



MEMORANDUM **Real Estate – Council Memo No. RE12-047**

DATE: OCTOBER 27, 2011

TO: MAYOR AND COUNCIL

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

FROM: ERICH KUNTZE, REAL ESTATE COORDINATOR *EK*

SUBJECT: ORDINANCE NO. 4326 GRANTING AN IRRIGATION EASEMENT TO SALT RIVER PROJECT (SRP) LOCATED AT THE NORTHEAST CORNER OF MCQUEEN ROAD AND QUEEN CREEK ROAD FOR THE MCQUEEN ROAD (QUEEN CREEK ROAD TO RIGGS ROAD) IMPROVEMENT PROJECT AT NO COST.

RECOMMENDATION: Staff recommends introduction and tentative approval of Ordinance No. 4326 granting an irrigation easement to Salt River Project (SRP) located at the northeast corner of McQueen Road and Queen Creek Road for the McQueen Road (Queen Creek Road to Riggs Road) Improvement Project at no cost.

BACKGROUND/DISCUSSION: On November 20th, 2008, City Council approved Resolution 4238, authorizing acquisition and condemnation, as needed, of property required for the McQueen Road from Queen Creek Road to Riggs Road Project ST-0810. 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 required that SRP relocate an irrigation facility along the north side of Queen Creek Road east of McQueen Road. The condemnation process is now complete and the City has acquired the right-of-way needed for the project. SRP's irrigation facilities were relocated into a portion of the new right-of-way acquired for the project. A letter was given to SRP by the City that allowed for the relocation and construction of the irrigation facilities in advance of completing the condemnation process. The letter allowed the project to move forward on time. Construction has been completed on this phase of the project.

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The easement is being granted to SRP at no cost as it was necessary to relocate the SRP facilities to accommodate a City project and benefits the Public.

FINANCIAL IMPLICATIONS:

Cost: N/A
Savings: N/A
Long Term Costs: N/A

PROPOSED MOTION: Move that Council introduce and tentatively approve Ordinance No. 4326 granting an irrigation easement to Salt River Project (SRP) located at the northeast corner of McQueen Road and Queen Creek Road for the McQueen Road (Queen Creek Road to Riggs Road) Improvement Project at no cost.

Attachments: Ordinance 4326
Map
Irrigation Easement

ORDINANCE NO. 4326

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, GRANTING AN IRRIGATION EASEMENT TO SALT RIVER PROJECT (SRP) LOCATED AT THE NORTHEAST CORNER OF MCQUEEN ROAD AND QUEEN CREEK ROAD FOR THE MCQUEEN ROAD (QUEEN CREEK ROAD TO RIGGS ROAD) IMPROVEMENT PROJECT AT NO COST

WHEREAS, on November 20th, 2008, City Council approved Resolution 4238, authorizing the acquisition and condemnation 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, in order to keep construction of the project on time the City provided a letter to SRP to allow construction of the project to move forward prior to the City being able to grant the irrigation easement to SRP; and

WHEREAS, the real has now completed the condemnation action needed to acquire the property rights at the northeast corner of McQueen Road and Queen Creek Road; and

WHEREAS, said property rights included right-of-way needed to relocate the SRP irrigation facilities; and

WHEREAS, the granting of the irrigation easement to SRP is being done at no cost as it replaces a prior SRP irrigation easement and benefits the Public.

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

Section 1. The City Council of the City of Chandler, Arizona authorizes and approves the granting of an irrigation easement as described and depicted in Exhibit "A", attached hereto and made a part hereof, at no cost, to Salt River Project.

Section 2. That the documents granting said easement shall be in a form approved by the City Attorney.

Section 3. That the Mayor of the City of Chandler, Arizo is hereby authorized to execute easement document(s) on behalf of the City.

