



BOARD OF SUPERVISORS AGENDA ITEM REPORT
AWARDS / CONTRACTS / GRANTS

Award Contract Grant

Requested Board Meeting Date: 10/17/2023

* = Mandatory, information must be provided

or Procurement Director Award:

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

Carden of Tucson, Inc. an Arizona non-profit corporation

***Project Title/Description:**

Ground Lease Agreement

***Purpose:**

The Ground Lease Agreement is for a ten years occupancy of a vacant parcel owned by Pima County located adjacent to 5260 N. Royal Palm Drive, parcel 101-14-311A (the Property) for school purposes. (RPS File No: LCP-0039)

***Procurement Method:**

Exempt pursuant to Pima County Code 11.04.020

***Program Goals/Predicted Outcomes:**

The goal of the Tenant is to utilize the vacant land for school activities and related purposes.

***Public Benefit:**

The County will provide the Tenant the space for school activities for the benefit of the students education therein.

***Metrics Available to Measure Performance:**

Tenant to maintain the Property per the agreement and use the property for school purposes/activities.

***Retroactive:**

Yes, due to the delay in receipt of signed agreement by vendor, preventing internal deadlines to have been met.

TO: COB 9-27-2023 (1)
JES: 1
PGS: 16

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: CTN Department Code: RPS Contract Number (i.e., 15-123): 24*048
Commencement Date: 10/8/2023 Termination Date: 10/7/2033 Prior Contract Number (Synergen/CMS):
Expense Amount \$ Revenue Amount: \$ 1,000.00

*Funding Source(s) required:
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: Dante Olono

Department: Real Property Services

Telephone: 724-6624

Department Director Signature:

[Handwritten Signature]

Date: 9/22/2023

Deputy County Administrator Signature:

[Handwritten Signature]

Date: 9/25/2023

County Administrator Signature:

[Handwritten Signature]

Date: 9/24/23

<p>PIMA COUNTY DEPARTMENT OF: REAL PROPERTY SERVICES</p> <p>TENANT: Carden of Tucson, Inc. an Arizona non-profit corporation</p> <p>LANDLORD: Pima County Regional Flood Control District, a political taxing subdivision of the State of Arizona</p> <p>ADDRESS OF PROPERTY: 5260 N. Royal Palm Dr / Parcel: 101-14-311A</p> <p>ADV Contract Number: CTN-RPS-24*048</p> <p>REVENUE CONTRACT</p>	
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Ground Lease Agreement

1. **PARTIES:** This Lease is made by and between Carden of Tucson, Inc. an Arizona non-profit corporation (hereinafter referred to as "Tenant") and Pima County Regional Flood Control District, a political taxing subdivision of the State of Arizona (hereinafter referred to as "Landlord").

2. **BACKGROUND AND PURPOSE:**

2.1. Landlord owns the property legally described and depicted on **Exhibit A** (hereinafter referred to as the "the Property"), which is an approximately 0.330-acre parcel of real property located adjacent to 5260 N. Royal Palm Dr., Tucson, Arizona.

2.2. Tenant is a charter school which provides education for students in kindergarten through 8th grade. The purpose of this Agreement is to lease the Leased Property to Tenant for school purposes.

2.3. The District has the authority, pursuant to A.R.S. § 48-3603, District may enter into contracts for the conservation of its properties. The District previously published notice of its intent to enter into this Lease as required by law.

2.4. Landlord desires to let to Tenant, and Tenant desires to lease from Landlord, the Property, together with all improvements now on or hereafter located on the Property (the "Premises"), under the terms and conditions set forth in this agreement (the "Lease")

3. PREMISES:

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

3.2. Condition of Land. Tenant acknowledges that it is fully familiar with the physical and legal condition of the Land and has received the same in good order and condition. LANDLORD MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE CONDITION OR STATE OF THE LAND OR ITS FITNESS OR AVAILABILITY FOR ANY PARTICULAR USE, AND LANDLORD IS NOT LIABLE FOR ANY LATENT OR PATENT DEFECT THEREIN. Tenant's use of the Property is subject to all existing easements, rights-of-way and set-backs existing as of the date of this Lease.

3.3. Quiet Enjoyment. Landlord covenants and agrees that upon Tenant paying the Rent and performing and observing all the Tenant's obligations under this Lease, Tenant may peaceably and quietly have, hold and enjoy the Property for the Term, without hindrance or molestation by anyone claiming paramount title or claims through Landlord.

