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FEB 14 2008



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MEMORANDUM

Real Estate – Council Memo No. RE 08-225

DATE: FEBRUARY 14, 2008

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
R.J. ZEDER, PUBLIC WORKS DIRECTOR
SHEINA HUGHES, ACTING ASSISTANT PUBLIC WORKS
DIRECTOR/CITY ENGINEER
MIKE NORMAND, ACTING ASSISTANT PUBLIC WORKS
DIRECTOR/TRANSPORTATION AND OPERATIONS

FROM: ERICH KUNTZE, REAL ESTATE OPERATIONS COORDINATOR

SUBJECT: ORDINANCE NO. 4013 AUTHORIZING THE ASSIGNMENT TO
SALT RIVER PROJECT (SRP) OF A CERTAIN POWER
DISTRIBUTION EASEMENT ACQUIRED BY THE CITY OF
CHANDLER FOR THE ARIZONA AVENUE AND RAY ROAD
INTERSECTION IMPROVEMENT PROJECT, ST0-148

RECOMMENDATION: Staff recommends introduction and tentative approval of Ordinance No. 4013 authorizing the assignment to Salt River Project (SRP) of a certain power distribution easement acquired by the City of Chandler for the Arizona Avenue and Ray Road intersection improvement project, ST0-148.

BACKGROUND/DISCUSSION: In connection with a City road project for the improvement of the Arizona Avenue and Ray Road intersection (the "Project"), the City acquired roadway and easements needed for the Project, which also included acquisition of a power distribution easement ultimately intended for use by SRP. The project has been completed, however the easement that was conveyed to the City through a Final Order of Condemnation, took time to be processed through the court system and is now ready to be assigned. It was needed to assure clear space to accommodate SRP's facilities for the transmission and distribution of electricity that were relocated as a consequence of the Project.

Memo No. RE08-225
February 14, 2008
Page 2

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.

FINANCIAL IMPLICATIONS:

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

PROPOSED MOTION: Move that Council introduce and tentatively approve Ordinance No.4013 authorizing the assignment to Salt River Project (SRP) of a certain power distribution easement acquired by the City of Chandler for the Arizona Avenue and Ray Road intersection improvement project, ST0-148.

Attachments: Ordinance 4013
Assignment of Power Distribution Easement
Map

ORDINANCE NO. 4013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE ASSIGNMENT TO SALT RIVER PROJECT (SRP) OF A CERTAIN POWER DISTRIBUTION EASEMENT ACQUIRED BY THE CITY OF CHANDLER FOR THE ARIZONA AVENUE AND RAY ROAD INTERSECTION IMPROVEMENT PROJECT, ST0-148.

WHEREAS, the City of Chandler filed a condemnation action to acquire roadway and easements necessary for the improvements to the Arizona Avenue and Ray Road intersection; and

WHEREAS, the easements acquired included a certain power distribution 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 power distribution 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 power distribution easement acquired by the City through a condemnation action filed in connection with the Arizona Avenue and Ray Road intersection improvement project.

Section 2. The City Manager is authorized to execute such an agreement, which shall be in form approved by the City Attorney.

INTRODUCED AND TENTATIVELY APPROVED by the City of Chandler, Arizona, this _____ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this _____ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No.4013 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on _____ day of _____, 2008, 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, AZ 85072

ASSIGNMENT OF POWER DISTRIBUTION EASEMENT
(Arizona Avenue/Ray Road Intersection)

THIS ASSIGNMENT OF A POWER DISTRIBUTION EASEMENT (the “Assignment”) is made this ___ day of _____, 2008, 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 improvement of the Arizona Avenue and Ray Road intersection (the “Project”), City filed a condemnation action in the Maricopa County Superior Court to acquire roadway and easements needed for the Project that also included acquisition of a power distribution easement ultimately intended for use by SRP. The easement was needed to assure clear space to accommodate SRP’s facilities for the transmission and distribution of electricity that was relocated as a consequence of the Project.

1.2. In the 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 a power distribution easement over described real property in accordance with the terms and conditions for the easement as stated in the Final Order. In this 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 power distribution easement acquired through the recording of the Final Orders of Condemnation entered in the condemnation action. The condemnation action is listed below by case name and number 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>
North Park Plaza, LLC	CV2006-091119	03/06/07	2007-0273043

2. **Agreement.** For Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the 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 power distribution 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 power distribution 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 power distribution easement, or the property affected by the easements, 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 power distribution 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

Approved as to Form

City Attorney *GMB*

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing Assignment of a Power Distribution Easement was acknowledged before me this ____ day of _____, 2008, 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:

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 a Power Distribution Easement was acknowledged before me this ____ day of _____, 200__, 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:
