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JAN 12 2012



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MEMORANDUM Real Estate – Council Memo No. RE12-095

DATE: JANUARY 12, 2012

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
PAT MCDERMOTT, ASSISTANT CITY MANAGER
DAVE SIEGEL, MUNICIPAL UTILITIES DIRECTOR *DS*
SHEINA HUGHES, CITY ENGINEER *SA*
KIM NEILL, UTILITIES OPERATION MANAGER *[Signature]*

FROM: ERICH KUNTZE, REAL ESTATE COORDINATOR *[Signature]*

SUBJECT: ORDINANCE NO. 4341 AUTHORIZING THE GRANT OF A LANDSCAPE EASEMENT TO CCI-B CHANDLER II, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AT NO COST, AND THE DEDICATION OF PUBLIC SIDEWALK, ELECTRICAL AND WATER EASEMENT FROM CITY-OWNED PROPERTY LOCATED EAST OF PRICE ROAD ON CONTINUUM STREET CHANDLER, ARIZONA, TO ACCOMMODATE THE DEVELOPMENT OF THE CONTINUUM PROJECT.

RECOMMENDATION: Staff recommends introduction and tentative approval of Ordinance No. 4341 authorizing the grant of a Landscape Easement to CCI-B Chandler II, LLC, a Delaware limited liability company, at no cost, and the dedication of a public Sidewalk, Electrical and Water Easement from City-owned property located east of Price Road on Continuum Street, Chandler, Arizona, to accommodate the development of the Continuum Project.

BACKGROUND/DISCUSSION: The City of Chandler owns a site located east of Price Road on the north side of Continuum Street that is used for water storage. The Final Plat for Continuum platted over a portion of this City owned parcel. In order to correct this oversight and to accommodate the maintenance of landscaping on the City's property by the developer, CCI-B Chandler II, LLC, it is necessary to grant them a Landscape Easement over approximately 1,686 square feet of the subject parcel.

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Additionally, and for the same platting issue, it is necessary to dedicate a Sidewalk, Electrical and Water Easement (S.E.W.) to the Public containing approximately 35 square feet at this location.

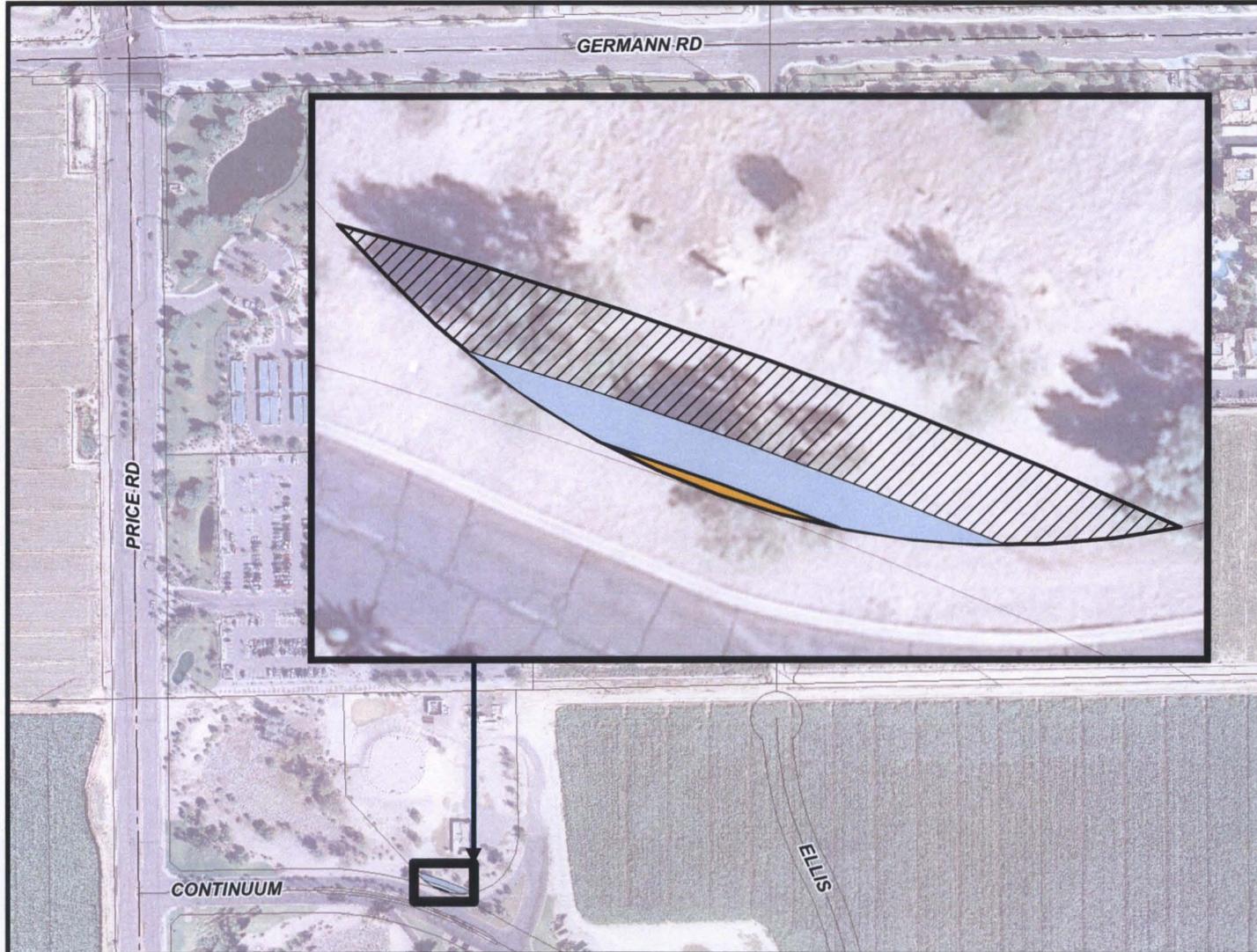
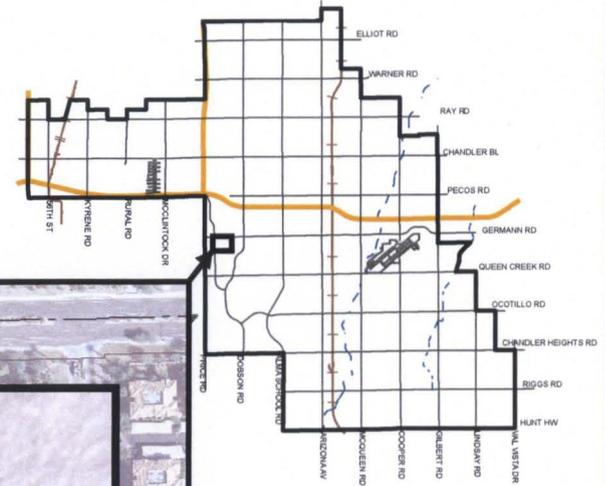
Both the Landscape Easement and S.E.W. Easement will be in a form approved by the City Attorney.

PROPOSED MOTION: Move that Council introduce and tentatively approve Ordinance No. 4341 authorizing the grant of a Landscape Easement to CCI-B Chandler II, LLC, a Delaware limited liability company, at no cost, and the dedication of a public Sidewalk, Electrical and Water Easement from City-owned property located east of Price Road on Continuum Street, Chandler, Arizona, to accommodate the development of the Continuum Project.

Attachments: Map
Ordinance No. 4341
Landscape Easement
S.E.W. Easement



GRANT A LANDSCAPE EASEMENT TO CCI B-CHANDLER LLC; AND DEDICATE A SIDEWALK, ELECTRICAL, AND WATER EASEMENT TO THE PUBLIC FOR THE CONTINUUM PROJECT



MEMO NO. RE12-095

-  SIDEWALK, ELECTRICAL, AND WATER EASEMENT
-  PUBLIC UTILITY EASEMENT
-  LANDSCAPE EASEMENT



ORDINANCE NO. 4341

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE GRANT OF A LANDSCAPE EASEMENT TO CCI-B CHANDLER II, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AT NO COST, AND THE DEDICATION OF A PUBLIC SIDEWALK, ELECTRICAL AND WATER EASEMENT FROM CITY-OWNED PROPERTY LOCATED EAST OF PRICE ROAD ON CONTINUUM STREET CHANDLER, ARIZONA, TO ACCOMMODATE THE DEVELOPMENT OF THE CONTINUUM PROJECT.

WHEREAS, the City of Chandler owns property located East of Price Road on the North side of Continuum Street in Chandler, Arizona; and

WHEREAS, the Final Plat for Continuum overlays a portion of the City owned property; and

WHEREAS, so that the developer of Continuum, CCI-B Chandler II, LLC., a Delaware limited liability company, can provide landscape maintenance on a portion of said property, it is necessary to grant them a Landscape Easement for that purpose; and

WHEREAS, it is also necessary to dedicate in trust to the public an easement for Sidewalk, Electrical and Water (S.E.W.) purposes on a portion of said property; and

WHEREAS, it is necessary for Council to authorize the dedication of the S.E.W. Easement and to grant the Landscape Easement.

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

Section 1. That the City Council of the City of Chandler, Arizona authorizes and approves the grant of a Landscape Easement to CCI-B Chandler II, LLC., a Delaware limited liability company, in and upon the property described and depicted in Exhibit "A" attached hereto and made a part hereof by this reference, and the dedication a Sidewalk, Electrical and Water Easement in and upon that property as described and depicted in Exhibit "B", attached hereto and made a part hereof by this reference.

Section 2. That the grant of the Landscape Easement and the dedication of the S.E.W. Easement shall not become effective until they have been recorded.

Section 3. That the easements shall be in a form approved by the City Attorney.

Section 4. That the Mayor of the City of Chandler, Arizona, is hereby authorized to sign of behalf of the City, all documents required and necessary to complete the grant and/or dedication of the easements including signing this Ordinance.

INTRODUCED AND TENTATIVELY APPROVED by the City Council this _____ day of _____, 2012.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council this _____ day of _____, 2012.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4341 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2012, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY *GAB*

When recorded, mail to:
City Clerk's Office
City of Chandler
Mail Stop 606
P.O. Box 4008
Chandler, AZ 85244-4008

APN: 303-36-003H
Section 7, Township 2 South, Range 5 East

This document is exempt from Affidavit and Fee requirements pursuant to A.R.S. §11-1134.A.2.

LANDSCAPE EASEMENT

For and in consideration of the sum of Ten and no/100 dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged,

CITY OF CHANDLER, an Arizona Municipal Corporation

("Grantor") do/does hereby grant and convey unto **CCI-B Chandler II, LLC., a Delaware limited liability company** the ("Grantee"), an Easement for Landscape and its appurtenances together with the right of ingress and egress for the purpose of installation, operation, maintenance and replacement over, under and across the real property situated in Maricopa County, Arizona and described in **Exhibit A** (Legal Description) and depicted in **Exhibit B** (Drawing), attached hereto and made a part hereof (the "Property").

Dated this _____ day of _____, 2012.

The City of Chandler, an Arizona municipal corporation

By: _____
Its: Mayor

EXHIBIT "A"
LANDSCAPE EASEMENT

A PORTION OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 2 SOUTH, RANGE 5 EAST, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 7, BEING MARKED BY A CITY OF CHANDLER BRASS CAP FLUSH, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 7, BEING MARKED BY A BRASS CAP, BEARS SOUTH 00 DEGREES 41 MINUTES 48 SECONDS EAST, 2634.95 FEET;

THENCE ALONG THE NORTH LINE OF SAID SECTION 7 NORTH 88 DEGREES 47 MINUTES 57 SECONDS EAST, 1741.51 FEET;

THENCE DEPARTING SAID NORTH LINE SOUTH 01 DEGREES 12 MINUTES 08 SECONDS EAST, 1317.56 FEET;

THENCE SOUTH 01 DEGREES 13 MINUTES 19 SECONDS EAST, 210.49 FEET;

THENCE SOUTH 43 DEGREES 10 MINUTES 26 SECONDS EAST, 215.14 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, FROM WHICH THE RADIUS POINT BEARS SOUTH 15 DEGREES 26 MINUTES 57 SECONDS WEST, 765.00 FEET AND ALSO BEING THE **POINT OF BEGINNING**;

THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 09 DEGREES 24 MINUTES 13 SECONDS, AN ARC LENGTH OF 125.55 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, FROM WHICH THE RADIUS POINT BEARS NORTH 11 DEGREES 06 MINUTES 47 SECONDS WEST, 120.00 FEET;

THENCE WESTERLY ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 57 DEGREES 56 MINUTES 21 SECONDS, AN ARC LENGTH OF 121.35 FEET;

THENCE NORTH 43 DEGREES 10 MINUTES 26 SECONDS WEST, 10.37 FEET TO THE **POINT OF BEGINNING**.

SAID PORTION CONTAINS 1,686 SQUARE FEET OR 0.0387 ACRES, MORE OR LESS.

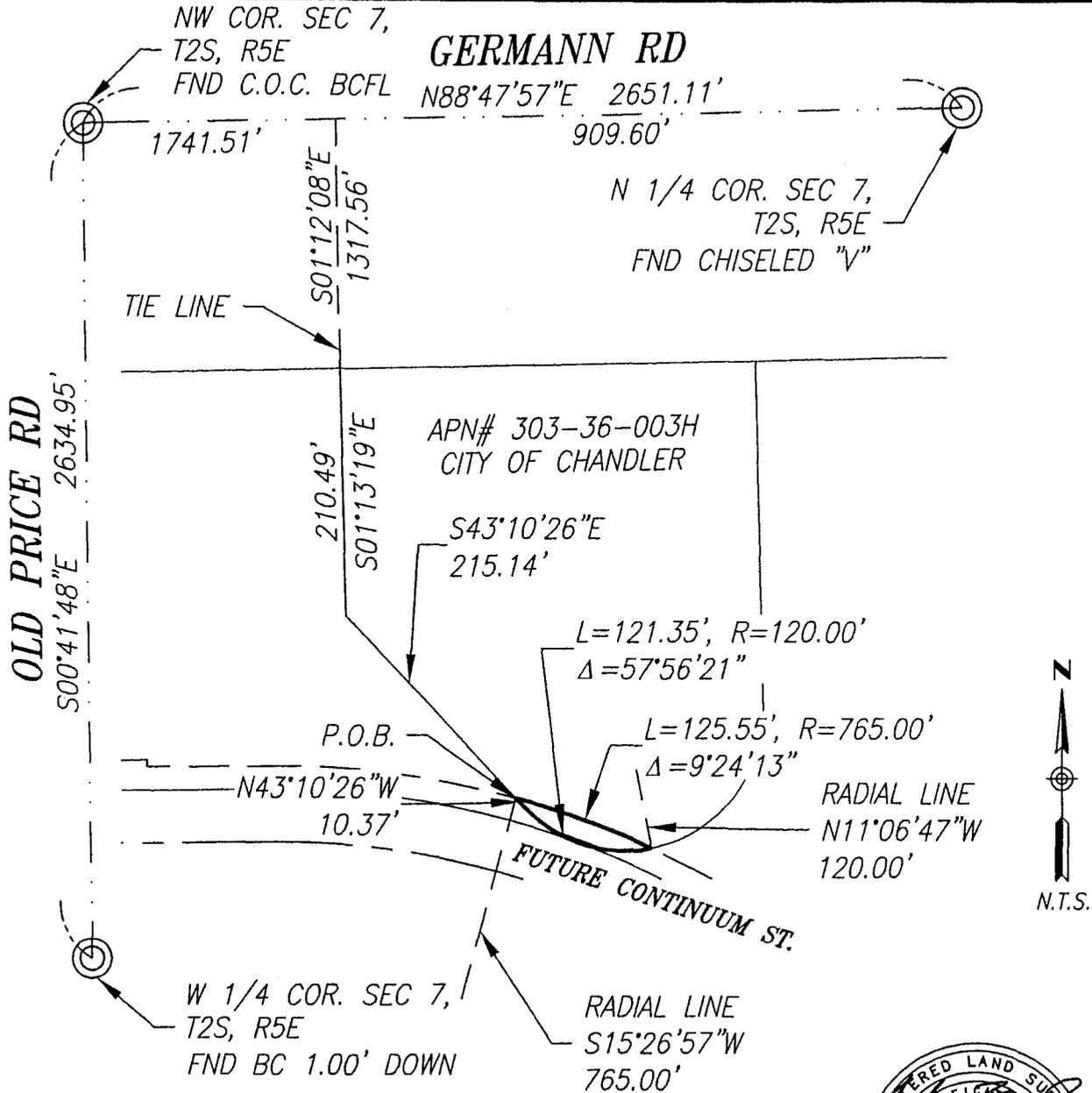




**HUBBARD
ENGINEERING**

1840 S. Stapley Dr.
Suite 137
Mesa, AZ 85204
Ph: 480.892.3313

www.hubbardengineering.com



LEGEND

- = PROPERTY LINE
- = EASEMENT LINE
- - - - = SECTION LINE
- ⊙ = SURVEY MONUMENT AS NOTED
- C.O.C. = CITY OF CHANDLER



EXHIBIT "A"
OFFSITE LANDSCAPE EASEMENT
City of Chandler, Maricopa County, Arizona

Project No. 11102	Date 12/07/11	Sht. 1 of 1
Project Manager AARON MICHALENKO	Project Eng.	

When recorded, mail to:
City of Chandler
City Clerk
P.O. Box 4008, Mail Stop 606
Chandler, AZ 85244-4008

This document is exempt from Affidavit and Fee requirement pursuant to A.R.S. § 11-1134(A)(2).

**EASEMENT for
PUBLIC SIDEWALK AND PUBLIC ELECTRICAL AND WATER UTILITIES**

For and in consideration of the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, CITY OF CHANDLER, an Arizona municipal corporation (“Grantor”), does hereby dedicate, grant and convey to the CITY OF CHANDLER, an Arizona municipal corporation (“Grantee”), in trust for the public, a permanent easement in, on, over, under, across and through that certain real property situated in Maricopa County, Arizona, more particularly described in Exhibit “A”, attached hereto and incorporated herein by