



BOARD OF SUPERVISORS AGENDA ITEM REPORT
AWARDS / CONTRACTS / GRANTS

Award Contract Grant

Requested Board Meeting Date: 4/16/2024

* = Mandatory, information must be provided

or Procurement Director Award:

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

C-2 Area Company, LLC, an Arizona limited liability company

***Project Title/Description:**

Acquisition Agreement

***Purpose:**

Pima County has entered into an Encroachment Management Agreement (EMA) with the United States of America/Davis Monthan Air Force Base (DMAFB) to participate in the Readiness and Environmental Protection Integration (REPI) program. This program is designed to reduce encroachments and intensifying land uses within military installation environments that can limit or restrict military operations. Under REPI, DMAFB would acquire a restrictive easement to prevent residential and other non-compatible development as well as limit the density of people on these properties located within the Approach-Departure Corridor (ADC). ACQ-1199

***Procurement Method:**

Exempt pursuant to Pima County Code 11.04.020

***Program Goals/Predicted Outcomes:**

Pima County will acquire a restrictive use easement over 11.64 acres of property within the ADC, which will limit any development or use that would be incompatible with the mission and operations of DMAFB. The easement limits allowable uses of the property and lot assemblage. It also creates density restrictions as to the maximum number of employees based on the gross size of the property.

***Public Benefit:**

Property use and employee density will be restricted and reduced within the ADC in an attempt to assure the future safety of Pima County residents and DMAFB operations.

***Metrics Available to Measure Performance:**

Pima County will acquire a restrictive use easement over the 11.64 acre parcel for a not to exceed amount of \$1,707,000.00, which includes the appraised value of \$1,700,000.00 and up to \$7,000.00 in closing costs. Under the terms of the EMA the County will receive the funds from DMAFB to purchase this easement.

***Retroactive:**

No

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THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (*) fields

Contract / Award Information

Document Type: CT Department Code: RPS Contract Number (i.e., 15-123): 24*416
Commencement Date: 4/16/2024 Termination Date: 4/15/2025 Prior Contract Number (Synergen/CMS): _____
 Expense Amount \$ 1,707,000.00 * Revenue Amount: \$ _____

***Funding Source(s) required: REPI Agreement**

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 Revenue Increase Decrease

Amount This Amendment: \$ _____

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

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

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: George Andros

Department: Real Property Services

Telephone: 724-6308

Department Director Signature: _____

Date: 3/27/2024

Deputy County Administrator Signature: _____

Date: 3/29/2024

County Administrator Signature: _____

Date: 3/29/2024



ACQUISITION AGREEMENT

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:** C-2 AREA COMPANY, LLC, an Arizona limited liability company
- 1.2. **Buyer:** Pima County, a political subdivision of the State of Arizona
- 1.3. **Purchase Price:** the sum of One Million Seven Hundred Thousand Dollars (\$1,700,000.00)
- 1.4. **Buyer's Maximum Costs:** the sum of (i) Buyer's share of Closing Costs, and (ii) Buyer's share of Prorations, which shall not exceed Seven Thousand Dollars (\$7,000.00)
- 1.5. **Title Company:** Fidelity National Title Agency, Barbi Stewart, Escrow Officer, 6245 E. Broadway, Suite 180, Tucson, AZ 85711
- 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. **Easement:** the easement over the Easement Area to be granted to Buyer under the terms of the easement agreement in form as attached hereto as Exhibit C.
- 1.8. **Easement Area:** the area within the parcel of real property described in **Exhibit A** and depicted in **Exhibit A-1**.
- 1.9. **Exhibit B** lists all Reported Exceptions to Title. Items none shall be removed from the title exceptions prior to closing with the remaining listed exceptions

being "**Approved Exceptions**".

1.10. Seller's Address: 8317 S Camino De Café, Tucson, AZ 85747-9083

1.11. Buyer's Address: Director, 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. **Background and Purpose.**

3.1. Buyer desires to acquire an easement over the Easement Area from Seller to limit the use or development of the Easement Area, which is in the vicinity of Davis Monthan Air Force Base (the "Installation"), to prevent use of the Easement Area that is incompatible with the mission of the Installation. This Easement is entered into by Buyer in accordance with the terms and conditions of the Encroachment Management Agreement between the United States of America acting by and through the Secretary of the Air Force (the "**Air Force**") and Pima County, dated September 28, 2022, and recorded in the Office of the Pima County Recorder on September 29, 2022, at Sequence No. 20222720106 (the "**Encroachment Agreement**").

3.2. This Agreement is being entered into by Buyer only after, and is contingent upon satisfaction of, the following:

3.2.1. The approval by the Air Force of the terms of this Agreement; and

3.2.2. Buyer having invoiced and received payment from the Air Force for all Acquisition Costs reimbursable under the Encroachment Agreement, including but not limited to the Purchase Price, appraisal, environmental assessment, title search and commitment, and estimated Closing Costs.

4. **Purchase of Easement.** Buyer agrees to acquire from Seller, and Seller agrees to convey to Buyer, in consideration of the Purchase Price, an Easement, in, on, over, under, across and through the Easement Area, in the form of **Exhibit C**;

5. **Closing Costs.**

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

follows:

5.1.1. All escrow fees shall be equally divided between Seller and Buyer. Recording fees, if any, shall be paid by Buyer.

5.1.2. Seller will pay for a Standard Owner's Title Insurance Policy for the Easement in the amount of the Purchase Price. In the event Buyer desires an Extended Owners Title Policy, or any specific endorsements to the Standard Owner's Title Insurance Policy, Seller will pay that portion of the premium allocable to a Standard Owner's Title Insurance Policy, and Buyer will pay that portion of the premium allocable to the additional coverage.

5.1.3. Seller will pay for any necessary releases, consents to easement and/or the cost to establish free and clear marketable title to the Easement Area.

