



BOARD OF SUPERVISORS AGENDA ITEM REPORT
AWARDS / CONTRACTS / GRANTS

Award Contract Grant

Requested Board Meeting Date: 7/11/2023

* = Mandatory, information must be provided

or Procurement Director Award:

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

Arizona State Land Department ("ASLD")

***Project Title/Description:**

State of Land Department State of Arizona Right of Way R/W No. 14-123322-00

***Purpose:**

Pima County maintains stewardship lands, both leased and fee title ownership, in the Rancho Seco and Sopori Ranch areas. Access to these areas has been provided by the historically used ranch roads. Documented access rights do not appear to exist across certain ASLD property and NRPR has requested continued legal access for stewardship lands management. County has applied for and received, subject to Procurement Director approval, a ROW lease from ASLD that will provide the needed legal access. The ROW term is thirty (30) years commencing March 10, 2023 and expiring on March 9, 2053. The cost to County for the subject ROW is a one-time rental payment of \$48,343.00 (processed through PR 23*30139) based on a fair market appraisal done by ASLD. (ACQ-1120)

***Procurement Method:**

Exempt pursuant to Pima County Code 11.04.020.

***Program Goals/Predicted Outcomes:**

Ensure continued legal access to Rancho Seco and Sopori Ranch by obtaining a 30 year Right of Way from ASLD.

***Public Benefit:**

Obtain legal access rights across ASLD property for County staff and ranch managers to continue using the existing ranch roads for the operation and management of the stewardship lands.

***Metrics Available to Measure Performance:**

Right of access is granted by the ASLD. The cost to County for the subject access is a one-time payment of \$48,343.00 based on a fair market appraisal completed by ASLD and reviewed and accepted by PC staff. The permissions granted by the ASLD will be effective for 30 years at which time a renewal of the access rights will be required.

***Retroactive:**

Pima County has been working with ASLD over an extended period of time to complete the right of way lease access. ASLD controls the scheduling in terms of appraisals and lease documents and the start date for the lease which commenced as of March 10, 2023 was pre-determined by ASLD.

To COB: 6/26/23
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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): 23*0415
Commencement Date: 3/10/2023 Termination Date: 3/9/2053 Prior Contract Number (Synergen/CMS): _____
 Expense Amount \$ 0.00 * Revenue Amount: \$ _____

***Funding Source(s) required: NRPR-ROW Acquisition/Maintenance**

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: 520-724-6308

Department Director Signature: _____

Date: 6/21/2023

Deputy County Administrator Signature: _____

Date: 6/21/2023

County Administrator Signature: _____

Date: 6/21/2023

**STATE LAND DEPARTMENT
STATE OF ARIZONA**

Right of Way

R/W No. 14-123322-00

THIS RIGHT OF WAY ("Right of Way") is entered into by and between the State of Arizona (as "Grantor") by and through the Arizona State Land Department and

PIMA COUNTY

("Grantee"). In consideration of payment and performance by the parties of each of the provisions set forth herein, the parties agree as follows:

EXTENT OF DOCUMENT

"Additional Conditions", "Exhibits", and "Appendixes" are an integral part of this document. In case of a conflict between the printed boiler document and the additional conditions, exhibits, or appendixes, the applicable additional condition, exhibit, or appendix shall be considered the governing document and supersede the printed boiler, but only to the extent necessary to implement the additional condition, exhibit, or appendix, and only if the additional condition, exhibit, or appendix does not conflict with governing state or federal law.

**ARTICLE 1
SUBJECT LAND**

1.1 Grantor grants to Grantee a Right of Way on, over, through, and across the State lands described in Appendix A attached hereto ("Subject Land").

1.2 Grantee makes use of the Subject Land "as is", and Grantor makes no express or implied warranties as to the physical condition of the Subject Land.

**ARTICLE 2
TERM**

2.1 The term of this Right of Way commences on March 10, 2023 ("Commencement Date"), and expires on March 9, 2053 ("Expiration Date"), provided by unless sooner canceled or terminated as provided herein or as law.

ARTICLE 3
RENT

3.1 Rental is due in advance for the term of this Right of Way document.

3.2 If the Grantee should fail to pay rental when due, or fail to keep the covenants and agreements herein set forth, the Commissioner, at his option, may cancel said Right of Way or declare the same forfeited in the manner provided by law.

3.3 There shall be added to the delinquent rental or other monies due, a penalty and delinquent interest. The delinquent interest rate shall be set by the State Treasurer according to law. The penalty shall be the greater of a minimum processing cost as determined by the Commissioner or five (5%) percent. The delinquent rent, penalty and interest shall be a lien on the improvements and property on the land.

ARTICLE 4
PURPOSE AND USE OF SUBJECT LAND

4.1 The purpose of this Right of Way is the location, construction, operation, and maintenance of:

Access road

4.2 No material may be removed by Grantee or its contractors without the written approval of the Commissioner.

4.3 Grantee shall not exclude from use the State of Arizona, its lessees, or grantees, or the general public the right of ingress and egress over this Right of Way.

4.4 Grantee shall acquire required permits prior to construction, and adhere to all applicable rules, regulations, ordinances, and building codes as promulgated by the local jurisdiction and any applicable State or Federal agencies.

4.5 All use of State land outside the Right of Way must be applied for and authorized in accordance with applicable law.

4.6 Grantee shall not sublet or assign this Right of Way or any portion thereof without the written consent of the Grantor.

4.7 The Grantor retains ownership of the Subject Land. The use of this Right of Way is to be non-exclusive. This Right of Way is sold subject to existing reservations, easements, or rights of way heretofore legally obtained and now in full force and effect.

4.8 When necessary for Grantee's reasonable use of this Right of Way for the purposes for which the grant is made, it shall be deemed to include the rights in, upon, over, and across the described Subject Land to erect, construct, reconstruct, replace, repair, and maintain the facilities authorized by this Right of Way.

4.9 Grantee shall have the right to erect, maintain, and use gates in all fences under the control of the Grantor which now cross or shall hereafter cross said Right of Way, and to trim, cut, and clear away trees or brush whenever in its judgment the same shall be necessary for the convenient and safe exercise of the right herein provided.

4.10 Grantee shall not fence any portion of this Right of Way unless specifically authorized in the attached additional conditions without prior written consent of Grantor, nor shall Grantee exclude from the use of the surface thereof the State of Arizona or its lessees or grantees as reserved in Paragraph 10.1.

ARTICLE 5 **CONFORMITY TO LAW**

5.1 This Right of Way is subject to applicable laws and covenants relating to State lands.

ARTICLE 6 **CANCELLATION, TERMINATION AND ABANDONMENT**

6.1 This Right of Way is subject to cancellation pursuant to A.R.S. § 38-511.

6.2 If at any time the Right of Way ceases to be used for the purpose for which it was granted, it shall become void, and the right to use the Subject Land and all the rights of Grantee hereunder shall revert to the Grantor.

6.3 Upon revocation or termination of the Right of Way, the Grantee shall remove all equipment or facilities, and so far as is reasonably possible, restore and/or rehabilitate the Subject Land to its original condition, and to the satisfaction of the Commissioner.

ARTICLE 7 **INDEMNITY**

7.1 This provision is pursuant to the July 12, 2000 memorandum issued by the Risk Management Section of the Arizona Department of Administration applicable to all political subdivisions of the State.

Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorneys' fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the

indemnitee, are caused by the act, omission, negligence, misconduct, or fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

ARTICLE 8
RESERVATIONS; RELINQUISHMENTS

8.1 Grantor reserves the right to grant other rights in, upon, over, and across the described Subject Land for any purpose whatsoever not inconsistent or incompatible with the use allowed by this indenture, and the Grantee agrees not to exclude the Grantor or its lessees or grantees from the use of the Subject Land herein described.

8.2 Grantor reserves all natural resources, timber, and minerals (including oil or gas) in or upon the described Subject Land, and the right to grant leases, permits, easements, and/or rights of way to extract such resources as provided by law and in a manner not inconsistent or incompatible with Grantee rights hereunder. Where inconsistent or incompatible uses exist, the Grantor will require the applicant therefor to indemnify Grantee for loss it might suffer by reason of such use.

8.3 Grantor reserves the right to relinquish to the United States pursuant to the U.S. Act of August 30, 1890, land needed for irrigation works in connection with a government reclamation project.

ARTICLE 9
LOCATION, CONSTRUCTION AND MAINTENANCE

9.1 Grantee shall ensure full compliance with the terms and conditions of this Right of Way by its agents, employees, and contractors (including sub-contractors of any tier), and the employees of each of them and shall include the terms and conditions in all contracts and sub-contracts which are entered into by any of them.

9.2 Failure or refusal of Grantee's agents, employees, contractors, sub-contractors, or their employees to comply with these terms and conditions shall be deemed to be the failure or refusal of Grantee.

ARTICLE 10
NATIVE PLANTS AND CULTURAL RESOURCES

10.1 (a) Pursuant to A.R.S. §§ 41-841 and 41-842, Grantee, Grantee's employees, and Grantee's guests shall not excavate or collect any prehistoric or historic archaeological specimens on the Subject Land without a permit from the Director of the Arizona State Museum and written approval of Grantor pursuant to the terms of this Right of Way. Grantee shall immediately report any unpermitted excavation or collection of archaeological specimens on the Subject Land to the Arizona State Museum and Grantor.

(b) Pursuant to A.R.S. § 41-844, Grantee shall report to the Director of the Arizona State Museum and Grantor any prehistoric or historic archaeological site, or paleontological site, that is discovered on the Subject Land by Grantee, Grantee's employees, or Grantee's guests, and shall, in consultation with the Director of the Arizona State Museum and Grantor, immediately take all reasonable steps to secure the preservation of the discovery.

10.2 (a) Grantee shall not move, use, destroy, cut or remove or permit to be moved, used, destroyed, cut or removed any timber, cactus, native plants, standing trees or products of the land except that which is necessary for the use of the Subject Land, and then only with the prior written approval of Grantor. For undeveloped land, the Grantee must submit a plant survey prior to the removal of any native plant. If the removal or destruction of plants protected under the Arizona Native Plant Law (A.R.S. § 3-901 et seq., or any successor statutes) is necessary to the use of the Subject Land, Grantee shall also obtain the prior written approval of the Arizona Department of Agriculture. In the event the Grantee removes the native plants, the Grantee must pay a vegetation fee to the Grantor and this fee is not a reimbursable improvement.

(b) Grantee is responsible for treatment of all regulated and restricted noxious weeds listed by the Arizona Department of Agriculture.

ARTICLE 11 **GRANTEE SHALL PROTECT AND RESTORE THE SUBJECT LAND**

11.1 Grantee shall be required, upon completion of Right of Way construction, to make such rehabilitation measures on the State lands, including but not limited to restoration of the surface, revegetation, and fencing as determined necessary by the Grantor.

11.2 Grantee shall conduct all construction and maintenance activities in a manner that will minimize disturbance to all land values including, but not limited to vegetation, drainage channels, and streambanks. Construction methods shall be designed to prevent degradation of soil conditions in areas where such degradation would result in detrimental erosion or subsidence. Grantee shall take such other soil and resource conservation and protection measures on the Subject Land under grant as determined necessary by the Grantor.

11.3 Costs incurred by the Grantee in complying with restoration and rehabilitation requirements, as determined by the Department, on State lands shall be borne by the Grantee.

11.4 Grantee shall conduct its operations on the Subject Land in such a manner as is consistent with good environmental practices. Grantee shall exert reasonable efforts to avoid damage of protected flora, and restore the surface to its condition prior to the occupancy thereof by Grantee.

ARTICLE 12
MISCELLANEOUS

12.1 The described Subject Land shall be used only for the purpose stated in Paragraph 4.1, and as may be further detailed elsewhere in this document.

12.2 This Document is submitted for examination and shall have no binding effect on the parties unless and until executed by the Grantor (after execution by the Grantee), and until a fully executed copy is delivered to the Grantee.

12.3 In the event of a dispute between the parties to this Right of Way, it is agreed to use arbitration to resolve the dispute, but only to the extent required by A.R.S. § 12-1518. In no event shall arbitration be employed to resolve a dispute which is otherwise subject to administrative review by the Department.

12.4 Insurance provisions are intentionally omitted from this Permit pursuant to the July 12, 2000 memorandum issued by the Risk Management Section of the Arizona Department of Administration to all political subdivisions of the State.

12.5 The Grantor does not represent or warrant that access exists over other State lands which intervene respectively between the above Right of Way and the nearest public roadway.

12.6 If for any reason the State of Arizona does not have title to any of the Subject Land described herein, this Right of Way shall be null and void insofar as it relates to the land to which the State has failed to receive title.

12.7 Every obligation of the State under this Right of Way is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Right of Way, this Right of Way may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or any damages as a result of termination under this paragraph.

12.8 The parties agree to be bound by applicable State and Federal rules governing Equal Employment Opportunity, Non-discrimination and Disabilities, including Executive Order No. 2009-09.

12.9 Within 30 days of project completion, Grantee shall submit a completed certificate of construction (copy attached).

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These Additional Conditions are attached to and made a part of the Right of Way boiler plate form (the "Boiler Plate"). The term "Section" when used in these Additional Conditions shall be deemed to refer to the Section numbers of the text in the Boiler Plate. The term "Paragraph" when used in these Additional Conditions shall be deemed to refer to the Paragraph numbers of the text in these Additional Conditions. The term "Right of Way" shall mean the Boiler Plate as supplemented by these Additional Conditions.

1. LEGAL DESCRIPTION, RENT AND PURPOSE

1.1 A legal description and/or a visual depiction of this Right of Way is/are detailed in EXHIBIT A attached hereto. Subject to Grantor's rules and policies then in place, and as a result of construction-related restrictions, Grantor and Grantee may agree to modify the legal description by the Grantee submitting "as built" or "proposed realignment" legal descriptions, depending on the situation, to Grantor for Grantor's review. If approved by Grantor, and additional acreage is impacted, Grantee agrees to pay an appraised or pro-rated charge as Grantor determines is appropriate. No refund will be made for a reduction in acreage.

1.2 Grantor reserves the right to grant additional access rights, or any other rights not in conflict with the rights granted herein, to other parties at the Grantor's sole discretion.

1.3 The purpose of this Right of Way is for a Non-Exclusive Access Road and is for the benefit of the Grantee and/or its authorized users to access Grantee's land. Grantee may not grant authorization for use of this non-exclusive Access Road to any person or persons not associated with Grantee, assignee or its successors.

