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NOV 20 2008



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**MEMORANDUM**                      **Real Estate – Council Memo No. RE 09-129**

**DATE:**                      NOVEMBER 20, 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, TRANSPORTATION SERVICES AND PLANNING  
MANAGER

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

**SUBJECT:**                      ORDINANCE NO. 4047 AUTHORIZING THE ASSIGNMENT TO  
SALT RIVER PROJECT (SRP) OF AN IRRIGATION EASEMENT  
ACQUIRED BY THE CITY OF CHANDLER FOR THE GILBERT  
ROAD PECOS ROAD TO SANTAN FREEWAY IMPROVEMENT  
PROJECT.

RECOMMENDATION: Staff recommends introduction and tentative approval of Ordinance No. 4047 authorizing the assignment to Salt River Project (SRP) of a certain Irrigation Easement acquired by the City of Chandler for the Gilbert Road Pecos Road to Santan Freeway improvement project.

BACKGROUND/DISCUSSION: In connection with a City road project for the widening and improvement of Gilbert Road from Pecos Road to the Santan Freeway (the "Project"), the City acquired roadway and easements needed for the Project, which also included acquisition of an Irrigation Easement ultimately intended for use by SRP. The easement that was conveyed to the City through a Final Order of Condemnation, took considerable time to be processed through the court system and is now ready to be assigned. The irrigation facilities have been relocated. The City needs to assign this easement to SRP pursuant to an early release request made to SRP that allowed the project to move forward.

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.

RE09-129  
November 20, 2008  
Page 2

FINANCIAL IMPLICATIONS:

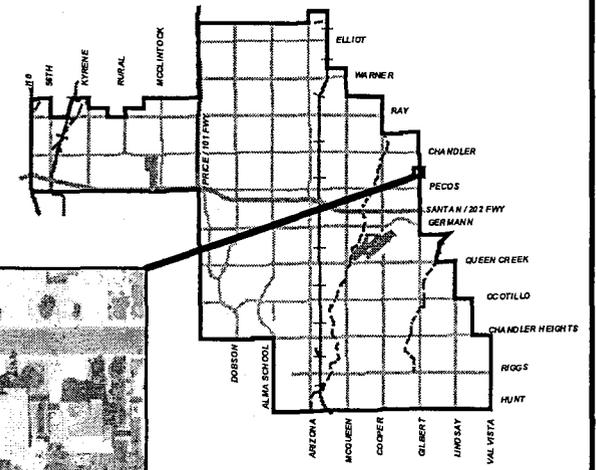
Cost: N/A  
Savings: N/A  
Long Term Costs: N/A

PROPOSED MOTION: Move that Council introduce and tentatively approve Ordinance No. 4047 authorizing the assignment to Salt River Project (SRP) of a certain irrigation easement acquired by the City of Chandler for the Gilbert Road Pecos Road to the Santan Freeway improvement project.

Attachments: Ordinance 4047  
Assignment of Irrigation Easement  
Map



# ASSIGN IRRIGATION EASEMENT TO SALT RIVER PROJECT



MEMO NO. RE09-129

ORDINANCE NO. 4047

 IRRIGATION EASEMENT



ORDINANCE NO. 4047

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING THE ASSIGNMENT TO SALT RIVER PROJECT OF A CERTAIN IRRIGATION EASEMENT ACQUIRED BY THE CITY OF CHANDLER THROUGH CONDEMNATION ACTIONS FOR THE GILBERT ROAD PECOS ROAD TO THE SANTAN FREEWAY IMPROVEMENT PROJECT.

WHEREAS, the City of Chandler filed a condemnation action to acquire roadway and easements necessary to widen and improve Gilbert Road from Pecos Road to the Santan Freeway; and

WHEREAS, the easements acquired included a certain irrigation easement needed to accommodate the relocation of existing irrigation facilities of Salt River Project Agricultural Improvement and Power District ("Salt River Project"); and

WHEREAS, the irrigation 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 irrigation easement acquired by the City through a condemnation action filed in connection with the Gilbert Road Pecos Road to the Santan Freeway improvement project.

**Section 2.** The City Manager is authorized to execute such agreements, 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.4047 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 *ESB*

When recorded, mail to:  
Salt River Project  
P.O Box 52025  
Mail Station PAB 350  
Phoenix, AZ 85072

**ASSIGNMENT OF IRRIGATION EASEMENT**  
(Gilbert Road Pecos Road to San Tan Freeway Improvements)

THIS ASSIGNMENT OF AN IRRIGATION EASEMENT (the "Assignment") is made this \_\_\_ day of \_\_\_\_\_, 200\_\_, 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 widening and improvement of Gilbert Road from Pecos Road to the San Tan Freeway in Chandler, Arizona (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 an irrigation easement ultimately intended for use by SRP. The easement was needed to provide for relocation of existing irrigation facilities that were required to be 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 an irrigation easement 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 irrigation easement acquired through the recording of the Final Order of Condemnation entered in the condemnation action. The condemnation action is listed below by case name and number followed 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>
Rich Menkin, etal	CV2005-093963	08/16/07	2007-0940062

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 irrigation 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 irrigation 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 irrigation easement, or the property affected by the easement, 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 irrigation 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 GAJ

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing Assignment of Irrigation Easement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, 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 Irrigation 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:  
  
\_\_\_\_\_