



BOARD OF SUPERVISORS AGENDA ITEM REPORT AWARDS / CONTRACTS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: November 15, 2022

* = Mandatory, information must be provided

or Procurement Director Award: ☐

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

United States Air Force

***Project Title/Description:**

Deed of Easement

***Purpose:**

The Federal REPI program was created to reduce encroachment and incompatible land uses around military installations. Per the REPI Encroachment Management Agreement approved by the Board of Supervisors on September 6, 2022, Pima County will continue to partner with DMAFB to provide grant matches for REPI grant funding awarded to DMAFB. In lieu of funds, the County will convey restrictive easements to the USAF on County-owned properties that were acquired in the past for encroachment prevention within the DMAFB Approach/Departure Corridor (ADC). The easements meet grant match requirements.

***Procurement Method:**

Exempt per Section 11.04.020

***Program Goals/Predicted Outcomes:**

Through the conveyance of this restrictive easement, the County is able to leverage these federal funds by using properties acquired in the past using 2004 voter-approved bond funds earmarked for encroachment prevention within the DMAFB ADC. Conveying this easement will meet match requirements for FY2021 REPI award.

***Public Benefit:**

DMAFB is one of the region's major employers and has an annual local economic impact of \$1.2 billion. Through this partnership with DMAFB, the County is able to further efforts in protecting the base from incompatible encroachment that can impact base operations, training and mission retention and growth.

***Metrics Available to Measure Performance:**

If the Deed of Easement is approved, the County's REPI grant match requirements will be met.

***Retroactive:**

No

TO: COB 10/28/22 (1)
ver: 1
pgs: 9

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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: CTN Department Code: RPS Contract Number (i.e., 15-123): 23*0064
 Commencement Date: 11/15/2022 Termination Date: Perpetual Prior Contract Number (Synergen/CMS): _____
☐ Expense Amount \$ _____ * ☒ Revenue Amount: \$ 0.00

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

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

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

If Yes, is the Contract to a vendor or subrecipient? Yes

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

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: Jeff Teplitsky

Department: Real Property Services

Telephone: 724-6306

Department Director Signature: _____

Date: 10/25/2022

Deputy County Administrator Signature: _____

Date: 10/25/2022

County Administrator Signature: _____

Date: 10/25/22

(Leave blank for required recording information)

ADV Contract number: CTN-RPS-23*0064

DEED OF EASEMENT

THIS DEED OF EASEMENT is made this 15th day of Nov., 2022, by Pima County, a political subdivision of the State of Arizona, 115 N. Church, Ste. 231 Tucson, Arizona 85701, the "Grantor," and The United States of America, acting by and through the Secretary of the Air Force pursuant to delegated authority (the "Grantee"). When used in this Easement, unless the context otherwise specifies, "Grantor" includes Grantor's successors and assigns, and "Grantee" includes the assigns of The United States of America and the successors of the Secretary of the Air Force. The Grantor and the Grantee may be collectively referred to as "Parties," or each may be referred to as a "Party."

WITNESSETH

Grantor and Grantee are parties to that certain Encroachment Management Agreement, the "Agreement", dated September 28, 2022, concerning Installation Encroachment Management Plan in the vicinity of Davis-Monthan Air Force Base, Tucson, Arizona, which was entered into under the authority of 10 U.S.C. § 2684a. Under the Agreement, Grantor, as the "Eligible Entity," has agreed to share 50% in the Acquisition Costs for Real Property Interest(s), (as those terms are defined in the Agreement) acquired under that Agreement. Grantee has agreed that Grantor's donation to Grantee of Real Property Interests on property already owned by Grantor in the environs of the Installation can be used to satisfy Grantor's Acquisition Cost share obligation(s). This Deed of Easement is being entered into for that purpose for Fiscal Year 2021. The Easement being conveyed by this Deed of Easement over the Property (as defined below) is valued at \$676,000.00 as evidenced by appraisals (as defined in the Agreement, 8.4.1.1.)

For good and valuable consideration and the mutual covenants, terms, and conditions contained in this Easement, the Grantor hereby grants and conveys to the Grantee a restrictive use easement in perpetuity (this "Easement") on and over the land described in Exhibit A (the "Property") and shown in Exhibit B, on terms and conditions as set forth in this Easement.

The acquiring Federal agency is the Department of Defense, United States Air Force pursuant to 10 U.S.C. § 2684a.

1. Purpose. It is the purpose of this Easement to limit any development or use of the Property that would be incompatible with the mission of Davis-Monthan Air Force Base, Tucson, Arizona (the "Installation"), or that might interfere, whether directly or indirectly, with current or future military training, testing, or operations on or near the Installation. The Easement rights granted to Grantee in this Deed of Easement will revert back to the Grantor if the Installation is closed.

2. Rights of the Grantee. To accomplish the purpose of this Easement, the Grantor conveys the following rights to the Grantee:

- a. To limit any development or use of the Property that would be incompatible with the mission of the Installation;
- b. To enter upon the Property at reasonable times in order to monitor compliance with, and enforce the terms of this Easement; provided, the entry shall be made after giving reasonable notice to the Grantor as each circumstance may permit, and the Grantee shall not unreasonably interfere with use and quiet enjoyment of the Grantor of the Property; and
- c. To prevent any activity on, or use of, the Property inconsistent with the purpose of this Easement, and to require the restoration of areas or features of the Property which may be damaged by any inconsistent activity or use, pursuant to Section 4 below.

3. Prohibited Uses. The Grantor is prohibited from any activity or use of the Property inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- a. Subdivision or development, or any residential or household use at greater density than current residential use. Active recreational uses and Commercial activities are prohibited on the Property except for solar use and agriculture (as these terms are defined below).

"Agriculture" means all methods of production and management of livestock, crops, trees, and other vegetation, as well as aquiculture, provided that the use complies with all other limitations in this section 3. This includes the related activities of tillage, fertilization, pest control, and harvesting as well as the feeding, housing, training and maintenance of animals such as cows, sheep, goats, hogs, horses, and poultry. It does not include the sale of agricultural products produced on the Property.

"Solar Use" means the installation, maintenance, and operation of a solar use for the benefit of a property owner or for a third party operator for the generation of solar power, subject to the existing ADC-2 zoning restrictions.

- b. No structure or tree may exceed 80 feet above ground level.
- c. No lighting shall be permitted that may be dangerous, distracting, or misleading to aircraft operating from the Installation. This type of lighting includes, but is not limited to, strobe lights, non-emergency vehicle rotating beacons, or light sources above 16,000

lumens. Light sources above 16,000 lumens must be angled 15 degrees below the horizon.

d. No operations of any type shall be permitted that produce smoke, glare, or other visual hazards, or that encourage large concentrations of birds that may be dangerous for aircraft operating from the Installation.

e. Processing, storage, wholesale trade, or distribution of chemical, petroleum, and rubber products and other hazardous or highly flammable materials.

4. Enforcement and Remedies. Upon any breach of a term of this Easement, the Grantee may institute suit to enjoin any breach or enforce any term by injunction and require the Property be restored promptly to the condition required by this Easement. The remedies of the Grantee shall be cumulative, and shall include any other rights and remedies available to the Grantee at law or in equity.

5. Discretion of the Grantee. Enforcement of the terms of this Easement shall be undertaken at the discretion of the Grantee. No failure on the part of the Grantee to enforce any term of this Deed on one occasion shall discharge or invalidate that term or any other term of this Deed, or affect the enforcement right of the Grantee in the event of a subsequent breach or default.

6. Notices. Any notice, approval, or communication that either Party is required or desires to give related to this Easement must be given in writing and may be served personally, including by recognized courier service, or sent by certified mail, return receipt requested, by the U.S. Postal Service, to:

Grantor: Pima County Administrator
115 N. Church Ave., Suite 231
Tucson, AZ 85701 (520)724-8661

Real Property Services
Public Works Center
201 N. Stone Ave., 6th Floor
Tucson, AZ 85701 (520)724-6313

Department of the Air Force: Ms. Kacey Carter, Base Community Planer
3775 S. Fifth St., Building 4201
Davis-Monthan AFB, AZ 85707-9853
520-228-3291

Or to any other address a Party may designate by written notice to the other Party.

7. Grantor's Rights. Grantor retains all rights to use the Property in any manner not inconsistent with the rights granted hereunder to the Grantee.

8. Subsequent Transfers. The Grantor further agrees to give written notice, by the means specified in Section 6, to the Grantee of the transfer or assignment of any interest in the Property at least twenty (20) days prior to it. The Grantor agrees to make any such transfer or assignment subject to the terms of this Easement.

9. Severability. If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of the invalid provision to persons or circumstances other than those in favor of which it is found to be invalid, as the case may be, shall not be affected.

10. Runs with the Land. The covenants, terms, conditions, and restrictions of this Easement shall be deemed to touch and concern, and run with, the land.

11. Rights of Third Parties. This Easement is being made subject to existing utility and other public and private easements, and rights, restrictions, covenants, and conditions affecting or pertaining to the Property. If Grantor grants any other easements to third parties, it will notify the Grantee(s) and require such third party grantees to coordinate their use of the property with the Grantee(s).

12. Entire Agreement. This Easement sets forth the entire agreement of the Parties for the conveyance of a restrictive easement on the Property, and supersedes all prior discussions, negotiations, understandings, or agreements, oral or written, relating to this Easement, all of which are merged into this Deed of Easement, with the exception of the Management Agreement.

IN WITNESS WHEREOF, the Grantor has affixed its signature on the day and year written above.

(SIGNATURES ON NEXT PAGES)

Executed this day by the duly authorized officer of the Grantor:

PIMA COUNTY, a political subdivision of the State of Arizona

By: _____
Sharon Bronson, Chair
Pima County Board of Supervisors

STATE OF ARIZONA §
§
COUNTY OF PIMA §

On the _____ day of _____ 2022, before me, the undersigned Officer, appeared Ms. Sharon Bronson, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes therein contained.

Notary Public, State of Arizona

Printed Name
My Commission Expires: _____

Approved as to Form:



Deputy County Attorney

This Easement is hereby accepted as Grantee.

IN WITNESS WHEREOF, the Parties hereto by their duly authorized representatives have caused this Easement to be executed in their names as of the day and year indicated below.

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

By:

JEFFREY P. DOMM
Director, Installations Directorate
Air Force Civil Engineer Center

_____ day of _____ 2022

ACKNOWLEDGMENT

STATE OF TEXAS §

§

COUNTY OF BEXAR §

On the ____ day of _____, 2022, before me, the undersigned Officer, personally appeared Jeffrey P. Domm, personally known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that the same was the act and deed of the Secretary of the Air Force and that he executed the same as the act of the Secretary of the Air Force for the purposes and consideration cited therein.

Notary Public, State of Texas

Printed Name

Commission Expiration Date

Exhibit A

Below are the Properties Pima County will restrict through easements, located in Pima County, and within the Davis-Monthan Air Force Base identified Approach/Departure Corridor, totaling approximately 67.81 acres. Map of properties included under Exhibit B.

PARCEL 1:

PARCEL	ACRES	OWNERSHIP	LEGAL DESCRIPTION
141210260	65.65	PIMA COUNTY	SWLY SW4 TRI PTN SEC 26 & SLY PTN SE4 SE4 SEC 27 & WLY PTN N2 NW4 SEC 35 65.65 AC T15S R15E

Legal Description for 141-21-0260

That portion of land situated in the Northwest one-quarter of Section 35, the Southwest one-quarter of Section 26, and the Southeast one-quarter of Section 27, all being in Township 15 South, Range 15 East, Gila and Salt River base and meridian, Pima County, Arizona, more particularly described as follows:

Beginning at the Southeast corner of said Section 27, thence North 89 degrees 08 minutes 53 seconds West a distance of 1316.50 feet;

Thence North 00 degrees 02 minutes 14 seconds East a distance of 1033.25 feet to a point on the Southwesterly right of way line of the Southern Pacific Railroad as shown on BLM railroad right of way map (Phoenix 015584);

Thence South 56 degrees 29 minutes 56 seconds East along said Southwesterly right of way a distance of 836.56 feet to a point of jog in said right of way;

Thence North 33 degrees 30 minutes 04 seconds East along said right of way a distance of 668.05 feet to a point on the West line of said Section 26;

Thence South 56 degrees 29 minutes 56 seconds East along said right of way a distance of 668.05 feet to a point on the West line of said Section 26;

Thence continuing South 56 degrees 29 minutes 56 seconds East along said right of way a distance of 564.91 feet to a point on the North line of said Section 35;

Thence continuing South 56 degrees 29 minutes 56 seconds East along said right of way line a distance of 2380.26;

Thence departing said right of way line North 89 degrees 43 minutes 37 seconds West a distance of 2457.12 feet;

Thence North 00 degrees 01 minutes 09 seconds East a distance of 1301.83 feet to the true point of beginning.

EXCEPTING all coal and other minerals as reserved in the patent from the United State of America.

PARCEL 2:

PARCEL	ACRES	OWNERSHIP	LEGAL DESCRIPTION
14126003H	1.01	PIMA COUNTY	IRR ELY PTN SE4 SW4 LYG N OF TUC-VAIL HWY SEC 36-15-15

Legal Description for 14126003H:

That portion of the Southeast quarter of the Southwest quarter of Section 36, Township 15 South, Range 15 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

Beginning at the Northeast corner of the Southeast quarter of the Southwest quarter of Section 36;

Thence South 30°02'13" West, 606.36 feet to the Northeasterly right of way of the Southern Pacific Railroad;

Thence South 56°28'17" East, along the Northeasterly right of way of the Southern Pacific Railroad, 362.96 feet to the East line of the Southeast quarter of the Southwest quarter of Section 36;

Thence North 0°04'30" East, along the East line of the Southeast quarter of the Southwest quarter of Section 36, 725.41 feet to the TRUE POINT OF BEGINNING;

EXCEPTING any portion lying within the right of way of Old Vail Road, formerly Old Tucson-Bisbee State Highway Pima County Road Proceedings No. 333; and

FURTHER EXCEPTING THEREFROM any portion lying south of said right of way of Old Vail Road.

PARCEL 3:

PARCEL	ACRES	OWNERSHIP	LEGAL DESCRIPTION
14126003G	1.15	PIMA COUNTY	IRR ELY PTN OF SE4 SW4 LYG N OF RR ROW & S OF TUC-VAIL HWY SEC 36-15-15

Legal Description for 14126003G:

That portion of the Southeast quarter of the Southwest quarter of Section 36, Township 15 South, Range 15 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

Beginning at the Northeast corner of the Southeast quarter of the Southwest quarter of Section 36;

Thence South 30°02'13" West, 606.36 feet to the Northeasterly right of way of the Southern Pacific Railroad;

Thence South 56°28'17" East, along the Northeasterly right of way of the Southern Pacific Railroad, 362.96 feet to the East line of the Southeast quarter of the Southwest quarter of Section 36;

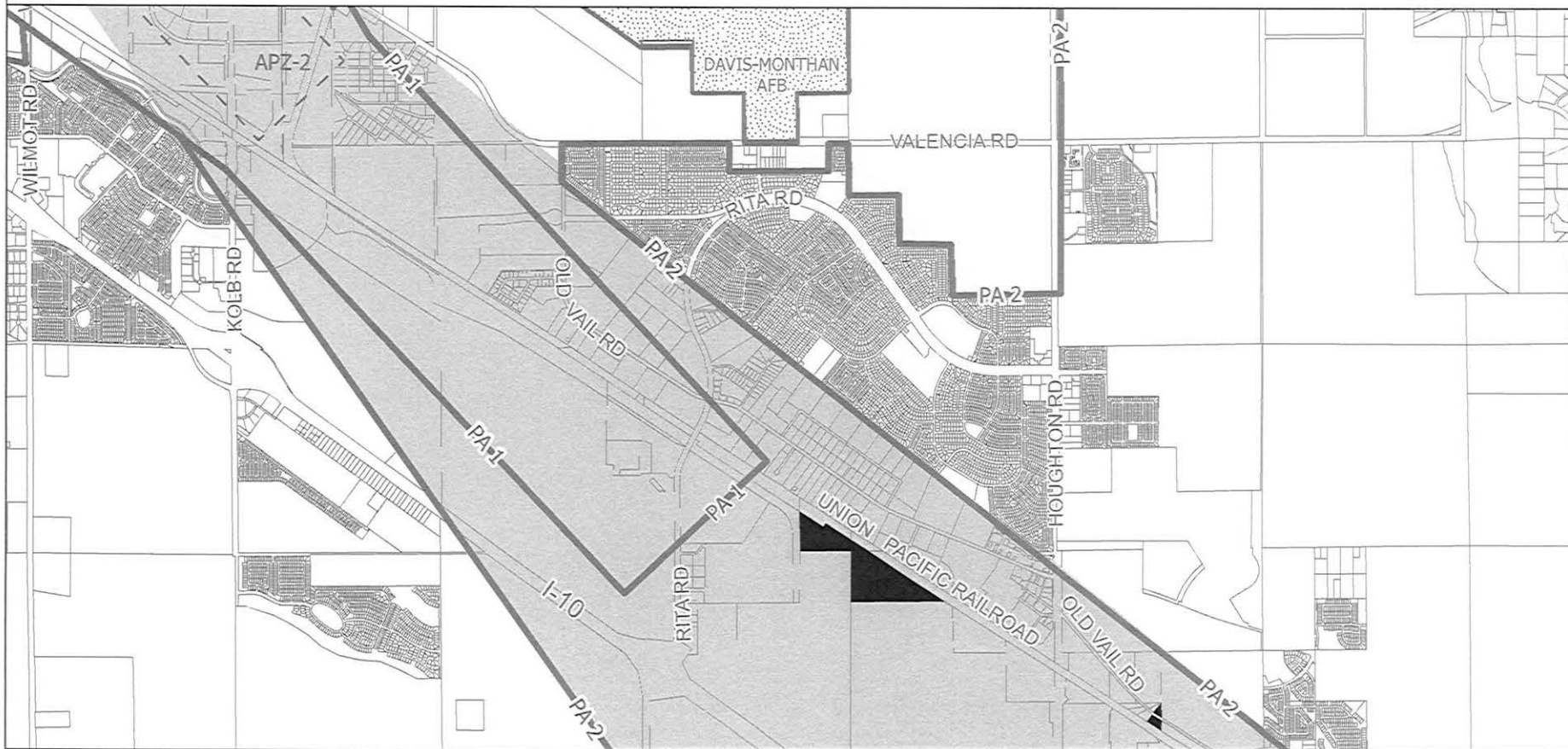
Thence North 0°04'30" East, along the East line of the Southeast quarter of the Southwest quarter of Section 36, 725.41 feet to the TRUE POINT OF BEGINNING;

EXCEPTING any portion lying within the right of way of Old Vail Road, formerly Old Tucson-Bisbee State Highway Pima County Road Proceedings No. 333; and

FURTHER EXCEPTING THEREFROM any portion lying North of said right of way of Old Vail Road.

DAVIS-MONTHAN AFB REPI PROGRAM

PIMA COUNTY EASEMENT PARCELS



PIMA COUNTY DEPARTMENT OF TRANSPORTATION ENGINEERING INFORMATION MANAGEMENT

DRAWING NOT TO SCALE

DRAWN BY: C HORNECK

DATE: JUL 2022

Legend

- Easement Parcels
- Davis-Monthan Air Force Base Boundary
- Accident Potential Zones (APZ-2)
- REPI Priority Areas (PA 1 & PA 2)
- Corridor Boundary