

#8

JUN 28 2007



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MEMORANDUM

Real Estate – Council Memo No. RE 07-351

DATE: JUNE 28, 2007

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
DANIEL W. COOK, ACTING PUBLIC WORKS DIRECTOR
MIKE NORMAND, ACTING ASSISTANT PUBLIC WORKS
DIRECTOR/TRANSPORTATION AND OPERATIONS

FROM: ERICH KUNTZE, REAL ESTATE OPERATIONS COORDINATOR

SUBJECT: ORDINANCE NO. 3934 AUTHORIZING THE ASSIGNMENT TO SALT RIVER PROJECT (SRP) OF A CERTAIN AERIAL EASEMENT ACQUIRED BY THE CITY OF CHANDLER FOR THE PECOS ROAD (DOBSON ROAD TO MCQUEEN ROAD) IMPROVEMENT PROJECT

RECOMMENDATION: Staff recommends introduction and tentative approval of Ordinance No. 3934 authorizing the assignment to Salt River Project (SRP) of a certain aerial easement acquired by the City of Chandler for the Pecos Road (Dobson Road to McQueen Road) improvement project.

BACKGROUND/DISCUSSION: In connection with a City road project for the widening and improvement of Pecos Road from Dobson Road to McQueen Road (the "Project"), the City acquired roadway and easements needed for the Project, which also included acquisition of an aerial easement ultimately intended for SRP. The easements that were conveyed to the City, took additional time to process all the parcels and they are now ready to be assigned to SRP. It is needed to assure clear space to accommodate SRP's 69 kilovolt (kV) transmission lines that were relocated as a consequence of the Project.

Upon recording the assignment, the City would have no further obligation, responsibility or liability, and no further rights, pursuant to or because of the easement.

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FINANCIAL IMPLICATIONS:

Cost: N/A

Savings: N/A

Long Term Costs: N/A

PROPOSED MOTION: Move that Council introduce and tentatively approve Ordinance No. 3934 authorizing the assignment to Salt River Project (SRP) of a certain aerial easement acquired by the City of Chandler for the Pecos Road (Dobson Road to McQueen Road) improvement project.

Attachments: Ordinance 3934
Assignment of Aerial Easement
Map

ORDINANCE NO. 3934

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE ASSIGNMENT TO SALT RIVER PROJECT OF A CERTAIN AERIAL EASEMENT ACQUIRED BY THE CITY OF CHANDLER THROUGH CONDEMNATION ACTIONS FOR THE PECOS ROAD (DOBSON ROAD TO MCQUEEN ROAD) IMPROVEMENT PROJECT.

WHEREAS, the City of Chandler filed a condemnation action to acquire roadway and easements necessary to widen and improve Pecos Road from Dobson Road to McQueen Road; and

WHEREAS, the easements acquired included a certain aerial easement needed to accommodate the relocation of existing electrical facilities of Salt River Project Agricultural Improvement and Power District ("Salt River Project"); and

WHEREAS, the aerial easement was acquired under terms that permit the recording of an assignment of said easement directly to Salt River Project, 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 aerial easement acquired by the City through a condemnation action filed in connection with the Pecos Road (Dobson Road to McQueen Road) improvement 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 _____, 2007.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this _____ day of _____, 2007.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No.3934 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on _____ day of _____, 2007, and that a quorum was present thereat.

CITY CLERK

PUBLISHED:

APPROVED AS TO FORM:

CITY ATTORNEY *GAB*

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

ASSIGNMENT OF AERIAL EASEMENT
(Pecos Road from Dobson to McQueen)

THIS ASSIGNMENT OF AERIAL EASEMENT (the "Assignment") is made this ___ day of _____, 2007, 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 the Pecos Road from Dobson to McQueen (the "Project"), City filed a condemnation action in the Maricopa County Superior Court to acquire roadway and easements needed for the Project, which also included acquisition of an aerial easement ultimately intended for use by SRP. The aerial easement is needed to assure clear space to accommodate SRP's 69 KV transmission lines as a consequence of the Project. The easement conveys an access and aerial easement only, no poles or other structures shall be placed on the surface of the easement area described herein.

1.2. In 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 an aerial easement over described real property in accordance with the terms and conditions for the easement as stated in the Final Order. In each case, the terms and conditions for the easement provided that City could assign the easement 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 easement.

1.3. City and SRP, through the execution and recording of this Assignment, desire to complete the assignment to SRP of the aerial easement 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 and 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>
Circle K Stores, Inc.	CV2003-022694	11/16/04	04-1341886

2. **Agreement.** For Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 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 aerial easement 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 aerial easement 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 aerial easement, or the property affected by the easement, 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 aerial easement, or the property affected by the easement, 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: _____
Mark Pentz, City Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing Assignment of Aerial Easement was acknowledged before me this ____ day of _____, 2007, by Mark Pentz, as 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:

APPROVED AS TO FORM:

Chandler City Attorney *GAV*

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 of Aerial Easement was acknowledged before me this ____ day of _____, 2007, 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:
