

## Staff Summary Report

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Council Meeting Date: 11/08/07

Agenda Item Number: \_\_\_\_\_

**SUBJECT:** This is the second public hearing to adopt an ordinance granting an easement to Arizona Public Service to install and maintain the necessary facilities to provide electrical service to the Tempe Transit Center building located at 200 East 5<sup>th</sup> Street.

**DOCUMENT NAME:** 20071108PWCH02 **GRANT OF EASEMENTS (0904-02)**  
**ORDINANCE NO. 2007.69**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Arizona Public Service has requested an easement to install and maintain underground power lines necessary to energize the Tempe Transit Center development.

**PREPARED BY:** LARRY SHOBE, ENGINEERING SERVICES ADMINISTRATOR (x8417)

**REVIEWED BY:** ANDY GOH, DEPUTY PW MANAGER/CITY ENGINEER (x8896)

**LEGAL REVIEW AS TO FORM:** CYNTHIA MCCOY, ASSISTANT CITY ATTORNEY (x2187)

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Adopt Ordinance No. 2007.69 and authorize the Mayor to execute any necessary documents.

Approved by Glenn Kephart, Public Works Manager

ORDINANCE NO. 2007.69

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, GRANTING AN ELECTRICAL EASEMENT TO ARIZONA PUBLIC SERVICE (APS), FOR THE TEMPE TRANSIT CENTER PROPERTY AT 200 EAST FIFTH STREET, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN.

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WHEREAS, it has been determined that the City of Tempe owns real estate described herein, and,

WHEREAS, Arizona Public Service has requested an easement for electrical power on said property, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, MARICOPA COUNTY, ARIZONA, AS FOLLOWS

**Section 1.** That the City of Tempe does hereby authorize the granting of an easement to Arizona Public Service in the form attached as Exhibit "A" consisting of five (5) pages.

**Section 2.** That the rights granted in the easement to APS shall be subject to the same encumbrances, liens, limitations, restrictions, and estates as exist on the land of which the easement is a part.

**Section 3.** The Mayor is hereby authorized to execute any documents that may be necessary to carry out the provisions of this Ordinance. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

Ordinance No. 2007.69  
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PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA

This \_\_\_\_\_ day of November, 2007.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Recorded at the request of CITY OF TEMPE

When recorded, return to:

City of Tempe Basket

AFFIDAVIT AND FEE EXEMPT  
PURSUANT TO ARS SECTION 11-1134.A-3.

SW-15-T1N-R4E  
W263242  
RLS

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### UTILITY EASEMENT

**CITY OF TEMPE**, a municipal corporation of the State of Arizona, (hereinafter called "Grantor"), is the owner of the following described real property located in Maricopa County, Arizona (hereafter called "Grantor's Property"):

#### **SEE EXHIBIT "A" ATTACHED HERETO AND MADE PART HEREOF**

Grantor, for and in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby grant and convey to **ARIZONA PUBLIC SERVICE COMPANY**, an Arizona corporation, (hereinafter called "Grantee"), and to its successors and assigns, a non-exclusive right, privilege, and easement at locations and elevations, in, upon, over, under, through and across, a portion of Grantor's Property described as follows (herein called the "Easement Premises"):

#### **SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF**

Grantee is hereby granted the right to: construct, reconstruct, replace, repair, operate and maintain electrical lines, together with appurtenant facilities and fixtures for use in connection therewith, for the transmission and distribution of electricity to, through, across, and beyond Grantor's Property; install, operate and maintain cables, conduits, fixtures and facilities to the extent required to supply electricity or for Grantee's own use in connection with supplying electricity (said electrical lines, facilities and fixtures collectively herein called "Grantee Facilities"; and utilize the Easement Premises for all other purposes connected therewith.

Grantee is hereby granted the right, but not the obligation, to trim, prune, cut, and clear away trees, brush, shrubs, or other vegetation on, or adjacent to, the Easement Premises whenever in Grantee's judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

Grantee shall at all times have the right of full and free ingress and egress to and along the Easement Premises for the purposes herein specified.

Grantor shall not locate, erect or construct, or permit to be located, erected or constructed, any building or other structure or drill any well within the limits of the Easement Premises; nor shall Grantor plant or permit to be planted any trees within the limits of the Easement Premises without the prior written consent of Grantee. However, Grantor reserves the right to use the Easement Premises for purposes that are not inconsistent with Grantee's easement rights herein conveyed and which do not interfere with or endanger any of the Grantee Facilities, including, without limitation, granting others the right use all or portions of the Easement Premises for utility or roadway purposes and constructing improvements within the Easement Premises such as paving, sidewalks, landscaping, and curbing. Notwithstanding the foregoing, Grantor shall not have the right to lower by more than one foot or raise by more than two feet the surface grade of the Easement Premises, and in no event shall a change in the grade compromise Grantee's minimum cover requirements or interfere with Grantee's operation, maintenance or repair.

Grantor shall maintain a clear area that extends 2 feet from and around all edges of all transformer pads and other equipment pads, 3 feet from and around all edges of all switching cabinet pads and clear operational area that extends 10 feet immediately in front of all transformer, switching cabinet and other equipment openings, as shown on Exhibit "B". No obstructions, trees, shrubs, fixtures, or permanent structures shall be placed by Grantor within said areas.

Grantee agrees that following any installation, excavation, maintenance, repair, or other work by Grantee within the Easement Premises, the affected area will be restored by Grantee to as close to original condition as is reasonably possible, at the expense of Grantee.

The easement granted herein shall not be deemed abandoned except upon Grantee's execution and recording of a formal instrument abandoning the easement.

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, administrators, executors, successors in ownership and estate, assigns and lessees of Grantor and Grantee.



## EXHIBIT "A"

That portion of the Northeast quarter of the Southwest quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and meridian, Maricopa County, Arizona, lying Northeasterly of the Northeasterly bank of the old Hayden Canal, described as follows:

COMMENCING at the Southeast corner of the Southeast quarter of said Section 15, from which the center of said Section 15 bears North 00 degrees 23 minutes 31 seconds East, 2661.56 feet;

THENCE North 00 degrees 4 minutes 21 seconds East along the centerline of existing college avenue 1351.67 feet to the North right of way line of 5<sup>th</sup> Street and the POINT OF BEGINNING;

THENCE continuing North 00 degrees 4 minutes 21 seconds East, 46.08 feet to a point, said point being measured 15.00 feet Southwesterly and perpendicularly to the centerline of the Southern Pacific Railroad Track;

THENCE North 65 degrees 31 minutes 3 seconds West parallel with and 15.00 feet Southwesterly of the centerline of said railroad track 212.30 feet to a point on the arc of a circle the center of which bears South 24 degrees 28 minutes 57 seconds West 5000.36 feet;

THENCE Northwesterly along the arc of said circle through a central angle of 2 degrees 48 minutes 8 seconds, a distance of 244.56 feet;

THENCE North 68 degrees 19 minutes 11 seconds West, 239.65 feet;

THENCE South 21 degrees 58 minutes 44 seconds West, 16.52 feet to the North bank of the old Hayden canal;

THENCE Southeasterly along the said North bank of the old Hayden canal the following courses and distances;

THENCE South 52 degrees 25 minutes 3 seconds East, 47.31 feet to a point on the arc of a circle the center of which bears North 37 degrees 35 minutes 4 seconds, 177.71 feet;

THENCE Southeasterly along the arc of said curve through a central angle of 13 degrees 00 degrees 52 seconds a distance of 40.37 feet to a point of reverse curve, the center of which bears South 24 degrees 34 minutes 12 seconds West, 339.53 feet;

THENCE Southeasterly along the arc of said circle through a central angle of 9 degrees 13 minutes 43 seconds, a distance of 54.69 feet;

THENCE South 56 degrees 12 minutes 9 seconds East 411.38 feet to the said North right of way line of 5<sup>th</sup> Street;

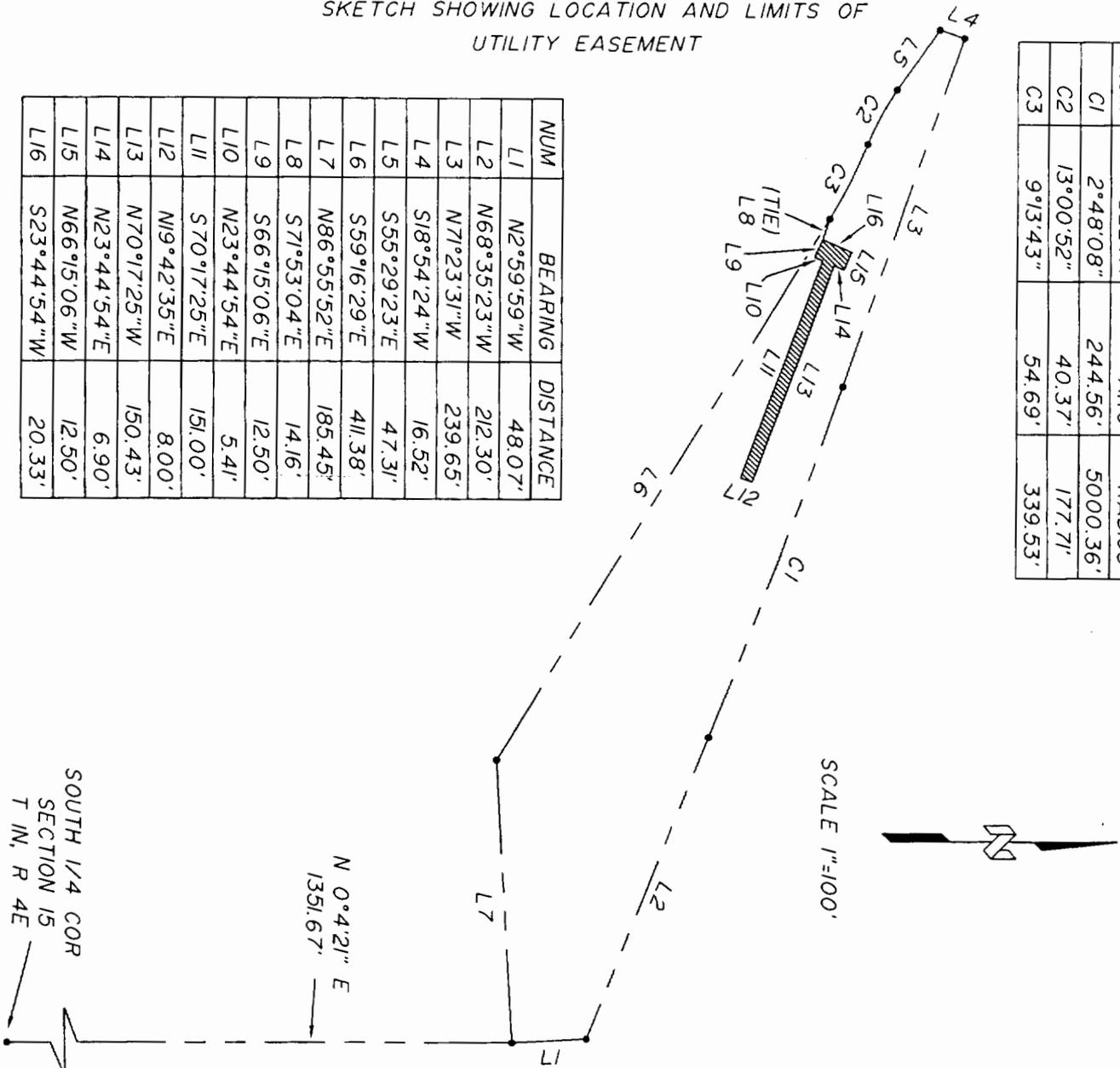
THENCE South 89 degrees 59 minutes 48 seconds East along the said North right of way line 185.45 feet to the POINT OF BEGINNING.

# EXHIBIT "B"

SKETCH SHOWING LOCATION AND LIMITS OF  
UTILITY EASEMENT

NUM	BEARING	DISTANCE
L1	N2°59'59"W	48.07'
L2	N68°35'23"W	212.30'
L3	N7°23'31"W	239.65'
L4	S18°54'24"W	16.52'
L5	S55°29'23"E	47.31'
L6	S59°16'29"E	411.38'
L7	N86°55'52"E	185.45'
L8	S71°53'04"E	14.16'
L9	S66°15'06"E	12.50'
L10	N23°44'54"E	5.41'
L11	S70°17'25"E	151.00'
L12	N9°42'35"E	8.00'
L13	N70°17'25"W	150.43'
L14	N23°44'54"E	6.90'
L15	N66°15'06"W	12.50'
L16	S23°44'54"W	20.33'

NUM	DELTA	ARC	RADIUS
C1	2°48'08"	244.56'	5000.36'
C2	13°00'52"	40.37'	177.71'
C3	9°13'43"	54.69'	339.53'



THE PURPOSE OF THIS EXHIBIT IS TO DEPICT THE DIMENSIONS AND APPROXIMATE LOCATION AND ALIGNMENT OF THE ELECTRIC LINE EASEMENT AREA. THE LOCATION AND ALIGNMENT OF THE ELECTRIC LINE AND EQUIPMENT AS ACTUALLY CONSTRUCTED SHALL TAKE PRECEDENCE OVER THE LOCATION AND ALIGNMENT SHOWN ON THIS EXHIBIT.

**LEGEND**

- EASEMENT AREA
- ROAD CENTERLINE
- PROPERTY LINE
- PROPERTY CORNER

JOB# W263242	DATE 8/3/07
SW 1/4 SEC 15	T 1N R 4E
SCALE 1"=100'	
R/W RAY SMITH	
SURVEY: SMITH - PARR	
DRAWN BY: PARR	