4. **TERM**. This Lease will commence on October 8th, 2023 (the "Commencement Date") and will continue for a period of ten years (the "Initial Term"). Provided that Tenant is in full compliance with all the terms and conditions of this Lease, Tenant has the option of renewing this Lease for an additional ten-year term (the "Renewal Term"), which option may be exercisable by Tenant in writing not less than two years nor more than three years prior to the end of the Initial Term. The Initial Term, together with the Renewal Term if the renewal is exercised, as earlier terminated or further extended, is referred to in this Lease as the "Term."

5. RENT.

5.1. Base Rent. Tenant must pay Landlord rent in the amount of \$100.00 per year, payable in advance on the Commencement Date and each anniversary of the Commencement Date during the Term.

5.2. Rental Taxes. Tenant must also pay to Landlord any occupancy tax, rent tax or government property lease excise tax now in effect or hereafter enacted, which Landlord is now or hereafter required to pay with respect to the Property or this Lease.

6. **ALTERATIONS**. All changes, alterations, additions, substitutions or improvements to the Property (collectively, "**Alterations**"), shall be at Tenant's sole cost and expense, and shall comply with the following requirements:

6.1. Minor Alterations. Tenant may make such non-structural Alterations as Tenant may reasonably consider necessary and desirable to adapt or equip the Property for Tenant's use and occupancy, provided Tenant has received the prior written consent of the Manager of Pima County Real Property Services, and the cost of such Alterations do not exceed Fifteen Thousand Dollars (\$15,000.00).

6.2. Substantial Alterations. Tenant will make no Alterations that will (i) cost in excess of \$15,000.00; or (ii) involve structural work or changes (collectively, "**Substantial Alterations**"), unless Tenant first delivers detailed plans and specifications to Landlord and obtains the prior written approval of the Pima County Administrator or his designee.

7. USE OF PROPERTY.

7.1. Permitted Uses. The Property may be used by Tenant only for school purposes and uses reasonably related thereto in keeping with the general character of the surrounding area and permitted by law.

7.2. Prohibited Activity. Tenant may not permit any unlawful activities on the Property, or any activities that unduly interfere with activities of neighboring property owners/occupants.

8. ENVIRONMENTAL COMPLIANCE.

8.1. Hazardous Materials Defined. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of Arizona or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) petroleum or petroleum products; or (ii) defined as a Hazardous Material under A.R.S. 26-301(8).

8.2. Hazardous Materials Prohibited; Clean Air Act. Tenant may not cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, kept, or used in or about the Property by Tenant, its agents, employees, contractors or invitees, without the prior written consent of Landlord, other than such Hazardous Materials as are customarily necessary or useful to the type of operations permitted under this Lease and actually being carried out by Tenant on the Property which will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Materials. Tenant's operations on the Property must comply with applicable provisions of the Clean Air Act, 42 U.S.C. 7401 et seq. and Arizona Revised Statutes, Title 49, Chapter 3 and any other applicable environmental laws or regulations.

8.3. Indemnity. If (i) Tenant breaches the obligations stated in the preceding paragraph, (ii) the presence (whether consented to by Landlord or otherwise) of Hazardous Material on the Property or on or in the soil or ground water under or adjacent to the Property is caused or permitted by Tenant, its agents, employees, contractors or invitees, (iii) contamination of the Property or soil or ground water under or adjacent to the Property by Hazardous Material otherwise occurs for which Tenant is legally liable, or (iv) contamination occurs elsewhere in connection with the transportation by Tenant of Hazardous Material to or from the Property, then Tenant will indemnify, protect, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, expenses, liabilities or losses (including, without limitation, diminution in value of the Property or any part thereof, damages for the loss or restriction on use of

usable space or of any amenity of the Property or any part thereof, damages arising from any adverse impact on marketing of space with respect to the Property or any part thereof, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arose or arises during or after the term of this Agreement as a result of such contamination. The foregoing obligation of Tenant to indemnify, protect, defend and hold Landlord harmless includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, restoration or other response work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present, as a result of any action or inaction on the part of Tenant, its agents, employees, contractors or invitees, in the Property or the soil or ground water on, under or adjacent to the Property, or elsewhere in connection with the transportation by Tenant of Hazardous Material to or from the Property.

8.4. Clean-up. Without limiting the foregoing, if the presence of any Hazardous Material on or in the Property, or the soil or ground water under or adjacent to the Property caused or permitted by Tenant, or its agents, employees, contractors or invitees results in any suspected contamination of the Property, the soil or ground water under or adjacent to the Property, Tenant must promptly notify Landlord in writing and take all actions at its sole expense as are necessary to return the Property, or such soil or ground water to the condition existing prior to the introduction of any such Hazardous Material to the Property, or to such soil or ground water; provided that Landlord's approval of such actions is first obtained, which approval may not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Property.

8.5. Pre-Existing Contamination. Landlord agrees that any Hazardous Materials contaminating the Property prior to possession of the Property by Tenant will not result in liability for Tenant under this Paragraph except to the extent such contamination is aggravated by the action or inaction of Tenant.

8.6. Notices Regarding Environmental Conditions. Tenant must, within ten (10) business days following receipt thereof, provide Landlord with a copy of (i) any notice from any local, state or federal governmental authority of any violation or administrative or judicial order or complaint having been filed or about to be filed against Tenant or the Property alleging any violation of any local, state or federal environmental law or regulation or requiring Tenant to take any action with respect to any release on or in the Property or the soil or ground water under or adjacent to the Property of Hazardous Material, or (ii) any notices from a federal, state or local governmental agency or private party alleging that Tenant may be liable or responsible for cleanup, remedial, removal, restoration or other response costs in connection with Hazardous Material on or in the Property or the soil or ground water under or adjacent to the Property or any damages caused by such release.

8.7. Survival. Tenant's obligations under this Section will survive the expiration or earlier termination of this Lease and vacation of the Property.

9. REPAIR, MAINTENANCE AND UTILITIES.

9.1. Taxes. Tenant is responsible for payment of all taxes, whether real property taxes, personal property taxes, income taxes, or any other taxes, if any, that are or may be assessed relating to the Property, this Lease, or any use of the Property by Tenant.

9.2. Entry by Landlord. Landlord reserves the right to enter the Property to inspect the same; provided that if such entry is not during normal business hours, Landlord will give Tenant at least twenty-four (24) hours advance notice. Landlord will make a reasonable effort to not interrupt Tenant's business at the Property. Landlord at any and all times will have the right to use any and all means which Landlord may deem proper to open gates or doors in an emergency in order to obtain entry to the Property, without liability to Tenant, except for any failure to exercise due care for Tenant's property, and any entry to the Property obtained by Landlord by any such means, or otherwise, will not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Property, or an eviction of Tenant from the Property or any portion thereof.

9.3. Tenant shall be responsible, at Tenant's sole expense, for general maintenance of the Property which includes any capital improvements installed by Tenant. Tenant agrees to maintain the grounds and facilities of the Leased Property in a safe and sanitary condition, and to water vegetation, trim and remove overgrowth/weeds, to dispose of trash and rubbish legally, and to maintain the environs reasonably neat and clean.

9.4. Damage for Casualty. If any improvement on the Property is damaged or destroyed by any cause whatsoever, during the Term of this Lease, Tenant must, with reasonable promptness, repair and replace the same at its own expense, to at least the condition existing immediately prior to the damage or destruction, and must do so even though the proceeds of any insurance policies covering the loss are insufficient to reimburse Tenant therefore, and Tenant's obligations under this Lease will not be terminated or suspended; except that, that if the Property are substantially destroyed by fire or other casualty at any time during the last five (5) years of the Term, then Tenant may terminate this Lease by written notice given to Landlord within sixty (60) days after the date of such destruction, and Tenant will be discharged from responsibility to repair the damage, but Tenant must in that event, at Tenant's sole cost and expense, clean and clear the Property of all debris and repair the Property and install landscaping so that the Property blends in reasonably well with the surroundings.

9.5. Utilities. Tenant must, at its sole cost and expense, arrange for the furnishing of all utilities, including electricity, gas, water and sewer, and telecommunication services, fire protection lines and hydrants, that are necessary for its operations on the Property, and Tenant covenants and agrees to pay all charges for such utilities and services directly to the supplier thereof. Landlord will not be liable in any way to Tenant for any failure or defect in the supply or character of utilities or telecommunications services furnished to the Property by reason of any requirement, act or omission of the provider of such service or for any other reason.

10. **INSURANCE; INDEMNIFICATION.**

10.1. Insurance Tenant will procure and maintain at its own expense insurance policies (the "Required Insurance") satisfying the below requirements (the "Insurance Requirements") until all its obligations under this Lease have been met. The below Insurance Requirements are minimum requirements for this Lease and in no way limit Contractor's indemnity obligations under this Lease. The Landlord in no way warrants that the required insurance is sufficient to protect the Contractor for liabilities that may arise from or relate to this Lease. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.

10.2. Minimum Scope and Limits of Insurance: Contractor shall procure and maintain, until all of their obligations have been discharged, coverage with limits of liability not less than those stated below.

10.2.1. Commercial General Liability (CGL) - Occurrence Form with limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include cover for liability arising from the property, operations, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations. Any standard coverages excluded from the CGL policy, such as products/completed operations, etc. shall be covered by endorsement or separate policy and documented on the Certificates of Insurance.

10.2.2. Business Automobile Liability - Coverage for bodily injury and property damage on any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Lease with minimum limits not less than \$1,000,000 Each Accident.

10.2.3. Workers' Compensation and Employers' Liability - Statutory coverage for Workers Compensation. Workers' Compensation statutory coverage is compulsory for employers of one or more employees. Employers Liability coverage with limits of \$1,000,000 each accident and \$1,000,000 each employee - disease.

10.2.4. Commercial Property - shall be written on an "all risk, replacement cost coverage, with coverage at least as broad as ISO forms CP 00 01 covering the full replacement cost of all Improvements and all of Tenant's personal property located at the Property.

a) Policy shall be endorsed "Pima County shall be named as a loss payee."

10.3. Additional Insurance Requirements:

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

10.3.1. Claims Made Coverage: If any part of the Required Insurance is written on a claims made basis, any policy retroactive date must precede the effective

date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination, or cancellation.

10.3.2. Additional Insured Endorsement: The General Liability, Business Automobile Liability Policies shall each be endorsed to include Pima County, its departments, districts, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Tenant.

10.3.3. Subrogation Endorsement: The General Liability, Business Automobile Liability, Workers Compensation Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, officials, agents, and employees for losses arising from work performed by or on behalf of the Tenant.

10.3.4. Primary Insurance Endorsement: The Tenant's policies shall stipulate that the insurance afforded the Tenant shall be primary and that any insurance carried by Pima County, its agents, officials, employees or Pima County shall be excess and not contributory insurance.

10.3.5. The Required Insurance policies may not obligate the County to pay any portion of a Tenant's deductible or Self Insurance Retention (SIR). Insurance provided by the Tenant shall not limit the Tenant's liability assumed under the indemnification provisions of this Contract.

10.3.6. Insurer Financial Ratings: Coverage must be placed with insurers acceptable to the County with A.M. Best rating of not less than A- VII, unless otherwise approved by the County.

10.3.7. Subcontractors: Tenant must either (a) include all subcontractors as additional insureds under its Required Insurance policies, or (b) require each subcontractor to separately meet all Insurance Requirements and verify that each subcontractor has done so, Tenant must furnish, if requested by County, appropriate insurance certificates for each subcontractor. Tenant must obtain County's approval of any subcontractor request to modify the Insurance Requirements as to that subcontractor.

10.4. Notice of Cancellation. For each insurance policy required by the insurance provisions of this Contract, the Tenant must provide to Pima County, within two (2) business days of receipt of notice, if a policy is suspended, voided, or cancelled for any reason. Such notice shall be mailed, emailed, hand delivered or sent by facsimile transmission to the Pima County Contracting Representative. Notice shall include the Pima County project or contract number and project description.

10.5. Verification of Coverage.

10.5.1. Tenant shall furnish Pima County with certificates of insurance (valid ACORD form or equivalent approved by Pima County) as required by this Contract. An authorized representative of the insurer shall sign the certificates.

10.5.2. All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect 10 days prior to work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

10.5.3. All certificates required by this Contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate. Pima County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

10.5.4. Certificates must specify that the appropriate policies are endorsed to include additional insured and subrogation waiver endorsements for the County and its departments, officials, and employees.

10.6. Approval and Modifications. Pima County Risk Management reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Tenant, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

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

10.8. Indemnification. Tenant agrees that, to the fullest extent permitted by law, Tenant will indemnify, defend, and hold harmless Landlord, its officers, employees and agents from and against any and all losses, costs, or expenses (including reasonable attorney fees) incurred or suffered by Landlord as a result of any damages to property or injuries to persons (including death), or any suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of or directly related to any act, omission, fault or negligence by the Tenant, its agents, employees, invitees, contractors or anyone under its direction or control or acting on its behalf, or anyone permitted by Tenant to conduct any activity on the Property, or in connection with any use or occupancy of the Property under the terms of this Lease.

11. DEFAULT/TERMINATION.

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

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

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

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

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

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

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

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

11.3. Remedies.

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

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

12. **NOTICES.** All notices given under this Lease must be in writing and either served personally or sent by certified or registered mail, return receipt requested, to the parties as indicated below or to such other persons, or addressees as either party may designate in writing to the other party:

If to Tenant: Carden of Tucson Inc.
5260 N Royal Palm Drive
Tucson, AZ 85705-1148
(520) 293-6661

If to Landlord: Clerk of the Board of Directors,
Pima County Regional Flood Control District
130 West Congress
Tucson, AZ 85701

With a copy to: Pima County Real Property Services
201 N Stone Ave, 6th Floor
Tucson, AZ 85701

13. **ASSIGNMENT/SUBLETTING.** Tenant may not, either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and may not sublet the Property or any part thereof, or any right or privilege appurtenant thereto, or allow any other person (the employees, agents, servants and invitees of Tenant excepted) to occupy or use the Property, or any portion thereof, without first obtaining the written consent of Landlord. Tenant acknowledges that Landlord has approved this Lease, with a nominal rental rate, based on the special nature of Tenant and the public benefits provided by Tenant's operations, and that Landlord may therefore withhold consent to a proposed sublease or assignment if in Landlord's reasonable judgment the operations of the proposed subtenant or assignee do not provide the same type and level of public benefit. Moreover, any subtenant or assignee must be a nonprofit tax-exempt organization. Consent to one assignment, subletting, occupation or use by any other person will not be deemed to be consent to any other assignment, subletting, occupation, or use by another person. Consent to any such assignment or subletting will in no way relieve Tenant of any liability under this Lease and will not impose any additional burden or obligation on Landlord. Any such assignment or subletting without such consent will be void, and will constitute a default under the terms of this Lease.

14. **SURRENDER OF PREMISES/HOLDING OVER.** On the last day or earlier termination of the Term of this Lease, Tenant must quit and surrender the Property,

together with all Alterations, in good condition and repair (except as provided in Section 9.4 above), normal wear and tear excepted. Any holding over with the consent of Landlord after the expiration of the Term or earlier termination of the Lease will be construed to be a tenancy from month-to-month upon the same terms and conditions as provided in this lease, to the extent applicable. Tenant's obligations under this Section will survive the expiration or earlier termination of the Term of this Lease.

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

16. **CANCELLATION FOR CONFLICT OF INTEREST.** This Lease may be cancelled for conflict of interest pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein by this reference.

17. **TENANT NOT AN AGENT OF LANDLORD.** Tenant is not an agent of Landlord for any purpose under this Lease or otherwise. Tenant will control activities on the Property, and Landlord will not control those activities. Tenant's employees and servants will not be under the control of Landlord.

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

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

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

21. **CHOICE OF LAW.** The laws of the State of Arizona will apply to any action relating to this Lease and any court action must be brought in a court in Pima County, Arizona.

22. **NON-WAIVER.** The failure of either party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Lease to be performed by the other party, or to take any action permitted as a result thereof, will not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the

future. The acceptance by either party of sums less than may be due and owing to it at any time will not be construed as an accord and satisfaction.

23. INTERPRETATION OF LEASE. The parties acknowledge that each has had the opportunity to review this Lease with counsel of its or their choice. This Lease will not be construed in favor or against either of the parties but will be interpreted fairly and equitably to effectuate the intent of the parties. All provisions contained in this Lease will bind and inure to the benefit of the parties hereto, their successors and assigns.

24. ENTIRE AGREEMENT. This Lease contains the entire agreement between the parties and all previous agreements, negotiations, or understandings are superseded by and merged in this Lease. This Lease may be modified by the parties only by writing executed with the same formalities as this Lease.


25. AMENDMENT. This Lease may not be amended except by a written instrument duly executed by both parties. Landlord will not enter into any modification of this Lease without the prior written consent of the holder of the Leasehold Deed of Trust provided that Landlord has notice of such secured party's interest in this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day, month and year written below.

LANDLORD:
Pima County Regional Flood Control, a political taxing subdivision of the State of Arizona

TENANT:
Carden of Tucson, Inc. an Arizona nonprofit corporation

Adelita S. Grijalva, Chair, of the Board of Directors


Signature

Date _____

Bette F. Jeppson - President
Name and Title (please print)

ATTEST:

Date 9/14/23

Melissa Manriquez, Clerk of the Board


Date _____

APPROVED AS TO CONTENT:



Carmine DeBonis Jr., Deputy County Administrator- Public Works

Date 9/25/2023



Eric Shepp, Director, Pima County Regional Flood Control District

Date 9/15/2023



Jeff Teplitsky, Director, Real Property Services

Date 9/19/2023

APPROVED AS TO FORM:



Rachelle Barr, County Attorney, Civil Division

Date 09/14/2023

EXHIBIT A

S & S SURVEYS, INC.

3847 NORTH FIRST AVENUE
TUCSON, ARIZONA 85719
PHONE (520) 624-6466
FAX (520) 623-4877
EMAIL: SSSURVEY@THERIVER.COM



JOHN H. STITZER - REGISTERED PROFESSIONAL ENGINEER
REGISTERED LAND SURVEYOR
JOHN D. STITZER - REGISTERED LAND SURVEYOR

LEGAL DESCRIPTION PARCEL - A

A portion of that particular parcel as described in Docket 7814, Page 1770 thereof, Records of Pima County, Arizona, said portion lying in the Northwest one quarter of Section 16, Township 13 South, Range 13 East, Gila and Salt River Meridian, Pima County, Arizona, more particularly described as follows;

COMMENCING at the Southeast corner of said Northwest one quarter;

THENCE S 89°36'34" W, upon the south line of said Northwest one quarter, a distance of 326.00 feet, the Southwest corner of said Northwest one quarter bears S 89°36'34" W, a distance of 2302.18 feet;

THENCE leaving said South line, N 00°13'24" W, a distance of 774.87 feet to the Southeast corner of the aforementioned parcel as described in Docket 7814, Page 1770 thereof;

THENCE S 89°36'34" W, upon the South line of said parcel, a distance of 525.00 feet to the Northeast corner of that parcel described in Docket 7310, Page 382 thereof, Records of Pima County, Arizona;

THENCE continue upon said South line, S 89°36'34" W, a distance of 187.45 feet to an angle point in said South line and **THE POINT OF BEGINNING**;

THENCE N 39°07'51" W, upon said South line, a distance of 58.73 feet;

THENCE leaving said South line, N 00°23'26" W, a distance of 38.59 feet;

THENCE N 89°36'34" E, a distance of 180.13 feet;

THENCE S 00°23'26" E, a distance of 84.40 feet to a point on the South line of the aforementioned parcel as described in Docket 7814, Page 1770 thereof;

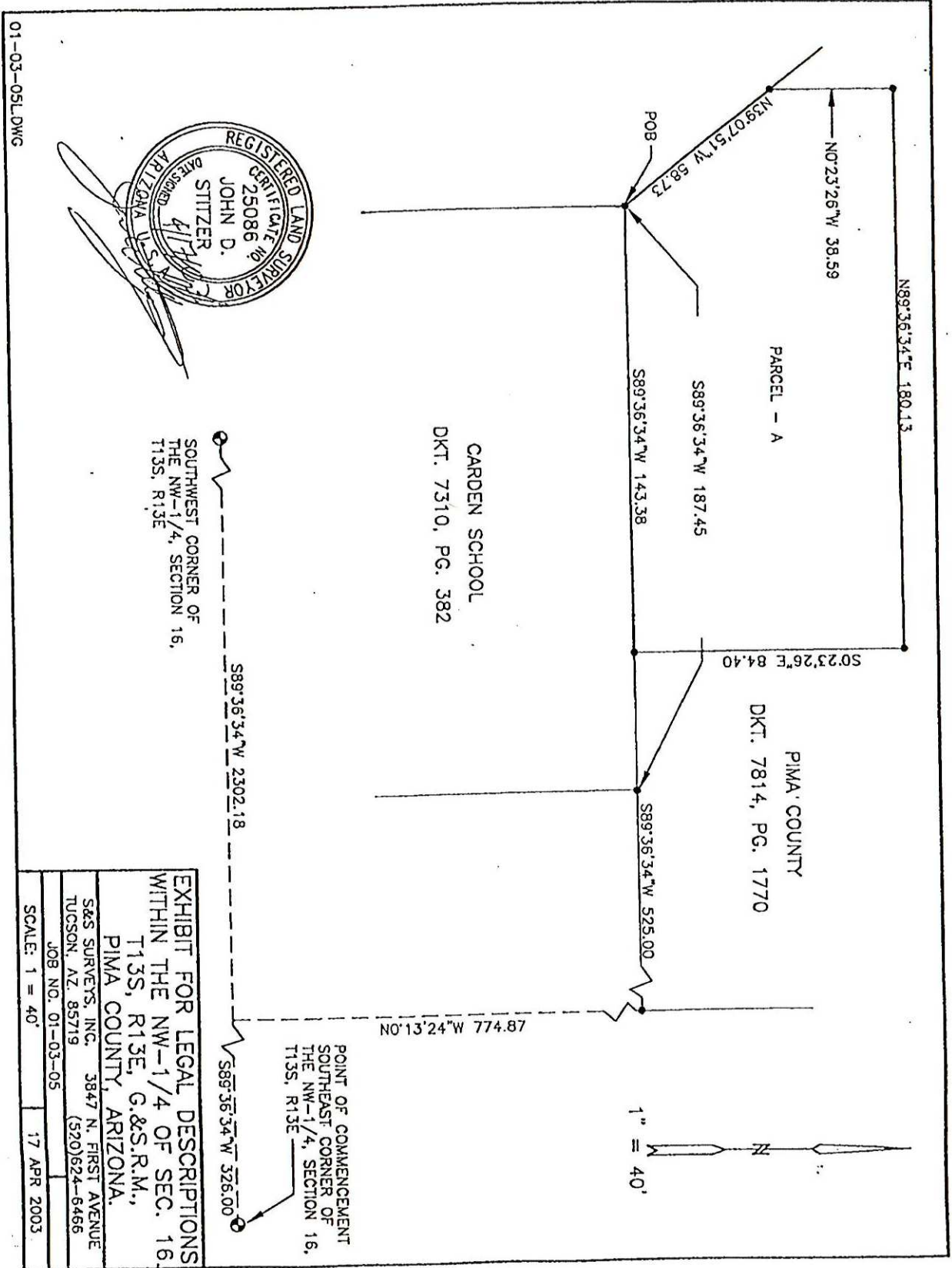
THENCE S 89°36'34" W, upon said South line, a distance of 143.38 feet to **THE POINT OF BEGINNING**.

The herein described portion having an area of 14,361 square feet (0.330 acres), more or less.



This is an Official Copy of the Pima County Contract executed and on file with Pima County

EXHIBIT "A" DEPICTED



01-03-05L.DWG

SOUTHWEST CORNER OF THE NW-1/4, SECTION 16, T13S, R13E

POINT OF COMMENCEMENT SOUTHEAST CORNER OF THE NW-1/4, SECTION 16, T13S, R13E

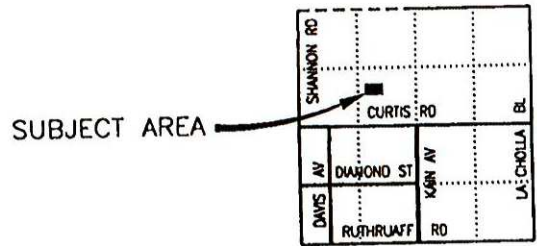
EXHIBIT FOR LEGAL DESCRIPTIONS WITHIN THE NW-1/4 OF SEC. 16, T13S, R13E, G.&S.R.M., PIMA COUNTY, ARIZONA.

S&S SURVEYS, INC. 3847 N. FIRST AVENUE TUCSON, AZ. 85719 (520)624-6466

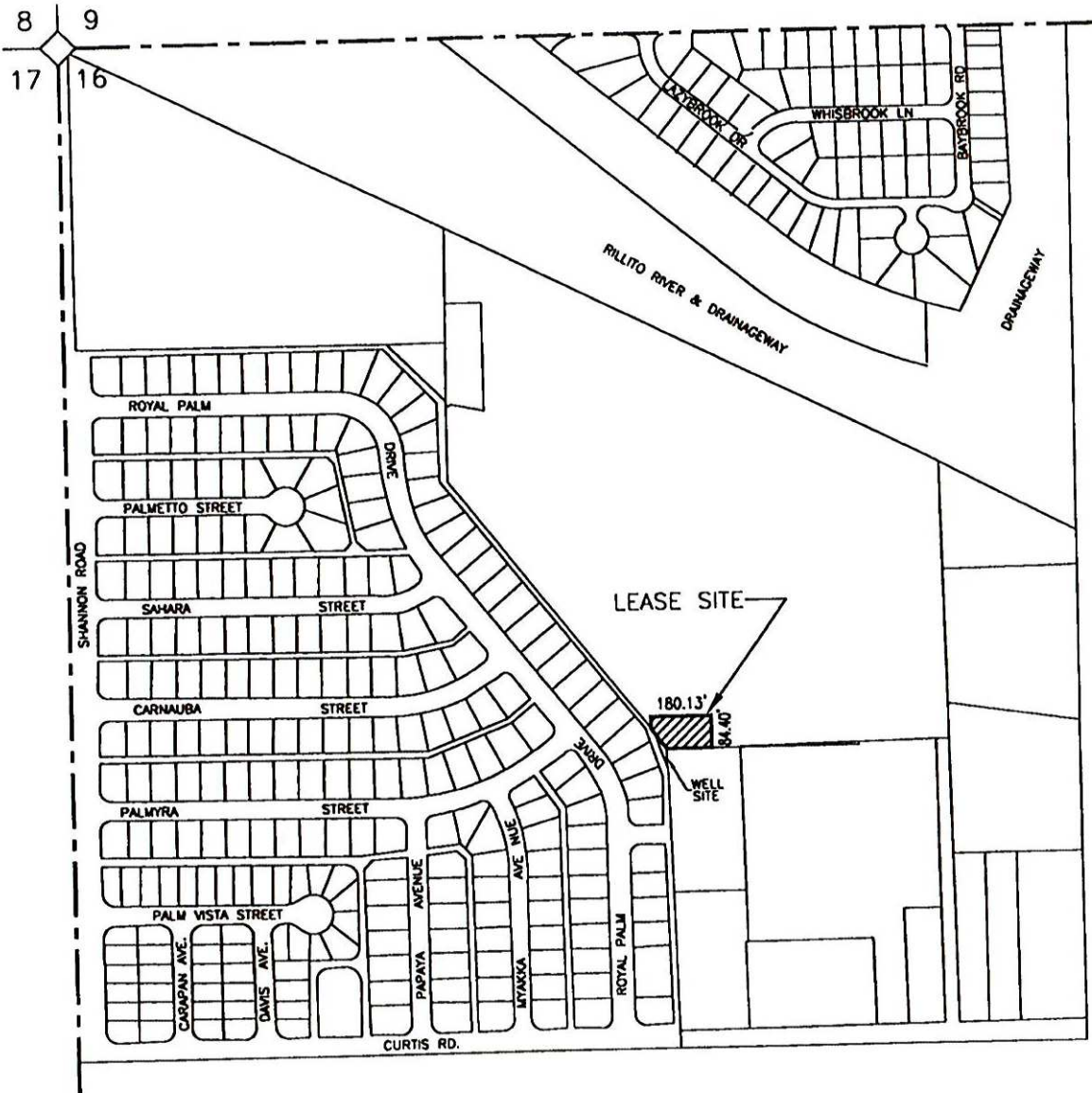
JOB NO. 01-03-05 SCALE: 1" = 40' 17 APR 2003

This is an official copy of the Pima County records and is to be filed with the County.

SECTION 16 NW1/4
 TOWNSHIP 13 SOUTH
 RANGE 13 EAST



SECTION 16
 G&SRB&M
 PIMA COUNTY, ARIZONA



 LEASE SITE



PIMA COUNTY DEPARTMENT OF TRANSPORTATION
 TECHNICAL SERVICES DIVISION

03047

DRAWING NOT TO SCALE

DRAWN BY: R. BILLINGS

DATE: MAY 2003

This is a copy of the original drawing on file with Pima County.