

#12
MAR 27 2008



Chandler • Arizona
Where Values Make The Difference

MEMORANDUM

Real Estate Council Memo No. RE08-285

DATE: MARCH 27, 2008

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
R.J. ZEDER, PUBLIC WORKS DIRECTOR
DANIEL W. COOK, DEPUTY PUBLIC WORKS DIRECTOR
MIKE NORMAND, TRANSIT SERVICES AND PLANNING MANAGER

FROM: ERICH KUNTZE, REAL ESTATE OPERATIONS COORDINATOR

SUBJECT: ORDINANCE NO. 4049 GRANTING AN IRRIGATION EASEMENT TO SALT RIVER PROJECT AT NO COST TO ACCOMMODATE UNDERGROUND CONSTRUCTION OF RELOCATED IRRIGATION FACILITIES DUE TO ROAD IMPROVEMENTS FOR GILBERT ROAD FROM FRYE ROAD TO THE SANTAN FREEWAY.

RECOMMENDATION: Staff recommends approval of Ordinance No. 4049 granting an Irrigation Easement to Salt River Project (SRP) at no cost to accommodate underground construction of relocated irrigation facilities due to road improvements for Gilbert Road from Frye Road to the Santan Freeway.

BACKGROUND/DISCUSSION: In connection with the completed City road project for the widening and improvement of Gilbert Road from Frye Road to the Santan Freeway (the "Project"), the City acquired roadway right of way and easements. A portion of the required right-of-way was acquired through the eminent domain process. This acquisition took considerable time to be processed through the court system and is now complete. There were existing irrigation facilities that needed to be relocated as a result of the project. These facilities have been relocated. The City needs to grant an easement within a portion of the right-of-way acquired for the Project to SRP pursuant to an early release request made to SRP that allowed the project to move forward.

Because the City directly benefits from granting this easement, the easement is being granted at no cost. Staff has confirmed that SRP has prior rights.

Page Two
Council Meeting of 3/27/08
Memo # RE0-285

FINANCIAL IMPLICATIONS: NONE

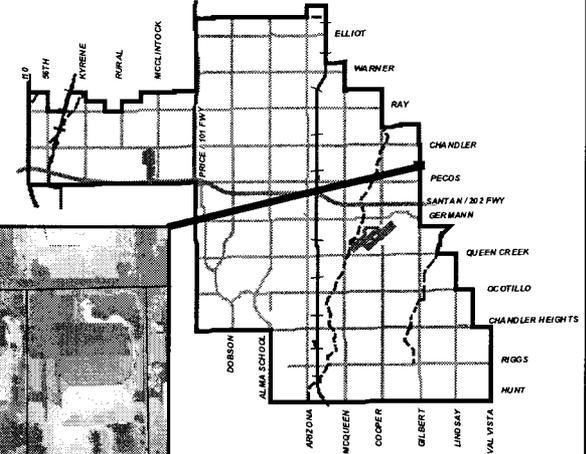
Cost: N/A
Savings: N/A
Long Term Costs: N/A

PROPOSED MOTION: Staff recommends approval of Ordinance No. 4049 granting an Irrigation Easement to Salt River Project (SRP) at no cost to accommodate underground construction of relocated irrigation facilities due to road improvements for Gilbert Road from Frye Road to the Santan Freeway.

Attachments: Ordinance No. 4049
Easement
Location/Site Map



GRANT IRRIGATION EASEMENT TO SALT RIVER PROJECT IN A PORTION OF GILBERT RD NORTH OF PECOS RD



MEMO NO. RE08-285

ORDINANCE NO. 4049

 **SRP IRRIGATION
EASEMENT**



ORDINANCE NO. 4049

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, TO AUTHORIZE AND APPROVE GRANTING AN IRRIGATION EASEMENT TO SALT RIVER PROJECT AT NO COST TO ACCOMMODATE UNDERGROUND CONSTRUCTION OF RELOCATED IRRIGATION FACILITIES DUE TO ROAD IMPROVEMENTS FOR GILBERT ROAD FROM FRYE ROAD TO THE SAN TAN FREEWAY.

WHEREAS, Salt River Project requested an Irrigation Easement from the City in order to relocate and underground a portion of existing irrigation facilities on the west side of Gilbert Road between Frye Road and the San Tan Freeway; and

WHEREAS, because the relocation and construction of underground facilities is necessary to accommodate a City road widening and improvement project there are no costs charged to Salt River Project for the Irrigation 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 is authorized to approve the granting of an Irrigation Easement to Salt River Project through, over, under and across that certain property described in Exhibits "A" (Legal Descriptions) and Exhibit "B" (Drawings), attached hereto and made a part hereof by reference.

Section 2. That the granting of this irrigation easement 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 easement document on behalf of the City.

INTRODUCED AND TENTATIVELY APPROVED by the City Council this ____ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council this ____ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No.4049 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2008, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY *WAB*

EXHIBIT "A"

LEGAL DESCRIPTION
FOR
SOUTHEAST QUARTER SECTION 36
GILBERT ROADWAY IMPROVEMENTS
SALT RIVER PROJECT IRRIGATION EASEMENT

That portion of the NORTHEAST QUARTER of the SOUTHEAST QUARTER of SECTION 36, 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 EAST QUARTER CORNER of SECTION 36, being monumented with a Brass Cap in Hand Hole, from which the SOUTHEAST CORNER of SECTION 36 bears SOUTH 00° 16' 53" EAST a distance of 2641.64 FEET, said line being the East line of the Southeast Quarter of said Section 36 and the basis of bearing for this description;

THENCE, SOUTH 00° 16' 53" EAST, along the East line of said Section 36, a distance of 330.23 FEET more or less;

THENCE, SOUTH 89° 43' 07" WEST, to a point on the North line of the subject parcel, a distance of 49.00 FEET, said point being the TRUE POINT OF BEGINNING;

THENCE, SOUTH 00° 16' 43" EAST, a distance of 40.05 FEET;

THENCE, SOUTH 00° 52' 01" WEST, a distance of 174.64 FEET;

THENCE, SOUTH 00° 16' 52" EAST, a distance of 115.61 FEET;

THENCE, SOUTH 89° 22' 46" WEST, along the South line of the subject parcel, a distance of 12.50 FEET;

THENCE, NORTH 00° 16' 53" WEST, a distance of 330.32 FEET, more or less;

THENCE, NORTH 89° 41' 55" EAST, along the North line of the subject parcel, a distance of 16.00 FEET to the TRUE POINT OF BEGINNING;

Containing an area of 4573.68 SQUARE FEET, or 0.105 ACRES, more or less.

See Exhibit "A" on Page 2 of 2

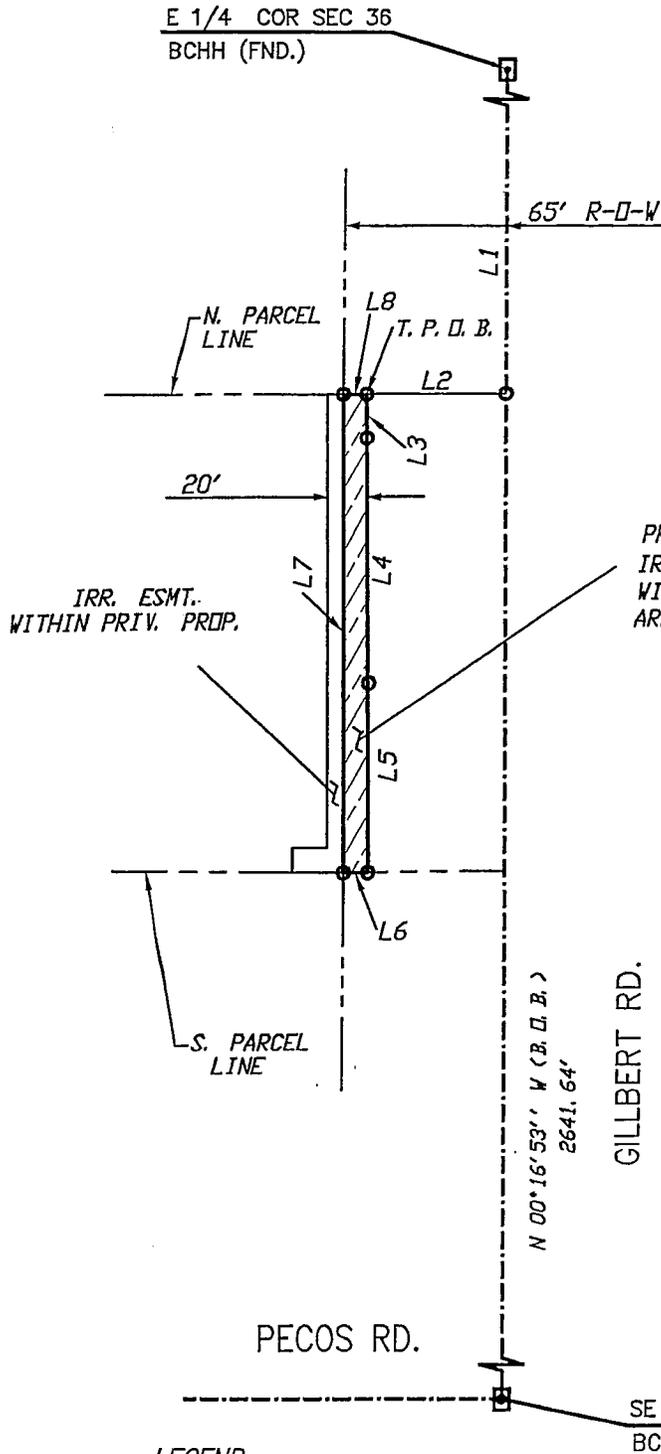


EXHIBIT "A"

S.E. 1/4 SEC. 36
SRP IRRIGATION EASEMENT WITHIN RIGHT-OF-WAY



SCALE: N.T.S.



LINE	BEARING	DISTANCE
L1	S 00°16'53" E	330.23'
L2	S 89°43'07" W	49.00'
L3	S 00°16'43" E	40.05'
L4	S 00°52'01" W	174.64'
L5	S 00°16'52" E	115.61'
L6	S 89°22'46" W	12.50'
L7	N 00°16'53" W	330.32'
L8	N 89°41'55" E	16.00'

PROPOSED
IRRIGATION EASEMENT
WITHIN RIGHT-OF-WAY
AREA= 4,573.68 SF
0.105 ACRES±

Entellus
2255 N. 44th Street Suite 125
Phoenix, AZ 85008-3279
Tel 602.244.2588
Fax 602.244.8947
E-Mail: www.entellus.com



LEGEND

PROPOSED S.R.P. IRRIGATION EASEMENT

BASIS OF BEARING

THE EAST LINE OF THE SOUTHEAST QUARTER
OF SECTION 36 BEARING S 00°16'53" E

CITY OF CHANDLER

GILBERT ROAD IMPROVEMENTS
SECTION 36, T.1S., R.5E.

PROPOSED S.R.P. IRR. ESMT.

DFT: 07/14/05 REVISED: 09-26-05
DRAWN BY: BW CHECKED: SB
FILE: 62(47REV1) PAGE: 2 OF 2

WHEN RECORDED MAIL TO:

SALT RIVER PROJECT

Land Department/PAB350

P. O. Box 52025

Phoenix, Arizona 85072-2025

IRRIGATION EASEMENT

Maricopa County

R/W #5 Agt. PJH

Job RD-52006

W PJH c JAG

KNOW ALL MEN BY THESE PRESENTS:

That

CITY OF CHANDLER, ("Grantor"),
an Arizona municipal corporation,

FOR AND IN CONSIDERATION OF THE SUM of One Dollar, and other valuable consideration, receipt of which is hereby acknowledged, do hereby grant to the **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, ("Grantee"), an agricultural improvement district organized and existing under the laws of the State of Arizona, its successors and assigns, the non-exclusive right, easement and privilege to construct, reconstruct, operate and maintain an underground irrigation pipeline and irrigation turnout structure together with all the necessary and appurtenant facilities (collectively, the "Irrigation Facilities) through, over, under and across the following described property:

Said easement being more particularly described on EXHIBIT A
attached hereto and by reference made a part hereof.

Grantee shall have the right, but not the obligation, to trim, cut and clear away trees or brush in the easement area whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby granted. Grantor shall be responsible for the cost of removal of any trees or brush installed by Grantor that do not comply with the specifications in Exhibit B, attached hereto.

The Grantee shall at all times have the right of full and free ingress and egress to said easement for the purpose heretofore specified.

In the event the right, privilege and easement herein granted shall be abandoned and permanently cease to be used for the purpose herein granted, all rights herein granted shall automatically cease and revert to the Grantors, their heirs and assigns. This reversion is self-executing.

However, in such event, and at Grantor's request, Grantee shall provide a quit claim deed or other recordable document sufficient to evidence the extinguishment of the easement and Grantee's interest in the real property described within this easement document.

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, successors in ownership and estate, assigns and lessees of the respective parties hereto.

Notwithstanding any of the aforesaid provisions, the easement rights granted herein shall be further subject to the following covenants, restrictions and conditions:

1. Grantor shall not erect, construct or permit to be erected or constructed any building, fence or other structure, drill any well or install swimming pools within the limits of said easement area, except Grantor reserves the right to construct, install, operate, maintain, repair, replace and reinstall surface parking areas, driveways, roadways, sidewalks, curbs and gutters, landscaping, irrigation lines, street lighting and public utilities in the easement area which comply with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof, unless agreed to by Grantee in writing.
2. Other easements or permits for public utility purposes which Grantor grants in, upon, under, over and across the easement area described herein shall provide for compliance with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof, unless agreed to by Grantee in writing.
3. In the event that any repair, maintenance, replacement or installation of the irrigation facilities and appurtenant conveniences will cause a disturbance or a disruption of any public street or paved roadway, Grantee shall notify Grantor, pursuant to existing practices, before Grantee undertakes any such action. In the event of an emergency, Grantee shall have use of any public street or paved roadway as it reasonably deems necessary and appropriate to correct, repair, replace or reconstruct irrigation facilities affected by the emergency and notify Grantor, pursuant to existing practices, as soon as practical after responding to the emergency. Grantee shall provide for advance warning signs, barricades, flagmen, flares, and other devices when necessary to protect the roadway user as set forth by the City Traffic Engineer in the latest edition of the "Manual on Uniform Traffic Control Devices" and any amendments and/or revisions thereto.
4. Grantor shall warrant and defend the rights, easements, and privileges hereby granted and the priority of this easement against all acts of the Grantor and no other, subject to any matter that may appear of record.

5. If, in its use of the easement area for any purpose, Grantee disturbs or damages any property or improvements of Grantor constructed in accordance with Exhibit B, all such property or improvements so disturbed or damaged shall be restored as close to its previous condition as is reasonably possible at the expense of Grantee.

6. Intentionally deleted.

7. Nothing herein or within the attached Exhibit B shall be construed to prohibit Grantor from installing any intersecting public street or paved roadway, including any related surface parking areas, curbs and gutters, landscaping irrigation lines, street lighting and public utilities related thereto, which intersects with and crosses over that portion of Grantor's road right of way in which the easement area lies, as indicated in the attached Exhibit A; provided, Grantor shall coordinate with Grantee to assure that such facilities will not damage or unreasonably interfere with Grantee's irrigation facilities.

IN WITNESS WHEREOF, **THE CITY OF CHANDLER**, an Arizona municipal corporation, has caused its name to be executed by its duly authorized representative(s) this _____ day of _____, 20__.

THE CITY OF CHANDLER,
an Arizona municipal corporation

By: _____

Its: _____

APPROVED AS TO FORM:

City Attorney for the *GAA*
City of Chandler

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned, personally appeared _____, as _____, of **THE CITY OF CHANDLER**, an Arizona municipal corporation, and such authorized representative acknowledged that this document was executed on behalf of the corporation for the purposes therein contained.

Notary Public

My Commission Expires:

Notary Stamp/Seal

Note: This instrument is exempt from the real estate transfer fee and affidavit of legal value required under A.R.S. Sections 11-1131 and 11-1132 pursuant to the exemptions set forth in A.R.S. Sections 11-1134(A)(2) and (A)(3).

S/LANDFORM/MASTER/CoJC IRRIGATION/NEW 2000

EXHIBIT "A"

LEGAL DESCRIPTION
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SOUTHEAST QUARTER SECTION 36
GILBERT ROADWAY IMPROVEMENTS
SALT RIVER PROJECT IRRIGATION EASEMENT

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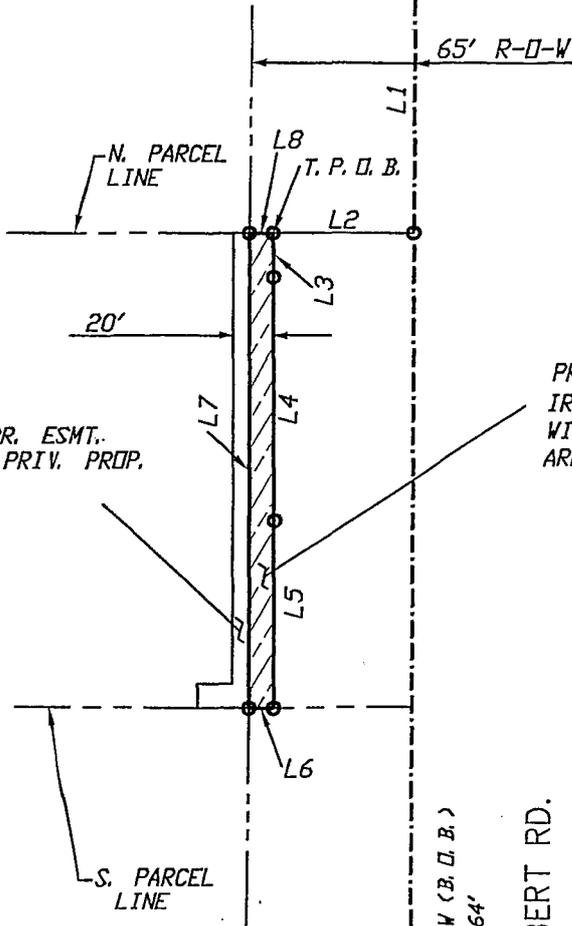
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S.E. 1/4 SEC. 36
SRP IRRIGATION EASEMENT WITHIN RIGHT-OF-WAY



SCALE: N.T.S.

E 1/4 COR SEC 36
BCHH (FND.)



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PROPOSED
IRRIGATION EASEMENT
WITHIN RIGHT-OF-WAY
AREA= 4,573.68 SF
0.105 ACRES±

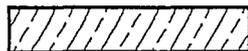
Entellus
2255 N. 44th Street Suite 125
Phoenix, AZ 85008.3279
Tel 602.244.2566
Fax 602.244.8947
E-Mail: www.entellus.com



PECOS RD.

SE COR. SEC. 36
BCHH (FND.)

