2. Facilities. The Raceway must provide spectator amenities such as grandstands, restrooms, concessions, parking, and RV parking and facilities. The Raceway must include a paved paddock, fueling station, oil recycling facility, wash rack, maintenance facilities and necessary track buildings. Tenant will be responsible for developing all required driveways, maintenance and storage compounds, noise abatement means, parking, ticketing kiosks, security fencing, lighting, power pole relocation, utilities, infrastructure and landscaping.

6.1.3. Concept Drawing. Tenant will construct all such circuit and related improvements consistent with the concept drawing attached to this Lease as Exhibit C.

6.1.4. Minimum Capital Investment. Tenant shall make a minimum capital investment in the construction of Phase One of the Raceway and all related facilities, in an amount not less than Fifteen Million Dollars (\$15,000,000.00).

6.1.5. Sound Abatement. Tenant shall take all necessary steps to ensure that the sound generated by operation of the Raceway does not constitute a nuisance and shall not exceed existing sound levels in the Park or at the Fairgrounds.

6.2. Off-Site Improvements. Tenant is solely responsible for construction of any off-site public improvements required as a result of Tenant's construction of the Raceway or use of the Premises (including any sidewalks, roadway, drainage or lighting improvements).

6.3. Plans and Specifications.

6.3.1. Pre-Construction Requirements. Before any construction of the Raceway is commenced on the Premises, and before any building materials have been delivered to the Premises by Tenant or under Tenant's authority, Tenant must comply with all the following conditions or obtain Landlord's written waiver of the condition or conditions specified in the waiver.

6.3.2. Preliminary Plans. Tenant must deliver to Landlord for Landlord's approval three full hard copy sets, and an electronic (AutoCAD) set of preliminary construction plans and specifications for the Project prepared by an architect or engineer licensed to practice in Arizona, including but not limited to preliminary grading and drainage plans, soil test, 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, all sufficient to enable potential contractors and subcontractors to make reasonably accurate bid estimates and to enable Landlord to make an informed judgment about the design and quality of construction, and about the impact of the Raceway on adjacent and nearby properties. Landlord will not unreasonably disapprove preliminary plans and specifications. Approval or disapproval will be communicated in the manner provided for notices, and disapproval will be accompanied by specification of the grounds for disapproval. Following Landlord's first or any subsequent disapproval, Tenant will submit revised plans and specifications.

6.3.3. Lender Approval. Tenant must deliver to Landlord the written approval of the plans and specifications by the financial institution that has made the commitment for financing the construction, unless Tenant is not obtaining financing but is instead funding the Raceway with cash on hand. If Tenant is funding the Raceway with its own money, Tenant will furnish throughout the course of the Raceway at Landlord's request proof that it has available to it funds sufficient to complete the Raceway.

6.3.4. Final Plans. Tenant must prepare and deliver to Landlord, for Landlord's approval, three full hard copy sets and an electronic (AutoCAD) set of final plans and specifications ("***Final Plans***") substantially conforming to the preliminary plans previously approved by Landlord.

6.3.5. Contract. Tenant must furnish to Landlord a true copy of Tenant's contract with a general contractor for construction of the Raceway, and evidence of the general contractor's financial condition for Landlord's approval, which will not be unreasonably withheld or delayed. The contract must give Landlord the right but not the obligation to assume Tenant's obligations and rights under that contract if Tenant defaults.

6.3.6. Liability Insurance. Tenant must furnish to Landlord proof that Tenant has obtained the liability insurance required under Section 13 below.

6.3.7. Builder's Risk Insurance. Tenant must furnish to Landlord proof that Tenant, or Tenant'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 Landlord, 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.

6.3.8. Payment and Performance Bonds. Tenant must deliver to Landlord payment and performance bonds issued by a surety company licensed to do business in the State of Arizona, running to Landlord as obligee, conditioned on the contractor's completion of the Raceway in accordance with the Final Plans and the provisions of this Lease, free and clear of all mechanics' or other liens and free and clear of all financing statements under the Uniform Commercial Code. This bond must be in an amount and in a form and written by a company approved by Landlord, which approval Landlord will not unreasonably withhold. The bond may also include as obligee, as its interest may appear, Tenant's construction lender.

6.3.9. Worker's Compensation Insurance. Tenant must deliver to Landlord satisfactory proof that worker's compensation insurance has been procured to cover all persons employed in connection with the construction.

6.3.10. Costs. All plan review and permit fees and other costs related to the Raceway will be paid by Tenant.

6.3.11. Construction Standards; Permits. All work related to construction on the Premises shall be done in good workmanlike manner, in conformance with industry standards, and shall be diligently prosecuted to completion. Tenant shall comply with all applicable building codes, zoning codes, and other laws, regulations and orders for any construction, whether of a permanent or a temporary nature, and shall obtain all applicable permits from regulatory agencies.

6.3.12. Experienced Raceway Manager. Prior to commencement of construction of the Raceway, Tenant shall have entered into a written employment contract of at least three (3) years' duration, subject to customary terms relating to cancellation or termination by Tenant, and such other terms that are deemed necessary or appropriate by Tenant, with an experienced motor raceway manager.

6.4. Liens. Tenant must timely pay all contractors, subcontractors, mechanics, laborers, or material men providing materials or services with respect to the Project, and must not permit any lien to attach to the Premises or any interest therein, except as permitted by Section 7 below, and must indemnify and defend Landlord against all legal costs and charges resulting from any such lien.

6.5. Plan Modifications. Tenant may, at any time during the course of construction, request that the Final Plans be modified in such particulars as may be specified by Tenant, and Landlord agrees that it will not unreasonably withhold, condition or delay its consent to and approval of such changes.

6.6. Commencement of Construction. Construction of the Raceway will be deemed to have commenced when Tenant commences grading within the footprint of the Raceway. If Tenant fails to so commence construction within eighteen (18) months after the Effective Date (without regard to delays occasioned by "force majeure"), Landlord will have the right as its sole and exclusive remedy to declare this Lease automatically terminated pursuant to Section 4.1 by written notice to Tenant.

Subject to Section 3.2, after construction is commenced, Tenant must diligently pursue it to completion, in accordance with the Final Plans, in a good workmanlike manner, and in compliance with all applicable laws and regulations of all governmental bodies and pursuant to the conditions of any governmental approvals. For purposes of this Lease, "force majeure" includes, but is not limited to any of the following:

- i. acts of God, flood, earthquake or other natural disaster;
- ii. discovery of archaeological or Native American burials or artifacts on the site;
- iii. medical epidemic or pandemic;

- iv. any law or action taken by a government or public authority that materially and adversely affects the progress of the project;
- v. catastrophic building failure, fire explosion or similar accident; or
- vi. significant interruption or failure of utility services.

6.7. Landlord Inspection. During construction, the Raceway will be subject to inspection by representatives of Landlord who will be permitted access and the opportunity to inspect the Raceway at all reasonable times with twenty-four (24) hours' written notice to Tenant, but this provision will not in any way whatsoever create any obligation on Landlord to conduct such an inspection.

6.8. Substantial Completion. In the event construction of Phase One is not substantially completed within the Maximum Design and Construction Period (subject to delays occasioned by "force majeure"), Landlord will have the right to declare this Lease automatically terminated pursuant to Section 4.1 above. As used in this Lease, substantial completion of Phase One will be deemed to have occurred when Tenant's construction has been completed to such an extent, and all government permits and approvals and occupancy certificates necessary have been obtained, so that Phase One can be utilized by Tenant for all permitted uses under this Lease, notwithstanding that minor or insubstantial details of construction, mechanical adjustment or decoration remain to be performed, the non-completion of which would not interfere with the opening of Phase One for business.

6.9. Final Completion. Notwithstanding that Phase One has been substantially completed, Tenant must diligently proceed to final completion of the Raceway and obtain a permanent certificate of occupancy for the Raceway.

6.10. Manner of Construction. Notwithstanding anything to the contrary hereof, construction of the Raceway by Tenant must be done in such a manner that it does not materially interfere with the business of any adjacent land owner or occupant and in completing such construction, Tenant will not

- (i) store construction equipment or materials on said adjacent parcels; or
- (ii) permit construction workers, whether employees or agents of Tenant or its contractors or subcontractors, to park in the parking areas of said adjacent parcels.

Tenant must fence in the construction area to prevent debris from entering onto the parking area of said adjacent parcels or sidewalks, if any, of said adjacent parcels.

6.11. Title to the Project Improvements. Tenant or Tenant's Contracting Entities, as appropriate, will own the Raceway, Museum, Racing School, Motor Sports Club and other improvements as they are constructed.

At all times while this Lease is in force, title to the Raceway, Museum, Racing School, Motor Sports Club and other improvements will belong solely to Tenant or Tenant's Contracting Entities, as applicable. Subject to Section 9 below, upon the termination or expiration of this Lease, title to the Raceway, Museum, Racing School, Motor Sports Club and other improvements then situated on the Land will pass automatically to Landlord, without payment therefor, and Tenant and Tenant's Contracting Entities will have no further rights therein.

6.12. No Landlord Liability for Approval of Plans or Specifications. Landlord's review of the plans and specifications shall be solely for Landlord's purposes and shall not imply that Landlord has reviewed the plans and specifications for quality, design, laws, compliance or other like matters. Accordingly, notwithstanding that any construction drawings are reviewed by any Landlord architects, engineers, or consultants, Landlord shall have no liability whatsoever in connection therewith and shall not be responsible for any omissions or errors contained in any construction drawings, and Tenant's indemnity set forth in the Indemnification Clause of this Lease shall specifically apply to the construction drawings. Landlord's review shall be to determine that the improvements to the Premises are consistent with the purposes of this Lease.

6.13. Approvals to be Reasonably Given. It is understood and agreed that all provisions of this Lease which require approval by the Landlord, except those that are specifically noted as "sole" discretion (which shall nonetheless require Landlord to submit a response in a timely manner), shall be given in a timely manner and such approvals will not be unreasonably withheld, delayed or conditioned.

6.14 Copy of Construction Warranties. Upon completion of construction of the Raceway and after request is made by Landlord, Tenant shall provide to Landlord a copy of all warranty provisions contained in Tenant's construction contracts.

7. LEASEHOLD MORTGAGE. Landlord agrees that it will consent to a mortgage or deed of trust on Tenant's leasehold interest hereunder granted to a lending institution (the "**Lender**") to secure a loan, the proceeds of which will be used entirely to pay for the project costs of the Raceway, including application and permit fees, construction or contracting taxes, engineering and design fees, construction costs and all other costs associated therewith, including for completion or extension of any utilities and sewer, and including all drainage, landscaping and related work or improvements required or desired (the "**Leasehold Deed of Trust**"); provided, however, that the language of the Leasehold Deed of Trust and of all related documents that require the execution, approval, or consent of Landlord will be subject to the prior review and approval of Landlord, which approval will not be unreasonably withheld or delayed, and to the following terms and conditions:

7.1. If the Lender forecloses upon Tenant's leasehold interest, or takes an assignment of this Lease in lieu of foreclosure, Lender must promptly cure any defaults of Tenant and pay any sums due under this Lease and must attorn to Landlord.

7.2. If, by reason of any default of Tenant, this Lease is terminated by Landlord before Lender forecloses or takes an assignment of this Lease in lieu of foreclosure, Landlord must enter into a new lease with the Lender for the remainder of the Term, effective as of the date of such termination, on the same terms and conditions of this Lease, provided that:

7.2.1. The Lender requests such a new lease from Landlord, in writing, within thirty (30) days after the termination date, such request to be accompanied by a payment to Landlord of any sums then due it under the Lease;

7.2.2. The Lender pays Landlord, upon execution and delivery of the new lease, all sums due hereunder in addition to those which would be then be due but for the termination, plus all reasonable expenses, including legal fees, incurred by Landlord by reason of such default; and

7.2.3. The Lender cures any other Tenant default.

7.3. If, before any default occurs under this Lease, the Lender gives Landlord written notice containing the Lender's name and office address, Landlord will give the Lender a copy of each notice of default by Tenant at the same time that Landlord gives such notice to Tenant. Landlord will accept performance by the Lender of any Tenant obligation, just as if performed by Tenant, provided that at the time of such performance Landlord is furnished satisfactory evidence that the person or entity tendering such performance is in fact at that time the holder of the Leasehold Deed of Trust. This will not operate to extend any cure periods.

8. **ALTERATIONS.** Tenant, after completion of the Raceway, may from time to time during the Term make changes, alterations, additions, substitutions or improvements to the Premises (collectively, "**Alterations**"), at Tenant's sole cost and expense, as set forth below:

8.1. **Minor Alterations.** Tenant may make such non-structural Alterations as Tenant may reasonably consider necessary and desirable to adapt or equip the Raceway for Tenant's use and occupancy, except as set forth below.

8.2. **Substantial Alterations.** Tenant will make no Alterations that will

- (i) cost in excess of \$100,000; or
- (ii) involve structural work or changes; or
- (iii) involve work or changes to the electrical, plumbing, or HVAC systems (collectively, "**Substantial Alterations**"),

Unless Tenant first delivers plans and specifications to Landlord and obtains Landlord's written approval which will not be unreasonably withheld or delayed.

The requirements applicable to the initial construction of the Raceway, as set forth in Section 6.3 above, including but not limited to insurance and bonding requirements and approval of plans and specifications, will apply to Substantial Alterations.

9. FIXTURES AND FURNISHINGS. Tenant will retain ownership of all trade fixtures and business equipment and furnishings and other personal property (collectively "**Fixtures**") from time to time installed in, on or about the Premises by Tenant at its expense.

