



CITY OF  
TUCSON

DEVELOPMENT  
SERVICES  
DEPARTMENT

September 26, 2011

Mr. Jim Portner, Principal  
Projects International, Inc.  
10836 E. Armada Lane  
Tucson, AZ 85749-9460

Dear Mr. Portner:

Subject: Letter of Clarification: (C9-06-032) The Bridges Planned Area Development [PAD-15], Acquisition of Open Space Lands by Pima County

I have reviewed your letter (see attached) requesting clarification that Pima County's expressed use of the property (Sub-Area C-II) as bond-program open space is consistent with the current Natural Open Space (NOS) and Functional Open Space (FOS) designations on the property as detailed in the Bridges PAD. Your letter specifically requests confirmation on Pima County's expressed use of the property as bond-program open space:

1. That it is consistent with the current NOS and FOS designations on the property (along with the definitions of the NOS and FOS terms) as detailed in The Bridges PAD and that, as such, there is no material or negative affect on the overall NOS/FOS calculations for the larger 350-acre Bridges project, nor on the density or intensity of use on other lands within the PAD area;
2. That a future change of use of the property from open space would require an amendment to The Bridges PAD.

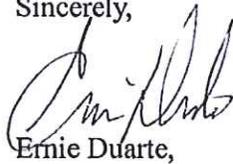
The Bridges PAD clearly identifies Sub-Area C-II as NOS/FOS with significant vegetative habitat, and requires that this sub-area will be preserved as natural and functional open space. FOS areas are to be managed for passive and active recreation and for public gatherings. NOS areas contain vegetation that will be managed as natural or natural appearing landscapes, but may provide passive recreation including trails, walkways, and interpretative areas.

Pima County is proposing to acquire the 20-acre open space parcel (Sub-Area C-II) under its Bond Implementation Program for the expressed purpose of open space and habitat protection. This proposed use is consistent with the Bridges PAD, which calls for coordination between the City of Tucson and Pima County to maximize preservation of significant vegetative habitat within the Bridges PAD, while at the same time incorporating the significant vegetative habitat into

an integrated regional public trail and recreation network. Furthermore, Pima County's acquisition of Sub-Area C-II does not undermine the Bridges PAD open space requirements since Sub-Area C-II will continue to be designated and used as natural / functional open space. It should be noted that any future change of use for Sub-Area C-II from open space would require a major amendment to the Bridges PAD, and such change would be in conflict with the project's overall intent as expressed in the Bridges PAD.

Also, it should be noted that the removal of Sub-Area C-II from the current assurance agreement is acceptable given the fact that this sub-area is not identified or tied with any public improvement projects for the Bridges PAD (see Bridges PAD, Section C.3.6 and Figure 38). Upon filing the Partial Release Subdivision Assurance instrument with the Pima County Recorder's Office, please provide the docket/page recording information to PDSD.

Sincerely,



Ernie Duarte,

Director

Planning and Development Services Department

Attachments: Applicant's Request  
Pima County Resolution No. 2004-18  
Unrecorded Copy of Partial Release Subdivision Assurance



PROJECTS INTERNATIONAL, Inc.

STRATEGIC GUIDANCE  
ENTITLEMENT PROCESSES  
LOCAL ADVICE & COUNSEL

10836 E. Armada Lane  
Tucson, Arizona 85749-9460  
520-850-0917  
jpa@projectsintl.com  
www.projectsintl.com

**Via Email Transmission**

**September 26, 2011**

Mr. Ernie Duarte, Director  
Development Services Department (DSD)  
CITY OF TUCSON  
201 N. Stone Avenue  
Tucson, AZ 85701

**RE: LETTER OF CLARIFICATION  
C9-06-32 -- The Bridges Planned Area Development (PAD-15)  
Acquisition of Open Space Lands by Pima County**

Dear Mr. Duarte:

John Beall and I have participated in several discussions with representatives of Pima County, together with representatives of 5151 East, LLC, to discuss the County's acquisition of certain open space lands (currently owned by 5151 East) located within The Bridges PAD. John and I believe that, given the particulars involved, it is important that this matter be memorialized via a formal clarification letter that can then be made a published part of the approved and archived PAD document.

Specifically, Pima County is interested in purchasing the 20-acre open-space parcel designated as Block 13 of The Bridges Block Plat, as recorded in Bk. 65 at Page 2 of Maps & Plats. This block is designated as Sub-Area C-II of The Bridges PAD and is located at the southeast corner of Kino Parkway and 36<sup>th</sup> Street. Per the PAD, this sub-area is comprised exclusively of Natural Open Space (NOS) and Functional Open Space (FOS) areas as defined in the PAD document. The NOS portion of the sub-area is a valuable riparian corridor that traverses the property.

The County intends to acquire the parcel under its Bond Implementation Plan as approved at the special bond election of May 18, 2004. Per Pima County Resolution No. 2004-18 (copy attached), the parcel is specifically named for acquisition as "OS 1.17, Habitat at 36<sup>th</sup> and Kino". The Resolution establishes that the bond acquisition is for the expressed purpose of open space and habitat protection, with the County assuming all future costs of property maintenance and care.

Mr. Ernie Duarte, Director  
C9-06-32 -- Clarification Letter (The Bridges PAD)  
Pima County Acquisition of Open Space  
September 26, 2011

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In light of the above, and with particular respect to this PAD Clarification Letter, there are two issues requiring attention:

**Issue #1: Confirmation of NOS & FOS Open Space per The Bridges PAD**

Our internal evaluation of the above-referenced bond language indicates that this defined use of the property by Pima County would be wholly consistent with the limitations and stipulations of the Natural Open Space (NOS) and Function Open Space (FOS) prescriptions of the approved PAD for Block 13 (Sub-Area C-II). As I believe you are aware, the NOS and FOS set-asides on the acquisition parcel are essential to us meeting the overall open-space calculations for the larger 350-acre Bridges PAD.

**Request:** With the above in mind, we ask that the City of Tucson provide formal clarification on two specific points regarding Pima County's expressed use of the property as bond-program open space:

1. That it is consistent with the current NOS and FOS designations on the property (along with the definitions of the NOS and FOS terms) as detailed in The Bridges PAD and that, as such, there is no material or negative affect on the overall NOS/FOS calculations for the larger 350-acre Bridges project, nor on the density or intensity of use on other lands within the PAD area;
2. That a future change of use of the property from open space would require an amendment to The Bridges PAD.

Confirmation from your office on the above two points is a contingency of the sale per the purchase-and-sale agreement in force between Pima County and 5151 East, LLC.

**Issue #2: Removal of the Acquisition Parcel from the Current Assurance Agreement**

Pima County has advised us that, in accordance with their bond acquisition procedures, they cannot purchase a property that may have any outstanding development obligations attached to it in terms of public off-site improvements, etc. As such, it is a condition of their acquisition that the property be removed from the existing Assurance Agreement for the larger Bridges project which was executed between the City of Tucson, 5151 East, LLC and Tucson Retail, LLC (same being recorded in Docket 13798 beginning at Page 1910).

By way of separate coordination with staff on this item, Jim Vogelsberg, City Engineer for PDSO, has already executed a partial release of assurance instrument removing the subject property (Block 13) from the original Assurance Agreement. An unrecorded copy of this instrument is provided with this email transmission and should be considered as an attachment to this Clarification Letter.

I will separately file this instrument with the Pima County Recorder's Office and will provide the docket/page recording information to PDSO, as well as furnish the recorded document to the owners for their use in the closing of the sale transaction.

Mr. Ernie Duarte, Director  
C9-06-32 -- Clarification Letter (The Bridges PAD)  
Pima County Acquisition of Open Space  
September 26, 2011

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Thank you very much for your consideration of the above matters. As always, please contact me with any questions you might have on the above via cell phone (520.850.0917) or email ([jportner@projectsintl.com](mailto:jportner@projectsintl.com)). I look forward to your response.

Best Regards,  
PROJECTS INTERNATIONAL, INC.

A handwritten signature in black ink, appearing to read 'Jim Portner', with a stylized flourish at the end.

