BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

○ Award ◉ Contract ○ Grant

Requested Board Meeting Date: November 17, 2020

**** = Mandatory, information must be provided***

or Procurement Director Award ☐

***Contractor/Vendor Name/Grantor (DBA):**
Sunset Acres II Homeowners' Association, an Arizona non-profit corporation

***Project Title/Description:**
Agreement to Donate Real Property - Acq-1019

***Purpose:**
Pima County Flood Control District (the "District") will acquire, by donation, tax parcel 101-06-0560, located on the east side of Silverbell Road, across from West Sunset Dunes Place, in Township 13 South, Range 13 East, Section 7, G&SRM, Pima County, Arizona.

***Procurement Method:**
Exempt pursuant to Pima County Code 11.04.020

***Program Goals/Predicted Outcomes:**
The District will acquire the property as part of the Floodprone Land Acquisition Program.

***Public Benefit:**
Floodprone land will be removed from future development.

***Metrics Available to Measure Performance:**
The .37 acre parcel, with an estimated value of $2,500, will be donated to the District. The District will pay closing costs not to exceed $1,400.

***Retroactive:**
No

To: COB 10-28-2020
Vers.: 1
Pgs.: 13

Procure Dept 10/28/20 AM10:45

Contract / Award Information

Document Type: CT Department Code: PW Contract Number (i.e.,15-123): 21*0220

Commencement Date: 11/17/2020 Termination Date: 11/16/2021 Prior Contract Number (Synergen/CMS): _____

☒ **Expense Amount: $*** 1,400.00 ☐ Revenue Amount: $ _____

***Funding Source(s) required:** Flood Control Non-Bond Projects

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 or ○ 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: Dana Hausman

Department: PW - Real Property Services Telephone: 724-6713

Department Director Signature/Date: 10/26/2020

Deputy County Administrator Signature/Date: 10/27/2020

County Administrator Signature/Date: 10/28/2020

(Required for Board Agenda/Addendum Items)

PIMA COUNTY

REAL PROPERTY

Contract Number: CT-PW-21*0220

AGREEMENT TO DONATE REAL PROPERTY – ACQ-1019

1. **Defined Terms.** The following terms will be used as defined terms in this Acquisition Agreement and have the meaning set forth below ("***Agreement***"):

1.1. Donor: Sunset Acres II Homeowners' Association, an Arizona non-profit corporation

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

1.3. Donee's Maximum Closing Costs: not to exceed One Thousand Four Hundred ($1,400.00)

1.4. Title Company: Pioneer Title, Kim Moss, Escrow Officer, 7445 N. Oracle Road, Suite 101, Tucson, AZ 85704; 520-797-2693; kim.moss@ptaaz.com

1.5. Effective Date: the date Donor and Donee have approved and accepted this Agreement by affixing their signatures. The date Donee executes this Agreement is the date this Agreement is signed by the Chairman of the Pima County Board of Directors.

1.6. Property: the real property described in **Exhibit A** and depicted in **Exhibit A-1,** together with all improvements thereon and all water rights associated with the Property, if any.

1.7. Removed Exceptions: item 10 on **Exhibit B**

1.8. Donor's Address: Sunset Acres II Homeowners' Association, P.O. Box 85725, Tucson, AZ 85754

1.9. Donee's Address: Manager, Pima County Real Property Services, 201 N Stone Ave, 6th Flr, Tucson, AZ 85701-1207; E-mail: jeffrey.teplitsky@pima.gov

2. **Parties; Effective Date**. This Agreement is entered into between Donor and Donee, and shall be effective on the Effective Date. Donor and Donee are collectively referred to herein as the "***Parties,***" and individually as a "***Party.***"

3. **Background & Purpose.**

3.1. Donor is the owner of that certain real property in Pima County, Arizona consisting of approximately .37 acre legally described and depicted, respectively, in **Exhibit A** and **Exhibit A-1** attached hereto and made a part hereof, including all structures and improvements situated thereon, if any (hereinafter collectively referred to as the "***Property***");

3.2. Donor desires to donate the Property to Donee; and

3.3. Donee desires to accept the Property, subject to the express terms and conditions of this Agreement.

4. **Donation.**

4.1. Donor agrees to donate the Property, including all wells, water rights and mineral rights appurtenant to the Property, in which Donor has an interest, to Donee, free and clear of all liens and encumbrances, except as set forth on **Exhibit B** attached hereto.

4.2. Donor will execute a Special Warranty Deed (the "***Deed***") and any and all related documents conveying the Property to Donee upon presentation of said documents to Donor by Donee's agents or representatives.

4.3. Having been fully informed of the right to have the property appraised and to receive just compensation based upon the appraisal, Donor acknowledges and agree that the decision to donate the Property was voluntary and made without any undue influence or coercive action of any nature and that the right to an appraisal and to just compensation is hereby waived.

4. **Inspection and Access.**

4.1. Inspection Period. For a period of forty-five (45) days commencing on the Effective Date (the "***Inspection Period***"), Donee (and its respective employees, agents, representatives and contractors) shall have the right to enter upon the Property at reasonable times and from time to time, upon forty-eight (48) hours notice by telephone to Donor, for the purpose of viewing, inspecting, testing, appraising, surveying and studying the Property ("***Inspection***"). Donee shall, promptly following any such Inspection, return the Property to the condition it was in immediately prior to such Inspection. Donee shall, and does hereby agree, to the extent permitted by law, to indemnify and defend Donor against, and hold Donor harmless from, all claims, damages, expenses, and actions arising from any negligence or wrongful misconduct of Donee or Donee's employees or agents, as a result of such Inspection.

4.2. Reports. Within ten (10) days after the Effective Date, Donor shall provide copies to Donee of use agreements regarding the Property; service, management and other agreements regarding the Property whose terms do not expire prior to the date of the Closing; permits, certificates, plans or specifications regarding the Property; soils reports, property inspections, hazardous/toxic material or environmental reports regarding the Property; surveys of the Property; and registrations, test results and studies regarding any wells located on the Property (all of which shall hereinafter be referred to as the "***Donor Documents***"). If this Agreement is terminated for any reason, all of Donor's Documents and any copies made by Donee of Donor's Documents shall be returned to Donor. During the term of this Agreement, Donee shall deliver to Donor copies of all non-proprietary third party reports, studies, surveys, plats, engineering data or work product or other work product pertaining to the Property as the same are prepared. If Donee terminates this Agreement for any reason, all such third party reports, studies, surveys, plats or other work product shall be returned to Donee. The delivery by Donor or Donee to the other Party of any such third party reports, studies, surveys, plats, engineering data or work product or other work product shall be without any representation or warranty.

4.3. Environmental Inspection. If an environmental inspection recommends further testing or inspection, Donee may elect, by giving written notice to Donor, to extend the Inspection Period for an additional forty-five (45) days, to conduct further investigations. If the Inspection Period is extended, the term "***Inspection Period***" shall then include the additional period.

4.4. Objection Notice. Donee shall provide written notice to Donor, prior to expiration of the Inspection Period, of any items disapproved by Donee as a result of Donee's inspections (including environmental conditions) (the "***Objection Notice***"). If Donee sends an Objection Notice, Donor may, within ten (10) business days of receipt of the Objection Notice, notify Donee if Donor is willing to cure any of the items to which Donee objected (the "***Cure Notice***"). If Donor elects not to send Donee a Cure Notice or if Donor's Cure Notice is not acceptable to Donee, then Donee may elect to terminate this Agreement in which case the Agreement shall be terminated and of no further force and effect. If Donee fails to give the Objection Notice to Donor on or before the expiration of the Inspection Period, Donee shall be deemed to have waived the right to give the Objection Notice.

4.5. Closing Before Inspection Period Expires. Nothing in this Agreement shall preclude Donee from electing to proceed with Closing prior to the expiration of the Inspection Period.

5. **Donor's Covenants.**

5.1. No Salvage. Donor shall not salvage or remove any fixtures, improvements, or vegetation from the Property, but this shall not prohibit Donor from removing personal property prior to the Closing. In addition, prior to Closing, the Property shall not be materially degraded by Donor or otherwise changed in any material aspect by Donor.

5.2. Use of Property by Donor. Donor shall, during the term of this Agreement, use the Property on a basis substantially comparable to Donor's historical use thereof. Donor shall make no use of the Property other than the use being made of the Property as of the date this Agreement is signed by the Parties. Donor shall maintain the Property in substantially the same condition as it is presently in, ordinary wear and tear excepted, and without liens or encumbrances that Donor will be able to cause to be released before the Closing.

5.3. No Encumbrances. Donor shall not encumber the Property with any lien that Donor will be unable to cause to be released before Closing. Donor covenants and agrees that from and after that Agreement Date through the Closing, Donor shall not enter into, execute or record any covenant, deed restriction, or any other encumbrance against the Property.

5. **No Personal Property.** The Parties acknowledge that no personal property is

being transferred pursuant to this Agreement, and Donor represent that there is now, or as of Closing will be, no personal property located on Property.

6. **Closing.**

6.1. Closing. The Closing shall take place after completion of the Inspection Period, but no later than 180 days after the Effective Date, unless otherwise agreed to by the Parties.

6.2. Prorations. The date of closing shall be used for proration of rents. Property taxes and other similar costs and assessments due for improvement districts shall be paid in full by the Donee prior to closing for calendar year 2020.

6.3. Deliveries by Donor at Closing. At Closing, Donor shall deliver to Donee the following:

6.3.1. an executed Special Warranty Deed ("***Deed***") in the form of **Exhibit C** attached, conveying fee simple title to the Property subject only to the Permitted Exceptions;

6.3.2. one or more assignments of all the water rights and well registrations, certificated or claimed, in which Donor has an interest and appurtenant to the Property, if any, and all certificated or claimed Type 2 water rights, if any; and

6.3.3. possession of the Property.

6.4. Closing Costs. Donee shall pay all closing costs, including but not limited to title insurance premium, escrow fees and recording fees. Those costs will not exceed Donee's Maximum Closing Costs.

7. **Binding Agreement.** All provisions set forth herein are binding upon the heirs, successors and assigns of the Parties.

8. **Governing Law.** This Agreement shall be construed under the laws of the State of Arizona.

9. **Conflict of Interest**. This Agreement is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in

initiating, negotiating, securing, drafting or creating this Agreement on behalf of the County is, at any time while this Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement with respect to the subject matter of the Agreement.

The Parties have signed this Agreement on the dates set forth below.

Donor: Sunset Acres II Homeowners' Association, an Arizona non-profit corporation

By: Shannon E. Neuts, 20-October-2020
Date

As: President, Sunset Acres II HOA

Donee: Pima Flood Control District, a political taxing subdivision of the State of Arizona:

Chairman, Board of Directors — Date

ATTEST:

Julie Castaneda, Clerk of Board — Date

APPROVED AS TO CONTENT:

10/27/2020

Carmine DeBonis, Deputy County Administrator for Public Works

Jeff Teplitsky, Manager, Real Property Services

APPROVED AS TO FORM:

Kell Olson, Deputy County Attorney, Civil Division

TAX PARCEL NUMBER: 101-06-0560

FIRST NATIONAL TITLE INSURANCE COMPANY

COMMITMENT FOR TITLE INSURANCE
Issued by
Pioneer Title Agency, Inc.

Order Number: 504-228847 KM

- RM

EXHIBIT A

LEGAL DESCRIPTION

The land referred to herein below is situated in the County of Pima, State of Arizona, and is described as follows:

Common Area "B" of SUNSET ACRES II, according to the plat of record in the office of the County Recorder of Pima County, Arizona in Book 53 of Maps and Plats at Page 9.

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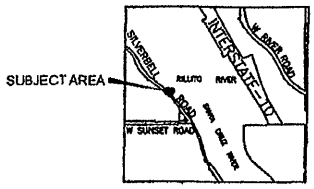
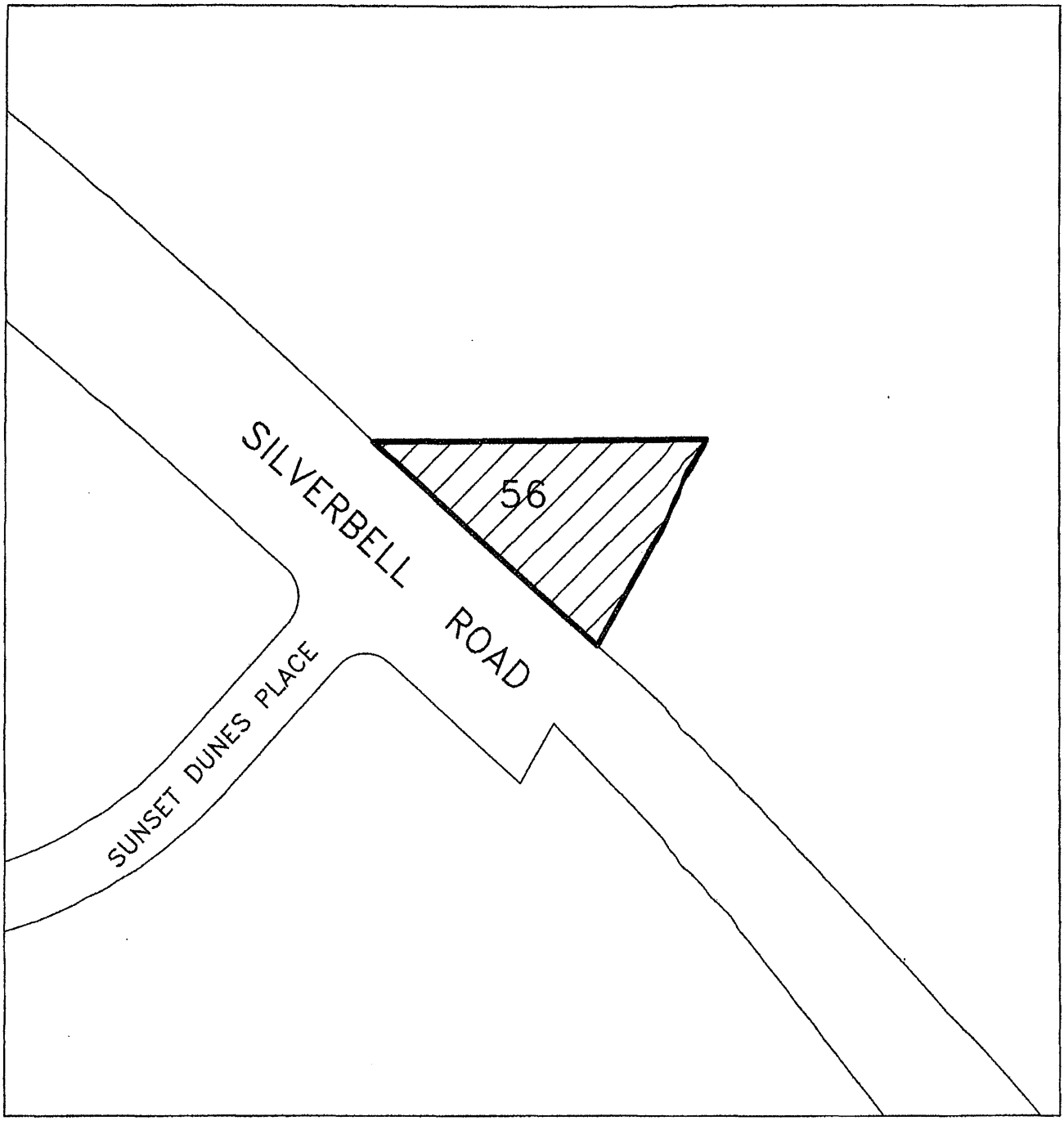
AMERICAN LAND TITLE ASSOCIATION

EXHIBIT "A-1"

SECTION 07
TOWNSHIP 13 SOUTH
RANGE 13 EAST



SECTION 07
G&SRM PIMA COUNTY, ARIZONA



PARCEL 101-06-0560

N

20027

PIMA COUNTY DEPARTMENT OF TRANSPORTATION
ENGINEERING INFORMATION MANAGEMENT

DRAWING NOT TO SCALE | DRAWN BY: CHORNECK | DATE: OCT 2020

EXHIBIT "B"

COMMITMENT FOR TITLE INSURANCE
Issued by
Pioneer Title Agency, Inc.