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.4326 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 *GAB*

QUEEN CREEK SRP IRRIGATION EASEMENT EXHIBIT A LEGAL DESCRIPTION

An irrigation easement over a portion of the right-of-way of McQueen Road located in the Southwest Quarter of Section 11, Township 2 South, Range 5 East of the Gila & Salt River Meridian, City of Chandler, Maricopa County, Arizona, more particularly described as follows:

Commencing at the southwest corner of said Section 11 (3" City of Chandler brass cap in hand hole) from which point the south quarter corner thereof (3" City of Chandler brass cap flush) bears N 89°01'02" E a distance of 2647.39 feet;

Thence N 89°01'02" E, along the south line of said Southwest Quarter, a distance of 68.05 feet;

Thence N 00°58'58" W, across the right-of-way of Queen Creek Road, a distance of 55.46 feet to a point on the north line of that irrigation easement granted to the Salt River Project by deed of record in Instrument Number 2004-0621783, Maricopa County Records (MCR), the POINT OF BEGINNING;

Thence N 67°14'00" E, leaving said north easement line and across said Queen Creek Road right-of-way, a distance of 102.34 feet to a point on the north line thereof;

Thence N 89°01'02" E, along said north right-of-way line, a distance of 74.84 feet;

Thence S 85°11'34" E, continuing along said right-of-way line, a distance of 133.23 feet;

Thence across said right-of-way of Queen Creek Road the following four (4) courses and distances:

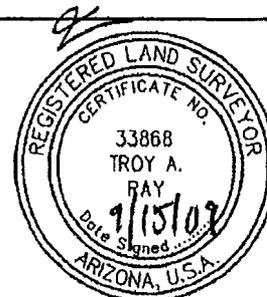
Thence S 85°11'34" E a distance of 75.47 feet;

Thence S 69°50'52" E a distance of 33.88 feet to a point on the west line of that easement granted to the Salt River Project by deed of record in Docket 9449, Page 562, MCR;

Thence S 00°58'58" E, along said west line, a distance of 10.17 feet;

Page 3 of 4

Date: 09/15/09	McQUEEN ROAD IMPROVEMENTS PROJECT No.: 28012 NEW SRP IRRIGATION EASEMENT
Preparing Firm: RITICH-POWELL & ASSOCIATES, INC. 3800 N. Central Ave., Suite 605 Phoenix, AZ 85012 Ph: 602-263-1177 Fax: 602-277-6286	



EXPIRES 6/30/2011

QUEEN CREEK SRP IRRIGATION EASEMENT EXHIBIT A LEGAL DESCRIPTION

Thence N 89°01'02" E, along a south line of said Salt River Project easement 30.00 feet south of and parallel to said north right-of-way line of McQueen Road, a distance of 44.19 feet to a point on a west line of the Consolidated Canal;

Thence S 14°48'12" W, along said west line of the Consolidated Canal, a distance of 12.73 feet;

Thence across said right-of-way of Queen Creek Road the following five (5) courses and distances:

Thence N 88°13'31" W a distance of 43.68 feet;

Thence N 69°50'52" W a distance of 35.80 feet;

Thence N 85°11'34" W a distance of 204.99 feet;

Thence S 89°01'02" W, along a line 20.00 feet south of and parallel to said north right-of-way line of McQueen Road, a distance of 69.98 feet;

Thence S 67°14'00" W a distance of 48.59 feet to a point on the north line of said Salt River Project easement (Inst No. 2004-0621783);

Thence S 89°04'26" W, along said north line, a distance of 53.76 feet to the POINT OF BEGINNING.

The above described parcel contains 0.1906 acre of land (8,301.10 s.f.), more or less, including any easements of record.

The basis of bearing for the above description is N 89°01'02" E for the south line of the Southwest Quarter of Section 11, Township 2 South, Range 5 East of the Gila & Salt River Meridian, City of Chandler, Maricopa County, Arizona as shown on the PLSS Subdivision Record of Survey-Maricopa County Geodetic Densification and Cadastral Survey recorded in Book 589, Page 48, Maricopa County Records.

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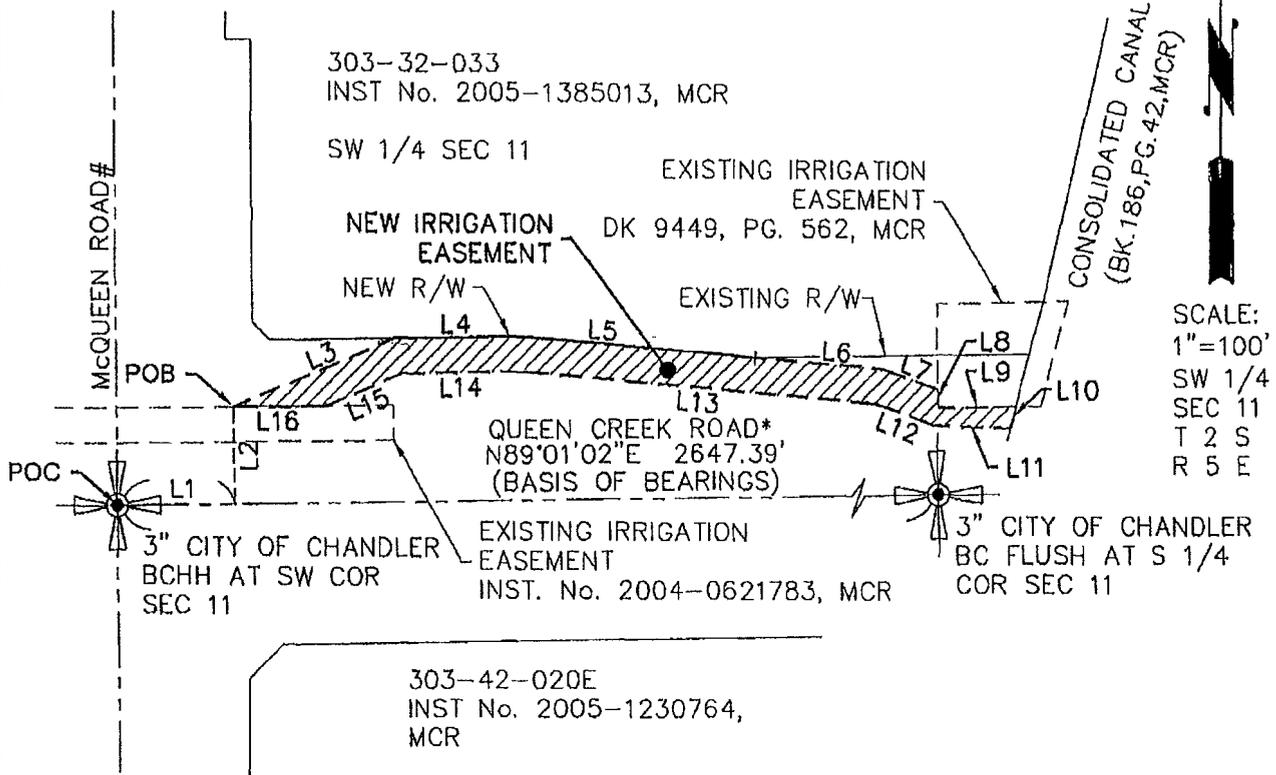
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QUEEN CREEK SRP IRRIGATION EASEMENT EXHIBIT A SKETCH



SCALE:
1"=100'
SW 1/4
SEC 11
T 2 S
R 5 E

- *INST No. #05-0435177, MCR
- *INST No. #05-0856834, MCR
- *INST No. #06-0106328, MCR
- *INST No. #01-0347875, MCR

- #INST No. #05-0435177, MCR
- #INST No. #05-0856834, MCR
- #INST No. #06-0106328, MCR

*,# = RIGHT-OF-WAY REFERENCE

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LINE TABLE		
LINE	BEARING	DISTANCE
L1	N89°01'02"E	68.05'
L2	N00°58'58"W	55.46'
L3	N67°14'00"E	102.34'
L4	N89°01'02"E	74.84'
L5	S85°11'34"E	133.23'
L6	S85°11'34"E	75.47'
L7	S69°50'52"E	33.88'
L8	S00°58'58"E	10.17'
L9	N89°01'02"E	44.19'
L10	S14°48'12"W	12.73'
L11	N88°13'31"W	43.68"
L12	N69°50'52"W	35.80'
L13	N85°11'34"W	204.99'
L14	S89°01'02"W	69.98'
L15	S67°14'00"W	48.59'
L16	S89°04'26"W	53.76'

NEW IRRIGATION EASEMENT AREA = 8,301.10 S.F.

