BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: February 19, 2019

Title: Amendments to County MSCP Master Covenant; District MSCP Master Covenant; and County Conservation Land Master Covenant; File E-0080

Introduction/Background:

In October, 2016, the Pima County Board of Supervisors and the Regional Flood Control District ("District") Board of Directors approved Master Restrictive Covenants to provide protection to conservation land acquired by the County or District (the "Conservation Covenants"). Additional Covenants (the "MSCP Covenants") were approved to preserve land with significant undisturbed natural open space and protect for the mitigation of incidental take covered by the County's Section 10 Permit.

Discussion:

The County and District have acquired title to additional open space property which staff recommends be added to the County and District MCSP Covenants and the County Conservation Covenants. The properties to be added are listed in Attachment A and depicted on Attachment B. The Board has previously approved the sale of the property to be removed from the Covenants (the Henderson property).

Conclusion:

The Arizona Land and Water Trust ("ALWT"), which is the Beneficiary under the Covenants, has signed the proposed amendments. The US Fish and Wildlife Service has given its written agreement to adding the properties to the MSCP Covenants.

Recommendation:

Staff recommends that the Board approve the attached Amendments to the Covenants.

Fiscal Impact:

There is no cost to adding properties to the Covenants. Releasing the Henderson property will allow the County to generate revenue from the sale of the property.

Board of Supervisor District:

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ All

FEB 11 PM 1:28 PC CLK OF BD

Department: Real Property Services Telephone: 724-6313

Contact: Neil J Konigsberg Telephone: 724-6582

Department Director Signature/Date: 2/6/2019

Deputy County Administrator Signature/Date: 2/7/19

County Administrator Signature/Date: 2/8/19

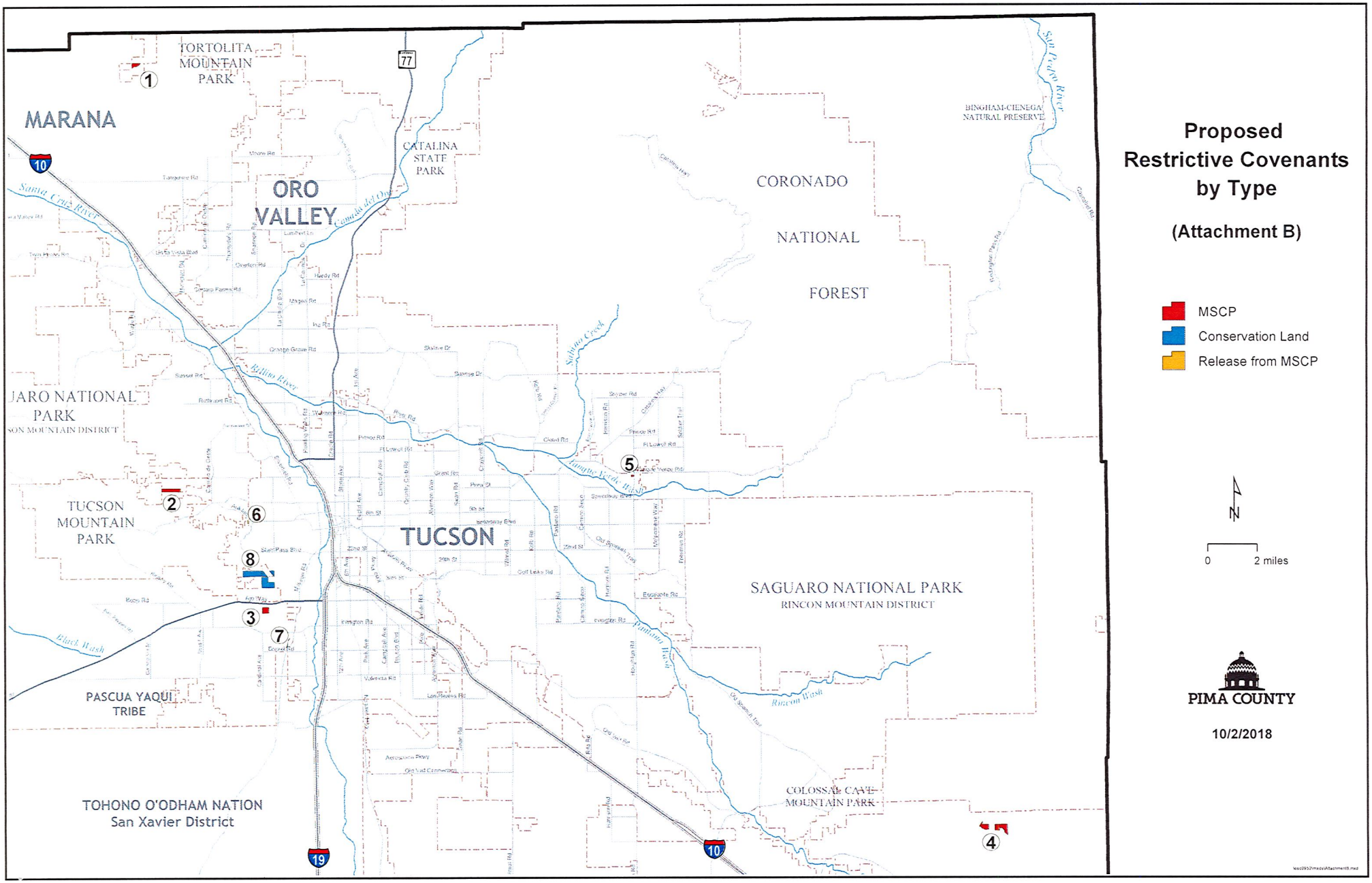
Attachment "A"

Pima County MSCP Lands	Map #	Parcel Number	Acres	Managing Department
PRF3 - Cochie Area	1	218-10-005V	26.75	Natural Resources, Parks and Recreation
Trail's End	2	212-04-003J	60.99	Natural Resources, Parks and Recreation
Robles Pass	3	119-35-1870	42.3	Natural Resources, Parks and Recreation
Total PC MSCP Acreage			130.04	

District MSCP Lands	Map #	Parcel Number	Acres	Managing Department
Agua Verde Ranch	4	306-11-006L	78	Regional Flood Control District
		306-11-006M	41.58	Regional Flood Control District
LRON Houghton	5	133-03-281D	4	Regional Flood Control District
Total District Acreage			123.58	
Total MSCP Acreage to be Encumbered			**253.62**	

Pima County MSCP	Map #	Parcel Number	Acres	Managing Department
Henderson	6	116-09-011A	3.31	Natural Resources, Parks and Recreation
Total MSCP Acreage to be Unencumbered			**3.31**	

Pima County Conservation	Map #	Parcel Number	Acres	Managing Department
Dakota Wash	7	137-11-428T	0.39	Office of Sustainability and Conservation
Frick (4 parcels total)	8	118-02-0040	117.17	Natural Resources, Parks and Recreation
		118-03-3340	20.25	Natural Resources, Parks and Recreation
		118-03-3390	15.66	Natural Resources, Parks and Recreation
		119-28-1510	119.36	Natural Resources, Parks and Recreation
Total Conservation Land Acreage to be Encumbered			**272.83**	


Proposed
Restrictive Covenants
by Type
(Attachment B)
MSCP
Conservation Land
Release from MSCP
0
2 miles
PIMA COUNTY
10/2/2018
MARANA
TORTOLITA MOUNTAIN PARK
ORO VALLEY
CATALINA STATE PARK
CORONADO NATIONAL FOREST
BINGHAM-CIENEGA NATURAL PRESERVE
JARO NATIONAL PARK
SON MOUNTAIN DISTRICT
TUCSON MOUNTAIN PARK
TUCSON
SAGUARO NATIONAL PARK
RINCON MOUNTAIN DISTRICT
PASCUA YAQUI TRIBE
TOHONO O'ODHAM NATION
San Xavier District
COLOSSAL CAVE MOUNTAIN PARK
Santa Cruz River
Rillito River
Sabino Creek
Tanque Verde Wash
Pantano Wash
Rincon Wash
Black Wash
San Pedro River
1
2
3
4
5
6
7
8

PIMA COUNTY

REAL PROPERTY

AMENDMENT NO. 1 TO COUNTY MSCP MASTER COVENANT

1. **DEFINED TERMS.** For purposes of this Amendment, the following terms have the meanings set forth below:

1.1. District: the Pima County Regional Flood Control District, a political taxing subdivision of the State of Arizona

1.2. County: Pima County, a political subdivision of the State of Arizona

1.3. Beneficiary: the Arizona Land and Water Trust, Inc., an Arizona nonprofit corporation

1.4. County MSCP Master Covenant: the Master Restrictive Covenant for the County MSCP Mitigation Land recorded 11-8-2016, Sequence No. 20163130354, records of the Pima County Recorder, between District, County and Beneficiary

1.5. Effective Date: The date this Amendment is executed by all of the parties hereto

2. **MODIFICATION OF COUNTY MSCP MASTER COVENANT.** District, County and Beneficiary hereby agree to modify the terms of the County MSCP Master Covenant as follows:

2.1. Exhibits A, B and C to County MSCP Master Covenant Amended. Exhibits A, B and C are hereby amended to add the properties (the "Additional Properties"), or release the properties (the "Released Properties"), listed in Exhibit A, identified on Exhibit B, and depicted on Exhibit C to this Amendment. The Additional Properties, together with all of the properties in the County MSCP Master Covenant, are subject to the terms and conditions of the County MSCP Master Covenant. The Released Properties are no longer subject to the terms and conditions of the County MSCP Master Covenant.

2.2. Section 1.3 Amended as to Additional Properties Only. In Section 1.3 the reference to "imagery by Pictometry or Pima Association of Governments dated 2015 or 2016, whichever is more recent," is hereby amended to state "imagery by Pictometry or Pima Association of Governments dated 2017 or 2018, whichever is more recent," provided that this change will only apply to the Additional Properties.

3. **REMAINING TERMS UNCHANGED.** Except as modified as provided in this Amendment, all of the terms and conditions of the County MSCP Master Covenant shall remain in full force and effect.

4. **EFFECTIVE DATE.** This Amendment shall be effective as of the Effective Date.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day, month and year written below.

COUNTY: PIMA COUNTY, a political subdivision of the State of Arizona:

_____ _____
Chairman, Board of Supervisors Date

ATTEST:

_____ _____
Clerk of Board of Supervisors Date

DISTRICT: Regional Flood Control District

_____ _____
Chairman, Board of Directors Date

ATTEST:

_____ _____
Clerk of Board of Directors Date

APPROVED AS TO CONTENT:

_____
Neil J. Konigsberg, Manager, Real Property Services

2/7/19
_____
Carmine DeBonis, Deputy County Administrator, Public Works

APPROVED AS TO FORM:

Kell Olson, Deputy County Attorney

BENEFICIARY: The Arizona Land and Water Trust

Diana Freshwater, President

1/29/19
Date

EXHIBIT A

MSCP Restrictive Covenant Amendment Properties: Pima County Owner & Grantor; FCD Grantee

Property to Add	Map ID	APN	Acres
PRF3 - Cochie Area	1	218-10-005V	26.75
Trail's End	2	212-04-003J	60.99
Robles Pass	3	119-35-1870	42.3
			130.04

Property to Release	Map ID	APN	Acres
Henderson	4	116-09-011A	3.31
			3.31

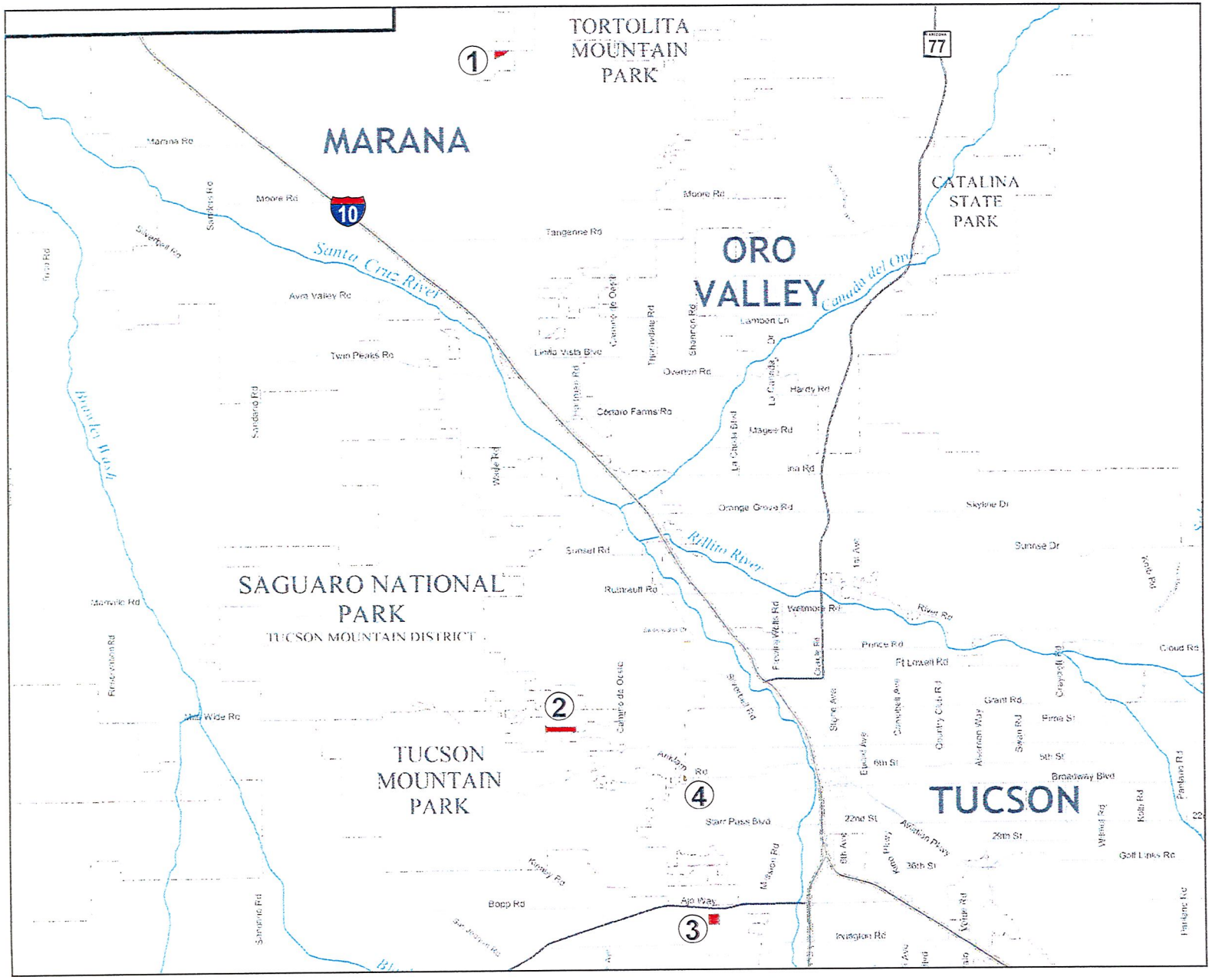


EXHIBIT B

MSCP Restrictive Covenant Amendment Properties: Pima County Owner & Grantor; FCD Grantee

Property to Add	Map ID	Acres
PRF3 - Cochie Area	1	26.75
Trail's End	2	60.99
Robles Pass	3	42.30
		130.04

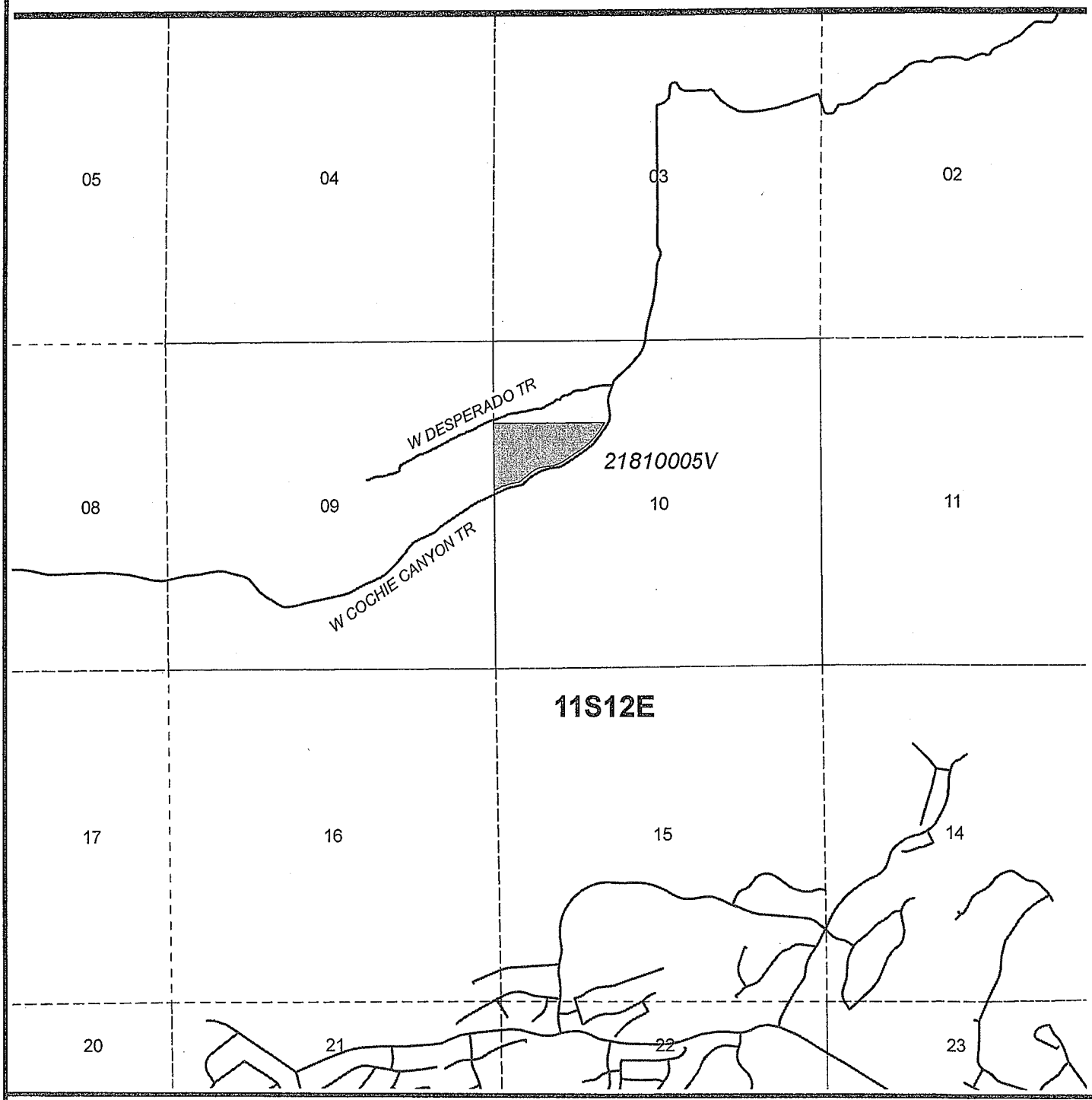
Property to Release	Map ID	Acres
Henderson	4	3.31
		3.31

N

0 2 miles

PIMA COUNTY

12/12/2018



Proposed MSCP Restrictive Covenant: Pima County Owner & Grantor; FCD Receives Covenant

EXHIBIT C

N

0 1,000 ft

PRF3 - Cochie (1)

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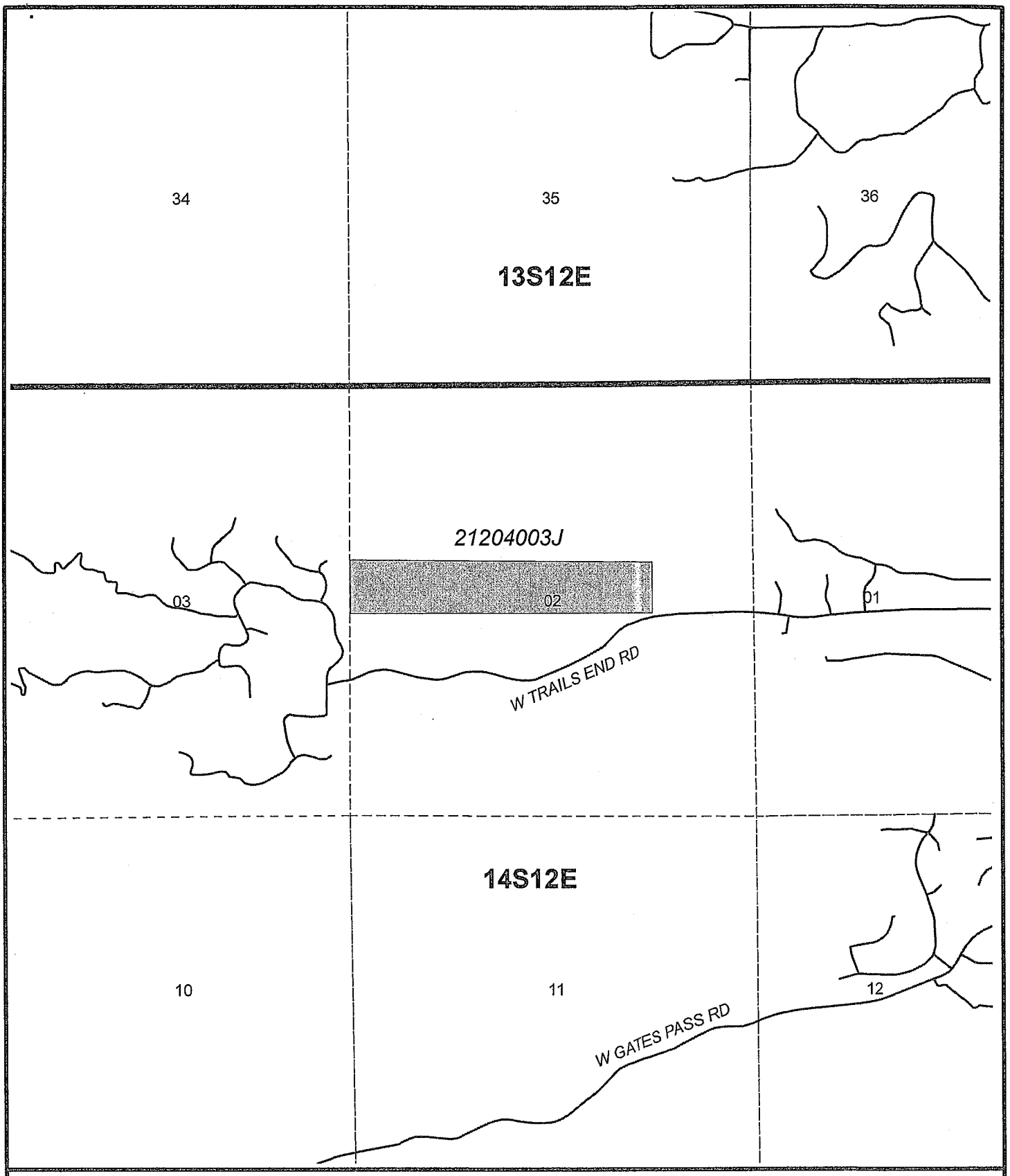

Proposed MSCP Restrictive Covenant: Pima County Owner & Grantor; FCD Receives Covenant

EXHIBIT C

N

0 1,000 ft

Trail's End (2)

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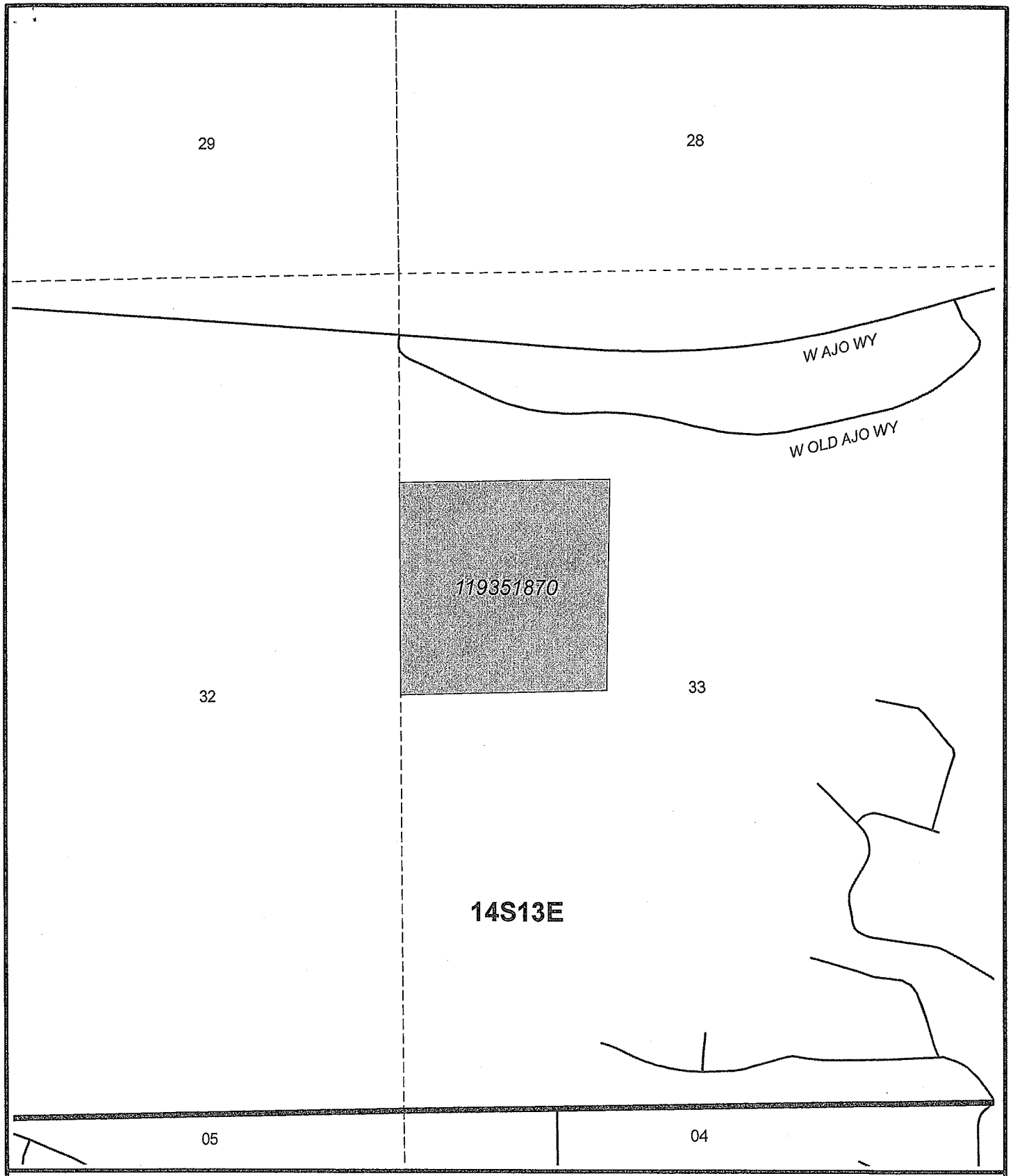

Proposed MSCP Restrictive Covenant: Pima County Owner & Grantor; FCD Receives Covenant

EXHIBIT C

N

0 500 ft

Robles Pass (3)

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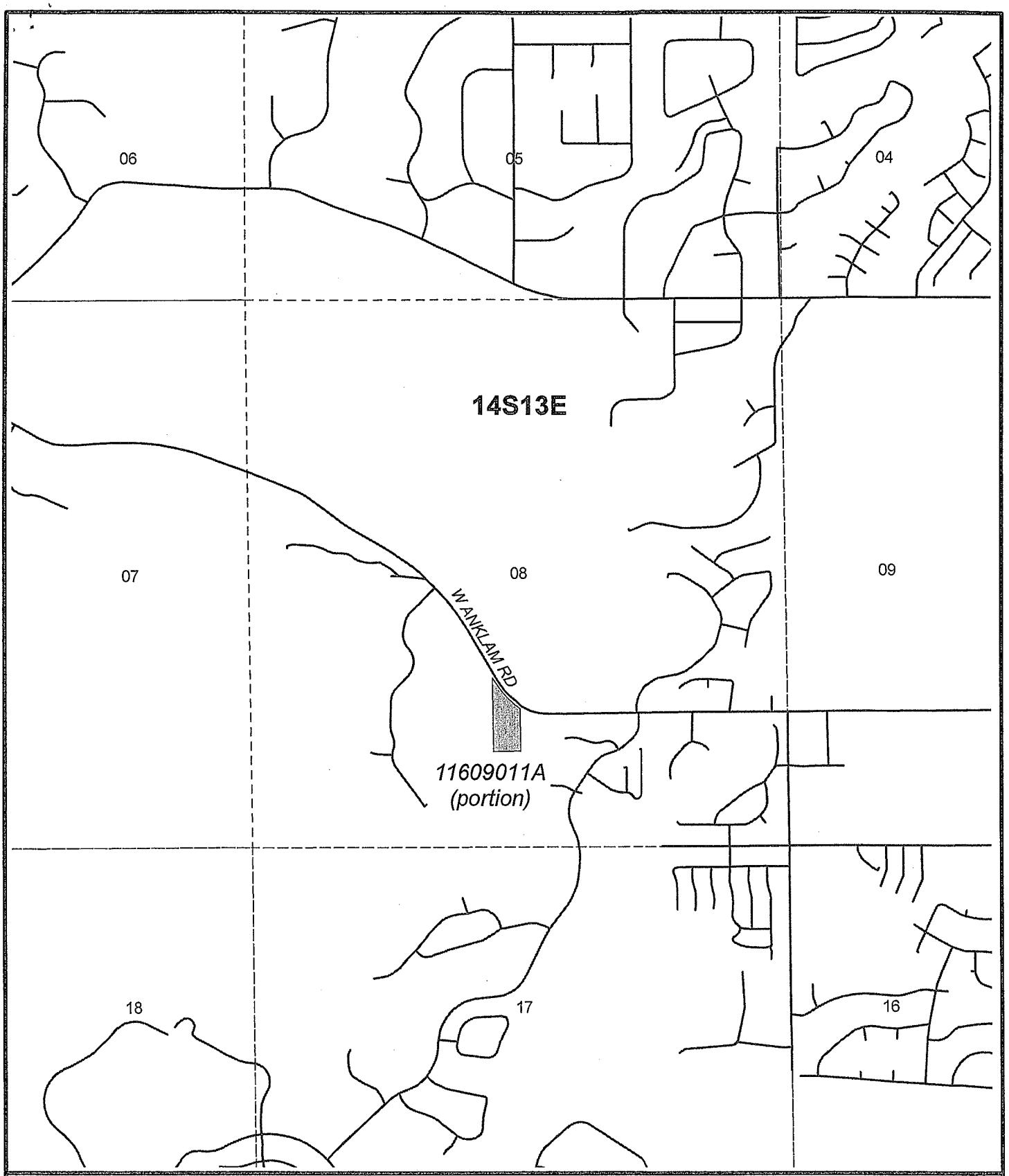

EXHIBIT C

Release from MSCP:
Pima County Owner

0 750 ft

Henderson (4)

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PIMA COUNTY

REAL PROPERTY

AMENDMENT NO. 1 TO DISTRICT MSCP MASTER COVENANT

1. **DEFINED TERMS.** For purposes of this Amendment, the following terms have the meanings set forth below:

1.1. District: the Pima County Regional Flood Control District, a political taxing subdivision of the State of Arizona

1.2. County: Pima County, a political subdivision of the State of Arizona

1.3. Beneficiary: the Arizona Land and Water Trust, Inc., an Arizona nonprofit corporation

1.4. District MSCP Master Covenant: the Master Restrictive Covenant for the District MSCP Mitigation Land recorded 11-8-2016, Sequence No. 20163130353, records of the Pima County Recorder, between District, County and Beneficiary

1.5. Effective Date: The date this Amendment is executed by all of the parties hereto

2. **MODIFICATION OF DISTRICT MSCP MASTER COVENANT.** District, County and Beneficiary hereby agree to modify the terms of the District MSCP Master Covenant as follows:

2.1. Exhibits A, B and C to District MSCP Master Covenant Amended. Exhibits A, B and C are hereby amended to add the properties listed in Exhibit A, identified on Exhibit B, and depicted on Exhibit C to this Amendment (the "Additional Properties"). The Additional Properties, together with all of the properties in the District MSCP Master Covenant, are subject to the terms and conditions of the District MSCP Master Covenant.

2.2. Section 1.3 Amended as to Additional Properties Only. In Section 1.3 the reference to "imagery by Pictometry or Pima Association of Governments dated 2015 or 2016, whichever is more recent," is hereby amended to state "imagery by Pictometry or Pima Association of Governments dated 2017 or 2018, whichever is more recent," provided that this change will only apply to the Additional Properties.

3. **REMAINING TERMS UNCHANGED.** Except as modified as provided in this Amendment, all of the terms and conditions of the District MSCP Master Covenant shall remain in full force and effect.

4. **EFFECTIVE DATE.** This Amendment shall be effective as of the Effective Date.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day, month and year written below.

COUNTY: PIMA COUNTY, a political subdivision of the State of Arizona:

_____ _____
Chairman, Board of Supervisors Date

ATTEST:

_____ _____
Clerk of Board of Supervisors Date

DISTRICT: Regional Flood Control District

_____ _____
Chairman, Board of Directors Date

ATTEST:

_____ _____
Clerk of Board of Directors Date

APPROVED AS TO CONTENT:

Neil J. Konigsberg, Manager, Real Property Services

2/7/19
Carmine DeBonis, Deputy County Administrator, Public Works

APPROVED AS TO FORM:

Kell Olson, Deputy County Attorney

BENEFICIARY: The Arizona Land and Water Trust

Diana Freshwater, President

1/29/19
Date

EXHIBIT A

MSCP Restrictive Covenant Amendment Properties: FCD Owner & Grantor; Pima County Grantee

Property to Add	Map ID	APN	Acres
Agua Verde Ranch	1	306-11-006L	78
Agua Verde Ranch	1	306-11-006M	41.58
LRON Houghton	2	133-03-281D	4
			123.58

EXHIBIT B

MSCP Restrictive Covenant Amendment Properties: FCD Owner & Grantor; Pima County Grantee

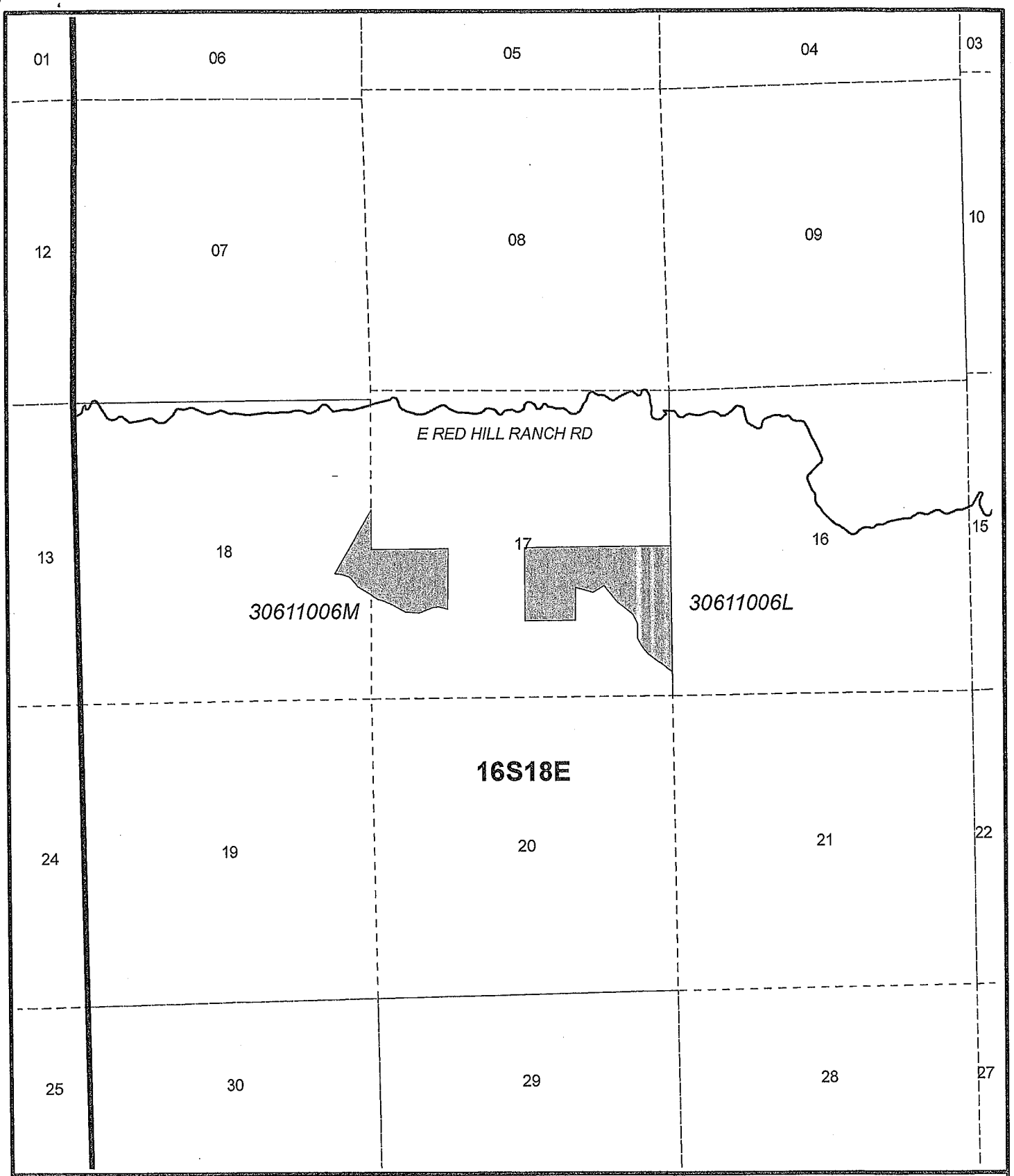
Property to Add	Map ID	Acres
Agua Verde Ranch	1	78
Agua Verde Ranch	1	41.58
LRON Houghton	2	4
		123.58

N

0 1 mile

PIMA COUNTY

12/12/2018



Proposed MSCP Restrictive Covenants: FCD Owner & Grantor; Pima County Receives Covenants

EXHIBIT C

N

0 1,000 ft

Agua Verde Ranch (1)

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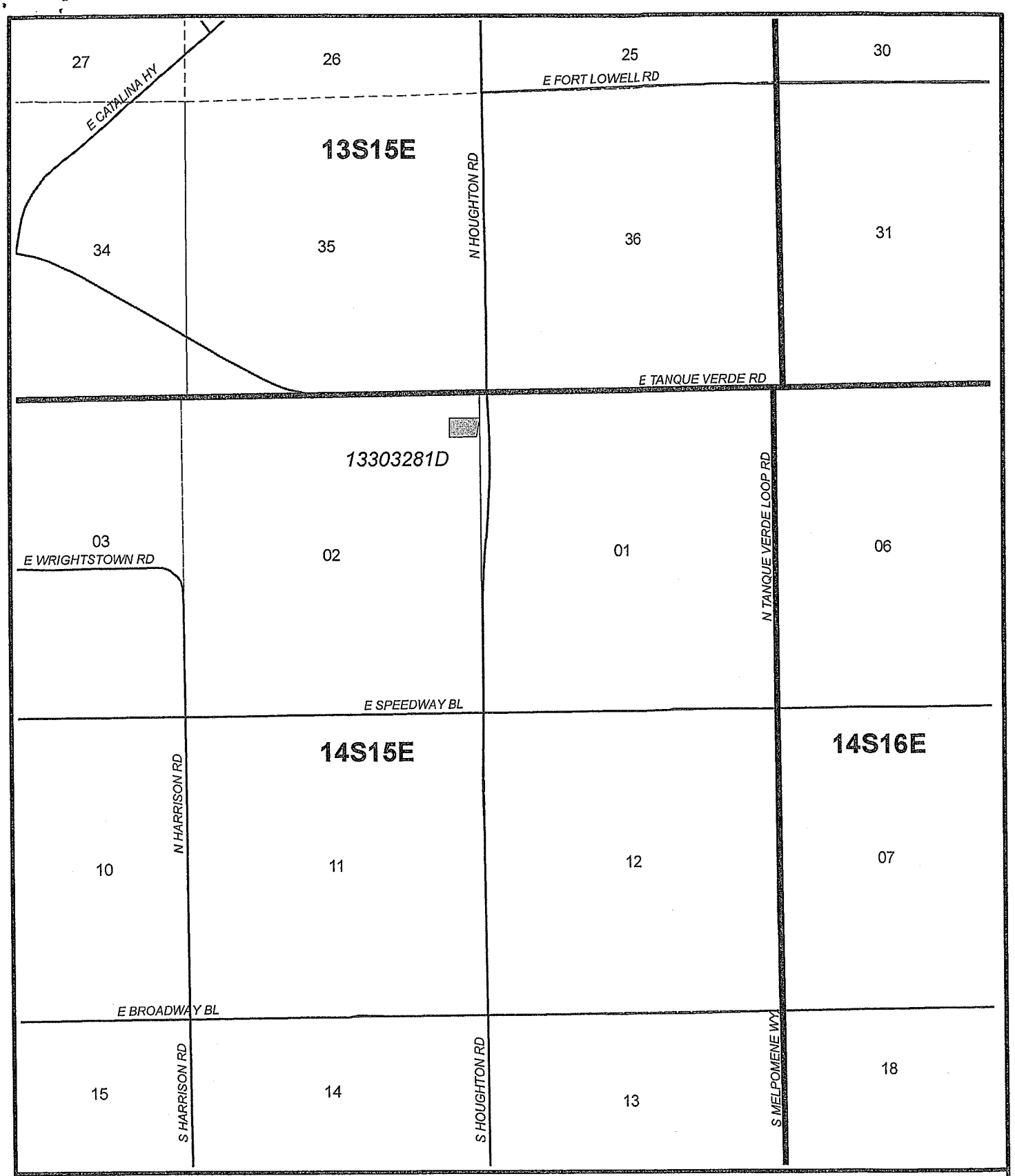

Proposed MSCP Restrictive Covenant: FCD Owner & Grantor; Pima County Receives Covenant

EXHIBIT C

0 1,000 ft

LRON Houghton (2)

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PIMA COUNTY

REAL PROPERTY

AMENDMENT NO. 1 TO COUNTY CONSERVATION LAND MASTER COVENANT

1. **DEFINED TERMS.** For purposes of this Amendment, the following terms have the meanings set forth below:

1.1. District: the Pima County Regional Flood Control District, a political taxing subdivision of the State of Arizona

1.2. County: Pima County, a political subdivision of the State of Arizona

1.3. Beneficiary: the Arizona Land and Water Trust, Inc., an Arizona nonprofit corporation

1.4. County Conservation Land Master Covenant: the Master Restrictive Covenant for the County Conservation Land recorded 11-8-2016, Sequence No. 20163130351, records of the Pima County Recorder, between District, County and Beneficiary

1.5. Effective Date: The date this Amendment is executed by all of the parties hereto

2. **MODIFICATION OF COUNTY CONSERVATION LAND MASTER COVENANT.** District, County and Beneficiary hereby agree to modify the terms of the County Conservation Land Master Covenant as follows:

2.1. Exhibits A, B and C to County Conservation Land Master Covenant Amended. Exhibits A, B and C are hereby amended to add the properties listed in Exhibit A, identified on Exhibit B, and depicted on Exhibit C to this Amendment (the "Additional Properties"). The Additional Properties, together with all of the properties in the County Conservation Land Master Covenant, are subject to the terms and conditions of the County Conservation Land Master Covenant.

2.2. Section 1.3 Amended as to Additional Properties Only. In Section 1.3 the reference to "imagery by Pictometry or Pima Association of Governments dated 2015 or 2016, whichever is more recent," is hereby amended to state "imagery by Pictometry or Pima Association of Governments dated 2017 or 2018, whichever is more recent," provided that this change will only apply to the Additional Properties.

3. **REMAINING TERMS UNCHANGED.** Except as modified as provided in this Amendment, all of the terms and conditions of the County Conservation Land Master Covenant shall remain in full force and effect.

4. **EFFECTIVE DATE.** This Amendment shall be effective as of the Effective Date.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day, month and year written below.

COUNTY: PIMA COUNTY, a political subdivision of the State of Arizona:

_____ _____
Chairman, Board of Supervisors Date

ATTEST:

_____ _____
Clerk of Board of Supervisors Date

DISTRICT: Regional Flood Control District

_____ _____
Chairman, Board of Directors Date

ATTEST:

_____ _____
Clerk of Board of Directors Date

APPROVED AS TO CONTENT:

_____
Neil J. Konigsberg, Manager, Real Property Services

2/7/19
_____
Carmine DeBonis, Deputy County Administrator, Public Works

APPROVED AS TO FORM:

Kell Olson, Deputy County Attorney

BENEFICIARY: The Arizona Land and Water Trust

Diana Freshwater, President

1/29/19
Date

EXHIBIT A

Conservation Land Restrictive Covenant Amendment Properties: Pima County Owner & Grantor; FCD Grantee

Property to Add	Map ID	APN	Acres
Dakota Wash	1	137-11-428T	0.39
Frick	2	118-02-0040	117.17
Frick	2	118-03-3340	20.25
Frick	2	118-03-3390	15.66
Frick	2	119-28-1510	119.36
			272.83

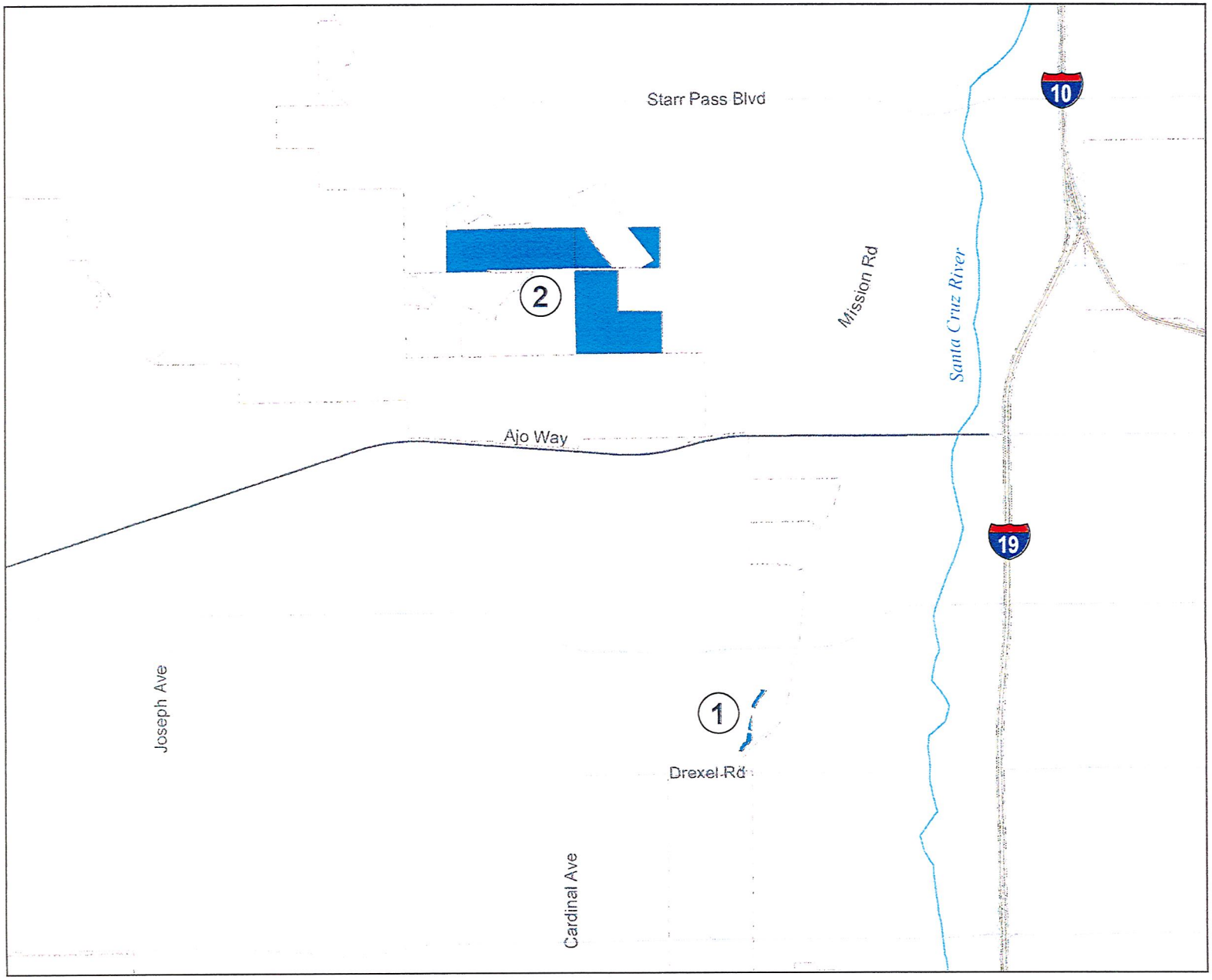


EXHIBIT B

Conservation Land Restrictive Covenant Amendment Properties: Pima County Owner & Grantor; FCD Grantee

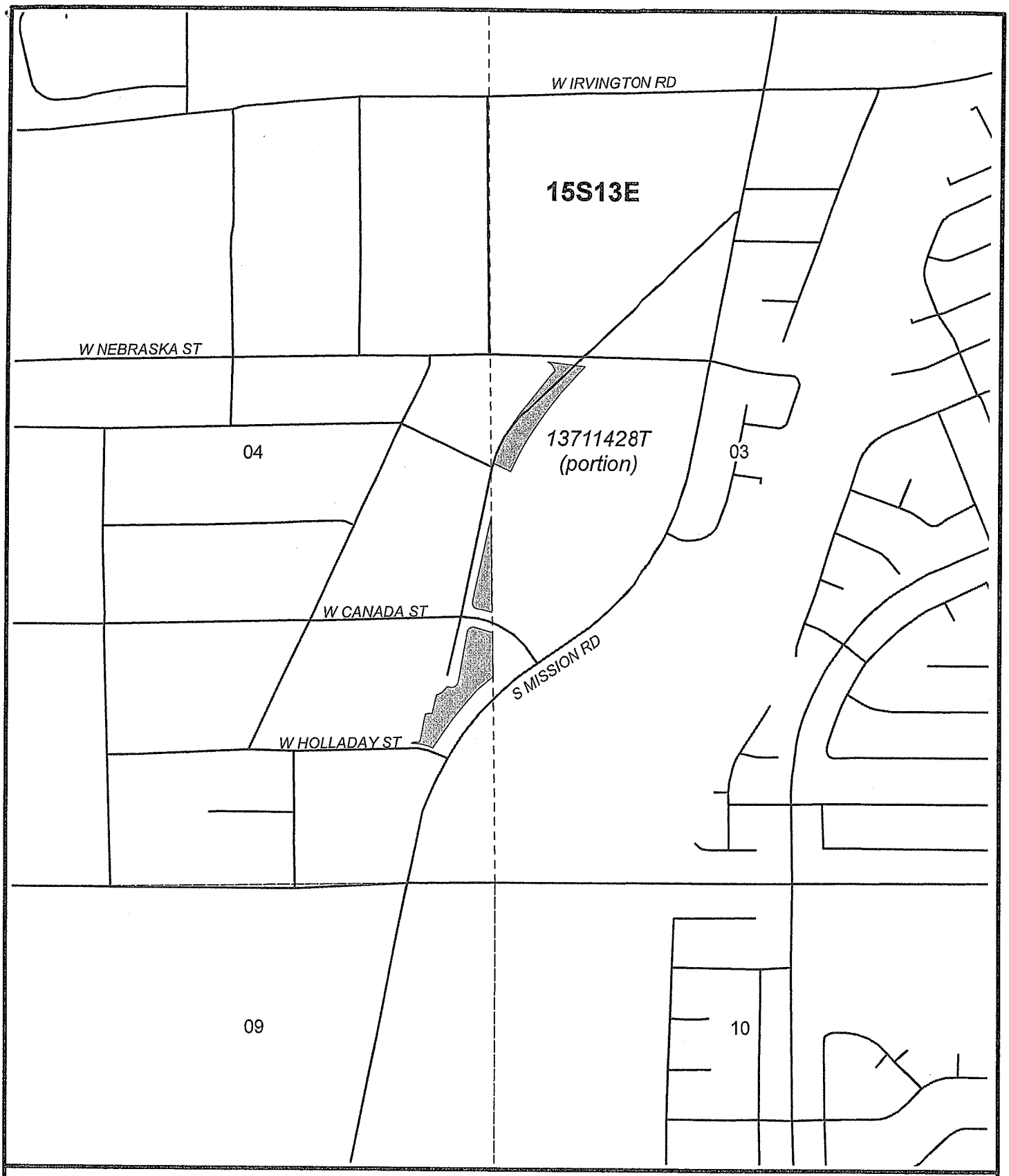
Property to Add	Map ID	Acres
Dakota Wash	1	0.39
Frick	2	117.17
Frick	2	20.25
Frick	2	15.66
Frick	2	119.36
		272.83

N

0 2,500 ft

PIMA COUNTY

12/12/2018



Proposed Conservation Land Restrictive Covenants: FCD Owner & Grantor; Pima County Receives Covenants

EXHIBIT C

N

0 500 ft

Dakota Wash (1)

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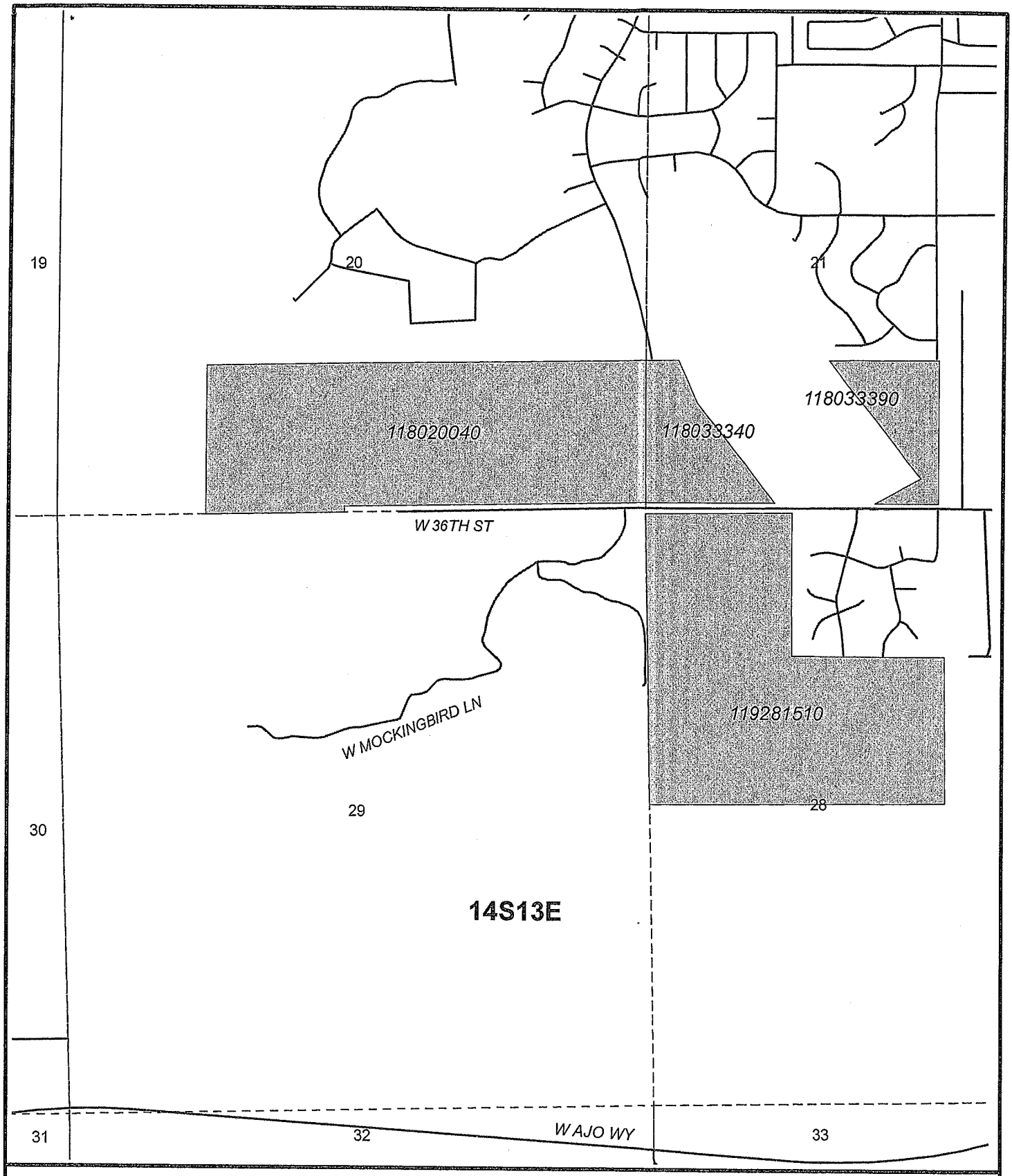

Proposed Conservation Land Restrictive Covenants: Pima County Owner & Grantor; FCD Receives Covenants

EXHIBIT C

0 1,000 ft

Frick (2)

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