

#7

JUN 26 2008



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MEMORANDUM **Real Estate Services Memo No. RE08-339**

DATE: JUNE 26, 2008

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
R.J. ZEDER, PUBLIC WORKS DIRECTOR
SHEINA HUGHES, ASSISTANT PUBLIC WORKS DIRECTOR/
CITY ENGINEER
MIKE NORMAND, TRANSPORTATION SERVICES & PLANNING
MANAGER

FROM: ERICH KUNTZE, REAL ESTATE OPERATIONS COORDINATOR

SUBJECT: ORDINANCE NO. 4068 AUTHORIZING AND APPROVING THE
GRANT OF A NO COST IRRIGATION EASEMENT TO THE UNITED
STATES OF AMERICA (USA) AND SALT RIVER PROJECT (SRP) IN
EXCHANGE FOR UNITED STATES OF AMERICA EASEMENT
PROPERTY, LOCATED ALONG THE NORTH SIDE OF GERMANN
ROAD BETWEEN ELLIS STREET AND DOBSON ROAD

RECOMMENDATION: Staff recommends introduction and tentative approval of Ordinance No. 4068 authorizing and approving the grant of a no cost irrigation easement to The United States of America (USA) and Salt River Project (SRP) in exchange for United States of America easement property, located along the north side of Germann Road between Ellis Street and Dobson Road.

BACKGROUND/DISCUSSION: As a requirement for approval of the Final Plat for the Brittany Heights subdivision, an irrigation easement was to have been granted to SRP in order to relocate an irrigation ditch and facilities from the north side of Germann Road between Ellis Street and Dobson Road, to right-of-way dedicated by the developer of the Brittany Heights subdivision to the City of Chandler.

SRP completed the relocation of the irrigation facilities, but discovered that the exchange of the irrigation easements did not occur. In order to correct this problem, the United

States of America has agreed to convey to the City of Chandler its interest in the existing easement area containing approximately 14,976 square feet via a Quit Claim Deed, in exchange for the City granting a no cost irrigation easement containing approximately 15,727 square feet to the USA and SRP from an existing USA easement along the north side of Germann Road, east of Ellis Street where the facilities are currently located. The exchange is being done at no cost to correct an oversight by the developer of the Brittany Heights subdivision when the original plat was recorded granting the right-of-way to the City.

Staff has determined that USA has title to the property on which the irrigation facilities previously existed.

FINANCIAL IMPLICATIONS:

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

PROPOSED MOTION: Move that Council introduce and tentatively approve Ordinance No. 4068 authorizing and approving the grant of a no cost irrigation easement to The United States of America (USA) and Salt River Project (SRP)) in exchange for United States of America easement property, located along the north side of Germann Road between Ellis Street and Dobson Road.

Attachments: Ordinance No. 4068
Contract and Grant of Easement, No. 08LE323832
Map

ORDINANCE NO. 4068

AN ORDINANCE OF THE COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING AND APPROVING THE GRANT OF A NO COST IRRIGATION EASEMENT TO THE UNITED STATES OF AMERICA (USA) AND SALT RIVER PROJECT (SRP) IN EXCHANGE FOR UNITED STATES OF AMERICA EASEMENT PROPERTY, LOCATED ALONG THE NORTH SIDE OF GERMANN ROAD BETWEEN ELLIS STREET AND DOBSON ROAD.

WHEREAS, the relocation of irrigation facilities along the north side of Germann Road between Ellis Street and Dobson Road was necessary for the approval of the Final Plat for Brittany Heights; and

WHEREAS, the Final Plat for Brittany Heights was to include a grant for an irrigation easement in order to relocate the existing irrigation facilities to another location; and

WHEREAS, the United States of America ("USA") owns the land on which its irrigation facilities were previously located; and

WHEREAS, Salt River Project commenced the relocation of the irrigation facilities, on behalf of the "USA", with the understanding that an irrigation easement would be granted on the Final Plat for Brittany Heights

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 does hereby authorize and approve the grant of an irrigation easement of approximately 15,727 square feet to the USA and SRP, as described in the attached Exhibit "A" by Contract and Grant of Easement, Contract No. 08LE323832, in consideration of approximately 14,976 square feet conveyed to the City of Chandler from the USA, by Quit Claim deed, the easement interest described in Exhibit "B" (existing USA Easement).

Section 2. The document used to grant the Irrigation Easement shall be in the form as approved by the City Attorney.

Section 3. That the Mayor of the City of Chandler is authorized to execute the Contract and Grant of Easement, Contract No. 08LE323832 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 of the City of Chandler, Arizona, this _____ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4068 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 *LAD*

EXHIBIT "A"

**Contract No. 08LE323832
Case No. 98-015**

ORIGINAL

Exempt per A.R.S. § 11-1134 A.3.

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION**

SALT RIVER PROJECT

CONTRACT AND GRANT OF EASEMENT

THIS CONTRACT AND GRANT OF EASEMENT, made this _____ day of _____, _____, pursuant to the Reclamation Act of June 17, 1902 (32 Stat. 388), the Reclamation Project Act of 1939 (53 Stat. 1187), and all acts amendatory thereof or supplementary thereto, between the **UNITED STATES OF AMERICA**, hereinafter referred to as the "United States," and the **CITY OF CHANDLER, an Arizona municipal corporation**, hereinafter referred to as "Grantor."

WITNESSETH:

That the Salt River Project Agricultural Improvement and Power District (SRP), an agricultural improvement district organized and existing under the laws of the State of Arizona, has relocated an irrigation facility acquired for a project purpose from an existing real property interest of the

United States to a new location; and,

WHEREAS, the United States owns a real property interest at the location of the irrigation facility before the relocation, and Grantor owns the fee title to the real property onto which the irrigation facility was relocated; and,

WHEREAS, Grantor intends to grant to the United States and its assigns that certain real property interest needed for the relocated facility in exchange for the real property interest no longer needed for project purposes; and,

WHEREAS, the United States will release its interest, if any, in and to the real property interest no longer needed by Contract No. 08LE323834 to Grantor, and any other owners of record of the underlying fee title.

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the following grant and mutual covenants by and between the parties:

1. Grantor does hereby grant unto the United States, its successors and assigns, a perpetual easement to construct, reconstruct, operate and maintain certain water distribution system pipelines, as part of the SRP water distribution system, and such structures, installations and facilities used in the construction, reconstruction, operation and maintenance of said water

distribution system, across certain land situated in the County of Maricopa, State of Arizona, and more fully described in Exhibit "A" attached hereto and by this reference made a part hereof.

2. The grant of easement herein contained shall include the perpetual right of ingress and egress over said premises to construct, reconstruct, operate, maintain, enlarge, improve, relocate, remove, repair and renew said water distribution system, together with the present and future right to clear said right-of-way to the extent deemed necessary by the United States to protect the rights and privileges herein granted.

3. The United States, its successors and assigns, may hold such easement forever for all purposes consistent with the water distribution feature of SRP, or any changes, or additions or modifications that may hereafter be made therein, and the United States, its successors and assigns, will have the perpetual right to take and use materials, as well as all of the rights incident to such water distribution feature, or any changes, additions, or modifications thereof over, upon or across said right-of-way described in Exhibit "A."

4. The Grantor hereby ratifies and affirms the right of the United States, its permittees, successors or assigns, to construct, reconstruct, operate, maintain, enlarge, improve, relocate, remove, repair and renew, together with the right of access thereto for such purposes, at any time and from time to time, a water conduit and related facilities, consisting of one or more canals, pipelines, laterals, markers, air valves, manholes, valves, meters, surge control devices, buried

communication conduits, and all other fixtures, devices and appurtenances related thereto, and to conduct all related activities in, on, under, and across the land described in Exhibit "A" under the following conditions:

(a) The United States shall have the right to use the subject land for ingress and egress at any time without prior notice, together with the right to use existing or future roadways, lanes and rights-of-way on Grantor's property adjacent thereto, as may be convenient and necessary for the purposes of exercising the rights herein granted. The United States may, at any time, install and/or use gates in any fences which are now or may hereafter be constructed and to trim, cut and clear away trees or brush whenever, in its judgment, the same shall be necessary for the convenient and safe exercise of the rights hereby granted, on said lands described in Exhibit "A," or on such adjoining lands for the purpose of exercising the rights herein granted.

(b) The rights granted to, and exercised by, the United States shall be subject to all existing structures, fencing, canals, ditches, pipelines, roadways, and rights-of-way, and all future uses thereof, including but not limited to the right of the Grantor to use the lands within said parcel for agricultural and other purposes, which do not or could not directly or indirectly interfere with or endanger the exercise of the rights of the United States; PROVIDED, HOWEVER, that the Grantor shall clear and keep clear the lands described in Exhibit "A" from explosives, buildings and structures of all kinds or facilities of a permanent nature which directly or indirectly interfere or could interfere with the rights of the United States, and shall not drill

any well, install swimming pools, or alter ground level by cut or fill, within the limits of said rights-of-way and the United States shall have the permanent right of exclusive use and possession within the easement.

5. The grant of easement herein contained is subject to easements and rights-of-way existing or of record in favor of the public or third parties, and subject to any outstanding interest in any and all organic or inorganic substances in or under said land.

6. Grantor warrants that no person or agency has been employed or retained to solicit or secure this grant upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by the Grantor for the purpose of securing business.

7. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this grant or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this grant if made with a corporation or company for its general benefit.

8. The provisions of this grant shall obligate and inure to the benefit of the respective heirs, executors, administrators, successors, and assigns of the parties to this grant.

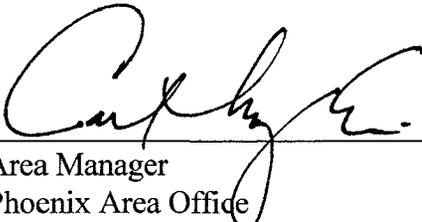
IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above written.

CITY OF CHANDLER, an Arizona municipal corporation

By: _____

Title: _____

UNITED STATES OF AMERICA

By:  _____
Area Manager
Phoenix Area Office
Bureau of Reclamation

ACKNOWLEDGMENT

State of Arizona)
) ss.
County of Maricopa)

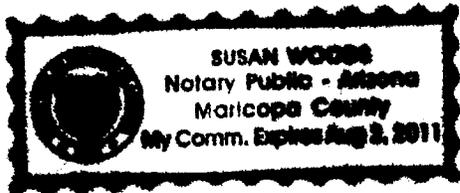
On this _____ day of _____, _____, before me,
_____, a Notary Public in and for said County and State,
personally appeared _____, _____, on
behalf of the **CITY OF CHANDLER, an Arizona municipal corporation**, known to me to be
the person described in the foregoing instrument, and acknowledged to me that he/she executed
the same in the capacity therein stated and for the purpose therein contained.

Notary Public in and for said
County and State

ACKNOWLEDGMENT

State of Arizona)
) ss.
County of Maricopa)

On this 13th day of February, 2008, before me,
SUSAN WOODS, a Notary Public in and for said County and State
personally appeared CAROL LYNN ERWIN, Area Manager, Phoenix Area
Office, Bureau of Reclamation, Department of the Interior, **UNITED STATES OF AMERICA**,
known to me to be the person described in the foregoing instrument, and acknowledged to me
that he/she executed the same on behalf of the United States in the capacity therein stated and for
the purpose therein contained.



Susan Woods
Notary Public in and for
said County and State

Contract No. 08LE323832
Case No. 98-015

EXHIBIT "A"

LEGAL DESCRIPTION

PROPOSED 16' USA EASEMENT

That part of Section 6, Township 2 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

The North 16.0 feet of the South 71.0 feet of the West 375.66 feet of the Southeast quarter of said Section 6.

