



When recorded return to:
Electrical District #2
P. O. Box 548
Coolidge, AZ 85128

DATE/TIME: 08/31/2023 1314
FEE: \$15.00
PAGES: 14
FEE NUMBER: 2023-064949

**MODIFICATION AND GRANT OF EASEMENT AGREEMENT
(Primarily Overhead Installation)**

THIS MODIFICATION AND GRANT OF EASEMENT ("Agreement") is made effective this 30th day of August, 2023, between Orchard CG Investors, LLC, an Arizona limited liability company ("Owner"), and Electrical District Number Two, Pinal County, Arizona, a political subdivision of the State of Arizona ("District").

Recitals

- A. Owner is the fee owner of all of that certain real property in Pinal County, Arizona, more particularly described on Exhibit A, attached hereto and made a part hereof by reference (the "Burdened Land").
- B. The Burdened Land, or a portion thereof, is encumbered by an easement (the "Old Easement") in favor of District recorded at Docket 341, Page 461, of the Official Records of Pinal County.
- C. Owner and District desire to release a portion of the Burdened Land from the Old Easement and to grant and reconfirm District's easement over the remaining portions of the Burdened Land according to the terms set forth herein.

Agreement

In consideration of the sum of ten dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

- The Old Easement is Extinguished in Part.** District hereby releases, abandons and terminates the Old Easement with respect to all portions of the Burdened Land, except those portions thereof which encumber the portion of the Burdened Land described on Exhibit B attached hereto (the "New Easement Premises"), and, except as to such New Easement Premises, District hereby quit claims to the rightful owners thereof as their interests may appear any right, title or interest of District in the Burdened Land. District expressly reserves all of its rights under the Old Easement with respect to the New Easement Premises. For the avoidance of any doubt, District does not release, abandon, or terminate the Old Easement with respect to any property outside of the boundaries of the Burdened Land.
- Grant of New Easement.** Owner hereby (i) acknowledges that District has retained the Old Easement with respect to the New Easement Premises and (ii) grants unto District and its agents, employees, contractors, permittees, successors and assigns, jointly with or separately from District, the exclusive and perpetual right, privilege, easement and authority to construct, reconstruct, install, alter, replace, improve, remove, repair, operate, inspect and maintain a primarily overhead electric distribution and transmission system and all related uses thereof, together with all below and above ground installations and facilities which District may now or hereafter deem necessary or convenient, including without limitation all towers, poles, braces, guys, crossarms, footings, anchors, conduits, distribution and signal

wires, insulators, switches and switch cabinets, splice boxes, transformers, conductors, cables, pipes, vaults, manholes and other necessary or convenient appurtenances, improvements, equipment, appliances, facilities and fixtures (collectively, the "Facilities") relating to the distribution and transmission of electric power, telephone, audio, visual, internet or other communication or data transmission services in, over, under, across, along and upon the New Easement Premises, as District may now or hereafter deem convenient or necessary from time to time, together with full and free vehicular and pedestrian ingress and egress over, across and upon the New Easement Premises and over, across and upon all property of Owner adjacent thereto as may be necessary to provide access to and from the New Easement Premises for the purposes herein permitted and the right to use lands adjacent to said easement for access, storage of dirt, fill or other construction materials or equipment or otherwise during temporary periods of construction.

3. Conditions of New Easement.

3.1 District, its agents, employees, contractors and permittees and its successors and assigns, shall have the right (but not the obligation) to trim, cut and clear brush, trees, timber, or other vegetation, structures, and all fire hazards on the New Easement Premises, and the right to remove trees, if any, located on lands of Owner beyond the limits of the New Easement Premises, whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted. District shall have the right to assess the costs of its activities pursuant to this Section against Owner if such activities are necessitated by breach of Owner's obligations under Section 3.2.

3.2 Owner hereby covenants that no change will be made to the New Easement Premises by grading or otherwise that would materially adversely affect District's use and enjoyment of the New Easement Premises for the purposes described in Section 2 without the prior written consent of District in its sole discretion. Without limiting the foregoing, Owner, its successors, assigns or licensees, shall not place, install, construct or maintain or permit to be placed, installed, constructed or maintained any building or other structure, plant or allow the growth or spread of any trees or other vegetation, drill any well, store any materials of any kind, or excavate or alter ground level by cut or fill, within or affecting the New Easement Premises, except with the written approval of District in its sole discretion.

3.3 Following any installation, excavation, maintenance, repair, or other activity by District within or adjacent to the New Easement Premises, District shall cause the affected area to be restored by District to as close to original condition as is reasonably possible, at the expense of District.

3.4 No delay in the construction of or removal or cessation of use of any Facilities shall be deemed to constitute an abandonment of the New Easement Premises or any portion thereof. The rights, title, privileges and authority hereby granted shall continue and be in force unless and until such time as District, its successors and assigns, shall, by an express written instrument duly recorded with the Official Records of Pinal County, Arizona, permanently abandon its easement with respect to all or any portion of the New Easement Premises or any portion thereof, at which time all such rights, title, privileges and authority hereby granted shall terminate with respect to such portion of the New Easement Premises. If and when District determines in its sole discretion that it will never have any further use for any portion of the New Easement Premises, District will abandon such portion of the New Easement Premises upon the request of the owner of fee title thereto.

3.5 District shall have the right (but not the obligation), at its cost, to install, place and maintain on the New Easement Premises (a) warning or safety signs regarding the Facilities and (b) safety or security devices, or other protective structures, to protect the Facilities and to prevent access thereto by unauthorized persons.

4. **Binding Effect.** The covenants and agreements herein set forth shall extend and inure in favor and to the benefit of and shall be binding on the heirs, administrators, executors, personal representatives, legal representatives, successors (including successors in ownership and estate), assigns and lessees of Owner and District. Owner represents and warrants to District that Owner owns a fee simple interest in the Burdened Land. Any successor owners of the Burdened Land shall immediately provide District with updated ownership information and notice address.

5. **Due Authority.** The individual(s) executing this document on behalf of Owner represents and warrants to District that: (i) he or she is authorized to do so on behalf of Owner; (ii) he or she has full legal power and authority to bind Owner in accordance with the terms herein and, if necessary, has obtained all required consents or delegations of such power and authority (whether from any partner, owner, spouse, shareholder, director, member, manager, creditor, investor, developer, governmental authority, judicial or administrative body, association or other person or entity); and (iii) the execution, delivery and performance by Owner of this Agreement and all others relating to the easement will not constitute a default under any agreement to which Owner is a party. The individual executing this Agreement shall indemnify, defend and hold harmless District for, from and against any and all losses, costs, expenses, liabilities, claims, demands and actions of any kind or nature, including court costs and attorneys' fees, arising or accruing as a result of the falsity of any of his or her representations and warranties contained in this Agreement.

6. **Attorneys' Fees.** In the event of any action to enforce the provisions of this Agreement, the prevailing party shall be entitled to receive its costs and attorneys' fees.

7. **Construction.** This Agreement shall be construed in accordance with the laws of the State of Arizona. Section headings and captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

8. **Entire Agreement.** This Agreement and the Old Easement contain the entire understanding between the parties with respect to the subject matter hereof, and supersede any other prior understandings and agreements between or among them with respect to the subject matter hereof.

9. **Incorporation by Reference.** Every exhibit or schedule attached to this Agreement and referred to herein is hereby incorporated in this Agreement by reference.

10. **Execution.** This Agreement may be executed in counterparts, all of which taken together shall be deemed one original. If this Agreement is executed by more than one Owner, all references to Owner herein shall be deemed to refer to each and all of such Owners jointly and severally.

11. **Partial Invalidity.** The invalidity of any portion of this Agreement will not affect the validity of the remainder hereof.

12. **No Waiver.** No waiver of any condition or covenant in this Agreement by District or Owner shall be deemed to imply or constitute a further waiver of any other or like condition or covenant in this Agreement.

13. **Control over other Installations.** No other utilities or installations of any kind shall be installed within the New Easement Premises, except with the prior written consent of District in its sole discretion. As a condition of granting such consent, District may approve plans and specifications for any such facilities and the means and manner of the installation thereof.

