



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: May 18, 2021

* = Mandatory, information must be provided

or Procurement Director Award ☐

***Contractor/Vendor Name/Grantor (DBA):**

Drexel Heights Fire District, a body politic

***Project Title/Description:**

Acquisition Agreement - Acq-1044

***Purpose:**

Pima County and Drexel Heights Fire District ("DHFD") entered into an Intergovernmental Agreement (IGA) in 2010 for the shared use of premises as a part of the Pima County Wireless Integrated Network ("PCWIN"). PCWIN occupies a portion of DHFD's premises located at 6950 S. Beehive Avenue, Pima County, Arizona, T15S/R13E/S18, tax parcel 138-33-280B (the "Eagles Nest"), which includes space on the existing tower and space inside the existing building. DHFD has offered to convey the premises to Pima County with the condition that DHFD is allowed to continue occupying a portion of the premises for up to ten (10) years for its existing equipment while it phases out use of said equipment. The acquisition of the Eagles Nest provides PCWIN a permanent site for its communications equipment and provides for a source of income from other users of the premises.

***Procurement Method:**

Exempt pursuant to Pima County Code 11.04.020

***Program Goals/Predicted Outcomes:**

Pima County will acquire title to the Eagles Nest for the PCWIN, securing a permanent site for communications equipment and enter into an agreement for DHFD to continue occupying a portion of the premises for up to 10 years.

***Public Benefit:**

PCWIN will secure title to the Eagles Nest and the improvements thereon, enter into an agreement for DHFD's continued occupancy of the premises for continued emergency services communications and begin collecting revenue by assuming the two existing occupancy agreements with (1) Simply Bits and (2) DakotaCom.

***Metrics Available to Measure Performance:**

PCWIN will acquire 1.23 ac. of improved property for a not to exceed amount of \$5,000.00 in closing costs. In lieu of a cash payment for the Eagles Nest, DHFD will enter into a 10 year lease with Pima County for its continued use of portions of the Eagles Nest premises. The value of the Eagles Nest premises has been appraised and exceeds the value of DHFD's 10 year lease (the 10 year lease to DHFD will be considered by the Board of Supervisors under a separate Board action and must be approved by the Board if this item is approved by the Board).

***Retroactive:**

N/A

TO: COB 5-3-21 (1)
vers.: 1
pgs.: 36

Procure Dept 05/03/21 PM 11:00

Contract / Award Information

Document Type: CT Department Code: PW Contract Number (i.e., 15-123): 21*0415
Commencement Date: 5/18/2021 Termination Date: 5/17/2022 Prior Contract Number (Synergen/CMS): _____
☒ **Expense Amount: \$*** 5,000.00 ☐ Revenue Amount: \$ _____

***Funding Source(s) required:** Wireless Integrated Network

Funding from General Fund? ☐ Yes ☒ No If Yes \$ _____ % _____

Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No

If Yes, is the Contract to a vendor or subrecipient? _____

Were insurance or indemnity clauses modified? ☐ Yes ☒ No

If Yes, attach Risk's approval.

Vendor is using a Social Security Number? ☐ Yes ☒ No

If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____
Amendment No.: _____ AMS Version No.: _____
Commencement Date: _____ New Termination Date: _____
Prior Contract No. (Synergen/CMS): _____
☐ Expense or ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ _____

Is there revenue included? ☐ Yes ☐ No If Yes \$ _____

***Funding Source(s) required:** Special Revenue Fund

Funding from General Fund? ☐ Yes ☐ No If Yes \$ _____ % _____

Grant/Amendment Information (for grants acceptance and awards) ☐ Award ☐ Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e., 15-123): _____
Commencement Date: _____ Termination Date: _____ Amendment Number: _____
☐ Match Amount: \$ _____ ☐ Revenue Amount: \$ _____

***All Funding Source(s) required:**

***Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ _____ % _____

***Match funding from other sources?** ☐ Yes ☐ No If Yes \$ _____ % _____

***Funding Source:** _____

***If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?** _____

Contact: Dana Hausman

Department: Public Works - Real Property Services Telephone: 724-6713

Department Director Signature/Date: [Signature] 4/30/2021

Deputy County Administrator Signature/Date: [Signature] 4/30/2021

County Administrator Signature/Date: C. R. [Signature] 4/30/21
(Required for Board Agenda/Addendum Items)



ADV Contract number: CT-PW-21*0415

ACQUISITION AGREEMENT – ACQ-1044

1. **Defined Terms.** The following terms will be used as defined terms in this Acquisition Agreement and have the meaning set forth below ("**Agreement**");

1.1. Seller: Drexel Heights Fire District, a body politic

1.2. Buyer: Pima County, a political subdivision of the State of Arizona

1.3. Purchase Price: In lieu of a cash payment for the Property, Seller has offered and Buyer is amenable to allowing Seller continued occupancy of the Property for ten (10) years at no cost. Terms of the ten-year occupancy are detailed in the Lease shown at **Exhibit G** attached hereto and made a part thereof.

1.4. Buyer's Maximum Costs: the sum of (i) Buyer's share of Closing Costs, and (ii) Buyer's share of Prorations, which combined shall not exceed Five Thousand Dollars (\$5,000.00)

1.5. Title Company: Pioneer Title Agency, Inc., Kim Moss, Escrow Officer; 7445 N. Oracle Road, Suite 101, Tucson, AZ 85704

1.6. Effective Date: the date Seller and Buyer have approved and accepted this Agreement by affixing their signatures. The date Buyer executes this Agreement is the date this Agreement is signed by the Chair of the Pima County Board of Supervisors.

1.7. Property: the real property described in **Exhibit A** and depicted in **Exhibit A-1**, together with all improvements thereon and all water rights associated with the

Property, if any.

1.8. Removed Exceptions: items 9, 10 & 11 on **Exhibit B**

1.9. Seller's Address: Drexel Heights Fire District, 5950 S. Cardinal, Tucson, AZ 85746

1.10. Buyer's Address: Manager, Pima County Real Property Services, 201 N Stone Ave, 6th Flr, Tucson, AZ 85701-1207; E-mail: jeffrey.teplitsky@pima.gov

2. **Parties; Effective Date.** This Agreement is entered into between Seller and Buyer, and shall be effective on the Effective Date. Seller and Buyer are collectively referred to herein as the "**Parties**," and individually as a "**Party**."

3. **Purchase of Property; Right of Entry; Driveways.** Buyer agrees to acquire from Seller, and Seller agrees to convey to Buyer, in consideration of the Purchase Price, the following real property interests:

3.1. Seller's fee interest in the Property;

3.2. The right for Buyer, its agents and contractors, to enter upon the Property (the "**ROE**") prior to closing to inspect the Property and to conduct other non-ground-disturbing activities, provided that such activities do not unduly disturb Seller's use of the Property.

3.3. The right, if necessary, to adjust driveway grades on the Property to match the grade of County improvements.

4. **Seller's Warranties**

4.1. Leases. Seller warrants that there are no oral or written leases on all or any portion of the Property except those shown on the attached **Exhibit F**

4.1. Wells and Water Rights. Seller warrants that there are no wells on or water rights associated with the Property, except as specifically identified on **Exhibit C** attached. Seller agrees to assign and transfer to Buyer effective upon Closing, any and all wells or water rights certificated or claimed appurtenant to the Property. Seller shall execute all documents reasonably necessary to effectuate such transfer.

4.2. Underground Improvements. Seller warrants that there are no septic tanks, septic or leach fields, alternative waste disposal systems, private irrigation lines, and/or other underground improvements on the Property, except as specifically identified on **Exhibit D** attached.

5. **Closing Costs and Prorations.**

5.1. Closing Costs. The closing costs ("**Closing Costs**") will be paid as follows:

5.1.1. Buyer will pay all closing costs, including but not limited to title insurance premium, escrow fees and recording fees. Those costs will not exceed Buyer's Maximum Costs

5.2. Prorations. Property taxes, rents, and annual payment of assessments with interest, if any (collectively "**Prorations**") will be prorated as of the date of Closing.

5.3. Buyer's Total Costs. Buyer's total costs at Closing shall not exceed Buyer's Maximum Cost, provided, however, that Buyer may unilaterally increase Buyer's Maximum Cost by written notice from Buyer to Seller prior to Closing.

6. **Escrow and Title.**

6.1. Escrow. Title Company will act as escrow agent. This Agreement will constitute escrow instructions in connection with the escrow established with Title Company under this Agreement (the "**Escrow**"). Title Company will make reasonably suitable arrangements with either Party, upon that Party's request, to have the Party execute any of the documents to be executed by that Party as provided in this Agreement at the office of Title Company that is most convenient for Buyer.

6.2. Title Commitment. Escrow Agent will distribute to the Parties a Commitment for Standard Owner's Title Insurance (the "**Commitment**") together with complete and legible copies of all documents which will remain as exceptions to Buyer's policy of title insurance.

6.3. Amended Commitment. In the event Title Company should issue an Amended Commitment for Title Insurance which discloses an exception(s) not previously disclosed, Buyer shall have fifteen (15) days after the receipt of the Amended Commitment and the new Exceptions (the "**Disapproval Period**") within which to notify Seller and the

Escrow Agent in writing of Buyer's disapproval of any new exceptions shown thereon (the "**Disapproval Notice**"). In the event of such disapproval, Seller shall have ten (10) days from receipt of the Disapproval Notice in which to notify Buyer in writing whether Seller intends to eliminate each of the disapproved Exceptions prior to the Closing (the "**Notice Period**"). If Seller fails to notify Buyer of its intent with respect to the disapproved items within that time or if Seller elects not to cure all disapproved items, Buyer may terminate this Agreement and the Escrow will be canceled. If the Amended Commitment is issued less than fifteen (15) days prior to the date of the Closing, then the date of the Closing is extended until the end of the Disapproval Period and the Notice Period, if applicable.

6.4. Title Policy is Condition to Closing. Buyer's obligation to Close is contingent upon Title Company being prepared to issue a Standard Owner's Title Insurance Policy for the Fee Property, in the amount of the Purchase Price, subject only to the exceptions on **Exhibit B** other than the Removed Exceptions, and the standard printed exceptions in the policy; provided, however, that notwithstanding **Exhibit B**, all monetary liens and encumbrances on the Fee Property will be removed before Closing, unless this Agreement expressly provides for the prorating of any such lien or encumbrance.

7. **Closing.**

7.1. Closing Date. The Closing of the sale of the Property to Buyer (the "**Closing**") will take place at the office of Title Company on or before one hundred twenty (120) days after the Effective Date, provided however, that Buyer may extend the Closing until thirty (30) days after receipt of all necessary releases or consents from Lienholders. Notwithstanding the foregoing, this Agreement will terminate if closing has not occurred within one year after execution by Buyer.

7.2. Deliveries by Buyer at Closing. At Closing, Buyer shall deliver to Seller through Escrow the following:

7.2.1. The Buyer shall deliver a Lease as shown in **Exhibit G**, which Seller will execute at closing; and

7.2.2. Such additional documents as Seller or Escrow Agent may reasonably require to effectuate the purchase.

7.3. Deliveries by Seller at Closing. At Closing, Seller shall deliver to Buyer through Escrow the following:

7.3.1. An executed Special Warranty Deed in the form of **Exhibit E**;

7.3.2. One or more assignments of all the water rights and well registrations certificated or claimed in which Seller has an interest and appurtenant to the Property, if any, and all certificated or claimed Grandfathered Type 2 water rights, if any;

7.3.3. Such additional documents as Buyer or Escrow Agent may reasonably require to effectuate the Purchase.

7.4. Delivery of Possession. Seller shall deliver possession of the Property to Buyer at Closing.

7.5. Security Interests. Monies payable under this Agreement may be due holders (the "Lienholders") of certain notes secured by mortgages or deeds of trust, up to and including the total amount of unpaid principal, interest and penalty on the notes, if any, and will, upon demand by the Lienholders, be paid to the Lienholders. Seller shall obtain from the Lienholders releases for any fee transfer.

8. **Seller's Covenants.**

8.1. No Personal Property. No personal property is being transferred pursuant to this Agreement. Seller represents that as of closing there will be no personal property located on the Property, other than that personal property that is provided for as part of the Lease shown in **Exhibit G**.

8.2. No Salvage. Seller shall not salvage or remove any fixtures, improvements, or vegetation from the Property, but this does not prohibit Seller from removing personal property prior to the Closing. In addition, prior to Closing, the Property will not be materially degraded or otherwise materially changed in any aspect by Seller.

8.3. Risk of Loss for Damage to Improvements. Seller bears the risk of loss or damage to the Property prior to Closing. After Closing, the risk of loss or damage to the Property rests with Buyer.

8.4. Government Approvals. Seller shall obtain all government approvals

required to close the sale of the Property, if any.

8.5. Use of Property by Seller. Seller shall, prior to the Closing, use the Property on a basis substantially comparable to Seller's historical use thereof. Seller shall maintain the Property in substantially the same condition as it is presently in, ordinary wear and tear excepted, and without liens or encumbrances that Seller will be able to cause to be released before the Closing.

8.6. No Encumbrances. Seller shall not encumber the Property with any lien that Seller will be unable to cause to be released before Closing, and Seller shall not be entitled to sell or exchange all or any portion of the Property before Closing without the prior written approval of Buyer; provided, however, that any such sale will be conditioned upon a written assumption by Buyer thereof of the obligations of Seller under this Agreement, and there will be no novation of Seller with respect to its obligations under this Agreement. From and after the Effective Date through the Closing, Seller will not enter into, execute or record any covenant, deed restriction, or any other encumbrance against the Property. The recording of any such covenant, deed restriction, or other encumbrance, is a material breach of this Agreement and entitles Buyer to terminate this Agreement.

8.7. Reports. Seller shall make available to Buyer all documents relating to the Property that it has in its possession regarding the Property, including any and all surveys, information regarding wells and water rights, and environmental reports.

9. **Environmental.**

9.1. Environmental Representations. Buyer and Seller agree that neither party is assuming any obligation of the other party relating to any potential liability, if any, arising from the environmental condition of the Property, each party remaining responsible for its obligations as set forth by law. Seller represents and warrants that, to the best of Seller's knowledge, no pollutants, contaminants, toxic or hazardous substances, wastes or materials have been stored, used or are located on the Property or within any surface or subsurface waters thereof; that no underground tanks have been located on the Property; that the Property is in compliance with all Federal, state and local environmental laws, regulations and ordinances; and that no legal action of any kind has been commenced or threatened with respect to the Property.

9.2. Environmental Inspection Rights.

9.2.1. From and after the Effective Date, Seller shall permit Buyer to conduct such inspections of the Property as the Buyer deems necessary to determine the environmental condition of the Property. If any environmental inspection recommends further testing or inspection, the Parties hereby agree to extend the date of Closing to at least thirty (30) days after the report for such additional testing or inspection is completed on behalf of Buyer, but not later than an additional one hundred eighty (180) day extension.

9.2.2. If any environmental inspection reveals the presence of contamination or the need to conduct an environmental cleanup, Buyer shall provide written notice to Seller, prior to Closing, of any items disapproved by Buyer as a result of Buyer's inspection (the "**Objection Notice**"). If Buyer sends an Objection Notice, Seller may, within five (5) business days of receipt of the Objection Notice, notify Buyer if Seller is willing to cure any of the items to which Buyer objected (the "**Cure Notice**"). If Seller elects not to send Buyer a Cure Notice or if Seller's Cure Notice is not acceptable to Buyer, then Buyer may elect to terminate this Agreement, in which case the Agreement will be terminated and of no further force and effect.

10. **Broker's Commission.** No broker or finder has been used and Buyer owes no brokerage or finders fees related to this Agreement. Seller has sole responsibility to pay all brokerage or finders fees to any agent employed.

11. **Default, Remedies, and Conditions Precedent.** In the event either Party defaults under this Agreement, the other Party shall be entitled to pursue all rights and remedies available at law or in equity, including specific performance. To the extent a Party seeks damages, the recovery is limited to actual damages (including any losses or penalties suffered by Buyer as a result of any violation of federal arbitration violations caused by a wrongful failure of Seller to perform). Neither Party is entitled to exemplary, punitive, special, indirect or consequential damages.

12. **Exhibits.** The following Exhibits are fully incorporated herein as if set forth at length. To the extent that any Exhibits to this Agreement are not available at the execution thereof, they will be added by the Parties prior to Closing and will be in form and substance reasonably satisfactory to the Parties.

Exhibit A **Description of Property**
Exhibit A-1 **Depiction Showing Property**

<u>Exhibit B</u>	Permitted Exceptions for Property
<u>Exhibit C</u>	Seller Disclosure of Water Rights
<u>Exhibit D</u>	Seller Disclosure of Underground Improvements
<u>Exhibit E</u>	Form of Deed for Property
<u>Exhibit F</u>	Existing Leases
<u>Exhibit G</u>	Lease for 10-yr Occupancy

13. **Miscellaneous Provisions.** The following miscellaneous provisions apply to this Agreement:

13.1. Notices.

13.1.1. *Writing.* All notices required or permitted to be given hereunder must be in writing and mailed by first class, registered, certified or overnight mail, return receipt requested, postage prepaid, or transmitted by electronic mail, facsimile, or hand delivered, addressed to Seller's address or Buyer's address.

13.1.2. *Receipt.* If mailed, all such notices, demands, requests, or other communications are deemed received upon the expiration of seventy-two (72) hours after deposit in the U.S. mail as aforesaid. Notice served personally or by electronic mail or facsimile is deemed served upon delivery thereof to the addressee. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given is deemed to be receipt of the notice, demand or request sent. Any party entitled to notices hereunder may from time to time designate to the other parties, in writing and given in accordance with this Section, a different address for service of notice.

13.2. Governing Law. This Agreement is subject to, and interpreted by and in accordance with, the laws of the State of Arizona. Any action to be brought under this Agreement must be filed and maintained in a court in Pima County, Arizona.

13.3. Entire Agreement. This Agreement is the entire Agreement of the Parties respecting the subject matter hereof. There are no other agreements, representations or warranties, whether oral or written, respecting the subject matter hereof.

13.4. Interpretation. This Agreement, and all the provisions of this Agreement, is deemed drafted by all of the Parties. This Agreement will not be interpreted strictly for or against any Party, but solely in accordance with the fair meaning of the provisions hereof to effectuate the purposes and intent of this Agreement.

13.5. No Representations. Each Party has entered into this Agreement based solely upon the agreements, representations and warranties expressly set forth herein and upon that Party's own knowledge and investigation. Neither Party has relied upon any representation or warranty of any other Party except any such representations or warranties as are expressly set forth herein.

13.6. Signing Authority. Each of the persons signing below on behalf of a Party represents and warrants that the signer has full requisite power and authority to execute and deliver this Agreement on behalf of the Party for whom the signer signs and to bind such Party to the terms and conditions of this Agreement.

13.7. Counterparts. This Agreement may be executed in counterparts, each of which is effective as an original. This Agreement becomes effective only when all of the Parties have executed the original or counterpart hereof. This Agreement may be executed and delivered by a facsimile transmission or email of a counterpart signature page hereof.

13.8. Attorney's Fees and Costs. In any action brought by a Party to enforce the obligations of any other Party, the prevailing Party is entitled to collect from the opposing Party to such action such Party's reasonable litigation costs and attorney's fees and expenses, including court costs, reasonable fees of accountants and experts, and other expenses incidental to the litigation in addition to all other relief, all of which will be set by a judge and not by a jury, to which the prevailing Party may be entitled.

13.9. Binding Affect. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns.

13.10. No Third Party Beneficiaries. This is not a third party beneficiary contract. No person or entity other than a Party signing this Agreement has any rights under this Agreement, except as expressly provided in this Agreement.

13.11. Amendment. This Agreement may be amended or modified only in a writing signed by the Parties, which specifically references this Agreement.

13.12. No Partnership. Nothing in this Agreement creates a partnership or joint venture, or authorizes any Party to act as agent for or representative of any other Party.

13.13. No Waiver. The failure of a Party to require full or timely performance of

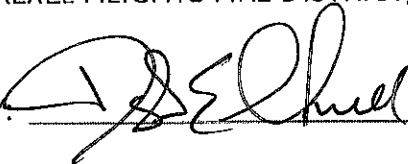
any obligation arising under this Agreement (whether on a single occasion or on multiple occasions) is not a waiver of any such obligation. No such failure gives rise to any claim of estoppel, laches, course of dealing, amendment of this Agreement by course of dealing, or other defense of any nature to any obligation arising hereunder.

13.14. Time of the Essence. Time is of the essence with respect to each obligation arising under this Agreement.

13.15. Conflict of Interest. This Agreement is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of Buyer is, at any time while this Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement with respect to the subject matter of the Agreement.

Seller's Approval and Acceptance:

DREXEL HEIGHTS FIRE DISTRICT, a body politic

BY: _____

Douglas E. Chappell

(printed name)

ITS: District Administrator & Fire Chief

Date: April 23, 2021

Buyer's Approval and Acceptance:

COUNTY: PIMA COUNTY, a political subdivision of the State of Arizona:

Chair, Board of Supervisors

Date

ATTEST:


Julie Castañeda, Clerk of Board

Date

APPROVED AS TO CONTENT:




Jeffrey Teplitsky, Manager, Real Property Services

 4/30/2021

Carmine DeBonis, Deputy County Administrator, Public Works

APPROVED AS TO FORM:



Kell Olson, Deputy County Attorney

Re: 138-33-280B



COMMITMENT FOR TITLE INSURANCE

Issued by

Pima Title Agency, Inc.

Order Number: 504-233323 KM

- KW

EXHIBIT A LEGAL DESCRIPTION

The land referred to herein below is situated in the County of Pima, State of Arizona, and is described as follows:

Parcel 1:

All that part of the Northeast Quarter of the Southeast Quarter of Section 18, Township 15 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

BEGINNING at a point in the West line of said Northeast Quarter of the Southeast Quarter of Section 18, which point is South 00 degrees 11 minutes 12 seconds West, along said West line 790.26 feet from the Northwest corner of said Northeast Quarter of the Southeast Quarter, and which point is South 59 degrees 01 minutes 35 seconds West 1551.24 feet from the East Quarter corner of said Section 18;

THENCE South 00 degrees 11 minutes 12 seconds West, along said West line, 200.00 feet;

THENCE South 89 degrees 48 minutes 48 seconds East, at right angles to said West line, 268.46 feet;

THENCE North 00 degrees 11 minutes 12 seconds East, parallel with said West line, 200.00 feet;

THENCE North 89 degrees 48 minutes 48 seconds West 268.46 feet to the POINT OF BEGINNING.

Parcel 2:

An easement for ingress and egress as created in instrument recorded in Book 7020 at Page 386 over a strip of land, 25.00 feet in width, 12.50 feet each side of the center line described as follows:

That part of the Northeast Quarter of the Southeast Quarter of Section 18, Township 15 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

BEGINNING at a point in the North line of said Southeast Quarter of Section 18, which point is South 89 degrees 39 minutes 04 seconds West, along said North line, 12.50 feet from the East Quarter corner of said Section 18;

THENCE South 00 degrees 06 minutes 00 seconds West, parallel with the East line of said Section 18, 552.75 feet to a point of curve;

THENCE Southwesterly along the arc of a 50.00 foot radius curve to the right, through a central angle of 36 degrees 45 minutes 24 seconds, 32.08 feet to a point of tangent;

THENCE South 36 degrees 51 minutes 24 seconds West 43.74 feet to a point of curve;

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by FIRST NATIONAL TITLE INSURANCE COMPANY. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

FNTI Form No.: Com16 ALTA Commitment for Title Insurance Adopted 8-01-2016

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COMMITMENT FOR TITLE INSURANCE

Issued by

Pioneer Title Agency, Inc.

Order Number: 504-233323 KM

EXHIBIT A

(Continued)

THENCE Southwesterly along the arc of a 25.00 foot radius curve to the right, through a central angle of 47 degrees 27 minutes 59 seconds 20.71 feet to a point of reverse curve;

THENCE Southwesterly along the arc of a 225.00 foot radius curve to the left, through a central angle of 36 degrees 08 minutes 11 seconds 141.91 feet to a point of tangent;

THENCE South 48 degrees 11 minutes 12 seconds West 85.89 feet to a point of curve;

THENCE Southwesterly along the arc of a 375.00 foot radius curve to the right, through a central angle of 12 degrees 15 minutes 36 seconds 80.24 feet to a point of tangent;

THENCE South 60 degrees 26 minutes 48 seconds West 308.86 feet to a point of curve;

THENCE Northwesterly along the arc of a 20.00 foot radius curve to the right, through a central angle of 116 degrees 19 minutes 28 seconds, 40.60 feet to a point of tangent;

THENCE North 03 degrees 13 minutes 44 seconds West 120.09 feet to a point of curve;

THENCE Northwesterly along the arc of a 45.00 foot radius curve to the left, through a central angle of 52 degrees 01 minutes 31 seconds, 40.86 feet to a point of tangent;

THENCE North 55 degrees 15 minutes 15 seconds West 61.26 feet to a point of curve;

THENCE Northwesterly along the arc of a 35.00 foot radius curve to the right, through a central angle of 47 degrees 12 minutes 35 seconds 28.84 feet to a point of tangent;

THENCE North 08 degrees 02 minutes 40 seconds West, 49.11 feet to a point of curve;

THENCE Northwesterly along the arc of a 15.00 foot radius curve to the left, through a central angle of 109 degrees 48 minutes 52 seconds, 28.75 feet to a point of tangent;

THENCE South 62 degrees 08 minutes 28 seconds West, 145.13 feet to a point of curve;

THENCE Southwesterly along the arc of a 160.00 foot radius curve to the left, through a central angle of 21 degrees 57 minutes 54 seconds, 61.34 feet to a point of tangent;

THENCE South 40 degrees 10 minutes 34 seconds West 171.49 feet to a point of curve;

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by FIRST NATIONAL TITLE INSURANCE COMPANY. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

FNTI Form No.: Com16 ALTA Commitment for Title Insurance Adopted 8-01-2016

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COMMITMENT FOR TITLE INSURANCE

Issued by

Pioneer Title Agency, Inc.

Order Number: 504-233323 KM

EXHIBIT A

(Continued)

THENCE Southwesterly along the arc of a 45.00 foot radius curve to the right, through a central angle of 48 degrees 11 minutes 57 seconds, 37.86 feet to a point of intersection with the East line of the above described parcel, which point is South 00 degrees 11 minutes 12 seconds West, along said East line, 104.77 feet from its Northeast corner.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by FIRST NATIONAL TITLE INSURANCE COMPANY. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

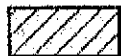
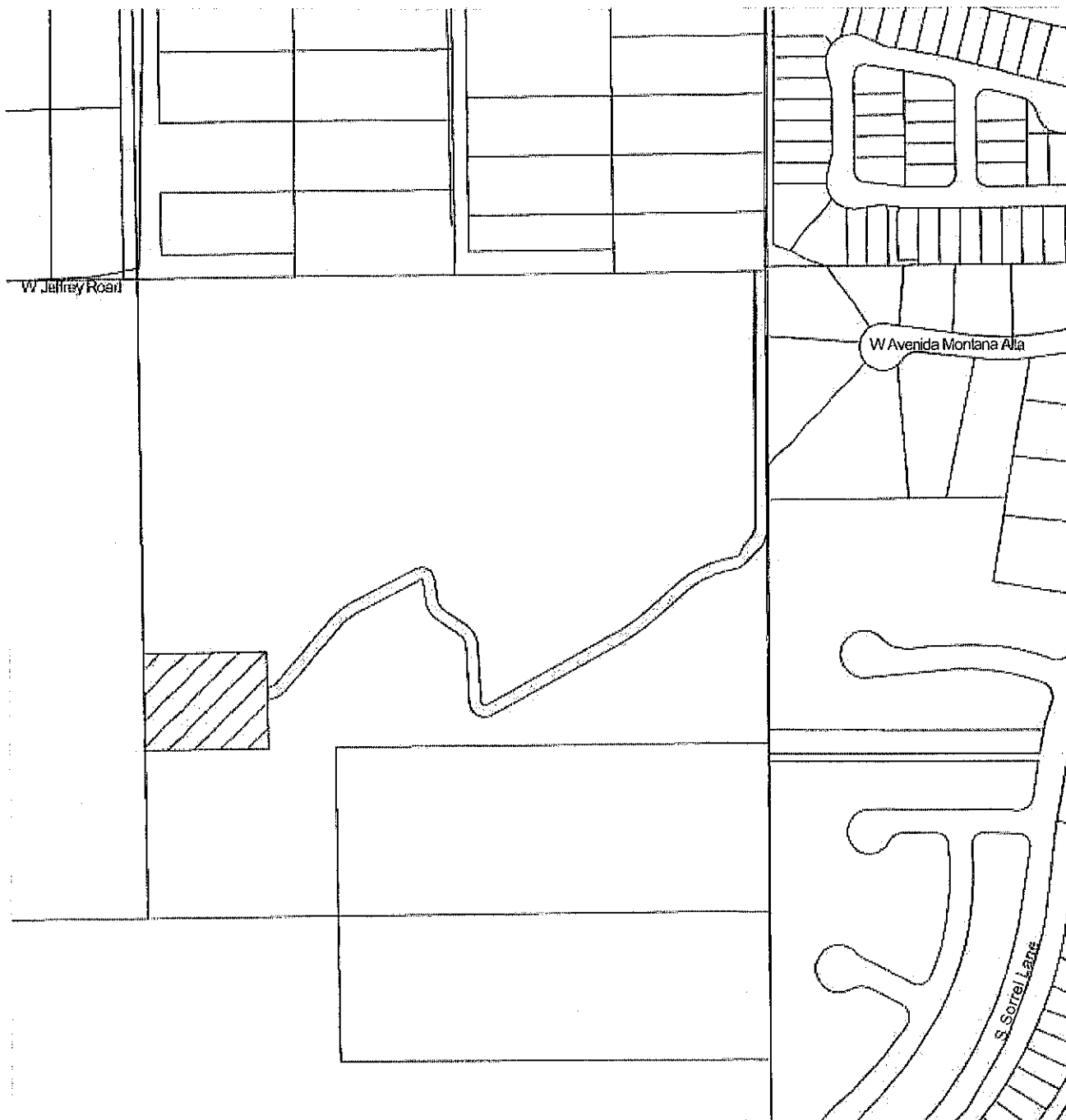
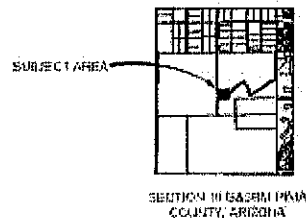
FNTI Form No.: Com16 ALTA Commitment for Title Insurance Adopted 8-01-2016

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SECTION 18
TOWNSHIP 15 SOUTH
RANGE 13 EAST

EXHIBIT "A-1"



PARCEL 138-33-280B



Ingress and Egress Easement



PIMA COUNTY DEPARTMENT OF TRANSPORTATION
ENGINEERING INFORMATION MANAGEMENT

DRAWING NOT TO SCALE

DRAWN BY: ACS

DATE: MARCH 2021



EXHIBIT "B"

COMMITMENT FOR TITLE INSURANCE

Issued by

Pioneer Title Agency, Inc.

Order Number: 504-233323 KM

- KW

SCHEDULE B, PART II

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.
2. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
3. Any facts, rights, interests or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
4. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
5. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
6. (a) Unpatented claims; (b) reservations or exceptions in patents or in acts authorizing the issuance thereof; (c) water rights, claims or title to water; whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
7. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
8. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching to the subsequent effective date hereof but prior to the date the proposed Insured acquires of records for value the estate or interest or mortgage thereon covered by this Public.

This page is only a part of a 2016 ALTA Commitment for Title Insurance issued by FIRST NATIONAL TITLE INSURANCE COMPANY. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

FNTI Form No.: Com16 ALTA Commitment for Title Insurance Adopted 8-01-2016

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EXHIBIT "B" (con't)

COMMITMENT FOR TITLE INSURANCE

Issued by

Pioneer Title Agency, Inc.

Order Number: 504-233323 KM

SCHEDULE B, PART II
(Continued)

(Note: The above Exceptions Nos. 2 through 8, inclusive, will be eliminated from any A.L.T.A. Extended Coverage Policy, A.L.T.A. Homeowner's Policy, A.L.T.A. Expanded Coverage Residential Loan Policy and any short form versions thereof. However, the same or similar exception may be made in Schedule B of those policies in conformity with the remaining Exceptions of this Commitment shown below.)

9. TAXES for the full year 2021, a lien, not yet due or payable.
10. ANY ACTION by the County Assessor and/or Treasurer, altering the current or prior tax assessment, subsequent to the date of the Policy of Title Insurance.
11. LIABILITIES AND OBLIGATIONS imposed upon said land by its inclusion within any legally formed districts
12. Established and/or existing roads, highways, rights-of-way or easements.
13. ANY PRIVATE RIGHTS or EASEMENTS on, under and across those portions of said land lying within the road, street or alley abandoned by Resolution or Ordinance recorded in Docket 3782 at page 203.
14. Terms, conditions, restrictions, easements, liabilities and/or obligations as set forth in Right of Way Easement recorded in Docket 7290 at page 591 and in Docket 7290, page 594.
15. Terms, conditions, restrictions, easements, liabilities and/or obligations as set forth in Grant of Easements and Declaration of Covenants recorded in Docket 1210 at page 4793
16. Terms, conditions, restrictions, easements, liabilities and/or obligations as set forth in and disclosed by Site-Specific Supplemental Agreement to Master Agreement for Joint Use of Facility Space between Pima County and the Drexel Heights Fire District recorded in Docket 13908 at page 30.

END OF SCHEDULE B, PART II

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by FIRST NATIONAL TITLE INSURANCE COMPANY. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

FNTI Form No.: Com16 ALTA Commitment for Title Insurance Adopted 8-01-2016

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EXHIBIT "C"
Wells & Water Rights Seller's Questionnaire

Seller Name: **DREXEL HEIGHTS FIRE DISTRICT**

Tax Parcel Number(s): **138-33-280B**

Date: **April 23, 2021**

As part of the proposed acquisition of the above-referenced parcel(s), Pima County may also be acquiring some or all of Seller's wells, groundwater and/or surface water rights. The purpose of this questionnaire is for Seller to disclose all information of which Seller is or may be aware, pertaining to Seller's interest in wells and water rights, as well as the current status of those wells and water rights. Each of the questions set forth below should be carefully answered, to the best of Seller's knowledge and information, *by supplying the information requested in the grid which follows each section*. If more space is needed to answer, clarify, or explain one or more questions, please use additional sheets.

A. QUESTIONS PERTAINING TO WELLS.

(1.) List *all* wells situated on the subject property and list the tax parcel number of the property on which each well is situated.

None, that we are aware of.

2.) For each well listed in question #1 above, list the corresponding Well Registration Number assigned by the Arizona Department of Water Resources ("ADWR").

N/A

(3.) For each well listed in question #1 above, list that well's current operational status, for example, "fully operational", "no longer in use", "capped" or "legally abandoned".

Please note that "legally abandoned" means that all procedures required under ADWR regulations have been followed to have the well declared legally abandoned.

N/A

(4.) For each well listed in question #1 above, list the main purpose for which each such well is currently utilized (For example, "domestic", "irrigation", "industrial" "mining", etc.). Please note that the term "irrigation" means the application of water to 2 or more acres for plants or crops which will be used for sale or for human or animal consumption.

N/A

(5.) For each well listed in question #1 above, state whether a Statement of Claimant ("SOC") has been filed in the Gila River Adjudication (Yes or No).

NO

	Location by Tax Parcel Number	ADWR Registration Number	Current Operational Status	Principal Use of Well	SOC Filed (Y/N)	SOC # If Applicable
Well #1						
Well #2						
Well #3						
Well #4						
Well #5						
Well #6						
Well #7						

B. QUESTIONS PERTAINING TO CERTIFICATED GROUNDWATER RIGHTS.

(5.a) Does the property have a grandfathered irrigation groundwater right ("GIR")?
(Yes/No). If no, skip to Question #6.

NO – to our knowledge

(5.b) If yes,

1. Identify each GIR appurtenant to the subject property by listing its
corresponding Certificate of Grandfathered Groundwater Irrigation Right number
assigned by ADWR,

2. List the tax parcel number(s) of the property (ies) which may be irrigated under each such GIR,

3. List the maximum number of acres permitted to be irrigated under each such GIR,

4. List the well or wells with which each such GIR is associated. Use the ADWR Well Registration numbers above to identify the associated well(s),

5. Is the GIR is currently in use (Y or N)?

6. Are any of your GIR's leased to a third party? (Y/N). If yes, give the name and address of the lessee and identify the GIR by ADWR Certification #, and please provide a copy of each such lease.

	ADWR Certificate Number	Tax Parcel Number(s)	Irrigated Acreage	Associated Well by Registration #	Is Right Currently in Use? (Y or N)
GIR #1					
GIR #2					
GIR #3					
GIR #4					
GIR #5					
GIR #6					
GIR #7					

(6.a) Does the property have a grandfathered Type 1 non-irrigation groundwater right (“Type I Right”) (Yes/No)? If no skip to Question #7.

NO - to our knowledge

(6.b) If yes,

1. List all Type I Rights appurtenant to the subject property by listing its corresponding Certificate of Grandfathered Type I Groundwater Non-Irrigation Right number assigned to each such right by ADWR.

2. Indicate the use or uses to which each Type I Right is currently being put.

3. Identify the well with which each Type I Right is associated by its ADWR well registration number.

4. Identify the parcel number of the parcel to which each Type I Right is appurtenant.

	ADWR Certificate Number	Current Use of TIR	Associated Well by Well Registration #	Appurtenant Parcel #
TIR #1				
TIR #2				
TIR #3				
TIR #4				
TIR #5				

(6.c) Are any of your Type I rights leased to a third party? (Y/N) If yes, give the name and address of the lessee and identify the leased Right by ADWR Certification #, and please provide a copy of each such lease.

(7.a) Does the property have a Type II non-irrigation groundwater right ("Type II Right")? (Yes/No). If no skip to Question #8.

NO – to our knowledge

(7.b) If yes,

- 1. List each Type II Right by listing its corresponding Certificate of Grandfathered Type II Groundwater Non-Irrigation Right number assigned by ADWR.**
- 2. List the use to which each Type II Right is currently being put.**
- 3. List the ADWR Well Registration Number of the well to which each Type II Right is currently associated.**
- 4. Are any of your Type II Rights leased to a third party? (Y/N) If yes, give the name and address of the lessee and identify the leased Type II Right by ADWR Certification #.**

	ADWR Certificate Number	Current Use to Which Type II is Being Put	Associated Well by Well Registration #
Type II #1			
Type II #2			
Type II #3			
Type II #4			

C. QUESTIONS PERTAINING TO SURFACE WATER RIGHTS.

(8.a.) Does the property have a surface water right (Yes/No)? If no, skip to Question #9.

NO – to our knowledge

(8.b) If yes,

1. List each surface water right ("SWR") associated with the subject property by listing its corresponding Certificate of Surface Water Right number assigned by ADWR.
2. List the purpose, if any, for which each SWR is currently being utilized. (For example, domestic, stock watering, irrigation, mining, in stream flow, other).
3. For each SWR, state whether a Statement of Claimant has been filed in the Gila River Adjudication (Yes or No).
4. Are any of your SWRs leased to a third party? (Y/N) If yes, give the name and address of the lessee and identify the leased SWR by ADWR Certification #, and please provide a copy of each such lease.

	ADWR Certificate Number	Current Use to Which SWR is Being Put	Statement of Claimant Filed? (Yes or No)	SOC # If Applicable
SWR #1				
SWR #2				
SWR #3				
SWR #4				
SWR #5				
SWR #6				

D. QUESTIONS PERTAINING TO WELL SHARE AGREEMENTS.

9. Are any of the parcels subject to a well share agreement? If so, please list the parcel on which the well sits and whether or not it is owned by you.

NO

10. Please provide the County a copy of the Well Share Agreement.

N/A

Well & Water Rights Seller's Questionnaire 6-23-11

EXHIBIT "D"

Owner Disclosure of Underground Improvements in Right of Way

Owner's Name: **DREXEL HEIGHTS FIRE DISTRICT**

Tax Parcel Number(s): **138-33-280B**

Date: **April 23, 2021**

The purpose of this questionnaire is for Owner to disclose all information of which Owner is aware, pertaining to the location of septic tanks, septic or leach fields, alternative waste disposal systems, or other improvements in the right of way being acquired which may be impacted by the County's proposed construction project. If more space is needed to answer one or more questions, please attach additional sheets or maps as needed.

1. Is there a septic tank, septic or leach field, or alternative waste disposal system located in the right of way to be acquired?

Yes **X** No _____ If NO, skip to question #2

Describe septic facility: Septic Tank with Leaching Field

Location: Northwest corner of building

Is the septic tank/field still in use? Yes _____ No **X**

If Yes, Owner and County agree to the following arrangement concerning the facility:

2. Are you aware of any irrigation or other improvements in the right of way which may impact construction? Yes _____ No **X** If YES, please explain.

EXHIBIT E

SPECIAL WARRANTY DEED

For valuable consideration, I or we, _____
("Grantor"), do hereby convey to Pima County, a political subdivision of the State of Arizona, the
following described property situate in Pima County, Arizona:

SEE ATTACHED EXHIBIT " " FOR LEGAL DESCRIPTION AND ATTACHED EXHIBIT " "
FOR DEPICTION

SUBJECT TO all matters of record.

And the Grantor hereby binds itself and its successors to warrant the title against all acts of
the Grantor herein and no other, subject only to matters as here set forth.

Dated this _____ day of _____,

By: _____

Title: _____

STATE OF ARIZONA

COUNTY OF PIMA

) ss
)

This instrument was acknowledged before me this _____ day of _____, 20____,
by _____ as _____ of _____

Notary Public

EXEMPTION: A.R.S. §11-1134.A.3.		Board of Supervisors:	Right of Way <input type="checkbox"/> Parcel <input type="checkbox"/>
Agent:	File #:	Activity #:	P <input type="checkbox"/> De <input type="checkbox"/> Do <input type="checkbox"/> E <input type="checkbox"/>

EXHIBIT F
EXISTING LEASES

1. Tower Use License Agreement with Simply Bits, LL.C.
2. Antenna Lease Agreement with Gain Communications, Inc.

EXHIBIT "G"



PIMA COUNTY REAL PROPERTY SERVICES

PROJECT: COMMUNICATIONS SITE LEASE AT EAGLE'S NEST TOWER

TENANT: DREXEL HEIGHTS FIRE DISTRICT

AMOUNT: NON-REVENUE CONTRACT

Communications Site Lease

1. **Defined Terms.** The following terms will be used as defined terms in this Communications Site Lease ("*Lease*") and have the meaning set forth below:

1.1. "Landlord" or "County": Pima County, a political subdivision of the State of Arizona

1.2. "Tenant": Drexel Heights Fire District (DHFD)

1.3. "Site": Eagle's Nest Tower and building structures located at 6950 S. Beehive Avenue, Tucson, AZ, which is being acquired by Landlord

1.4. "Leased Premises" or "Premises": the space Tenant occupies on the tower and in the building, which is specifically described on Exhibit A.