LEGEND



PROPOSED S.R.P. IRRIGATION EASEMENT

BASIS OF BEARING

THE EAST LINE OF THE SOUTHEAST QUARTER
OF SECTION 36 BEARING S 00°16'53" E

CITY OF CHANDLER

GILBERT ROAD IMPROVEMENTS

SECTION 36, T.1S., R.5E.

PROPOSED S.R.P. IRR. ESMT.

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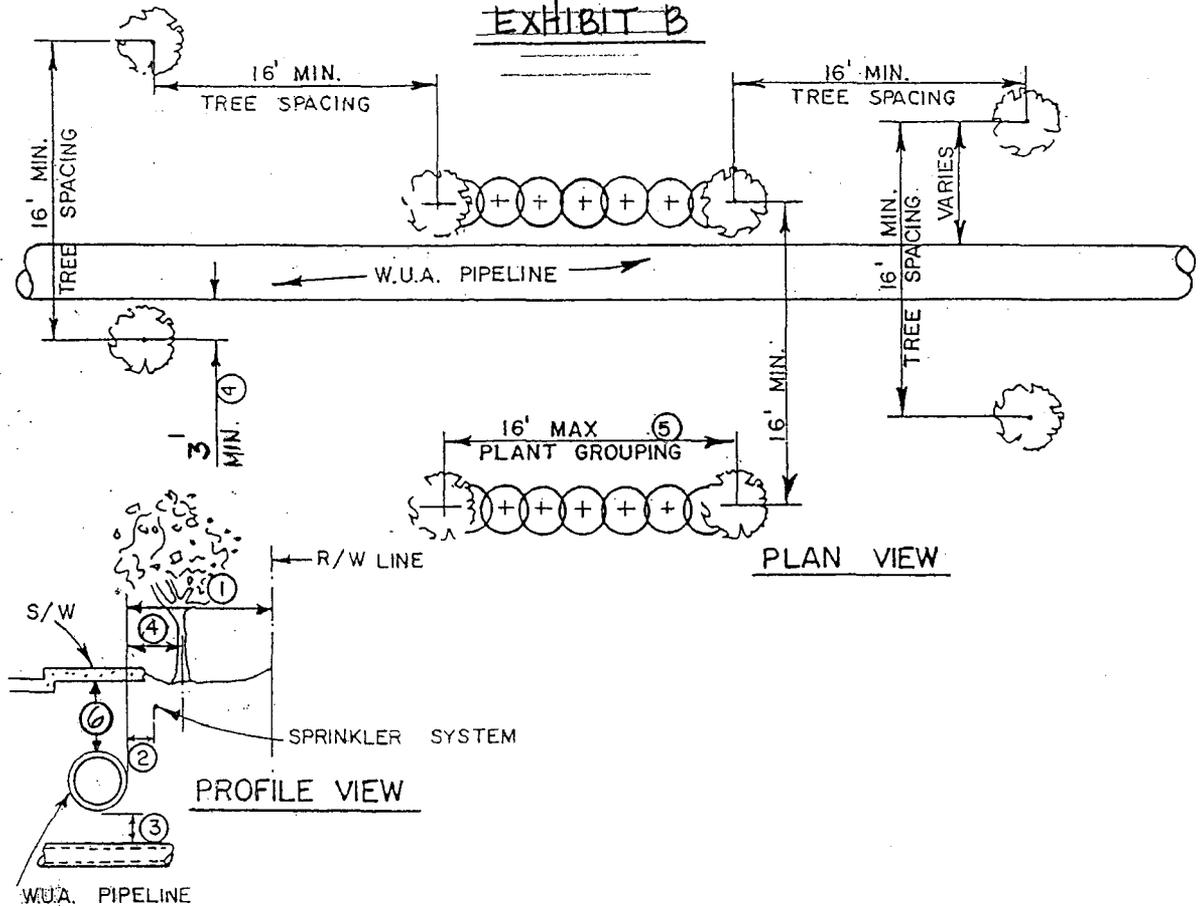
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PAGE: 2 OF 2

EXHIBIT B



UNDERGROUND IRRIGATION PIPELINE

- ① MINIMUM 2' CLEARANCE TO POLES, FENCE OR BUILDING IN PUBLIC R/W. AREA MAY BE USED FOR DRIVEWAY, PARKING, SIDEWALK, LAWN OR ALLEY.
- ② MINIMUM 2' CLEARANCE TO UNDERGROUND UTILITY LINES EXCEPT SPRINKLER SYSTEM. CITY RESPONSIBLE FOR REPAIRING SPRINKLER SYSTEM INSTALLED CLOSER THAN 2'. UTILITY EXCAVATION SHALL BE MINIMUM 2' FROM OUTSIDE EDGE OF C.I.P.P.
- ③ UNDER OR OVER CROSSING MINIMUM 1'.
- ④ MINIMUM 3' TO TREES IN PUBLIC R/W, SEE PLAN VIEW FOR OTHER REQUIREMENTS.
- ⑤ PLANT GROUPINGS SHALL NOT EXCEED 16'; GROUPINGS ON SAME SIDE OF PIPE SHALL BE MINIMUM 16' APART.
- ⑥ MAINTAIN 2' OF COVER

ORIGINAL

ADDED NOTE 6				
05-18-00	JWS	CWT	GR	2
REVISED	BY	CHK'D	ISSUE WITH	REV.
SALT RIVER VALLEY WATER USERS' ASS'N PHOENIX, ARIZONA				
S.R.P. R/W GUIDELINES FOR MUNICIPAL PRIOR RIGHTS AGREEMENT				
DESIGNED A.R.	CHECKED SAN			
DRAWN A. K.	RECOMMENDED GR			
TRACED 6-28-79	APPROVED TNS			
SCALE NONE				
6-28-79			C-8-131	

EXHIBIT B

IF GRANTOR (CITY) INSTALLS TREES, SHRUBBERY OR OTHER PLANTS IN A MANNER INCONSISTENT WITH EXHIBIT B, GRANTEE MAY REQUIRE GRANTOR TO REMOVE THEM AT GRANTOR'S SOLE EXPENSE. FURTHER, GRANTOR SHALL REIMBURSE GRANTEE FOR ALL COSTS INCURRED TO REMEDY ANY DAMAGE TO OR INTERFERENCE WITH ANY IRRIGATION FACILITIES, CAUSED BY ROOTS FROM TREES, SHRUBBERY OR OTHER PLANTS INSTALLED BY OR CAUSED TO BE INSTALLED BY GRANTOR, UNLESS GRANTEE REASONABLY DETERMINES THAT TIME DOES NOT PERMIT, GRANTEE SHALL PROVIDE GRANTOR WITH REASONABLE NOTICE AND A DAMAGE ESTIMATE IN ADVANCE OF INCURRING COSTS TO REMEDY ROOT PROBLEMS. WHENEVER GRANTEE HAS INCURRED SUCH COSTS WITHOUT ADVANCE NOTICE TO GRANTOR, GRANTEE SHALL PROVIDE GRANTOR WITH VISUAL EVIDENCE OF THE DAMAGE ALONG WITH GRANTEE'S REQUEST FOR REIMBURSEMENT WITHIN TEN (10) DAYS OF THE COMPLETION OF THE DAMAGE OF REPAIRS. UNLESS CAUSED BY GRANTEE NEGLIGENCE, GRANTOR SHALL INDEMNIFY AND SAVE HARMLESS GRANTEE AGAINST AND FROM ANY LIABILITY FOR CLAIMS FOR DAMAGE OR INJURY ARISING OUT OF INTERFERENCE WITH OR DAMAGE TO ANY IRRIGATION FACILITIES CAUSED BY ROOTS FROM TREES, SHRUBBERY OR OTHER PLANTS INSTALLED BY OR CAUSED TO BE INSTALLED BY GRANTOR.