Tenant may remove any such Fixtures at any time during the Term and must remove all Fixtures prior to the expiration of the Term, except those Fixtures that Landlord agrees, in writing, may be left on the Premises. Upon any removal of Fixtures, Tenant must promptly repair any and all resulting damage to the Premises. Any Fixtures not removed at the expiration of the Term will become the property of Landlord without payment to Tenant. Tenant must reimburse Landlord for any costs and expenses incurred by Landlord in removing any Fixtures that are left in place by Tenant without Landlord's prior written permission, and repairing any resulting damage; this covenant will survive expiration or termination of the Lease.

10. USE OF PREMISES.

10.1. Permitted Uses. The Premises may be used by Tenant only for its intended use as a racetrack and uses reasonably necessary, related or attendant thereto in keeping with the general character of the surrounding area and permitted by law.

10.2. Operation of Raceway.

10.2.1. Conduct of Raceway. Tenant shall determine the quantity and duration of major racing events, special events, motor sports shows and auctions on an annual basis. Tenant will conduct its activities, and ensure that its employees, and all permissible users of the Raceway conduct their activities in a professional manner and in compliance with applicable standards of practice for raceway facilities and all federal, state and local laws.

10.2.2. Right of Public to Access Raceway. Except for designated holidays, and except at such times as is reasonably determined by Tenant that the Premises or certain facilities thereof should be closed due to weather, maintenance, repair, inspection or for other commercially necessary reason, the Raceway shall be open to the general public free of charge during normal business hours, determined by Tenant in its reasonable discretion; provided, however, that Tenant shall in all cases be permitted to charge admission fees, entrance fees, use fees or other charges or fees for major racing events, motor sports shows and auctions, and other special and private events, and including, without limitation, facility rental fees, track fees, skid pad fees and other fees and charges.

Tenant shall give notice to Landlord of any planned closure of the Raceway not less than twenty-four (24) hours in advance, or as soon as reasonably practical after an unexpected or emergency closure. All utilization of the Raceway by third parties will be scheduled and directed by and through Tenant. Nothing herein shall be deemed to allow or permit the general public to use any facility, track, or any other part of the Premises without complying with Tenant's guidelines, rules and procedures and without advance payment of any related or associated fee, cost, admission or other charge associated therewith.

10.2.3. Fees. Tenant shall be permitted to charge fees for use of the Raceway for racing events, special events and other uses of the Raceway in amounts approved in advance by Landlord. All fees will be included in the calculation of Gross Revenue.

10.2.4. Alcohol. Tenant, and its vendors, affiliates, agents, licensees and representatives, shall be permitted to serve and sell alcoholic beverages for consumption on the Premises provided Tenant complies with applicable liquor laws and provides Landlord with the required insurance set forth herein.

10.2.5. Signs: Tenant may affix and maintain upon the Premises such sponsorship, advertising, marketing and other signs relating to the events held on the Raceway as Tenant deems necessary or appropriate; provided, however, that all signs utilized by Tenant on or about the Raceway, whether visible from outside the Raceway or not, shall at all times comply with applicable provisions of the Pima County Sign Code and shall be installed and maintained at Tenant's sole cost. Any and all advertising signs placed by Tenant on the Raceway shall be immediately removed by Tenant upon termination of this Lease for any reason. Any damage resulting from such removal shall be repaired immediately by Tenant at its sole cost. Tenant shall not remove any operational or safety signage from the Raceway except to maintain, repair or replace the signage. Tenant shall pay for all costs of construction, erection, installation, maintenance and repair of any sign to be erected or installed or otherwise placed on the Raceway. Tenant shall, through coordination with Landlord, identify the Raceway and Tenant's components thereof, in signs and in any of its written materials, as belonging to Pima County. Tenant may name the Raceway or sell the naming rights (during the term of this Lease) provided that the name includes "Pima County". Notwithstanding anything herein to the contrary, any signs requested by Landlord and not otherwise required to be installed at the Raceway shall be constructed and installed at Landlord's expense, and in no event shall such signs unreasonably interfere with Tenant's events or activities.

10.2.6. Control of Personnel. Tenant shall, in and about the Premises, be solely permitted to exercise control over the conduct, demeanor and appearance of its employees, agents and representatives and the conduct of the Contracting Entities and Tenant's contractors, affiliates and suppliers.

10.3. Prohibited Activity. Tenant shall not cause any unlawful activities to persist on the Premises, and Tenant shall use reasonable efforts to ensure that no unlawful activities are conducted on the Premises, and Tenant shall use reasonable efforts to ensure that no activities that unduly interfere with activities of neighboring property owners/occupants are conducted on the Premises. Tenant shall comply with all local, state and federal laws including but not limited to Pima County Code Chapter 9.30—"Regulation of Excessive, Unnecessary and Annoying Noises".

10.4. Activities not Insured or that Affect Insurance. Tenant shall not conduct any activity or permit any activity to be conducted on the Premises which is not covered by the insurance policies provided pursuant to Section 13 herein without first obtaining the written consent of Landlord and without providing additional insurance covering the activity or event and with coverage limits and carriers acceptable to Landlord. Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way increase the existing rate of or affect any fire or other insurance upon the Premises or any of its contents or cause a cancellation of any insurance policy covering the Premises or any part thereof or any of its contents.

11. ENVIRONMENTAL COMPLIANCE.

11.1. Hazardous Materials Defined. 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) petroleum or petroleum products; or (ii) defined as a Hazardous Material under A.R.S. 26-301(8).

11.2. Hazardous Materials Prohibited; Clean Air Act. Tenant may not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises by Tenant, its agents, employees, contractors or invitees, without the prior written consent of Landlord, 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 Tenant on the Premises which will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Materials. Tenant's operations on the Premises must 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.

11.3. Indemnity. If (i) Tenant breaches the obligations stated in the preceding paragraph, (ii) the presence (whether consented to by Landlord or otherwise) of Hazardous Material on the Premises or on or in the soil or ground water under or adjacent to the Premises is caused or permitted by Tenant, its agents, employees, contractors or invitees, (iii) contamination of the Premises or soil or ground water under or adjacent to the Premises by Hazardous Material otherwise occurs for which Tenant is legally liable, or (iv) contamination occurs elsewhere in connection with the transportation by Tenant of Hazardous Material to or from the Premises, then Tenant will indemnify, protect, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, expenses, liabilities or losses (including, without limitation, diminution in value of the Premises or any part thereof, damages for the loss or restriction on use of usable space or of any amenity of the Premises or any part thereof, damages arising from any adverse impact on marketing of space with respect to the Premises or any part thereof, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arose or arises during or after the term of this Lease as a result of such contamination.

The foregoing obligation of Tenant to indemnify, protect, defend and hold Landlord harmless includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, restoration or other response work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present, as a result of any action or inaction on the part of Tenant, its agents, employees, contractors or invitees, in the Premises or the soil or ground water on, under or adjacent to the Premises, or elsewhere in connection with the transportation by Tenant of Hazardous Material to or from the Premises.