Order Number: 504-228847 KM

- RM

SCHEDULE B, PART II

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.

2. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

3. Any facts, rights, interests or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.

4. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.

5. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.

6. (a) Unpatented claims; (b) reservations or exceptions in patents or in acts authorizing the issuance thereof; (c) water rights, claims or title to water; whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

7. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

8. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching to the subsequent effective date hereof but prior to the date the proposed Insured acquires of records for value the estate or interest or mortgage thereon covered by this Public.

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AMERICAN LAND TITLE ASSOCIATION

FIRST NATIONAL TITLE INSURANCE COMPANY

COMMITMENT FOR TITLE INSURANCE
Issued by
Pioneer Title Agency, Inc.

Order Number: 504-228847 KM

SCHEDULE B, PART II
(Continued)

(Note: The above Exceptions Nos. 2 through 8, inclusive, will be eliminated from any A.L.T.A. Extended Coverage Policy, A.L.T.A. Homeowner's Policy, A.L.T.A. Expanded Coverage Residential Loan Policy and any short form versions thereof. However, the same or similar exception may be made in Schedule B of those policies in conformity with the remaining Exceptions of this Commitment shown below.)

9. TAXES for the full year 2020, a lien, not yet due.

10. 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.

11. 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.

12. Reservations or exceptions in Patents or in Acts authorizing the issuance thereof.

13. EASEMENTS, restrictions, reservations and conditions as set forth on the recorded plat(s) of said subdivision.

14. Any obligations imposed upon said land by its inclusion within the Cortaro Marana Irrigation Distric and/or imposed by the Articles and By-Laws of the Cortaro Water Users' Association as described in Resolution recorded in Docket 5670 at page 603.

15. License to State of Arizona for ingress and egress to remove construction materials recorded in Docket 392 at page 211

16. Easement(s) for electrical transmission facilities and rights incident thereto as set forth in Docket 491 at page 590

17. Easement(s) for electric lines and facilities and rights incident thereto as set forth in Docket 1728 at page 469

18. Terms and Conditions of the certain Agreement regarding water usage recorded in Docket 2006 at page 474

19. Easement(s) for the purposes set forth therein and rights incident thereto as set forth in Docket 19 at page 385.

20. Any matters arising by reason of the inclusion of said land within the boundaries of the Town of Marana by Marana Ordinance No. 96-38 recorded in Docket 10418 at page 200

21. Terms, conditions, restrictions, easements, liabilities and/or obligations as set forth in Marana General Plan recorded in Docket 10529 at page 1892

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by FIRST NATIONAL TITLE INSURANCE COMPANY.. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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AMERICAN LAND TITLE ASSOCIATION

COMMITMENT FOR TITLE INSURANCE
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Pioneer Title Agency, Inc.

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SCHEDULE B, PART II
(Continued)

22. THE EFFECT of Marana Ordinance No. recorded in Docket 11032 at page 1212

END OF SCHEDULE B, PART II

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EXHIBIT "C"

SPECIAL WARRANTY DEED

For valuable consideration, I or we, _____ ("Grantors"), do hereby convey to Pima County Flood Control District, a political taxing subdivision of the State of Arizona the following described property situate in Pima County, Arizona:

SEE ATTACHED **EXHIBIT " "** FOR LEGAL DESCRIPTION AND ATTACHED **EXHIBIT " "** FOR DEPICTION

SUBJECT TO all matters of record.

And the Grantor hereby binds itself and its successors to warrant the title against all acts of the Grantor herein and no other, subject only to matters above set forth.

Dated this _____ day of _____, 20____.

By:_____

Title:_____

STATE OF ARIZONA)
) ss
COUNTY OF PIMA)

This instrument was acknowledged before me this _____ day of _____, 20____, by _____ as _____ of _____.

_____
Notary Public

My Commission Expires:
_____

EXEMPTION: A.R.S. §11-1134.A.3.		Board of Supervisors:	Right of Way [ ] Parcel [ ]
Agent:	File #:	Activity #:	P [ ] De [ ] Do [ ] E [ ]