



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Award Contract Grant

Requested Board Meeting Date: August 20, 2018

* = *Mandatory, information must be provided*

or Procurement Director Award

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

Title Security Agency LLC, a Delaware limited liability company, as Trustee under Trust No. 201660-S / Lic-0293

***Project Title/Description:**

Overton Reserve Homeowners Association Right-of-Way Encroachment License

***Purpose:**

Overton Reserve Homeowners Association to install and maintain masonry screen walls, landscape planting, and drip irrigation along Pima County Right-of-Way for a term of 25 years

***Procurement Method:**

EXEMPT PURSUANT TO PIMA COUNTY CODE 11.04.020

***Program Goals/Predicted Outcomes:**

To assure maintenance and landscaping of masonry walls and vegetation in a Homeowners Association along Pima County Right-of-Way.

***Public Benefit:**

Provide a well maintained Homeowners Association and Right-of-Way

***Metrics Available to Measure Performance:**

zero cost

***Retroactive:**

No.

To: Cob 8-7-18
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Revised 8/2017

Contract / Award Information

Document Type: CTN Department Code: PW Contract Number (i.e., 15-123): 19*015

Effective Date: 08/20/2018 Termination Date: 08/19/2043 Prior Contract Number (Synergen/CMS):

Expense Amount: \$* Revenue Amount: \$ 0.00

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

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

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

***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 22-73.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective 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:**

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): _____

Effective 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: Aaron Mergenthal

Department: RPS Telephone: 724-6854

Department Director Signature/Date: *M. Mergenthal 7/31/18*

Deputy County Administrator Signature/Date: *C. D. Dutton 8/1/18*

County Administrator Signature/Date: *C. D. Dutton 8/2/18*
(Required for Board Agenda/Addendum Items)

For Recorder's Use Only

CONTRACT	
NO. <u>CTN-PW-19-015</u>	
AMENDMENT NO. _____	
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

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

THIS AGREEMENT is made between Pima County, a political subdivision of the State of Arizona, ("County"), and Title Security Agency, LLC, a Delaware limited liability company, as Trustee under Trust No. 201660-S, ("Licensee"). The parties agree as follows:

1. **Grant of Permission.** In consideration of Licensee's annual payment of any applicable License fee and the promises contained herein, County hereby gives permission, revocable and terminable as provided herein, to Licensee to encroach on that portion of County's right-of-way described as Overton Reserve Homeowners Association for the purpose of installation and maintenance of masonry screen wall, landscape planting, and drip irrigation components (the "Encroachment"). Licensee agrees to keep vegetation landscaped and maintained as proposed in approved Landscape Plans until expiration of said license. The right-of-way and the Encroachment are described and depicted on the attached Exhibit "A" through Exhibits "C"
2. **Hold Harmless.** All costs associated with the Encroachment shall be the sole responsibility expense of Licensee. Licensee assumes responsibility and liability for any injury or damage to the above described right-of-way or to any person while using the above described right-of-way caused by or arising out of the exercise of this License. To the fullest extent allowed by law, Licensee indemnifies, defends, and holds harmless County, its officers, departments, employees, and agents from and against any and all suits,

actions, legal or administrative proceedings, claims, demands, or damages of any kind or nature arising out of this License, which are attributed, in whole or in part to Licensee's use of the rights of way, or to any act or omission of the Licensee, its agents, employees, or anyone acting under its direction, control or on its behalf, whether intentional or negligent in connection with or incident to this License. Licensee's responsibilities shall not extend to the negligence of County, its officers, departments, employees and agents. This indemnity shall survive the termination of the License.

3. **Insurance.** Prior to construction, Licensee shall obtain a \$1,000,000 commercial general liability insurance policy naming County as Additional Insured to cover the Encroachment within the County's right-of-way. County reserves the right to require additional insurance at County's sole discretion. The policy shall be maintained throughout the term of this License by the Licensee. This License shall terminate if insurance lapses. A certificate of insurance shall be supplied to County on an annual basis with the stipulation that the insurance company shall notify County in writing of any intent to cancel the liability insurance. This notification shall be required no less than thirty days prior to cancellation, and Licensee shall remove the Encroachment at its expense within thirty days of notification.
4. **Annual Fee.** There shall be no Annual Fee associated with this License Agreement.
5. **Permits.** This License is not a right of way use permit. Following the granting of this License by County, Licensee shall obtain all applicable permits, which may include a Right-of-Way Use Permit, a County Use Permit, Building Permit or Floodplain Use Permit. Licensee shall construct the proposed Encroachment in accordance with the plans submitted to County with the application for the License.
6. **Compliance With Highway Safety.** Construction of the Encroachment shall not interfere with the safety of the traveling public or the authorized public use of right-of-way, and may not otherwise interfere with the general health, safety and welfare of the citizens of Pima County. Once constructed, the Encroachment shall be maintained by Licensee so as not to interfere with safe sight distance or safe travel along the right-of-way.
7. **Term.** This License shall run for a period of 25 (twenty five) years from the date this License is executed by Pima County Board of Supervisors. Notwithstanding any other condition, this License may be terminated by either party or revoked by County upon ninety days' written notice to the other. County may terminate or revoke by recording a termination or revocation statement executed by the Manager of the Real Property Services of the Public Works Administration. When this License lapses, terminates or is revoked, Licensee shall remove the Encroachment from the right-of-way at no expense to County and to the satisfaction of County within 90 days. Licensee shall restore the right-of-way to the pre-License condition or as may be mutually agreed upon. The indemnifications set forth in Paragraph 2 above shall survive the termination or revocation of this License.

8. Underground Facilities. If Encroachment includes any underground facilities, Licensee or its successors or assignees is required per A.R.S. § 40-360.32 (E) and (C) to maintain a Limited Basis Participation membership with Arizona Blue Stake, Inc. and file contact information with the corporation commission throughout the term of this License. Proof of membership shall be supplied to County on an annual basis with the stipulation that the Licensee shall notify County in writing of any intent to cancel the membership. This notification shall be required no less than thirty days prior to cancellation.
9. Licensee Has No Interest or Estate. Licensee agrees that it has no claim, interest, or estate at any time in the right-of-way by virtue of this License or its use hereunder. Upon termination or revocation of this License, Licensee shall have no right of entry upon the right-of-way.
10. License Runs With the Land. The provisions, conditions, restrictions and covenants of this License are both personal and shall run with the land described and depicted on the attached Exhibit "A" through Exhibit "C" and shall be binding on all persons owning or occupying any portion of the land. Conveyance of the land will not relieve the prior owner of any obligations that accrued prior to conveyance.
11. Removal of Encroachment. Upon termination or revocation of this License for any reason or in the event partial or total removal of the Encroachment is required by County, Licensee shall promptly remove all or part of the Encroachment as required by County at Licensee's sole expense and to the satisfaction of County. Licensee shall not seek compensation or financial reimbursement for any and all costs associated with the removal or relocation of the Encroachment from County. In the event the Encroachment is not promptly removed by Licensee as directed by County, County shall have the right to remove the Encroachment and Licensee hereby agrees to reimburse the total amount of County's costs incurred for the partial or complete removal of the Encroachment within sixty (60) days of receipt of an invoice from County for said costs. In the event Licensee fails to reimburse County for the costs of removal within the 60-day period, County shall immediately file a lien upon the property described in Exhibit "B" herein, which shall be a continuing lien, and Licensee hereby consents to the placement of such a lien on said property. Said lien may be enforced by foreclosure in like manner as a mortgage on real property. County shall be entitled to County's reasonable attorney's fees and interest at the rate established by A.R.S. § 44-1201(A), occurring from the date the costs are incurred.
12. Conflict of Interest. This Agreement is subject to A.R.S. § 38-511 which provides for cancellation of contracts by Pima County for certain conflicts of interest.

LICENSE:

Title Security Agency, LLC, a Delaware limited liability company, as Trustee of Trust No. 201660-S, only and not otherwise

By: Diane L. Sloane
Its: Trust Officer

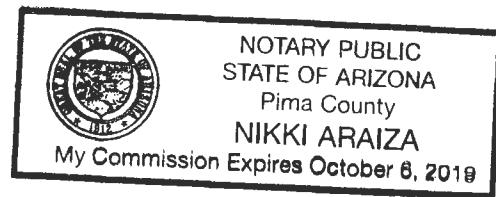
STATE OF ARIZONA)
)
)ss
COUNTY OF Pima)

Acknowledged before me on this 18th day of July, 2018 before me personally Diane L. Sloane, who acknowledged herself to be the Trust Officer of Title Security Agency, LLC, a Delaware limited liability company, and that as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal

Nikki Araiza
Notary Public

My commission expires: 10/01/19



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

Chairman, Board of Supervisors

Date

ATTEST:

Julie Castaneda, Clerk of Board

Date

APPROVED AS TO CONTENT:



Neil J. Konigsberg, Manager, Real Property Services



8/1/18

Carmine DeBonis, Deputy County Administrator, Public Works

APPROVED AS TO FORM:



Kell Olson, Deputy County Attorney



**LEGAL DESCRIPTION FOR LICENSE AGREEMENT
OVERTON RESERVE**

AREA 1

ALL THAT PORTION OF N ZENYATTA DR PUBLIC STREET WITHIN THE FINAL PLAT OF OVERTON RESERVE SEQUENCE 2017140021 RECORDS OF THE PIMA COUNTY RECORDER, PIMA COUNTY, ARIZONA, BEING WITHIN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 12 SOUTH, RANGE 13 EAST, GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, LYING NOTHERLY OF THE NORTHEAST CORNER OF LOT 1 OF SAID PLAT, EASTERLY OF THE WEST LINE OF SAID N ZENYATTA DR AND WESTERLY OF THE BACK OF CURB AS SHOWN ON ATTACHED EXHIBIT A.

CONTAINING 3779 SQUARE FEET MORE OR LESS.

AREA 2

ALL THAT PORTION OF N ZENYATTA DR PUBLIC STREET WITHIN THE FINAL PLAT OF OVERTON RESERVE SEQUENCE 2017140021 RECORDS OF THE PIMA COUNTY RECORDER, PIMA COUNTY, ARIZONA, BEING WITHIN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 12 SOUTH, RANGE 13 EAST, GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, LYING NOTHERLY OF THE NORTH END OF CURVE C2 AS SHOWN ON SAID PLAT, WESTERLY OF THE EAST LINE OF SAID N ZENYATTA DR AND EASTERLY OF THE SIDEWALK AS SHOWN ON ATTACHED EXHIBIT A.

CONTAINING 2202 SQUARE FEET MORE OR LESS.

AREA 3

ALL THAT PORTION OF THE NORTH 97 FEET OF THE WEST 97 FEET OF W PINE ST AND N ROMERO AV, PUBLIC STREETS AS DEPICTED ON THE FINAL PLAT OF OVERTON RESERVE SEQUENCE 2017140021 RECORDS OF THE PIMA COUNTY RECORDER, PIMA COUNTY, ARIZONA, BEING WITHIN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 12 SOUTH, RANGE 13 EAST, GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, LYING NORTHWESTERLY OF THE NORTHWESTERLY BACK OF CURB ON W PINE ST & N ROMERO AV AND SOUTHEASTERLY OF THE EASTERN EDGE OF SIDEWALK ON W GALLANT FOX DR, TOGETHER WITH THAT PORTION LYING NORTHWESTERLY OF THE WESTERLY BACK OF CURB ON N GALLANT FOX DR AND EASTERLY OF COMMON AREA B-1 AS SHOWN ON ATTACHED EXHIBIT B

CONTAINING 4572 SQUARE FEET MORE OR LESS.

AREA 4

ALL THAT PORTION OF N GALLANT FOX DR, PUBLIC STREET WITHIN THE FINAL PLAT OF OVERTON RESERVE SEQUENCE 2017140021 RECORDS OF THE PIMA COUNTY RECORDER, PIMA COUNTY, ARIZONA, BEING WITHIN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 12 SOUTH, RANGE 13 EAST, GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, LYING NOTHERLY OF THE NORTH END OF THE SIDEWALK ADJACENT TO THE NORTHEAST CORNER OF LOT 106 OF SAID PLAT, SOUTHERLY OF THE WESTERLY EXTENSION OF THE CENTERLINE OF W HYPERION DR, EASTERLY OF THE WEST LINE OF SAID N GALLANT FOX DR AND WESTERLY OF THE BACK OF CURB AS SHOWN ON ATTACHED EXHIBIT C.

CONTAINING 6818 SQUARE FEET MORE OR LESS.

