

## EXHIBIT 1

All correspondence pertaining to this  
Easement must include reference to:  
FILE NO: EO-10400  
CONTRACT NO: N62473-18-RP-00060

Prepared by Department of the Navy  
Naval Facilities Engineering Command SW  
1220 Pacific Highway, Real Estate Division  
San Diego, CA 92132-5190

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### GRANT OF EASEMENT

THIS INDENTURE is made this \_\_\_\_\_ day of March, 2018, between the UNITED STATES OF AMERICA, the grantor, hereinafter called the GOVERNMENT, represented by the Commanding Officer, Naval Facilities Engineering Command, acting by and through the Secretary of the Navy, and City of Yuma, a municipal corporation of the State of Arizona hereinafter called the GRANTEE.

WHEREAS, the GOVERNMENT owns that certain real property identified in Exhibit "A", a fee simple parcel of land situated at the U. S. Marine Corps Air Station Yuma, located in Yuma Arizona, hereinafter called the Installation; and

WHEREAS, the GRANTEE has requested an easement for the construction, installation, operation, maintenance, repair, and replacement of a road (the "Road"), which will be used by the GRANTEE on, in, through, under, upon, across and over that portion of the Installation hereinafter described; and

WHEREAS, the Secretary of the Navy has found that the granting of such an easement on the terms and conditions hereinafter stated is not incompatible with the public interest;

NOW THEREFORE, this INDENTURE witnesseth that, pursuant to the authority of 10 U.S.C. § 2668, hereby grants to the GRANTEE and its successors and assigns, for a period of 50 years from the date hereof, an easement for the construction, installation, operation, maintenance, repair, and replacement of the Road, such easement being on, in, through, under, upon, across and over that portion of the Installation hereinafter called the PREMISES, containing 1.19 acres, more or less, and more specifically described in Exhibit "A", attached hereto and made a part hereof.

THIS EASEMENT is granted subject to the following terms and conditions, which GRANTEE, by its acceptance hereof, specifically agrees to and consents to be bound by:

1. CONSIDERATION. Cash Consideration is waived in this instance as the Road benefits the GOVERNMENT. Consideration provided by GRANTEE is in the form of allowing GOVERNMENT to use the Road, resulting in the benefit of improved traffic flow to and from the Installation.

2. ACCESS BY GRANTEE. The GOVERNMENT grants to the GRANTEE the right to use the PREMISES, together with the necessary rights of ingress and egress authorized by the Installation Commanding Officer. The GRANTEE and its invitees and contractors agree to absorb all costs, including time and expense, associated with gaining access to the Installation under the RAPIDGATE or similar program. Any parking that accompanies the use of, and any routes of access to and from, the PREMISES are subject to change at the sole discretion of the Installation Commanding Officer. Access to the installation by GRANTEE's employees, contractors, agents and invitees, is subject to any required Installation background and vetting requirements.

3. USE BY GOVERNMENT. The GOVERNMENT may use the PREMISES of this Easement for any purpose that does not unreasonably interfere with the use and enjoyment by the GRANTEE of the rights granted by this Easement.

4. SUBJECT TO EXISTING AND FUTURE EASEMENTS. This Easement is granted subject to all other existing easements, if any, of public record, and to such utility lines, roadways, or other improvements as may now be located on, over, or under the PREMISES. This Easement is subject to all existing easements, all other outstanding rights, recorded and unrecorded, and to all such utility lines, roadways, or other improvements as may be located on, in, under, across, through and over the PREMISES, and to the right of the GOVERNMENT to grant such additional easements and rights of way on, in, under, across, through and over the PREMISES as it shall determine to be in the public interest, provided that such additional easements and rights of way will not unreasonably interfere with the GRANTEE's use of the PREMISES in accordance with this Easement.

5. APPROVAL OF PLANS. All work performed by the GRANTEE, its agents, or contractors in connection with the construction, installation, operation, maintenance, repair, and replacement of the Road shall be done without cost or expense to the GOVERNMENT and in accordance with plans previously approved by the Real Estate Contracting Officer, Naval Facilities Engineering Command, or his/her designated local representative.

6. RESTORATION. Upon completion of any work performed in or upon the PREMISES, GRANTEE, at its own expense, shall remove all equipment and unused or surplus materials, if any, and shall restore the PREMISES to the same, or as good a condition as existed prior to the initiation of such work, and in a manner satisfactory to the GOVERNMENT as determined by the Real Estate Contracting Officer, Naval Facilities Engineering Command, or his/her designated local representative.

7. PROTECTION AND MAINTENANCE OF PREMISES. The GRANTEE, at its own cost and expense, shall maintain the PREMISES and the Road in good condition at all times and shall promptly make all repairs that may be necessary for the preservation of the condition of the PREMISES and the continued operation and maintenance of the ROAD.

8. DAMAGE TO THE PREMISES. GRANTEE, at its expense, shall repair or restore any damage to GOVERNMENT property that may occur during the construction, operation,

maintenance, repair and replacement of the Road in a manner satisfactory to the GOVERNMENT as determined by the Real Estate Contracting Officer, Naval Facilities Engineering Command, or his/her designated local representative. GRANTEE, its employees, authorized agents and contractors shall reimburse the GOVERNMENT for any and all actual costs, direct and indirect, incurred by the GOVERNMENT as a result of any damage to the PREMISES caused by their individual or collective actions.

9. APPLICABLE RULES AND REGULATIONS. The GRANTEE's rights hereunder shall be subject to such reasonable rules and regulations as may be prescribed by the GOVERNMENT to assure that the exercise of those rights will not unreasonably interfere with the GOVERNMENT's activities at the Installation. The GRANTEE shall adhere to all GOVERNMENT imposed security rules and regulations in the exercise of such rights.

10. INDEMNIFICATION. GRANTEE shall indemnify and defend the GOVERNMENT against, and hold the GOVERNMENT harmless from, any costs, expenses, liabilities, fines, suits, actions, damages, liability and cause of action arising or growing out of, or in any way connected with, the occupation or use of the PREMISES by the GRANTEE and its employees, agents, servants, guests, and invitees. However, this liability shall not extend to matters caused by the GOVERNMENT's negligent or willful acts. This provision shall survive the expiration or termination of this Easement and GRANTEE's obligations hereunder shall apply whenever the GOVERNMENT incurs costs or liabilities for the GRANTEE's actions.

11. GRANTEE'S RESPONSIBILITY. The GOVERNMENT shall not be responsible for damages to property or injuries to persons that may arise from, or be incident to, the use and occupation of the PREMISES by the GRANTEE, or for damages to the property or injuries to the persons of the GOVERNMENT's officers, agents, servants, or employees, or others who may be on the PREMISES at their invitation or the invitation of any one of them arising from or incident to governmental activities except as permitted under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680.

12. ROAD CONNECTIONS / GOVERNMENT RESERVATION. The GOVERNMENT reserves the right to make whatever connections between the Road herein authorized and other roads on the Installation that the GOVERNMENT may consider necessary. It also reserves to itself easements for all purposes on, in, through, under, upon, across and over the PREMISES; provided, however, that such reserved easements shall be used in a manner that will not unreasonably interfere with the use and enjoyment by the GRANTEE of the easement rights granted herein.

13. ROAD SURFACE AND DESIGN. The Roadway design, as well as storm water structures shall be done in accordance with The City of Yuma's currently adopted engineering and construction standards.

14. ENVIRONMENTAL PROVISIONS.

a. GRANTEE shall comply with all applicable environmental laws, ordinances, rules, and regulations and all other Federal, state, and local laws, ordinances, regulations, and standards that are or may become applicable to GRANTEE's activities on the PREMISES.

b. GRANTEE shall be, at its sole cost and expense, solely responsible for obtaining any environmental permits required for its activities on the PREMISES.

c. GOVERNMENT's rights under this Easement specifically include the right for its representatives to inspect the PREMISES upon reasonable notice for compliance with environmental, safety, and occupational health laws and regulations, whether or not the GOVERNMENT is responsible for enforcing them. The inspections shall be made without prejudice to the right of duly constituted enforcement officials to make them. The GRANTEE shall have no claim on account of any entries against the United States or any of its officers, agents, employees, contractors, or subcontractors.

d. Storage, treatment, or disposal of toxic hazardous materials on the PREMISES is prohibited except as authorized by the GOVERNMENT in accordance with 10 U.S.C. § 2692.

e. The GRANTEE will not use Installation accumulation points for hazardous and other wastes or permit its hazardous wastes to be commingled with hazardous waste of the GOVERNMENT.

f. The GRANTEE shall be solely responsible for the release, or substantial threat of a release, into the environment of any hazardous substance, pollutant or contaminant as the result of any activity under this Easement, and any preceding easements, licenses, or rights-of-way. Any reporting, containment, removal, or other remedial action relating to a release or threat of release required by law or regulation shall also be the responsibility of the GRANTEE.

g. The GRANTEE agrees to comply with the provisions of any health or safety plan in effect under the Installation Restoration Plan (IRP) or the Resource Conservation Recovery Act (RCRA) Corrective Action Program during the course of any of the above described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will be, to the extent practicable, coordinated with representatives designated by the GOVERNMENT. The GRANTEE shall have no claim on account of any entries against the United States or its officers, agents, employees, contractors, or subcontractors. In addition, GRANTEE shall comply with all applicable Federal, state and local occupational safety and health regulations.

h. GRANTEE shall, to the extent permitted under applicable law, indemnify and hold harmless GOVERNMENT from, and defend GOVERNMENT against, any damages, costs, expenses, liabilities, fines, suits, actions, or penalties resulting from releases, discharges, emissions, spills, storage, treatment, disposal, or other acts or omissions by GRANTEE, its officers, employees, agents, contractors, licensees, or the invitees. This Paragraph shall survive the expiration or termination of this Easement, and the GRANTEE's obligations under this Paragraph shall apply whenever the GOVERNMENT incurs costs or liabilities for GRANTEE's

actions. However, this liability shall not extend to matters caused by the GOVERNMENT's negligent or willful acts.

i. The GRANTEE shall strictly comply with the hazardous waste permit, storage, handling, and disposal requirements under the Solid Waste Disposal Act or its equivalent. The GRANTEE must provide at its own expense any hazardous waste storage facilities, complying with all laws and regulations that it may need for storage. Installation hazardous waste storage facilities will not be available to the GRANTEE.

j. GRANTEE shall manage the natural and cultural resources on the PREMISES in a manner that is consistent with the policies and objectives of the Installation's Integrated Natural Resource Management Plan and Integrated Cultural Resource Management Plan. GRANTEE shall identify any activity that may affect Federally regulated resources (listed species, wetlands, waters of the United States, etc.) and provide information and mitigation that may be required to support consultation with the applicable regulatory agency.

k. GRANTEE shall, during the construction, installation, operation, maintenance, and repair of the Road, upon inadvertently discovering Native American human remains, funerary objects, sacred objects, objects of cultural patrimony, as those terms are defined in 43.C.F.R. § 10.2(d), immediately notify by telephone the Installation Public Works Officer at (928) 269-3523, followed by written confirmation. The GRANTEE shall cease all activity in the area of the inadvertent discovery until directed otherwise by the Installation. Additionally, the GRANTEE shall take all reasonable efforts to protect any Native American human remains, funerary objects, sacred objects, objects of cultural patrimony, discovered consistent with 43 C.F.R. § 10.

#### 15. ENVIRONMENTAL CONDITION OF PROPERTY.

a. An Environmental Condition of Property (ECP) has been prepared as of the start date of this Easement to document the known environmental condition of the property. It is attached hereto as Exhibit "B" and made a part hereof. At the termination or expiration of this Easement, another ECP shall be prepared to note the environmental condition of the property at that time. A comparison of the two ECP documents shall be made to determine the extent, if any, of liability on the part of the GRANTEE.

b. For purposes of this Easement the following terms shall have the following meanings:

(1) "Toxic or Hazardous Materials" means all manner of substances, pollutants, contaminants, and waste to which Applicable Environmental Laws pertain, expressly including petroleum, petroleum products, and materials defined in 48 C.F.R. § 252.223-7006 (a)(ii) and (iii).

(2) "Contamination" means a level of Toxic or Hazardous Materials in the air, soil, or water (surface water or ground water), that exceeds levels allowed by Applicable Environmental Laws.

(3) "Applicable Environmental Laws" means:

(a) Federal, state, and local statutes, laws, ordinances, rules, and regulations, to which the GOVERNMENT is made subject by Federal law or to which the GRANTEE is made subject by Federal and state law;

(b) Executive Orders of the President of the United States;

(c) Decisions of courts and administrative tribunals of competent jurisdiction;

(d) Administrative orders of regulatory agencies of competent jurisdiction (involuntary or on consent); and

(e) Regulations and directives of the Department of Defense, the Department of the Navy, and the Marine Corps (for Marine Corps installations only),

which pertain to the human environment (as defined in the National Environmental Policy Act of 1969); transportation of hazardous material; and human health and safety (including occupational safety).

(4) Applicable Environmental Laws include, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Material Transportation Act (49 U.S.C. § 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq.), the Clean Air Act (42 U.S.C. § 7401, et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.), the Occupational Safety and Health Act (29 U.S.C. § 651, et seq.), and 10 U.S.C. § 2692, as amended.

(5) "Release" means any discharge, spill, emission, leaking, pumping, injection, excavation, deposit, disposal, leaching, or migration into the environment, accidental or otherwise, or introduction into the environment by any other means or method.

(6) "Remedial Action" means: investigating or monitoring the environmental condition of the PREMISES and clean-up, removal, response (including emergency response), and restoration of the PREMISES, as per Applicable Environmental Laws, due to the presence or suspected presence of Contamination or a Release or suspected Release of Toxic or Hazardous Materials.

c. If during the term of this Easement the GRANTEE becomes aware that a Release of Toxic or Hazardous Materials has occurred due to acts or omissions of the GRANTEE, its agents, or contractors, whether or not such Release results in Contamination of the PREMISES, the GRANTEE will give verbal notice to the GOVERNMENT within 24 hours of becoming aware of the Release, providing all relevant facts and circumstances. The GOVERNMENT may direct the GRANTEE to make a detailed written report of these facts and circumstances within a time certain.

d. The GRANTEE, at its sole expense, will promptly take all action necessary to comply with applicable Environmental Laws pertaining to a Release described in subparagraph 15(b),

including but not limited to: report the occurrence to appropriate Federal, state, or local regulatory authorities, if so directed by the GOVERNMENT; take timely and effective steps to minimize the Release and its impact on human health and the environment; and take Remedial Action. The GOVERNMENT may direct the GRANTEE to provide all information requested by the GOVERNMENT regarding such actions within a time certain.

e. The GRANTEE will ensure that all activities conducted on the PREMISES by the GRANTEE, its agents, or contractors are carried out in compliance with applicable Environmental Laws. The GRANTEE will provide verbal notice to the GOVERNMENT within 24 hours of receiving any complaint, order, directive, claim, citation, or notice from any governmental authority or any other person or entity alleging noncompliance with or a violation of Applicable Environmental Laws on the PREMISES. The GRANTEE, at its sole expense, will promptly take all necessary action directed by Federal, state, or local regulatory authorities of competent jurisdiction to achieve or regain compliance with Applicable Environmental Laws. The GOVERNMENT may direct the GRANTEE to make a detailed written report, within a time certain, of the facts and circumstances underlying the alleged noncompliance or violation. Without limitation of the foregoing, the GOVERNMENT, in response to acts or omissions of the GRANTEE, its agents, or contractors may, in its discretion, take Remedial Action to remedy Contamination on the PREMISES or to achieve or regain compliance with applicable Environmental Laws.

f. The GOVERNMENT may at any time inspect the PREMISES or cause the PREMISES to be inspected, to assess whether the operations of the GRANTEE, its agents, or contractors are in compliance with applicable Environmental Laws. To assist in this evaluation, the GRANTEE, its agents, and contractors will provide to the GOVERNMENT, or another entity, as the GOVERNMENT may direct, for examination and copying, all relevant books, records, documents, and other material in their possession.

g. The GOVERNMENT, with good cause, may from time-to-time require the GRANTEE to conduct tests and analyses to assess whether the PREMISES are in compliance with Applicable Environmental Laws, and based on the results thereof, to so certify to the GOVERNMENT. Such tests and analyses shall be conducted in a manner satisfactory to the GOVERNMENT by recognized professionals approved by the GOVERNMENT. If the GOVERNMENT and the GRANTEE cannot reach agreement as to what tests and analyses shall be conducted, by whom, and when, the GOVERNMENT may perform such tests and analyses or cause such tests and analyses to be performed.

16. FAILURE TO INSIST ON COMPLIANCE. The failure of the GOVERNMENT to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of this Easement shall not be construed as a waiver or relinquishment of GOVERNMENT'S right to the future performance of any such terms, covenants or conditions and GRANTEE's obligations for their future performance shall continue in full force and effect.

17. FEDERAL FUNDS. This Easement does not obligate the GOVERNMENT to expend any appropriated funds.

18. ASSIGNMENT / TRANSFER OF RIGHTS. The GRANTEE shall not transfer or assign this Easement or any interest in it, or otherwise make any portion of, or rights in, the PREMISES available to any party without the prior consent of the GOVERNMENT. If any assignment is made, with or without consent, the assignee shall be deemed to have assumed all of the obligations of the GRANTEE. However, in no event shall the GRANTEE be relieved of any of its obligations under this Easement, except for an extension of its term that begins after an assignment, and then only if the GOVERNMENT shall have consented to it.

19. TERMINATION.

a. If, at any time, the GOVERNMENT determines that the Road, or any portion thereof, unduly interferes with any of its activities, the GOVERNMENT shall have the right to terminate this Easement, in whole or in part, to the extent necessary to eliminate the interference. However, unless the GOVERNMENT shall have determined that relocation is not feasible, it shall offer to convey to the GRANTEE, without charge, a substitute easement permitting the GRANTEE to relocate the Road, or any portion thereof, on adjacent GOVERNMENT property, which relocation shall be accomplished at the GRANTEE's cost and expense. The substitute easement shall contain the same terms and conditions as those in this Easement, and shall bear the same expiration date, if any.

b. All or any part of this Easement may be terminated upon failure by the GRANTEE to comply with any of its terms and conditions; upon abandonment of the rights granted herein; or upon non-use of those rights for a period of two consecutive years. Additionally, the GOVERNMENT may terminate all or any part of this Easement in the interest of anti-terrorism force protection or national security.

20. ADMINISTRATIVE COSTS AT EXPIRATION/TERMINATION OF EASEMENT. At the termination or expiration of this Easement, at the GOVERNMENT'S discretion, GRANTEE shall be responsible for administrative costs associated with completing a final inspection of the premises and updating the Environmental Condition of Property Report.

21. SURRENDER. Upon any termination or expiration of this Easement, the GRANTEE, at its own expense and risk, shall, unless otherwise directed by Government, promptly remove, to the extent required by the GOVERNMENT, improvements, fixtures, and equipment installed or constructed hereunder, and shall restore the PREMISES to the same or as good a condition as that which existed prior to the exercise by the GRANTEE of its rights hereunder. The restoration shall be done in a manner satisfactory to the Real Estate Contracting Officer, Naval Facilities Engineering Command, or his/her designated representative and in accordance with applicable laws and regulations. If the GRANTEE fails to remove the property as required by the GOVERNMENT, all improvements, chattels, and other items abandoned by the GRANTEE become GOVERNMENT property ninety (90) days following the date of termination or expiration. If the GOVERNMENT incurs any cost to remove the items abandoned by the GRANTEE, the GRANTEE shall reimburse the GOVERNMENT for any and all actual costs, direct and indirect, incurred by the GOVERNMENT.



22. TEMPORARY CLOSURE. Section 3 notwithstanding, GOVERNMENT, acting through the Installation Commander, may temporary close the Road and limit its use to Government and state or local emergency responders in the event that emergency access is required because of a natural disaster or other occurrence requiring a major emergency response, including, but not limited to, an earthquake, fire, national security threat, or hazardous waste spill.

23. STATEMENT OF COMPLIANCE. Pursuant to 10 U.S.C. § 2662(d):

- a. This Easement is not subject to the requirements of this section; or,
- b. This Easement is subject to the requirements of this section and said requirements have been met.

24. ADDITIONS, MODIFICATIONS AND DELETIONS. Prior to the execution of this Easement, the following additions, modifications and deletions were made:

FILE NO: EO-10400  
CONTRACT NO: N62473-18-RP-00060

IN WITNESS WHEREOF, the parties hereto have caused this GRANT OF EASEMENT to be executed by their duly authorized representatives as of the day and year first written above.

**UNITED STATES OF AMERICA**

By: \_\_\_\_\_  
GREG MAGNUSON  
Real Estate Contracting Officer  
Naval Facilities Engineering Command,  
FEC

STATE OF CALIFORNIA            )  
  )  
CITY/COUNTY OF SAN DIEGO    )

The foregoing document was acknowledged before me, this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires \_\_\_\_\_.  
Registration No. \_\_\_\_\_.

FILE NO: EO-10400  
CONTRACT NO: N62473-18-RP-00060

**GRANTEE – CITY OF YUMA**

By: \_\_\_\_\_  
GREGORY K. WILKINSON  
City Administrator

ATTESTED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lynda L. Bushong, City Clerk

\_\_\_\_\_  
Richard W. Files, City Attorney

STATE OF ARIZONA       )  
  )  
COUNTY OF YUMA       )

The foregoing document was acknowledged before me, this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_ by Gregory K. Wilkinson, City Administrator of the City of Yuma, a municipal corporation  
of the State of Arizona (Grantee).

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires \_\_\_\_\_.  
Registration No. \_\_\_\_\_.