

#8

NOV - 8 2007



Memorandum Real Estate Services Council Memo No. RE08-122

DATE: NOVEMBER 8, 2007

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
 DANIEL W. COOK, ACTING PUBLIC WORKS DIRECTOR *DW*
 MICHAEL NORMAND, ACTING ASSISTANT PUBLIC WORKS *MN*
 DIRECTOR/TRANSPORTATION & OPERATIONS

FROM: ERICH KUNTZE, REAL ESTATE OPERATIONS COORDINATOR *EK*

SUBJECT: RESOLUTION NO. 4132 ACCEPTING A NO COST LICENSE
 AGREEMENT FOR ROAD RIGHT-OF-WAY FOR THE WEST SIDE
 OF COOPER ROAD NORTH OF PECOS ROAD IN CONJUNCTION
 WITH ROAD WIDENING IMPROVEMENTS FOR THE COOPER
 ROAD AND PECOS ROAD IMPROVEMENT PROJECT.

RECOMMENDATION: Staff recommends Council pass and adopt Resolution No. 4132 accepting a no cost license agreement for road right-of-way for the west side of Cooper Road north of Pecos Road in conjunction with road widening improvements for the Cooper Road and Pecos Road Improvement Project.

BACKGROUND/DISCUSSION: In order to finish construction and maintain road widening and associated improvements along the west side of Cooper Road north of Pecos Road, it is necessary for the City to obtain a License from Salt River Project ("SRP") to enter upon and use a portion of United States of America's ("USA") property. SRP has agreed to grant a Right-of-Way License ("License") to the City for this purpose, at no charge, provided that the City accepts SRP's License, which includes language that requires the City to indemnify, release and hold harmless SRP and the USA. Acceptance of this License will enable the City to complete the project and maintain the roadway. The License covers a 20-foot wide strip of land along the west side of Cooper Road running from Pecos Road to the north approximately 596 feet and contains approximately 12,110 square feet.

Page Two
Council Meeting – November 8, 2007
Resolution No. 4132

FINANCIAL IMPLICATIONS:

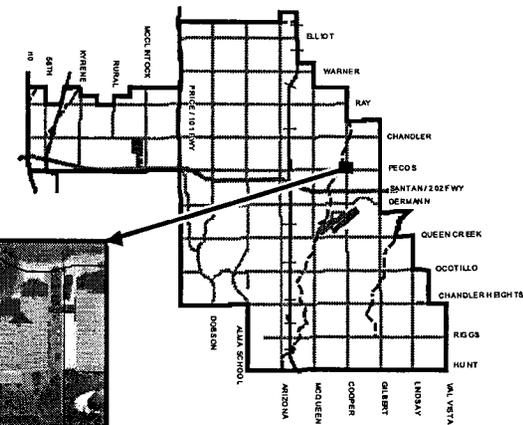
There is no cost associated with this License.

PROPOSED MOTION: Move that Council pass and adopt Resolution No. 4132 accepting a no cost license agreement for road right-of-way for the west side of Cooper Road north of Pecos Road in conjunction with road widening improvements for the Cooper Road and Pecos Road Improvement Project.

Attachments: Location/Site Map
Resolution No. 4132



RIGHT OF WAY LICENSE AGREEMENT FOR COOPER ROAD AND PECOS ROAD IMPROVEMENT PROJECT



RIGHT-OF-WAY LICENSE
AGREEMENT FOR COOPER RD
AND PECOS RD IMPROVEMENT
PROJECT

MEMO NO. RE08-122

 RIGHT OF WAY AGREEMENT



RESOLUTION NO. 4132

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, TO AUTHORIZE AND APPROVE RESOLUTION 4132, ACCEPTING A NO COST LICENSE AGREEMENT FOR ROAD RIGHT-OF-WAY FOR THE WEST SIDE OF COOPER ROAD NORTH OF PECOS ROAD IN CONJUNCTION WITH ROAD WIDENING IMPROVEMENTS FOR THE COOPER ROAD AND PECOS ROAD IMPROVEMENT PROJECT.

WHEREAS, a City is completing construction of road widening improvements for the Pecos Road and Cooper Road Improvement Project; and

WHEREAS, in order to construct and maintain the road widening improvements along the west side of Cooper Road for a distance of approximately 596 feet north of Pecos Road, it is necessary for the City to obtain the permission of Salt River Project ("SRP") to enter upon and use their property; and

WHEREAS, SRP has agreed to grant the City a Right-of-Way License, at no cost, to accommodate the construction, use and maintenance of City roadway improvements at this location;

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

Section 1. That the City Council of the City of Chandler, Arizona is authorized to accept the Right-of-Way License for road right of way at this location across that certain property described in Exhibit "A" and "B", attached hereto and made a part hereof by reference.

Section 2. That the Right-of-Way License shall be in the form as approved by the City Attorney.

Section 3. That the Mayor of the City of Chandler, Arizona, is hereby authorized to execute the Right-of-Way License on behalf of the City.

PASSED AND ADOPTED by the City Council this _____ day of _____, 2007.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4132 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2007, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY *GAB*

WHEN RECORDED MAIL TO:

SALT RIVER PROJECT

Land Department/PAB348

P. O. Box 52025

Phoenix, Arizona 85072-2025

RIGHT OF WAY LICENSE

Maricopa County

R/W No. 744 Agt. PAR

RD-62707

W~~ARR~~ C _____

KNOW ALL MEN BY THESE PRESENTS:

That for the consideration of One (\$1.00) Dollar and other valuable considerations, **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, an agricultural improvement district organized and existing under the laws of the State of Arizona, Licensor, hereby grants to the **CITY OF CHANDLER**, an Arizona municipal corporation, Licensee, a Right of Way License ("License") conveying the nonexclusive right and privilege to enter upon and use property situated in the County of Maricopa, State of Arizona and described in Exhibits "A" and "B" ("Licensed Property") for the following purposes:

See Exhibit "A", and Exhibit "B", attached hereto and by reference made a part hereof for roadway purposes.

This License is subject to the paramount rights of the United States of America ("USA") in and to the Licensed Property, federal reclamation law, and all agreements existing and to be made between and among the U.S.A., the Salt River Valley Water Users' Association ("Association") and Licensor regarding the management, care, operation and maintenance of the Reclamation Project.

The License herein granted shall be subject to the following additional conditions:

- 1) Licensor shall retain the prior right to construct, reconstruct, operate and maintain its existing and future irrigation, electrical and telecommunication facilities within the Licensed Property herein granted.
- 2) This License is nonexclusive and nothing herein shall be construed to prevent or restrict Licensor from granting other privileges to use the Licensed Property in a manner not inconsistent with Licensee's use of the Licensed Property in accordance with this License.

- 3) Licensor shall not be liable for any expense, cost or charge arising from Licensee's exercise of rights granted herein. Licensee shall reimburse Licensor for all costs and expenses incurred by Licensor to remove or relocate irrigation or electrical facilities and landscaping to accommodate the purposes for which this License is issued.
- 4) Prior to making any improvements or requesting any proposed alteration to existing structures within the Licensed Property, Licensee shall submit plans for Licensor's approval. Such approval shall not be unreasonably withheld.
- 5) To the extent not prohibited by law, Licensee, its successors and assigns, shall indemnify, release, and hold harmless Licensor, Association and the United States of America, and the directors, officers, employees, agents, successors and assigns thereof, against and from any claim, demand, lawsuit or action of any kind for damages or loss, whether such damage or loss is to person or property, arising out of: (a) acts or omissions of Licensee, its agents, officers, directors, or employees; (b) Licensee's use or occupancy of the Licensed Property for the purposes contemplated by this License, including but not limited to claims by third parties who are invited or permitted onto the Licensed Property, either expressly or impliedly, by Licensee or by the nature of Licensee's improvement or other use of the Licensed Property pursuant to this License; (c) Licensee's failure to comply with or fulfill its obligations established by this License or by law. Such obligation to indemnify shall extend to and encompass all costs incurred by Licensor in defending against such claims, demands, lawsuits or actions, including but not limited to attorney, witness and expert witness fees, and any other litigation related expenses. Licensee's obligation pursuant to this Section shall not extend to liability attributable to the sole exclusive negligence or willful action of Licensor, its directors, officers, employees, agents, successors or assigns for which Licensor shall indemnify Licensee. The provisions of this Section shall survive termination of this License.
- 6) The License herein granted is subject to all prior licenses, leases, and easements of record.
- 7) Either party may terminate this License without cause upon not less than 360 days written notice.

EXHIBIT "A"

LEGAL DESCRIPTION
FOR
COOPER ROADWAY IMPROVEMENTS
PORTION OF THE EXISTING QUIT CLAIM DEED
PER DEED BOOK 113, PAGE 357

That portion of a parcel of land described as Cooper Road Right-of-Way, records of MARICOPA COUNTY, ARIZONA located in the SOUTHEAST QUARTER of the SOUTHEAST QUARTER of SECTION 35, TOWNSHIP 1 SOUTH, RANGE 5 EAST of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

Commencing at the SOUTHEAST CORNER of said SECTION 35, being monumented with a Brass Cap in Hand Hole, from which the EAST QUARTER CORNER of SECTION 35 bears NORTH 00°03' 46" EAST a distance of 2,659.20 FEET, said line being the East line of the Southeast Quarter of said Section 35 and the basis of bearing for this description;

THENCE, NORTH 00° 03' 46" EAST, along the East line of the Southeast Quarter of said Section 35, a distance of 23.00 FEET;

THENCE, SOUTH 89° 25' 46" WEST, a distance of 13.00 FEET to the TRUE POINT OF BEGINNING;

THENCE, continuing SOUTH 89° 25' 46" WEST, a distance of 20.00 FEET;

THENCE, NORTH 00° 03' 46" EAST, parallel to and 10.00 feet West of the East line of the Southeast Quarter of said Section 35, a distance of 595.62 FEET;

THENCE, SOUTH 89° 54' 14" EAST, a distance of 10.00 FEET;

THENCE, NORTH 00° 03' 46" EAST, along the East line of the Southeast Quarter of said Section 35, a distance of 20.00 FEET;

THENCE, SOUTH 89° 54' 14" EAST, a distance of 10.00 FEET;

THENCE, SOUTH 00° 03' 46" WEST, parallel to and 10.00 feet East of the East line of the Southeast Quarter of said Section 35, a distance of 615.38 FEET to the TRUE POINT OF BEGINNING.

Containing an area of 12,110.0 SQUARE FEET or 0.28 ACRES, more or less.
See Exhibit "B"

Note: The legal description above is based on recorded documents such as the subject parcel's deed, adjacent parcel deeds and/or plats. It is not based on a boundary survey of the subject parcel.

NOTE: THIS EXHIBIT IS BASED ON RECORDED DOCUMENTS SUCH AS THE SUBJECT PARCEL'S DEED, AND ADJACENT DEEDS AND/OR PLATS. IT IS NOT BASED ON A BOUNDARY SURVEY OF THE SUBJECT PARCEL.

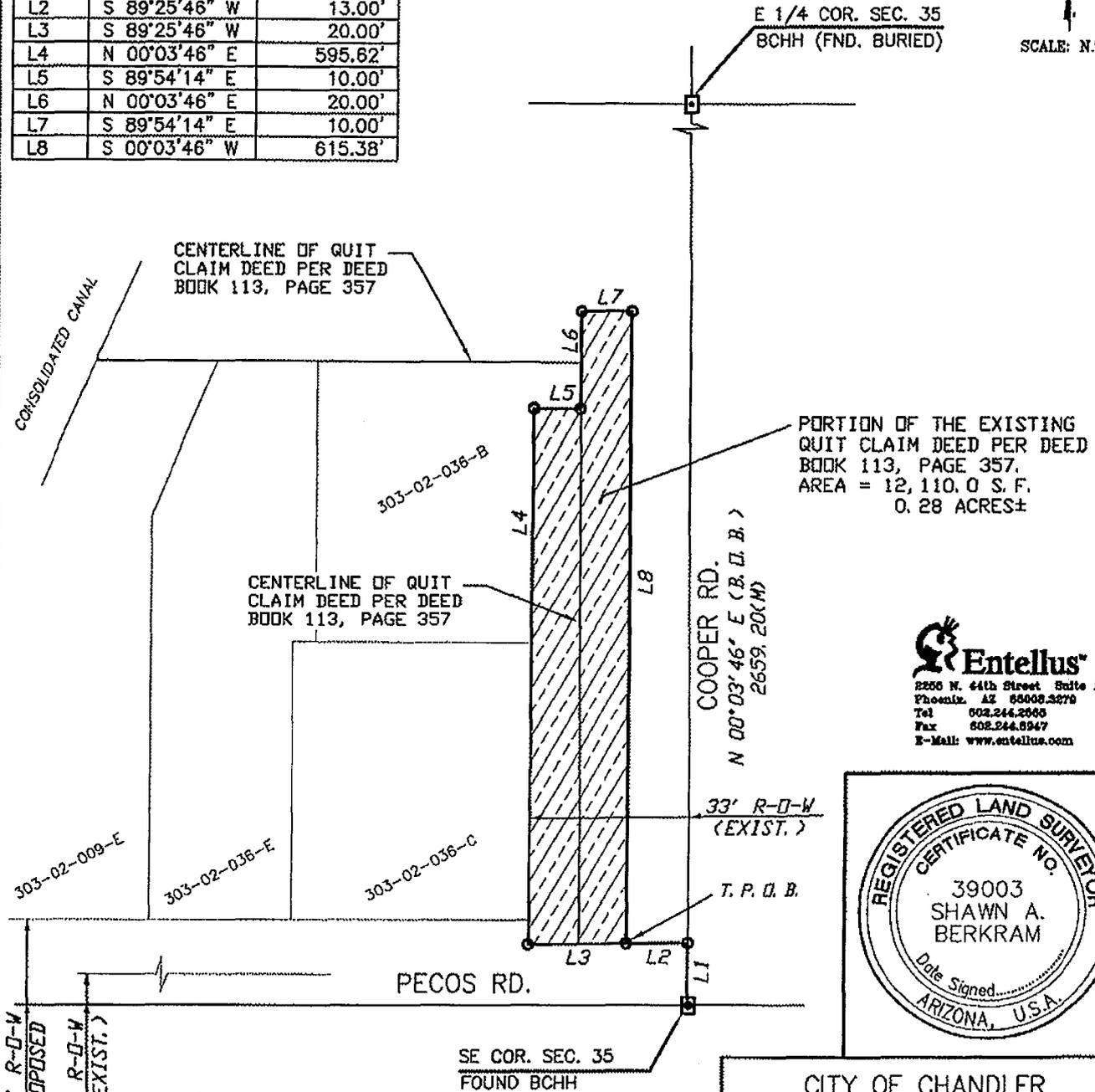
EXHIBIT "B"

PORTION OF THE EXISTING QUIT CLAIM DEED PER DEED BOOK 113, PAGE 357



SCALE: N.T.S.

LINE	BEARING	DISTANCE
L1	N 00°03'46" E	23.00'
L2	S 89°25'46" W	13.00'
L3	S 89°25'46" W	20.00'
L4	N 00°03'46" E	595.62'
L5	S 89°54'14" E	10.00'
L6	N 00°03'46" E	20.00'
L7	S 89°54'14" E	10.00'
L8	S 00°03'46" W	615.38'



PORTION OF THE EXISTING QUIT CLAIM DEED PER DEED BOOK 113, PAGE 357.
 AREA = 12,110.0 S. F.
 0.28 ACRES±

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 Fax 602.244.6947
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LEGEND



PORTION OF THE EXISTING QUIT CLAIM DEED PER DEED BOOK 113, PAGE 357

BASIS OF BEARING

THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 35 BEARING N 00°03'46" E

CITY OF CHANDLER

COOPER ROAD IMPROVEMENTS

SECTION 35, T.1S., R.5E.

PORTION OF THE EXISTING QUIT CLAIM DEED PER DEED BOOK 113, PAGE 357

DFT: 12/12/08

REVISED: 01/11/07

DRAWN BY: AL

CHECKED: SB

FILE: SRPUSA.FEE.EXIST.ESMT.rev01PAGE: 2 OF 2