1.3.1 This Right of Way prohibits the erection of any type advertising sign(s) or monument structure(s) without proper rights authorized or issued by Grantor, assignees or its successors.

2. CONSTRUCTION, MAINTENANCE AND OPERATION

2.1 Grantee is responsible for complying with all federal, state and local guidelines in regard to the construction, maintenance and operation of this Right of Way grant and its associated appurtenances.

2.2 Prior to construction, and at the request of the Grantor, Grantee shall provide construction plans (electronically in PDF format format) and applicable drainage report(s),

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engineering infrastructure report(s) or studies, and any Clean Water Act (CWA) Section 401 or 404 documents to the Grantor for the Grantor's review.

2.3 Grantee shall conduct all construction and maintenance activities in a manner that will minimize disturbance to surface features affecting adjacent land values, including, but not limited to, vegetation, drainage channels and stream banks.

2.4 Grantee shall be responsible for controlling noxious weeds as listed by the Arizona Department of Agriculture for the term of this Right of Way. Grantor recommends Grantee review Arizona Department of Agriculture website for prohibited and restricted noxious weed rules and regulations.

2.5 Grantee agrees that any rubbish or debris from construction and maintenance work shall be removed and properly disposed of at its expense. Disposal of construction-related and maintenance-related materials on State Trust land is strictly prohibited.

2.6 Specific sites where construction and maintenance equipment and vehicles shall not be allowed (e.g. archaeological sites, areas with threatened or endangered species, or fragile watersheds) shall be clearly marked onsite by the Grantee prior to the beginning of any construction, maintenance or other ground disturbing activities. Grantee shall take any and all steps necessary to ensure that these sites are not touched.

2.7 All equipment shall be removed from the site within seven (7) days of project completion.

2.8 Grantee shall be responsible for weed control on disturbed areas within the limits of this Right of Way and shall be responsible for consultation with the Grantor and/or local authorities for acceptable weed control methods.

2.9 For construction on or after Commencement Date of this Right of Way: Prior to commencement of construction Grantee shall submit and receive Grantor approval for a plan to restore and rehabilitate disturbed areas remaining once construction has been completed. The plan shall include, but not be limited to, reseeding, reforestation, erosion control, and watershed protection measures.

2.10 For construction on or after Commencement Date of this Right of Way: All rock brought to the surface along with topsoil and overburden from the affected State Trust lands shall be salvaged and stockpiled separately in a manner that replacement shall utilize

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one hundred (100%) percent of the materials upon completion of construction. Excess rock unsuitable for scattering shall be disposed of in a manner and location that is authorized by the Grantor.

2.11 Grantee shall maintain the Right of Way grant area in the manner described above during the term of this easement. Grantee agrees to complete any necessary restoration and rehabilitation to the satisfaction of the Grantor within ninety (90) days of written notification of non-compliance, or such longer period of time as mutually determined to be necessary to restore and/or rehabilitate subject land.

3. ENVIRONMENTAL MATTERS AND INDEMNITY

The following conditions shall supplement the terms and provisions governing environmental matters as set forth in the Right of Way boiler to which these Conditions are stated below.

3.1 For purposes of this Right of Way, the term "Environmental Laws" shall include but not be limited to any relevant federal, state or local environmental laws, and the regulations, rules and ordinances, relating to environmental matters, and publications promulgated pursuant to the local, state, and federal laws and any rules or regulations relating to environmental matters. For the purpose of this Right of Way, the term "Regulated Substances" shall include but not be limited to substances defined as "regulated substance", "solid waste", "hazardous waste", "hazardous materials", "hazardous substances", "toxic materials", "toxic substances", "inert materials", "pollutants", "toxic pollutants", "herbicides", "fungicides", "rodenticides", "insecticides", "contaminants", "pesticides", "asbestos", "environmental nuisance", "criminal littering", or "petroleum products" as defined in Environmental Laws.

3.2 Grantee shall strictly comply with all Environmental Laws, including, without limitation, water quality, air quality, and handling, transportation, storage, treatment, or disposal of any Regulated Substance on, under, or from the Subject Land. Without limiting the foregoing, compliance includes that Grantee shall: (1) comply with all reporting obligations imposed under Environmental Laws; (2) obtain and maintain all permits required by Environmental Laws, and provide a copy to Grantor within ten (10) business days of receipt of the Right of Way; (3) provide copies of all documentation required by Environmental Laws to Grantor within ten (10) business days of Grantee's submittal and/or receipt of the documentation; (4) during the term of Right of Way, provide copies of all information it receives or obtains regarding any and all environmental matters relating to the Subject Land, including but not limited to environmental audits relating to the Subject

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Land regardless of the reason for which the information was obtained or whether or not the information was required by Environmental Laws; (5) prevent treatment, storage, disposal, handling or use of any Regulated Substances within the Subject Land without prior written authorization from Grantor.

3.3 Grantee at all times shall employ or designate an existing employee (the "Designated Compliance Officer") who is responsible for knowing all Environmental Laws affecting Grantee and Grantee's business and monitoring Grantee's continued compliance with applicable Environmental Laws. Upon request by Grantor, Grantee shall make the Designated Compliance Officer available to discuss Grantee's compliance, answer any questions, and provide such reports and confirming information as Grantor may reasonably request.

3.4 At any time, Grantor may request Grantee to provide an environmental audit of the Subject Land performed by an Arizona registered professional engineer or an Arizona registered geologist. Grantee shall pay the entire cost of the audit.

3.5 Hazardous material generated (motor oil, paint, etc.) shall be disposed of properly or used in a way which will minimize impact on vegetation.

3.6 At any time, during the term of the Right of Way, Grantor may require Grantee to obtain one Phase I environmental assessment of the Subject Land performed by an Arizona registered professional engineer or an Arizona registered geologist. If based upon the Phase I environmental assessment or its own independent investigation, Grantor identifies any possible violation of Environmental Laws or the terms of this Right of Way, Grantor may require Grantee to conduct additional environmental assessments as Grantor deems appropriate for the purpose of ensuring that the Subject Land are in compliance with Environmental Laws. The Phase I assessment, or any other assessment required by Grantor, shall be obtained for the benefit of both Grantee and Grantor. A copy of the Phase I report shall be provided both to Grantee and Grantor. Grantor, in its sole discretion, shall have the right to require Grantee to perform additional assessments of any damage to the Subject Land arising out of any violations of Environmental Laws. If Grantee fails to obtain any assessments required by Grantor, Grantee shall pay the entire costs of any and all assessments required by Grantor, notwithstanding the expiration or termination of the Right of Way.

3.7 Prior to the termination of the Right of Way, Grantee shall restore the Subject Land by removing any and all Regulated Substances. In addition, the restoration shall

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include, but not be limited to, removal of all waste and debris deposited by Grantee. If the Subject Land or any portions thereof are damaged or destroyed from the existence or presence of any Regulated Substance or if the Subject Land or any portions thereof are damaged or destroyed in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance, Grantee shall arrange, at its expense, for the repair, removal, remediation, restoration, and reconstruction to the Subject Land to the original condition existing on the date that Grantee first occupied the Parcel, to the satisfaction of Grantor. In any event, any damage, destruction, or restoration by Grantee shall not relieve Grantee from its obligations and liabilities under this Right of Way. Grantee's restoration obligations under this Section shall survive the expiration or the termination of the Right of Way.

3.8 Grantee shall defend, indemnify and hold Grantor harmless from and against any and all liability, obligations, losses, damages, penalties, claims, environmental response and cleanup costs and fines, and actions, suits, costs, taxes, charges, expenses and disbursements, including legal fees and expenses of whatever kind or nature (collectively, "claims" or "damages") imposed on, incurred by, or reserved against Grantor in any way relating to or arising out of any non-compliance with any Environmental Laws, the existence or presence of any Regulated Substance, on, under, or from the Subject Land, and any claims or damages in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance on, under, or from the Subject Land by Grantee, its agents, contractors, or subcontractors.

3.9 This indemnity shall include, without limitation, claims or damages arising out of any and all violations of Environmental Laws regardless of any real or alleged fault, negligence, willful misconduct, gross negligence, breach of warranty, or strict liability on the part of any of the indemnitees. This indemnity shall survive the expiration or termination of this Right of Way and/or transfer of all or any portion of the Subject Land and shall be governed by the laws of the State of Arizona.

3.10 In the event any action or claim is brought or asserted against Grantor which is or may be covered by this indemnity, Grantee shall fully participate, at Grantee's expense, in the defense of the action or claim including but not limited to the following: (1) the conduct of any required cleanup, removal or remedial actions and/or negotiations, (2) the conduct of any proceedings, hearings, and/or litigation, and (3) the negotiation and finalization of any agreement or settlement. Grantor shall retain the right to make all final decisions concerning the defense. Grantee's obligations to participate in the defense under this Section shall survive the expiration or termination of the Right of Way.

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4. CULTURAL RESOURCES AND NATIVE PLANTS

4.1 Prior to any ground disturbance in areas not previously subject to a cultural resources survey, Grantee shall arrange for a permittee of the Arizona State Museum to inspect the area for cultural, historical, and paleontological remains and submit two copies and a PDF copy of the inspection report to the Arizona State Land Department Cultural Resources Section for review and approval.

4.2 Provided any cultural resources are discovered, Grantee shall avoid the resource or submit a plan for data recovery. Archaeological surveys and/or site mitigation must be conducted in accordance with the rules and regulations promulgated by the Director of the Arizona State Museum. In the event additional archaeological resources are detected by Grantee after receipt of archaeological clearance, all work shall cease and notification shall be given to the Director of the Arizona State Museum, as well as the Arizona State Land Department Cultural Resources Manager. Ground disturbing activities include, but are not limited to; blading, grading, or widening roads, pole replacement, pull-sites, temporary construction easements, or any other activity that will disturb the topsoil.

4.3 If, following receipt of Arizona State Land Department Cultural Resources Section approval to proceed, any additional archaeological, paleontological, or historical site or object, or Human remains or funerary object that is at least fifty years old is discovered during the course of ground disturbing activities, all work shall cease and the Grantee shall notify the Director of the Arizona State Museum pursuant to A.R.S. §41-844, and the Arizona State Land Department Cultural Resources Section Manager.

4.4 Grantee shall supply Grantor with any documentation required to consult with the State Historic Preservation Office, as required pursuant to the State Historic Preservation Act (A.R.S. § 41-861 et seq).

4.5 Prior to any ground disturbance, and at the request of Grantor, Grantee agrees to conduct and submit a plant inventory/plant salvage plan to the Grantor. Payment will be required prior to any ground disturbance for any flora cut, removed and/or destroyed.

4.6 If vegetation is authorized by Grantor to be removed and/or destroyed, and prior to any ground disturbance, Grantee agrees to file the appropriate Notice of Intent to Clear Land in accordance with A.R.S. § 3-905 Destruction of Native Plants by State.

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4.7 Grantee shall preserve or relocate all protected plants, if viable and feasible, on or adjacent to the work site that will not interfere with the work required.

4.8 Grantee shall only remove protected plants when specifically authorized to do so and avoid damaging vegetation that will remain in place. If the Grantee or its contractors are authorized to remove any protected plants from State Trust land for replanting off of State Trust land, a permit from the Department of Agriculture is required.

4.9 Grantee shall contact the Arizona Department of Agriculture for further information or permit requirements related to native protected plants.

4.9.1 A survey may be required to determine if protected plants are present and if plants must be salvaged. Grantee shall contact the Arizona Department of Agriculture at least sixty (60) days before commencement of any salvage work.

4.10 Grantee shall minimize the removal of existing vegetation within the project area to the greatest extent possible.

4.11 Grantee shall salvage or replant cactus and other protected plants.

4.12 Grantee is prohibited to blade, scrape or remove any existing vegetation without authorization from Grantor.

5. SERVICE / ACCESS ROADS

5.1 Grantee shall acquire any permits necessary prior to the construction and maintenance of its service roads. Grantee shall construct new service roads with widths as narrow as possible.

5.2 Material for service road construction and maintenance (i.e. fill dirt, sand and gravel, etc.) may not be acquired from State Trust lands without the proper permits and authorization.

5.3 Service roads shall be maintained in substantially the same condition as they exist at the time the Right of Way is issued except, if not drivable, they may be made drivable.

5.4 Grantee shall not fence nor gate the service roads without the prior written permission of the Grantor.

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5.5 The service roads shall only be used by the Grantee in conjunction with said Right of Way grant and associated appurtenances.

5.6 Grantee shall avoid using service roads during wet weather or when too soft to travel over. The soil shall be deemed too wet to adequately support equipment if such equipment creates ruts in excess of six (6) inches deep.

5.7 Maintenance of the service roads may include dust control measures for the term of this Right of Way.

6. EXISTING LESSEES

6.1 Grantee shall keep all gates closed and ensure its contractors do the same. Grantor reserves the right to require cattle guards if Grantor determines gates are being left open or fencing has been removed or damaged by the Grantee, its employees or contractors.

6.2 Any grazing-related improvements removed or damaged due to construction, operation and maintenance of this Right of Way shall be replaced and/or reconstructed immediately. Cost of replacement and reconstruction shall be the responsibility of the Grantee.

6.3 Grantee shall provide Grantor with documentation of the surface lessee's consent prior to making any alterations to existing improvements.

6.4 If construction or maintenance occurs during periods of livestock grazing, Grantee will take necessary measures to insure livestock protection and containment.

6.4.1 Grantee agrees to notify Grazing Lessee(s) 30 days prior to beginning construction or maintenance and inquire as to the presence/absence of livestock.

7. MISCELLANEOUS

7.1 Grantor, or its successors or assigns, reserves the right, upon the request of Lessee / Certificate of Purchase Holder / Permittee to relocate all or any portion of this Right of Way, provided however that the Lessee / Certificate of Purchase Holder / Permittee of the underlying State Trust land shall bear the full cost and expense of the relocation of any facilities on the Subject Land and on neighboring land regardless of ownership necessary to accommodate the relocation of the Right of Way. Relocation shall require an amendment to

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the description of the Subject Land, and may require payment of additional rental to Grantor, but in no case a diminution in rental, if necessary to compensate for any greater value of the amended Subject Land.

7.2 Grantee shall not alter nor cause ponding, nor any damage up or down stream of any water crossing.

7.3 No altering of existing drainages or drainage structures is authorized under this instrument.

7.4 If any provision or agreement of this Right of Way is found invalid by any tribunal, such invalidity shall not affect the validity of the remaining provisions hereof.

7.5 The following provision shall be deemed added at the end of Section 6.2 of Article 6 of the Right of Way to which these Additional Conditions are attached as if set forth therein verbatim:

“Any violation by Grantee of any of the terms of this Right of Way constitutes a breach. Upon a breach by Grantee which is not cured within sixty (60) days after the date a notice of breach is sent by certified mail to Grantee to the most recent address for Grantee as shown in the files of Grantor, this Right of Way shall become void and the right to use the Subject Land and all of the rights of Grantee hereunder shall revert to Grantor at the expiration of the aforesaid sixty (60) day period.”

7.6 Attached hereto as EXHIBIT B is an insurance rider which shall supplement the terms and provisions governing insurance as set forth in the Right of Way form to which these Additional Conditions are attached. Grantor reserves the right to amend EXHIBIT B as and when the Arizona Department of Administration requires revisions to the insurance requirements applicable to Arizona State Trust Land.

8. EXHIBITS

8.1 The following exhibits are attached to these Additional Conditions and made a part hereof:

EXHIBIT A Legal Description and/or Visual Depiction of Right of Way
EXHIBIT B Insurance Rider

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**BY SIGNATURE BELOW, ALL TERMS ARE
AGREED TO AND ACCEPTED BY GRANTEE**

✓By: 

✓Title: Director, Real Property

✓Date: 5/10/23

[Remainder of this page left blank intentionally]

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

PARCEL 1:

A portion of the northwest one-quarter of Section 26, Township 19 South, Range 18 East, Gila and Salt River Meridian, Pima County, Arizona, being a 30-foot-wide strip of land, 15 feet on each side of the following described centerline:

COMMENCING at the west one-quarter corner of said Section 26 monumented by a 2 ½" G.L.O. Brass Cap on 1" Iron Pipe from which the southwest corner of said Section 26, monumented by a 2 ½" G.L.O. Brass Cap on a 2" Iron Pipe, bears South 00°52'47" East (Basis of Bearing) a distance of 2640.21 feet;

THENCE upon the west line of said northwest one-quarter, North 00°48'45" West a distance of 2421.09 feet to the **POINT OF BEGINNING**;

THENCE North 12°53'03" East a distance of 51.34 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 100.00 feet and a central angle of 13°41'47" for an arc length of 23.90 feet to a line 15.00 feet east of and parallel with the west line of said northwest one-quarter;

THENCE upon said parallel line, North 00°48'45" West a distance of 145.71 feet to the north line of said northwest one-quarter and the **POINT OF TERMINUS**, from which the north one-quarter corner of said Section 26, monumented by a 2 ½" G.L.O. Brass Cap on a 1" Iron Pipe, bears N 89°04'43" E a distance of 2634.33 feet.

The sidelines of herein described centerline are to be lengthened or shortened so as to begin on the west line of said northwest one-quarter, meet at the angle points formed and terminate on the north line of said northwest one-quarter of Section 26.

Said Parcel 1 containing an area of 6624 square feet or 0.15 acres, more or less.

TOGETHER WITH PARCEL 2:

A portion of the west one-half of Section 26, Township 19 South, Range 18 East, Gila and Salt River Meridian, Pima County, Arizona, being a 30-foot-wide strip of land, 15 feet on each side of the following described centerline:

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

COMMENCING at the Southwest corner of said Section 26, monumented by a 2 ½" G.L.O. brass cap on a 2" iron pipe, from which the south one-quarter corner of said Section, monumented by a 2 ½" G.L.O. brass cap on 1" pipe bears North 89°14'51" East (Basis of Bearing) a distance of 2643.74 feet;

THENCE upon the south line of said west one-half, North 89°14'51" East a distance of 439.09 feet to the **POINT OF BEGINNING**;

THENCE North 60°58'31" East a distance of 281.93 feet to a point of curvature of a tangent curve concave southerly;

THENCE easterly upon the arc of said curve, to the right, having a radius of 150.00 feet and a central angle of 56°22'59" for an arc length of 147.61 feet;

THENCE South 62°38'30" East a distance of 16.62 feet to a point of curvature of a tangent curve, concave northerly;

THENCE easterly upon the arc of said curve, to the left, having a radius of 100.00 feet and a central angle of 36°28'01" for an arc length of 63.65 feet;

THENCE North 80°53'30" East a distance of 59.86 feet to a point of curvature of a tangent curve, concave northerly;

THENCE easterly upon the arc of said curve, to the left, having a radius of 300.00 feet and a central angle of 25°15'28" for an arc length of 132.25 feet;

THENCE North 55°38'02" East a distance of 130.27 feet to a point of curvature of a tangent curve, concave southeasterly;

THENCE northeasterly upon the arc of said curve, to the right, having a radius of 250.00 feet and a central angle of 14°55'09" for an arc length of 65.10 feet;

THENCE North 70°33'11" East a distance of 108.48 feet to a point of curvature of a tangent curve, concave northwesterly, said point hereinafter referred to as "**POINT A**";

THENCE northeasterly upon the arc of said curve, to the left, having a radius of 50.00 feet and a central angle of 37°41'19" for an arc length of 32.89 feet;

THENCE North 32°51'52" East a distance of 104.23 feet to a point of curvature of a tangent curve, concave southeasterly;

THENCE northeasterly upon the arc of said curve, to the right, having a radius of 225.00 feet and a central angle of 22°05'34" for an arc length of 86.76 feet;

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

THENCE North 54°57'26" East a distance of 31.31 feet to a point of curvature of a tangent curve, concave northwesterly;

THENCE northeasterly upon the arc of said curve, to the left, having a radius of 200.00 feet and a central angle of 19°58'05" for an arc length of 69.70 feet;

THENCE North 34°59'20" East a distance of 127.93 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 425.00 feet and a central angle of 31°33'32" for an arc length of 234.09 feet;

THENCE North 03°25'48" East a distance of 57.77 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 200.00 feet and a central angle of 20°08'19" for an arc length of 70.30 feet;

THENCE North 23°34'07" East a distance of 108.55 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 400.00 feet and a central angle of 22°34'44" for an arc length of 157.63 feet;

THENCE North 00°59'23" East a distance of 79.82 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 300.00 feet and a central angle of 20°11'10" for an arc length of 105.69 feet to a point of reverse curvature, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 125.00 feet and a central angle of 21°55'24" for an arc length of 47.83 feet;

THENCE North 00°44'51" West a distance of 33.76 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 200.00 feet and a central angle of 12°58'02" for an arc length of 45.26 feet;

THENCE North 12°13'11" East a distance of 161.69 feet to a point of curvature of a tangent curve, concave southeasterly;

THENCE northeasterly upon the arc of said curve, to the right, having a radius of 425.00 feet and a central angle of 25°18'40" for an arc length of 187.75 feet;

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

THENCE North 37°31'51" East a distance of 87.99 feet to a point of curvature of a tangent curve, concave northwesterly;

THENCE northeasterly upon the arc of said curve, to the left, having a radius of 300.00 feet and a central angle of 10°01'29" for an arc length of 52.49 feet;

THENCE North 27°30'22" East a distance of 234.29 feet to a point of curvature of a tangent curve, concave southeasterly;

THENCE northeasterly upon the arc of said curve, to the right, having a radius of 200.00 feet and a central angle of 18°33'47" for an arc length of 64.80 feet;

THENCE North 46°04'09" East a distance of 38.23 feet to a point of curvature of a tangent curve, concave northwesterly;

THENCE northeasterly upon the arc of said curve, to the left, having a radius of 300.00 feet and a central angle of 22°49'01" for an arc length of 119.47 feet;

THENCE North 23°15'08" East a distance of 17.18 feet to a point of curvature of a tangent curve, concave southeasterly;

THENCE northeasterly upon the arc of said curve, to the right, having a radius of 300.00 feet and a central angle of 12°15'41" for an arc length of 64.20 feet;

THENCE North 35°30'49" East a distance of 391.64 feet to a point of curvature of a tangent curve, concave southeasterly;

THENCE northeasterly upon the arc of said curve, to the right, having a radius of 75.00 feet and a central angle of 12°12'57" for an arc length of 15.99 feet;

THENCE North 47°43'46" East a distance of 59.04 feet to the east line of said west one-half of Section 26 and the **POINT OF TERMINUS**, from which the north one-quarter corner of said Section 26, monumented by a 2 ½" G.L.O. Brass Cap on a 1" Iron Pipe, bears N 00°47'08" W a distance of 2485.53 feet.

The sidelines of herein described centerline are to be lengthened or shortened so as to begin on the south line of said west one-half, meet at the angle points formed and terminate on the east line of said west one-half of Section 26.

Said Parcel 2 containing an area of 2.68 acres, more or less.

TOGETHER WITH PARCEL 3:

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

BEGINNING at the aforementioned "Point A";

THENCE North 84°14'35" East a distance of 105.21 feet to a point of curvature of a tangent curve, concave northwesterly;

THENCE northeasterly upon the arc of said curve, to the left, having a radius of 200.00 feet and a central angle of 41°59'37" for an arc length of 146.59 feet;

THENCE North 42°14'58" East a distance of 41.23 feet to a point of curvature of a tangent curve, concave southeasterly;

THENCE northeasterly upon the arc of said curve, to the right, having a radius of 175.00 feet and a central angle of 23°55'26" for an arc length of 73.07 feet;

THENCE North 66°10'24" East a distance of 123.94 feet to a point of curvature of a tangent curve, concave southerly;

THENCE easterly upon the arc of said curve, to the right, having a radius of 75.00 feet and a central angle of 49°38'52" for an arc length of 64.99 feet to a point of reverse curvature, concave northerly;

THENCE easterly upon the arc of said curve, to the left, having a radius of 350.00 feet and a central angle of 15°37'12" for an arc length of 95.42 feet to a point of reverse curvature, concave southwestly;

THENCE southeasterly upon the arc of said curve, to the right, having a radius of 200.00 feet and a central angle of 25°13'04" for an arc length of 88.03 feet;

THENCE South 54°34'51" East a distance of 64.03 feet to a point of curvature of a tangent curve, concave northerly;

THENCE easterly upon the arc of said curve, to the left, having a radius of 100.00 feet and a central angle of 75°03'43" for an arc length of 131.01 feet;

THENCE North 50°21'27" East a distance of 210.45 feet to a point of curvature of a tangent curve, concave southeasterly;

THENCE northeasterly upon the arc of said curve, to the right, having a radius of 225.00 feet and a central angle of 35°28'59" for an arc length of 139.34 feet;

THENCE North 85°50'25" East a distance of 19.27 feet to a point of curvature of a tangent curve, concave northwesterly;

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

THENCE northeasterly upon the arc of said curve, to the left, having a radius of 175.00 feet and a central angle of 41°42'15" for an arc length of 127.38 feet;

THENCE North 44°08'11" East a distance of 29.06 feet to the east line of said west one-half of Section 26 and the **POINT OF TERMINUS**, from which the south one-quarter corner of said Section 26, monumented by a 2 ½" G.L.O. Brass Cap on a 1" Iron Pipe, bears S 00°47'08" E a distance of 650.92 feet.

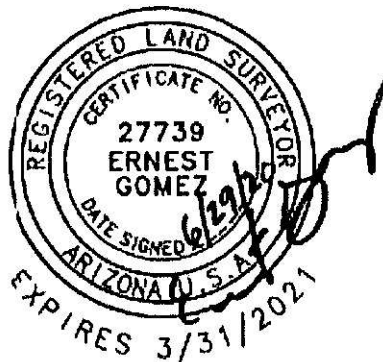
The sidelines of herein described centerline are to be lengthened or shortened so as to begin on the southeasterly line of above described Parcel 2, meet at the angle points formed and terminate on the east line of said west one-half of Section 26.

Said Parcel 3 containing an area of 42,899 square feet or 0.98 acres, more or less.

See Depiction of Exhibit A attached hereto and made a part hereof.

Prepared by:
Psomas

June 29, 2020
Project No. 7PIM190103



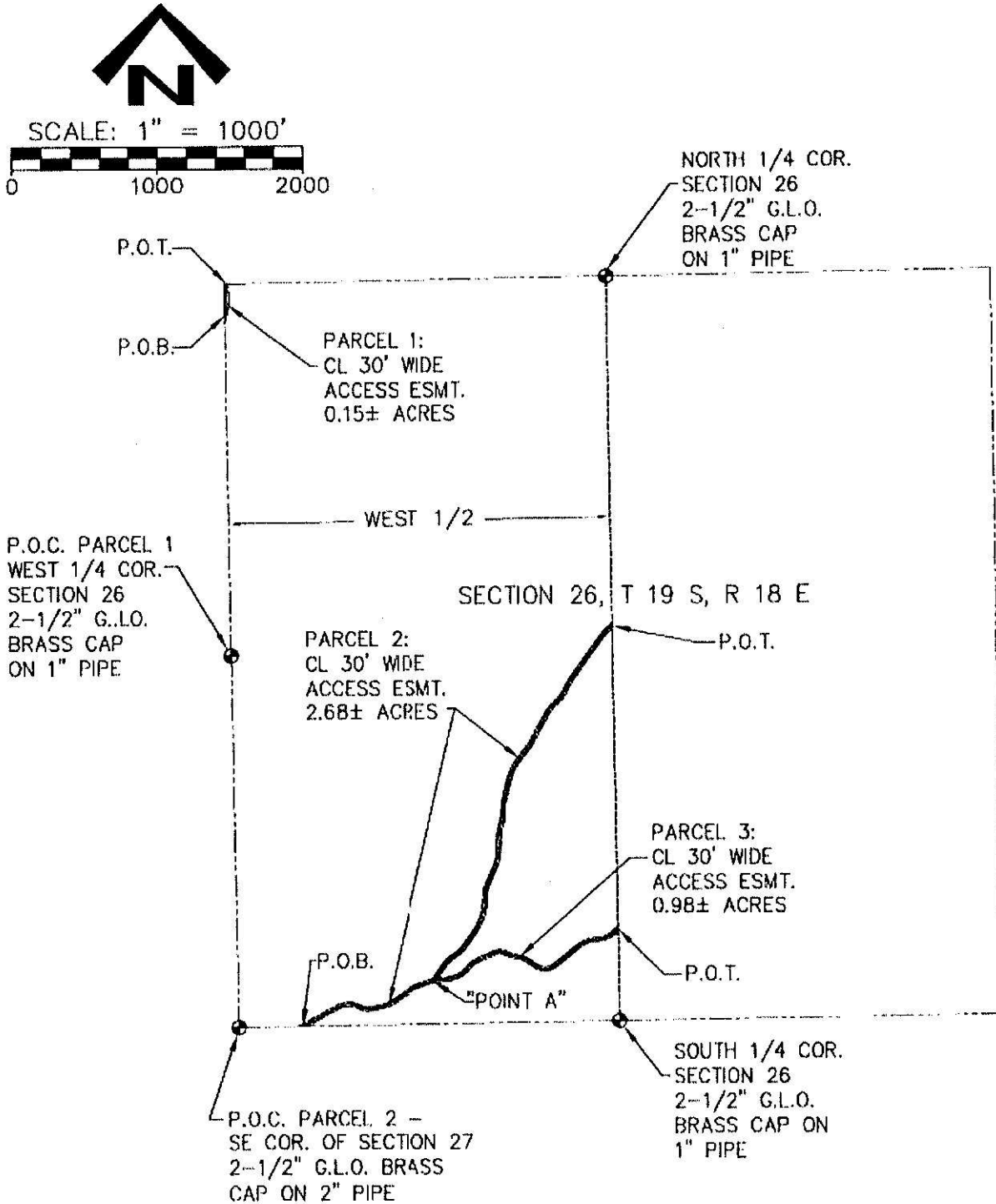
Ernest Gomez, AZ. R.L.S. 27739

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY



DEPICTION OF EXHIBIT A ACCESS EASEMENTS

A PORTION OF SECTION 26,
TOWNSHIP 19 SOUTH, RANGE 18 EAST,
GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

PSOMAS

333 E. Wetmore Road, Suite 450
Tucson, AZ 85704
(520) 282-2300 (520) 282-1290 fax

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

A portion of the east one-half of Section 27, Township 19 South, Range 18 East, Gila and Salt River Meridian, Pima County, Arizona, being a 30-foot-wide strip of land, 15 feet on each side of the following described centerline:

COMMENCING at the southeast corner of said Section 27 and the southwest corner of said Section 26, monumented by a 2 ½" G.L.O. Brass Cap on a 2" Iron Pipe from which a 2 ½" G.L.O. Brass Cap at the east one-quarter corner of said Section 27 bears North 00°52'47" West (Basis of Bearing) a distance of 2640.21 feet;

THENCE upon the south line of the east one-half of said Section 27, South 89°13'09" West a distance of 131.97 feet to the **POINT OF BEGINNING**;

THENCE North 14°33'30" West a distance of 52.04 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 200.00 feet and a central angle of 05°33'29' for an arc length of 19.40 feet;

THENCE North 09°00'01" West a distance of 96.26 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 600.00 feet and a central angle of 08°30'01' for an arc length of 89.01 feet;

THENCE North 17°30'01" West a distance of 152.17 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 200.00 feet and a central angle of 02°27'27' for an arc length of 8.58 feet;

THENCE North 15°02'34" West a distance of 162.20 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 100.00 feet and a central angle of 06°04'07' for an arc length of 10.59 feet;

THENCE North 08°58'27" West a distance of 131.80 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 400.00 feet and a central angle of 05°46'25" for an arc length of 40.31 feet;

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

THENCE North 14°44'53" West a distance of 104.21 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 100.00 feet and a central angle of 09°17'29" for an arc length of 16.22 feet;

THENCE North 05°27'24" West a distance of 94.91 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 200.00 feet and a central angle of 08°53'16" for an arc length of 31.02 feet;

THENCE North 03°25'53" East a distance of 53.28 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 200.00 feet and a central angle of 21°29'30" for an arc length of 75.02 feet;

THENCE North 18°03'38" West a distance of 46.79 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 500.00 feet and a central angle of 10°20'54" for an arc length of 90.31 feet;

THENCE North 07°42'43" West a distance of 834.49 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 100.00 feet and a central angle of 05°46'52" for an arc length of 10.09 feet;

THENCE North 01°55'51" West a distance of 101.26 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 300.00 feet and a central angle of 07°18'11" for an arc length of 38.24 feet;

THENCE North 09°14'03" West a distance of 62.75 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 250.00 feet and a central angle of 34°59'43" for an arc length of 152.70 feet;

THENCE North 25°45'40" East a distance of 70.02 feet to a point of curvature of a tangent curve, concave westerly;

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

THENCE northerly upon the arc of said curve, to the left, having a radius of 50.00 feet and a central angle of 53°24'53" for an arc length of 46.61 feet;

THENCE North 27°39'13" West a distance of 16.50 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 100.00 feet and a central angle of 40°17'05" for an arc length of 70.31 feet;

THENCE North 12°37'52" East a distance of 36.78 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 300.00 feet and a central angle of 07°45'44" for an arc length of 40.64 feet;

THENCE North 04°52'09" East a distance of 114.02 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 50.00 feet and a central angle of 20°52'26" for an arc length of 18.22 feet;

THENCE North 16°00'17" West a distance of 14.38 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 100.00 feet and a central angle of 15°36'48" for an arc length of 27.25 feet;

THENCE North 00°23'30" West a distance of 66.39 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 100.00 feet and a central angle of 13°32'15" for an arc length of 23.63 feet;

THENCE North 13°55'44" West a distance of 28.66 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 100.00 feet and a central angle of 12°26'55" for an arc length of 21.73 feet;

THENCE North 01°28'50" West a distance of 251.96 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 250.00 feet and a central angle of 20°22'38" for an arc length of 88.91 feet;

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

THENCE North 18°53'49" East a distance of 51.33 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 100.00 feet and a central angle of 31°01'33" for an arc length of 54.15 feet;

THENCE North 12°07'44" West a distance of 8.92 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 75.00 feet and a central angle of 34°39'02" for an arc length of 45.36 feet;

THENCE North 22°31'18" East a distance of 232.12 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 125.00 feet and a central angle of 36°53'24" for an arc length of 80.48 feet;

THENCE North 14°22'06" West a distance of 50.71 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 175.00 feet and a central angle of 33°11'22" for an arc length of 101.37 feet;

THENCE North 18°49'15" East a distance of 34.85 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 125.00 feet and a central angle of 19°25'05" for an arc length of 42.36 feet;

THENCE North 00°35'49" West a distance of 29.63 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 125.00 feet and a central angle of 28°12'32" for an arc length of 61.54 feet;

THENCE North 27°36'43" East a distance of 92.66 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 150.00 feet and a central angle of 11°45'42" for an arc length of 30.79 feet;

THENCE North 15°51'01" East a distance of 69.03 feet to a point of curvature of a tangent curve, concave easterly;

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

THENCE northerly upon the arc of said curve, to the right, having a radius of 200.00 feet and a central angle of 11°49'14" for an arc length of 41.26 feet;

THENCE North 27°40'15" East a distance of 233.68 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 200.00 feet and a central angle of 22°08'38" for an arc length of 77.30 feet;

THENCE North 05°31'37" East a distance of 12.32 feet to a point of curvature of a tangent curve, concave westerly;

THENCE northerly upon the arc of said curve, to the left, having a radius of 450.00 feet and a central angle of 14°30'13" for an arc length of 113.91 feet;

THENCE North 08°58'36" West a distance of 94.65 feet to a point of curvature of a tangent curve, concave easterly;

THENCE northerly upon the arc of said curve, to the right, having a radius of 200.00 feet and a central angle of 31°48'22" for an arc length of 111.02 feet;

THENCE North 22°49'46" East a distance of 93.75 feet;

THENCE North 09°06'48" East a distance of 44.43 feet to the east line of said Section 27 and the **POINT OF TERMINUS**.

The sidelines of herein described centerline are to be lengthened or shortened so as to begin on the southerly line of said east one-half of Section 27, meet at the angle points formed and terminate on the east line of said east one-half of Section 27.

Said 30-foot-wide strip of land containing an area of 3.59 acres, more or less.

See Depiction of Exhibit A attached hereto and made a part hereof.

Prepared by:
Psomas

June 29, 2020
Project No. 7PIM190103

Ernest Gomez, AZ. R.L.S. 27739



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EXHIBIT B

INSURANCE RIDER TO STATE LAND DEPARTMENT

This Rider is attached to and made a part of the above-referenced Right of Way as if set forth therein verbatim.

R-1 Indemnity. Each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

In addition, Grantee shall cause its contractor(s) and subcontractors, if any, to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee's contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

R-2 Insurance Requirements for Any Contractors Used by a Party to this Right of Way. *(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.)* The insurance requirements herein are minimum requirements and in no way limit the indemnity covenants contained in this Right of Way. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Right of Way by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

ADDITIONAL CONDITIONS

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A. **Minimum Scope and Limits of Insurance.** Contractor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability - Occurrence Form.**

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability.

General Aggregate:	\$2,000,000.00
Products-Completed Operations Aggregate:	\$1,000,000.00
Personal and Advertising Injury:	\$1,000,000.00
Each Occurrence:	\$1,000,000.00
Damage to Rented Premises:	\$ 100,000.00

The policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor." Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Right of Way.

Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. **Business Automobile Liability.** Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Right of Way.

- **Combined Single Limit (CSL)\$1,000,000**

a. The policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor". Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Right of Way.

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b. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

c. Policy shall contain a severability of interest provision.

IF GRANTEE HAS CERTIFIED IN THE APPLICATION ADDENDUM FOR THIS RIGHT OF WAY THAT GRANTEE WILL NOT BE ENGAGED IN THE CONDUCT OF BUSINESS WITHIN THE SUBJECT LAND GRANTEE SHALL NOT BE REQUIRED TO CARRY THE FOREGOING BUSINESS AUTOMOBILE LIABILITY INSURANCE.

3. Worker's Compensation and Employers' Liability.

Workers' Compensation	Statutory
Employers' Liability	
Each Accident.....	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit.....	\$1,000,000

a. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. § 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

GRANTEE HAS CERTIFIED IN THE APPLICATION ADDENDUM FOR THIS RIGHT OF WAY THAT GRANTEE WILL NOT BE ENGAGED IN THE CONDUCT OF BUSINESS WITHIN THE SUBJECT LAND GRANTEE SHALL NOT BE REQUIRED TO CARRY THE FOREGOING WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE.

B. Additional Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S § 41-621 (E).

2. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of

ADDITIONAL CONDITIONS

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the insurer's liability. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of its Contract with the other governmental entity(ies) party to this Right of Way.

C. Notice of Cancellation. With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this Right of Way in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to the Arizona State Land Department, 1110 W. Washington Ave., Phoenix, Arizona 85007, and shall be sent by certified mail, return receipt requested.

D. Acceptability of Insurers. Contractors' insurance shall be placed with companies duly licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII or duly authorized to transact Workers' Compensation insurance in the State of Arizona. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. Verification of Coverage. Contractors and Subcontractors shall furnish Grantee with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Right of Way. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by Grantee before work commences. Each insurance policy required by this Right of Way must be in effect at or prior to commencement of work under this Right of Way and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Right of Way, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Right of Way shall be sent directly to Grantee. The Right of Way number and project description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Right of Way at any time.

F. Subcontractors. Grantee shall ensure and verify that all Contractors and Subcontractors have collectable insurance as evidenced by the certificates of insurance and endorsements for each Contractor and Subcontractor. If Grantee's Contractors or Subcontractors do not have or cannot obtain the required insurance coverages, Grantee's endorsements or certificates of insurance shall include all of its Contractors and Subcontractors as insured under its policies. All coverage for Contractors and Subcontractors shall be subject to the applicable insurance requirements identified in this

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Article. Grantor reserves the right to require, at any time, proof from the Grantee that its Contractors and Subcontractors have the required coverage.

G. Approval. Any modification or variation from the insurance requirements in this Right of Way must have prior approval from the State of Arizona Department of Administration, Risk Management Division, whose decision shall be final. Such action will not require a formal Right of Way amendment but may be made by administrative action.

H. Exceptions. In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.

APPENDIX A

STATE OF ARIZONA LAND DEPARTMENT
1110 W.WASHINGTON ST.
PHOENIX, AZ 85007

RUN DATE: 15 March 2023
RUN TIME: 15:18 PM
PAGE: 1

KE-LEASE# 014-123322-00-100 APPTYPE: NEW
AMENDMENT#: 0

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LAND#	LEGAL DESCRIPTION	AUS	ACREAGE
19.0-S-18.0-E-26-10-053-9003	M&B THRU W2	0.00	3.810
19.0-S-18.0-E-27-10-053-9003	M&B THRU E2E2E2	0.00	3.590
	TOTALS	0.00	7.400

IN WITNESS HEREOF, the parties hereto have signed this Right of Way effective the day and year set forth previously herein.

STATE OF ARIZONA, GRANTOR
Arizona State Land Commissioner

PIMA COUNTY
GRANTEE

By: _____ Date _____

(ASLD SEAL)

Address _____

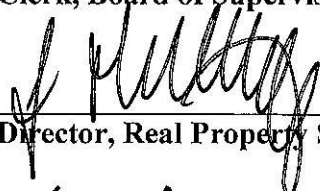
City _____ State _____ Zip _____

By: _____ Chair, Board of Supervisors

ATTEST:

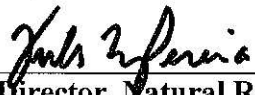
Clerk, Board of Supervisors Date

Approved as to
Content:



Director, Real Property Services Date 6-6-2023

Approved as to
Content:



Director, Natural Resources,
Parks and Recreation Date 6-6-23

Approved as to
Form:



Deputy County Attorney Date 06-06-2023

GRANTEE'S CERTIFICATE OF CONSTRUCTION

RIGHT OF WAY NUMBER: _____

NAME OF GRANTEE: _____

DATE ISSUED: _____

PERMITTED USE: _____

LAND DEPARTMENT ADMINISTRATOR: _____

DATE CONSTRUCTION STARTED: _____

DATE CONSTRUCTION COMPLETED: _____

I hereby certify that the facilities authorized by the State Land Commissioner, were actually constructed and tested in accordance with the terms of the grant, in compliance with any required plans and specifications, and applicable Federal and State laws and regulations.

Grantee's Signature

Date

Title

**Return To: Arizona State Land Department
R/W Section
1110 W. Washington St.
Phoenix, AZ 85007**