5.1.4. Buyer may, at its sole discretion, pay other reasonable fees or costs related to the Closing.

5.2. Prorations. There shall be no prorations of property taxes however property tax obligations, rents, and annual assessments with interest due and payable as of Closing, if any, shall be fully paid by Seller upon 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 that 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 Easement in the amount of the Purchase Price, subject only to the Approved Exceptions and the standard printed exceptions in the policy; provided however, notwithstanding the approval of the exceptions by Buyer, prior to Closing all monetary liens and encumbrances on the Fee Property will be released and/or consent(s) will be granted by the lienholder(s) for the Easement, unless this Agreement expressly provides for the prorating of any such lien or encumbrance.

6.5. Seller's Title Obligation. Seller is hereby obligated to provide Buyer free and clear marketable title subject only to the Buyer's Approved Exceptions. Seller shall cause all exceptions to title not approved by Buyer to be removed prior to Closing.

7. **Closing.**

7.1. Closing Date. The Closing (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 (1) year after execution by Buyer, unless Buyer obtains approval by the Pima County Board of Supervisors to extend the Closing Date beyond said one (1) year period.

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

7.2.1. The Purchase Price, which will be paid in full at Closing payable to Title Company by Buyer's check; 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 Easement in the form of **Exhibit C**, granting to Buyer an Easement in, on, over, under, across and through the Easement Area;

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

7.4. 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, and consents for any grant of easement.

8. **Seller's Covenants.**

8.1. No Personal Property. No personal property is being transferred pursuant to this Agreement.

8.2. No Encumbrances. Seller shall not encumber the Easement Area with any lien that Seller will be unable to cause to be released or consented to by the lender before Closing, and Seller shall not be entitled to sell or exchange all or any portion of the Easement Area 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 Easement Area. 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.

8.3. Reports. Seller shall make available to Buyer all documents relating to the Easement Area that it has in its possession regarding the Easement Area that would customarily be disclosed to any purchaser or lender performing a due diligence investigation of the Easement Area, 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 Easement Area, 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 Easement Area or within any surface or subsurface waters thereof; that no underground tanks have been located on the Easement Area; that the Easement Area 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 Easement Area.

9.2. Environmental Inspection Rights.

9.2.1. From and after the Effective Date, Seller shall permit Buyer to conduct such inspections of the Easement Area as the Buyer deems necessary to determine the environmental condition of the Easement Area. 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 enforcement. 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 arbitrage 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 **Easement Area**

Exhibit A-1 **Depiction Showing Easement Area**

Exhibit B **Reported Exceptions to title for the Easement Area**

Exhibit C **Form of Easement**

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:

C-2 AREA COMPANY, LLC, an Arizona limited liability company

By:  Date: 3-25-2024
Wayne Hoffmann, Manager of One Last Deal, LLC`
As: Member/Manager

BUYER'S APPROVAL AND ACCEPTANCE:

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

Chair, Board of Supervisors

Date

ATTEST:

Melissa Manriquez, Clerk of Board

Date

RECOMMENDATIONS FOR APPROVAL:



Jeffrey Teplitsky, Director, Real Property Services

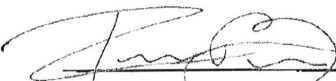
3/27/2024



Carmine DeBonis, Deputy County Administrator, Public Works

3/29/2024

APPROVED AS TO FORM:



Rachelle Barr, Deputy County Attorney

3/27/2024

RPS Acq-1199

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 141-21-025F

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PIMA, STATE OF ARIZONA AND IS DESCRIBED AS FOLLOWS:

A portion of the north one-half of Section 27, Township 15 South, Range 15 East, Gila and Salt River Meridian, Pima County, Arizona described as follows:

Commencing at the intersection of the northeasterly right of way line of the Southern Pacific Railroad as shown on Bureau of Land Management railroad right of way map "Phoenix 015584" and the southeasterly right of way line of Rita Ranch Road as recorded in Book 18 of Road Maps at page 22 and in Book 40 of Maps and Plats at page 45 which is monumented by a found one-half inch rebar with a tag "RLS 35111" added;

Thence North 27°24'55" East a distance of 288.64 feet, upon the easterly right of way of Rita Road, to a point of curvature concave to the northwest monumented by a found one-half inch rebar with a tag added "RLS 35111";

Thence upon said easterly right of way of Rita Road upon a curve to the left having a radius 2250.20 feet through a central angle of 01°02'37" an arc length of 40.98 feet to the POINT OF BEGINNING which is monumented by a set one-half inch rebar "RLS 35111";

Thence continue upon said easterly right of way, upon said 2250.20 foot radius curve to the left through a central angle of 12°47'36" an arc length of 502.44 feet to point of reverse curvature monumented by a set one-half inch rebar "RLS 35111";

Thence upon said reverse curve to the right with a radius of 25.00 feet through a central angle of 89°02'16" an arc length 38.85 feet to a point of tangency on the southerly right of way of Old Vail Road, which is monumented by a set one-half inch rebar "RLS 35111";

Thence South 77°22'21" East, upon said southerly right of way, a distance of 376.27 feet to a point of curve concave to the southwest which is monumented by a one-half inch rebar "RLS 10046";

Thence upon said southerly right of way upon said curve to the right having a radius of 1055.00 feet through a central angle of 22°54'52" an arc length of 421.93 feet to a point of tangency monumented by a one-half inch rebar "RLS 10046";

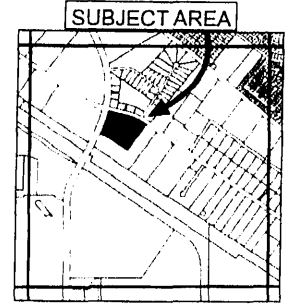
Thence South 54°27'29" East, upon said southerly right of way, a distance of 80.89 feet to a set one-half inch rebar "RLS 35111";

Thence South 35°59'27" West a distance of 689.89 feet to a set one-half inch rebar "RLS 35111";

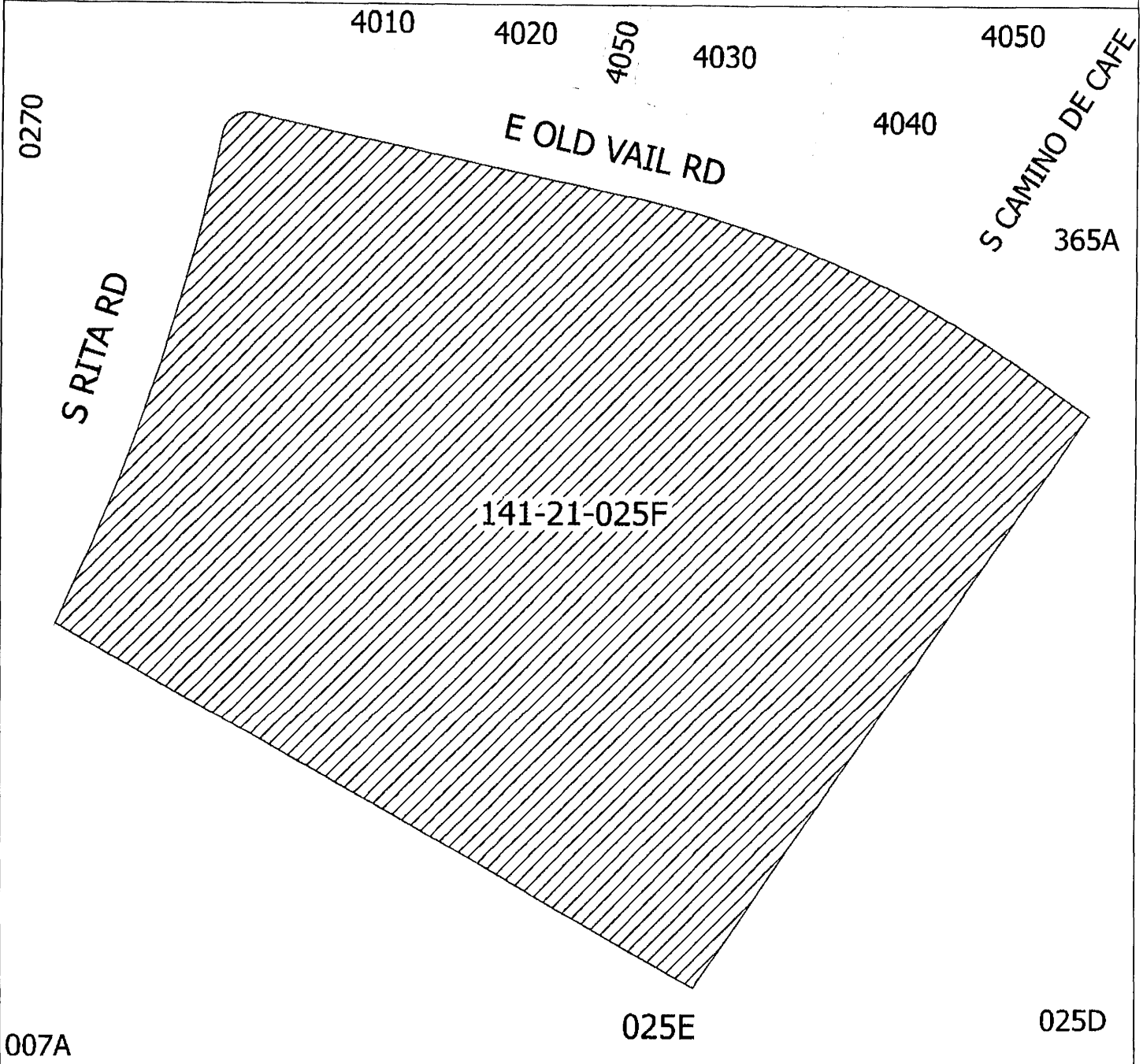
Thence North 58°53'53 " West a distance of 713.87 feet to the POINT OF BEGINNING.

EXHIBIT "A-1"

SECTION 27
TOWNSHIP 15 SOUTH
RANGE 15 EAST



SECTION 27 G&SRM
PIMA COUNTY, ARIZONA



23144

PIMA COUNTY DEPARTMENT OF TRANSPORTATION
ENGINEERING INFORMATION MANAGEMENT

DRAWING NOT TO SCALE DRAWN BY: A GRIFFIN DATE: OCT 2023

LEGEND



PARCEL #141-21-025F

Exhibit "B"

SCHEDULE B, PART II – Exceptions

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.

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

- A. 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.
- 1. Property taxes, including any personal property taxes and any assessments collected with taxes, for the second installment of 2023 Taxes.

- 2. Reservations contained in the Patent

From: The United States of America
Recording Date: February 24, 1932
Recording No: Book 159 of Deeds, Page 577

Which among other things recites as follows:

Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of the courts, and the reservation from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

- 3. Water rights, claims or title to water, whether or not disclosed by the Public Records.
- 4. The right of entry to prospect for, mine and remove the minerals or materials reserved in the patent from the United States of America and excepted from the description of said Land in Schedule A.

- 5. Matters shown on record of road:

Recording No.: Book 18 of Road Maps, Page 22

- 6. Easements, covenants, conditions and restrictions as set forth on the plat recorded in Book 40 of Maps and Plats, Page 45.
- 7. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording No: Docket 7434, Page 775

Partial Assignment of Declaration's Rights:

Recording No: 20213500142

8. Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording No: Docket 7435, Page 674

9. Matters contained in that certain document

Entitled: Ordinance No. 6618

Recording Date: January 8, 1987

Recording No: Docket 7947, Page 1532

Reference is hereby made to said document for full particulars.

10. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: right of way, flowage of water and debris

Recording Date: January 8, 1987

Recording No: Docket 7947, Page 1550

11. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: fiber-optic telecommunications system

Recording Date: May 17, 1991

Recording No: Docket 9041, Page 1044

12. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: fiber-optic cable system

Recording Date: May 17, 1991

Recording No: Docket 9041, Page 1087

Amendment:

Recording No: 20171530679

13. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: Electric lines and Appurtenant Facilities for the Transmission and Distribution of Electricity

Recording Date: February 6, 2018

Recording No: 20180370133

14. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: Electric lines and Appurtenant Facilities for the Transmission and Distribution of Electricity

Recording Date: July 17, 2018

Recording No: 20181980036

15. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: water pipes or mains
Recording Date: August 7, 2018
Recording No: 20182190463

16. Any rights of the parties in possession of a portion of, or all of, said Land, which rights are not disclosed by the Public Records.
17. Matters which may be disclosed by an inspection and/or by a correct ALTA/NSPS Land Title Survey of said Land that is satisfactory to the Company, and/or by inquiry of the parties in possession thereof.

END OF SCHEDULE B, PART II

Exhibit C

Form of Easement

When recorded, return to:

Pima County Real Property Services
201 N. Stone Avenue, 6th Floor
Tucson, AZ 85701-1215

DEED OF EASEMENT

This DEED OF EASEMENT is made this ___ day of _____, 2024, by C-2 AREA COMPANY, LLC, an Arizona limited liability company (“Grantor”), to Pima County, a political subdivision of the State of Arizona, (“Grantee”), and the United States of America, acting by and through the Secretary of the Air Force (“Government”). When used in this Easement, “Grantor” includes Grantor’s successors and assigns, and “Grantee” includes Grantee’s successors and assigns. Grantor, Grantee, and Government may be collectively referred to as “Parties” or each may be referred to as a “Party.”

Recitals

- A. Grantor is the sole owner in fee simple of approximately 11.64 acres of real property located in Pima County, Arizona, in the vicinity of Davis Monthan Air Force Base (the “Installation”), as more particularly described on Exhibit A attached hereto and generally depicted in the map attached hereto as Exhibit A-1 (the “Easement Area”), both of which are incorporated herein by reference.
- B. Grantee is a party to that certain Encroachment Management Agreement between the Government and Grantee, dated September 28, 2022, and recorded in the Office of the Pima County Recorder on September 29, 2022, at Sequence No. 20222720106 (the “Agreement”) concerning an Installation Encroachment Management Plan in the vicinity of the Installation, which was entered into under the authority of 10 U.S.C. § 2684a. Under the Agreement, Grantee, as the “Eligible Entity,” and the Government agreed to each share 50% in the acquisition costs for real property interest(s), including the sale price, such as the easement interest acquired pursuant to this Easement. Grantee and Grantor have agreed that the Government’s contribution, pursuant to the Agreement and 10 U.S.C. § 2684a, provide the Government with certain rights that may be exercised as provided in this Easement.
- C. Grantor is conveying this Deed of Easement on and over the Easement Area in consideration of the payment by the Government of One Million Seven Hundred Thousand Dollars

(\$1,700,000.00), a value established by an appraisal.

Restrictive Use Easement

1. **Grant of Easement.** In consideration of the above-described payment, and the mutual covenants, terms, and conditions contained in this Deed of Easement, Grantor hereby conveys to Grantee a perpetual restrictive use easement (“Easement”) over the Easement Area, on terms and conditions as set forth in this Deed of Easement.
2. **Purpose.** The purpose of this Easement is to limit development or use of the Easement Area that would be incompatible with the mission of the Installation, or that might interfere, whether directly or indirectly, with current or future military training, testing, or operations on or near the Installation.
3. **Restrictions on Use by Grantor.** For purposes of this section 3, the term “employee” means any employee, contract employee, or corporate officer, whether full or part-time. The Easement Area is subject to the restrictions set forth in this section 3 (the “Restrictions”).
 - 3.1. ADC-2 Restriction. Upon execution of this Deed of Easement, all uses within the Easement Area permitted under City of Tucson Unified Development Code, Article 5, Section 5.6.8.B.3a will no longer be permitted. The Easement Area is subject to and will remain in perpetuity subject to the ADC-2 Restrictions contained in the City of Tucson Unified Development Code, Article 5, Section 5.6.8(B) as of November 3, 2023, incorporated herein as **Exhibit B**.
 - 3.2. Additional Restrictions in Easement Area.
 321. *Density Restriction.* The maximum number of employees that are permitted in Easement Area at any time is sixty (60) employees (the “Permitted Employees”).
 322. *Transferability of Density Restriction.* No portion of the Permitted Employees count shall be applied to any area outside the Easement Area. City of Tucson Unified Development Code, Article 5, Section 5.6.8.B.3.g, is no longer applicable and cannot be applied to the subject.
 323. *Density Restriction if assembled with other property.* An assemblage of the property underlying the Easement Area with any other property will not result in an increase in the above defined number of Permitted Employees within the Easement Area.
 - 3.3. Conveyance of Property. If title to any portion of the Easement Area is transferred to a new owner, the portion of the Easement Area that has been conveyed will continue to be subject to the Restrictions on a pro-rata basis.
4. **Access to Property.** Grantee may enter upon the Easement Area, and any buildings on the Easement Area, at any time during Grantor’s business hours to monitor compliance with the Density Restriction, in a manner that does not unduly disrupt business operations on the Easement Area.

5. **Use of Property by Grantor.** Grantor may use the Easement Area for any purpose consistent with the above Restrictions. Nothing in this Easement shall be construed to limit the rights of the Grantor to issue compatible additional easements over and across the Easement Area.
6. **Runs with the Land.** This Easement is a covenant that runs with the land. The Easement restrictions shall inure to the benefit of and be binding upon the successors in interest to the Grantee and Grantor, including all future owners of any portion of the Easement Area, each of whom will be deemed the (or a) “Grantor” hereunder. Subject to the terms of the Agreement, the Grantee may convey the Easement to any other “Eligible Entity” under 10 U.S.C. § 2684a, and will convey it to the Government if transfer is demanded under §2684a.
7. **Enforcement and Remedies.** Upon any breach of a term of this Easement, the Grantee may institute suit to enjoin any breach or enforce any term by injunction and require the Easement Area property be restored promptly to the condition required by this Easement. The remedies of the Grantee shall be cumulative, and shall include any other rights and remedies available to the Grantee at law or in equity.
8. **Discretion of the Grantee.** Enforcement of the terms of this Easement shall be undertaken at the discretion of the Grantee. No failure on the part of the Grantee to enforce any term of this Easement on one occasion shall discharge or invalidate that term or any other term of this Easement, or affect the enforcement right of the Grantee in the event of a subsequent breach or default.
9. **Government Rights of Enforcement.** Consistent with Sections 8.6.2, 8.6.3 and 8.6.4 of the Agreement, the Government is expressly granted the following in order to protect the public investment of One Million Seven Hundred Thousand Dollars (\$1,700,000.00), the Government contribution to the acquisition of the Easement, pursuant to the Agreement:
 - 9.1. Should Grantee or transferee (as applicable) fail to carry out its obligation to monitor and enforce this Easement to assure compliance with its terms, restrictions, and conditions, or allow the Easement Area property to be used for a purpose inconsistent with this Easement, especially with respect to failure to limit any development or use of the Easement Area property that would otherwise be incompatible with the mission of the Installation, or might interfere, whether directly or indirectly, with current or future military training, testing, or operations on or adjacent to the Installation, the Government, or its assigns, shall have the same rights as Grantee with respect to the Easement, including the right to inspect the Easement Area property and enforce such terms, restrictions and conditions.
 - 9.2. Grantee shall notify the Government in writing prior to transferring this Easement pursuant to Section 8.6.3. of the Agreement and the Government, or its assigns, at its option, shall have the right to demand transfer of this Easement to the “United States of America and its assigns” within thirty (30) days from the date of such notification of the Grantee’s intent to transfer the Easement (Response Period). If the Government, or its assign, does not notify the Grantee of its intent to demand the transfer of the Easement within the Response Period, then the Grantee shall be free to transfer the Easement, subject to the terms of this Easement. Any approved deed of transfer shall include the third-party rights of the Government as set forth in this section and the requirements

that all terms, restrictions, conditions, and purposes set forth in this Easement are to be continued in perpetuity by reference to this Easement.

- 9.3. Notwithstanding these specified occasions upon which the Government, or its assigns, at its option, has the right to demand transfer of this Easement, the Government shall have the right to demand such transfer of this Easement to the “United States of America and its assigns” at any time for any other purpose it deems necessary to enforce the Restrictions or to fulfill the obligations of the Government.
- 9.4. In the event the Government exercises these rights, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from Grantor, including, but not limited to, attorney’s fees and expenses related to Grantor’s violations. In the event the Government exercises these rights, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee or the transferee (as applicable), including, but not limited to, attorney’s fees and expenses related to Grantee’s or the transferee’s (as applicable) violations or failure to enforce the Easement against the Grantor.
- 9.5. In the event of an emergency, the Government or its authorized agent may enter the Easement Area property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Grantee and Grantor or Grantor’s representative at the earliest practicable time.
10. **Amendment.** This Easement may only be amended by a written instrument executed by all of the Parties.
11. **Notices.** Any notice, approval, or communication that either Party is required or desires to give related to this Easement must be given in writing and may be served personally, including by recognized courier service, or sent by certified mail, return receipt requested, by the U.S. Postal Service, to:

Grantor: C-2 AREA COMPANY, LLC, an Arizona limited liability company
8317 S Camino De Café
Tucson, AZ 85747-9083

Grantee: Director, Pima County Real Property Services
201 N. Stone Avenue, 6th Flr.
Tucson, AZ 85701

Government: Resource Advisors – Chalermchon Cyre, Kimberley Hervey
355 CES/CEIAR
3775 S. Fifth St., Building 4201
Davis-Monthan AFB, AZ 85707

Or to any other address Grantor, Grantee or Government may designate by written notice to the other parties.

12. **Severability.** If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of the invalid provision to persons or circumstances other than those in favor of which it is found to be invalid, as the case may be, shall not be affected.
13. **Rights of Third Parties.** This Easement is being made subject to existing utility and other public and private easements, and rights, restrictions, covenants, and conditions affecting or pertaining to the Easement Area. If Grantor grants any other easements to third parties, it will notify the Grantee and Government, and require such third-party grantees to coordinate their use of the Easement Area property with the Grantee and Government.
14. **Entire Agreement.** This Easement sets forth the entire agreement of the Parties for the conveyance of this Easement on the Easement Area, and supersedes all prior discussions, negotiations, understandings, or agreements, oral or written, relating to this Easement, all of which are merged into this Deed of Easement.

Grantor and Grantee have executed this Deed of Easement on the dates set forth below.

[INTENTIONALLY BLANK; SIGNATURE PAGES FOLLOW]

“AIR FORCE”

THE UNITED STATES OF AMERICA, acting by and through **THE SECRETARY OF THE AIR FORCE**

By: _____
BRENDA L. ROESCH
Acting Director, Installations Directorate
Air Force Civil Engineer Center

Date: _____

ACKNOWLEDGMENT

STATE OF TEXAS

§
§
§

COUNTY OF BEXAR

This instrument was acknowledged before me on _____, 20__, by BRENDA L. ROESCH, personally known to me to be the Acting Director, Installations Directorate of the Air Force Civil Engineer Center.

Notary Public, State of Texas

Printed Name

Commission Expiration Date

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 141-21-025F

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PIMA, STATE OF ARIZONA AND IS DESCRIBED AS FOLLOWS:

A portion of the north one-half of Section 27, Township 15 South, Range 15 East, Gila and Salt River Meridian, Pima County, Arizona described as follows:

Commencing at the intersection of the northeasterly right of way line of the Southern Pacific Railroad as shown on Bureau of Land Management railroad right of way map "Phoenix 015584" and the southeasterly right of way line of Rita Ranch Road as recorded in Book 18 of Road Maps at page 22 and in Book 40 of Maps and Plats at page 45 which is monumented by a found one-half inch rebar with a tag "RLS 35111" added;

Thence North $27^{\circ}24'55''$ East a distance of 288.64 feet, upon the easterly right of way of Rita Road, to a point of curvature concave to the northwest monumented by a found one-half inch rebar with a tag added "RLS 35111";

Thence upon said easterly right of way of Rita Road upon a curve to the left having a radius 2250.20 feet through a central angle of $01^{\circ}02'37''$ an arc length of 40.98 feet to the POINT OF BEGINNING which is monumented by a set one-half inch rebar "RLS 35111";

Thence continue upon said easterly right of way, upon said 2250.20 foot radius curve to the left through a central angle of $12^{\circ}47'36''$ an arc length of 502.44 feet to point of reverse curvature monumented by a set one-half inch rebar "RLS 35111";

Thence upon said reverse curve to the right with a radius of 25.00 feet through a central angle of $89^{\circ}02'16''$ an arc length 38.85 feet to a point of tangency on the southerly right of way of Old Vail Road, which is monumented by a set one-half inch rebar "RLS 35111";

Thence South $77^{\circ}22'21''$ East, upon said southerly right of way, a distance of 376.27 feet to a point of curve concave to the southwest which is monumented by a one-half inch rebar "RLS 10046";

Thence upon said southerly right of way upon said curve to the right having a radius of 1055.00 feet through a central angle of $22^{\circ}54'52''$ an arc length of 421.93 feet to a point of tangency monumented by a one-half inch rebar "RLS 10046";

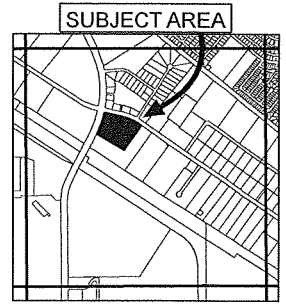
Thence South $54^{\circ}27'29''$ East, upon said southerly right of way, a distance of 80.89 feet to a set one-half inch rebar "RLS 35111";

Thence South $35^{\circ}59'27''$ West a distance of 689.89 feet to a set one-half inch rebar "RLS 35111";

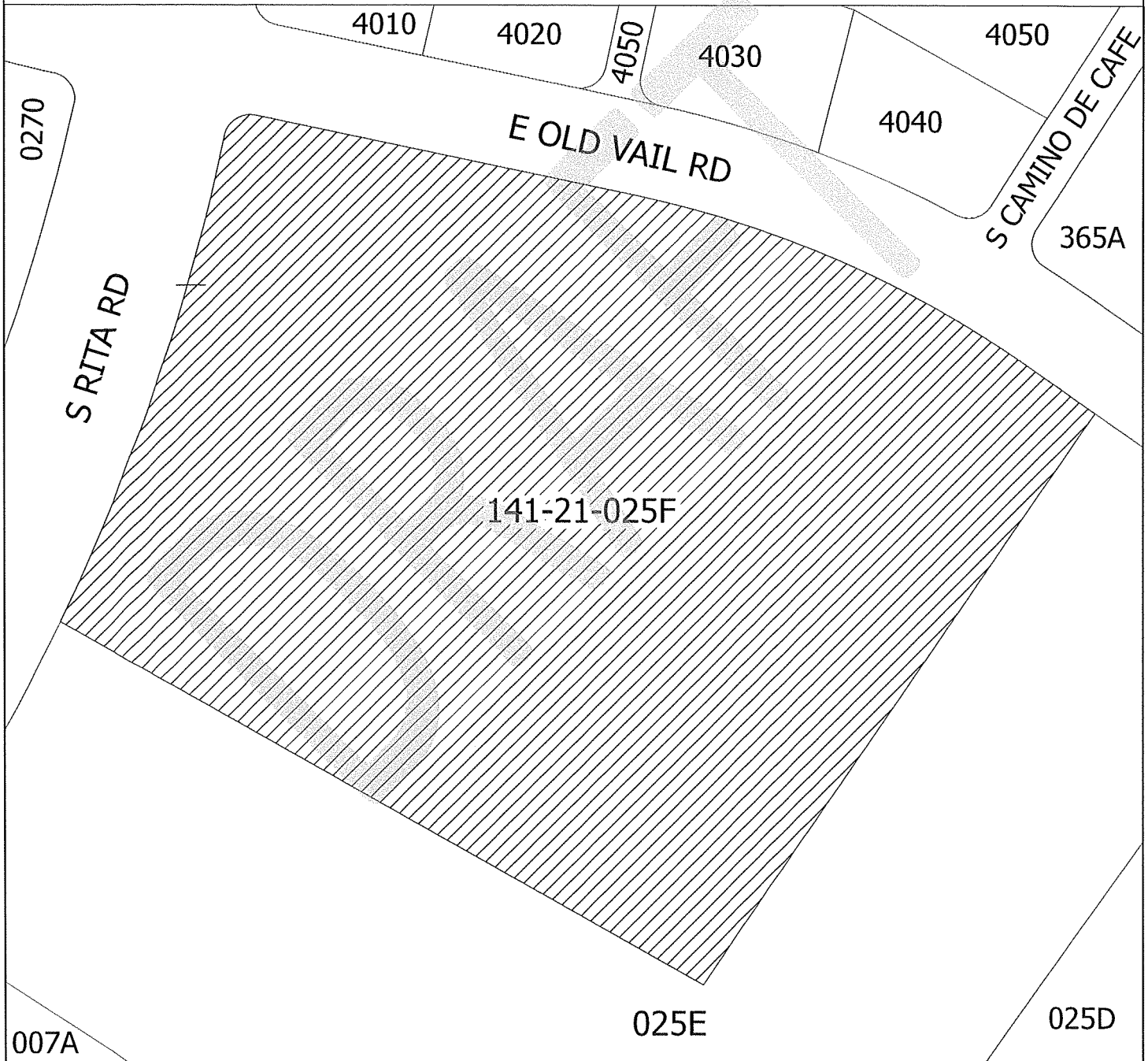
Thence North $58^{\circ}53'53''$ West a distance of 713.87 feet to the POINT OF BEGINNING.