CAUTION: Facilities placed within the New Easement Premises may contain high voltage electrical equipment. Notice is hereby given that the location of underground electrical conductors or facilities must be verified as required by Arizona Revised Statutes, § 40-360.21, et. seq., Arizona Blue Stake Law, prior to any excavation. Notice is also hereby given that any activity performed within the New Easement Premises shall comply with the Arizona Overhead Powerline Safety Law, Arizona Revised Statutes § 40-360.41-45.

[SIGNATURES ON FOLLOWING PAGES]

SIGNATURE PAGE – DISTRICT

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the date set forth above.

District: **ELECTRICAL DISTRICT NUMBER TWO, PINAL COUNTY, ARIZONA,**
a political subdivision of the State of Arizona

By: _____

Kenneth W. Robbins, General Manager

Address: P.O. Box 548, Coolidge, Arizona, 85128

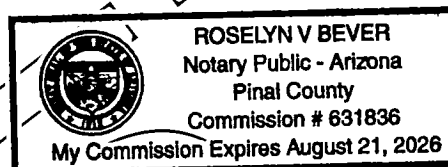
State of Arizona

County of Pinal

This instrument was acknowledged by Kenneth W. Robbins, the General Manager of District, before me this 9th day of JUNE, 2023, on behalf of District.

My Commission Expires: August 21, 2026

Roselyn V. Bever
Notary Public



SIGNATURE PAGE – OWNER

IN WITNESS WHEREOF, Owner has executed this Agreement as of the date first set forth above.

Owner:

ORCHARD CG INVESTORS, LLC,
an Arizona limited liability company

Signature: *Michael J. Biggar*

Print Name: Michael J. Biggar

Title: Manager

Address: 615 National Ave.
Suite 200
Mountain View, CA 94043

State of _____

) ss.

County of _____

This instrument was acknowledged by _____, as _____ of Orchard CG Investors, LLC, an Arizona limited liability company, before me this _____ day of _____, 20____, on behalf of said company.

SEE ATTACHED
NOTARIAL CERTIFICATE

My Commission Expires: _____

Notary Public

Note: This instrument is exempt from the real estate transfer fee and affidavit of legal value required under A.R.S. §§ 11-1132 and 11-1133 pursuant to the exemptions set forth in A.R.S. §§ 11-1134(A)(2) and (A)(3).

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Santa Clara)

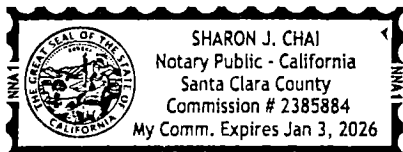
On May 19th, 2023 before me, Sharon J. Chai, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Michael J. Biggar
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Modification and Grant of Easement Agreement

Document Date: n/a Number of Pages: 9

Signer(s) Other Than Named Above: n/a

Capacity(ies) Claimed by Signer(s)

Signer's Name: Michael J. Biggar

- ☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☒ Other: Manager

Signer Is Representing: himself

Signer's Name: _____

- ☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

EXHIBIT A

LEGAL DESCRIPTION OF LAND SUBJECT TO OLD EASEMENT

PARCEL NO. 1:

THAT PORTION OF THE SOUTH HALF OF SECTION 30, TOWNSHIP 6 SOUTH, RANGE 6 EAST OF THE GILA AND SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 30;

THENCE SOUTH 00 DEGREES 00 MINUTES 08 SECONDS EAST, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 30.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE DEPARTING SAID WEST LINE AND RUNNING NORTH 89 DEGREES 49 MINUTES 06 SECONDS EAST (RECORD), NORTH 89 DEGREES 49 MINUTES 01 SECONDS EAST (MEASURED), ALONG A LINE WHICH IS 30.00 FEET SOUTH OF AND PARALLEL WITH THE EAST-WEST MID-SECTION LINE OF SAID SECTION 30, A DISTANCE OF 1222.71 FEET;

THENCE RUNNING SOUTH 00 DEGREES 00 MINUTES 08 SECONDS EAST, A DISTANCE OF 570.03 FEET;

THENCE RUNNING SOUTH 89 DEGREES 49 MINUTES 06 SECONDS WEST, A DISTANCE OF 1222.71 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30;

THENCE RUNNING NORTH 00 DEGREES 00 MINUTES 08 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 570.00 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 2:

THAT PORTION OF THE SOUTH HALF OF SECTION 30, TOWNSHIP 6 SOUTH, RANGE 6 EAST OF THE GILA AND SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 30;

THENCE SOUTH 00 DEGREES 00 MINUTES 08 SECONDS EAST, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 30.00 FEET;

THENCE DEPARTING SAID WEST LINE AND RUNNING NORTH 89 DEGREES 49 MINUTES 06 SECONDS EAST (RECORD), NORTH 89 DEGREES 49 MINUTES 01 SECONDS EAST (MEASURED), ALONG A LINE WHICH IS 30.00 FEET SOUTH OF AND PARALLEL WITH THE EAST-WEST MID-SECTION LINE OF SAID SECTION 30, A DISTANCE OF 1222.71 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID PARALLEL LINE NORTH 89 DEGREES 49 MINUTES 06 SECONDS EAST (RECORD), NORTH 89 DEGREES 49 MINUTES 01 SECONDS EAST (MEASURED), A DISTANCE OF

1332.31 FEET TO A POINT ON THE NORTH-SOUTH MID-SECTION LINE OF SAID SECTION 30;

THENCE CONTINUING ALONG SAID PARALLEL LINE NORTH 89 DEGREES 48 MINUTES 58 SECONDS EAST (RECORD), NORTH 89 DEGREES 49 MINUTES 13 SECONDS EAST (MEASURED), A DISTANCE OF 195.80 FEET;

THENCE RUNNING SOUTH 00 DEGREES 00 MINUTES 08 SECONDS EAST, A DISTANCE OF 570.04 FEET;

THENCE RUNNING SOUTH 89 DEGREES 48 MINUTES 58 SECONDS WEST, A DISTANCE OF 197.05 FEET TO A POINT ON THE NORTH-SOUTH MID-SECTION OF SAID SECTION 30;

THENCE RUNNING SOUTH 89 DEGREES 49 MINUTES 06 SECONDS WEST, A DISTANCE OF 1331.07 FEET;

THENCE RUNNING NORTH 00 DEGREES 00 MINUTES 08 SECONDS WEST, A DISTANCE OF 570.03 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

LEGAL DESCRIPTION AND DEPICTION OF NEW EASEMENT PREMISES

[Attached – 4 pages]

Wood, Patel & Associates, Inc.
602.335.8500
www.woodpatel.com

April 11, 2023
WP #225394.81
Page 1 of 4

LEGAL DESCRIPTION
SEC Thornton Road and Ash Avenue
Electric Easement

A portion of Parcel No. 1 and Parcel No. 2, recorded in Fee Number 2014-062313, Pinal County Records (PCR), lying within Section 30, Township 6 South, Range 6 East, of the Gila and Salt River Meridian, Pinal County, Arizona, more particularly described as follows:

COMMENCING at the southwest corner of said Section 30, a 3-inch brass cap in handhole, from which the west quarter corner of said section, a 3-inch City of Casa Grande brass cap in handhole, bears North $00^{\circ}03'31''$ West (basis of bearing), a distance of 2639.93 feet;

THENCE along the west line of said section, North $00^{\circ}03'31''$ West, a distance of 2039.92 feet, to the southwest corner of said Parcel No. 1;

THENCE leaving said west line, along the south line of said Parcel No. 1, North $89^{\circ}45'34''$ East, a distance of 134.86 feet, to the east line of that certain Electric Easement recorded in Book 2, page 133, PCR and the **POINT OF BEGINNING**;

THENCE leaving said south line, along said east line, North $00^{\circ}07'20''$ West, a distance of 560.00 feet, to the south line of the north 40 feet of the south half of said section;

THENCE leaving said east line, along said south line, North $89^{\circ}45'34''$ East, a distance of 2420.70 feet, to the north-south mid-section line of said section;

THENCE leaving said mid-section line, North $89^{\circ}45'41''$ East, a distance of 195.82 feet, to the east line of said Parcel No. 2;

THENCE leaving said south line, along said east line, South $00^{\circ}03'25''$ East, a distance of 10.00 feet, to the south line of the north 50 feet of the south half of said section;

