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JUL 28 2011

Chandler



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MEMORANDUM

Real Estate – Council Memo No. RE 12-001

DATE: JULY 28, 2011

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
PAT MCDERMOTT, ASSISTANT CITY MANAGER *PM*
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR *RJZ*
SHEINA HUGHES, CITY ENGINEER *SH* for *for*

FROM: ERICH KUNTZE, REAL ESTATE COORDINATOR *ek*

SUBJECT: ORDINANCE NO. 4253 AUTHORIZING THE ASSIGNMENT TO SALT RIVER PROJECT (SRP) OF CERTAIN EASEMENTS ACQUIRED BY THE CITY OF CHANDLER THROUGH CONDEMNATION ACTIONS FOR THE MCQUEEN ROAD (QUEEN CREEK ROAD TO RIGGS ROAD) IMPROVEMENT PROJECT; AND AUTHORIZING THE CITY MANAGER TO SIGN NECESSARY AGREEMENTS.

RECOMMENDATION: Staff recommends introduction and tentative approval of Ordinance No. 4253 authorizing the assignment to Salt River Project (SRP) of certain easements acquired by the City of Chandler through condemnation actions for the McQueen Road (Queen Creek Road to Riggs Road) Improvement Project; and authorizing the City Manager to sign necessary agreements.

BACKGROUND/DISCUSSION: On November 20th, 2008, City Council approved Resolution No. 4238, authorizing condemnation proceedings as needed to acquire real property for the McQueen Road (Queen Creek Road to Riggs Road) Improvement Project (the “Project”). Condemnation proceedings were necessary in order to acquire real property rights needed at the northeast corner of McQueen Road and Queen Creek Road. The road widening improvements at this location will impede SRP’s ability to safely access their well site that adjoins the west side of the Consolidated Canal from Queen Creek Road. As a consequence of the road widening improvements, it was necessary to include in the condemnation proceedings, the acquisition of an exclusive well site easement to replace a portion of the existing well site easement that will no

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longer be accessible due to the road widening improvements; a well site ingress/egress easement that will enable SRP to safely access the well site, via the Consolidated Canal, from the north; and a temporary construction easement to provide SRP access to complete modifications to the well site necessitated by the Project.

The easements conveyed to the City through a Final Order of Condemnation and an Amended Final Order of Condemnation are now ready to be assigned. Upon recording the assignment, the City will have no further obligation, responsibility, or liability; and no further rights, pursuant to or because of the easements.

FINANCIAL IMPLICATIONS:

Cost: N/A

Savings: N/A

Long Term Costs: N/A

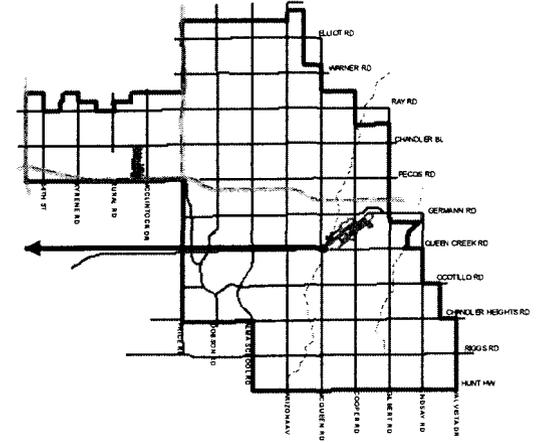
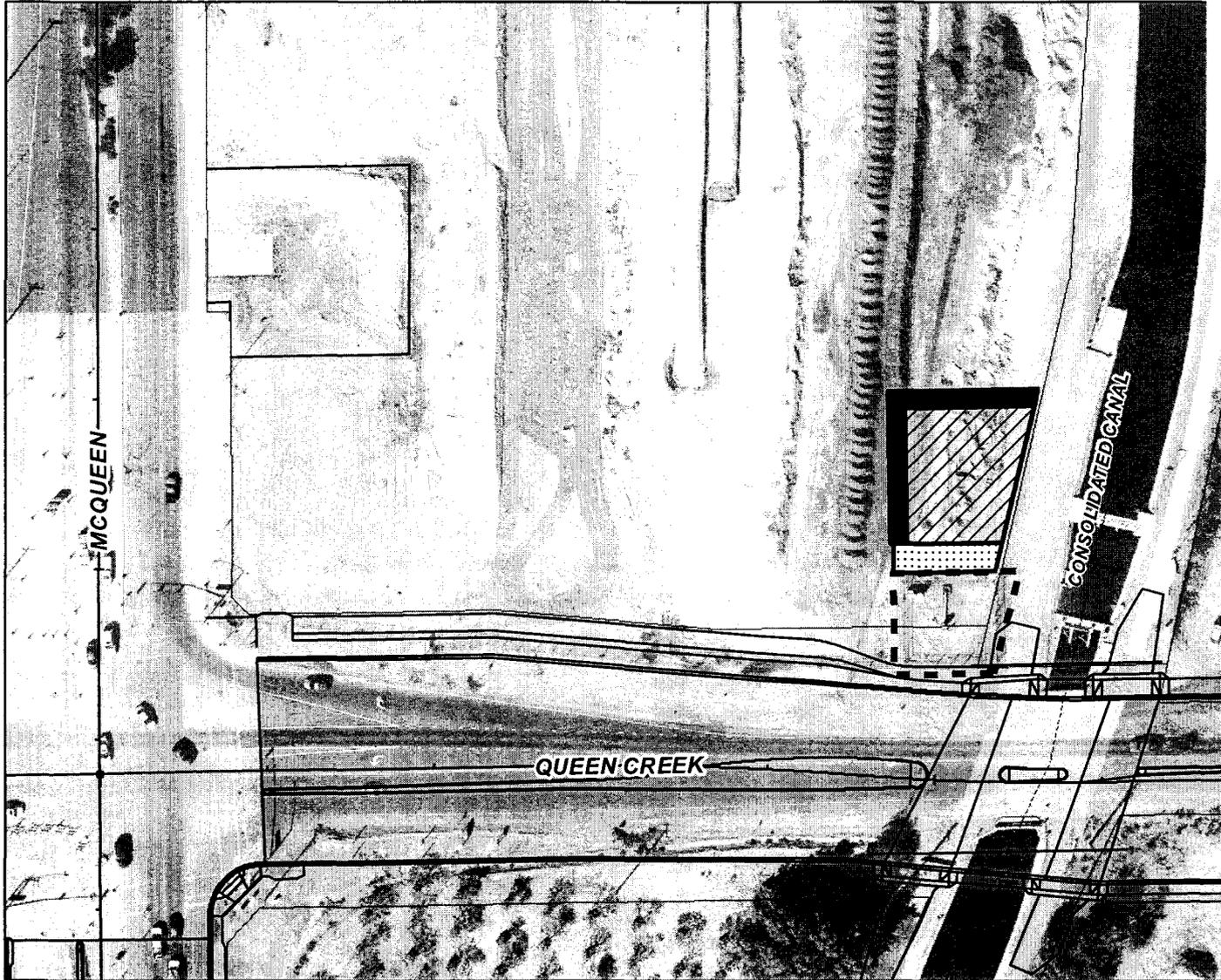
PROPOSED MOTION: Move that Council introduce and tentatively approve Ordinance No. 4253 authorizing the assignment to Salt River Project (SRP) of certain easements acquired by the City of Chandler through condemnation actions for the McQueen Road (Queen Creek Road to Riggs Road) Improvement Project; and authorizing the City Manager to sign necessary agreements.

Attachments: Map
Ordinance No. 4253
Assignment of Easement
Final Order of Condemnation



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EASEMENTS TO BE ASSIGNED



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ORDINANCE NO. 4253

- IMPROVEMENTS
- - EXISTING WELL SITE
- INGRESS EGRESS EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT
- WELL SITE EASEMENT



ORDINANCE NO. 4253

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE ASSIGNMENT TO SALT RIVER ("SRP") PROJECT OF CERTAIN EASEMENTS ACQUIRED BY THE CITY OF CHANDLER THROUGH CONDEMNATION ACTIONS FOR THE MCQUEEN ROAD (QUEEN CREEK ROAD TO RIGGS ROAD) IMPROVEMENT PROJECT.

WHEREAS, on November 20th, 2008, City Council approved Resolution 4238, authorizing condemnation proceedings as needed to acquire real property for the McQueen Road (Queen Creek Road to Riggs Road) Improvement Project (the "Project"); and

WHEREAS, the City of Chandler filed a condemnation action to acquire real property rights necessary to widen the roadway at the northeast corner of McQueen Road and Queen Creek Road; and

WHEREAS, the real property rights acquired at the northeast corner of McQueen Road and Queen Creek Road include an exclusive well site easement to replace a portion of an existing SRP well site easement that will no longer be safely accessible from Queen Creek Road due to the road widening improvements; a well site ingress/egress easement that will enable SRP to access their well site from the north via the Consolidated Canal access road; and a temporary construction easement to provide SRP access to complete modifications to the well site necessitated by the Project; and

WHEREAS, the Easements were acquired under terms that permit the recording of an assignment of said Easements directly to SRP, after which the City will have no further obligation, responsibility, liability or rights associated with the easement;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. The City may proceed to execute and record one or more agreements as needed to assign over to Salt River Project the Easements acquired by the City through a condemnation action filed in connection with the Project.

Section 2. The City Manager is authorized to execute such agreements, which shall be in form approved by the City Attorney.

INTRODUCED AND TENTATIVELY APPROVED by the City of Chandler, Arizona,
this _____ day of _____, 2011.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler,
Arizona, this _____ day of _____, 2011.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No.4253 was duly passed
and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting
held on _____ day of _____, 2011, and that a quorum was present
thereat.

CITY CLERK

PUBLISHED:

APPROVED AS TO FORM:

CITY ATTORNEY *CH*

When recorded, mail to:
Salt River Project
P.O Box 52025
Mail Station PAB 350
Phoenix, AZ 85072

ASSIGNMENT OF EASEMENTS
(McQueen Road from Queen Creek Road to Riggs Road)

THIS ASSIGNMENT OF THREE (3) EASEMENTS (the "Assignment") is made this ___ day of _____, 2011, by and between CITY OF CHANDLER, an Arizona municipal corporation, as Assignor ("City"), and SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, as Assignee ("SRP"), in order to complete all transactions and perform all acts necessary for the completion of the road project described below.

1. **Recitals.** As background to this transaction, the parties recite and acknowledge as follows:

1.1. In connection with a City road project for the widening and improvement of McQueen Road from Queen Creek Road to Riggs Road in Chandler, Arizona (the "Project"), City filed a condemnation action in the Maricopa County Superior Court to acquire roadway and easements needed for the Project that also included acquisition of three (3) easements ultimately intended for use by SRP for replacement of a portion of the well site, ingress/egress to the well site and a temporary construction easement to enable SRP access to private property to complete modifications to the well site necessitated by the Project (the "Easements"). The Easements are needed in order to remedy the Project's impacts to SRP's well site.

1.2. In the court action, a Judgment in Condemnation was entered; City satisfied its obligations under the Judgment; and a Final Order of Condemnation was entered by the Court and recorded with the Maricopa County Recorder to complete the acquisition of the property interests described in the Final Order, which included the Easements over described real property in accordance with the terms and conditions for the Easements as stated in the Final Order. In this case, the terms and conditions for the Easements provided that City could assign the easements to SRP, and, upon recording the assignment, City would have no further obligation, responsibility or liability, and no further rights, pursuant to or because of the Easements.

1.3. City and SRP, through the execution and recording of this Assignment, desire to complete the assignment to SRP of the Easements acquired through the recording of the Final Order of Condemnation entered in the condemnation action. The condemnation action is listed below by case name and number followed by the recording date and recording number for the Final Order of Condemnation:

<u>Case Name (City v. _____)</u>	<u>Case Number</u>	<u>F.O. Recording Date</u>	<u>F.O. Recording Number</u>
HAMSTRA HOLDINGS, L.L.L.P., an Arizona limited liability partnership	CV2010-000883	5/12/2010 Amended 6/30/11	2010-0404369 Amended 2011-0548159

2. **Agreement.** For Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and SRP agree as follows:

2.1. **Assignment and Acceptance.** City hereby assigns and transfers to SRP all of City's right, title and interest in and to the Easements acquired pursuant to the Final Order of Condemnation entered in the above-listed court action and subsequently recorded. SRP hereby accepts such assignment and agrees to be bound by the terms and conditions of the Easements as stated in the aforementioned Final Order of Condemnation for the above-listed court action.

2.2. **No Warranties.** City makes no warranties regarding the Assignment, the Easements, or the property affected by the Easements, except that City does warrant that the person executing this Assignment on behalf of City is authorized to do so. SRP acknowledges and agrees that City makes no warranties regarding the Assignment, the Easements, or the property affected by the easements, except as stated above. SRP does warrant that the person executing this Assignment on behalf of SRP is authorized to do so.

3. **Binding Effect.** This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date set forth above.

ASSIGNOR: CITY OF CHANDLER, an
Arizona municipal corporation

By: _____
Rich Dlugas, City Manager

Approved as to Form

City Attorney

CH

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing Assignment was acknowledged before me this ____ day of _____, 2011, by Rich Dlugas, City Manager for the City of Chandler, an Arizona municipal corporation, for the municipal corporation, being authorized so to do.

Notary Public

My Commission Expires:

ASSIGNEE: SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT AND
POWER DISTRICT, an agricultural
improvement district organized and existing
under the laws of the State of Arizona

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing Assignment was acknowledged before me this ____ day of _____, 2011, by _____, as _____ for Salt River Project Agricultural Improvement and Power District, an agricultural improvement district organized and existing under the laws of the State of Arizona, for the district, being authorized so to do.

Notary Public
My Commission Expires:
