

#12

OCT 30 2008



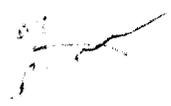
**Chandler • Arizona**  
*Where Values Make The Difference*

**MEMORANDUM**                      **Real Estate Services Memo No. RE09-109**

**DATE:**                      OCTOBER 30, 2008

**TO:**                              MAYOR AND COUNCIL

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

**FROM:**                      ERICH KUNTZE, REAL ESTATE MANAGER 

**SUBJECT:**                      RESOLUTION NO. 4234 AUTHORIZING AND APPROVING THE  
RELEASE OF A TEMPORARY DRAINAGE EASEMENT LOCATED  
ON THE PROPERTY AT 700 W. GERMANN ROAD.

RECOMMENDATION: Staff recommends that Council pass and adopt Resolution No. 4234 authorizing and approving the release of a Temporary Drainage Easement located on the property at 700 W. Germann Road.

BACKGROUND/DISCUSSION: In August of 2007 the City acquired a Temporary Drainage Easement (“TDE”) on the Property located at 700 W. Germann Road as part of the Germann Road – Dobson to Arizona Avenue improvement project (the “Project”). Subsequently, the property owner requested that the TDE be relocated on his property to accommodate the construction of a new home being planned. After working with Staff, a replacement TDE providing the same storage capacity was granted to the City on October 6, 2008. The retention basin within the new TDE is under construction. Construction of the Project is scheduled to be completed in Spring of 2009.

FINANCIAL IMPLICATIONS:

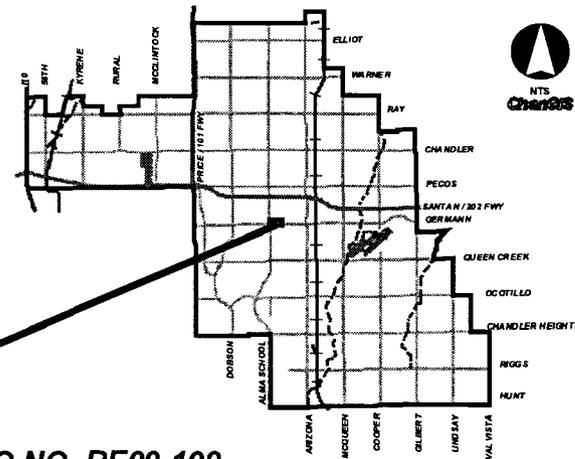
Cost: N/A  
Savings: N/A  
Long Term Costs: N/A

PROPOSED MOTION: Staff recommends that Council pass and adopt Resolution No. 4234 authorizing and approving the release of a Temporary Drainage Easement located on the property at 700 W. Germann Road.

Attachments: Resolution No. 4234  
Release of Easement  
Map

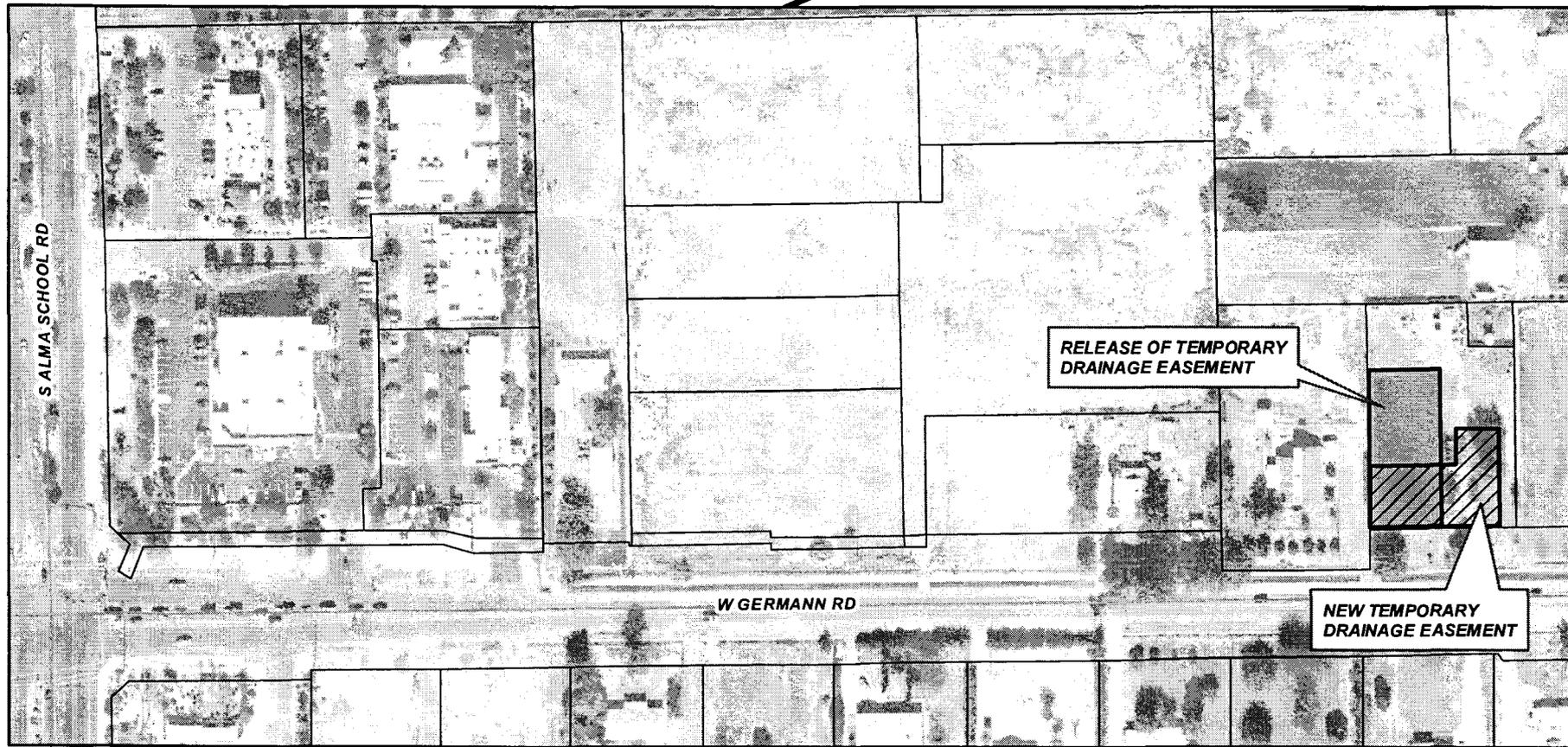


# RELEASE OF TEMPORARY DRAINAGE EASEMENT FOR 700 W GERMANN RD



MEMO NO. RE09-109

-  NEW DRAINAGE EASEMENT
-  RELEASE OF DRAINAGE EASEMENT



RESOLUTION NO. 4234

A RESOLUTION OF THE COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING AND APPROVING THE RELEASE OF A TEMPORARY DRAINAGE EASEMENT LOCATED ON THE PROPERTY AT 700 W. GERMANN ROAD.

WHEREAS, the City of Chandler acquired a Temporary Drainage Easement (“TDE”) on August 7, 2007 on a portion of Assessor’s Parcel Number 303-27-009T; and

WHEREAS, the property owner requested that the City relocate the TDE to a different location on their property to accommodate the construction of a home; and

WHEREAS, the property owner granted a TDE to the City of Chandler at a new location at no cost; and

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

**Section 1.** That the City of Chandler is authorized to release the Temporary Drainage Easement in consideration of the property owner having granted a replacement Temporary Drainage Easement at a different location on the same property.

**Section 2.** The new TDE and the document used to release the Temporary Drainage 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 and deliver all documents necessary to affect the release of the Temporary Drainage Easement.

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. 4234 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 *610*

When recorded, mail to  
City Clerk's Office  
City of Chandler  
Mail Stop 606  
P.O. Box 4008  
Chandler, AZ. 85244-4008

APN 303-27-009T  
Sec 4, T2S, R5E  
EK 10/01/08

**RELEASE OF EASEMENT**

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, CITY OF CHANDLER, an Arizona municipal corporation ("City"), does hereby release and extinguish any and all interest that it may have in those certain parcels of real property described in Exhibit "A", attached hereto and made a part hereof, arising by virtue of the Temporary Drainage Easement vested in City and recorded with the Maricopa County Recorder on August 7, 2007 as Instrument No. 20070889521.

This Release of Easement is provided in light of the owner of the property on which the easement is located is granting a new easement to the City of Chandler at another location on the property at no cost. Accordingly, this Release of Easement shall be effective upon the occurrence of each of the following three (3) events: (a) the execution and recording this Release of Easement with the Maricopa County Recorder; (b) the execution and recording of new Temporary Drainage Easement to the City; and (c) completion of the construction of the new retention basin. Until this Release of Easement is effective, City shall retain a right to use the property described herein for retention purposes, as needed and as provided by the document that originally created the easements being released herein.

CITY OF CHANDLER, an Arizona municipal corporation

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

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

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

On this, the \_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a Notary Public, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_ of the City of Chandler, an Arizona municipal corporation, and that he/she as such officer of the municipal corporation being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the municipal corporation as such officer.

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

My Commission Expires:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney    GAB

EXHIBIT "A"

LEGAL DESCRIPTION  
FOR  
APN 303-27-009T  
GERMANN ROADWAY IMPROVEMENTS  
TEMPORARY DRAINAGE EASEMENT

The following is a description for a TEMPORARY CONSTRUCTION EASEMENT within a portion of a parcel of land as described in Deed #05-1287436, records of MARICOPA COUNTY, ARIZONA located in the SOUTHWEST QUARTER of SECTION 4, TOWNSHIP 2 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 SOUTHWEST CORNER of SECTION 4, being monumented with a Brass Cap flush, from which the SOUTH QUARTER CORNER of SECTION 4, being monumented with a Brass Cap flush, bears NORTH 89° 12' 35" EAST a distance of 2635.71 FEET, said line being the South line of the Southwest Quarter of said Section 4 and the basis of bearing for this description;

THENCE, NORTH 89° 12' 35" EAST, along the South line of the Southwest Quarter of said Section 4, a distance of 1,482.59 FEET;

THENCE, NORTH 00° 58' 24" WEST, a distance of 78.00 FEET, to a point on the South line of a temporary drainage easement, also being the TRUE POINT OF BEGINNING;

THENCE, Continuing NORTH 00° 58' 24" WEST along the west deed line of said parcel, a distance of 177.00 FEET;

THENCE, NORTH 89° 12' 35" EAST, a distance of 80.25 FEET;

THENCE, SOUTH 00° 58' 24" EAST, a distance of 177.00 FEET;

THENCE, SOUTH 89° 12' 35" WEST, a distance of 80.25' FEET to the TRUE POINT OF BEGINNING.

Containing an area of 14,205 SQUARE FEET or 0.33 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.



When recorded, mail to:  
City of Chandler  
City Clerk  
P.O. Box 4008, Mail Stop 606  
Chandler, AZ 85244-4008

APN: 303-27-479  
Section 4, Township 2 South, Range 5 East  
ek 10-1-08

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This document is exempt from Affidavit and Fee requirement pursuant to A.R.S. § 11-1134(A)(2).

### **TEMPORARY DRAINAGE EASEMENT**

For and in consideration of the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged,

**Filiberto Pacheco and Julia Pacheco, husband and wife**

("Grantor"), does hereby grant and convey unto the CITY OF CHANDLER, an Arizona municipal corporation ("Grantee"), an easement in, on, over, under, across and through that certain real property situated in Maricopa County, Arizona, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Easement Property"), for the construction, maintenance, repair and operation of a storm water drainage and retention basin; reserving, however, to Grantor, its heirs, successors, representatives and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easements hereby acquired; subject, however, to any existing easements for public rights-of-way and public utilities.

The aforesaid grant of easement shall be subject to the following covenants, restrictions and conditions:

1. This easement is subject to all easements and encumbrances of record, and is non-exclusive, *provided that* later granted easements shall be subject to Grantee's rights and uses.
2. In the event Grantee records a document to formally abandon this easement, all of Grantee's rights hereunder shall cease, except the right to remove any and all property placed upon the Easement Property within a reasonable time subsequent to such abandonment.
3. Nothing herein requires that a fully landscaped storm water retention basin be constructed by Grantee, and Grantor acknowledges that Grantee has represented that it intends to install a temporary retention basin, not fully landscaped and improved.

4. At the time of development of the larger parcel upon which this easement is situated and of which the Easement Property is a part, the easement granted herein may be relocated in conformance with Grantor's development plans with approval of the City Engineer of the City of Chandler, Arizona.

5. The easement granted herein runs with the land, and the easement and all covenants, restrictions and conditions hereof shall be binding upon Grantor, its successors and assigns, and shall inure to the benefit of Grantee, its successors and assigns.

DATED this 10 day of 3, 2008.

GRANTOR: Filiberto Pacheco and Julia Pacheco  
Husband and Wife

By: Filiberto Pacheco  
Filiberto Pacheco

By: Julia Pacheco  
Julia Pacheco

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing Temporary Drainage Easement was acknowledged before me this 6th day of Oct, 2008, by Filiberto Pacheco and Julia Pacheco being authorized so to do.

