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132-31-003E
W428999
RLS

CITY OF TEMPE-APS UTILITY EASEMENT

THE 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 (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, 8 feet in width or as further described in attached exhibits 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; and install, operate and maintain telecommunication wires, cables, conduits, fixtures and facilities solely for Grantee's own use incidental to supplying electricity (said electrical and telecommunication lines, facilities and fixtures collectively herein called "Grantee Facilities"). Grantee Facilities shall consist of underground electric lines and appurtenant facilities including pad mounted equipment. In no event may any overhead electric lines and associated overhead equipment be installed unless in an emergency to restore power. 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. However, Grantor reserves all other rights, interests and uses of the Easement Premises 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, driveways, 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 without the prior written consent of Grantee, 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.

Grantee shall not have the right to use the Easement Premises to store gasoline or petroleum products, hazardous or toxic substances, or flammable materials; provided however, that this prohibition shall not apply to any material, equipment or substance contained in, or a part of, the Grantee Facilities, provided that Grantee must comply with all applicable federal, state and local laws and regulations in connection therewith. Additionally, the Easement Premises may not be used for the storage of construction-related materials or to park or store construction-related vehicles or equipment except on a temporary basis to construct, reconstruct, replace, repair, operate, or maintain the Grantee Facilities.

Grantor shall maintain a clear area that extends 3 feet from and around all edges of the transformer pad, and a clear operational area that extends 10 feet immediately in front of the transformer. No obstructions, trees, shrubs, fixtures, or permanent structures shall be placed or permitted by Grantor within said areas. Grantee is hereby granted the right to trim, prune, cut, and clear away trees, brush, shrubs, or other obstructions within said areas.

Grantee shall exercise reasonable care to avoid damage to the Easement Premises and all improvements thereon and agrees that following any installation, excavation, maintenance, repair, or other work by Grantee within the Easement Premises, the affected area, including without limitation, all pavement, landscaping, cement, and other improvements permitted within the Easement Premises pursuant to this easement will be restored by Grantee to as close to original condition as is reasonably possible, at the expense of Grantee.

Grantor reserves the right to require the relocation of Grantee Facilities to a new location within Grantor's Property; provided however, that: (1) Grantor pays the entire cost of redesigning and relocating Grantee Facilities; and (2) Grantor provides Grantee with a new easement in a form and location acceptable to Grantee and at no cost to Grantee. Upon the acceptance by Grantee of a new easement and after the relocation of Grantee Facilities to the new easement area, Grantee shall abandon its rights to use the Easement Premises granted in this easement. The easement granted herein shall not be deemed abandoned except upon Grantee's execution and recording of a formal instrument abandoning the easement.

If any of Grantee's electric facilities in this easement are not being used or are determined not to be useful, Grantor may request that the facilities that are no longer needed be removed and that portion of the easement be abandoned. Grantee will execute and record a formal instrument abandoning the easement, or a portion thereof. Any facilities that are determined to still be needed for Grantee's electrical system can be relocated pursuant to the above relocation requirements.

Grantee shall not have the right to transfer, convey or assign its interests in this easement to any individual, corporation, or other entity (other than to an affiliated entity of Grantee or an entity that acquires from Grantee substantially all of Grantee's electric distribution facilities within the area of Grantor's Property) without the prior written consent of Grantor, which consent shall not be unreasonably withheld. Grantee shall notify Grantor of the transfer, conveyance or assignment of any rights granted herein.

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.

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EXHIBIT "A"

Situate in Maricopa County, Arizona:

The Southeast quarter of the Northwest quarter of Section 14, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT that part within PIER 202 – AMENDED, as recorded in Book 949, Page 48, Maricopa County Recorder's Office, Phoenix, AZ;

ALSO EXCEPT the 40 foot Roadway Easement as recorded in Docket 2115, Page 530, Maricopa County Recorder's Office, Phoenix, AZ.

EXHIBIT "B"

The Southeast quarter of the Northwest quarter of Section 14, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

COMMENCING at the West quarter corner of said Section 14;

THENCE North 00 degrees 7 minutes 1 seconds East along the West line of the North half of said Section 14, 152.03 feet, said point also being the beginning of a non-tangent curve concave to the North, having a radius of 5165.75 feet and from which point a radial line bears North 1 degree 24 minutes 33 seconds East;

THENCE Easterly along said curve and said South edge, 114.61 feet through a central angle of 1 degree 16 minutes 16 seconds, and to which point a radial line bears South 00 degrees 8 minutes 17 seconds West;

THENCE North 75 degrees 30 minutes 29 seconds East, 235.12 feet to the beginning of a non-tangent curve concave to the North, having a radius of 5111.41 feet and from which point a radial line bears North 2 degrees 24 minutes 47 seconds West;

THENCE Northeasterly along said curve, 956.01 feet through a central angle of 10 degrees 42 minutes 58 seconds;

THENCE North 78 degrees 28 minutes 1 seconds East, 44.81 feet;

THENCE North 75 degrees 2 minutes 23 seconds East, 287.22 feet;

THENCE North 71 degrees 19 minutes 17 seconds East, 285.96 feet;

THENCE North 67 degrees 53 minutes 31 seconds East, 51.28 feet to the POINT OF BEGINNING;

THENCE continuing North 67 degrees 53 minutes 31 seconds East, 319.73 feet;

THENCE North 64 degrees 16 minutes 23 seconds East, 90.28 feet;

THENCE North 25 degrees 42 minutes 5 seconds West, 11.74 feet;

THENCE South 64 degrees 16 minutes 23 seconds West, 72.83 feet;

South 67 degrees 53 minutes 31 seconds West, 329.00 feet;

THENCE North 22 degrees 31 minutes 56 seconds West, 9.76 feet;

THENCE South 67 degrees 28 minutes 4 seconds West, 7.50 feet;

THENCE South 22 degrees 31 minutes 56 seconds East, 22.53 feet to the POINT OF BEGINNING.