



CTN PW 14\*063  
10-15-2013  
10-15-2038  
08-01-2038  
10-15-2038  
UB

## **BOARD OF SUPERVISORS AGENDA ITEM SUMMARY**

Requested Board Meeting Date: October 15, 2013

### **ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:**

La Cholla and River Road Associates, LLC has applied for a license to encroach on the rights-of-way of La Cholla Boulevard and River Road with existing landscaping bufferyard and drainage.

CONTRACT NUMBER (If applicable): 14\*63

### **STAFF RECOMMENDATION(S):**

The Department of Transportation recommends that the Pima County Board of Supervisors approve and the Chairman executes the License.

OK for  
Agenda  
10/15/13  
CAB  
9/20/13

CORPORATE HEADQUARTERS: \_\_\_\_\_

TO COB 10-02-13  
Agenda 10-15-13 (3)

Procure Dept 09/23/13 PM 02:22

CLERK OF BOARD USE ONLY: BOS MTG. \_\_\_\_\_

ITEM NO. \_\_\_\_\_

PIMA COUNTY COST: 0 and/or REVENUE TO PIMA COUNTY: \$ 8,000.00

FUNDING SOURCE(S): \_\_\_\_\_

(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

		YES	X	NO
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Board of Supervisors District:

1	X	2		3		4		5		All	
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IMPACT:

IF APPROVED:

La Cholla and River Road Associates, LLC will be authorized to have existing bufferyard landscaping and drainage in the rights-of-way of La Cholla Blvd. and River Road.

IF DENIED:

La Cholla and River Road Associates, LLC will have to remove existing bufferyard landscaping and drainage in the rights-of-way of La Cholla Blvd. and River Road.

DEPARTMENT NAME:

CONTACT PERSON: Debbie Knutson TELEPHONE NO.: 724-6854

For Recorder's Use Only

<b>CONTRACT</b>
NO. <u>CTN PW 14000 0000 0000 003</u>
<b>AMENDMENT NO.</b> _____
<small>This number must appear on all invoices, correspondence and documents pertaining to this contract.</small>

**PIMA COUNTY**  
**LICENSE**  
**FOR RIGHT-OF-WAY ENCROACHMENT**

THIS AGREEMENT is made between Pima County, a political subdivision of the State of Arizona ("County"), and La Cholla and River Road Associates, L.L.C., a Delaware limited liability company ("Licensee"). The parties agree as follows:

1. Grant of Permission. In consideration of Licensee's annual payment of any applicable License fee and the promises contained herein, County hereby gives permission, revocable and terminable as provided herein, to Licensee to encroach on that portion of County's right-of-way described as River Road and La Cholla Boulevard for the purpose of an existing landscaping bufferyard and drainage (the "Encroachment"). The right-of-way and the existing Encroachment are described and depicted on the attached **Exhibit "A" and "B"** (the "Property").
2. Licensee's Maintenance Obligation. Licensee shall maintain all landscaping on the Property as required by the Pima County Zoning Code. Licensee shall be solely responsible for the administration, labor and costs of maintaining the Encroachment. Licensee's failure to maintain the Encroachment shall be cause for termination of this License, and all terms of Paragraph 13 shall then apply.
3. Hold Harmless. All costs associated with the Encroachment shall be the sole responsibility expense of Licensee. Licensee assumes responsibility and liability for any injury or damage to the above

described right-of-way or to any person while using the above described right-of-way caused by or arising out of the exercise of this License. To the fullest extent allowed by law, Licensee indemnifies, defends, and holds harmless County, its officers, departments, employees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands, or damages of any kind or nature arising out of this License, which are attributed, in whole or in part to Licensee's use of the rights of way, or to any act or omission of the Licensee, its agents, employees, or anyone acting under its direction, control or on its behalf, whether intentional or negligent in connection with or incident to this License. Licensee's responsibilities shall not extend to the negligence of County, its officers, departments, employees and agents. This indemnity shall survive the termination of the License.

4. Insurance. Licensee shall obtain a \$1,000,000 commercial general liability insurance policy naming County as Additional Insured to cover the Encroachment within the County's right-of-way. County reserves the right to require additional insurance at County's sole discretion. The policy shall be maintained throughout the term of this License by the Licensee. This License shall terminate if insurance lapses. A certificate of insurance shall be supplied to County on an annual basis with the stipulation that the insurance company shall notify County in writing of any intent to cancel the liability insurance. This notification shall be required no less than thirty days prior to cancellation, and Licensee shall remove the Encroachment at its expense within thirty days of notification.
5. Annual Fee. Pursuant to Pima County Board of Supervisors Policy Number F54.3, Licensee shall pay an annual fee to County in the amount of \$320.00, due upon execution of this License and on each anniversary of the date that the Pima County Board of Supervisors executes this License.
6. Permits. This License is not a right of way use permit. Following the granting of this License by County, Licensee shall obtain all applicable permits, which may include a Right-of-Way Use Permit, a County Use Permit, Building Permit or Floodplain Use Permit.
7. Compliance With Highway Safety. The Encroachment shall not interfere with the safety of the traveling public or the authorized public use of right-of-way, and may not otherwise interfere with the general health, safety and welfare of the citizens of Pima County. The Encroachment shall be maintained by Licensee so as not to interfere with safe sight distance or safe travel along the right-of-way.
8. Requirement of Zoning Code. The Encroachment is a requirement of the Pima County Zoning Code. Upon the termination of this License, Licensee's abutting property shall still be subject to the zoning requirements for landscaping buffer, and Licensee shall provide such buffer within Licensee's own property or be in violation of the Zoning Code.
9. Term. This License shall run for a period of 25 (twenty five) years from the date this License is executed by Pima County Board of Supervisors. Notwithstanding any other condition, this License

may be terminated by either party or revoked by County upon ninety days' written notice to the other. County may terminate or revoke by recording a termination or revocation statement executed by the Manager of the Real Property Services of the Public Works Administration. When this License lapses, terminates or is revoked, Licensee shall remove the Encroachment from the right-of-way at no expense to County and to the satisfaction of County within 90 days. Licensee shall restore the right-of-way to the pre-License condition or as may be mutually agreed upon. The indemnifications set forth in Paragraph 3 above shall survive the termination or revocation of this License.

10. Underground Facilities. If Encroachment includes any underground facilities, Licensee is required to maintain a membership with Arizona Blue Stake, Inc., or its successors or assigns, throughout the term of this License.
11. Licensee Has No Interest or Estate. Licensee agrees that it has no claim, interest, or estate at any time in the right-of-way by virtue of this License or its use hereunder. Upon termination or revocation of this License, Licensee shall have no right of entry upon the right-of-way.
12. License Runs With the Land. The provisions, conditions, restrictions and covenants of this License are both personal and shall run with the land described on the attached **Exhibit "C"** and shall be binding on all persons owning or occupying any portion of the land. Conveyance of the land will not relieve the prior owner of any obligations that accrued prior to conveyance.
13. Removal of Encroachment. Upon termination or revocation of this License for any reason or in the event partial or total removal of the Encroachment is required by County, Licensee shall promptly remove all or part of the Encroachment as required by County at Licensee's sole expense and to the satisfaction of County. Licensee shall not seek compensation or financial reimbursement for any and all costs associated with the removal or relocation of the Encroachment from County. In the event the Encroachment is not promptly removed by Licensee as directed by County, County shall have the right to remove the Encroachment and Licensee hereby agrees to reimburse the total amount of County's costs incurred for the partial or complete removal of the Encroachment within sixty (60) days of receipt of an invoice from County for said costs. In the event Licensee fails to reimburse County for the costs of removal within the 60-day period, County shall immediately file a lien upon the property described in **Exhibit "C"** herein, which shall be a continuing lien, and Licensee hereby consents to the placement of such a lien on said property. Said lien may be enforced by foreclosure in like manner as a mortgage on real property. County shall be entitled to County's reasonable attorney's fees and interest at the rate established by A.R.S. § 44-1201(A), occurring from the date the costs are incurred.
14. Conflict of Interest. This Agreement is subject to A.R.S. § 38-511 which provides for cancellation of contracts by Pima County for certain conflicts of interest.

LICENSEE: La Cholla and River Road Associates, L.L.C.

By: *Howard T. Grace*

Title: *Managing Member*

State of Arizona     )  
                                  )     ss  
County of Pima     )

This instrument was acknowledged before me this 30<sup>th</sup> day of July, 2012<sup>3</sup>,  
by Howard T. Grace, as Managing Member  
of La Cholla and River Road Associates, L.L.C.

*Melody U. Escobedo*  
Notary Public

My Commission Expires:

8-2-14



IN WITNESS WHEREOF, the parties hereto have executed this License.

PIMA COUNTY, ARIZONA

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Chairman, Pima County Board of Supervisors

ATTEST:

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Clerk, Pima County Board of Supervisors

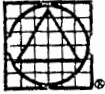
APPROVED AS TO FORM:



**TOBIN ROSEN**

---

~~Ned Konigsberg~~  
Deputy County Attorney



1745 East River Road  
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Tucson, Arizona 85718  
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FAX: (520) 322-6956  
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## RICK ENGINEERING COMPANY

### EXHIBIT A

### LEGAL DESCRIPTION

A PORTION OF LA CHOLLA BOULEVARD AND RIVER ROAD, LYING ADJACENT TO **BLOCK 2 OF RIVERSIDE CROSSING BLOCKS 1 THROUGH 6**, A SUBDIVISION RECORDED IN BOOK 52 OF MAPS AND PLATS AT PAGE 93, PIMA COUNTY RECORDER'S OFFICE, ARIZONA, DESCRIBED AS FOLLOWS;

A STRIP OF LAND LYING 10.00 FOOT SOUTHERLY OF, PARALLEL AND CONCENTRIC WITH THE FOLLOWING DESCRIBED BOUNDARY LINE OF SAID **BLOCK 2**;

**COMMENCING** AT THE NORTHWEST CORNER OF SAID **BLOCK 2**, BEING A 1/2" REBAR TAGGED LS 17479;

THENCE SOUTH 0°50'14" EAST 612.56 FEET TO A 1/2" REBAR TAGGED LS 17479 AT THE NORTHERLY CURVE RETURN AT THE SOUTHWEST CORNER OF SAID **BLOCK 2**;

THENCE SOUTHEASTERLY UPON THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 90°00'00", FOR AN ARC DISTANCE OF 78.54 FEET TO A 1/2" REBAR TAGGED LS 17479 AND THE **POINT OF BEGINNING**;

THENCE NORTH 89°09'46" EAST 372.13 FEET TO A 1/2" REBAR TAGGED LS 17479 AT A TANGENT CURVE CONCAVE SOUTHERLY;

THENCE EASTERLY UPON THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1525.00 FEET AND A CENTRAL ANGLE OF 15°27'53", FOR AN ARC DISTANCE OF 411.61 FEET TO A TO A 1/2" REBAR TAGGED LS 17479 AT A POINT OF COMPOUND CURVATURE;

THENCE EASTERLY UPON THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1498.41 AND A CENTRAL ANGLE OF 4°23'14", FOR AN ARC DISTANCE OF 114.74 FEET TO A 1/2" REBAR TAGGED LS 17479 AT THE **POINT OF TERMINUS**.

THE SOUTHERLY LINE OF SAID STRIP TO BE EXTENDED TO THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID **BLOCK 2**

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LA CHOLLA BLVD

POC



SCALE: 1" = 150'

BLOCK 2  
RIVERSIDE CROSSING  
BK 52 PG 93

POB

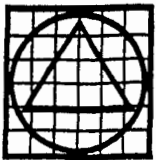
10.00'

SUBJECT AREA

POT

RIVER ROAD

EXHIBIT TO ACCOMPANY DESCRIPTION  
WITHIN PORTION OF SECTION 15,  
TOWNSHIP 13 SOUTH, RANGE 13 EAST,  
G&SRM, PIMA COUNTY, ARIZONA

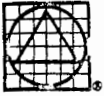


RICK  
ENGINEERING  
COMPANY

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PAGE 2 OF 2  
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## RICK ENGINEERING COMPANY

### EXHIBIT B

### LEGAL DESCRIPTION

A PORTION OF LA CHOLLA BOULEVARD AND RIVER ROAD, LYING ADJACENT TO **BLOCK 2 OF RIVERSIDE CROSSING BLOCKS 1 THROUGH 6**, A SUBDIVISION RECORDED IN BOOK 52 OF MAPS AND PLATS AT PAGE 93, PIMA COUNTY RECORDER'S OFFICE, ARIZONA, DESCRIBED AS FOLLOWS;

A STRIP OF LAND LYING 10.00 FEET WESTERLY OF, PARALLEL AND CONCENTRIC WITH THE FOLLOWING DESCRIBED BOUNDARY LINE OF SAID **BLOCK 2**;

**BEGINNING** AT THE NORTHWEST CORNER OF SAID **BLOCK 2**, BEING A ½" REBAR TAGGED LS 17479;

THENCE SOUTH 0°50'14" EAST 612.56 FEET TO A ½" REBAR TAGGED LS 17479 AT THE NORTHERLY CURVE RETURN AT THE SOUTHWEST CORNER OF SAID **BLOCK 2**;

THENCE SOUTHEASTERLY UPON THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 90°00'00", FOR AN ARC DISTANCE OF 78.54 FEET TO A ½" REBAR TAGGED LS 17479 AND THE **POINT OF TERMINUS**.

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LA CHOLLA BLVD

POB

10.00'

SCALE: 1" = 150'

BLOCK 2  
RIVERSIDE CROSSING  
BK 52 PG 93

SUBJECT AREA

POT

RIVER ROAD

EXHIBIT TO ACCOMPANY DESCRIPTION  
WITHIN PORTION OF SECTION 15,  
TOWNSHIP 13 SOUTH, RANGE 13 EAST,  
G&SRM, PIMA COUNTY, ARIZONA



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PAGE 2 OF 2  
04-AUG-2004

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**EXHIBIT C**

Block 2 of Riverside Crossing, a subdivision of Pima County, Arizona according to the map or plat thereof of record in the office of the County Recorder of Pima County, Arizona in Book 52 of Maps and Plats at Page 93 thereof.

Together with rights for ingress and egress granted in Declaration of Covenants, Conditions, Restrictions and Easements for Riverside Crossing recorded November 02, 2003 in Docket 11165 at Page 646.