



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: May 12, 2015

or Procurement Director Award ☐

Contractor/Vendor Name (DBA): DJK&M Real Estate Holdings, LLC

Project Title/Description:

Exchange of land between Pima County Flood Control District and DJK&M Real Estate Holdings, LLC

Purpose:

Boundary modification

Procurement Method:

Program Goals/Predicted Outcomes:

Rectify existing encroachments of both parties

Public Benefit:

Additional recreation and trail area.

Metrics Available to Measure Performance:

N/A

Retroactive:

N/A

Original Information CT

Document Type: Exchange Agreement Department Code: PW Contract Number (i.e., 15-123): 15-432

Effective Date: 05/12/2015 Termination Date: 05/12/2020 Prior Contract Number (Synergen/CMS):

☒ Expense Amount: \$ 2,000.00

☐ Revenue Amount: \$

Funding Source(s): Flood Control Tax Levy

Cost to Pima County General Fund: \$0.00

Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards

Were insurance or indemnity clauses modified? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards

Vendor is using a Social Security Number? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

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

Amendment No.: AMS Version No.:

Effective Date: New Termination Date:

☐ Expense ☐ Revenue ☐ Increase ☐ Decrease

Amount This Amendment: \$

Funding Source(s):

Cost to Pima County General Fund:

To: CoB - 4.29.15

Ver. 1

Vendor - 1

pgs. - 9

Procure Dept 04/20/15 PM02:11

Contact: Rick Kieser

Department: Real Property Services

Telephone: 520.724.6688

Department Director Signature/Date:



4-9-15

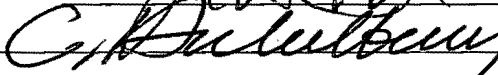
Deputy County Administrator Signature/Date:



4/14/15

County Administrator Signature/Date:

(Required for Board Agenda/Addendum Items)



4/15/15



**PIMA COUNTY DEPARTMENT OF:
REAL PROPERTY SERVICES**

PROJECT: Rillito River Project

Exchange: Pima County and DJK&M Real Estate Holdings, LLC

AMOUNT: \$2,000.00

CONTRACT

NO. CT-PW-15000000000000000000 432

AMENDMENT NO. _____

This number must appear on all
invoices, correspondence and
documents pertaining to this
contract.

EXCHANGE AGREEMENT

This Agreement is made by and between **DJK&M Real Estate Holdings, LLC**, an Arizona **Limited Liability Company**, hereinafter called "**DJK&M**" and **Pima County Flood Control District**, a political taxing subdivision of the State of Arizona, hereinafter called the "**County**".

1. **Property and Compensation.** DJK&M is the owner of the property described on **Exhibit A**, (the "**Property**"). County is the owner of the property described on **Exhibit B** (the "**Exchange Property**"). The County and DJK&M Investments have an interest in exchanging parcels subject to the terms and conditions set forth below:
2. **Value of the Property and Exchange Property.** DJK&M and County agree that the values of the properties to be exchanged are substantially the same and there shall be no boot.
3. **Closing/Deeds of Conveyance.** At Closing, DJK&M shall deliver to County or deposit into escrow a warranty deed conveying to County, title to the Property described on **Exhibit A**, free and clear of all liens and encumbrances and subject only to those matters identified on the attached **Exhibit C**. The County shall deliver to DJK&M Investments or shall deposit into escrow a Quit Claim Deed conveying to DJK&M Investments title to the Exchange Property described on **Exhibit B**, subject to all matters of record.
4. **Escrow and Proration.** Each party shall be responsible for payment of taxes on their property to the date of closing.
5. **Security Interest.** Each party shall be responsible for obtaining from Lienholders releases of mechanics liens, judgments, or of any notes secured by mortgages or deeds of trusts, or similar classes required for any fee transfer of their Property.

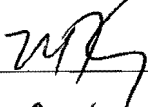
6. **Possession and Date of Closing.** Possession shall be given to the parties on the date of closing. Closing shall be on or before the later of (a) 120 days after the date this Agreement is approved by the Pima County Board of Supervisors or (b) 30 days after receipt of all necessary releases or consents from lienholders, and recording of the deeds of conveyance of the Property, and the Exchange Property.
7. **Environmental Representations.** The parties agree that neither party is assuming any obligation of the other party relating to any potential liability, if any, arising from the environmental condition of the others property, each party remaining responsible for its obligations as set forth by law. Parties hereby represent and warrant that, to the best of their knowledge, no pollutants, contaminants, toxic or hazardous substances, wastes or materials have been stored, used or are located on their property or within any surface or subsurface waters thereof; that no underground tanks have been located on their property; that their property is in compliance with all Federal, state and local environmental laws, regulations and ordinances; and that no legal action of any kind has been commenced or threatened with respect to their property.
8. **Environmental Inspection Rights.** Each party shall permit the other party to conduct such inspections of the others property as deemed necessary to determine the environmental condition of the property. If the investigations reveal the presence of contamination or the need to conduct environmental clean up, each party shall conduct a clean up of their property adequate to bring the property into compliance prior to Closing or the other party may terminate this agreement.
9. **Broker's Commission.** No broker or finder has been used for this transaction. Each party agrees to indemnify and hold harmless the other against fees, costs and expenses of defending against such claims made by any one claiming to have been employed for this transaction.
10. **Closing Costs.** Expenses incidental to transfer of title, including the County's title report, recording fees, escrow fees, and releases, shall be paid by the County and not to exceed \$2000.00.
11. **No Sale.** Neither party shall sell or encumber their property before closing.
12. **Conflict of Interest.** This Agreement is subject to A.R.S. 38-511 which provides for cancellation of contracts by County for certain conflicts of interest.


13. **Survival of Representation and Warranties.** All representations and warranties contained herein shall survive the closing for a term of ten years.

14. **Section 1031 Exchange.** County acknowledges DJK&M may consider this exchange as a Section 1031 Exchange of real property for income tax reporting purposes.

15. **Entire Agreement.** This signed document shall constitute the entire Agreement between the parties and no modification or amendment to this Agreement shall be binding unless in writing and signed by both parties.

For: DJK&M Real Estate Holdings, LLC, an Arizona Limited Liability Company


By: 

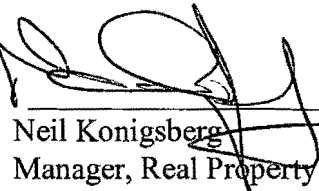
Title 

Date 9-1-14


Date _____

Recommended to the County Administrator/Board of Supervisors for Approval:


Rick Kieser
Property Acquisition Agent


Neil Konigsberg
Manager, Real Property Services


John M. Bernal- Deputy County Administrator
Public Works

Approved as to form:

Tobin Rosen, Deputy County Attorney

Pima County

ATTEST:

Chair, Board of Supervisors

Clerk of the Board of Supervisors

31 January 2014

EXHIBIT "A"
LEGAL DESCRIPTION

All that portion of that parcel described in Docket 9987, Page 2339, and being a part of the Southwest quarter of the Southeast quarter of Section 8, Township 13 South, Range 13 East, Gila & Salt River Meridian, Pima County, Arizona, lying northeasterly of the following described line:

COMMENCING at the south quarter corner of Section 8, being a 3" brass cap survey monument in casting marked "T13S R13E S1/4 RLS 12537" with punch, and to which the center of Section 8, being a 1/2 inch rebar with no tag and down 0.3 feet, bears North 00°10'39" West a distance of 2651.40 feet;

THENCE along the north-south quarter line of Section 8, North 00°10'39" West a distance of 455.34 feet;

THENCE North 89°49'23" East a distance of 105.00 feet to a point on the east line of that parcel conveyed to Pima County by instrument recorded in Docket 9981, Page 855 and the **POINT OF BEGINNING**;

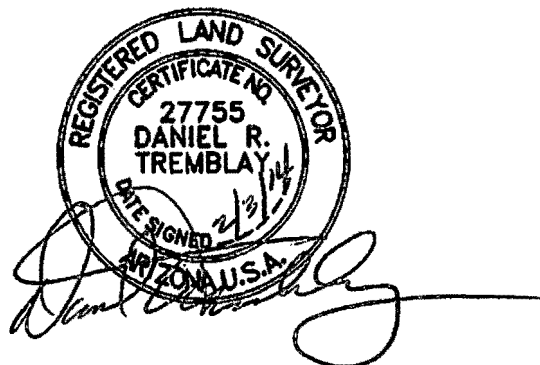
THENCE South 75°15'51" East a distance of 83.46 feet

THENCE South 72°37'07" East a distance of 49.01 feet;

THENCE South 73°57'45" East a distance of 312.73 feet;

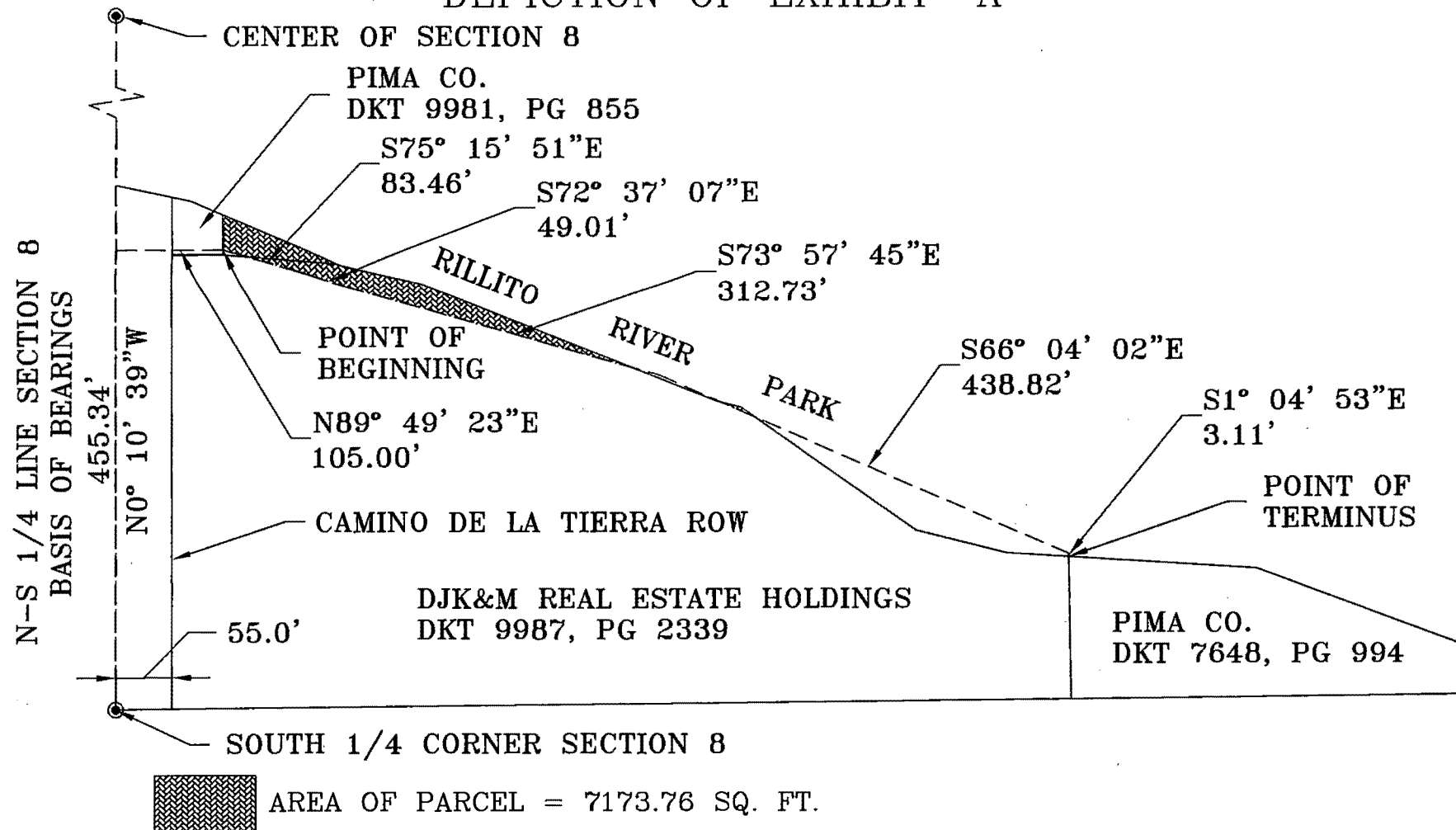
THENCE South 66°04'02" East a distance of 438.82 feet;

THENCE South 01°04'53" East a distance of 3.11 feet to the northwest corner of that parcel conveyed to Pima County by instrument recorded in Docket 7648, Page 994, and the **POINT OF TERMINUS**.



Expires 31 March 2015

DEPICTION OF EXHIBIT "A"



N



PIMA COUNTY SURVEY

A PORTION OF PARCEL RECORDED IN DKT 9987, PG 2339,
LOCATED IN SECTION 8, TOWNSHIP 13 SOUTH, RANGE 13 EAST,
GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

Scale: 1" = 150'

Date: 31 January 2014 Drawn By: AJI

Sheet 1 of 1

31 January 2014

Exhibit "B"

LEGAL DESCRIPTION

All that portion of the Southwest quarter of the Southeast quarter of Section 8, Township 13 South, Range 13 East, Gila & Salt River Meridian, Pima County, Arizona, lying southwesterly of the following described line:

COMMENCING at the south quarter corner of Section 8, being a 3" brass cap survey monument in casting marked "T13S R13E S1/4 RLS 12537" with punch, and to which the center of Section 8, being a 1/2 inch rebar with no tag and down 0.3 feet, bears North $00^{\circ}10'39''$ West a distance of 2651.40 feet;

THENCE along the north-south quarter line of Section 8, North $00^{\circ}10'39''$ West a distance of 455.34 feet;

THENCE North $89^{\circ}49'23''$ East a distance of 105.00 feet to a point on the east line of that parcel conveyed to Pima County by instrument recorded in Docket 9981, Page 855 and the **POINT OF BEGINNING**;

THENCE South $75^{\circ}15'51''$ East a distance of 83.46 feet

THENCE South $72^{\circ}37'07''$ East a distance of 49.01 feet;

THENCE South $73^{\circ}57'45''$ East a distance of 312.73 feet;

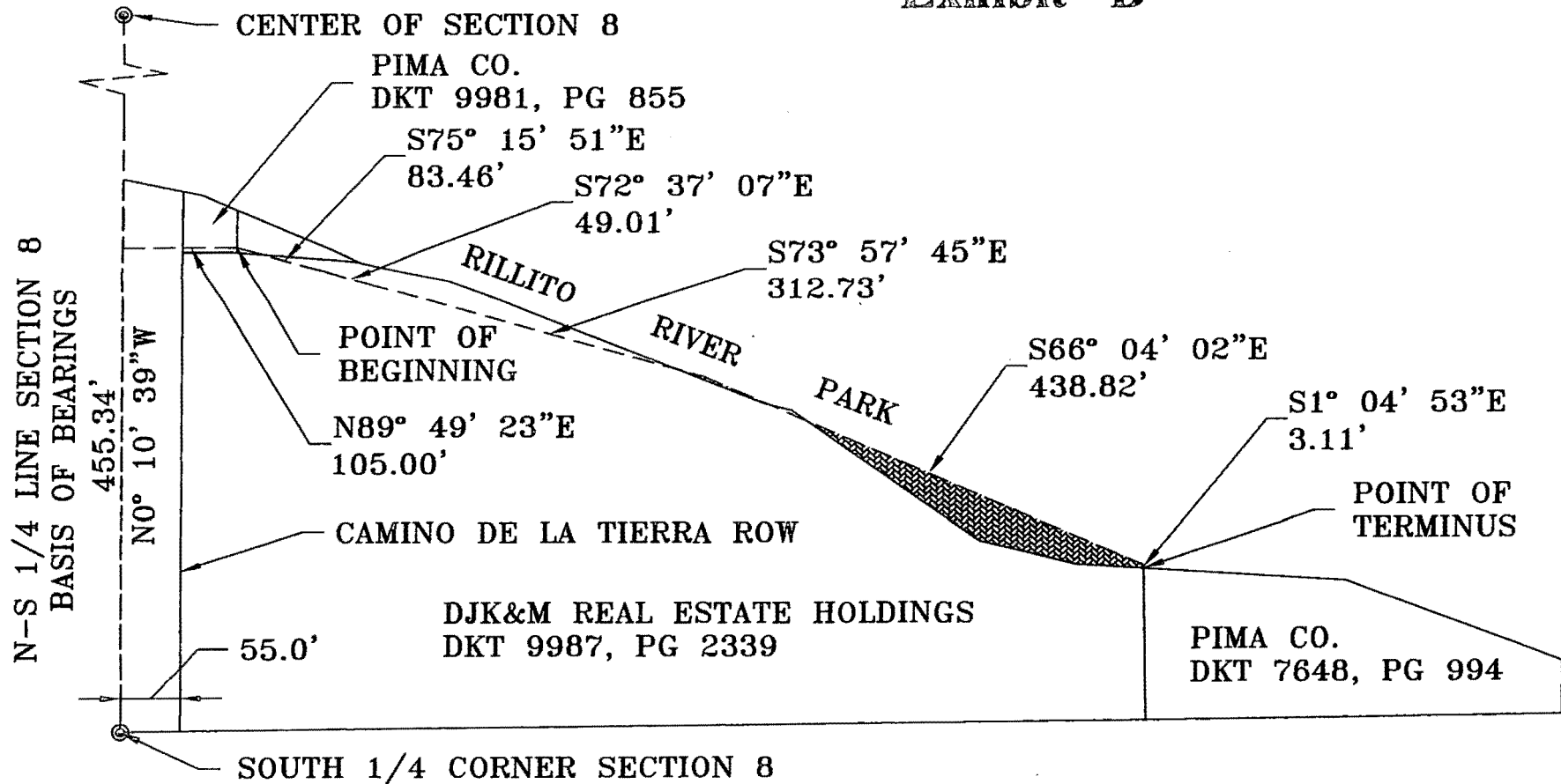
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THENCE South $01^{\circ}04'53''$ East a distance of 3.11 feet to the northwest corner of that parcel conveyed to Pima County by instrument recorded in Docket 7648, Page 994, and the **POINT OF TERMINUS**.



Expires 31 March 2015

DEPICTION OF Exhibit "B"



AREA OF PARCEL = 7474.61 SQ. FT.



PIMA COUNTY SURVEY

A PORTION OF THE RILLITO RIVER PARK,
LOCATED IN SECTION 8, TOWNSHIP 13 SOUTH, RANGE 13 EAST,
GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

Scale: 1" = 150'

Date: 31 January 2014 Drawn By: AJI

Sheet 1 of 1

EXHIBIT C

Showing matters which will be excepted in the Policy unless the same are disposed of to the satisfaction of the Company.

- i. Defects, liens, encumbrances, adverse claims or other matters, if any, created first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
- ii. Subject to the usual printed exclusions and exceptions contained in the regular form of policy, reprinted for reference on the Addendum attached hereto.

The following matters will be excepted in Schedule B of the policy to be issued:

1. Taxes and assessments collectible by the County Treasurer, not yet due for the year 2012.
2. Any action by the County Assessor and/or Treasurer, altering the current or prior tax assessment, subsequent to the date of the Policy of Title Insurance.
3. Water rights, claims or title to water, and agreements, covenants, conditions or rights incident thereto, whether or not shown by the public records.

This exception is not limited by reason of the disclosure of any matter relating to Water Rights as may be set forth elsewhere in Schedule B.
4. Reservations, exceptions, easements or rights in Patent from the United States of America recorded in Book 52 of Deeds, page 215.
5. Easement for telephone and telegraph lines, and rights incident thereto, as set forth in instrument recorded in Book 62 of Miscellaneous Records at page 91.
6. Easement for electric transmission lines or systems, and rights incident thereto, as set forth in instrument recorded in Book 64 of Deeds, page 472.
7. Easement for water pipes, conduits, canals, ditches, poles, electric and telephone, and rights incident thereto, as set forth in instrument recorded in Book 84 of Deeds, page 445.
8. Easement for sewer, and rights incident thereto, as set forth in instrument recorded in Docket 4091, page 221.
9. The effect if any of matters as disclosed by Release recorded in Docket 8009, pages 1223 and 1312.
10. Provisions within Resolution 1992-FC15 re: Condemnation for Rillito River Bank Protection recorded in Docket 9664, page 500.
11. Provisions within Resolution No. 2009-63 re: Amending Pima County Comprehensive Plan Land Use Map recorded in Docket 13541, page 1995.
12. Liabilities and obligations imposed upon said land by reason of its inclusion within Jaynes Irrigation District and Metropolitan Domestic Water Improvement District.
13. Any adverse claim based upon the assertion that:
 - a) Some portion of said land has been created by artificial means or has accreted to such portion so created;
 - b) Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the Rillito River, or has been formed by accretion to any such portion;Some portion of said land has been removed by erosion or by an avulsive movement of the Rillito River;
Said land or any part thereof is now or at any time has been below the high watermarks of the Rillito River, in the event the boundary of said river has been artificially raised or is now or at any time has been below the high water mark, if said river is in its natural state.
14. The rights of the United States of America, the State of Arizona and/or other parties to any portion of the within property lying within the bed, or former bed, of any water course, as that term is defined under Arizona law

QUIT CLAIM DEED

For valuable consideration, Pima County Flood Control District, a political taxing subdivision of the State of Arizona, hereby quit claims to DJK&M Real Estate Holdings, an Arizona limited liability company, all its rights, title and interest in the following described property situate in Pima County, Arizona, together with all rights and privileges appurtenant thereto:

SEE LEGAL DESCRIPTION & DEPICTION ON ATTACHED **EXHIBIT "A"**.

Dated this _____ day of _____, 2015.

ATTEST

Pima County

Clerk of the Board

Chair, Pima County Board of Directors

State of Arizona)
) ss
County of Pima)

This instrument was acknowledged before me this _____ day of _____, 2015, by the Chair of the Pima County Board of Directors.

Notary Public

My Commission Expires:

EXEMPTION: A.R.S. § 11-1134.A.3.		Right-of-Way [<input type="checkbox"/>] Parcel [<input checked="" type="checkbox"/>]	
Agent: RK	11,244-003	Board of Directors Approval: 5/12/15	P [<input type="checkbox"/>] De [<input type="checkbox"/>] Do [<input type="checkbox"/>] E [<input checked="" type="checkbox"/>]

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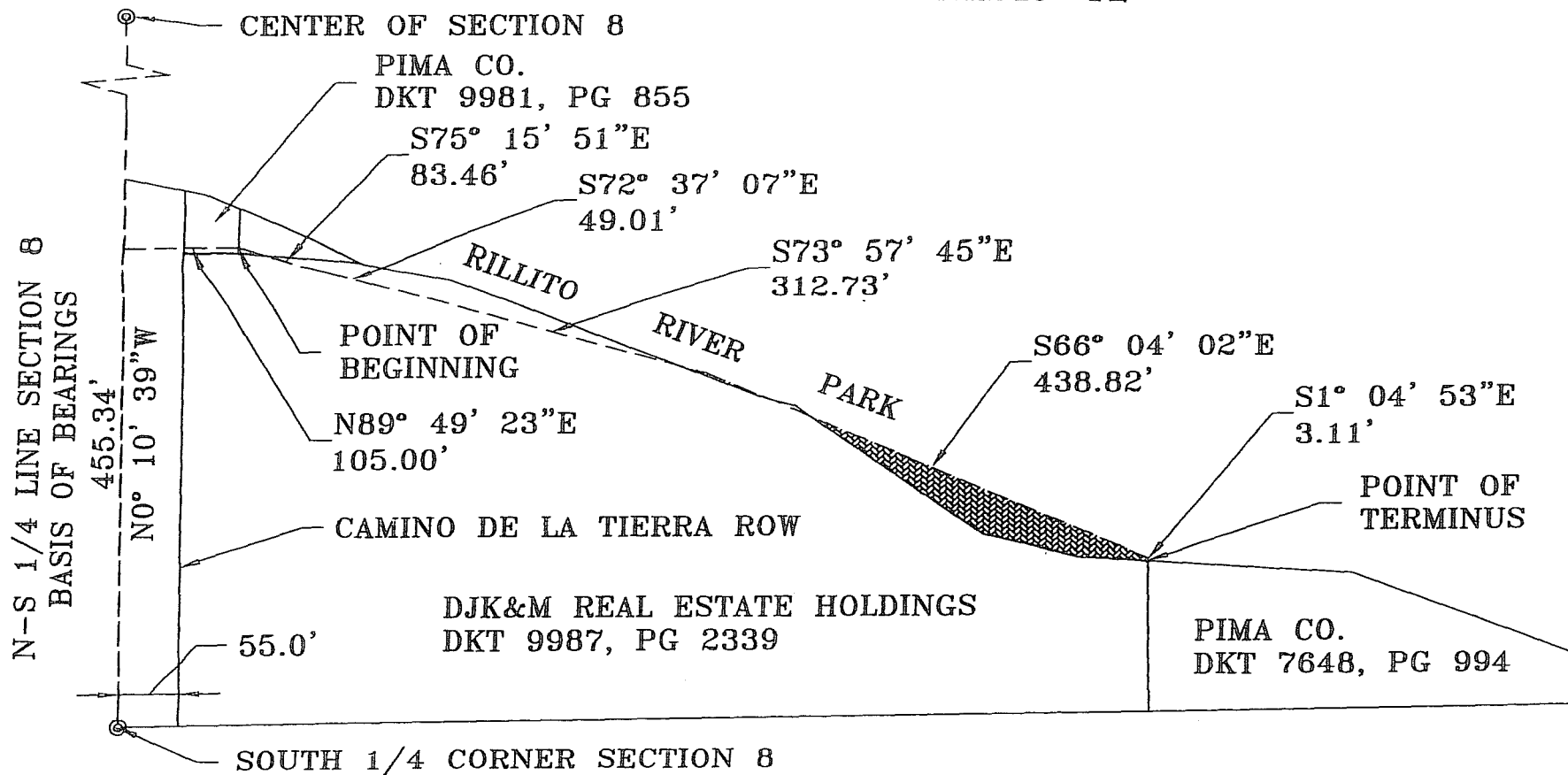
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Sheet 1 of 1