

#9  
JUN 28 2007



**Chandler • Arizona**  
*Where Values Make The Difference*

**MEMORANDUM                      Downtown Redevelopment – Council Memo DT07-032**

**DATE:**            JUNE 18, 2007

**TO:**                MAYOR AND COUNCIL

**THRU:**            W. MARK PENTZ, CITY MANAGER  
RICHARD K. MULLIGAN, ECONOMIC DEVELOPMENT DIRECTOR  
SHARON A. JOYCE, REAL ESTATE MANAGER

*[Handwritten signatures and initials: WMP, RKM, SAJ, TPK]*

**FROM:**            TERI KILLGORE, DOWNTOWN REDEVELOPMENT MANAGER

**SUBJECT:**        ORDINANCE NO. 3939 GRANTING A NO COST POWER  
DISTRIBUTION EASEMENT TO ARIZONA PUBLIC SERVICE  
COMPANY AND A CONSENT TO EASEMENT FOR THE PURPOSE  
OF PROVIDING ELECTRICAL SERVICE NEEDED FOR  
DEVELOPMENT OF SITE 7 AND SITES 1, 2, 3 AND DECLARING AN  
EMERGENCY

RECOMMENDATION: Staff recommends approval of Ordinance No. 3939 granting a no cost power distribution easement to Arizona Public Service Company (APS) and a consent to easement for the purpose of providing electrical service needed for development of Site 7 and Sites 1, 2, 3, and declaring an emergency (see attached map).

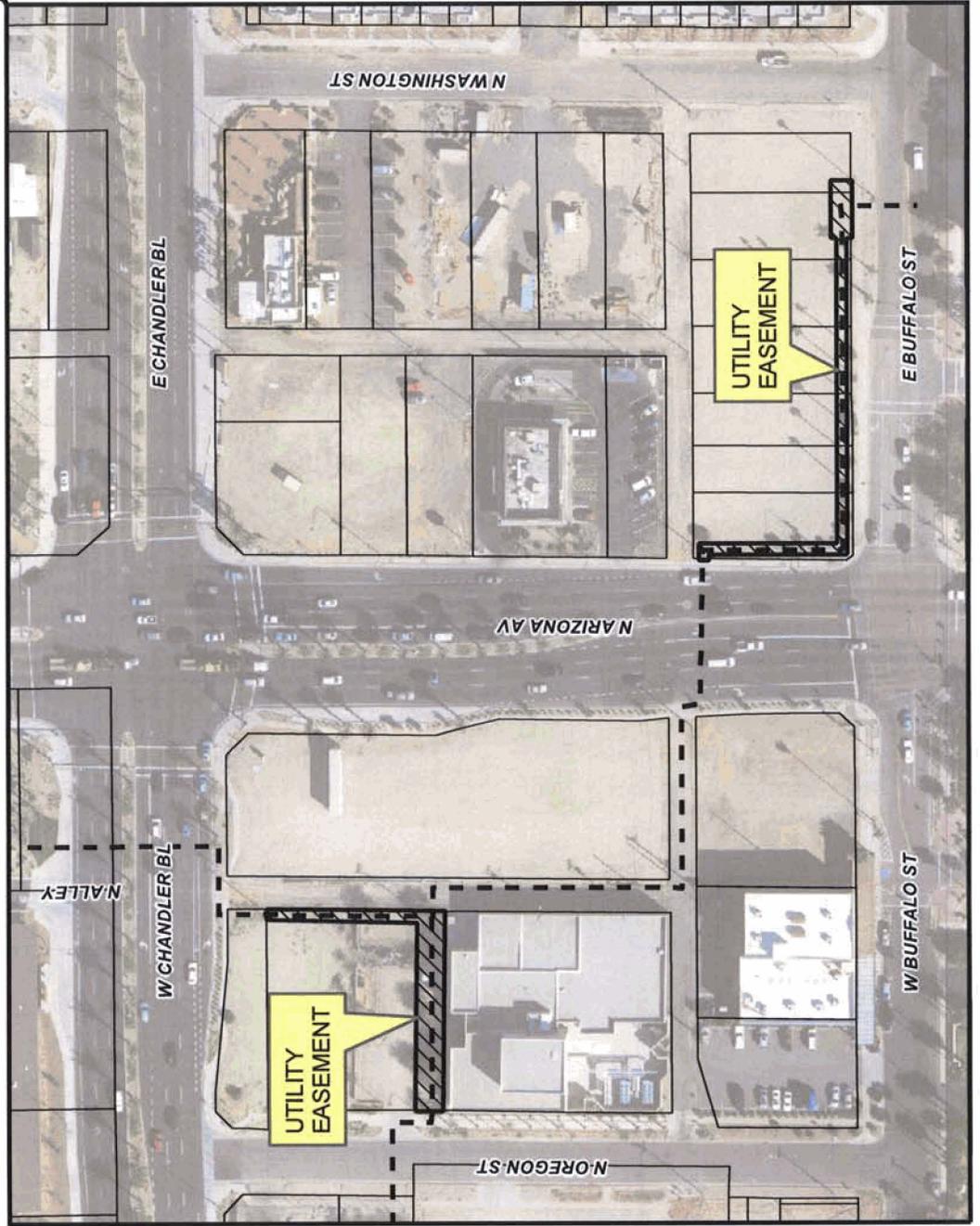
BACKGROUND/DISCUSSION: Development of Site 7 and Sites 1, 2, 3 requires upgraded power facilities to provide sufficient power for future commercial/residential structures, as well as redundant power to Chandler Center for the Arts. To install this new infrastructure, power distribution easements are necessary on Site 7 and Sites 1, 2, 3. This action will authorize granting one of the easements across a portion of property owned by the City in Site 7. It will also grant a consent to Qwest Inc. to grant a power distribution easement to APS across a portion of property in which the City has an interest (see attachments).

The action will be declared as an emergency in order to meet development timeframes and fulfill the public purpose dictated by the San Marcos Commons (Phase I) Development Agreement to which the City is a party.

FINANCIAL IMPLICATIONS: Although there is no cost to granting this easement and the consent to easement currently, it is possible that there could be a deferred cost if it becomes necessary to relocate the facilities at a later date. Whether or not this ever occurs depends on future redevelopment plans for Site 7, in that our existing Development Agreement with Benton-Robb calls for property to be conveyed free of any encumbrances. Benton-Robb has been informed of these proposed actions and is supportive of staff's recommendations.

PROPOSED MOTION: Motion to approve Ordinance No. 3939 granting a no cost power distribution easement to Arizona Public Service Company (APS) and a consent to an easement for the purpose of providing electrical service needed for development of Site 7 and Sites 1, 2, 3, and declaring an emergency.

# APS EASEMENTS FOR SITES 1, 2, 3 AND 7



**MEMO NO. DT07-032**  
**ORDINANCE NO. 3939**

-  APS EASEMENTS
-  APS CONDUIT (APPROX)



## ORDINANCE NO. 3939

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, TO AUTHORIZE AND APPROVE THE GRANTING OF A NO COST POWER DISTRIBUTION EASEMENT TO ARIZONA PUBLIC SERVICE COMPANY AND A CONSENT TO AN EASEMENT FOR THE PURPOSE OF PROVIDING ELECTRICAL SERVICE NECESSARY FOR THE DEVELOPMENT OF SITE 7 AND SITES 1, 2, 3, AND DECLARING AN EMERGENCY

WHEREAS, the City of Chandler (City) has entered into certain development agreements to develop Site 7 and Sites 1, 2 and 3 in its downtown area; and

WHEREAS, the City has also entered into a purchase agreement with Qwest, Inc. to purchase property within Sites 1, 2 and 3 once environmental remediation on this Site has been completed; and

WHEREAS, redevelopment of Site 7 and Sites 1, 2 and 3, requires relocated and upgraded electrical power lines and facilities; and

WHEREAS, in order to relocate and upgrade the electrical power lines and other electrical facilities on Site 7 and Sites 1, 2 and 3 it is necessary to grant a power distribution easement to Arizona Public Service Company (APS) across a portion of property that is owned by the City and a portion of the property to be purchased by the City from Qwest (the "Qwest Property"); and

WHEREAS, Qwest has requested that the City formally consent to Qwest's grant of a power distribution easement to APS across the Qwest Property;

WHEREAS, the City is willing to grant a no cost power distribution easement to APS for this purpose;

WHEREAS, it is necessary to declare an emergency in order to complete the construction of the electrical upgrades within the timelines outlined in the Development Agreement to which the City of Chandler is a party, and to fulfill the public purpose as described in the Development Agreement;

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 approves the granting of a power distribution easement to APS in the form attached hereto as Exhibit "A".

Section 2. That the City Council of the City of Chandler, Arizona hereby consents to Qwest granting an easement through, over, under and across that certain property described in attached Exhibit "B", attached hereto and made a part hereof by this reference, in a form and under terms materially the same as set forth in Exhibit "A" or, if the City acquires the Qwest Property prior to Qwest's grant of an easement, that the

City Council of the City of Chandler, Arizona, approves the grant of such easement to APS itself.