Jim Portner, Principal

att.

cc: John Beall, City of Tucson PDSD  
Jim Vogelsberg, City of Tucson PDSD  
Hector Martinez, City of Tucson Real Estate  
Janelle Speake, 5151 East, LLC (KB Home, Inc.)  
Kevin Tarbox, 5151 East, LLC (Lennar Homes)

**Bond Implementation Plan  
May 18, 2004 Special Election**

**ORDINANCE NO. 2004 - 18**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA  
ADOPTING THE BOND IMPLEMENTATION PLAN FOR THE  
MAY 18, 2004 SPECIAL BOND ELECTION.**

**A. Question No. 1 - Sonoran Desert Open Space and Habitat Protection;  
Preventing Urban Encroachment of Davis-Monthan Air Force Base**

For the purpose of acquiring real and personal property for open space and habitat protection, including, without limitation, Sonoran Desert open space, protecting wildlife habitats, saguaro cacti, ironwood forests and lands around rivers, washes and recharge areas to ensure high water quality, the acquisition of lands in the vicinity of Davis-Monthan Air Force Base to prevent urban encroachment, and the acquisition of real or personal property or interests or rights in property for such purpose and paying all expenses properly incidental thereto and to the issuance of such bonds, shall Pima County, Arizona be authorized to issue and sell general obligation bonds of the County in an aggregate principal amount not exceeding \$174,300,000.

**OS 1.17      Habitat at 36th and Kino**

**Location:** Parcel is located at the southeast corner of 36th Street and Kino Parkway.

**Scope:** Purchase the 26-acre parcel in fee simple.

**Benefit:** The 26-acre parcel comprises four different vegetative communities and is classified as a floodplain. A preliminary survey showed a total of 32 plant species and 22 bird species. The property is walking distance from six schools, the Holmes-Tuttle Boys and Girls Club, and the Quincie Douglas Recreation Center, all of which could benefit from nearby habitat preservation and environmental protection.

**Cost:** \$1,000,000

**Bond Funding:** \$1,000,000

**Other Funding:** None identified at this time. If additional funding becomes necessary, options include federal and state grants and Flood Control District appropriations; if necessary, however, acquisition cost is limited to the cost guidelines in the Ordinance.

**Implementation Period:** 1, 2, 3

**Project Management:** Pima County Natural Resources, Parks and Recreation and Flood Control District will manage this acquisition, in close consultation with the City of Tucson.

**Future Operating and Maintenance Costs:** There should be minimal costs, which will be funded through either Natural Resources, Parks and Recreation or the Flood Control District.



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CITY OF TUCSON DEVELOPMENT SERVICES DEPARTMENT

09/21/2011

Projects International Inc.  
P.O. Box 64056  
Tucson, AZ 85728-4056

Attention: Jim Portner, Principal

Reference: **PARTIAL RELEASE OF SUBDIVISION ASSURANCE**

The Bridges S08-100  
Maps & Plats, BK.65 at PG.2  
DKT. 13708 at PG. 1910

**TO BE RELEASED: Block 13 (PAD Sub-Area C-II)**

Dear: Mr. Portner

Pursuant to the terms of the aforementioned Assurance Agreement, specifically the conditions as outlined in item 9., Release of Assurances regarding the Public Improvement Projects, Block 13 is hereby released from the aforementioned assurance agreement.

This letter is to inform you that the City Engineer has determined that the improvements required in connection the subject portion of the Subdivision have been satisfactorily completed according to the terms of the agreement.

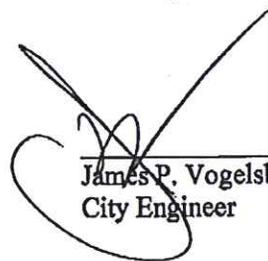
**PARTIAL RELEASE OF SUBDIVISION ASSURANCE**

**September 21, 2011**

**Page 2**

Accordingly, the Agreement submitted as an assurance for the completion of improvements for the Subdivision is hereby released as to Block 13 (PAD Sub-Area C-II), effective this date. The agreement continues in effect for the remaining portions of the Subdivision not released by this letter, or by a previous partial release of assurance.

Sincerely,

  
James P. Vogelsberg, P.E.  
City Engineer

State of Arizona

County of Pima

On 9/22, 2011 James Vogelsberg personally appeared  
(Printed name of signer)

before me, to be the signer of the above instrument, and he/she acknowledged that he/she signed it.

  
\_\_\_\_\_  
Notary Public

My commission expires: July 26, 2014

(seal)

JPV: KMM  
S08-100 Partial Release 09-21-11  
pc: File