11.4. Clean-up. Without limiting the foregoing, 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 Tenant, or its agents, employees, contractors or invitees results in any suspected contamination of the Premises, the soil or ground water under or adjacent to the Premises, Tenant must promptly notify Landlord 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 Landlord's approval of such actions is first obtained, which approval may 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.

11.5. Pre-Existing Contamination. Landlord agrees that any Hazardous Materials contaminating the Premises prior to possession of the Premises by Tenant will not result in liability for Tenant under this Paragraph except to the extent such contamination is aggravated by the action or inaction of Tenant.

11.6. Notices Regarding Environmental Conditions. Tenant must, within ten (10) business days following receipt thereof, provide Landlord 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 Tenant or the Premises alleging any violation of any local, state or federal environmental law or regulation or requiring Tenant 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 Tenant 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.

11.7. Survival. Tenant's obligations under this Section will survive the expiration or earlier termination of this Lease and vacation of the Premises.

12. REPAIR, MAINTENANCE AND UTILITIES.

12.1. Maintenance and Repairs. All improvements on the Premises, both outside and inside, must be put and kept in good order and repair by Tenant, in Tenant's reasonable discretion, and at Tenant's sole cost and expense, and Tenant must make all repairs and replacements, ordinary as well as extraordinary, foreseen and unforeseen, structural or otherwise, that may be necessary or required, except as provided in Section 12.2. below. If Tenant fails to make such repairs, restoration or replacements, Landlord may, upon notice to Tenant and upon giving Tenant a commercially reasonable period of time to cure, make them, and Tenant must reimburse Landlord for the costs within ten (10) days after Landlord sends Tenant an invoice.

12.2. Damage for Casualty. Unless otherwise agreed by Landlord and Tenant, if any improvement on the Premises is damaged or destroyed by any cause whatsoever, Tenant must, with reasonable promptness, repair and replace the same at its own expense, to at least the condition existing immediately prior to the damage or destruction, and must do so even though the proceeds of any insurance policies covering the loss are insufficient to reimburse Tenant therefore, and Tenant's obligations under this Lease will not be terminated or suspended; provided, however, that if the Premises, or any part thereof, is substantially destroyed by fire or other casualty at any time during the last five (5) years of the Initial Term, or the Option Period, then Tenant may terminate this Lease by written notice given to Landlord within sixty (60) days after the date of such destruction, and Tenant will be discharged from responsibility to repair the damage,

but Tenant must in that event, at Tenant's sole cost and expense, clean and clear the Land of all debris and repair the Land and install landscaping so that the Land blends in reasonably well with the surroundings.

12.3. Utilities. Tenant shall, at its sole cost and expense, arrange for the furnishing of any utilities necessary or appropriate for Tenant's activities, including electricity, gas, water and sewer, and telecommunication services, fire protection lines and hydrants that are necessary for its operations on the Premises, and Tenant covenants and agrees to pay all charges for such utilities and services directly to the supplier thereof. Landlord will not be liable in any way to Tenant for any failure or defect in the supply or character of utilities or telecommunications services furnished to the Premises by reason of any requirement, act or omission of the provider of such service or for any other reason.

13. INSURANCE; INDEMNIFICATION.

13.1. Maintenance of Insurance. Tenant shall procure and maintain, until all of Tenant's obligations, including any warranty periods under this Lease, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Tenant, its agents, representatives, employees or subcontractors.

13.2. Minimum Requirements. The insurance requirements herein are minimum requirements for this Lease and in no way limit the indemnity covenants contained in this Lease. Landlord in no way warrants that the minimum limits contained herein are sufficient to protect the Tenant from liabilities that might arise out of the performance of the work under this Lease by the Tenant, its agents, representatives, employees or subcontractors, and Tenant is free to purchase additional insurance.

13.3. Insurance prior to Completion of Construction of Phase One. From the effective date of this Lease until completion of construction of Phase One of the Raceway and the opening of Phase One of the Raceway for automobile racing or testing activities, the following coverage limits apply: Commercial General Liability insurance with coverage at least as broad as ISO form CG 00 01 in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000) aggregate covering the Premises, endorsed to include Pima County as additional insured with coverage at least as broad as ISO form CG 20 10, and covering all activities carried out at the Premises while the Raceway is under construction.

13.4. Insurance after Completion of Construction. Once construction of Phase One is completed and the Raceway is ready for use by racing vehicles, including the testing of the track by a vehicle, the limits for liability insurance requirements in effect shall provide coverage with limits of liability not less than those stated below.

13.4.1. Commercial General Liability – Occurrence Form

13.4.1.1. Policy shall include bodily injury, property damage, personal injury and broad form contractual liability:

• General Aggregate	\$5,000,000.00
• Products – Completed Operations Aggregate	\$5,000,000.00
• Personal and Advertising Injury	\$5,000,000.00
• Each Occurrence	\$5,000,000.00
• Blanket Contractual Liability – Written and Oral	\$5,000,000.00
• Fire Damage (Any one fire)	\$50,000.00
• Liquor Liability (if alcohol is being sold)	\$5,000,000.00
• Spectator Liability	\$5,000,000.00
• Participant Liability	\$5,000,000.00

13.4.1.2. The policy shall be endorsed to include Liquor Liability coverage if alcohol is being sold at any events. This requirement can be satisfied by a separate Liquor Liability Policy. Additional insured and waiver of subrogation language are still required.

13.4.1.3. Liability insurance is to cover all participating drivers, crew members, car owners, spectators and sponsors as well as the promoter.

13.4.1.4. Levels of insurance for special events may be higher than those levels specified herein based upon specific risk assessment by the Pima County Risk Manager. Lessee shall provide at least sixty (60) days' notice of special events to the Pima County Risk Manager and shall obtain and maintain in place any increased insurance coverage prior to the scheduled event.

13.4.2. Business Automobile Liability. Tenant shall provide Auto Liability coverage for Bodily Injury and Property Damage in the amount of \$1 million combined single limit for vehicles used in the performance of services under this Lease and any renewals thereof.

13.4.3. Worker's Compensation, Employers' Liability and Participant Accident Coverage.

13.4.3.1. Workers' Compensation coverage: Statutory with Employers' Liability insurance to include: Each Accident \$ 500,000.00; Disease-Each Employee \$ 500,000.00 with a Disease-Policy Limit of \$1,000,000.00.

13.4.3.2. Participant Accident Insurance Coverage with minimum limits to include: Accidental Death \$500,000.00; Medical Reimbursement \$1,000,000.00.

13.4.3.3. Policies shall contain a waiver of subrogation against Pima County.

13.4.4. Property Insurance. Tenant shall obtain and keep in force during the term of this Lease a policy of insurance covering loss or damage to the Premises in the amount of the full replacement value thereof, providing protection against all vandalism, malicious mischief, special extended perils (all risk) and shall deliver to Landlord a Certificate of Property Insurance, with Landlord named as additional insured. Said Certificate must be satisfactory to Landlord. Tenant will provide a copy of Tenant's policy of Property insurance to Landlord annually.

13.5. Additional Insurance Requirements. The policies shall include, or be endorsed to include, the following provisions:

13.5.1. Additional insured shall be Pima County, its departments and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by Tenant, even if those limits of liability are in excess of those required by this Lease.

13.5.2. Each insurance policy shall contain a severability of interests' provision and shall waive subrogation against Pima County.

13.5.3. Tenant's liability insurance coverage shall be primary insurance with respect to all other available sources.

13.5.4. Coverage provided by Tenant shall not be limited to the liability assumed under the indemnification provisions of this Lease.

13.6. Notice of Cancellation. Each insurance policy required by the insurance provisions of this Lease shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Pima County.

13.7. Acceptability of Insurers. Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. Landlord in no way warrants that the above-required minimum insurer rating is sufficient to protect Tenant from potential insurer insolvency.

13.8. Verification of Coverage.

13.8.1. Tenant shall furnish Landlord with certificates of insurance (ACORD form or equivalent approved by Pima County) as required by this Lease. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

13.8.2. All certificates and endorsements are to be received and approved by the Pima County Risk Manager before work commences under this Lease. Each insurance policy required by this Lease must be in effect at or prior to commencement of work under this Lease and remain in effect for the duration of this Lease. Failure of Tenant to maintain the insurance policies as required by this Lease, or to provide evidence of renewal, is a material breach of this Lease.

13.8.3. All certificates required by this Lease shall include the Pima County project/contract number and the project number and description shall be noted on the certificates of insurance. Landlord reserves the right to require complete, certified copies of all insurance policies required by this Lease at any time.

13.9. Subcontractors. Tenant's certificate(s) shall include all subcontractors as insured under its policies or Tenant shall furnish to Landlord separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

13.10. Approval.

13.10.1. Any modification or variation from the insurance requirements in this Lease shall be made by the Landlord's Risk Management Division, whose decision shall be final. Such action will not require a formal amendment to this Lease, but may be made by administrative action.

13.10.2. Any construction or renovation projects on the Premises will require additional insurance coverage such as Builder's Risk insurance. Pima County Risk Management will provide the additional insurance requirements required for any construction or renovations.

13.11. Safety.

13.11.1. Tenant will adhere to Federal, State and Local safety standards related to the on-site activities.

Compliance is to include relevant OSHA standards as well as the safety standards, codes or rules related to racing events, thereby providing a safe environment for both the participants and the spectators.

13.11.2. Every competitor, official, worker, mechanic and other individual who is issued a pit pass or other credential permitting access to the racing area must sign a Release and Indemnity Agreement to include indemnification of Pima County, in a form acceptable to Landlord. The release is to be signed prior to entry into the racing area.

13.12. Indemnification. Tenant agrees that, to the fullest extent permitted by law, Tenant will indemnify, defend, and hold harmless Landlord, its officers, employees and agents from and against any and all losses, costs, or expenses (including reasonable attorney fees) incurred or suffered by Landlord 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 Tenant, its agents, employees, invitees, contractors or anyone under its direction or control or acting on its behalf, or anyone permitted by Tenant to conduct any activity on the Premises, or in connection with any use or occupancy of the Premises under the terms of this Lease.

14. DEFAULT/TERMINATION.

14.1. Tenant Default. The occurrence of any one or more of the following events will constitute a default and breach of this Lease by Tenant for which Landlord may terminate this Lease:

14.1.1. Operation of Premises. The vacating or abandonment of the Premises, or cessation of activities thereon, or any portion thereof (except where such cessation is due to maintenance, repair, adjustment, or other reasonable causes), by Tenant, that continues for a period of thirty (30) calendar days after notice of such default is sent by Landlord to Tenant.

14.1.2. Monetary Obligations. The failure by Tenant to make any payment required to be made by Tenant under this Lease, as and when due, that continues for a period of ten (10) calendar days after notice from Landlord that such payment is due.

14.1.3. Insurance. The failure by Tenant to maintain insurance policies as set forth above for any period of time, in which event Tenant must immediately cease all operations at the Premises until such insurance is obtained. In the event of such a default, Landlord may, in Landlord's sole

discretion, obtain necessary insurance coverage in which event Tenant must, within ten (10) days of demand, reimburse and pay to Landlord the full amount of any costs and premiums expended by Landlord to obtain such coverage, provided that Landlord may obtain such coverage only after twenty (20) business days' written notice to Tenant giving Tenant the opportunity to cure the lack of insurance.

14.1.4. Violation of Law. Violation of any law by Tenant, or the conduct of any unlawful activities on the Premises that are permitted by Tenant, either tacitly or explicitly, or that Tenant has not taken reasonable means to prevent after Tenant becomes or in the exercise of reasonable diligence should have become aware that such activities are being conducted.

14.1.5. Health and Safety Violation. Any action or omission by Tenant that, in Landlord's reasonable judgment, causes a threat to the health or safety of the general public or the users of the Premises or neighboring properties that continues for a period of ten (10) days after notice from Landlord that such activities are prohibited.

14.1.6. Other Covenants. The failure by Tenant to observe or perform any other of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant that continues for a period of thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant will not be deemed to be in default if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion. The notice and cure periods in this paragraph do not apply to the automatic termination provisions in Section 4.1.

14.2. Landlord Default. Landlord will be deemed to be in default hereunder if Landlord fails to perform any covenant or condition of this Lease to be performed by Landlord and such failure continues for thirty (30) days after written notice and demand from Tenant, unless the failure is of such a character as to require more than thirty (30) days to cure, in which event Landlord will be in default only if it fails to initiate the cure within thirty (30) days, and thereafter diligently pursue the same to completion.

14.3. Remedies.

14.3.1. All Remedies Available. 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. Notwithstanding the foregoing, in the event of termination following completion of the Phase I improvements, the parties agree that in the event Landlord pursues any remedies or claims for damages against Tenant, any damages alleged or claimed by Landlord shall be offset by the then-current actual fair market value of improvements installed on the Land during the term of the Lease. Further, in the event of termination of this Lease, Tenant agrees to transfer and assign to Landlord, to the extent transferable and assignable, all remaining contractor's warranties held by Tenant, if any, under any construction contract relating to any portion of improvements on the Land, it being understood, however, that Tenant makes no representation or warranty as to the nature of any such rights, claims or warranties, and any such assignment is without recourse and without representation or warranty of any nature whatsoever.

14.3.2. Cure by Landlord. Should Tenant fail to perform in a timely manner any of the covenants or terms of this Lease on its part to be performed, Landlord may (but is not obligated to) perform the same and charge Tenant for the costs thereof, together with interest thereon, at the greater of (i) 10% per annum, or (ii) the rate set by statute for interest on judgments, from the date upon which the expense is incurred until paid by Tenant.

15. NOTICES. All notices given under this Lease must be in writing and either served personally or sent by certified or registered mail, return receipt requested, to the parties as indicated below or to such other persons, or addressees as either party may designate in writing to the other party:

If to Tenant: Southern Arizona Raceway, LLC
11800 S. Harrison Road Tucson, Arizona 85747
Phone: 520-349-2015 or 520-245-5278

If to Landlord: Director, Economic Development & Tourism
33 N. Stone Ave. Suite 830
Tucson, AZ 85701
Phone: 520-724-7355

Copy to: Pima County Clerk of the Board
130 W, Congress, 5th Floor
Tucson, AZ 85701

Pima County Administrators Office
130 W. Congress, 10th Floor
Tucson, AZ 85701

16. ASSIGNMENT/SUBLETTING. Except as permitted under Section 7 above and unless otherwise provided below, Tenant may not, either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and may not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or allow any other person (the employees, agents, servants, representatives, guests and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of Landlord. Landlord acknowledges that Tenant contemplates leasing or subletting certain portions of the Land for use by Contracting Entities or others such as but not limited to the Arizona International MotorSports Museum, Racing School, Motor Sports Club, Racing Simulator, or otherwise contracting with same for use and improvement of the Land and Premises, and Landlord shall not unreasonably withhold approval of all such agreements, contracts, leases or sublet arrangements. Notwithstanding the foregoing, Tenant may sublet, license or permit a portion of the Premises to be used for concessions or provision of services in connection with Tenant's business, and the gross revenues therefrom will be included in the Gross Revenues of Tenant for purposes of Percentage Rent. Tenant may, with the prior approval of Landlord, assign the Lease or sublet all or any portion of the Premises to: (i) a parent, subsidiary or affiliate under common control with Tenant; or (ii) a successor in reorganization, consolidation or merger or purchaser of all or substantially all membership interests or assets of Tenant; provided any such transferee shall assume Tenant's obligations in writing. In the event Tenant wishes to assign, license or sublet any portion of all of the Premises to a parent, subsidiary, affiliate or successor in accordance with this Section, Tenant shall provide an advance written request to Landlord and shall provide Landlord a copy of the proposed assignment, sublease or license agreement at least sixty (60) days prior to the requested effective date thereof. Landlord agrees not to unreasonably withhold its consent to parent, subsidiary, affiliate or successor assignments, subleases or licenses.

17. SURRENDER OF PREMISES/HOLDING OVER. On the last day or earlier termination of the Term of this Lease, Tenant must quit and surrender the Premises, in good condition and repair (except as provided in Section 12.2 above), normal wear and tear excepted. Any holding over with the consent of Landlord after the expiration of the Term or earlier termination of the Lease will be construed to be a tenancy from month-to-month upon the same terms and conditions as provided in this lease, to the extent applicable. Tenant's obligations under this Section will survive the expiration or earlier termination of the Term of this Lease.

18. SUSTAINABILITY PLAN. In accordance with the County's Sustainability Plan, Tenant must use all reasonable efforts to use recycled products for its operation within the Premises, and re-use and recycle materials utilized in the Premises.

19. CANCELLATION FOR CONFLICT OF INTEREST. This Lease may be cancelled for conflict of interest pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein by this reference.

20. TENANT NOT AN AGENT OF LANDLORD. Tenant is not an agent of Landlord for any purpose under this Lease or otherwise. Tenant will control activities on the Premises, and Landlord will not control those activities. Tenant's employees and servants will not be under the control of Landlord.

21. NON-DISCRIMINATION. Tenant agrees to comply with all provisions and requirements of 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 Lease as if set forth in full herein. During the performance of this Lease, Tenant 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.

22. NON-APPROPRIATION. Notwithstanding any other provision in this Lease, this Lease may be terminated if for any reason, the County's Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this Lease. In the event of such termination, County will have no further obligations to Tenant.

23. BOOKS, RECORDS, AND REPORTS

23.1. Tenant shall keep and maintain proper and complete books, records and accounts of all its operations conducted on the Premises, in a manner approved by the Pima County Finance Director.

All such books, records and accounts shall be open for inspection and audit by Landlord or its auditors, or the Arizona Auditor General, at all reasonable times.

23.2. Tenant shall provide Landlord annually during the Initial Term and any Option Period:

23.2.1. An annual report on the operation and activities on the Premises.

23.2.2. By September 30, a certified audit and annual financial report of all activities conducted on the Premises for the immediately preceding fiscal year of Landlord (July 1 – June 30);

23.2.3. By June 30, assistance in Landlord's preparation of a written inventory of all buildings, equipment and items of value on the Premises which are the property of Tenant; and

23.2.4. By September 30, a proposed budget for the current fiscal year.

24. CHOICE OF LAW. The laws of the State of Arizona will apply to any action relating to this Lease and any court action must be brought in a court in Pima County, Arizona.

25. NON-WAIVER. The failure of either party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Lease to be performed by the other party, or to take any action permitted as a result thereof, will not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either party of sums less than may be due and owing to it at any time will not be construed as an accord and satisfaction.

26. INTERPRETATION OF LEASE. The parties acknowledge that each has had the opportunity to review this Lease with counsel of its or their choice. This Lease will not be construed in favor or against either of the parties but will be interpreted fairly and equitably to effectuate the intent of the parties. All provisions contained in this Lease will bind and inure to the benefit of the parties hereto, their successors and assigns.

27. ENTIRE AGREEMENT. This Lease contains the entire agreement between the parties and all previous agreements, negotiations, or understandings are superseded by and merged in this Lease. This Lease may be modified by the parties only by writing executed with the same formalities as this Lease.

28. AMENDMENT. This Lease may not be amended except by a written instrument duly executed by both parties. Landlord will not enter into any modification of this Lease without the prior written consent of the holder of the Leasehold Deed of Trust provided that Landlord has notice of such secured party's interest in this Lease.

29. ATTORNEY'S FEES. In the event any action, suit or proceeding at law or in equity is instituted with respect to this Lease, the prevailing party shall be entitled to reasonable attorneys' fees, expenses and court costs incurred.

30. RECORDING. This Lease may be recorded by Landlord or Tenant.

31. TIME OF THE ESSENCE. Time is of the essence of this Lease.

32. AUTHORITY. The undersigned represent to each other that they have full power and authority to enter into this Lease, and that all necessary actions have been taken to give full force and effect to this Lease. The undersigned further agree to produce all documents reasonably requested by the other party to evidence that the foregoing representation is true and correct, including but not limited to any partnership agreements, trust documents, operating agreements, articles of incorporation, or shareholder agreements.

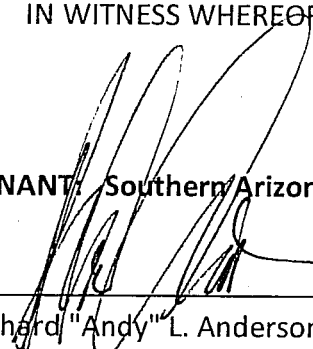
33. ATTORNEY'S REVIEW. The parties acknowledge that they have had an opportunity to consult with legal counsel regarding this Lease, and that the terms of this Lease are not to be construed against any party because that party drafted the Lease, or construed in favor of a party because that party failed to understand the legal effect of the provisions of this Lease.

County's Attorney is signing as to form only, and represents solely the interests of County. Each party shall bear the costs of their attorney incurred in connection with the negotiation and drafting of this Lease.

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IN WITNESS WHEREOF, the parties have executed this Lease as of the day, month and year written below.


TENANT: Southern Arizona Raceway, LLC



Richard "Andy" L. Anderson

MARCH 14, 2014
Date

Its: Co-Manager



Charles Quiroz

3-14-14
Date

Its: Co-Manager

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

Sharon Bronson, Chair, Board of Supervisors

Date

ATTEST:

Robin Brigode, Clerk of Board

Date

APPROVED AS TO CONTENT:



Tom Moulton, Director, Economic Development & Tourism

APPROVED AS TO FORM:

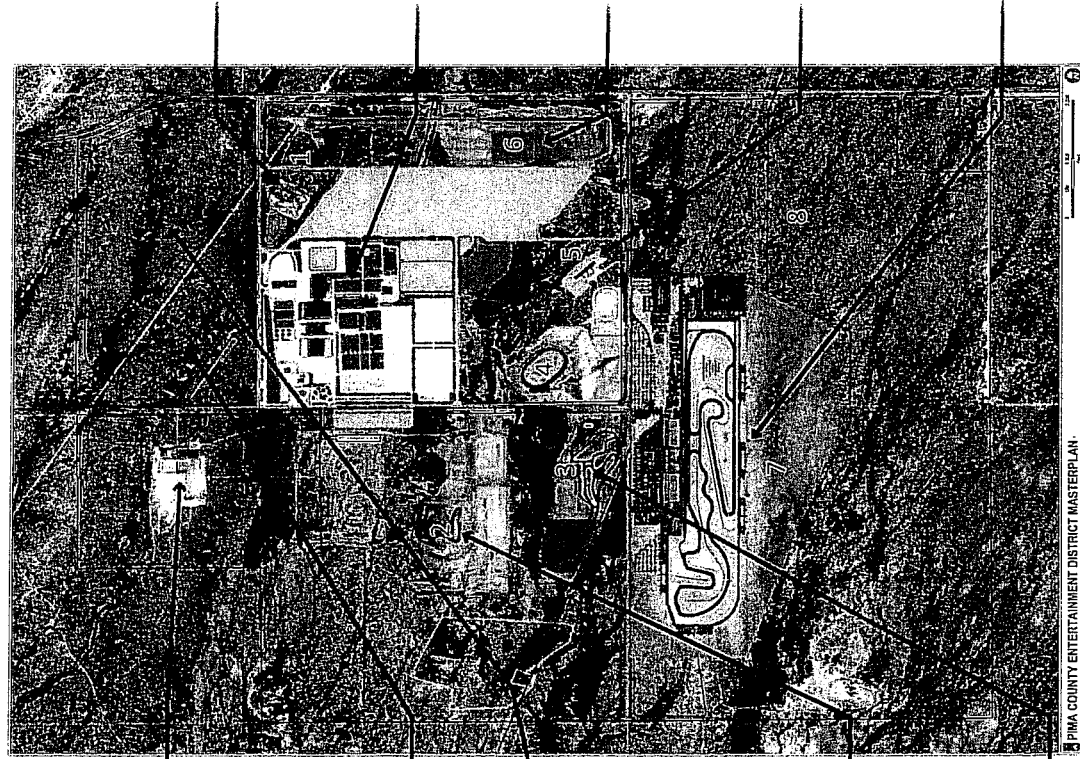


Tobin Rosen, Deputy County Attorney, Civil Division

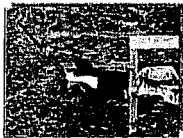
EXHIBIT A

Pima County Southeast Regional Park Plan Concept

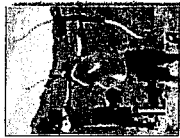
Pima County Southeast Regional Park Plan Concept



SHOOTING RANGE



SPORTING CLAYS



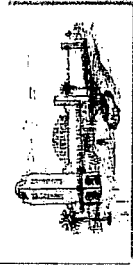
ARCHERY RANGE



MOTORSPORTS PARK



KART TRACK



PROPOSED FAMILY ENTERTAINMENT CENTER



FAIRGROUNDS



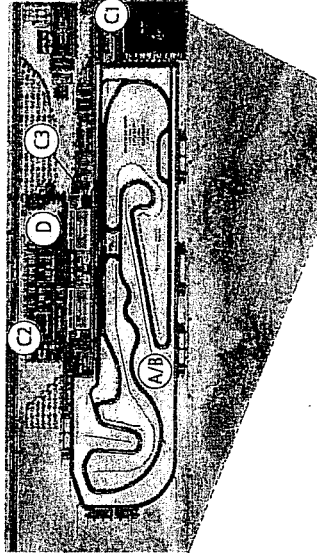
DRAG STRIPS



MODEL AIRPLANES



SOUTHERN ARIZONA RACEWAY



SOUTHERN ARIZONA RACEWAY
A AUTOMOBILE RACING

- SPORTS CAR CLUB OF AMERICA
- GRAND AM ROLEX SERIES
- AMERICAN LA MANS SERIES
- INDYCAR SERIES
- NASCAR

- B MOTORCYCLE RACING
- C EDUCATION SEGMENT

- C1. DRIVING/RACING SCHOOL
- C2. MOTOR SPORTS MUSEUM
- C3. SIMULATOR FACILITY
- D ENTERTAINMENT SEGMENT
- AUTO SHOWS/AUCTIONS
- MEDIA & ADVERTISING



MASTERPLAN
1 FAMILY ENTERTAINMENT CENTER
MASTERPLAN

- 2 PIMA MOTORSPORTS PARK
- 3 MUSSELMAN HONDA CIRCUIT
- 4 TUCSON RACEWAY PARK
- 5 MODEL AIRPLANE PARK
- 6 SOUTHWESTERN INTERNATIONAL RACEWAY (DRAG STRIP)
- 7 SOUTHERN ARIZONA RACEWAY
- 8 FUTURE USE

EXHIBIT B

*Legal Description and Map
Southern Arizona Raceway
A Portion of Docket 6561 at Page 1012*

A portion of Sections 22 and 23, Township 16 South, Range 15 East, Gila and Salt River Meridian, Pima County, Arizona, as described in Docket 6561 at Page 1012, records of Pima County, Arizona, more particularly described as follows:

Commencing at the Northwest corner of Section 22, Township 16 South, Range 15 East, Gila and Salt River Meridian, Pima County, Arizona;

Thence, Southerly along the West Section Line of said Section 22, 75 feet to the Point of Beginning on the proposed South Right of Way of Dawn Road;

Thence, Southerly along said West Section Line ± 1815 feet to a point on the North line of an existing 60 foot Southwest Transmission Cooperative easement;

Thence, Easterly along said existing transmission easement a distance of ± 1556 feet;

Thence, South $67^{\circ}-57'-45''$ East, ± 3732 feet;

Thence, South $90^{\circ}-00'-00''$ East, ± 1565 feet;

Thence, North $26^{\circ}-58'-49''$ East, ± 1605 feet to a point on the northerly line of said existing Southwest Transmission Cooperative easement;

Thence, Easterly along said existing transmission easement a distance of ± 79 feet;

Thence, North $90^{\circ}-00'-00''$ West, ± 1785 feet to a point on the South Right of Way of Dawn Road as recorded in Book 12, Page 71;

Thence, Westerly along said South Right of Way line to a point that is 75 feet south of the Northeast corner of Section 22;

Thence, Westerly along said proposed South Right of Way of Dawn Road along a line 75 feet south and parallel to the North Section line of Section 22 to the Point of Beginning.

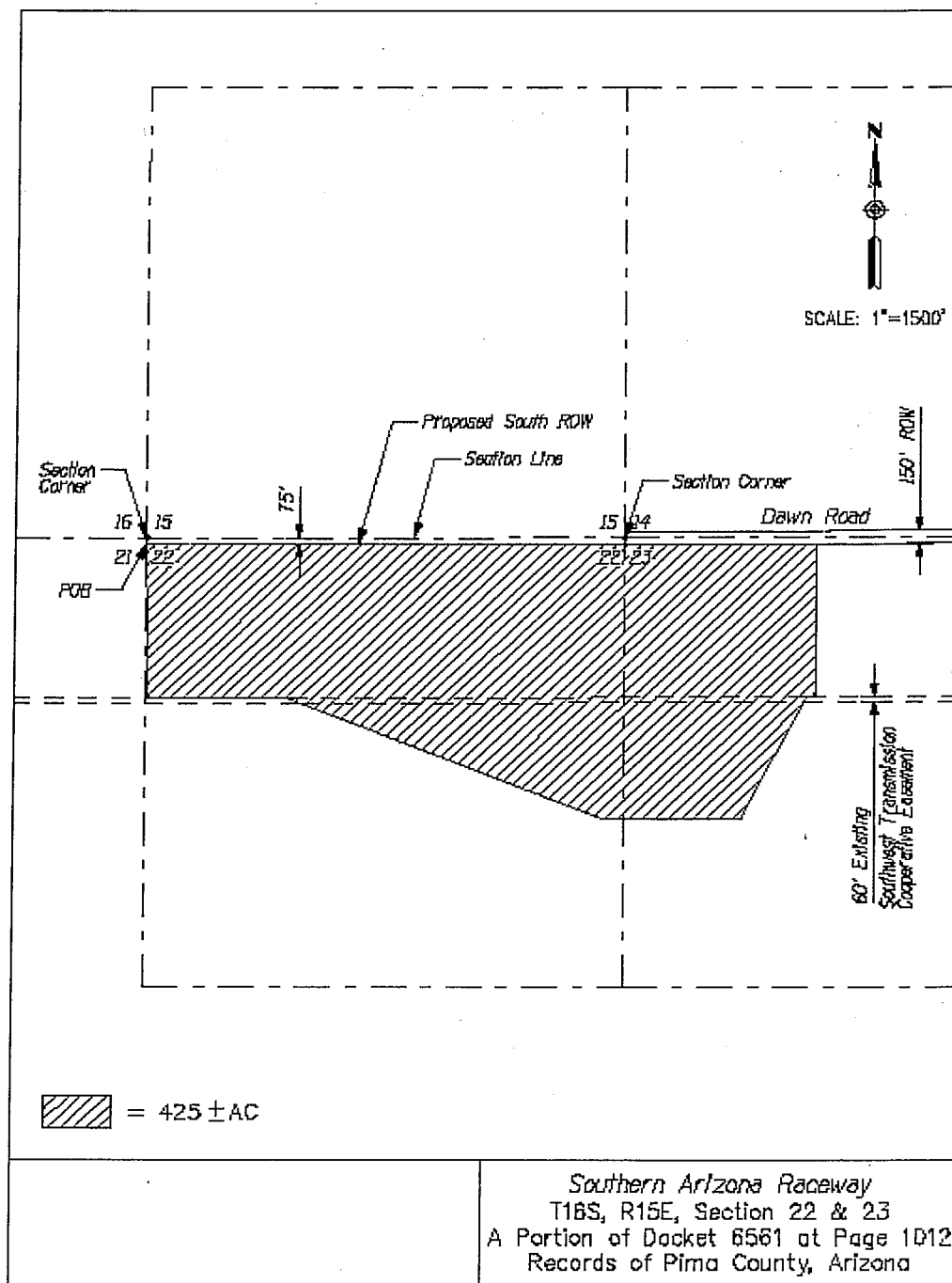


EXHIBIT C

Phase I Design Concept of the Raceway

[attached]

EXHIBIT D

Phase I Scope of Motor Sport Activities

[attached]

A. Infrastructure, Roads & Parking	B. Race Course & Paddock	C. Spectator & Participant Amenities	D. Raceway Facilities
<ol style="list-style-type: none"> 1. Site Grading & Drainage 2. Utilities & Infrastructure 3. Site Lighting 4. Main Entry Road 5. Entry Road Shuttle Pick-up & Drop Off 6. East/West Road 7. Dawn Road Parking 8. Shuttle Station #1 9. East Access Road 10. West Access Road 11. Entry Building Parking 12. Corporate Parking 13. Vehicle Storage 14. Medical/VIP Heli-pad 15. General Landscaping & Hardscape 16. Perimeter Security Fencing 	<ol style="list-style-type: none"> 1. Championship 2.81 +/- Mile Road Course 2. Pit in & Pit out 3. Pit Road 4. 43 - 18'x42' Concrete Pit Boxes 5. Cold Pit 6. Signal Lane 7. East & West Course Turns 8. Safety Loop Road 9. Starters Podium 10. Flag Stations 11. Victory Circle 12. Safety Lighting/Timing & Scoring 13. Safety Features 14. Paddock 15. Fuel, Oil Recycle & Car Wash Facility 	<ol style="list-style-type: none"> 1. Temporary Bleachers 2. VIP/Participant Compound 3. East & West VIP & Hospitality Plazas 4. Vendor Village Concourses 5. RV Spectator Parking - East End 6. Project Signage 7. Paddock Building - Phase I 	<ol style="list-style-type: none"> 1. Entry Building 2. Ticketing Kiosks 3. Corporate Offices 4. Pro Shop/Souvenir Store 5. Corporate Maintenance Facility