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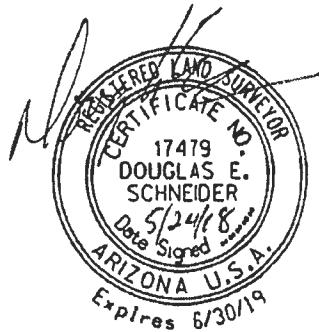


EXHIBIT A

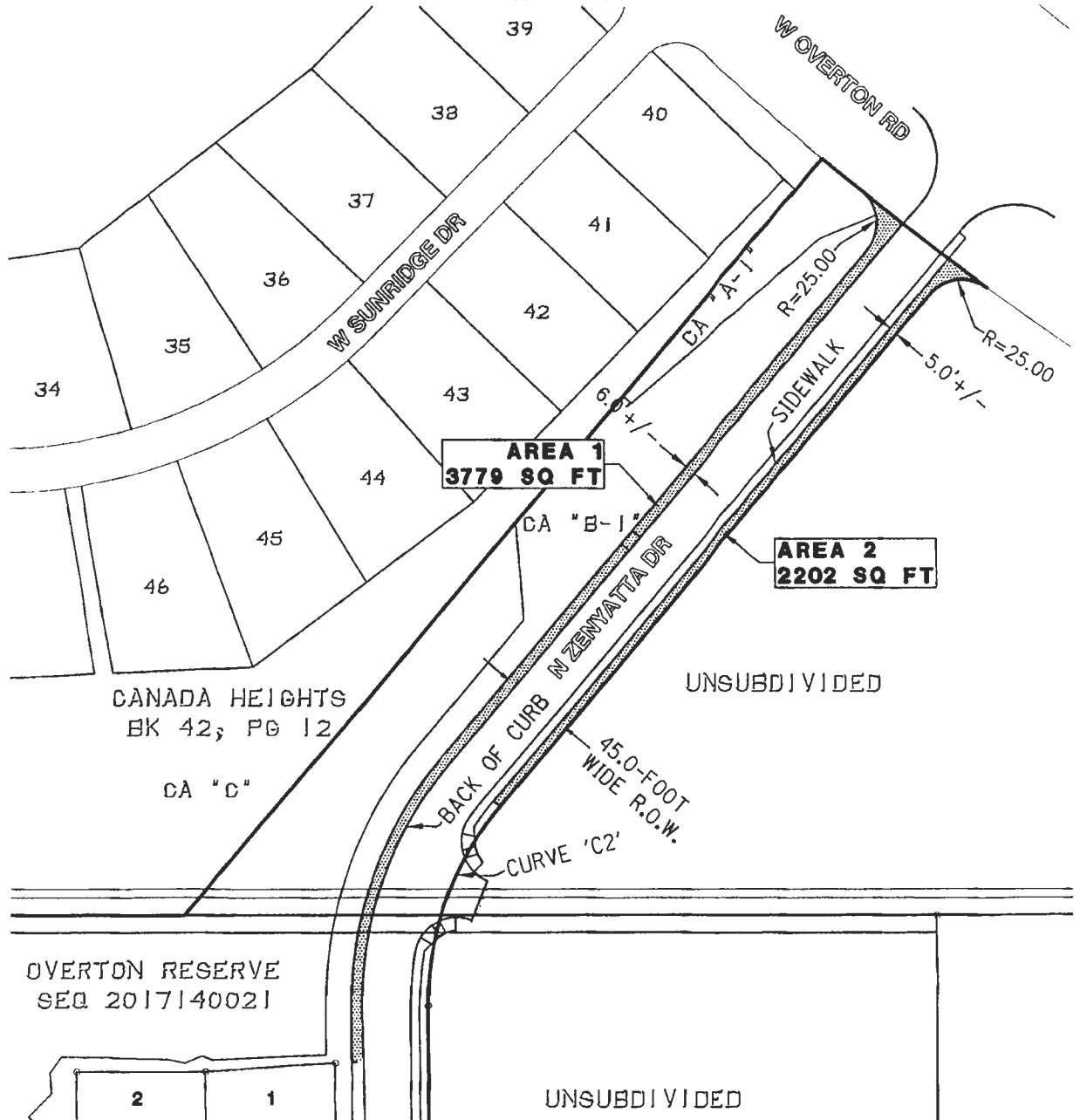
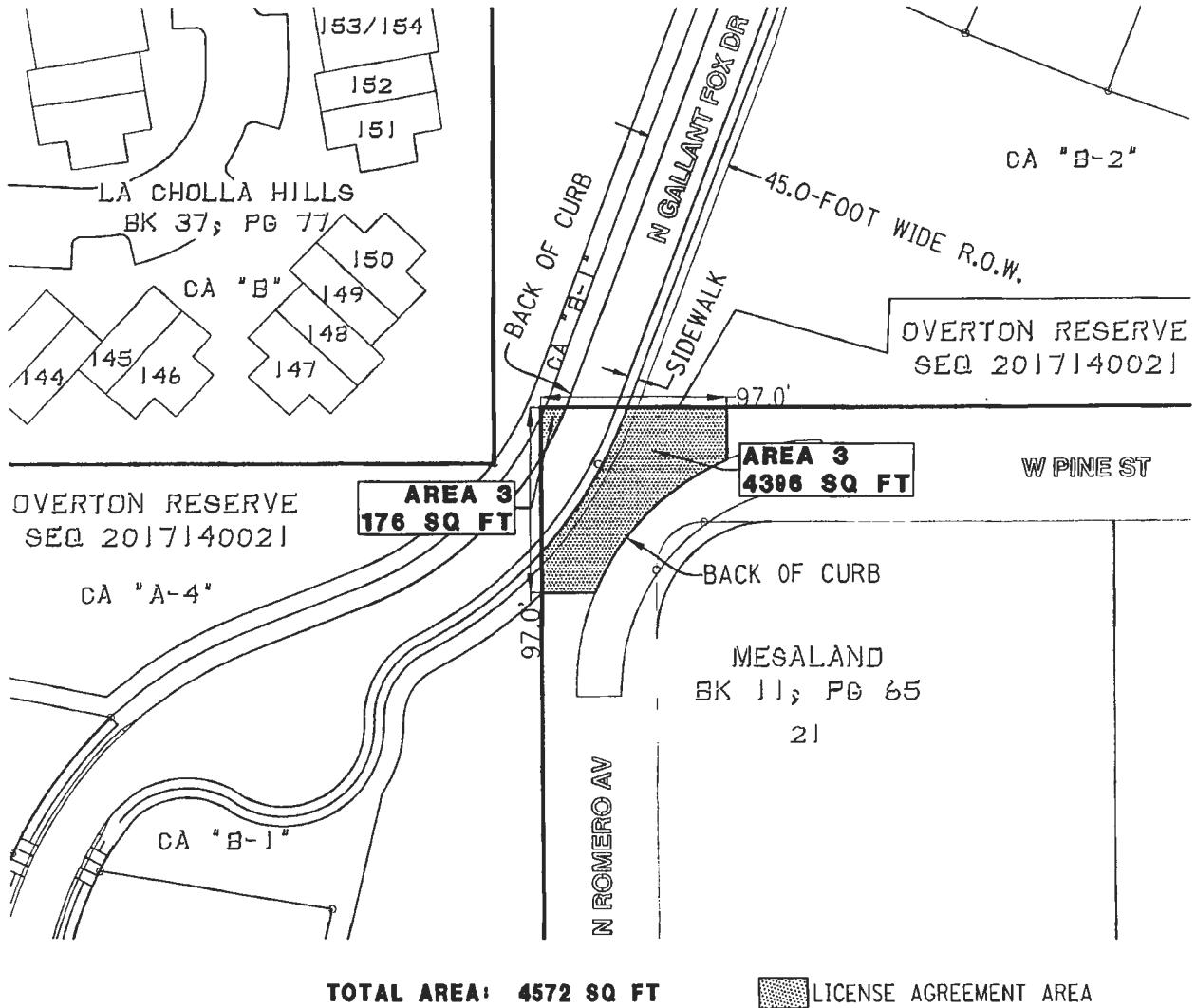


EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION OF A LICENSE
AGREEMENT WITHIN OVERTON RESERVE,
RECORDED AT SEQUENCE 2017140021
BEING WITHIN THE SE 1/4 OF SECTION 22
TOWNSHIP 12 SOUTH, RANGE 13 EAST,
GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA.

EXHIBIT B



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N.T.S.

EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION OF A
LICENSE AGREEMENT WITHIN AN AREA DEPICTED ON THE
FINAL PLAT OF OVERTON RESERVE,
RECORDED AT SEQUENCE 2017140021
BEING WITHIN THE SE 1/4 OF SECTION 22
TOWNSHIP 12 SOUTH, RANGE 13 EAST,
GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA.

RICK
ENGINEERING COMPANY

3945 EAST FORT LOWELL ROAD - SUITE 111
TUCSON, AZ 85712
520-795-1000
(FAX) 520-322-6956

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DATE 05/24/18

EXHIBIT C

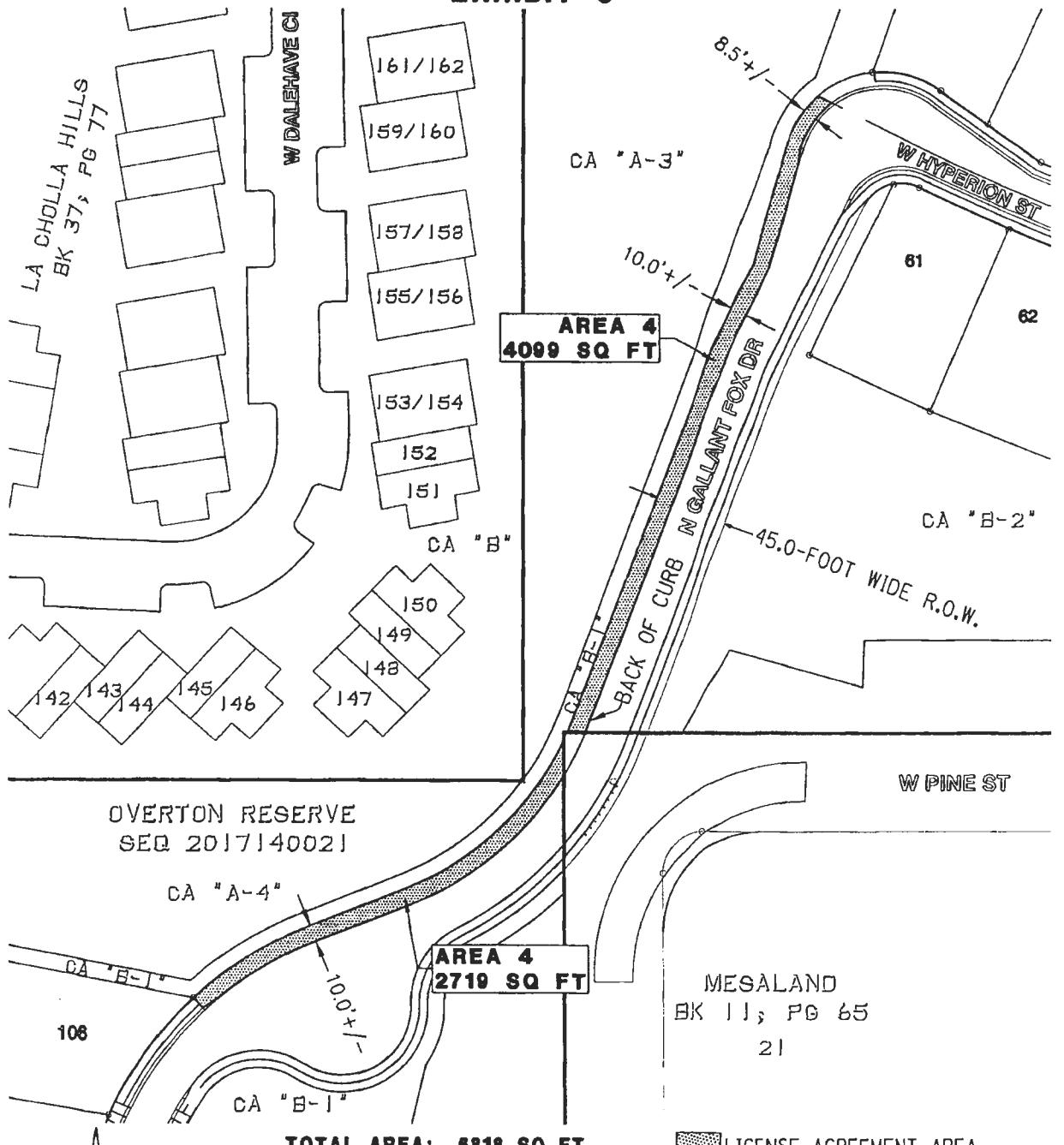


EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION OF A LICENSE
AGREEMENT WITHIN OVERTON RESERVE,
RECORDED AT SEQUENCE 2017140021
BEING WITHIN THE SE 1/4 OF SECTION 22
TOWNSHIP 12 SOUTH, RANGE 13 EAST,
GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA.

N.T.S.

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TUCSON, AZ 85712
520-795-1000
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DATE 05/24/18