



Contract number: CTW-PW-15*051
Effective Date : 11-18-14
Term Date : 11-18-2039
Cost : \$9,750.-
Revenue :
Total : NTE:
Renewal By : Action 8-1-2039
Term :
Reviewed by: VL 11-18-2039

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: November 18, 2014

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Macco, LLC has applied for a license for the purpose of encroaching on the County's drainageway with an existing golf cart path and driving range fences for 49er's Golf and Country Club.

Procure Dept 10/27/14 RM0958

STAFF RECOMMENDATION(S):

The Department of Transportation recommends that the Pima County Board of Supervisors approve and the Chair execute the License.

Page 1 of 2

Ver. 1

Vendor 1
Pg 9

To: COB - 11-5-14
Agenda - 11-18-14
(31)

PIMA COUNTY COST: \$ _____ and/or REVENUE TO PIMA COUNTY: \$ 9750.00

FUNDING SOURCE(S): N/A
(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

☐ YES ☒ NO

Board of Supervisors District:

1 ☐ 2 ☐ 3 ☐ 4 ☒ 5 ☐ All ☐

IMPACT:

IF APPROVED:

Macco, LLC will be authorized to continue to use the drainageway for golf cart path and driving range fences.

IF DENIED:

Macco, LLC will have to remove existing golf cart path and driving range fences.

DEPARTMENT NAME: _____

 Public Works Real Property 

CONTACT PERSON: Debbie Knutson

TELEPHONE NO.: 724-6854

| | |
|---|--|
| CONTRACT | |
| NO <u>CTN-PW-1500000000000000000051</u> | |
| AMENDMENT NO. _____ | |
| This number must appear on all invoices, correspondence and documents pertaining to this contract. | |

PIMA COUNTY LICENSE FOR DRAINAGEWAY ENCROACHMENT

THIS AGREEMENT is made between Pima County, a political subdivision of the State of Arizona ("County"), and Macco LLC, an Arizona limited liability company ("Licensee"). The parties agree as follows:

1. Grant of Permission. In consideration of Licensee's annual payment of any applicable License fee and the promises contained herein, County hereby gives permission, revocable and terminable as provided herein, to Licensee to encroach on that portion of County's drainageway for the purpose of a golf cart path and driving range fences (the "Encroachment"). The drainageway and the existing Encroachment are described depicted on the attached **Exhibit "A"**.
2. Hold Harmless. All costs associated with the Encroachment shall be the sole responsibility expense of Licensee. Licensee assumes responsibility and liability for any injury or damage to the above described drainageway or to any person while using the above described drainageway caused by or arising out of the exercise of this License. To the fullest extent allowed by law, Licensee indemnifies, defends, and holds harmless County, its officers, departments, employees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands, or damages of any kind or nature arising out of this License, which are attributed, in whole or in part to Licensee's use of the drainageway, or to any act or omission of the Licensee, its agents, employees, or anyone acting under its direction, control or on its behalf, whether intentional or negligent

in connection with or incident to this License. Licensee's responsibilities shall not extend to the negligence of County, its officers, departments, employees and agents. This indemnity shall survive the termination of the License.

3. Insurance. Licensee shall obtain a \$1,000,000 commercial general liability insurance policy naming County as Additional Insured to cover the Encroachment within the County's drainageway. County reserves the right to require additional insurance at County's sole discretion. The policy shall be maintained throughout the term of this License by the Licensee. This License shall terminate if insurance lapses. A certificate of insurance shall be supplied to County on an annual basis with the stipulation that the insurance company shall notify County in writing of any intent to cancel the liability insurance. This notification shall be required no less than thirty days prior to cancellation, and Licensee shall remove the Encroachment at its expense within thirty days of notification.
4. Annual Fee. Pursuant to Pima County Board of Supervisors Policy Number F54.3, Licensee shall pay an annual fee to County in the amount of \$390.00, due upon execution of this License and on each anniversary of the date that the Pima County Board of Supervisors executes this License. If the annual fee is not paid when due, Licensee shall pay a late fee of \$25.00 per month for each month until paid in full.
5. Permits. This License is not a permit. Following the granting of this License by County, Licensee shall obtain all applicable permits, which may include a Right-of-Way Use Permit, a County Use Permit, Building Permit or Floodplain Use Permit.
6. Term. This License shall run for a period of 25 (twenty five) years from the date this License is executed by Pima County Board of Supervisors. Notwithstanding any other condition, this License may be terminated by either party or revoked by County upon ninety days' written notice to the other. County may terminate or revoke by recording a termination or revocation statement executed by the Manager of the Real Property Services of the Public Works Administration. When this License lapses, terminates or is revoked, Licensee shall remove the Encroachment from the drainageway at no expense to County and to the satisfaction of County within 90 days. Licensee shall restore the drainageway to the pre-License condition or as may be mutually agreed upon. The indemnifications set forth in Paragraph 2 above shall survive the termination or revocation of this License.
7. Underground Facilities. If Encroachment includes any underground facilities, Licensee is required to maintain a membership with Arizona Blue Stake, Inc., or its successors or assigns, throughout the term of this License.
8. Licensee Has No Interest or Estate. Licensee agrees that it has no claim, interest, or estate at any time in the drainageway by virtue of this License or its use hereunder. Upon termination or revocation of this License, Licensee shall have no right of entry upon the drainageway.

