



Contract Number: 11.59-T-142326-0909.01
 Effective Date : 12-13-09
 Term Date : 9-14-2014
 Cost : (161,492.87)
 Revenue : _____
 Total : (161,492.87) NTE: _____
 Action : 6-1-2014
 Renewal By : _____
 Term : 9-14-2014
 Reviewed by: [Signature]

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: 12/15/09

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Amendment to Purchase Agreement for acquisition of property from Title Security Agency of Arizona as Trustee under Trust No. 813 and Trust No. 912 for the Floodprone Land Acquisition program Project, No. 4BFACQ. The amendment reduces both the total acreage and purchase price of the acquisition and includes an option to purchase the remaining 38.22 acres for the same per acre price.

Address or General Location:	Ryan Ranch and Snyder Hill: Black Wash Watercourse
Tax Parcel Number:	210-13-002A, 210-12-009A, 210-13-004A, 210-13-0010, 212-38-1950, & 212-38-1960
<u>Amended Purchase Price and Interest:</u>	\$3,609,632.13.00
Estimated Closing Costs:	\$ 85,000.00
<u>Amended Size and Type of Property to be Acquired:</u>	813 acres more or less
Size of Seller's Entire Parcel Before Acquisition:	852 acres more or less
Zoning:	57.74 acres of GR and RT (Pima County) plus 755.93 acres of RH and RT, LIU 3.0 (Pima County)

Procure Dept 12/08/09 PM0251

STAFF RECOMMENDATION(S):

It is recommended that the Pima County Flood Control District Board of Directors approve and the Chairman execute the Amendment, and Option Agreement, to the Acquisition Agreement to purchase property from Title Security Agency of Arizona as Trustee under Trust No. 813 and Trust No. 912 for the Floodprone Land Acquisition program.

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To: CHH 12.8.09 By Dept
 COB 12.9.09
 Agenda 12-15-09
 [Signature]

PIMA COUNTY COST: \$ (161,492.87) and/or REVENUE TO PIMA COUNTY:
\$ _____

FUNDING SOURCE(S): flood control district tax levy
(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:

The Purchase Agreement to purchase land located in the Ryan Ranch and Snyder Hill areas of the Black Wash watercourse from the Title Security Agency of Arizona as Trustee under Trust No. 813 and Trust No. 912 for the Floodprone Land Acquisition program will be amended to reduce the size and cost of the acquired property and include an option to purchase the remaining 38.22 acres for the same price per acre.

IF DENIED:

The Purchase Agreement to purchase land located in the Ryan Ranch and Snyder Hill areas of the Black Wash watercourse from the Title Security Agency of Arizona as Trustee under Trust No. 813 and Trust No. 912 for the Floodprone Land Acquisition program will not be amended to reduce the size and cost of the acquired property and include an option to purchase the remaining 38.22 acres for the same price per acre.

DEPARTMENT NAME: Public Works Real Property

CONTACT PERSON: Greg Foster Telephone No.: 740-6681

This is an Official Copy of the Pima County contract executed and filed with Pima County.

<p>PIMA COUNTY DEPARTMENT OF: FLOOD CONTROL DISTRICT</p> <p>PROJECT: Floodprone Land Acquisition of Fotinos Property</p> <p>SELLER: Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 813 and Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912</p> <p>AMENDMENT NO.: One (#01)</p>	<p align="center">CONTRACT No. 11-59-T-142326-_____</p> <hr/> <p align="center">CONTRACT</p> <p>NO. 11-59-T-142326-0909</p> <p>AMENDMENT NO. 01</p> <p><small>This number must appear on all invoices, correspondence and documents pertaining to this contract.</small></p>
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ORIG. CONTRACT TERM: 09/15/09- 09/14/14	ORIG. CONTRACT AMOUNT: \$3,856,125.00
TERMINATION DATE PRIOR AMENDMENT: N/A	PRIOR AMENDMENTS: N/A
TERMINATION THIS AMENDMENT: 09/14/14	AMOUNT THIS AMENDMENT: (\$161,492.87)
	REVISED CONTRACT AMOUNT: \$3,694,632.13

AMENDMENT TO PURCHASE AGREEMENT

1. **PARTIES.** This Amendment to Purchase Agreement ("Amendment") is made between **Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 813** and **Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912**, (the "Owners" or "Seller"), and **Pima County Flood Control District**, a political taxing subdivision of the State of Arizona, (the "District" or "Buyer"). Buyer and Seller are collectively referred to herein as the "Parties"; and individually as a "Party".

2. **BACKGROUND AND PURPOSE.** The Parties acknowledge that the following statements are true and correct:

2.1. Seller and Buyer entered into a Purchase Agreement dated September 15, 2009 (the "Purchase Agreement ") for the purchase by Buyer from Seller of certain real property owned by Seller and described in section 2.1 and Exhibit A to the Purchase

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Agreement (the "Property"). The Purchase Agreement is Pima County contract no. 11-59-T-142326-0909.

2.2. Pursuant to section 15.12 of the Purchase Agreement, Seller and Buyer desire to amend the Purchase Agreement as provided in this Amendment. This Amendment is intended to modify the terms of the Purchase Agreement, and where this Amendment changes the terms of the Purchase Agreement, the Purchase Agreement shall be amended as provided herein.

2.3. The defined terms in the Purchase Agreement shall have the same meaning as in the Purchase Agreement, except as specifically provided otherwise in this Amendment.

3. **AMENDMENT DATE.** This Amendment shall be effective on the date Seller and Buyer have both executed this Amendment (the "Amendment Date"). The date Buyer signs is the date this Agreement is signed by the Chairman of the Flood Control District Board of Directors.

4. **AGREEMENT DATE.** Section 3 of the Purchase Agreement is amended to correct the second sentence to read "The date *Buyer* signs is the date this Agreement is signed by the Chairman of the District Board of Directors."

5. **EXCLUDED PROPERTY.** The Parties have agreed to exclude the portion of the Property described on **Exhibit G** and depicted on **Exhibit G-1** (the "Excluded Property") from the Property sold by Seller to Buyer. **Exhibits A** and **A-1** to the Purchase Agreement are hereby amended to except and exclude the property described on **Exhibit G** and depicted on **Exhibit G-1** from the Property sold to Buyer.

6. **SALE OF PROPERTY.**

6.1. Purchase Price Reduction. The Purchase Price of \$3,600,000.00 for the Property is hereby reduced by the sum of One Hundred Sixty-One Thousand Four Hundred Ninety-Two and 87/100 Dollars (\$161,492.87), which is equal to: 38.22 acres, which is the per acre size of the Excluded Property, multiplied by Four Thousand Two Hundred Twenty-five and 35/100 Dollars (\$4,225.35) (the "Revised Purchase Price"). The Revised Purchase Price is Three Million Four Hundred Thirty-Eight Thousand five Hundred Seven and 20/100 Dollars (\$3,438,507.20).

6.2. Payment of Revised Purchase Price. The Revised Purchase Price shall be paid by District check payable to Title Company as follows:

6.2.1. CLOSING PAYMENT. At Closing, Buyer shall pay a portion of the Revised Purchase Price in the amount of One Million Three Hundred Thousand Dollars (\$1,300,000.00) (the "Closing Payment"), plus closing costs.

6.2.2. SECOND PAYMENT. On or before one year after the Closing, Buyer shall pay to Seller the second installment (the "Second Installment"). The Second Installment is equal to a principal portion of the Revised Purchase Price in the amount of One Million One Hundred Seventy-Seven Thousand Five Hundred Dollars (\$1,177,500.00) (the "Second Principal Payment"), plus interest accrued at the rate of Five Percent (5%) per annum on the unpaid balance of the Revised Purchase Price for the period commencing on the Closing and ending on the date the Second Installment is paid to Seller.

6.2.3. THIRD PAYMENT. On or before two years after the Closing, Buyer shall pay to Seller the third and final payment (the "Third Installment"). The Third Installment is equal (i) the balance of the Revised Purchase Price in the amount of Nine Hundred Sixty-One Thousand Seven and 20/100 Dollars (\$961,007.20), plus (ii) interest accrued at the rate of five percent (5%) per annum on the unpaid balance of the Revised Purchase Price for the period commencing on the date the Second Installment is paid to Seller, and ending on the date the Third Installment is paid to Seller.

7. **ENVIRONMENTAL CONTINGENCY.** Buyer's obligation to close is contingent upon Buyer having received prior to Closing a certification from URS Corporation (the "URS Certification") in a form satisfactory to Buyer that all appropriate inquiries as required by The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") have been made, and no further investigation of the Property is recommended, so that the Bona Fide Prospective Purchase defense under CERCLA is available to Buyer (the "Environmental Contingency"). In the event that Buyer has not received the URS Certification prior to Closing, then Buyer may elect to terminate this Agreement in which case this Amendment and the Purchase Agreement shall be of no further force and effect.

8. **ESCROW AND TITLE.**

8.1. Amended Title Commitment. Buyer's obligation to Close is contingent upon Buyer having received an amended title commitment reflecting the Amended Legal Description.

8.2. Amended Commitment. The provisions of section 8.2.4 of the Purchase Agreement shall apply to the amended commitment received pursuant to section 8.1 above (the "Title Contingency").

9. **OPTION.** Buyer shall have an option to purchase the Excluded Property from Seller in accordance with the terms and conditions of the Option Agreement attached hereto as **Exhibit H.**

10. **EASEMENT TO SELLER.** At Closing, Buyer shall grant Seller an easement for ingress and egress across the Property providing access to the Excluded Property (the "Access Easement"). The Access Easement shall be in a form acceptable to Buyer and Seller, and shall provide that Buyer shall have the right to relocate the easement provided that Seller continues to have access to the Excluded Property.

11. **CLOSING.** The Closing shall take place after (i) satisfaction of the Environmental Contingency as provided in section 7 of this Amendment, and (ii) satisfaction of the Title Contingency, but no later than the later of (a) ninety (90) days after the date this Amendment is approved by the Board of Directors of the District or (b) 30 days after receipt of all necessary releases or consents from Lienholders, unless otherwise agreed to by the Parties.

12. **EXHIBITS.** The following exhibits are incorporated herein:

- 12.1. Exhibit G: description of Excluded Property
- 12.2. Exhibit G-1: depiction of Excluded Property
- 12.3. Exhibit H: Option Agreement

13. **BARGAIN SALE RECOGNITION.** If Seller obtains an appraisal which determines that the fair market value ("FMV") of the Property is greater than the Revised Purchase Price, and Seller desires to claim a charitable contribution deduction for federal income tax purposes equal to the difference between the FMV of the Property and the Revised Purchase Price, then Buyer agrees to cooperate with Seller in this regard by promptly executing and delivering to Seller Treasury Form 8283 which shall be prepared by Seller's counsel for that purpose. Buyer shall have no liability in connection with Seller's charitable contribution and the availability of the contribution shall not be a condition to Closing. Seller acknowledges and represents that any such charitable contribution shall be based solely on Seller's appraisal; that it is not made in satisfaction of any conditions of zoning or other obligations Pima County may have made to Buyer; and that the difference in price does not represent an adjustment due to the potential presence of releases or threatened releases of hazardous substances on the Property.

14. **NOTICES.** All notices to Seller shall be sent to:

GREG WEXLER
Continental Ranch Development, L.L.C.
6088 W. Arizona Pavilions Dr. #1
Tucson, AZ 85743

15. **OTHER PROVISIONS.** All other provisions of the Purchase Agreement, not specifically changed by this Amendment, shall remain in effect and be binding upon the parties. Where a portion of a section has been changed, but the remaining section is unchanged, the remaining and unchanged terms shall remain in effect and binding.

IN WITNESS THEREOF, the Parties have affixed their signatures to this Amendment on the dates written below.

SELLER: Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 813:

~~Title Security Agency of Arizona,~~
an Arizona corporation, as Trustee
under Trust No. 813 only
and not in its corporate capacity



Signature

Date

12/3/09

Diane L. Sloane

Print Name

Its



SELLER: Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912:

~~Title Security Agency of Arizona,~~
an Arizona corporation, as Trustee
under Trust No. 912 only
and not in its corporate capacity



Signature

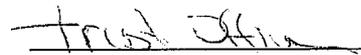
Date

12/3/09

Diane L. Sloane

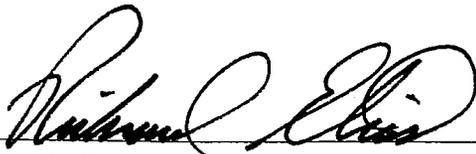
Print Name

Its



This is an Official Copy of the Pima County contract executed and filed in Pima County

BUYER: PIMA COUNTY FLOOD CONTROL DISTRICT, a body political taxing subdivision of the State of Arizona:



Richard Elías, Chairman, Board of Directors

DEC 15 2009

Date

ATTEST:

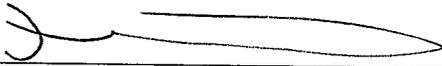


Lori Godoshian, Clerk of Board

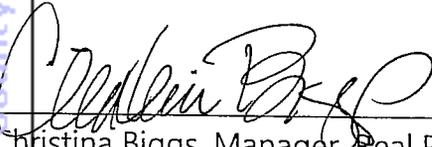
DEC 15 2009

Date

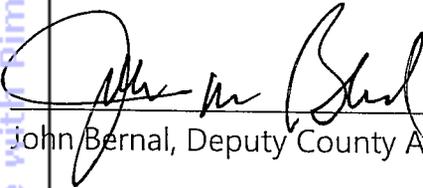
RECOMMENDED TO THE BOARD OF DIRECTORS FOR APPROVAL:



Greg Foster, Acquisition Agent, Real Property Services



Christina Biggs, Manager, Real Property Services



John Bernal, Deputy County Administrator, Public Works

APPROVED AS TO FORM:



Neil J. Konigsberg, Deputy County Attorney, Civil Division

This is an Official Copy of the Pima County contract executed and on file with Pima County.

Exhibit G

November 30, 2009
WLB No. 105012-A001-1003X
W:\LEGALS\105012\Parcel-E1.doc



**LEGAL DESCRIPTION
RYAN RANCH
SALE EXCLUSION PARCEL-E1**

That portion of the Southeast Quarter (SE 1/4) of Section 6, Township 15 South, Range 12 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

The basis of bearing N 00°01'32" W, is the East Line of the Southeast Quarter (SE 1/4) of Section 6,

COMMENCING at the Southeast corner of said Section 6;

THENCE N 00°01'32" W, along the East Line of said Section 6 a distance of 1984.67 feet to the Northeast corner of a parcel recorded in Docket 11469, Page 214;

THENCE S 89°48'14" W, along the North line of said parcel a distance of 268.52 feet to the **POINT OF BEGINNING**;

THENCE continue S 89°48'14" W, along said line a distance of 393.80 feet to the Northwest corner thereof;

THENCE S 00°01'01" E, along the West line of said parcel a distance of 661.39 feet;

THENCE S 89°48'45" W, 691.44 feet;

THENCE N 00°11'15" W, 1322.90 feet;

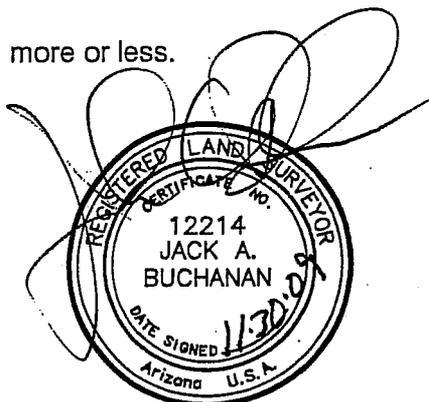
THENCE S 75°11'40" E, 844.27 feet;

THENCE S 31°42'16" E, 519.70 feet to the **POINT OF BEGINNING**;

CONTAINING 22.24 acres of land, more or less.

Prepared by:
THE WLB GROUP, INC

Jack A. Buchanan, RLS
JAB :mo



EXPIRES 3/31/2011
(INDICATES RENEWAL DATE)

This is an Official Copy of the Pima County contract executed and filed with Pima County

Exhibit G
Continued

November 30, 2009
WLB No. 105012-A001-1003X
W:\LEGALS\105012\Parcel-E2.doc



LEGAL DESCRIPTION
RYAN RANCH
SALE EXCLUSION PARCEL-E2

That portion of the Southwest Quarter (SW 1/4) of Section 5, Township 15 South, Range 12 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

The basis of bearing N 00°01'32" W, is the West line of the Southwest Quarter (SW 1/4) of Section 5,

COMMENCING at the Southwest corner of said Section 5;

THENCE N 00°01'32" W, along the West line of said Section 5 a distance of 554.19 feet to the **POINT OF BEGINNING**;

THENCE continue N 00°01'32" W, along said line a distance of 1167.90 feet;

THENCE S 64°25'51" E, 1159.92 feet;

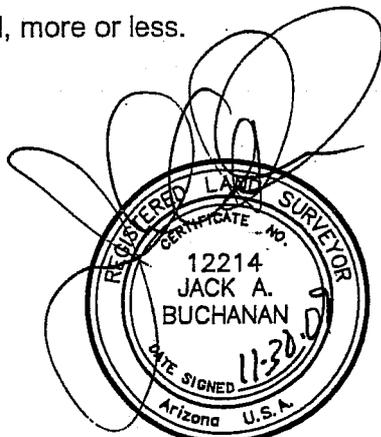
THENCE S 00°54'30" W, 164.66 feet;

THENCE S 64°16'26" W, 1157.97 feet to a point on the West line of said Section 5, being the **POINT OF BEGINNING**;

CONTAINING 15.98 acres of land, more or less.

Prepared by:
THE WLB GROUP, INC

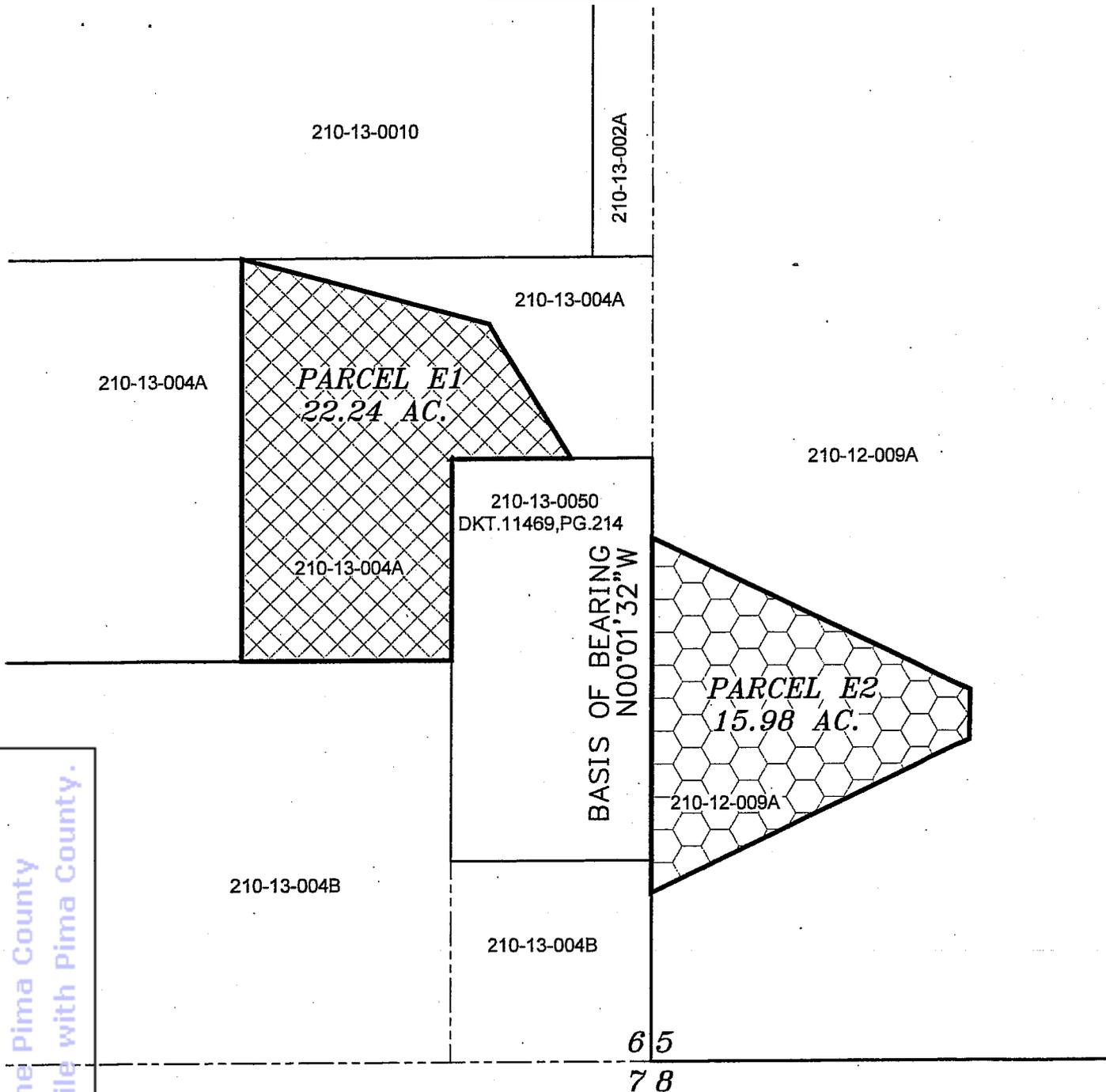
Jack A. Buchanan, RLS
JAB :mo



EXPIRES 3/31/2011
(INDICATES RENEWAL DATE)

This is an Official Copy of the Pima County contract executed on file with Pima County

Exhibit G-1



This is an Official Copy of the Pima County
contract executed and on file with Pima County.

**EXHIBIT TO ACCOMPANY DESCRIPTION OF
SALE EXCLUSION PARCELS 'E1' & 'E2'
WITHIN
RYAN RANCH
SECTIONS 5 & 6, T. 15 S., R. 12 E., G.&S.R.M.
PIMA COUNTY, ARIZONA**

1"=500'

The WLB Group Inc.

Exhibit H

When Recorded, Please Return To:

Pima County Real Property Services
201 North Stone Avenue, 6th Floor
Tucson, Arizona 85701-1215

PIMA COUNTY DEPARTMENT OF: FLOOD CONTROL DISTRICT	CONTRACT NO. 11-59-T-142326-_____
PROJECT: Floodprone Land Acquisition	
OPTIONOR: Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 813 and Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912	
AMOUNT: \$161,492.87 plus \$5,000.00 estimated Closing Costs if Option is exercised	

OPTION AGREEMENT

1. **PARTIES.** This Option Agreement ("Option Agreement") is made between **Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912** ("Optionor"), and **Pima County Flood Control District**, a political taxing subdivision of the State of Arizona, (the "District" or "Optionee"). Optionee and Optionor are collectively referred to herein as the "Parties"; and individually as a "Party".

2. **BACKGROUND AND PURPOSE.** The Parties acknowledge that the following statements are true and correct:

2.1. Optionee, as Buyer, has agreed to purchase certain real property (the "Acquired Property") from Optionor, as Seller, pursuant to the terms of that certain

This is an Official Copy of the Pima County Contract executed in accordance with Pima County.

2.2. Amendment to Purchase Agreement between Optionor, as Seller, and Optionee, as Buyer, Pima County contract no. 11-59-T-142326-99 (the "Amended Purchase Agreement").

2.3. Optionor and Optionee have agreed to exclude certain real property owned by Seller from the Acquired Property pursuant to the Amended Purchase Agreement. The excluded property is defined in the Amended Purchase Agreement as the "Excluded Property," and is depicted on Exhibit G-1 to the Amended Purchase Agreement.

2.4. The Amended Purchase Agreement gives Buyer an option to purchase the Excluded Property, in accordance with the terms of this Option Agreement.

2.5. All terms defined in the Amended Purchase Agreement shall have the same meanings in this Option Agreement, unless specifically provided otherwise in this Option Agreement.

2.6. As additional consideration for Optionee purchasing the Property, Optionor has granted Optionee the option to purchase the Excluded Property on the terms and conditions set forth in this Option Agreement (the "Option").

3. **OPTION AGREEMENT DATE.** This Option Agreement shall be effective on the date Optionor and Optionee have executed this Option Agreement (the "Option Agreement Date"). The date Optionee signs is the date this Option Agreement is signed by the Chairman of the District Board of Directors.

4. **OPTION PROPERTY.** For purposes of this Option Agreement, the "Option Property" shall consist of the Excluded Property, as described on **Exhibit G** and depicted on **Exhibit G-1** attached hereto. The Option Property is 38.22 acres.

5. **OPTION PRICE.** Optionee shall have an option to purchase the Option Property for the sum of One Hundred Sixty-One Thousand Four Hundred Ninety-Two and 87/100 Dollars (\$161,492.87) (the "Option Price").

6. **EXERCISE OF OPTION.**

6.1. Notice of Clean-up. Optionor shall provide written notice to Optionee after Optionor has cleaned up the Excluded Property such that Optionee can obtain the Certification, as provided in section 9 of this Option Agreement.

6.2. Duration. Optionee may exercise the Option at any time commencing after the Option Agreement Date, and ending five years after the Environmental Contingency for the Option Property has been satisfied, as provided in section 9 of this Option Agreement (the "Option Period"). Optionor having given notice of the section 9 Certification to Optionee, in a form acceptable to Optionee, shall trigger commencement of the 5 year period at the end of which the Option Period shall terminate.

6.3. Notice. The Option shall be exercised by written notice to Optionor executed by the Chairman of the District Board of Directors, or the Chairman's designee, stating Optionee's intention to exercise the Option (the "Notice"). If Optionee fails to provide the Notice to Optionor on or before the close of the Option Period, the Option shall expire and neither party shall have further liability to the other hereunder.

6.4. Condition Precedent. The Option may only be exercised if Optionee has closed on the purchase of the Acquired Property pursuant to the Amended Purchase Agreement.

7. **OPTIONOR'S COVENANTS.**

7.1. No Encumbrances. Optionor shall not encumber the Option Property with any lien that Optionor will be unable to cause to be released before the Option Closing, and Optionor shall not be entitled to sell or exchange all or any portion of the Option Property before the Option Closing without the prior written approval of Optionee. Optionor covenants and agrees that from and after that Option Agreement Date through the Option Closing, Optionor shall not enter into, execute or record any covenant, deed restriction, or any other encumbrance against the Option Property, and that the recording of any such covenant, deed restriction, or other encumbrance, shall be a material breach of this Option Agreement.

7.2. Access by Optionee. Optionee shall have the right during the Option Period, upon reasonable notice to Optionor, to have access to the Option Property. Said right shall extend to any duly authorized representatives of Optionee, including engineers and soil testing personnel. Said right shall enable said persons to perform any tests upon the Option Property, including an Environmental Site Assessment, that Optionee deems necessary or appropriate to determine whether the Option Property is suitable for Optionee's purposes.

This is an Official Copy of the Pima County contract execution system file for this property.

8. **ESCROW AND TITLE.**

8.1. Escrow and Title Agent. The Title Agent and Escrow Company shall be Stewart Title & Trust of Tucson ("Title Company" or "Escrow Agent"), and this Option Agreement shall be used as escrow instructions in connection with the escrow established with Title Company under this Option Agreement (the "Escrow"). Escrow Agent shall make reasonably suitable arrangements with Optionee, upon Optionee's request, to have Optionee execute any of the documents to be executed by Optionee as provided in this Option Agreement at the office of Escrow Agent that is located the closest to the office of Optionee.

8.2. Title Commitment.

8.2.1. *COMMITMENT.* After Optionee has given Optionor the Notice exercising the Option, Escrow Agent will distribute to Optionee and Optionor a Commitment for Standard Owner's Title Insurance (the "Commitment") together with complete and legible copies of all documents which will remain as exceptions (the "Exceptions") to Optionee's policy of title insurance.

8.2.2. *DISAPPROVAL PERIOD.* Optionee shall have thirty (30) days after the receipt of the Commitment and the Exceptions, or thirty (30) days after the Option Agreement Date, whichever occurs later (the "Disapproval Period") within which to notify Optionor and the Escrow Agent in writing of Optionee's disapproval of any Exceptions shown thereon (the "Disapproval Notice"). In the event of such disapproval, Optionor shall have ten (10) days from receipt of the Disapproval Notice in which to notify Optionee in writing whether Optionor intends to eliminate each of the disapproved Exceptions prior to the Option Closing (the "Notice Period"). If Optionor shall fail to notify Optionee of its intent with respect to the disapproved items within that time or if Optionor elects not to cure all disapproved items, Optionee may terminate this Option Agreement and the Escrow shall be canceled.

8.2.3. *WAIVER OF DISAPPROVAL.* The foregoing notwithstanding, if Optionee elects to waive any or all of its disapprovals, the Purchase shall proceed to Close with such Exceptions remaining as an encumbrance affecting title to the Option Property. If Optionee fails to give the Disapproval Notice to Optionor on or before the expiration of the Disapproval Period, Optionee shall be deemed to have waived the right to give the Disapproval Notice and elected to proceed with the Purchase and the Option Closing.

8.2.4. *AMENDED COMMITMENT.* In the event the Title Company should issue an Amended Commitment for Title Insurance which discloses an Exception(s) not previously disclosed, Optionee shall have fifteen (15) days after the date of the issuance of such an Amended Commitment for Title Insurance within which to object to the new Exception(s). If the Amended Commitment is issued less than fifteen (15) days prior to the date of the Option Closing, then the date of the Option Closing shall be deemed to be extended until the end of the new Disapproval Period.

8.2.5. *MONETARY LIENS.* Notwithstanding the above, Optionee need not expressly object to any monetary liens and encumbrances on the Option Property, all of which shall be removed before the Option Closing, unless this Option Agreement expressly provides for the prorating of any such lien or encumbrance.

8.2.6. *PERMITTED EXCEPTIONS.* The Exceptions that are approved or deemed approved by Optionee shall be referred to herein as the "Permitted Exceptions".

8.3. Title Policy. At the Option Closing, Escrow Agent shall furnish Optionee a Standard Owner's Title Insurance Policy for the Option Property, in the amount of the Purchase Price, which Policy shall be paid for by Optionor. In the event Optionee desires an Extended Owners Title Policy, or any specific endorsements to the Standard Owner's Title Insurance Policy, Optionor will pay that portion of the premium allocable to a Standard Owners Title Insurance Policy, and Optionee will pay that portion of the premium allocable to the additional coverage.

9. **ENVIRONMENTAL CONTINGENCY.** Optionee's obligation to close is contingent upon Optionee having received prior to Closing a certification (the "Certification") from a qualified environmental professional as defined by The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), in a form satisfactory to Optionee, that all appropriate inquiries as required by CERCLA have been made, and no further investigation of the Option Property is recommended, so that the Bona Fide Prospective Purchase defense under CERCLA is available to Optionee (the "Environmental Contingency"). In the event that Optionee has not received the Certification prior to Closing, then Optionee may elect to terminate this Option Agreement.

10. **CLOSING.**

10.1. Option Closing Date. The closing of the sale of the Option Property to Optionee (the "Option Closing") shall take place at the offices of Escrow Agent. The Closing shall take place on or before thirty (30) days after (i) the expiration of the title

review period as provided in section 8.2 (the Disapproval Period and the Notice Period, and any extension thereof), and (ii) receipt of the Certification as provided in section 9.

10.2. Closing Costs. All escrow fees shall be divided between Optionor and Optionee, and recording fees and closing costs shall be allocated by Escrow Agent in a manner customary with Escrow Agent's procedures in Pima County, Arizona.

10.3. Prorations. Property taxes, rents, and annual payment of assessments with interest, if any, shall be prorated as of the date of the Closing.

10.4. Deliveries by Optionee at Closing. At Closing, Optionee shall deliver to Optionor, the following:

10.4.1. The Option Price; and

10.4.2. Such additional documents as Optionor or Escrow Agent may reasonably require to effectuate the Purchase.

10.5. Deliveries by Optionor at Closing. At Closing, Optionor or Escrow Agent, as appropriate, shall deliver to Optionee through Escrow the following:

10.5.1. An executed Special Warranty Deed ("Deed") conveying fee simple title to the Option Property subject only to the Permitted Exceptions;

10.5.2. The Standard Owner's Title Insurance Policy for the Option Property insuring Optionee's title in the full amount of the Purchase Price;

10.5.3. One or more assignments of all the water rights and well registrations certificated or claimed in which Optionor has an interest and appurtenant to the Option Property, if any, and all certificated or claimed Grandfathered Type 2 water rights, if any; and

10.5.4. Such additional documents as Optionee or Escrow Agent may reasonably require to effectuate the Purchase.

10.6. Delivery of Possession. Optionor shall deliver possession of the Option Property to Optionee at Closing.

11. **ENVIRONMENTAL LIABILITIES.** Optionee and Optionor 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 Option Property, each Party remaining responsible for its obligations as set forth by law.

12. **OPTIONOR'S REPRESENTATIONS AND WARRANTIES.**

12.1. Optionor hereby warrants, to the best of their knowledge and belief, that, except as disclosed in writing to Optionee within ten (10) days of the Option Agreement Date:

12.1.1. they are not aware of any pending or threatened administrative proceedings, arbitrations, lawsuits or other legal proceedings or claims by governmental agencies or third parties concerning the Option Property which would in any way affect, encumber or limit Optionee's fee title ownership of the Option Property;

12.1.2. they have no knowledge of any notice of violations by any governmental agency of applicable local, state or federal ordinance, statutes, regulations or rules whether filed or threatened regarding the Option Property; and

12.1.3. Optionor shall make available to Optionee all documents relating to the Option Property that they has in their possession regarding the Option Property, including any and all surveys, information regarding wells and water rights, and environmental reports.

12.2. Optionor represents that there are no leases, rental agreements, or agreements permitting someone to use or occupy any portion of the Option Property.

12.3. All representations and warranties contained herein shall survive the Option Closing.

13. **BROKER'S COMMISSION.** No broker or finder has been used and Optionee owes no brokerage or finder's fees related to this transaction. Optionor has sole responsibility to pay all brokerage or finder's fees to any agent employed by Optionor.

14. **DEFAULT, REMEDIES, AND CONDITIONS PRECEDENT.** In the event either Party shall default under this Option Agreement, the other Party shall be entitled to pursue all rights and remedies available at law or in equity, including specific enforcement, except that to the extent a Party seeks a recovery of damages, damages shall be limited to recovery of actual damages (including any losses or penalties suffered

by Optionee as a result of any violation of federal arbitration provisions caused by a wrongful failure of Optionor to perform) and neither Party shall be entitled to exemplary, punitive, special, indirect or consequential damages.

15. **MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions shall apply to this Option Agreement:

15.1. Notices.

15.1.1. *WRITING.* All notices required or permitted to be given hereunder shall be in writing and may be given in person or by United States mail, by local or nationwide delivery/courier service or by electronic transmission (for instance, telecopy/fax to the telecopy/fax numbers indicated below or e-mail to the e-mail addresses indicated below).

15.1.2. *RECEIPT.* Such notices and other communications shall be deemed to be given and received as follows:

15.1.2.1. upon actual receipt, if delivered personally;

15.1.2.2. upon actual receipt, if transmitted by facsimile on a business day before 5:00 p.m. (Tucson time);

15.1.2.3. upon the next business day following transmission if transmitted by facsimile on a day which is not a business day or if transmitted after 5:00 p.m. (Tucson time) on a business day;

15.1.2.4. upon actual receipt, if transmitted by e-mail on a business day before 5:00 p.m. (Tucson time);

15.1.2.5. upon the next business day following transmission if transmitted by e-mail on a day which is not a business day or if transmitted after 5:00 p.m. (Tucson time) on a business day;

15.1.2.6. the next business day, if delivered by overnight courier; or

15.1.2.7. three (3) days following deposit in the mail, if delivered by mail postage prepaid, addressed to that Party at his/her/their/its

designated address. The designated address of a Party shall be the address of that Party shown below or such other address within the United States of America that any Party from time to time may specify by written notice to the other Parties at least fifteen (15) days prior to the effective date of such change, but no such notice of change shall be effective unless and until received by the other Parties.

15.1.3. *REJECTION.* Rejection or refusal to accept, or inability to deliver because of changed address or because no notice of changed address is given, shall be deemed to be receipt of any such notice.

15.1.4. *NOTICE TO ENTITY.* Any notice to an entity shall be deemed to be given on the date specified in this Paragraph without regard to when such notice is delivered by the entity to the individual to whose attention it is directed and without regard to the fact that proper delivery may be refused by someone other than the individual to whose attention it is directed. If a notice is received by an entity, the fact that the individual to whose attention it is directed is no longer at such address or associated with such entity shall not affect the effectiveness of such notice.

15.1.5. *ADDRESS.* Optionor and Optionee agree that any notice sent on their behalf by their attorney, if listed below, shall serve as notice by Optionor or Optionee, as the case may be, to the other:

If to Optionor: GREG WEXLER
Continental Ranch Development, L.L.C.
6088 W. Arizona Pavilions Dr. #1
Tucson, AZ 85743

If to Optionee: Christina Biggs, Manager
Pima County Real Property Services
201 North Stone Avenue, 6th Floor
Tucson, Arizona 85701-1207
Telephone: 520.740.6313
E-mail: Christina.Biggs@pw.pima.gov

15.2. Place of Execution. This Option Agreement is made and executed in Pima County.

15.3. Governing Law. This Option Agreement shall be subject to, and interpreted by and in accordance with, the laws of the State of Arizona.

This is an Official Copy of the Pima County contract executed and on file with Pima County.

15.4. Entire Agreement. This Option Agreement and the Purchase and Option Agreement are together the entire agreement of the Parties respecting the subject matter hereof. There are no other agreements, representations or warranties, whether oral or written, respecting the subject matter hereof.

15.5. Interpretation. This Option Agreement, and all the provisions of this Option Agreement, shall be deemed drafted by all of the Parties. This Option Agreement shall not be interpreted strictly for or against any Party, but solely in accordance with the fair meaning of the provisions hereof to effectuate the purposes and intent of this Option Agreement.

15.6. No Representations. Each Party has entered into this Option Agreement based solely upon the agreements, representations and warranties expressly set forth herein and upon his own knowledge and investigation. Neither Party has relied upon any representation or warranty of any other Party except any such representations or warranties as are expressly set forth herein.

15.7. Signing Authority. Each of the persons signing below on behalf of a Party represents and warrants that he or she has full requisite power and authority to execute and deliver this Option Agreement on behalf of the Party for whom he or she is signing and to bind such Party to the terms and conditions of this Option Agreement.

15.8. Counterparts. This Option Agreement may be executed in counterparts, each of which shall be deemed an original. This Option Agreement shall become effective only when all of the Parties shall have executed the original or counterpart hereof. This Option Agreement may be executed and delivered by a facsimile transmission of a counterpart signature page hereof.

15.9. Attorney's Fees and Costs. In any action brought by a Party to enforce the obligations of any other Party, the prevailing Party shall be entitled to collect from the opposing Party to such action such Party's reasonable litigation costs and attorneys fees and expenses, including court costs, reasonable fees of accountants and experts, and other expenses incidental to the litigation in addition to all other relief, all of which shall be set by the judge and not by jury, to which the prevailing Party may be entitled.

15.10. Binding Affect. This Option Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

15.11. No Third Party Beneficiaries. This is not a third party beneficiary contract. No person or entity other than a Party signing this Option Agreement shall have any

rights under this Option Agreement, except as expressly provided in this Option Agreement.

15.12. Amendment. This Option Agreement may be amended or modified only in a writing signed by the Parties, which specifically references this Option Agreement.

15.13. No Partnership. Nothing in this Option Agreement shall be construed to create a partnership or joint venture, or to authorize any Party to act as agent for or representative of any other Party.

15.14. No Waiver. A Party may decide or fail to require full or timely performance of any obligation arising under this Option Agreement. The decision or failure of a Party hereto to require full or timely performance of any obligation arising under this Option Agreement (whether on a single occasion or on multiple occasions) shall not be deemed a waiver of any such obligation. No such decisions or failures shall give rise to any claim of estoppel, laches, course of dealing, amendment of this Option Agreement by course of dealing, or other defense of any nature to any obligation arising hereunder.

15.15. Breach. The repudiation, breach, or failure to perform any obligation arising under this Option Agreement by a Party after reasonable notice thereof shall be deemed a repudiation, breach, and failure to perform all of such Party's obligations arising under this Option Agreement.

15.16. Time of the Essence. Time is of the essence with respect to each obligation arising under this Option Agreement. The failure to timely perform an obligation arising hereunder shall be deemed a failure to perform the obligation.

15.17. Termination. This Option 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 Option Agreement on behalf of County is, at any time while this Option Agreement or any extension of the Option Agreement is in effect, an employee or agent of any other party to the Option Agreement with respect to the subject matter of this Option Agreement.

15.18. Recording. This Option Agreement shall be recorded by Optionee in the records of the Pima County Recorder.

The Optionee and Optionor have executed this Option Agreement as of the dates set forth below:

OPTIONEE: PIMA COUNTY FLOOD CONTROL DISTRICT, a body political taxing subdivision of the State of Arizona:

Richard Elías, Chairman, Board of Directors

Date

ATTEST:

Lori Godoshian, Clerk of Board

Date

APPROVED AS TO FORM:

Neil J. Konigsberg, Deputy County Attorney, Civil Division

STATE OF ARIZONA)
) ss.
County of Pima)

ACKNOWLEDGED before me this ____ day of _____, 2009 by Richard Elias, as Chairman of the Board of Directors of PIMA COUNTY FLOOD CONTROL DISTRICT, a body political taxing subdivision of the State of Arizona.

Notary Public

My Commission Expires: _____

This is an Official Copy of the Pima County contract executed and on file with Pima County

OPTIONOR:

SELLER: Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912:

Signature

Date

Print Name

Its

STATE OF ARIZONA)

) ss.

County of Pima)

The foregoing instrument was acknowledged before me the ____ day of _____, 2009 by _____, a _____ of **Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912.**

Notary Public

My Commission Expires: _____

This is an Official Copy of the Pima County Contract executed and on file with Pima County.

When Recorded, Please Return To:

Pima County Real Property Services
201 North Stone Avenue, 6th Floor
Tucson, Arizona 85701-1215

PIMA COUNTY DEPARTMENT OF: FLOOD CONTROL DISTRICT	CONTRACT NO. 11-59-T-142326-_____
PROJECT: Floodprone Land Acquisition	
OPTIONOR: Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 813 and Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912	
AMOUNT: \$161,492.87 plus \$5,000.00 estimated Closing Costs if Option is exercised	

OPTION AGREEMENT

1 **PARTIES.** This Option Agreement ("Option Agreement") is made between **Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912** ("Optionor"), and **Pima County Flood Control District**, a political taxing subdivision of the State of Arizona, (the "District" or "Optionee"). Optionee and Optionor are collectively referred to herein as the "Parties"; and individually as a "Party".

2 **BACKGROUND AND PURPOSE.** The Parties acknowledge that the following statements are true and correct:

2.1. Optionee, as Buyer, has agreed to purchase certain real property (the "Acquired Property") from Optionor, as Seller, pursuant to the terms of that certain

This is an Official Copy of the Pima County contract executed and filed with Pima County.

Amendment to Purchase Agreement between Optionor, as Seller, and Optionee, as Buyer, Pima County contract no. 11-59-T-142326-99 (the "Amended Purchase Agreement").

2.2. Optionor and Optionee have agreed to exclude certain real property owned by Seller from the Acquired Property pursuant to the Amended Purchase Agreement. The excluded property is defined in the Amended Purchase Agreement as the "Excluded Property," and is depicted on Exhibit G-1 to the Amended Purchase Agreement.

2.3. The Amended Purchase Agreement gives Buyer an option to purchase the Excluded Property, in accordance with the terms of this Option Agreement.

2.4. All terms defined in the Amended Purchase Agreement shall have the same meanings in this Option Agreement, unless specifically provided otherwise in this Option Agreement.

2.5. As additional consideration for Optionee purchasing the Property, Optionor has granted Optionee the option to purchase the Excluded Property on the terms and conditions set forth in this Option Agreement (the "Option").

3. **OPTION AGREEMENT DATE.** This Option Agreement shall be effective on the date Optionor and Optionee have executed this Option Agreement (the "Option Agreement Date"). The date Optionee signs is the date this Option Agreement is signed by the Chairman of the District Board of Directors.

4. **OPTION PROPERTY.** For purposes of this Option Agreement, the "Option Property" shall consist of the Excluded Property, as described on **Exhibit G** and depicted on **Exhibit G-1** attached hereto. The Option Property is 38.22 acres.

5. **OPTION PRICE.** Optionee shall have an option to purchase the Option Property for the sum of One Hundred Sixty-One Thousand Four Hundred Ninety-Two and 87/100 Dollars (\$161,492.87) (the "Option Price").

6. **EXERCISE OF OPTION.**

6.1. Notice of Clean-up. Optionor shall provide written notice to Optionee after Optionor has cleaned up the Excluded Property such that Optionee can obtain the Certification, as provided in section 9 of this Option Agreement.

6.2. Duration. Optionee may exercise the Option at any time commencing after the Option Agreement Date, and ending five years after the Environmental Contingency for the Option Property has been satisfied, as provided in section 9 of this Option Agreement (the "Option Period"). Optionor having given notice of the section 9 Certification to Optionee, in a form acceptable to Optionee, shall trigger commencement of the 5 year period at the end of which the Option Period shall terminate.

6.3. Notice. The Option shall be exercised by written notice to Optionor executed by the Chairman of the District Board of Directors, or the Chairman's designee, stating Optionee's intention to exercise the Option (the "Notice"). If Optionee fails to provide the Notice to Optionor on or before the close of the Option Period, the Option shall expire and neither party shall have further liability to the other hereunder.

6.4. Condition Precedent. The Option may only be exercised if Optionee has closed on the purchase of the Acquired Property pursuant to the Amended Purchase Agreement.

7. **OPTIONOR'S COVENANTS.**

7.1. No Encumbrances. Optionor shall not encumber the Option Property with any lien that Optionor will be unable to cause to be released before the Option Closing, and Optionor shall not be entitled to sell or exchange all or any portion of the Option Property before the Option Closing without the prior written approval of Optionee. Optionor covenants and agrees that from and after that Option Agreement Date through the Option Closing, Optionor shall not enter into, execute or record any covenant, deed restriction, or any other encumbrance against the Option Property, and that the recording of any such covenant, deed restriction, or other encumbrance, shall be a material breach of this Option Agreement.

7.2. Access by Optionee. Optionee shall have the right during the Option Period, upon reasonable notice to Optionor, to have access to the Option Property. Said right shall extend to any duly authorized representatives of Optionee, including engineers and soil testing personnel. Said right shall enable said persons to perform any tests upon the Option Property, including an Environmental Site Assessment, that Optionee deems necessary or appropriate to determine whether the Option Property is suitable for Optionee's purposes.

8.2.4. *AMENDED COMMITMENT.* In the event the Title Company should issue an Amended Commitment for Title Insurance which discloses an Exception(s) not previously disclosed, Optionee shall have fifteen (15) days after the date of the issuance of such an Amended Commitment for Title Insurance within which to object to the new Exception(s). If the Amended Commitment is issued less than fifteen (15) days prior to the date of the Option Closing, then the date of the Option Closing shall be deemed to be extended until the end of the new Disapproval Period.

8.2.5. *MONETARY LIENS.* Notwithstanding the above, Optionee need not expressly object to any monetary liens and encumbrances on the Option Property, all of which shall be removed before the Option Closing, unless this Option Agreement expressly provides for the prorating of any such lien or encumbrance.

8.2.6. *PERMITTED EXCEPTIONS.* The Exceptions that are approved or deemed approved by Optionee shall be referred to herein as the "Permitted Exceptions".

8.3. Title Policy. At the Option Closing, Escrow Agent shall furnish Optionee a Standard Owner's Title Insurance Policy for the Option Property, in the amount of the Purchase Price, which Policy shall be paid for by Optionor. In the event Optionee desires an Extended Owners Title Policy, or any specific endorsements to the Standard Owner's Title Insurance Policy, Optionor will pay that portion of the premium allocable to a Standard Owners Title Insurance Policy, and Optionee will pay that portion of the premium allocable to the additional coverage.

9. **ENVIRONMENTAL CONTINGENCY.** Optionee's obligation to close is contingent upon Optionee having received prior to Closing a certification (the "Certification") from a qualified environmental professional as defined by The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), in a form satisfactory to Optionee, that all appropriate inquiries as required by CERCLA have been made, and no further investigation of the Option Property is recommended, so that the Bona Fide Prospective Purchase defense under CERCLA is available to Optionee (the "Environmental Contingency"). In the event that Optionee has not received the Certification prior to Closing, then Optionee may elect to terminate this Option Agreement.

10. **CLOSING.**

10.1. Option Closing Date. The closing of the sale of the Option Property to Optionee (the "Option Closing") shall take place at the offices of Escrow Agent. The Closing shall take place on or before thirty (30) days after (i) the expiration of the title

review period as provided in section 8.2 (the Disapproval Period and the Notice Period, and any extension thereof), and (ii) receipt of the Certification as provided in section 9.

10.2. Closing Costs. All escrow fees shall be divided between Optionor and Optionee, and recording fees and closing costs shall be allocated by Escrow Agent in a manner customary with Escrow Agent's procedures in Pima County, Arizona.

10.3. Prorations. Property taxes, rents, and annual payment of assessments with interest, if any, shall be prorated as of the date of the Closing.

10.4. Deliveries by Optionee at Closing. At Closing, Optionee shall deliver to Optionor, the following:

10.4.1. The Option Price; and

10.4.2. Such additional documents as Optionor or Escrow Agent may reasonably require to effectuate the Purchase.

10.5. Deliveries by Optionor at Closing. At Closing, Optionor or Escrow Agent, as appropriate, shall deliver to Optionee through Escrow the following:

10.5.1. An executed Special Warranty Deed ("Deed") conveying fee simple title to the Option Property subject only to the Permitted Exceptions;

10.5.2. The Standard Owner's Title Insurance Policy for the Option Property insuring Optionee's title in the full amount of the Purchase Price;

10.5.3. One or more assignments of all the water rights and well registrations certificated or claimed in which Optionor has an interest and appurtenant to the Option Property, if any, and all certificated or claimed Grandfathered Type 2 water rights, if any; and

10.5.4. Such additional documents as Optionee or Escrow Agent may reasonably require to effectuate the Purchase.

10.6. Delivery of Possession. Optionor shall deliver possession of the Option Property to Optionee at Closing.

11. **ENVIRONMENTAL LIABILITIES.** Optionee and Optionor 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 Option Property, each Party remaining responsible for its obligations as set forth by law.

