

## TAX INCENTIVE REBATE AGREEMENT

For reference, this Tax Incentive Rebate Agreement (“Agreement”) is dated May 22, 2018. The parties to this Agreement are the Rio Nuevo Multipurpose Facilities District, an Arizona tax levying special facilities district (the “District”), and SMG, a Pennsylvania general partnership (“SMG”).

### RECITALS

A. On or about September 12, 2014, the City of Tucson (“City”) entered into a “Management Agreement” pursuant to which SMG agreed to promote, operate and manage the facilities generally known as the Tucson Convention Center (“TCC”).

B. Pursuant to the Management Agreement, SMG enters into “Written Agreements” with various individuals and entities (“Customers”) pursuant to which the Customers receive the right to utilize a designated portion of the TCC for an “Event” in exchange for an agreed upon license fee (“Rent”) and which Written Agreements require the Customer to utilize SMG for all of the Customer’s catering needs during the Event (“Catering Costs”).

C. The TCC is located within the District’s tax increment financing boundaries.

D. As set forth in this Agreement, the District desires to provide certain financial incentives that may be utilized by SMG in its efforts to promote the use of the TCC.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and SMG hereby agree as follows:

1. **Term of Agreement.** This Agreement shall be effective from March 1, 2018 through February 28, 2020, unless earlier terminated as provided herein (the “Term”).

2. **Financial Incentive Payment(s).** When the gross taxable sales revenue for a single Event equals or exceeds \$500,000 (“Gross Sales Revenue”), such Event qualifies the Customer for “Financial Incentive Payment(s)” from the District as follows:

a. The Customer shall provide to the District a copy of its agreement with SMG reflecting the Event, the date(s) of the Event, and the amount of Rent and Catering Costs paid by the Customer to SMG together with (i) copies of all transaction privilege tax (“TPT”) returns filed by the Customer and (ii) evidence of the Customer’s payment of the TPT reflected on each such return (“Incentive Application”).

b. When the District receives from the Arizona Department of Revenue (“ADOR”) payment of the amount reflected on the Incentive Application, the District shall remit to the Customer (i) ten (10%) percent of such TPT Incentive Application amount and (ii) up to \$6,000 to defray the Customer’s Catering Costs for such Event. The District shall provide a copy of such remittance to SMG.

**3. Limitations on Incentives.**

a. The Financial Incentive Payment shall not exceed the total amount of Rent paid by the Customer to SMG. In the event that the Financial Incentive Payment amount exceeds the Rent paid by the Customer, such Financial Incentive Payment will be reduced to the amount of the Rent.

b. To qualify for a Financial Incentive Payment, the Event must take place on or after March 1, 2018 and either (i) take place on one calendar day or (ii) take place on five or fewer consecutive calendar days.

**4. Confidentiality.** The information contained on the Customer’s Incentive Application shall only be used by the District for the purpose of providing the Financial Incentive Payment as set forth herein and for no other purpose. Unless required to do so by law, neither the District nor SMG shall disclose to anyone other than the Customer the information contained in the Incentive Application.

**5. Conflict of Terms.** Neither SMG nor the District believes that there are any conflicts between the terms of this Agreement and SMG’s Management Agreement with the City. Nevertheless, if a conflict arises, SMG and the District will take all reasonable actions to eliminate such conflict with the full understanding that the terms of the Management Agreement shall prevail in the event that the conflict cannot be eliminated.

**6. Termination; Cancellation.** Either party may terminate this Agreement by providing the other with not less than thirty (30) days’ notice (“Termination Notice”). In the event of such termination, the District shall nevertheless continue to comply with its obligations hereunder for all qualifying events that occurred prior to such Termination Notice.

**7. Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511. The District may cancel this Agreement without penalty or further obligation by the District or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the District or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

**8. Miscellaneous.**

a. **Applicable Law; Venue.** This Agreement shall be governed by the laws of the State of Arizona, and suit pertaining to this Agreement may be brought only in courts in Pima County, Arizona.

b. **Amendments.** This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the District and SMG.

c. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.

d. **Severability.** The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

e. **Relationship of the Parties.** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever.

f. **Entire Agreement; Interpretation; Parol Evidence.** This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein or in any other contemporaneous written agreement executed for the purpose of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

g. **Rights and Remedies.** No provision in this Agreement shall be construed, expressly or by implication, as a waiver by the District of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the District to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law shall not constitute a waiver of the District's right to do so in the future.

h. **Attorneys' Fees.** In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

i. **Notices and Requests.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the District: Rio Nuevo Multipurpose Facilities District  
400 West Congress, Suite 152  
Tucson, Arizona 85701  
Attn: Chairman - Fletcher McCusker

With copy to: Gust Rosenfeld, P.L.C.  
One South Church Avenue, Suite 1900  
Tucson, Arizona 85701-1627  
Attn: Mark Collins, Esq.

If to SMG: Glenn Grabski  
SMG/Tucson Convention Center  
260 South Church Avenue  
Tucson, Arizona 85701

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, or (C) the following business day after being given to a recognized and reputable overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

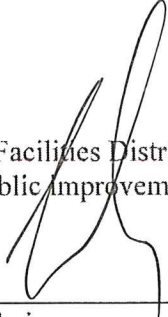
j. **Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature pages, and this Agreement may be executed by the affixing of the signature pages, and all such counterpart signature pages shall be read as though part of a single document, and they shall have the same force and effect as though all the signers had signed a single signature page.

**[SIGNATURES ON NEXT PAGE]**

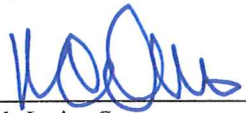
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

**“District”**

Rio Nuevo Multipurpose Facilities District,  
an Arizona tax levying public improvement district

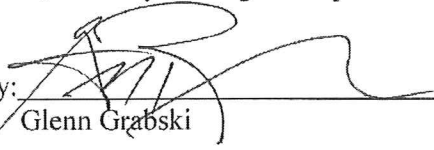
By:  5/22/18  
Fletcher McCusker, Chairman

ATTEST:

By:  5/22/18  
Mark Irvin, Secretary

**“SMG”**

SMG, a Pennsylvania general partnership

By:   
Glenn Grabski