

## Staff Summary Report

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**Council Meeting Date:** 10/16/2008

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

**SUBJECT:** This is the **second public hearing** to adopt an ordinance authorizing the granting of an electrical Utility Easement located at 117 E. 5<sup>th</sup> Street to Arizona Public Service by the City of Tempe.

**DOCUMENT NAME:** 20081016PWCH14 EASEMENTS (0904-02)  
**ORDINANCE NO. 2008.51**

**SUPPORTING DOCS:** Yes

**COMMENTS:** This easement will enable the provision of electrical power to the City of Tempe Parking structure located at 117 E. 5<sup>th</sup> Street.

**PREPARED BY:** Larry Shobe, Engineering Services Administrator (x8417)

**REVIEWED BY:** Andy Goh, Deputy PW Manager/City Engineer (x8896)

**APPROVED BY:** Glenn Kephart, Public Works Manager (x8205)

**LEGAL REVIEW AS TO FORM:** Cynthia McCoy, Assistant City Attorney (x2187)

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Adopt Ordinance No. 2008.51 and authorize the Mayor to execute any necessary documents.

ORDINANCE NO. 2008.51

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE GRANTING OF AN ELECTRICAL UTILITY EASEMENT ON CITY OWNED PROPERTY LOCATED AT 117 EAST FIFTH STREET.

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WHEREAS, it has been determined that the City of Tempe requires electrical power to operate the City Parking structure at 117 E. 5<sup>th</sup> Street and,

WHEREAS, the City of Tempe wishes to grant an electrical utility easement for the construction and maintenance of facilities for the transmission of electrical power as described in Exhibit "A" (consisting of 4 pages) attached hereto, to Arizona Public Service Company.

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 electrical utility easement to Arizona Public Service on the property described in, and in the form attached hereto as, Exhibits "A" and "B".

**Section 2.** The Mayor or his designee is authorized to execute any documents that may be necessary to carry out the provisions of this Ordinance, including without limitation the Easements.

Ordinance No. 2008.51  
Page Two

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,  
ARIZONA this \_\_\_\_\_ day of October, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

# EXHIBIT "A"

SW-15-T1N-R4E  
W395953  
RLS

Page 1 of 2

## UTILITY EASEMENT

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

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

Grantor, for and in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, does 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 telecommunication wires, cables, conduits, fixtures and facilities incidental to supplying electricity or for Grantee's own use (said electrical and telecommunication lines, facilities and fixtures collectively herein called "Grantee Facilities"); 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 to 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.



**EXHIBIT "A"**

**(GRANTOR'S PROPERTY)**

Lot 3 and Tract "B", CITY HALL COMPLEX, as recorded in Book 991, Page 31, Maricopa County Recorder's Office, Maricopa County, Arizona.

# EXHIBIT "B"

SKETCH SHOWING LOCATION AND LIMITS OF  
UTILITY EASEMENT



5TH STREET

49.50'

SCALE 1"=30'

S 89°59'14" E  
61.17'

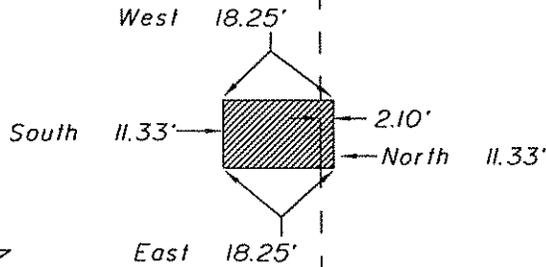
S 89°59'14" E  
189.97'

TRACT "B"  
CITY HALL  
COMPLEX  
BOOK 991  
PAGE 31

LOT 3  
CITY HALL  
COMPLEX  
BOOK 991  
PAGE 31

S 0°0'46" W 319.15'

90.27'  
S 0°0'16" W 270.00'



**LEGEND**

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

JOB#	W395953	DATE	9/3/08
	SW 1/4 SEC 15	T1N	R4E
	SCALE 1"=30'	MAP#	
	R/W RAY SMITH		
	SURVEY: SMITH - PARR		
	DRAWN BY: SMITH		