12. **OPTIONOR'S REPRESENTATIONS AND WARRANTIES.**

12.1. Optionor hereby warrants, to the best of their knowledge and belief, that, except as disclosed in writing to Optionee within ten (10) days of the Option Agreement Date:

12.1.1. they are not aware of any pending or threatened administrative proceedings, arbitrations, lawsuits or other legal proceedings or claims by governmental agencies or third parties concerning the Option Property which would in any way affect, encumber or limit Optionee's fee title ownership of the Option Property;

12.1.2. they have no knowledge of any notice of violations by any governmental agency of applicable local, state or federal ordinance, statutes, regulations or rules whether filed or threatened regarding the Option Property; and

12.1.3. Optionor shall make available to Optionee all documents relating to the Option Property that they has in their possession regarding the Option Property, including any and all surveys, information regarding wells and water rights, and environmental reports.

12.2. Optionor represents that there are no leases, rental agreements, or agreements permitting someone to use or occupy any portion of the Option Property.

12.3. All representations and warranties contained herein shall survive the Option Closing.

13. **BROKER'S COMMISSION.** No broker or finder has been used and Optionee owes no brokerage or finder's fees related to this transaction. Optionor has sole responsibility to pay all brokerage or finder's fees to any agent employed by Optionor.

14. **DEFAULT, REMEDIES, AND CONDITIONS PRECEDENT.** In the event either Party shall default under this Option Agreement, the other Party shall be entitled to pursue all rights and remedies available at law or in equity, including specific enforcement, except that to the extent a Party seeks a recovery of damages, damages shall be limited to recovery of actual damages (including any losses or penalties suffered

by Optionee as a result of any violation of federal arbitrage violations caused by a wrongful failure of Optionor to perform) and neither Party shall be entitled to exemplary, punitive, special, indirect or consequential damages.

15. **MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions shall apply to this Option Agreement:

15.1. Notices.

15.1.1. *WRITING.* All notices required or permitted to be given hereunder shall be in writing and may be given in person or by United States mail, by local or nationwide delivery/courier service or by electronic transmission (for instance, telecopy/fax to the telecopy/fax numbers indicated below or e-mail to the e-mail addresses indicated below).

15.1.2. *RECEIPT.* Such notices and other communications shall be deemed to be given and received as follows:

15.1.2.1. upon actual receipt, if delivered personally;

15.1.2.2. upon actual receipt, if transmitted by facsimile on a business day before 5:00 p.m. (Tucson time);

15.1.2.3. upon the next business day following transmission if transmitted by facsimile on a day which is not a business day or if transmitted after 5:00 p.m. (Tucson time) on a business day;

15.1.2.4. upon actual receipt, if transmitted by e-mail on a business day before 5:00 p.m. (Tucson time);

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15.1.2.6. the next business day, if delivered by overnight courier; or

15.1.2.7. three (3) days following deposit in the mail, if delivered by mail postage prepaid, addressed to that Party at his/her/their/its

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designated address. The designated address of a Party shall be the address of that Party shown below or such other address within the United States of America that any Party from time to time may specify by written notice to the other Parties at least fifteen (15) days prior to the effective date of such change, but no such notice of change shall be effective unless and until received by the other Parties.

15.1.3. *REJECTION*. Rejection or refusal to accept, or inability to deliver because of changed address or because no notice of changed address is given, shall be deemed to be receipt of any such notice.

15.1.4. *NOTICE TO ENTITY*. Any notice to an entity shall be deemed to be given on the date specified in this Paragraph without regard to when such notice is delivered by the entity to the individual to whose attention it is directed and without regard to the fact that proper delivery may be refused by someone other than the individual to whose attention it is directed. If a notice is received by an entity, the fact that the individual to whose attention it is directed is no longer at such address or associated with such entity shall not affect the effectiveness of such notice.

15.1.5. *ADDRESS*. Optionor and Optionee agree that any notice sent on their behalf by their attorney, if listed below, shall serve as notice by Optionor or Optionee, as the case may be, to the other:

If to Optionor: GREG WEXLER
Continental Ranch Development, L.L.C.
6088 W. Arizona Pavilions Dr. #1
Tucson, AZ 85743

If to Optionee: Christina Biggs, Manager
Pima County Real Property Services
201 North Stone Avenue, 6th Floor
Tucson, Arizona 85701-1207
Telephone: 520.740.6313
E-mail: Christina.Biggs@pw.pima.gov

15.2. Place of Execution. This Option Agreement is made and executed in Pima County.

15.3. Governing Law. This Option Agreement shall be subject to, and interpreted by and in accordance with, the laws of the State of Arizona.

15.4. Entire Agreement. This Option Agreement and the Purchase and Option Agreement are together the entire agreement of the Parties respecting the subject matter hereof. There are no other agreements, representations or warranties, whether oral or written, respecting the subject matter hereof.

15.5. Interpretation. This Option Agreement, and all the provisions of this Option Agreement, shall be deemed drafted by all of the Parties. This Option Agreement shall not be interpreted strictly for or against any Party, but solely in accordance with the fair meaning of the provisions hereof to effectuate the purposes and intent of this Option Agreement.

15.6. No Representations. Each Party has entered into this Option Agreement based solely upon the agreements, representations and warranties expressly set forth herein and upon his own knowledge and investigation. Neither Party has relied upon any representation or warranty of any other Party except any such representations or warranties as are expressly set forth herein.

15.7. Signing Authority. Each of the persons signing below on behalf of a Party represents and warrants that he or she has full requisite power and authority to execute and deliver this Option Agreement on behalf of the Party for whom he or she is signing and to bind such Party to the terms and conditions of this Option Agreement.

15.8. Counterparts. This Option Agreement may be executed in counterparts, each of which shall be deemed an original. This Option Agreement shall become effective only when all of the Parties shall have executed the original or counterpart hereof. This Option Agreement may be executed and delivered by a facsimile transmission of a counterpart signature page hereof.

15.9. Attorney's Fees and Costs. In any action brought by a Party to enforce the obligations of any other Party, the prevailing Party shall be entitled to collect from the opposing Party to such action such Party's reasonable litigation costs and attorneys fees and expenses, including court costs, reasonable fees of accountants and experts, and other expenses incidental to the litigation in addition to all other relief, all of which shall be set by the judge and not by jury, to which the prevailing Party may be entitled.

15.10. Binding Affect. This Option Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

15.11. No Third Party Beneficiaries. This is not a third party beneficiary contract. No person or entity other than a Party signing this Option Agreement shall have any

rights under this Option Agreement, except as expressly provided in this Option Agreement.

15.12. Amendment. This Option Agreement may be amended or modified only in a writing signed by the Parties, which specifically references this Option Agreement.

15.13. No Partnership. Nothing in this Option Agreement shall be construed to create a partnership or joint venture, or to authorize any Party to act as agent for or representative of any other Party.

15.14. No Waiver. A Party may decide or fail to require full or timely performance of any obligation arising under this Option Agreement. The decision or failure of a Party hereto to require full or timely performance of any obligation arising under this Option Agreement (whether on a single occasion or on multiple occasions) shall not be deemed a waiver of any such obligation. No such decisions or failures shall give rise to any claim of estoppel, laches, course of dealing, amendment of this Option Agreement by course of dealing, or other defense of any nature to any obligation arising hereunder.

15.15. Breach. The repudiation, breach, or failure to perform any obligation arising under this Option Agreement by a Party after reasonable notice thereof shall be deemed a repudiation, breach, and failure to perform all of such Party's obligations arising under this Option Agreement.

15.16. Time of the Essence. Time is of the essence with respect to each obligation arising under this Option Agreement. The failure to timely perform an obligation arising hereunder shall be deemed a failure to perform the obligation.

15.17. Termination. This Option 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 Option Agreement on behalf of County is, at any time while this Option Agreement or any extension of the Option Agreement is in effect, an employee or agent of any other party to the Option Agreement with respect to the subject matter of this Option Agreement.

