

**ORIGINAL**

Contract No. 09LE323926

Case No. 08-008

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 TEMPE, 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. 09LE323927 to Grantor; US Airways, Inc., a Delaware corporation; L-O Mission Palms, Inc., an Arizona corporation; and, Hayden Ferry Lakeside III, L.L.C., an Arizona limited liability company, as their interest appear of record, 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 TEMPE, 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 TEMPE, 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



**EXHIBIT 'A'**  
**LEGAL DESCRIPTION**  
**PROPOSED U.S.A. EASEMENT**

That part of Lot 1 of Tempe Gateway, as recorded in Book 1004 of Maps, Page 26 and located in the Southwest Quarter (SW ¼) of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base Meridian, Maricopa County, Arizona, more particularly described as follows:

Beginning at southeast Corner of Lot 1 of said Tempe Gateway, said point also being the southeast corner of Block 61, Map of Tempe Book 2 of maps, page 26 M.C.R.;

Thence, along the North Right of Way of 3<sup>rd</sup> Street, South 89°36'37" West, a distance of 335.21 feet;

Thence, continuing along the North Right of Way of 3<sup>rd</sup> Street South 89°37'00" West, a distance of 231.36 feet to the beginning of a non-tangent curve whose 459.50 foot radius bears North 09°08'42" East and is concave Northeasterly;

Thence, continuing along the North Right of Way of 3<sup>rd</sup> Street, Northwesterly, and to the right along said curve, through a central angle of 2°29'06", a distance of 19.93 feet;

Thence, North 89°39'30" East, a distance of 586.15 feet to the Westerly Right of Way of Mill Avenue;

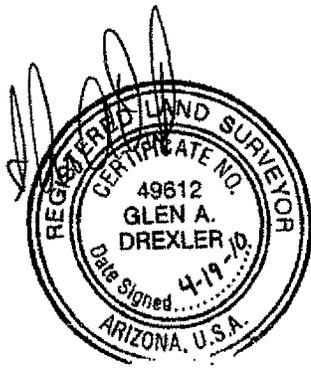
Thence, along said Right of Way of Mill Avenue, South 00°14'55" East 3.26 feet to the Point of Beginning.

This tract contains 2016.7 Square Feet or 0.046 Acres, more or less.

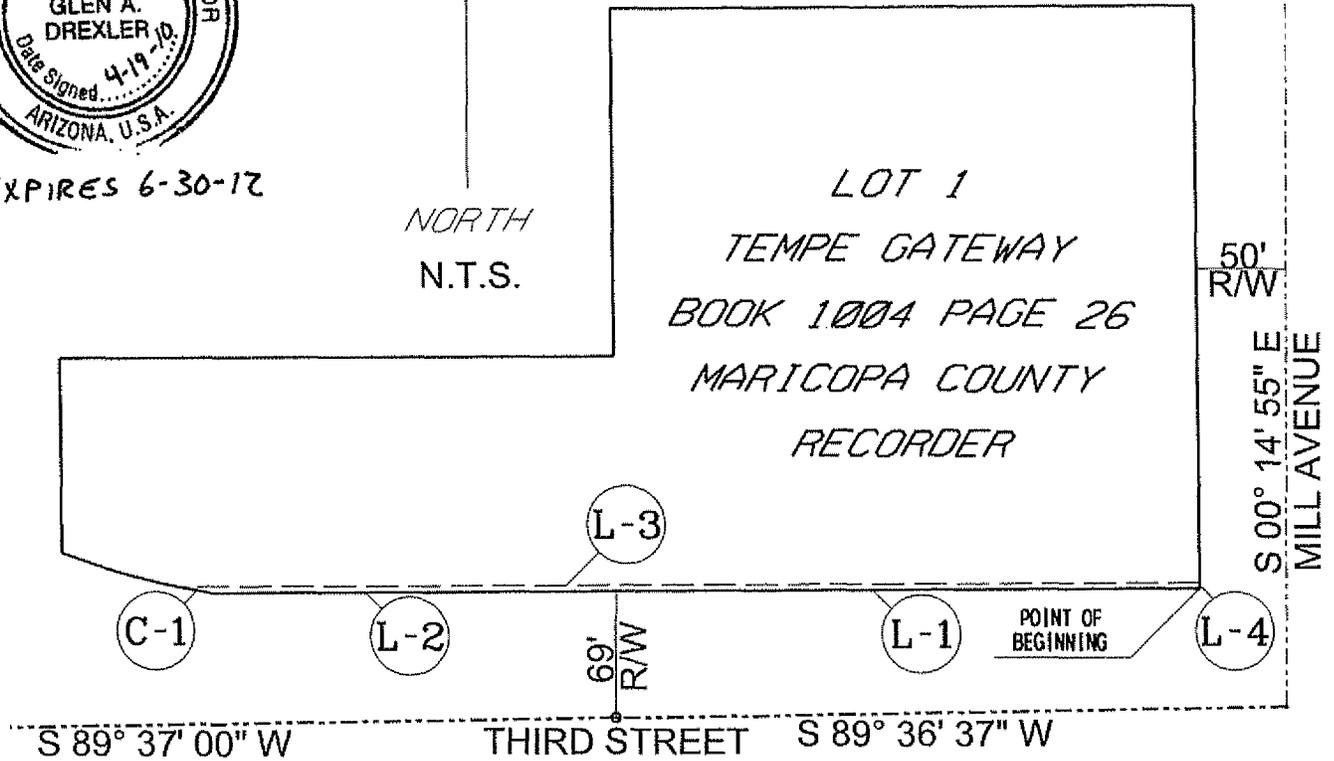


EXPIRES 6-30-12.

# EXHIBIT PROPOSED U. S. A. EASEMENT



EXPIRES 6-30-17



| LINE TABLE |          |                 |
|------------|----------|-----------------|
| #          | DISTANCE | BEARING         |
| L-1        | 335.21'  | S 89° 36' 37" W |
| L-2        | 231.36'  | S 89° 37' 00" W |
| L-3        | 586.15'  | N 89° 39' 30" E |
| L-4        | 3.26'    | S 00° 14' 55" E |

| CURVE TABLE |         |        |            |                |
|-------------|---------|--------|------------|----------------|
| #           | RADIUS  | LENGTH | DELTA      | RADIAL BEARING |
| C-1         | 459.50' | 19.93' | 2° 29' 06" | N 9° 08' 42" E |