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ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

June 16, 2015

Senator Bob Worsley
1700 West Washington
Phoenix, Arizona 85007-2844

Re: I15-003 (R15-006)

Dear Senator Worsley:

You asked whether the Rio Nuevo Multipurpose Facilities District is subject to the restrictions of Article 9, Section 7 of the Arizona Constitution (the "Gift Clause") or is exempt from those restrictions pursuant to Article 13, Section 7 of the Arizona Constitution (the "Exemption Clause").

The Exemption Clause specifically states: "[T]ax levying public improvement districts, now or hereafter organized pursuant to law . . . shall be exempt from the provisions of [the Gift Clause]." The Rio Nuevo District is a Multipurpose Facilities District organized pursuant to Arizona Revised Statutes, Section 48-4202. That provision clarifies that a district formed pursuant to § 48-4202 "is a tax levying public improvement district." That designation is subject to any statutory limitations found elsewhere, as well as any limitations set forth in the relevant intergovernmental agreement or authorizing documents.

There is no statutory limitation, nor is there any provision in the authorizing agreements¹ related to the Rio Nuevo District, that affect its otherwise clear status as a "tax levying public improvement district." Therefore, the Rio Nuevo District is subject to exemption from the Gift Clause pursuant to the Exemption Clause.

Sincerely,

Mark Brnovich
Arizona Attorney General

¹ In evaluating this request, AGO staff reviewed the following relevant "authorizing" documents: Proposition 400; the original Intergovernmental Agreement (IGA) between the City of Tucson, the City of South Tucson, and the Town of Sahaurita; the subsequent IGA involving only the City of Tucson and the City of South Tucson; and the subsequent amendment to the second IGA.