THENCE leaving said east line, along said south line, South $89^{\circ}45'41''$ West, a distance of 195.84 feet, to the north-south mid-section line of said section;

THENCE leaving said mid-section line, South $89^{\circ}45'34''$ West, a distance of 2410.66 feet;

THENCE leaving said south line, South $00^{\circ}07'20''$ East, a distance of 550.00 feet, to the south line of said Parcel No. 1;

**Legal Description
SEC Thornton Road and Ash Avenue
Electric Easement**

April 11, 2023
WP #225394.81
Page 2 of 4

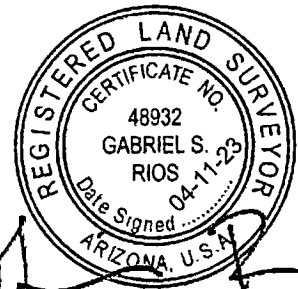
THENCE along said south line, South 89°45'34" West, a distance of 10.00 feet, to the **POINT OF BEGINNING**.

Containing 31,665 square feet or 0.7269 acres, more or less.

Subject to existing right-of-ways and easements.

This parcel description is based on client provided information and is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of December, 2022. Any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum-Standards dated 02/14/2002) of said positions based on said survey.

Y:\WP\Parcel Descriptions\2022\225394.81 SEC Thornton Rd & Ash Ave Electric Easement L01 04-11-23.docx



EXPIRES 12-31-23

THORNTON ROAD

(BASIS OF BEARING)
N00°03'31"W 2639.93'

WEST 1/4 CORNER
SECTION 30, T6S, R6E
3" COCG BCH

N89°45'34"E 2555.03'

ASH AVENUE

EX 100' EE
BK 2, PG 133, PCR

THORNTON & ASH LLC
APN 507-12-011P
FEE NO. 2014-062313, PCR

THORNTON & ASH LLC
APN 507-12-011Q
FEE NO. 2014-062313, PCR

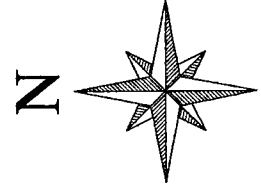
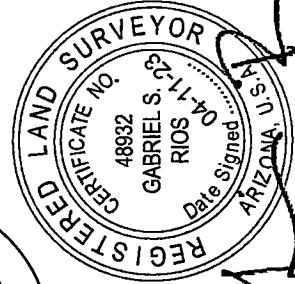
THORNTON & ASH LLC
APN 507-12-011R
FEE NO. 2014-062313, PCR

EAST 1/4 CORNER
SECTION 30, T6S, R6E
3" BCH

N89°45'41"E 2648.18'

SOUTHWEST CORNER
SECTION 30, T6S, R6E
3" BCH, ILLEGIBLE
POC

WOOD
PATEL



SEC THORNTON ROAD AND ASH AVENUE
ELECTRIC EASEMENT

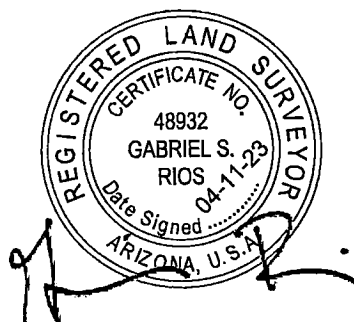
04/11/2023
WP# 225394.81
PAGE 3 OF 4
NOT TO SCALE

Z:\2022\225394\Survey\Legal\5394-L01.dwg

EXPIRES 12-31-23

EASEMENT LINE TABLE		
LINE	BEARING	DISTANCE
L1	N89°45'34"E	134.86'
L2	N00°07'20"W	560.00'
L3	N89°45'34"E	2420.70'
L4	N89°45'41"E	195.82'
L5	S00°03'25"E	10.00'
L6	S89°45'41"W	195.84'
L7	S89°45'34"W	2410.66'
L8	S00°07'20"E	550.00'
L9	S89°45'34"W	10.00'

**WOOD
PATEL**



EXPIRES 12-31-23

SEC THORNTON ROAD AND ASH AVENUE
ELECTRIC EASEMENT

04/11/2023

WP# 225394.81

PAGE 4 OF 4

NOT TO SCALE

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