Heather L. O'Fiths  
Notary Public

My Commission Expires:  
Feb 8, 2009

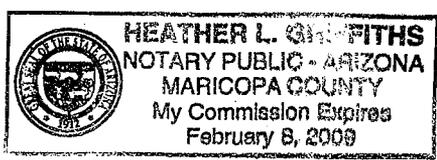


EXHIBIT "A"

LEGAL DESCRIPTION  
FOR  
APN 303-27-479  
GERMANN ROADWAY IMPROVEMENTS  
TEMPORARY DRAINAGE EASEMENT



The following is a description for a TEMPORARY DRAINAGE EASEMENT within a portion of a parcel of land as described in Deed #2005-1287436, records of MARICOPA COUNTY, ARIZONA located in the SOUTHWEST QUARTER of SECTION 4, TOWNSHIP 2 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 SOUTHWEST CORNER of SECTION 4, being monumented with a Brass Cap flush, from which the SOUTH QUARTER CORNER of SECTION 4, being monumented with a Brass Cap flush, bears NORTH 89 degrees 12 minutes 35 seconds EAST a distance of 2635.71 feet, said line being the South line of the Southwest Quarter of said Section 4 and the BASIS OF BEARING for this description;

Thence NORTH 89 degrees 12 minutes 35 seconds EAST, along the South line of the Southwest Quarter of said Section 4, a distance of 1482.59 feet to a point;

Thence NORTH 00 degrees 58 minutes 24 seconds WEST a distance of 78.00 feet to a point on the North line of a USA Fee property, said point also being the TRUE POINT OF BEGINNING;

Thence continuing NORTH 00 degrees 58 minutes 24 seconds WEST, along the west deed line of said parcel, a distance of 69.00 feet a point;

Thence NORTH 89 degrees 12 minutes 35 seconds EAST a distance of 97.00 feet to a point;

Thence NORTH 00 degrees 58 minutes 24 seconds WEST a distance of 40.00 feet to a point;

Thence NORTH 89 degrees 12 minutes 35 seconds EAST a distance of 48.00 feet to a point;

Thence SOUTH 00 degrees 58 minutes 24 seconds EAST a distance of 109.00 feet to a point on a line parallel with and 78.00 feet North of the South line of said Section, said parallel line also being the North line of said USA Fee property;

Thence along said parallel line, SOUTH 89 degrees 12 minutes 35 seconds WEST a distance of 145.00 feet to the TRUE POINT OF BEGINNING.

Containing an area of 11,925 SQUARE FEET or 0.274 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.

# EXHIBIT "B"

APN# 303-27-479  
TEMPORARY DRAINAGE EASEMENT

LINE	BEARING	DISTANCE
L1	N 89°12'35" E	1482.59'
L2	N 00°58'24" W	78.00'
L3	N 00°58'24" W	69.00'
L4	N 89°12'35" E	97.00'
L5	N 00°58'24" W	40.00'
L6	N 89°12'35" E	48.00'
L7	S 00°58'24" E	109.00'
L8	S 89°12'35" W	145.00'

APN# 303-27-0095

N. LINE  
USA FEE

T. P. D. B.

W. DEED LINE

PROPOSED TEMPORARY  
DRAINAGE EASEMENT  
AREA = 11,925 S. F.  
0.27± ACRES



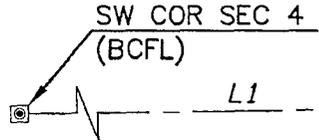
SCALE: N.T.S.

**Entellus™**  
2255 N. 44th Street Suite 125  
Phoenix, AZ 85008.3279  
Tel 802.244.2566  
Fax 802.244.8947  
E-Mail: www.entellus.com

VOLUME = 22,770 FT<sup>3</sup>



Expires 06/30/2011



65' R-O-W

GERMANN ROAD

S 1/4 COR SEC 4  
BCFL (FND)

N 89°12'35" E  
2635.71'

### LEGEND



PROPOSED TEMPORARY  
ROW OR EASEMENT

### BASIS OF BEARING

THE SOUTH LINE OF THE SOUTHWEST QUARTER  
OF SECTION 4 BEARING N 89°12'35" E

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.

<b>CITY OF CHANDLER</b>		
SECTION 4 - STREET IMPROVEMENTS		
SECTION 4, T.2S., R.5E.		
<b>PROPOSED TEMPORARY DRAINAGE EASEMENT</b>		
DATE: 10/1/08	REV'D: ___/___/___	
DRAWN BY: _____	CHK'D: _____	PAGE: 2 OF 2
FILE: P/SS/APROJ/615043/LEGALS/30327479		

Deed Report

10/1/2008 09:28

Deed Name: 303-27-479

Starting Coordinates: Northing 245.65, Easting 229.16

Bearing	Distance	Type	Radius	Arc Len	Delta	Tangent	Description
N 00°58'24" W	69.00	LINE					
N 89°12'35" E	97.00	LINE					
N 00°58'24" W	40.00	LINE					
N 89°12'35" E	48.00	LINE					
S 00°58'24" E	109.00	LINE					
S 89°12'35" W	145.00	LINE					

Ending Coordinates: Northing 245.65, Easting 229.16

Area: 11924.94 S.F, 0.2738 Acres

Total Perimeter Distance> 508.00

Closure Error Distance> 0.00 Error Bearing> N 90°00'00" E

Closure Precision> 1 in 2826073947649268.00

