



LINDSEY A. PERRY
AUDITOR GENERAL

ARIZONA
AUDITOR GENERAL

MELANIE M. CHESNEY
DEPUTY AUDITOR GENERAL

February 22, 2023

The Honorable Warren Petersen, President
Arizona State Senate

The Honorable Ben Toma, Speaker
Arizona House of Representatives

The Honorable Katie Hobbs, Governor
State of Arizona

Mr. Fletcher McCusker, Chairman
Rio Nuevo Multipurpose Facilities District Board of Directors

On November 10, 2022, the Arizona Auditor General issued the *Performance Audit & Financial Analysis, Rio Nuevo Multipurpose Facilities District* report. Johnson Consulting conducted the audit under contract with our Office and in response to the requirements of Arizona Revised Statutes (A.R.S.) §48-4231.01.

A.R.S. §48-4231.01(E) requires the District's response to the reported findings and recommendations be adopted by the District's Board of Directors within 45 days of the report's release, or December 27, 2022. Transmitted herewith is the response adopted by the District's Board of Directors on January 25, 2023.

My staff and I are pleased to discuss or clarify items in the report.

Sincerely,

Lindsey A. Perry

Lindsey A. Perry, CPA, CFE
Auditor General

January 25, 2023

The Honorable Lindsey Perry
Auditor General
State of Arizona
2910 North 44th Street
Phoenix, Arizona 85019

RE: Rio Nuevo Response to Auditor General Audit November 2022

Dear Ms. Perry:

This is our official response to the tri-annual audit of the Rio Nuevo District. Staff were thorough and comprehensive in the evaluation of Rio Nuevo over the last three years, and we appreciate the diligence they bring to our use of state tax dollars. Three of the recommendations will likely require legislative input given the lag time receiving revenue results from ADOR and the lack of clarity around our reporting requirements to the Joint Committee on Capital Review. Rio Nuevo is not required to seek JCCR approval for capital projects but has been asked to submit projects over \$500,000 to the JCCR for review. It is not clear how often, prospective or retrospective, in writing or in person. Previously JLBC staff have asked us to appear before the committee and present any project where a development contract was executed and signed, meaning backward looking, and cover the entire year as opposed to a project-by-project report. For the most recent year the JLBC staff and committee Charman accepted only a written report. We will meet with the committee chairs and staff and hope to get an agreement on how to best proceed going forward, which may require a statutory amendment. Other recommendations suggest a Master Plan for the remaining 13-year term and a succession plan for the period after 2035. Staff and members have already begun those efforts.

Since 2010 when the State of Arizona seized control of the ten-year-old runaway Tax Increment Financing District (TIF) known as Rio Nuevo the legislature has required a tri-annual audit from the Auditor General, as described in A.R.S. §48-4231.01. This sort of audit was not required of the city run Rio Nuevo from 1999-2009. This lack of accountability to the State was rectified in the 2010 legislative take over, along with the installation of a new board appointed by the Governor, Speaker of the House, and President of the Senate.

Consequently, audits have been published for 2010, 2013, 2016, 2019 and 2022. The 2022 audit was published on November 9, 2022, and continues to praise the District's improvement, transparency, economic development, increased tax base and private sector investment incentives. A far cry from where the District was in 2010, as described in the first Auditor General audit and the most recent audit below:

From 2000 to 2010, "The District's TIF Funds were to be strategically invested in public and public/private projects focused on developing a vibrant Tucson city center. This did not occur in the initial 10-years of

the District, and the District was off mission by not focusing on improvements to the TCC as its priority. Additionally, the estimated cost of each project was significantly underestimated, which, in many cases resulted in the projects being cancelled or delayed. [1]

“Consequently, the residents of Tucson see little improvement to the area overall, a lack of generation of additional incremental sales tax revenues, few needed enhancements to the TCC (the primary component of the District), or the construction of a convention center hotel that would create destination interest for infusing the area with additional sales taxes and tourist dollars.” [2]

The 2022 audit particularly praised the renovation of the aging Tucson Convention Center, “The level of transformation of the convention center district is continually improving and growing.” (AG Audit 2022 P5)

Rio Nuevo continues to be an economic development juggernaut, even throughout the pandemic, as evidenced by Figure 1-3 on page 8 of the audit report. For the last three years The Auditor General identified \$350,423,218 dollars of private investment into the urban core subsidized by \$37,817,200 of state tax dollars spent, or a 9.3 times leverage ratio. [3]

The 2022 Auditor General audit made seven recommendations for improvement to the District’s performance. Three of the recommendations are statutory and will likely require some sort of legislative intervention to prevent ongoing compliance issues. The others are future planning recommendations, namely, creating a long-term plan and providing for the District’s succession after 2035, the identified statutory sunset. We will address each recommendation:

Recommendation #1: File annual report by October 1

This compliance issue identified is related to the October 1 deadline for filing the required annual report and audit established when the state took over The District. Virtually all of Rio Nuevo’s revenue comes from a share of state tax dollars collected, reported, and transferred to the District by the Arizona Department of Revenue. The receipt of monthly tax collections is usually about 3 months behind the actual reporting month. With a fiscal year close of June 30, the District does not receive June revenue from AROR until October. For 2022 the annual audit was published on October 22, 2022, missing the statutory deadline of October 1. This will continue to be a compliance issue unless the statute is changed.

Recommendation #2: Notification to the Joint Committee on Capital Review of any Project over \$500,000

This compliance issue cites The District for not presenting projects over \$500,000 to the Joint Capital Review Committee in 2020 and 2021. Under the 2018 legislation that extended the Rio Nuevo sunset from 2025 until 2035 this requirement was added by a late bill amendment designed to create more legislative oversight into Rio Nuevo expenditures. The statute, however, does not require approval by the JCCR but instead just a presentation from Rio Nuevo to the committee. The statute is also not clear

as to if that presentation must include an appearance before the committee since committee approval is not required.

For the 2019 report JLBC staff suggested that Rio Nuevo send in one report covering the prior year's activity and was invited by the committee to present that report for review purposes only. Given the mandatory covid shutdowns in Tucson there was no reportable activity for the fiscal year ended June 30, 2020, or anything scoped in for June 30, 2021. For the 2022 report the Chairman of The Joint Committee for Capital Review indicated to the Rio Nuevo board on December 7, 2022, that our written report and supporting documents were sufficient for the committee and The District was advised that no appearance will be required.

Recommendation #3: Only seven of nine board seats are filled

Rio Nuevo was cited for having only 7 of 9 allowed board seats filled by State appointment. The Governor has elected to keep seats open. Rio Nuevo has no control over the appointments made by state leadership. Members have no term limits and serve at the pleasure of the appointer: Governor, Speaker of the House, and President of the Senate. Rio Nuevo has operated with only seven appointed members throughout Governor Ducey's term.

Recommendation #4: Add additional staff to the Finance Department

The District board will consider this recommendation as it builds the budget for fiscal year ending June 30, 2024

Recommendation #5: Develop a five-year budget

The auditors acknowledged that The District complies with the statute requiring an annual budget but suggested that a best practice model would budget five years out. The Board will develop a five-year plan in conjunction with the fiscal 2024 annual budget.

Recommendation #6: Develop a comprehensive capital improvement plan

Now that post pandemic revenue indicates The District will survive the closures initiated due to Covid the District will add a capital improvement plan for property owned by The District to its annual operating budget process, beginning with fiscal 2024.

Recommendation #7: Develop a long-term Master Plan and Succession Plan

In the report's summary section, the auditors suggest The District could benefit from a long-term Master Plan and provide for succession of TIF enabled projects post 2035. This recommendation is timely and will be placed on the agenda early in 2023. The District will organize one or more study sessions, solicit public input and draft a roadmap for the remaining 12 year life of the TIF as well as help the State plan for the Rio Nuevo sunset in 2035.

On behalf of the entire Board and staff we are grateful for the ongoing feedback regarding our stewardship of state tax dollars. We can and will respond to the planning recommendations, but we will need some legislative assistance to comply with the reporting date and the number of appointed board

members. We have followed JLBC staff recommendations again on what to report in writing for 2022 but hope to present in person to the JCCR in subsequent years. This statute can also use some clarification regarding the exact nature of what, how and when to report, for both JLBC staff and Rio Nuevo staff.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. McCusker'.

Fletcher J. McCusker
Chairman

[1] 2022 Auditor General Audit, page 3

[2] 2010 Auditor General Audit, page 3

[3] 2022 Auditor General Audit, Figure 1-3, page 8