AND

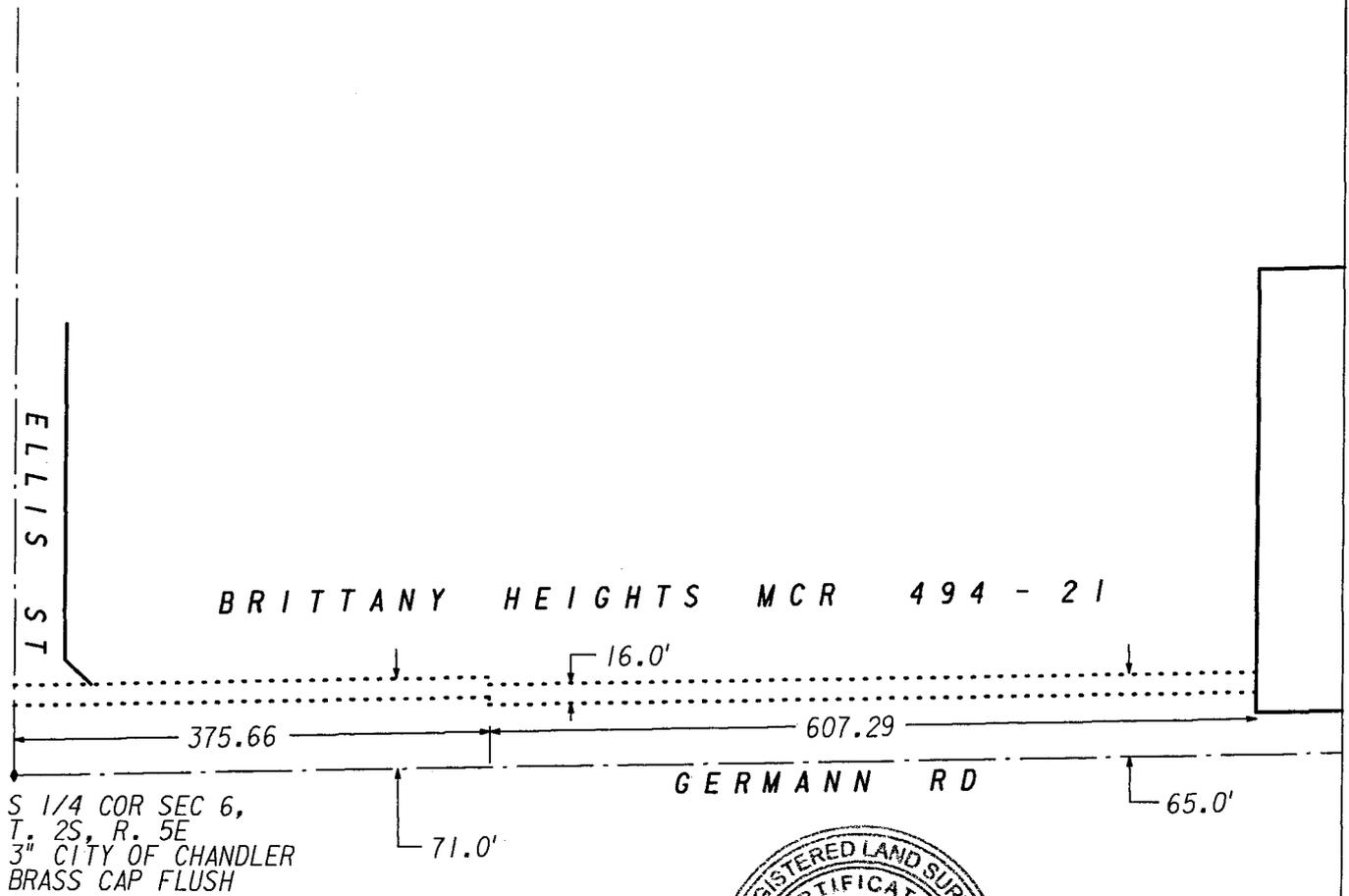
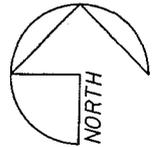
The North 16.0 feet of the South 65.0 feet of the East 607.29 feet of the West 982.93 of the Southeast quarter of said Section 6.