McQUEEN ROAD IMPROVEMENTS
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 Phoenix, AZ 85012
 Ph: 602-263-1177
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WHEN RECORDED MAIL TO:

SALT RIVER PROJECT
Land Department/PAB350
P. O. Box 52025
Phoenix, Arizona 85072-2025

IRRIGATION EASEMENT

Maricopa County

R/W #1894 Agt. PJH

Job # RD-82884

W PJH C _____

KNOW ALL MEN BY THESE PRESENTS:

That

CITY OF CHANDLER, ("Grantor"),
an Arizona municipal corporation,

FOR AND IN CONSIDERATION OF THE SUM of One Dollar, and other valuable consideration, receipt of which is hereby acknowledged, do hereby grant to the **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, ("Grantee"), an agricultural improvement district organized and existing under the laws of the State of Arizona, its successors and assigns, the non-exclusive right, easement and privilege to construct, reconstruct, operate and maintain an underground irrigation pipeline and irrigation turnout structure together with all the necessary and appurtenant facilities (collectively, the "Irrigation Facilities") through, over, under and across the following described property:

Said easement being more particularly described on **EXHIBIT A**
attached hereto and by reference made a part hereof.

Grantee shall have the right, but not the obligation, to trim, cut and clear away trees or brush in the easement area whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby granted. Grantor shall be responsible for the cost of removal of any trees or brush installed by Grantor that do not comply with the specifications in Exhibit B, attached hereto.

The Grantee shall at all times have the right of full and free ingress and egress to said easement for the purpose heretofore specified.

In the event the right, privilege and easement herein granted shall be abandoned and permanently cease to be used for the purpose herein granted, all rights herein granted shall automatically cease and revert to the Grantors, their heirs and assigns. This reversion is self-executing.

However, in such event, and at Grantor's request, Grantee shall provide a quit claim deed or other recordable document sufficient to evidence the extinguishment of the easement and Grantee's interest in the real property described within this easement document.

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, successors in ownership and estate, assigns and lessees of the respective parties hereto.

Notwithstanding any of the aforesaid provisions, the easement rights granted herein shall be further subject to the following covenants, restrictions and conditions:

1. Grantor shall not erect, construct or permit to be erected or constructed any building, fence or other structure, drill any well or install swimming pools within the limits of said easement area, except Grantor reserves the right to construct, install, operate, maintain, repair, replace and reinstall surface parking areas, driveways, roadways, sidewalks, curbs and gutters, landscaping, irrigation lines, street lighting and public utilities in the easement area which comply with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof, unless agreed to by Grantee in writing.
2. Other easements or permits for public utility purposes which Grantor grants in, upon, under, over and across the easement area described herein shall provide for compliance with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof, unless agreed to by Grantee in writing.
3. In the event that any repair, maintenance, replacement or installation of the irrigation facilities and appurtenant conveniences will cause a disturbance or a disruption of any public street or paved roadway, Grantee shall notify Grantor, pursuant to existing practices, before Grantee undertakes any such action. In the event of an emergency, Grantee shall have use of any public street or paved roadway as it reasonably deems necessary and appropriate to correct, repair, replace or reconstruct irrigation facilities affected by the emergency and notify Grantor, pursuant to existing practices, as soon as practical after responding to the emergency. Grantee shall provide for advance warning signs, barricades, flagmen, flares, and other devices when necessary to protect the roadway user as set forth by the City Traffic Engineer in the latest edition of the "Manual on Uniform Traffic Control Devices", the latest edition of the Grantor's standard barricade manual, and any amendments and/or revisions thereto.
4. Grantor shall warrant and defend the rights, easements, and privileges hereby granted and the priority of this easement against all acts of the Grantor and no other, subject to any matter that may appear of record.