Section 3. That the granting of said power distribution easement 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 execute the easement documents and this Ordinance on behalf of the City, and by approval and execution hereof, does hereby grant a consent to the Qwest easement.

Section 5. Whereas, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, life and property of the City of Chandler, an emergency is hereby declared to exist, to wit: to ensure that redevelopment of the City's downtown area can commence as set forth in the development agreements previously entered into by the City, and this Ordinance shall be in force and effect from and after passage, adoption and approval of the Mayor and City Council of the City of Chandler, and is hereby exempt from the referendum provisions of the Constitution of the State of Arizona.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

PASSED AND ADOPTED by the 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. 3939 was duly passed and approved by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and that the vote was \_\_\_\_\_ Ayes, \_\_\_\_\_ Nays.

\_\_\_\_\_  
CITY CLERK

PUBLISHED:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY

# Exhibit A

*NW-34-1S-5E*  
*W-175081*  
*SP*

*SHEET 1 OF 2*

## UTILITY EASEMENT

**CITY OF CHANDLER, an Arizona municipal corporation**, (hereinafter called "Grantor"), is the owner of the real property located in Maricopa County, Arizona (hereinafter called "Grantor's Property") described below:

**Lots 128 through Lots 139 as shown on that Original Townsite of Chandler according to Book 5 of Maps, Page 34, in the Official Records of Maricopa County, Arizona.**

Grantor, for and in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to **ARIZONA PUBLIC SERVICE COMPANY**, an Arizona corporation, (hereinafter called "Grantee"), and to its successors and assigns, a non-exclusive right, privilege, and easement at locations and elevations, in, upon, over, under, through and across, a portion of Grantor's Property (herein called the "Easement Premises") as described below:

### **SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

Grantee is hereby granted the right to: construct, reconstruct, replace, repair, operate and maintain underground electrical lines, for the transmission and distribution of electricity to, through, across, and beyond Grantor's Property, together with appurtenant facilities and fixtures for use in connection therewith, including telecommunication wires, cables, conduits, fixtures and facilities incidental to supplying electricity or for Grantee's own use (collectively the "Grantee Facilities"); utilize the Easement Premises for all other purposes connected therewith; and, if permitted by Grantor, permit the installation of the wires, fixtures, conduits, or cables of any other company.

Grantee is hereby granted the right, but not the obligation, to trim, prune, cut, and clear away trees, brush, shrubs, or other vegetation on, or adjacent to, the Easement Premises whenever in Grantee's reasonable judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

Grantee shall at all times have the right of full and free ingress and egress to and along the Easement Premises for the purposes herein specified.

Grantor shall not locate, erect or construct, or permit to be located, erected or constructed, any building or other structure or drill any well within the limits of the Easement Premises; nor shall Grantor plant or permit to be planted any trees within the limits of the Easement Premises without the prior written consent of Grantee. However, Grantor reserves the right to use the Easement Premises for purposes that are not inconsistent with Grantee's easement rights herein conveyed and which do not interfere with or endanger any of the Grantee Facilities, including, without limitation, granting others the right to use all or portions of the Easement Premises for utility or roadway purposes and constructing improvements within the Easement Premises such as paving, sidewalks, landscaping, and curbing. Notwithstanding the foregoing, Grantor shall not have the right to lower by more than one foot or raise by more than two feet the surface grade of the Easement Premises, and in no event shall a change in the grade compromise Grantee's minimum cover requirements or interfere with Grantee's operation, maintenance or repair of the Grantee facilities.

NW-34-1S-5E  
W-175081  
SP

SHEET 2 OF 2

Grantor shall maintain a clear area that extends 2 feet from and around all edges of all transformer pads and 3 feet from and around all other equipment pads, and a clear operational area that extends 10 feet immediately in front of all transformer and other equipment openings. No obstructions, trees, shrubs, fixtures, or permanent structures shall be placed by Grantor within said areas.

Grantee agrees that following any installation, excavation, maintenance, repair, or other work by Grantee within the Easement Premises, the affected area will be restored by Grantee to as close to original condition as is reasonably possible, at the expense of Grantee.

The easement granted herein shall not be deemed abandoned except upon Grantee's execution and recording of a formal instrument abandoning the easement.

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, administrators, executors, successors in ownership and estate, assigns and lessees of Grantor and Grantee.

IN WITNESS WHEREOF, **CITY OF CHANDLER, an Arizona municipal corporation**, has caused this Utility Easement to be executed by its duly authorized representative, this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

CITY OF CHANDLER, an Arizona municipal corporation,

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

STATE OF                    }  
                                  } ss.  
County of                 }

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
200\_\_ by \_\_\_\_\_.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

My Commission Expires:

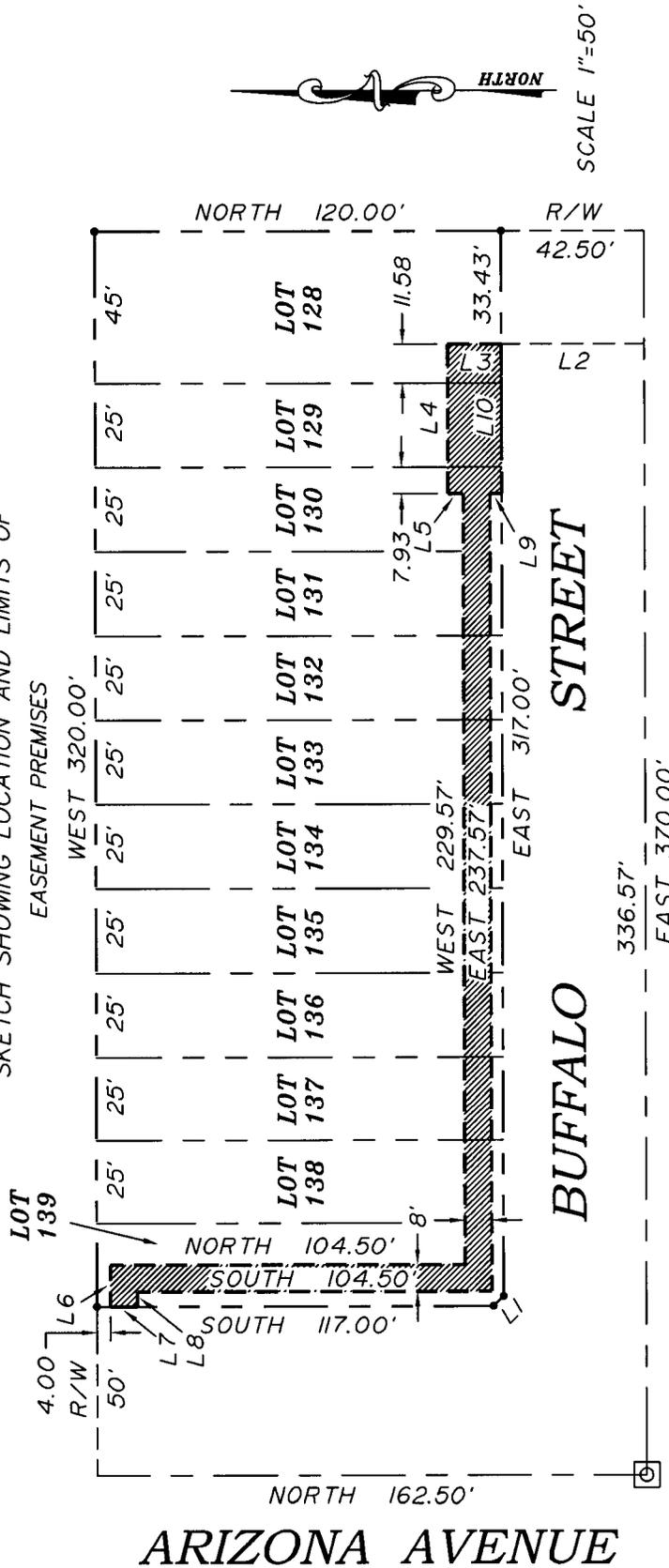
\_\_\_\_\_

Notary Public

\_\_\_\_\_

# EXHIBIT "A"

SKETCH SHOWING LOCATION AND LIMITS OF EASEMENT PREMISES



SCALE 1"=50'

LINE TABLE

NUM	BEARING	DISTANCE
L1	S45°00'00"E	4.24'
L2	S0°00'00"W	42.50'
L3	N0°00'00"E	16.00'
L4	N90°00'00"W	44.50'
L5	S0°00'00"W	4.50'
L6	N90°00'00"W	12.50'
L7	S0°00'00"W	8.00'
L8	S90°00'00"E	4.50'
L9	S0°00'00"W	3.50'
L10	N90°00'00"E	44.50'

### SURVEY NOTE

THE PURPOSE OF THIS EXHIBIT IS TO DEPICT THE DIMENSIONS AND APPROXIMATE LOCATION AND ALIGNMENT OF THE ELECTRIC LINE EASEMENT AREA. THE LOCATION AND ALIGNMENT OF THE ELECTRIC LINE AND TRANSFORMER AS ACTUALLY CONSTRUCTED SHALL TAKE PRECEDENCE OVER THE LOCATION AND ALIGNMENT SHOWN ON THIS EXHIBIT.

### LEGEND

- EASEMENT PREMISES
- ROAD CENTERLINE
- PROPERTY LINE
- PROPERTY CORNER

JOB# W175081	DATE 4/23/07
NW 1/4 SEC 34	T 15 R 5E
SCALE 1"=50'	MAP# 11-55
R/W STEVEN POLLOCK	
SURVEY: AS-BUILT	
DRAWN BY: POLLOCK	

*NE-33-1S-5E*  
*W-175081*  
*SP*

*SHEET 1 OF 2*

## UTILITY EASEMENT

**QWEST, INC., a Colorado Corporation**, (hereinafter called "Grantor"), is the owner of the following described real property located in Maricopa County, Arizona (hereinafter called "Grantor's Property"):

**Lot 1 as shown on that Final Plat for "QWEST CHANDLER MAIN" according to Book 694 of Maps, Page 15, recorded on July 8, 2004, in the Official Records of Maricopa County, Arizona.**

Grantor, for and in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to **ARIZONA PUBLIC SERVICE COMPANY**, an Arizona corporation, (hereinafter called "Grantee"), and to its successors and assigns, a non-exclusive right, privilege, and easement at locations and elevations, in, upon, over, under, through and across, a portion of Grantor's Property (herein called the "Easement Premises") as described below:

### **SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

Grantee is hereby granted the right to: construct, reconstruct, replace, repair, operate and maintain underground electrical lines, for the transmission and distribution of electricity to, through, across, and beyond Grantor's Property, together with appurtenant facilities and fixtures for use in connection therewith, including telecommunication wires, cables, conduits, fixtures and facilities incidental to supplying electricity or for Grantee's own use (collectively the "Grantee Facilities"); utilize the Easement Premises for all other purposes connected therewith; and, if permitted by Grantor, permit the installation of the wires, fixtures, conduits, or cables of any other company.

Grantee is hereby granted the right, but not the obligation, to trim, prune, cut, and clear away trees, brush, shrubs, or other vegetation on, or adjacent to, the Easement Premises whenever in Grantee's reasonable judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

Grantee shall at all times have the right of full and free ingress and egress to and along the Easement Premises for the purposes herein specified.

Grantor shall not locate, erect or construct, or permit to be located, erected or constructed, any building or other structure or drill any well within the limits of the Easement Premises; nor shall Grantor plant or permit to be planted any trees within the limits of the Easement Premises without the prior written consent of Grantee. However, Grantor reserves the right to use the Easement Premises for purposes that are not inconsistent with Grantee's easement rights herein conveyed and which do not interfere with or endanger any of the Grantee Facilities, including, without limitation, granting others the right to use all or portions of the Easement Premises for utility or roadway purposes and constructing improvements within the Easement Premises such as paving, sidewalks, landscaping, and curbing. Notwithstanding the foregoing, Grantor shall not have the right to lower by more than one foot or raise by more than two feet the surface grade of the Easement Premises, and in no event shall a change in the grade compromise Grantee's minimum cover requirements or interfere with Grantee's operation, maintenance or repair of the Grantee facilities.

NE-33-1S-5E  
W-175081  
SP

SHEET 2 OF 2

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Grantee agrees that following any installation, excavation, maintenance, repair, or other work by Grantee within the Easement Premises, the affected area will be restored by Grantee to as close to original condition as is reasonably possible, at the expense of Grantee.

The easement granted herein shall not be deemed abandoned except upon Grantee's execution and recording of a formal instrument abandoning the easement.

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, administrators, executors, successors in ownership and estate, assigns and lessees of Grantor and Grantee.

IN WITNESS WHEREOF, **QWEST, INC., a Colorado Corporation**, has caused this Utility Easement to be executed by its duly authorized representative, this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**QWEST, INC., a Colorado Corporation**

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

STATE OF                    }  
                                      } ss.  
County of                    }

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
200\_\_ by \_\_\_\_\_.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

My Commission Expires:

\_\_\_\_\_  
Notary Public

EXHIBIT "A"

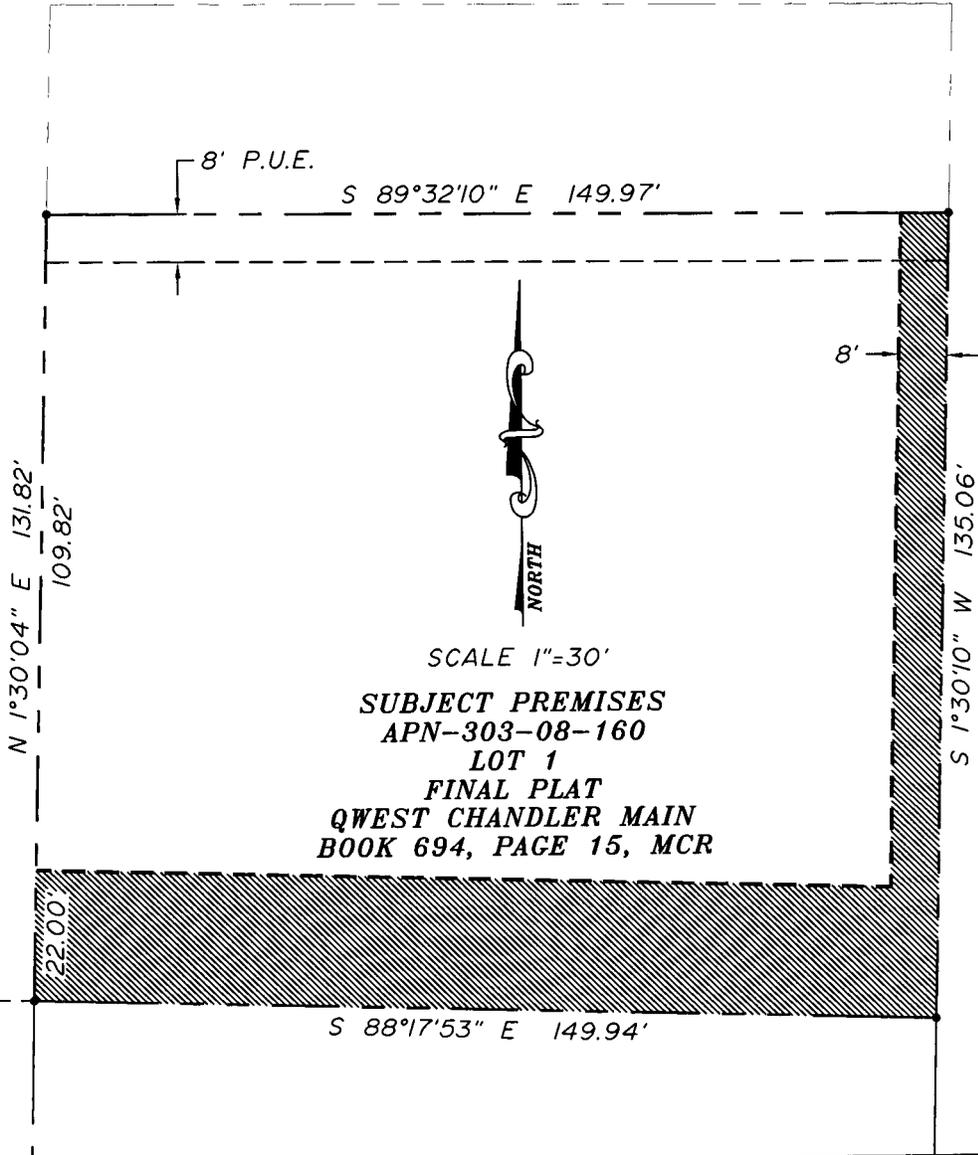
SKETCH SHOWING LOCATION AND LIMITS OF  
UTILITY EASEMENT

CHANDLER BOULEVARD

STREET

OREGON

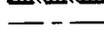
ALLEY



SCALE 1"=30'

SUBJECT PREMISES  
APN-303-08-160  
LOT 1  
FINAL PLAT  
QWEST CHANDLER MAIN  
BOOK 694, PAGE 15, MCR

LEGEND

-  EASEMENT AREA
-  ROAD CENTERLINE
-  PROPERTY LINE
-  PROPERTY CORNER

JOB# W175081	DATE 4/24/07
NE 1/4 SEC 33 T1S R5E	
SCALE 1"=30'	MAP# 11-54
R/W STEVEN POLLOCK	
SURVEY: N/A	
DRAWN BY: POLLOCK	