2. **Background and Purpose.** After Tenant conveys the Site to County, Tenant desires to lease, and Landlord desires to let to Tenant, the Premises for existing microwave equipment both on the tower and in the building for a period of 10 years under the terms and conditions set forth in this Lease. County intends to maintain Premises for continued use for a minimum period of 10 years.

3. **Lease of Premises.** In consideration of Tenant's compliance with all the terms and conditions of this Lease, and timely performance of all its obligations under this Lease, Landlord hereby lets to Tenant and Tenant hereby leases from Landlord, the Premises.

4. **Effective Date.** This Lease shall be effective on the date it is signed by all of the parties hereto (the "*Effective Date*").

5. **Term.** This Lease will commence on the Effective Date and will continue for a period of ten (10) years.

6. **Rent.**

6.1. **No Cost Agreement.** Landlord agrees to allow Tenant to occupy space as described in Exhibit A for the Term of the Lease at no rental cost.

7. **Utilities.** Landlord will assume responsibility for all utilities including electricity, gas, water and sewer as necessary for the operation of the Premises.

8. **Use of Premises.**

8.1. **Permitted Use.** Tenant may use the Premises for the placement and operation of equipment as reflected on Exhibit A, in connection with the provision of communication services by Tenant.

8.2. **Prohibited Activity.** Tenant may not permit any unlawful activities on the Premises, or any activities that unduly interfere with activities of the other occupants of the Site or neighboring property owners or occupants. Neither Tenant nor Landlord shall introduce any changes to the Premises or their equipment that have the effect of interfering with the function of any other tenant's effective communications.

8.3. **Hazardous Materials Prohibited; Clean Air Act.** Tenant may not cause or permit any hazardous or toxic materials or substances to be brought upon, kept, or used in or about the Premises by Tenant, its agents, employees, contractors or invitees, without the prior written consent of Landlord, other than such hazardous or toxic materials or substances that are necessary or useful to Tenant's business and will be used, kept and stored in a manner that complies with all laws regulating any such materials or substances. Tenant's operations on the Premises must comply with all applicable provisions of environmental laws and regulations, including the Clean Air Act, 42 U.S.C. 7401 et seq. and Arizona Revised Statutes, Title 49, Chapter 3. Tenant must remediate and clean up, at its sole cost and expense, any contamination of the Premises occurring during the term of this Lease.

9. **Access.** Tenant's employees, agents, and contractors shall have access to the Premises after first notifying Landlord by calling 520-724-7200, except in case of emergency, twenty-four (24) hours a day, seven (7) days a week, at no charge. Tenant shall notify Landlord as soon as reasonably practicable following any emergency access situations. During the term of this Lease, Landlord

grants to Tenant, Tenant's employees, agents, and contractors a non-exclusive right for the pedestrian and vehicular ingress and egress at the location.

10. Tenant's Facilities. Tenant will maintain Tenant's facilities on the Premises in a good and workmanlike manner and in accordance with all applicable requirements of local ordinances, including zoning, and all rules, regulations, and requirements of all departments, boards, bureaus, officials, and authorities having jurisdiction thereof. Tenant shall be solely responsible for payment of all costs for repair and maintenance of Tenant's Facilities.

11. Upgrades to Tenant Facilities. During the Term of the Lease, Tenant facilities upgrades and/or replacements will likely need to occur. Tenant agrees to communicate all required changes to Landlord and to secure written approval of any plans from the Executive Director of PCWIN before beginning work associated with facilities upgrades or replacements.

12. Early Termination. Tenant may terminate this Lease at any time, upon written notice to Landlord.

13. Assignment or Subletting. Tenant may not assign, or otherwise transfer, all or any part of its interest in this Lease or in the Premises.

14. Insurance.

14.1. Types of Insurance Required. Tenant must procure, prior to beginning any activities on the Premises, and maintain throughout the Term, the following insurance from an insurance company or companies reasonably acceptable to Landlord:

14.1.1. Commercial General Liability insurance with coverage at least as broad as ISO form CG 00 01 in an amount not less than \$2,000,000.00 covering the Premises and all activities thereon, endorsed to include Pima County as an additional insured.

14.1.2. Commercial Automobile Liability insurance with coverage at least as broad as ISO form CA 00 01 in an amount not less than \$1,000,000.00 for vehicles actually used in the operations at the Premises (i.e., not used for simple commuting).

14.1.3. Workers' Compensation insurance with statutory limits, with Employers' Liability coverage in an amount not less than \$1,000,000 per injury, illness, or disease.

14.2. The General Liability and Auto Liability policies shall be endorsed to include the following additional insured language: "Pima County is an additional insured. INASMUCH AS BOTH PARTIES ARE GOVERNMENTAL ENTITIES, NO CERTIFICATES OF INSURANCE SHALL BE REQUESTED.

14.3. Waiver of Subrogation. Each party waives its claims and subrogation rights against the other for losses typically covered by property insurance.

14.4. Changes to Insurance Requirements. Landlord may review and alter the coverage, form, and amount of insurance required hereunder at any time. Landlord will notify Tenant in writing of any changes to the aforesaid insurance requirements, and Tenant will have sixty (60) days to comply with the requirements as changed.

14.5. Property Insurance. Landlord will maintain property insurance for the Building, and may do so through a program of self-insurance. Tenant will be responsible for insuring its personal property.

15. Indemnity. Tenant agrees that, to the fullest extent permitted by law, Tenant will indemnify, defend, and hold harmless Landlord, its officers, employees and agents from and against any and all losses, costs, or expenses (including reasonable attorney fees) incurred or suffered by Landlord as a result of any damages to property or injuries to persons (including death), or any suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of or directly related to any act, omission, fault or negligence by the Tenant, its agents, employees, invitees, contractors or anyone under its direction or control or acting on its behalf, or anyone permitted by Tenant to conduct any activity on the Premises, or in connection with any use or occupancy of the Premises under the terms of this Lease. To the fullest extent permitted by law, Tenant agrees that it will also indemnify and defend Landlord against any claim, liability, damage, cost, or expense arising out of the presence, disposal, or release of any hazardous substance, hazardous waste, hazardous materials, or petroleum products or by products on, from or under the Premises during the term of this Lease.

16. Default.

16.1. Tenant Default. The occurrence of any one or more of the following events will constitute a default and breach of this Lease by Tenant for which Landlord may terminate this Lease:

16.1.1. Operation of Premises. The vacating or abandonment of the Premises, or cessation of activities thereon, or any portion thereof, by Tenant, that continues for a period of ten (10) calendar days after notice of such default is sent by Landlord to Tenant.

16.1.2. Monetary Obligations. The failure by Tenant to make any payment required to be made by Tenant under this Lease, as and when due, that continues for a period of ten (10) calendar days after notice from Landlord that such payment is due.

16.1.3. Insurance. The failure by Tenant to maintain insurance policies as set forth above for any period of time, in which event Tenant must immediately cease all operations at the Premises until such insurance is obtained. In the event of such a default, Landlord may, in Landlord's sole discretion, obtain necessary insurance coverage in which event Tenant must, within five (5) days of demand, reimburse and pay to Landlord the full amount of any costs and premiums expended by Landlord to obtain such coverage.

16.1.4. Violation of Law. Violation of any law by Tenant, or the conduct of any unlawful activities on the Premises that are permitted by Tenant, either tacitly or explicitly, or that Tenant has not taken reasonable means to prevent after Tenant becomes or in the exercise of reasonable diligence should have become aware that such activities are being conducted.

16.1.5. Health and Safety Violation. Any action or omission by Tenant that, in Landlord's reasonable judgment, causes a threat to the health or safety of the general public or the users of the Premises or neighboring properties.

16.1.6. Other Covenants. The failure by Tenant to observe or perform any other of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, that continues for a period of thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant will not be deemed to be in default if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

16.2. Landlord Default. Landlord will be deemed to be in default hereunder if Landlord fails to perform any covenant or condition of this Lease to be performed by Landlord and such failure continues for thirty (30) days after written notice and demand from Tenant (unless the failure is of such a character as to require more than thirty (30) days to cure, in which event Landlord will be in default only if it fails to initiate the cure within thirty (30) days, and thereafter diligently pursue the same to completion).

17. Remedies.

17.1. All Remedies Available. Either party may pursue any remedies provided by law and in equity for the breach of this Lease, including termination of the Lease. No right or remedy is intended to be exclusive of any other right or remedy and each will be cumulative and in addition to any other.

17.2. Cure by Landlord. Should Tenant fail to perform in a timely manner any of the covenants or terms of this Lease on its part to be performed, Landlord may (but is not obligated to) perform the same and charge Tenant for the costs thereof, together with interest thereon, at the rate set by statute for interest on judgments, from the date upon which the expense is incurred until paid by Tenant.

18. Sustainability Plan. In accordance with the County's Sustainability Plan, Tenant must use all reasonable efforts to use recycled products for its operation within the Premises, and re-use and recycle materials utilized in the Premises.

19. Notice. Whenever in this Lease it shall be required that notice or demand be given or served by either party, the notice or demand shall be in writing and shall be delivered personally, or forwarded by registered or certified mail, postage prepaid, or transmitted by electronic mail, facsimile, or hand delivered addressed as follows:

if to Landlord: Real Property Services Manager
Pima County Public Works
201 N. Stone Avenue, 6th Fl
Tucson, AZ 85701
520-724-6306
Jeffrey.teplitsky@pima.gov

with a copy to: Robert Meredith, PCWIN Executive Director

Pima County Wireless Integrated Network (PCWIN)
3434 E. 22nd Street
Tucson, AZ 85713
520-724-9322
Robert.Meredith@pima.gov

if to Tenant: Fire Chief
Drexel Heights Fire District
5950 S. Cardinal
Tucson, AZ 85746
520-571-8700
Fax (520) 883-3314
dchappell@drexelfire.org

If mailed, all such notices, demands, requests, or other communications shall be deemed received upon the expiration of seventy-two (72) hours after deposit in the U.S. mail as aforesaid. Notice served personally or by electronic mail or facsimile shall be deemed served upon delivery thereof to the addressee. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. Any party entitled to notices hereunder may from time to time designate to the other parties, in writing and given in accordance with this Section, a difference address for service of notice.

20. Miscellaneous.

20.1. Governing Law. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Lease, and any disputes hereunder. Any action relating to this Lease shall be brought in a court of the State of Arizona in Pima County

20.2. Authority. Each of the Parties represent and warrant that they have the right, power, legal capacity and authority to enter into and perform their respective obligations under this Lease.

20.3. Entire Agreement. This Lease is intended by the parties as the final expression of the parties with respect to the subject matter hereof and supersedes any prior or written or oral agreements.

20.4. Severability. Each provision of this Lease stands alone, and any provision of this Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Lease.

20.5. Conflict of Interest. This Lease is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Lease on behalf of Tenant is, at any time while this Lease or any extension of the Lease is in effect, an employee or agent of any other party to the Lease with respect to the subject matter of the Lease.

20.6. Non-Appropriation. Notwithstanding any other provision in this Lease, this Lease may be terminated if for any reason, the County's Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this Lease. In the event of such termination, County will have no further obligations to Tenant.

20.7. Arbitration. The parties agree that any dispute arising under this Lease involving the sum of fifty thousand dollars (\$50,000) or less in money damages only will be resolved by arbitration pursuant to the Arizona Uniform Rules of Procedure for Arbitration. The decision of the arbitrator(s) will be final.

20.8. Binding Effect. This Lease shall run with the Premises and shall be binding upon and inure to the benefit of Landlord and Tenant, and their respective successors and assigns.

20.9. Interpretation of Lease. The parties acknowledge that each has had the opportunity to review this Lease with counsel of its or their choice. This Lease will not be construed in favor or against either of the parties but will be interpreted fairly and equitably to effectuate the intent of the parties.

20.10. Tenant Not an Agent of Landlord. Tenant is not an agent of Landlord for any purpose under this Lease or otherwise. Tenant will control activities on the Premises, and Landlord will not control those activities. Tenant's employees and servants will not be under the control of Landlord.

20.11. Non-Discrimination. Tenant agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this Lease as if set forth in full herein. During the performance of this Lease, Tenant shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

20.12. Americans with Disabilities Act. Both parties will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36 as it pertains to facilities and use of the facilities. This will not obligate Landlord to make any modifications to the Building, as a result of any change in the law or regulations, if such repairs are not otherwise legally required

21. Amendment. This Lease may not be amended except by a written instrument duly executed by both parties.

22. Exhibits. The following Exhibits to this Lease are fully incorporated herein as if set forth at length:

Exhibit A Description of Occupied Tower Space

The Parties have executed this Lease as of the dates set forth below.

Landlord: PIMA COUNTY, a political subdivision of the State of Arizona:

Chair, Board of Supervisors

Date

ATTEST:

Julie Castañeda, Clerk of Board

Date

APPROVED AS TO CONTENT:

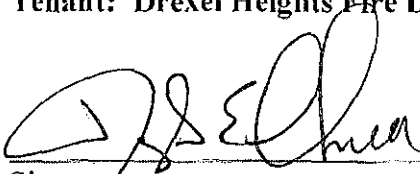
Bob Meredith, Executive Director, Pima County Wireless Integrated Network (PCWIN)

Jeffrey Teplitsky, Manager, Real Property Services

APPROVED AS TO FORM:

Kell Olson, Deputy County Attorney

Tenant: Drexel Heights Fire District



Signature

Douglas E. Chappell
Print Name

April 23, 2021

Date

District Administrator
& Fire Chief

Title