5. If, in its use of the easement area for any purpose, Grantee disturbs or damages any property or improvements of Grantor constructed in accordance with Exhibit B, all such property or improvements so disturbed or damaged shall be restored as close to its previous condition as is reasonably possible at the expense of Grantee.

6. Intentionally deleted

7. Nothing herein or within the attached Exhibit B shall be construed to prohibit Grantor from installing any intersecting public street or paved roadway, including any related surface parking areas, curbs and gutters, landscaping, irrigation lines, street lighting and public utilities related thereto, which intersects with and crosses over that portion of Grantor's road right of way in which the easement area lies, as indicated in the attached Exhibit A; provided, Grantor shall coordinate with Grantee to assure that such facilities will not damage or unreasonably interfere with Grantee's irrigation facilities.

IN WITNESS WHEREOF, **THE CITY OF CHANDLER**, an Arizona municipal corporation, has caused its name to be executed by its duly authorized representative(s) this _____ day of _____, 20____.

THE CITY OF CHANDLER,
an Arizona municipal corporation

By: _____

Its: _____

APPROVED AS TO FORM:

City Attorney for the
City of Chandler

GAB

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned, personally appeared _____, as _____, of **THE CITY OF CHANDLER**, an Arizona municipal corporation, and such authorized representative acknowledged that this document was executed on behalf of the corporation for the purposes therein contained.

Notary Public

My Commission Expires:

Notary Stamp/Seal

Note: This instrument is exempt from the real estate transfer fee and affidavit of legal value required under A.R.S. Sections 11-1131 and 11-1132 pursuant to the exemptions set forth in A.R.S. Sections 11-1134(A)(2) and (A)(3).

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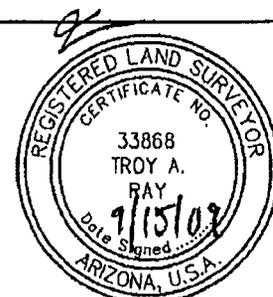
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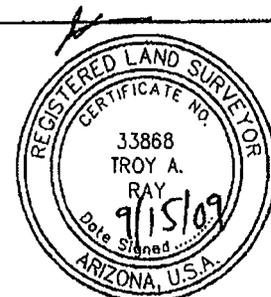
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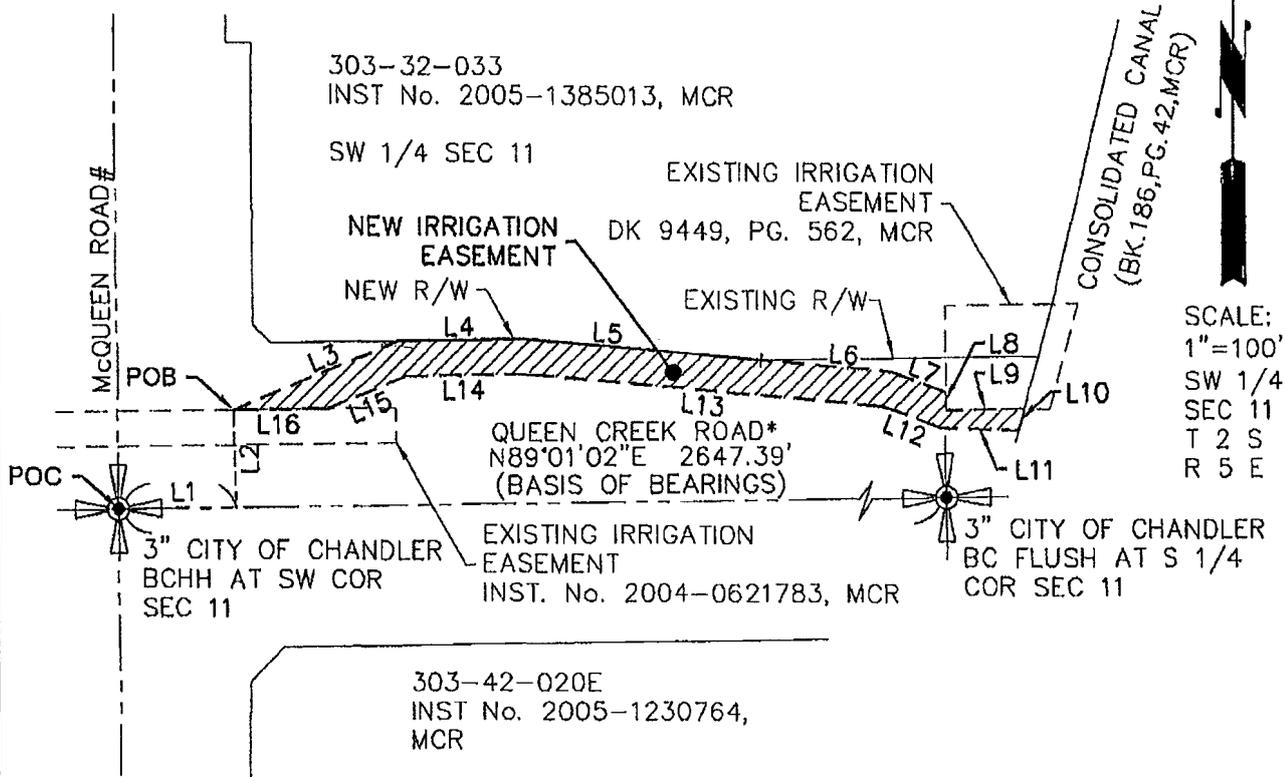
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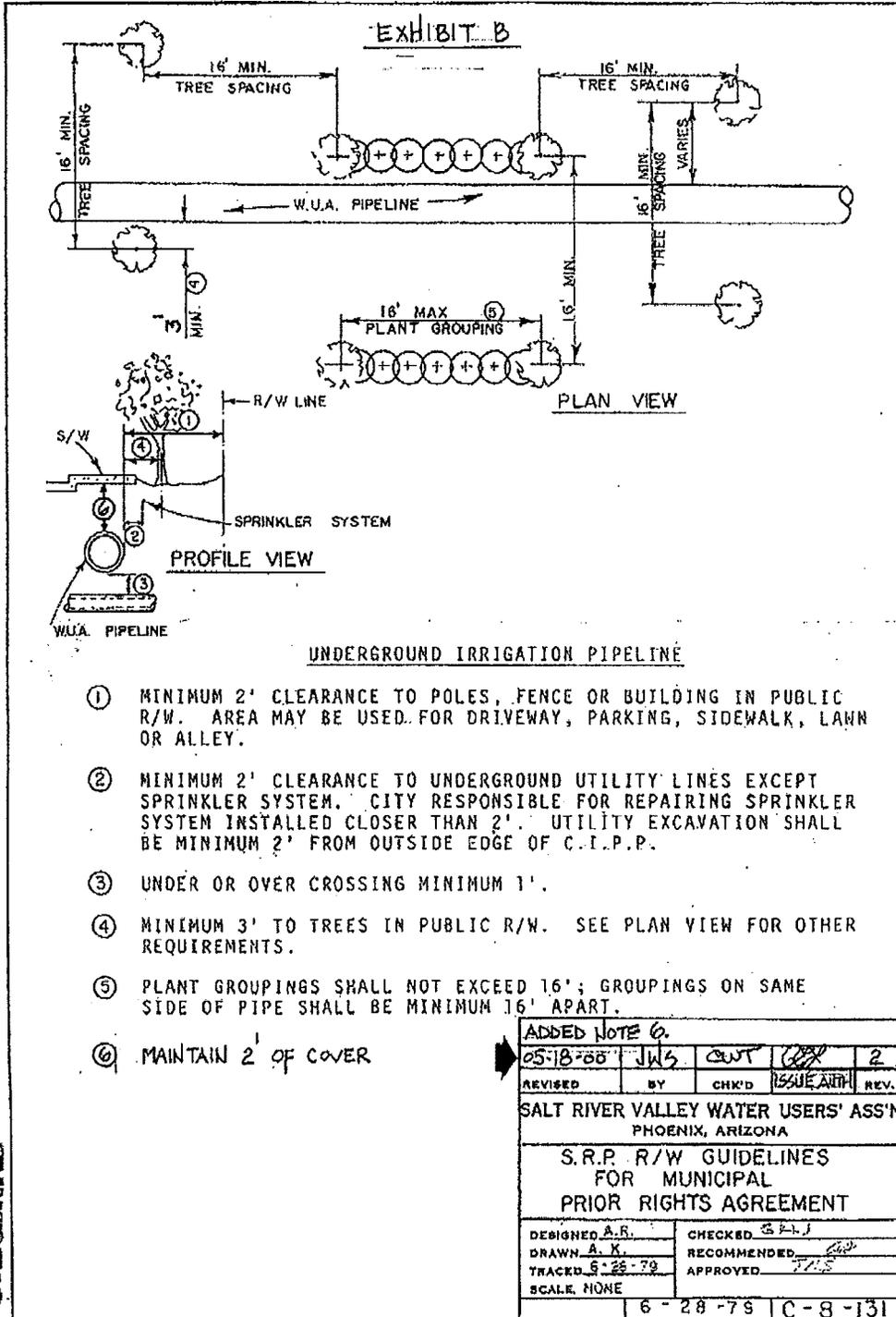
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EXHIBIT B



ORIGINAL

EXHIBIT B

IF GRANTOR (CITY) INSTALLS TREES, SHRUBBERY OR OTHER PLANTS IN A MANNER INCONSISTENT WITH EXHIBIT B, GRANTEE MAY REQUIRE GRANTOR TO REMOVE THEM AT GRANTOR'S SOLE EXPENSE. FURTHER, GRANTOR SHALL REIMBURSE GRANTEE FOR ALL COSTS INCURRED TO REMEDY ANY DAMAGE TO OR INTERFERENCE WITH ANY IRRIGATION FACILITIES, CAUSED BY ROOTS FROM TREES, SHRUBBERY OR OTHER PLANTS INSTALLED BY OR CAUSED TO BE INSTALLED BY GRANTOR, UNLESS GRANTEE REASONABLY DETERMINES THAT TIME DOES NOT PERMIT, GRANTEE SHALL PROVIDE GRANTOR WITH REASONABLE NOTICE AND A DAMAGE ESTIMATE IN ADVANCE OF INCURRING COSTS TO REMEDY ROOT PROBLEMS. WHENEVER GRANTEE HAS INCURRED SUCH COSTS WITHOUT ADVANCE NOTICE TO GRANTOR, GRANTEE SHALL PROVIDE GRANTOR WITH VISUAL EVIDENCE OF THE DAMAGE ALONG WITH GRANTEE'S REQUEST FOR REIMBURSEMENT WITHIN TEN (10) DAYS OF THE COMPLETION OF THE DAMAGE OF REPAIRS. UNLESS CAUSED BY GRANTEE NEGLIGENCE, GRANTOR SHALL INDEMNIFY AND SAVE HARMLESS GRANTEE AGAINST AND FROM ANY LIABILITY FOR CLAIMS FOR DAMAGE OR INJURY ARISING OUT OF INTERFERENCE WITH OR DAMAGE TO ANY IRRIGATION FACILITIES CAUSED BY ROOTS FROM TREES, SHRUBBERY OR OTHER PLANTS INSTALLED BY OR CAUSED TO BE INSTALLED BY GRANTOR.