this reference (the “Easement Parcel”), for the construction, installation, modification, operation, maintenance, repair, replacement, removal and reinstallation of a public way for sidewalk and for underground public electrical and water utilities, including without limitation electrical or water lines, conduits, or pipes, and necessary aboveground structures related thereto.

The aforesaid grant of easement shall be subject to the following covenants, restrictions and conditions:

1. This easement is subject to all easements and encumbrances of record, and is non-exclusive, *provided that* later granted easements shall be subject to Grantee’s rights and uses.
2. In the event Grantee records a document to formally abandon this easement, all of Grantee’s rights hereunder shall cease, except the right to remove any and all property placed upon the Easement Parcel within a reasonable time subsequent to such abandonment.
3. Grantor expressly reserves the right to enter in or upon the Easement Parcel at any time for any purpose so long as Grantor’s access to the Easement Parcel does not interfere or interrupt Grantee’s use of the Easement Parcel as permitted herein, but in no event shall Grantor erect, construct or permit to be erected or constructed, any building or other structure, plant any trees, drill any well, install swimming pools, or alter ground level by cut or fill, within the limits of the Easement Parcel.
4. Grantee shall have full and unencumbered ingress and egress to and from the Easement Parcel for the purposes permitted by this Easement.

5. Grantor shall repair and maintain, at its own expense, the surface of the Easement Parcel and any improvements located on the Easement Parcel, including but not limited to any utilities and related structures, facilities and appurtenances, pavement, sidewalks, landscaping, irrigation lines and street lighting, but excluding Grantee's own improvements, and Grantee shall have no liability for such repair and maintenance except in the event Grantee causes damage to the surface or improvements that is other than ordinary wear and tear.

6. Whenever Grantee shall cause the performance of any work for the repair, maintenance, replacement or installation of any of the Grantee's improvements, Grantee shall complete such work with due diligence and within a reasonable period of time, and Grantee shall, upon completion of such work, repair and restore the Easement Parcel to a like or equivalent condition as existed prior to the performance of the work and shall be responsible for any damages, claims or losses occurring on the Easement Parcel during the term of this easement caused by Grantee's negligent use of the Easement Parcel or by the negligent acts or conduct of Grantee's employees, agents, contractors or assigns.

7. Grantee may cut back and trim such portion of branches and tops of trees and vegetation as may extend over the Easement Parcel from any abutting land, including land owned by the Grantor, so as to prevent the same from interfering with the efficient maintenance, operation and access to Grantee's improvements.

8. The easement granted herein runs with the land, and the easement and all covenants, restrictions and conditions hereof shall be binding upon Grantor, its successors and assigns, and shall inure to the benefit of Grantee, its successors and assigns.

DATED this _____ day of _____, 2012.

GRANTOR: CITY OF CHANDLER, an Arizona
municipal corporation

By: _____
Jay Tibshraeny, Mayor

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing Easement for Public Sidewalk and Public Electrical and Water Utilities was acknowledged before me this ____ day of _____, 2011, by Boyd Dunn, the Mayor of the City of Chandler, an Arizona municipal corporation, for the corporation, being authorized so to do.

Notary Public

My Commission Expires:

EXHIBIT "A"
SIDEWALK/ELECTRICAL/WATER EASEMENT

A PORTION OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 2 SOUTH, RANGE 5 EAST, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 7, BEING MARKED BY A CITY OF CHANDLER BRASS CAP FLUSH, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 7, BEING MARKED BY A BRASS CAP, BEARS SOUTH 00 DEGREES 41 MINUTES 48 SECONDS EAST, 2634.95 FEET;

THENCE ALONG THE NORTH LINE OF SAID SECTION 7 NORTH 88 DEGREES 47 MINUTES 57 SECONDS EAST, 1741.51 FEET;

THENCE DEPARTING SAID NORTH LINE SOUTH 01 DEGREES 12 MINUTES 08 SECONDS EAST, 1317.56 FEET;

THENCE SOUTH 01 DEGREES 13 MINUTES 19 SECONDS EAST, 210.49 FEET;

THENCE SOUTH 43 DEGREES 10 MINUTES 26 SECONDS EAST, 225.51 FEET TO A POINT ON A TANGENT CURVE, CONCAVE NORTHEASTERLY, WHOSE RADIUS IS 120.00 FEET;

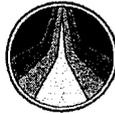
THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 18 DEGREES 13 MINUTES 39 SECONDS, AN ARC LENGTH OF 38.18 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, FROM WHICH THE RADIUS POINT BEARS SOUTH 18 DEGREES 49 MINUTES 51 SECONDS WEST, 746.50 FEET, AND ALSO BEING THE **POINT OF BEGINNING**;

THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 02 DEGREES 41 MINUTES 51 SECONDS, AN ARC LENGTH OF 35.14 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, FROM WHICH THE RADIUS POINT BEARS NORTH 11 DEGREES 45 MINUTES 36 SECONDS EAST, 120.00 FEET;

THENCE WESTERLY ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 16 DEGREES 50 MINUTES 20 SECONDS, AN ARC LENGTH OF 35.27 FEET TO THE **POINT OF BEGINNING**.

SAID PORTION CONTAINS 35 SQUARE FEET OR 0.0008 ACRES, MORE OR LESS.

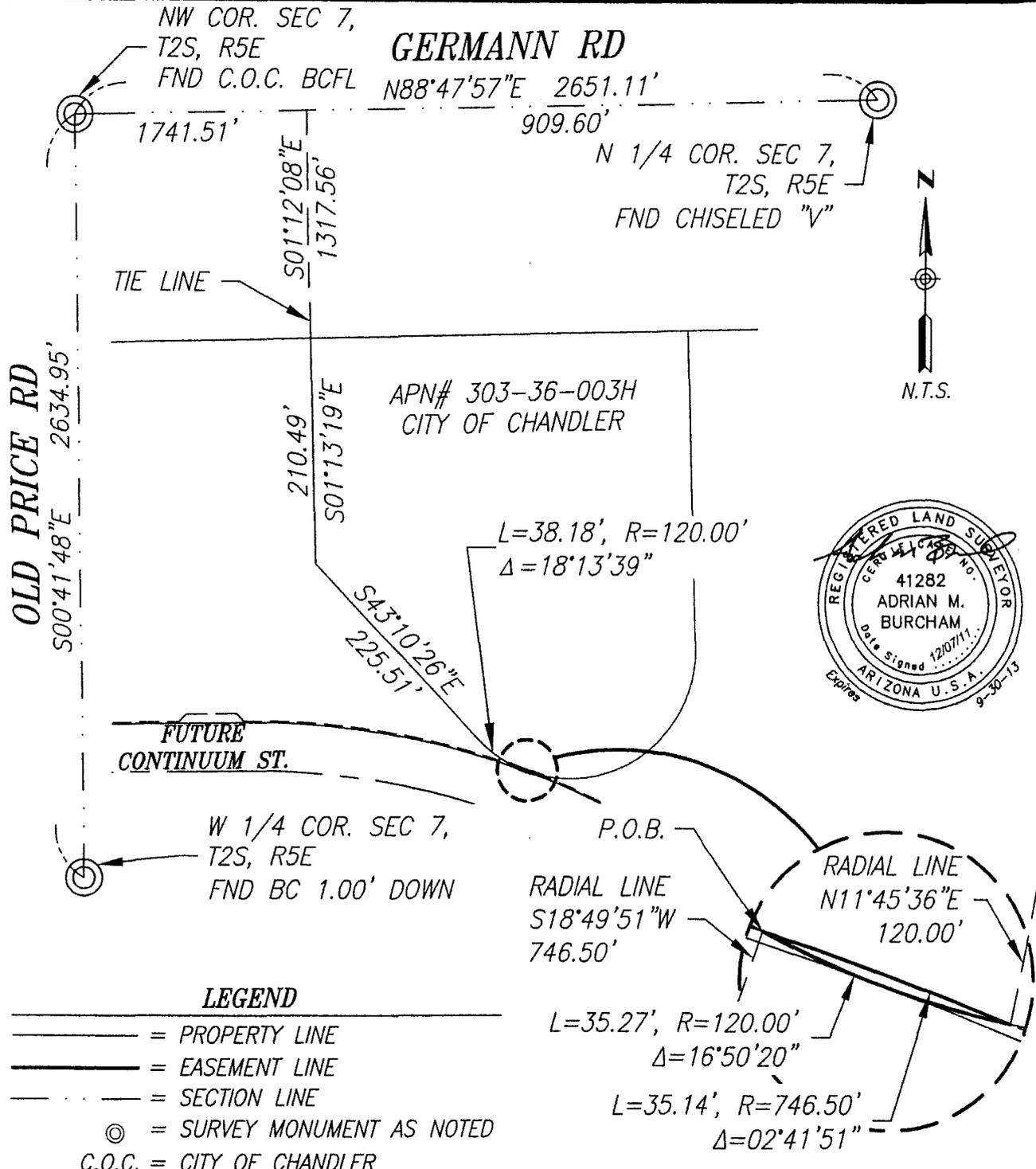




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LEGEND

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- C.O.C. = CITY OF CHANDLER

EXHIBIT "A"
OFFSITE SIDEWALK/ELECTRICAL/WATER
EASEMENT
City of Chandler, Maricopa County, Arizona

Project No.
11102

Date
12/07/11

Project Manager
AARON MICHALENKO

Project Eng.

Sht: 1 of 1