Board of Supervisors Memorandum

February 21, 2017

Tucson's January 8th Memorial Foundation and Tucson Medical Center Donation and Naming Agreement and Approval of the January 8th Memorial Plan for Naming Opportunities

Background

At the December 13, 2016 Board of Supervisors meeting, the Board approved the January 8th Memorial Funding Agreement with Tucson's January 8th Memorial Foundation (Foundation). That agreement contemplated accepting donations originally received by the Foundation for use in the design and construction of the January 8th Memorial (Memorial). As part of its fundraising campaign, the Foundation proposed certain naming opportunities that would be subject to approval under Board of Supervisors Policy 3.19, Naming of County Facilities and Programs. The Foundation has submitted a proposed plan for Naming Opportunities for donations ranging from $100 to $1,000,000 as shown in the attached correspondence (Attachment 1).

The Foundation has recently received several donations that it wishes to transfer on to the County. One of those donations, from Tucson Medical Center (TMC) for $500,000, would be associated with naming, for a 20-year period, the walkway that would run along the edges of the Memorial. Board Policy 3.19 requires the Board approve this action.

Attachment 2 to this memorandum is a Donation and Naming Agreement between the County, the Foundation and TMC. In order to facilitate processing future donations quickly, I recommend that the Board of Supervisors, after approving the plan for naming opportunities relating to the Memorial, authorize the County Administrator to approve naming agreements for the Memorial for donations of $50,000 or less.

Recommendation

Based on the above, I recommend the Board of Supervisors take the following actions:

1. Approve the plan for naming opportunities submitted by the January 8th Memorial Foundation.
2. Approve Tucson's January 8th Memorial Foundation Donation and Naming Agreement for the donation from Tucson Medical Center for $500,000.
3. Delegate to the County Administrator authority to approve naming agreements for the January 8th Memorial pursuant to the approved plan for any donation up to $50,000, with donations greater than $50,000 still being subject to Board of Supervisors approval.

Respectfully submitted,

C.H. Huckelberry
County Administrator

CHH/mjk

Attachments

c: Tom Burke, Deputy County Administrator for Administration
Lisa Josker, Director, Facilities Management

ATTACHMENT 1

COUNTY ADMINISTRATOR'S OFFICE
PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, FLOOR 10, TUCSON, AZ 85701-1317
(520) 724-8661 FAX (520) 724-8171

C.H. HUCKELBERRY
County Administrator

September 14, 2016

Crystal Kasnoff, Executive Director
Tucson's January 8th Memorial Foundation
177 N. Church Avenue, Suite 200
Tucson, Arizona 85701

Re: **Your September 13, 2016 Letter Regarding Naming Opportunities for the January 8th Memorial**

Dear Ms. Kasnoff:

Generally, the letter requesting additional naming opportunities for specific project elements is approved.

However, I would caution that we have not approved the landscaping plan for the Memorial and are very hesitant to disturb the natural Sonoran Desert landscaping that exists west of the Historic County Courthouse. A detailed planting plan, including the exact horizontal distance of the Memorial and improvements from the west face of the Historic County Courthouse, is necessary for the County's review.

Sincerely,

C.H. Huckelberry
County Administrator

CHH/lab

Enclosure

c: Tom Burke, Deputy County Administrator for Administration
Lisa Josker, Director, Facilities Management
Linda Mayro, Director, Sustainability and Conservation

TUCSON'S January 8th MEMORIAL

Together We Thrive.

September 13, 2016

Mr. Chuck Huckelberry
Pima County Administrator's Office
130 W. Congress St., 10th Floor
Tucson, AZ 85701

Re: Remaining Naming Opportunities at and surrounding the Historic Pima County Courthouse located at 155 N. Church Avenue, Tucson, Arizona 85701

Dear Mr. Huckelberry,

Tucson's January 8th Memorial Foundation is requesting approval of six remaining donor recognition naming opportunities located near the Historic Pima County Courthouse in El Presidio Park (as described in the attached documentation), with terms of 20 years each. This area represents the home of the January 8th Memorial, as stated in both Pima County and City of Tucson Resolutions.

The remaining naming opportunities include:

Naming Opportunity	Location	#	Min. Amount
Memorial Gardens	Pima County and City of Tucson Property	6	$100,000 Each
Survivor Trees	Pima County and City of Tucson Property	13	$ 50,000 Each
Memorial Lanterns	Pima County and City of Tucson Property	50	$ 25,000 Each
Memorial Donor Wall (1)	Pima County Property	100	$ 5,000 Each
Memorial Pavers	Pima County and City of Tucson Property	250	$ 1,000 Each
Memorial Donor Plaque (1)	Pima County Property	500	$ 100 Each

Tucson's January 8th Memorial Foundation will facilitate the bid process and track naming rights as outlined in the Pima County Supervisors Policy Regarding Naming of County Facilities and Programs, approved on July 5, 2016. Additionally, Tucson's January 8th Memorial Foundation will work with Pima County to institute the appropriate form to facilitate these naming rights.

Approval of naming rights have been requested from the City of Tucson for naming rights located on the City's property. We appreciate your consideration and approval at your earliest convenience.

Sincerely,

Crystal Kasnoff

Crystal Kasnoff
Executive Director

Cc: Linda Mayro, Lisa Josker

Enclosures: Naming Right Documentation and Description of Remaining Naming Opportunities for Tucson's January 8th Memorial Foundation

TUCSON'S JANUARY 8TH MEMORIAL FOUNDATION
177 North Church Avenue, Suite 200 / Tucson, Arizona 85701 / (520) 393-8317 / www.tucsonsmemorial.org

COUNTY ADMINISTRATOR'S OFFICE
PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, FLOOR 10, TUCSON, AZ 85701-1317
(520) 724-8661 FAX (520) 724-8171

C.H. HUCKELBERRY
County Administrator

July 14, 2016

Crystal Kasnoff, Executive Director
Tucson's January 8th Memorial Foundation
177 N. Church Avenue, Suite 200
Tucson, Arizona 85701

Re: **Your July 11, 2016 Letter Regarding Naming Opportunities in the Vicinity of the Historic Pima County Courthouse**

Dear Ms. Kasnoff:

Thank you for your July 11, 2016 letter. Enclosed is a copy of a recently adopted policy of the Board of Supervisors regarding naming of County-owned public facilities and property.

It appears the Courthouse Garden would be entirely on County property. Regarding the Memorial Gardens Walk, I am not certain of responsibility, as the County owns only a portion of El Presidio Plaza, with the City of Tucson owning the balance. Presidio Park and the underground parking garage was a joint project between the City and the County, built with County bonds. The City has retained surface ownership of most of El Presidio Park, and they would have to be consulted regarding any naming right issues on their property. I am not familiar with the City's policy on naming rights or whether such policy exists.

We are certainly amenable to providing and granting naming rights in accordance with our policy; however, in soliciting donors for these naming rights, please advise them the precise design and location of the memorial or memorial garden may vary from the design concept you show in your proposal.

As you know, Pima County is in the process of renovating the Historic Pima County Courthouse for a potential regional visitors' center. This is a major undertaking, and our primary focus is on this rehabilitation effort at this time. We have conceptually approved

the January 8th Memorial concept subject to an analysis of the actual cost associated with accommodating the Memorial and modifications to the surface of El Presidio Park, the underground utilities and the parking garage. Hence, it is too soon to assume the Memorial, as presented, will represent the final design. Therefore, we need to be cautious in representing to donors the exact plan and location of Memorial improvements.

With these caveats, you can certainly represent that for those portions controlled by Pima County, we would generally support the naming rights and donation amount identified in your July 11, 2016 letter.

Sincerely,

C.H. Huckelberry
County Administrator

CHH/anc

Enclosures

c: Tom Burke, Deputy County Administrator for Administration
Lisa Josker, Director, Facilities Management
Linda Mayro, Director, Office of Sustainability and Conservation

TUCSON'S January 8th MEMORIAL

Together We Thrive.

July 11, 2016

Mr. Chuck Huckelberry
Pima County Administrator's Office
130 W. Congress St., 10th Floor
Tucson, AZ 85701

Re: Naming Opportunities at and surrounding the Historic Pima County Courthouse located at 155 N. Church Avenue, Tucson, Arizona 85701

Dear Mr. Huckelberry,

Tucson's January 8th Memorial Foundation is requesting approval for two donor recognition naming opportunities located immediately west and south of the Historic Pima County Courthouse in El Presidio Park (as described in the attached documentation) with terms of 20 years each. This area represents the home of the January 8th Memorial, as stated in both Pima County and City of Tucson Resolutions.

The naming opportunity on the west side of the Historic Pima County Courthouse will include: The Courthouse Garden, currently used as a parking lot. The naming opportunity to the south of the Historic Pima County Courthouse will be The Memorial Gardens Walk at the January 8th Memorial, directly in front of the courthouse.

Donation amounts to win bids for naming rights:

The Courthouse Garden	$1,000,000 minimum bid
The Memorial Gardens Walk	$ 500,000 minimum bid

Tucson's January 8th Memorial Foundation will facilitate the bid process and track naming rights as outlined in the Pima County Supervisors Policy Regarding Naming of County Facilities and Programs, approved on July 5, 2016. Additionally, Tucson's January 8th Memorial Foundation will work with Pima County to institute the appropriate form to facilitate these naming rights.

We request this approval at your earliest convenience. These naming opportunities are crucial to our efforts to build the January 8th Memorial and to our public/private partnership. Additionally, we will be submitting smaller naming opportunities in the future for approval.

Sincerely,

Crystal Kasnoff

Crystal Kasnoff
Executive Director

Cc: Linda Mayro

Enclosures: Naming Right Documentation and Description for The Courthouse Garden and The Memorial Gardens Walk, Pima County and City of Tucson Resolutions

ATTACHMENT 2

Tucson's January 8th Memorial Foundation

Donation and Naming Agreement

This Donation and Naming Agreement ("Agreement"), effective as of February 21, 2017 ("Effective Date"), is entered into by and among **Tucson Medical Center**, an Arizona nonprofit corporation ("TMC"), **Tucson's January 8th Memorial Foundation, an Arizona nonprofit corporation** (the "Foundation"), and Pima County, a political subdivision of the State of Arizona (the "County").

RECITALS

A. County is in the process of renovating the County courthouse constructed in 1928 located at 115 N. Church Avenue, Tucson (the "Historic County Courthouse").

B. The Foundation has been collaborating with Pima County and the City of Tucson to develop a memorial (the "Memorial") in remembrance of the victims of the shooting that occurred in Tucson on January 8, 2011, to be located on the west and north side of the Historic County Courthouse, primarily on land owned by Pima County, but including some land owned by the City of Tucson.

C. The Foundation has prepared a preliminary design of the Memorial and wants Pima County to complete the design and construct the Memorial. The preliminary design (the "Concept Design" is attached to this Agreement as **Exhibit A**.

D. The Foundation wishes to donate or to cause to be donated funds to the County to be used to complete the design and construct the Memorial.

E. TMC has donated $500,000 (the "Donation") to the Foundation for the design and construction of the Memorial. TMC's donation was made with the undertanding that the County will acknowledge that donation in accordance with Policy Number C3.19 of the Pima County Board of Supervisors as adopted on July 5, 2016 (the "Naming Policy"), a copy of which is attached as **Exhibit B**.

F. The Foundation wishes to pass the TMC donation through to the County, and the County desires to accept that donation, subject to the terms and conditions set forth in this Agreement.

AGREEMENT

1. **Payment of the Donation**. The Foundation will pay the Donation to the County in one payment immediately upon the execution of this Agreement. The Foundation may make the payment via check, electronic funds transfer, stocks or other securities, or other methods acceptable to the Foundation and the County.

2. **Use of the Donation**. The Donation will be used by the County for the purposes described above and in a letter dated January 20, 2017, from TMC to the County, a copy of which is attached as **Exhibit C** to this Agreement. TMC acknowledges that the Memorial is still in the design development phase and acknowledges that final design and construction documents, which will be completed by the County, have not been started. During the preparation of the final design and construction documents, the County may alter the preliminary design as it deems necessary to accommodate the construction of the Memorial at the proposed

location while using reasonable efforts to keep the concept as shown in the Concept Design. TMC also acknowledges that nothing in this Agreement obligates the the County to expend any funds for the planning, design or completion of the Memorial, other than funds contributed by the Foundation or others for that purpose.

3. **Acknowledgment**. In consideration for the Donation, and subject to the restrictions of the County's Naming Policy, the County will acknowledge the Donation by identifying TMC by name for the component of the Memorial to be known as the Memorial Garden (the "Naming") for a period of twenty (20) years.

4. **Termination of Naming**. In addition to any rights and remedies available at law, the County may terminate this Agreement and all rights and benefits of TMC hereunder, including terminating the Naming, if the Board of Supervisors determines in its reasonable and good faith opinion that circumstances have changed such that the Naming would adversely impact the reputation, image, mission or integrity of the County, the Memorial or the Foundation. Upon any such termination of this Agreement and/or the Naming, the Foundation and the County will have no further obligation or liability to TMC and will not be required to return any portion of the Donation already paid.

5. **Modification of Naming**. County reserves the right to modify, relocate, replace or remove the Memorial if the Board of Supervisors determines that this is in the public's best interest, or if the Memorial is severely damaged by casualty. The Naming will cease if the Memorial is transferred or conveyed by County to an agency or political subdivision of the State of Arizona or of the United States of America, closed, deconstructed, destroyed or severely damaged, significantly renovated, upgraded, modified, relocated, or replaced. If the Memorial is conveyed to another governmental agency as described above, the County will use reasonable efforts to have the other governmental agency maintain the Naming for the remainder of the twenty (20) years. The County will notify TMC in advance of any conveyance, modification, relocation or removal of the Memorial.

6. **Publicity**. For purposes of publicizing the Donation and the Naming, County will have the right, without charge, to photograph representatives of TMC and use the names, likenesses, and images of TMC in photographic, audiovisual, digital or any other form of medium (the "Media Materials") and to use, reproduce, distribute, exhibit, and publish the Media Materials in any manner, including in brochures, website postings, informational and marketing materials, and reports and publications describing County's activities.

7. **Notices**. Any notice required or permitted to be given under this Agreement must be in writing and be served by personal delivery or by certified mail upon the other party, addressed as set forth below, or to such other address as a party may from time to time designate by written notice to the other parties:

If to County:	Pima County Administrator 130 W. Congress Street, Floor 10 Tucson, Arizona 85701
If to TMC:	Vice President, Community Benefit 5301 E. Grant Road Tucson, Arizona 85712
If to the Foundation:	Executive Director 177 N. Church Avenue, Suite 200 Tucson, Arizona 85701

8. **Assignment**. A party may not assign its rights or obligations under this Agreement without the prior written consent of the other parties, which consent may be withheld in the sole and absolute discretion of the non-assigning parties.

9. **Entire Agreement**. This Agreement constitutes the entire agreement of the parties with regard to the matters addressed, and supersedes all prior oral and written agreements, if any, of the parties. This Agreement may not be modified or amended except by written agreement executed by all the parties.

10. **Governing Law and Venue**. This Agreement will be governed by and construed in accordance with the laws of the State of Arizona without regard to any conflict of laws rule or principle that might refer the governance or construction of this Agreement to the laws of another jurisdiction. Any legal proceeding brought in connection with disputes relating to or arising out of this Agreement will be filed and heard in Pima County, Arizona, and each party waives any objection that it might raise to such venue and any right it may have to claim that such venue is inconvenient.

11. **Cancellation for Conflict of Interest**. This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.

Tucson Medical Center

By: _____
Name: Julia Strange
Title: Vice President, Community Benefit

Tucson's January 8th Memorial Foundation

By: _____
Name: Crystal Kasnoff
Title: Executive Director

Pima County

By_____
Sharon Bronson, Chair
Board of Supervisors

ATTEST:

_____
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

_____
Deputy County Attorney
TOBIN ROSEN

EXHIBIT A

EXHIBIT A

JANUARY 8 MEMORIAL & EL PRESIDIO PARK MASTERPLAN, TUCSON • CSAO RMS agL JK • 2016

EXHIBIT A

THE COURTHOUSE FROM THE PLAZA

EXHIBIT B

Purpose:

The purpose of this policy is to establish guidelines governing the conveyance, to financial contributors, of legally enforceable naming rights to County-owned or operated facilities and programs.

Background:

While public facilities are dedicated to all citizens, the County sometimes chooses to name a facility, facility element, or program in a manner that honors a person for their financial generosity or non-monetary public contributions, with no related binding agreement with that person. This policy does not impact or in any way limit the Board's discretion to do that.

Sometimes, however, a financial contributor may, as a condition of making a substantial grant or donation, require the County to make a legally binding naming commitment. In addition, the County may choose to create programs that encourage the making of smaller financial contributions in exchange for installation in County facilities of engraved bricks or tiles, or installation of recognition plaques on fixtures such as benches, kennels, or pathway segments. This policy is intended to govern grants of enforceable naming rights to private parties.

Definitions:

As used in this Policy:

- A "Facility" is a Pima County-owned or operated building, structure, thoroughfare, or park in its entirety.

- A "Facility Element" is a component of, or a sub-area within or associated with, a Facility. Facility Elements include, but are not limited to, exterior landscaped areas, open areas, and plazas; interior meeting rooms, atriums, and offices; benches, equipment, furnishings, and other fixtures; and segments of roads, paths, walkways, and other thoroughfares.

- A "Program" is any public service, operation, event, or series of events that is provided, performed, or sponsored by the County, and any individual unit or units within an ongoing service or operation or a series of events.

- A "Donor" is a person who donates money, goods, or services to the County in exchange for Naming Rights.

- "Naming Rights" means a binding agreement by the County to (1) designate and refer to a Facility, Facility Element, or Program, by a name or title designated by a Donor, such as in announcements and written materials, and/or (2) mount or imbed on a Facility or Facility Element, a sign, plaque, tile, brick, or other item containing a name or other text designated by a Donor.

Policy:

The County Administrator is authorized to develop programs for the granting of Naming Rights in order to recognize Donors who provide financial assistance—whether in the form of a one-time grant or a commitment to make continuing periodic contributions—with the construction or installation of a County Facility or Facility Element, or for the implementation or maintenance of a County Program. This may include multiyear Naming Rights for entire Facilities and Programs, as well as smaller-scale Naming Rights for Facility Elements. The programs must be consistent with the following general guidelines:

1. The scope of the Naming Right—in terms of the scale and prominence of the Facility, Facility Element or Program with respect to which the Naming Right is granted—and its duration, should correspond to the scale of the financial assistance provided by the Donor. No Naming Right may last for more than 20 years.

2. A Naming Right that applies to an entire Facility or Program, or that is for more than 5 years (unless terminable at will by the County), must be competitively marketed to multiple potential donors before being conveyed, and any such conveyance must be approved in advance by the Board of Supervisors.

3. The specific nature, scope, and duration of the Naming Right must be memorialized in a written agreement with the Donor, the form of which has been reviewed and approved by the Civil Division of the County Attorney's Office.

4. As part of each program, procedures must be implemented to administer and track Naming Rights that have been granted.

5. The proposed conveyance of Naming Rights involving any improvement funded in whole or in part with the proceeds of tax-exempt bonds, which bonds are still outstanding in whole or in part, must be reviewed and approved by the Director of the Finance and Risk Management Department, to ensure there is no impact on the tax-exempt status of the bonds.

6. To the extent possible, the agreement with the Donor should preserve the County's flexibility to make changes to Facilities, Facility Elements, and Programs in order to serve the public interest.

7. The name or other text chosen by the Donor must be (1) either (a) the true name of one or more persons or of an organization *other than* an organization whose principle function is to advocate for or against a person running for elected office or influence political or policy decisions, or (b) other text that is not obscene, misleading, defamatory, or disruptive; and (2) sufficiently brief so as to fit within the space available. The County has sole authority to determine and assure compliance with this item and to select the text's font size, style, and color.

8. No Naming Right may include the conveyance of any proprietary or ownership interest in any County property or any special, preferential, or exclusive right to utilize any Facility or Facility Element (except for the purpose of the displaying the Donor's name).

9. No Naming Right may be granted in a manner that creates a conflict of interest or the appearance of a conflict of interest.

Implementation:

The County Administrator shall develop and distribute administrative procedures governing the conveyance of Naming Rights consistent with this Policy.

Adoption Date: July 5, 2016
Effective Date: July 5, 2016

EXHIBIT C

Tucson Medical Center

January 20, 2017

Mr. Tom Burke
Pima County Administration
130 W. Congress, 10th Floor
Tucson, Arizona 85701

Subject: Donation by Tucson Medical Center for the Tucson January 8th Memorial

Dear Mr. Burke,

Tucson Medical Center is very pleased to provide a significant donation for the design and construction of the Tucson January 8th Memorial, and this letter is to acknowledge Pima County's receipt of Tucson Medical Center's donation, through Tucson's January 8th Memorial Foundation, in the amount of $500,000.

The intent of our donation is to sponsor the "Memorial Gardens Walk," as a 20-year naming opportunity, and to fund the Construction Documents and Construction Phases of the January 8th Memorial. We understand this donation will be placed in a restricted account, "the January 8th Memorial Fund," in accordance with the Agreement between Pima County and the Tucson January 8th Memorial Foundation.

Upon receipt of our donation to Pima County, we would appreciate your acknowledgment of this donation by signing below. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Julia Strange
Vice President, Community Benefit

I acknowledge receipt of a donation of $500,000 from Tucson Medical Center for the design and construction of the Tucson January 8th Memorial.

_____

Tom Burke, Deputy Pima County Administrator / Date