Said parcel contains 15,727 square feet, more or less.



EXHIBIT "A"

Contract No. 08LE323832
Case No. 98-015



LEGEND

- SECTION AND CENTERLINE
- PROPERTY LINE
- PROPOSED IRRIGATION EASEMENT

NOTE: Symbols may not be to drawing scale, so as to better enhance graphical representation.



THIS EXHIBIT IS INTENDED TO ACCOMPANY AN EASEMENT, IT IS NOT A SURVEY AND SHOULD NOT BE CONSTRUED AS SUCH.

SALT RIVER PROJECT A.1. & POWER DISTRICT MARICOPA COUNTY, ARIZONA	
RAD-02040-300(10) SEC 6, T.2S, R. 5E IRRIGATION RIGHT-OF-WAY	
DESIGNED _____	AGENT <u>P. HICKS</u>
DRAWN <u>J. MORRIS</u>	APPROVED: _____
DATE <u>09/25/06</u>	
SCALE <u>1" = 150'</u>	SHEET <u>1</u> OF <u>1</u>

EXHIBIT "B"

LEGAL DESCRIPTION EXISTING USA EASEMENT

A strip of land 16 feet wide for right of way for a ditch, a continuation of Lat. 15 of the East Branch of the Consolidated Canal, said strip being located in the South half (S½) of the South half (S½) of Section Six (6), Township Two South (2S), Range Five East (5E), Gila and Salt River Base and Meridian, Maricopa County, Arizona, the center line being described (using as a base the South line of said Section Six (6), with an assumed bearing of North 89°52½' West) as follows, to-wit:

Beginning at a point on the East line of said Section Six (6), distant 40.6 feet North of the Southeast (SE) corner thereof; thence North 89°58½' West, 38.5 feet;

Thence South 0°07½' West, 14.53 feet to a point 26 feet North 0°07½' East of a point on the South line of said Section Six (6), distant 38.6 feet North 89°52½' West from the Southeast (SE) corner thereof;

Thence parallel to the South line of said Section Six (6) North 89°52½' West, 5242.4 feet to a point on the West line of said Section Six (6), distant 26 feet North of the Southwest (SW) corner thereof.

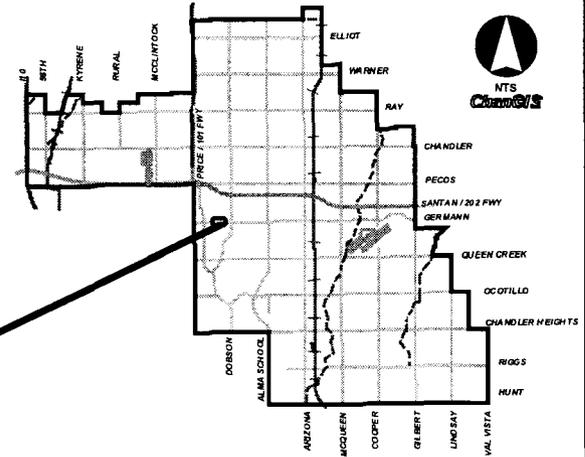
(Approved as to form: Date Mar. 2, 1920 by Richard J. Coffey, District Counsel)



GRANT AN IRRIGATION EASEMENT IN EXCHANGE FOR REAL PROPERTY

MEMO NO. RE08-339

ORDINANCE NO. 4068



 FUTURE 16' WIDE IRRIGATION (TO BE GRANTED)

 EXISTING 16' WIDE IRRIGATION DITCH (REAL PROPERTY TO BE EXCHANGED)