9. License Runs With the Land. The provisions, conditions, restrictions and covenants of this License are both personal and shall run with the land described on the attached **Exhibit "B"** and shall be binding on all persons owning or occupying any portion of the land. Conveyance of the land will not relieve the prior owner of any obligations that accrued prior to conveyance.
10. Removal of Encroachment. Upon termination or revocation of this License for any reason or in the event partial or total removal of the Encroachment is required by County, Licensee shall promptly remove all or part of the Encroachment as required by County at Licensee's sole expense and to the satisfaction of County. Licensee shall not seek compensation or financial reimbursement for any and all costs associated with the removal or relocation of the Encroachment from County. In the event the Encroachment is not promptly removed by Licensee as directed by County, County shall have the right to remove the Encroachment and Licensee hereby agrees to reimburse the total amount of County's costs incurred for the partial or complete removal of the Encroachment within sixty (60) days of receipt of an invoice from County for said costs. In the event Licensee fails to reimburse County for the costs of removal within the 60-day period, County shall immediately file a lien upon the property described in **Exhibit "B"** herein, which shall be a continuing lien, and Licensee hereby consents to the placement of such a lien on said property. Said lien may be enforced by foreclosure in like manner as a mortgage on real property. County shall be entitled to County's reasonable attorney's fees and interest at the rate established by A.R.S. § 44-1201(A), occurring from the date the costs are incurred.
11. Conflict of Interest. This Agreement is subject to A.R.S. § 38-511 which provides for cancellation of contracts by Pima County for certain conflicts of interest.

LICENSEE: Macco LLC

By: *[Signature]*

Title: General Manager

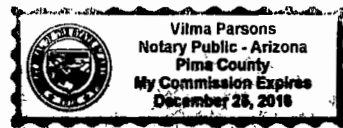
State of Arizona)
)
County of Pima) ss

This instrument was acknowledged before me this 9th day of June 2014, by
Wendy Cross as General Manager of Macco LLC.

Vilma Parsons
Notary Public

My Commission Expires:

12-25-2016



IN WITNESS WHEREOF, the parties hereto have executed this License.


PIMA COUNTY, ARIZONA

Chair, Pima County Board of Supervisors

ATTEST:

Clerk, Pima County Board of Supervisors

APPROVED AS TO FORM:



Tobin Rosen
Deputy County Attorney



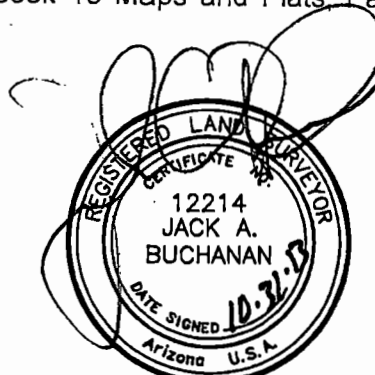
Exhibit "A"

LEGAL DESCRIPTION OF PUBLIC DRAINAGEWAY LICENSE AGREEMENT

That certain fifty foot wide public drainageway lying adjacent to Blocks 9 and 19, south of Block 1, and north of Forty Niner Drive, as shown on the Subdivision Plat for Forty Niner Country Club Estates, recorded in Book 15 Maps and Plats, Page 39, Pima County, Arizona.

Prepared by:
THE WLB GROUP, INC.

Jack A. Buchanan, RLS
JAB: cll



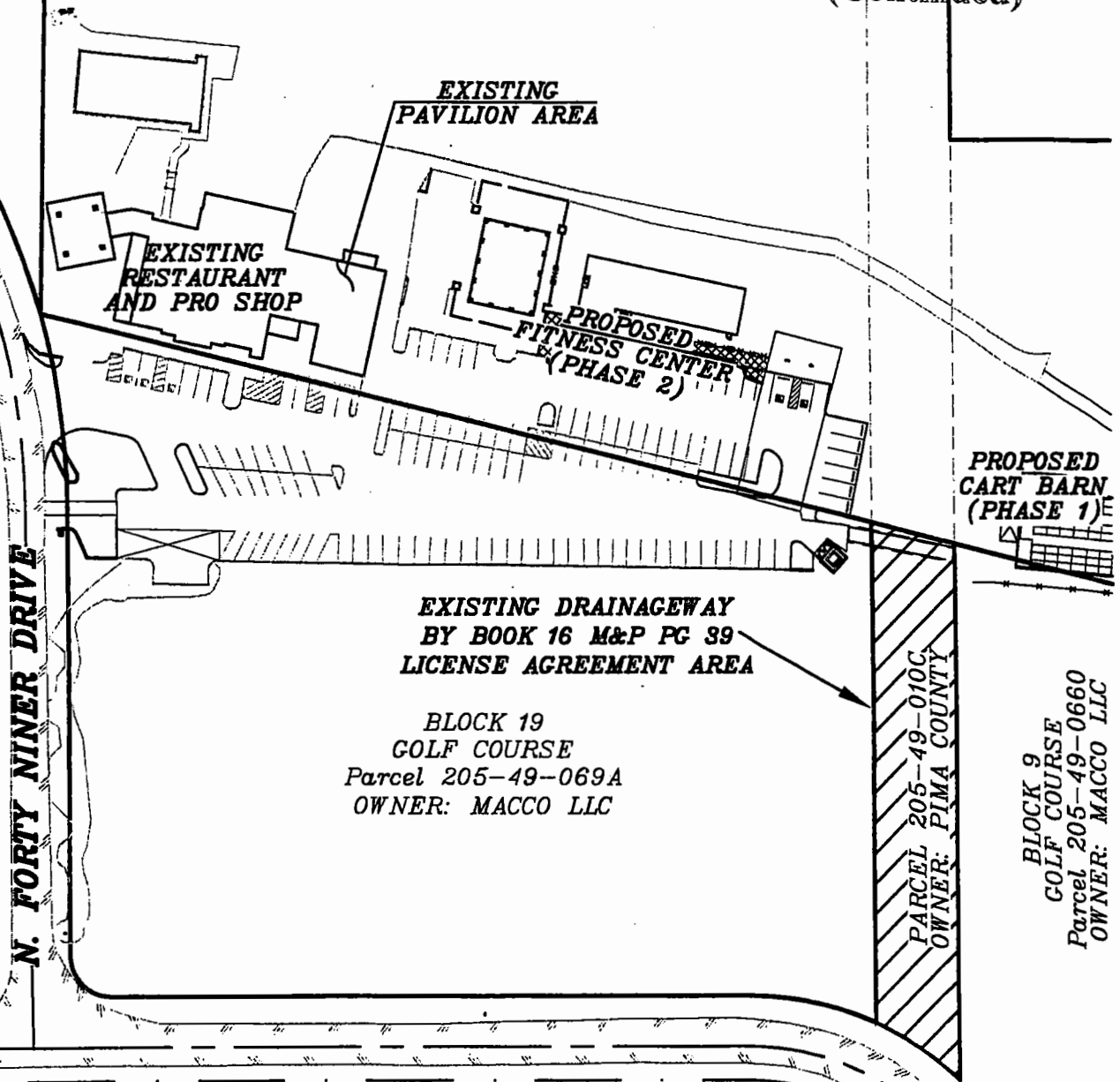
EXPIRES 3/31/2014
(INDICATES RENEWAL DATE)

N:\112031\Exhibits\Exhibit for Drainage Easement License.dwg Plotted: Oct. 30,2013

E. TANQUE VERDE ROAD

BLOCK 1
GOLF COURSE 066A
PARCEL 205-49-066A
OWNER: MACCO LLC

Exhibit "A"
(Continued)



**EXHIBIT TO ACCOMPANY
DRAINAGEWAY LICENSE AGREEMENT AREA
49ER'S GOLF AND COUNTRY CLUB
SECTION 5, T. 14 S., R. 16 E., G.&S.R.M.,
PIMA COUNTY, ARIZONA**

1"=100'



N:\12031\Exhibits\License Agreement Aerial.dwg Plotted: Oct. 30,2013

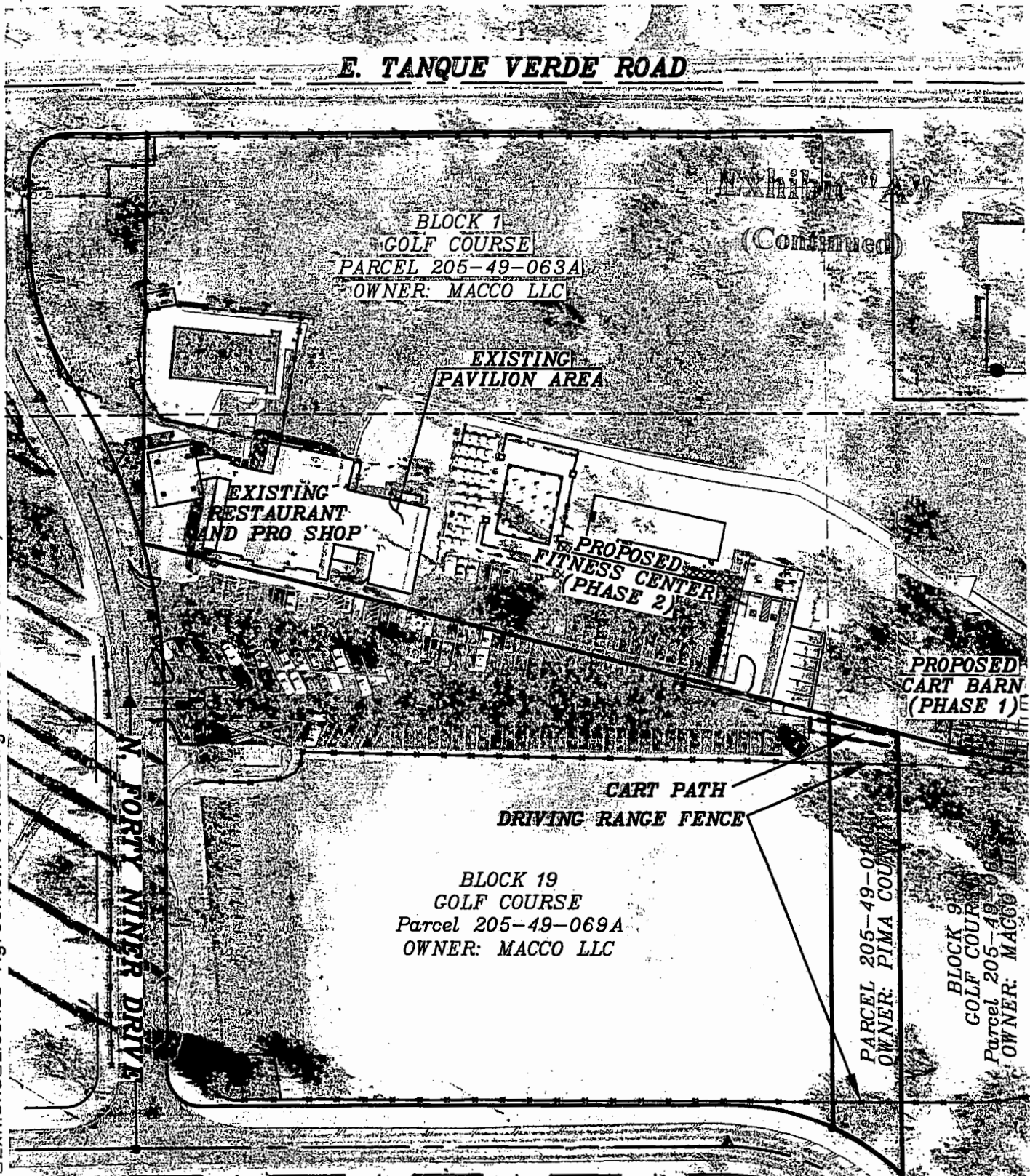


EXHIBIT TO ACCOMPANY LICENSE APPLICATION
FOR
49ER'S GOLF AND COUNTRY CLUB
SECTION 5, T. 14 S., R. 16 E., G.&S.R.M.,
PIMA COUNTY, ARIZONA

1"=100'





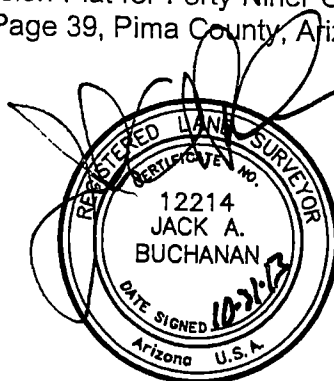
Exhibit "B"

LEGAL DESCRIPTION LANDS ADJOINING PUBLIC DRAINAGEWAY

Blocks 1, 9 and 19, lying adjacent and contiguous to that certain fifty foot wide public drainageway as shown on the Subdivision Plat for Forty Niner Country Club Estates, as recorded in Book 15 Maps and Plats, Page 39, Pima County, Arizona.

Prepared by:
THE WLB GROUP, INC.

Jack A. Buchanan, RLS
JAB: cli



EXPIRES 3/31/2014
(INDICATES RENEWAL DATE)