15.18. Recording. This Option Agreement shall be recorded by Optionee in the records of the Pima County Recorder.

The Optionee and Optionor have executed this Option Agreement as of the dates set forth below:

OPTIONEE: PIMA COUNTY FLOOD CONTROL DISTRICT, a body political taxing subdivision of the State of Arizona:

Richard Elias

Richard Elías, Chairman, Board of Directors

DEC 15 2009

Date

ATTEST:

Lori Godoshian

Lori Godoshian, Clerk of Board

DEC 15 2009

Date

APPROVED AS TO FORM:

Neil J. Konigsberg

Neil J. Konigsberg, Deputy County Attorney, Civil Division

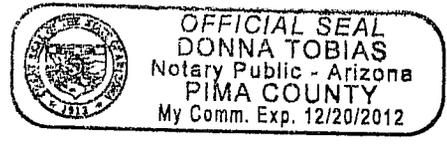
This is an Official Copy of the Pima County contract executed and on file with Pima County.

STATE OF ARIZONA)
) ss.
County of Pima)

ACKNOWLEDGED before me this 15th day of December, 2009 by Richard Elias, as Chairman of the Board of Directors of PIMA COUNTY FLOOD CONTROL DISTRICT, a body political taxing subdivision of the State of Arizona.

Donna Tobias
Notary Public

My Commission Expires: 12-20-12



OPTIONOR:

SELLER: Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912: Title Security Agency of Arizona,
an Arizona corporation, as Trustee under Trust No. 912 only and not in its corporate capacity

Diane L. Sloane
Signature

12/3/09
Date

Diane L. Sloane
Print Name

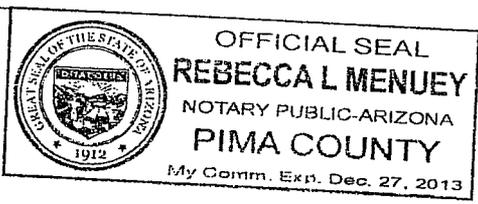
Trust Officer
Its

STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me the 3rd day of Dec, 2009 by Diane L. Sloane, a Trust Officer of Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 912.

Rebecca L. Menuey
Notary Public

My Commission Expires: 12/27/13



This is an Official Copy of the Pima County contract executed and on file with Pima County.

Exhibit G

November 30, 2009
WLB No. 105012-A001-1003X
W:\LEGALS\105012\Parcel-E1.doc



**LEGAL DESCRIPTION
RYAN RANCH
SALE EXCLUSION PARCEL-E1**

That portion of the Southeast Quarter (SE 1/4) of Section 6, Township 15 South, Range 12 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

The basis of bearing N 00°01'32" W, is the East Line of the Southeast Quarter (SE 1/4) of Section 6,

COMMENCING at the Southeast corner of said Section 6;

THENCE N 00°01'32" W, along the East Line of said Section 6 a distance of 1984.67 feet to the Northeast corner of a parcel recorded in Docket 11469, Page 214;

THENCE S 89°48'14" W, along the North line of said parcel a distance of 268.52 feet to the **POINT OF BEGINNING**;

THENCE continue S 89°48'14" W, along said line a distance of 393.80 feet to the Northwest corner thereof;

THENCE S 00°01'01" E, along the West line of said parcel a distance of 661.39 feet;

THENCE S 89°48'45" W, 691.44 feet;

THENCE N 00°11'15" W, 1322.90 feet;

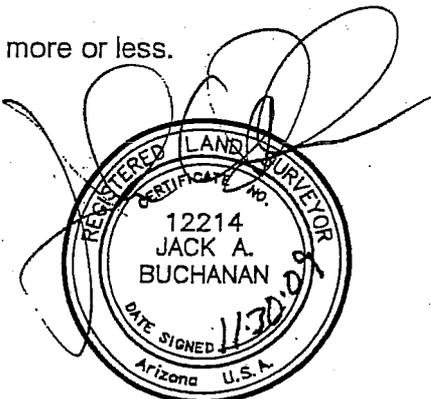
THENCE S 75°11'40" E, 844.27 feet;

THENCE S 31°42'16" E, 519.70 feet to the **POINT OF BEGINNING**;

CONTAINING 22.24 acres of land, more or less.

Prepared by:
THE WLB GROUP, INC

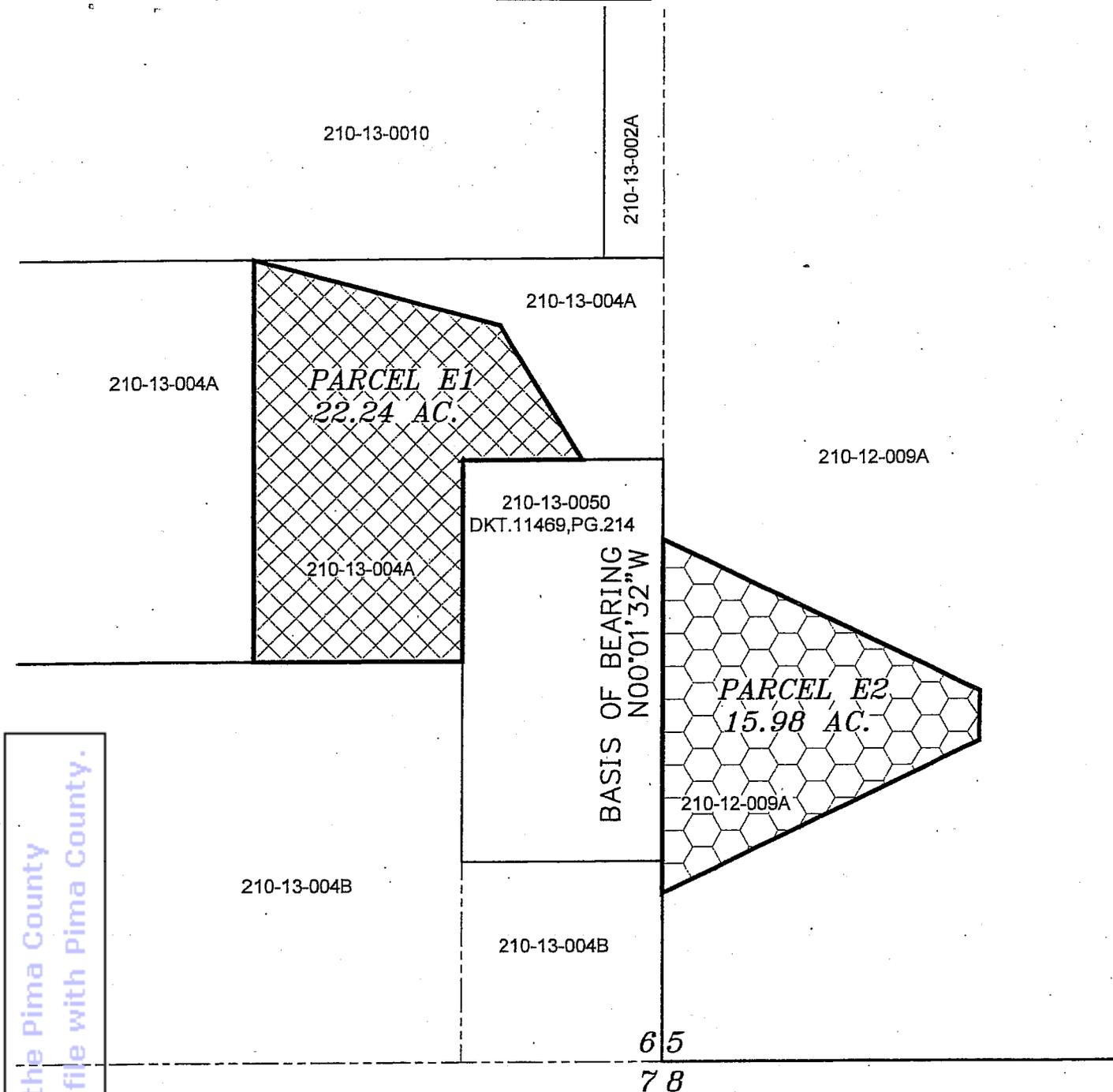
Jack A. Buchanan, RLS
JAB:mo



EXPIRES 3/31/2011
(INDICATES RENEWAL DATE)

This is an Official Copy of the Pima County contract executed and filed with Pima County

Exhibit G-1



This is an Official Copy of the Pima County contract executed and on file with Pima County.

**EXHIBIT TO ACCOMPANY DESCRIPTION OF
SALE EXCLUSION PARCELS 'E1' & 'E2'**

**WITHIN
RYAN RANCH
SECTIONS 5 & 6, T. 15 S., R. 12 E., G.&S.R.M
PIMA COUNTY, ARIZONA**

1"=500'