EXHIBIT "A-1"

SECTION 27
TOWNSHIP 15 SOUTH
RANGE 15 EAST



SECTION 27 G&SRM
PIMA COUNTY, ARIZONA



23144

**PIMA COUNTY DEPARTMENT OF TRANSPORTATION
ENGINEERING INFORMATION MANAGEMENT**

DRAWING NOT TO SCALE DRAWN BY: A GRIFFIN DATE: OCT 2023

LEGEND


 PARCEL #141-21-025F

Exhibit B

5.6.8. APPROACH DEPARTURE CORRIDORS (ADC) FOR DMAFB

The required land use standards within the ADCs are as follows.

A. ADC-1

1. Performance Standards

The following performance standards are required in the ADC-1:

- a. No more than 30 employees per acre of site area is permitted;
- b. The minimum project site area is three acres ; and,
- c. The maximum FAR is .50 of the project site area.

2. Prohibited Land Uses

The following land uses are prohibited in the ADC-1:

a. Civic Use Group

- (1) Civic Assembly- Outdoor and Indoor;
- (2) Cultural Use;
- (3) Religious Use; and,
- (4) Educational Use.

b. Commercial Services Use Group

- (1) Administrative and Professional Offices;
- (2) Alcoholic Beverage Service;
- (3) Commercial Recreation;
- (4) Day Care;
- (5) Entertainment - Outdoor & Indoor;
- (6) Food Service;
- (7) Medical Services;
- (8) Personal Service;
- (9) Transportation Service - Air Carrier;
- (10) Travelers Accommodation-Campsite; and,
- (11) Travelers Accommodation-Lodging

c. Industrial Use Group

- (1) Hazardous Material Manufacturing.

d. Recreational Use Group

- (1) Parks and Recreation.

e. Residential Use Group (all uses within the group)

f. **Restricted Adult Activities Use Group (all uses within the group)**

g. **Retail Trade Use Group (all uses within the group, except for Marijuana Dispensary Off-site Cultivation and Marijuana Dispensary Off-site Manufacturing Location)**

h. **Storage Use Group**

(1) Hazardous Material Storage.

i. **Wholesaling Use Group**

(1) Hazardous Material Wholesaling.

3. **Exceptions**

The following are exceptions to the Prohibited Uses in ADC-1:

a. Land uses in the Commercial Services Use Group and Retail Trade Use Group are permitted in ADC-1 only if the property was zoned RCV, NC, C-1, C-2, C-3, C-3, P or RV prior to January 1, 2005. (Rezoning from these zones to zones that provide for allowed uses in ADC-1 is encouraged);

b. Land uses in the Commercial Services Use Group and the Retail Trade Use Group are permitted on property zoned P-1, I-1 or I-2 in ADC-1 only if a protected development right plan was approved by Mayor and Council specifically for such use prior to June 30, 2005;

c. Developments not in conformance with the performance standards of 5.6.8.A.1 are permitted only if a protected development right plan, was approved by Mayor and Council specifically for such development prior to June 30, 2005;

d. Single-family dwelling units are permitted only if the property is zoned IR, RH, SR, RX-1, RX-2, R-1, R-2, or R-3, MH-1 or MH-2 and such zone was in place prior to January 1, 2005. (Rezoning from these zones to zones that provide for allowed uses in ADC-1 is encouraged).

(1) Flexible Lot Development, Section 8.7.3, are not permitted; and,

(2) Residential development is limited to no more than one dwelling unit per acre .

e. Parcels less than the minimum size required in ADC-1 and recorded prior to January 1, 2005 may be developed in conformance with all other standards specified in Section 5.6.8.A.1., 2, and 3;

f. Individual parcels of less than three acres may be separately owned provided each such parcel is part of a site plan and covenants provided in this subsection that encompasses at least three acres . The City shall be a party for notification purposes to the covenants; and,

g. Non-contiguous parcels located within ADC-1 may be included within a single plat or site plan for the purpose of determining employee limits, floor area ratios and other performance standards provided there are recorded covenants requiring conformance with the approved plat or site plan in the form approved by the PDSD Director . Non-contiguous parcels that do not meet the above standards may be considered through Special Exception process as specified in Section 5.6.10.

B. **ADC-2**

1. **Performance Standards**

The following performance standards apply in the ADC-2:

a. No more than 20 employees per acre of site area at any time may be accommodated by intention, design, or in fact;

b. The minimum project site area is five acres ; and,

- c. The maximum FAR is .30 of the project site area.

2. Prohibited Land Uses

The following land uses are prohibited in the ADC-2:

a. Civic Use Group

- (1) Civic Assembly - Outdoor and Indoor;
- (2) Cultural Use;
- (3) Educational Use; and,
- (4) Religious Use.

b. Commercial Services Use Group

- (1) Administrative and Professional Offices;
- (2) Alcoholic Beverage Service;
- (3) Commercial Recreation;
- (4) Day Care;
- (5) Entertainment - Outdoor and Indoor;
- (6) Food Service;
- (7) Medical Services;
- (8) Personal Service;
- (9) Transportation Service - Air Carrier;
- (10) Travelers Accommodation - Campsite; and,
- (11) Travelers Accommodation - Lodging.

c. Industrial Use Group

- (1) Hazardous Material Manufacturing.

d. Recreational Use Group

- (1) Parks and Recreation.

e. Residential Use Group (all uses in the group)

f. Restricted Adult Activities Use Group (all uses in the group)

g. Retail Trade Use Group (all uses in the group except for Marijuana Dispensary Off-site Cultivation and Marijuana Dispensary Off-site Manufacturing Location)

h. Storage Use Group

- (1) Hazardous Material Storage.

i. Wholesaling Use Group

- (1) Hazardous Material Wholesaling.

3. Exceptions

The following are exceptions to the Prohibited Uses in ADC-2:

a. Land uses in the Commercial Services Use Group and Retail Trade Use Group are permitted in ADC-2 only if the property was zoned RCV, NC, C-1, C-2, C-3, C-3, P or RV prior to January 1, 2005. (Rezoning from the previously mentioned zones to zones that provide for allowed uses in ADC-2 is encouraged.);

b. Land uses in the Commercial Services Use Group and the Retail Trade Use Group are permitted in P-I, I-1 or I-2 in ADC-2 only if a protected development right plan was approved by Mayor and Council specifically for such use prior to June 30, 2005;

c. Developments not in conformance with the performance standards of 5.6.8.B.1 are permitted only if a protected development right plan was approved by Mayor and Council specifically for such development prior to June 30, 2005;

d. Single-family dwelling units are permitted only if the property is zoned IR, RH, SR, RX-1, RX-2, R-1, R-2, R-3, MH-1 or MH-2 and such zone was in place prior to January 1, 2005. (Rezoning from the previously mentioned zones to zones that provide for allowed uses in ADC-2 is encouraged).

(1) Flexible Lot Development, Section 8.7.3, are not be permitted; and,

(2) Residential development is limited to no more than one dwelling unit per acre .

e. Parcels less than the minimum size required in ADC-2, recorded prior to January 1, 2005 may be developed in conformance with all other standards specified in Section 5.6.8.B.1., 2, and 3;

f. Individual parcels of less than five acres may be separately owned provided each such parcel is part of a site plan and covenants provided in this subsection that encompasses at least five acres . The City shall be a party for notification purposes to the covenants;

g. Non-contiguous parcels located within ADC-2 may be included within a single plat or site plan for the purpose of determining employee limits, floor area ratios and other performance standards provided there are recorded covenants requiring conformance with the approved plat or site plan in the form approved by the PDSD Director . As provided in Section 5.6.10, non-contiguous parcels that do not meet the above standards may be considered in accordance with Section 3.4.3, *Zoning Examiner Special Exception Procedure*.

C. ADC-3

1. Performance Standards

The following performance standards apply in the ADC-3:

a. For uses in the Industrial, Wholesaling and Storage land use groups, the maximum FAR is .40 of the project site area;

b. For all other non-residential land use groups, the maximum FAR is .20 of the project site area;

c. The minimum project site area is five acres ;

d. The maximum permitted building height is 62 feet from design grade elevation or the height limit of underlying zone , whichever is more restrictive; and,

e. Any meeting space and function areas where people gather in excess of 5,000 square feet in area shall be located underground.

2. Prohibited Land Uses

The following land uses are prohibited in the ADC-3:

a. Civic Use Group

(1) Education Use, Elementary and Secondary Schools.

b. Commercial Use Group

- (1) Day Care; and,
- (2) Medical Service, Major and Extended Care.

c. Industrial Use Group

- (1) Hazardous Material Manufacturing.

d. Residential Use Group (all uses in the group)

e. Storage Use Group

- (1) Hazardous Material Storage.

f. Wholesaling Use Group

- (1) Hazardous Material Wholesaling.

g. Landfills or facilities providing services that are critical for public health and safety, such as fire protection, police communications, sewage and water treatment or storage are prohibited.

3. Exceptions

The following are exceptions to the Prohibited Uses in ADC-3:

a. Developments not in conformance with the performance standards of Section 5.6.8.C.1, *Approach Departure Corridors (ADC) for DMAFB*, are permitted only if a protected development right plan was approved by Mayor and Council specifically for such development prior to June 30, 2005.

b. Single-family dwelling units are permitted only if the property is zoned IR, RH, SR, RX-1, RX-2, R-1, R-2, R-3, MH-1 or MH-2 and such zone was in place prior to January 1, 2005. (Rezoning from the previously mentioned zones to zones that provide for allowed uses in ADCs is encouraged.)

- (1) Flexible Lot Development, Section 8.7.3, are not permitted; and,
- (2) Residential development is limited to no more than one dwelling unit per acre .

c. Parcels , less than the minimum size required in ADC-3 and recorded prior to January 1, 2005 may be developed in conformance with all other standards specified in Section 5.6.8.C.1., 2, and 3.

d. Individual parcels of less than five acres may be separately owned provided each such parcel is part of a site plan and covenants provided in this subsection that encompasses at least five acres . The City shall be a party for notification purposes to the covenants.

e. Non-contiguous parcels located within ADC-3 may be included within a single plat or site plan for the purpose of determining employee limits, floor area ratios and other performance standards provided there are recorded covenants requiring conformance with the approved plat or site plan in the form approved by the PDSD Director . As provided in Section 5.6.10, non-contiguous parcels that do not meet the above standards may be considered in accordance with Section 3.4.3, *Zoning Examiner Special Exception Procedure*.

(Am. Ord. 11978, 12/20/2022)