GILBERT
ARIZONA

18

Council Communication

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: GREG CROSSMAN, P.E., DEVELOPMENT ENGINEER, 480-503-6815

THROUGH: MIKE GILLESPIE, P.E., TOWN ENGINEER
GREG TILQUE, DEVELOPMENT SERVICES DIRECTOR
MARC SKOCYPEC, ASSISTANT TOWN MANAGER

MEETING DATE: APRIL 19, 2012

SUBJECT: APPROVAL OF A RESOLUTION AUTHORIZING A CONTRACT WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, AND TO GRANT AN EASEMENT FOR THE BENEFIT OF SALT RIVER PROJECT FOR IRRIGATION AND WATER DISTRIBUTION PURPOSES.

STRATEGIC INITIATIVE: Infrastructure

This project supports Gilbert's Infrastructure Strategic Initiative as it provides reasonable corridors for infrastructure services within the Town.

LEGAL REVIEW	FINANCIAL REVIEW
☑ Complete	☑ Complete
☐ N/A	☐ N/A

RECOMMENDED MOTION

A MOTION TO APPROVE A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, AND TO GRANT AN EASEMENT FOR THE BENEFIT OF SALT RIVER PROJECT FOR IRRIGATION AND WATER DISTRIBUTION PURPOSES.

BACKGROUND/DISCUSSION

This Council action corrects a long-standing error related to an exchange of easements that was never completed after the construction of the Old West Estates 2 subdivision in the late 1970's.

During the construction of the Old West Estates 2 subdivision, a Salt River Project irrigation facility was relocated and piped under Hackamore Avenue, Neely Street, and Horseshoe Avenue. All of these roadways were dedicated to the Town of Gilbert as public streets under the subdivision plat. This piped irrigation facility eliminated the need for an existing Salt River Project easement on the south and west borders of the subdivision (see attached Figure 1).

Formal rights to this new piped facility were never granted to the Bureau of Reclamation for the benefit of Salt River Project, and the relocated easement was never abandoned. This has created a cloud over certain portions of Town right-of-way and over certain private property within the Old West Estates 2 subdivision (MCR Book 200, page 15) and within the Madera Parc Amended subdivision (MCR Book 317, page 10). Approval of this contract will correct this situation by providing for a Bureau of Reclamation irrigation easement (for the benefit of Salt River Project) within Hackamore Avenue, Neely Street, and Horseshoe Avenue. The dedication of this easement will be followed by the abandonment, through Quit Claim Deed, of the currently unused easement, thus removing the cloud over the previously mentioned Town right-of-way and private property.

The Resolution and Contract were reviewed for form by Attorney Phyllis Smiley.

FINANCIAL IMPACT

There is no financial impact on the Town associated with this Contract and with this easement dedication. The Salt River Project irrigation pipeline that is within the proposed easement already exists, and maintenance of this pipeline will continue to be responsibility of Salt River Project.

The financial impact was reviewed by Dawn Irvine, Budget Administrator.

STAFF RECOMMENDATION

The Engineering Services Division and legal staff have reviewed the Resolution and the Contract and recommend approval.

Respectfully submitted,

Greg Crossman, P.E.
Development Engineer
greg.crossman@gilbertaz.gov

Attachments: Figure 1 – Area Map
Authorizing Resolution w/Contract Attached as Exhibit A

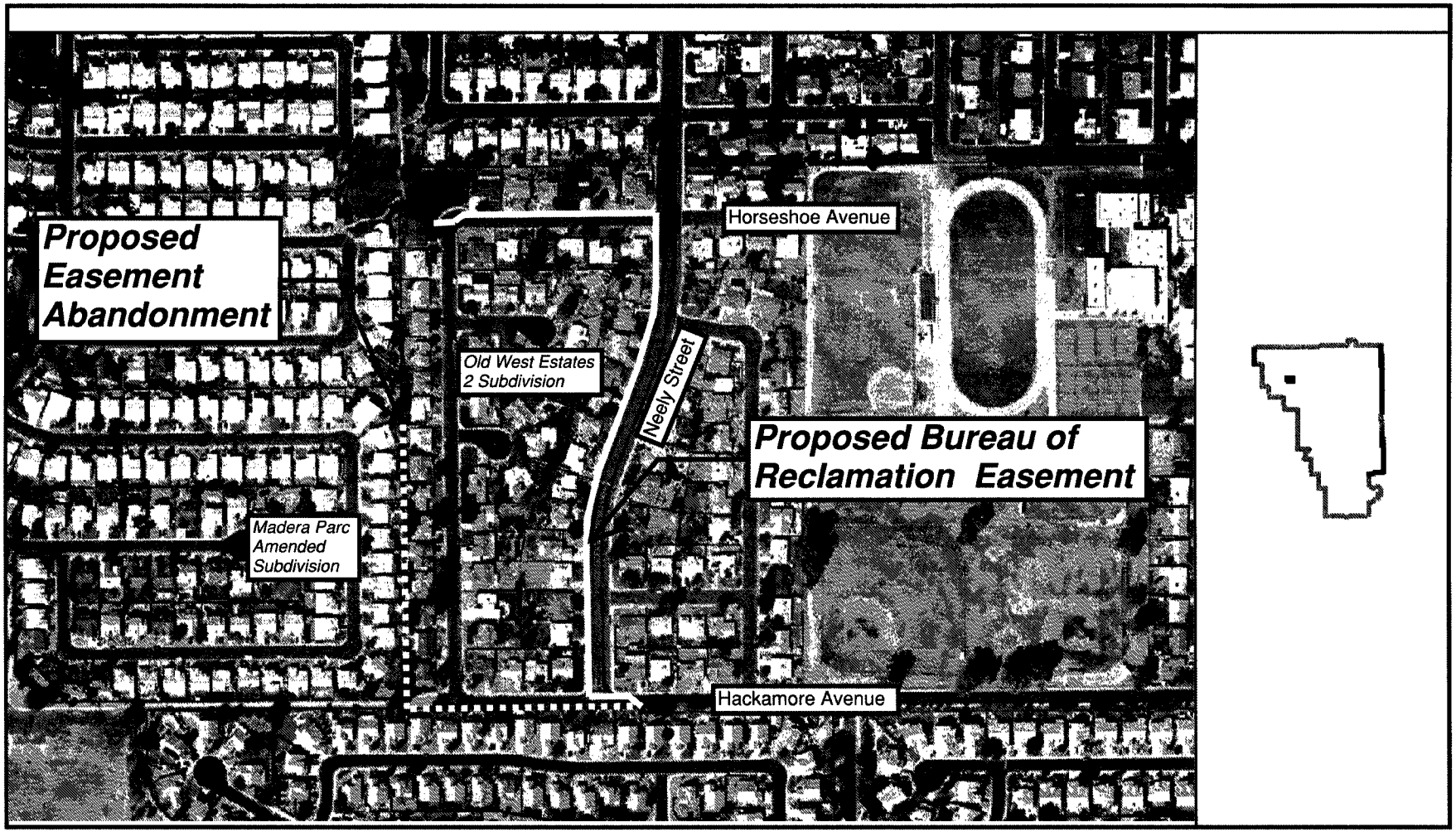


Figure 1 - Area Map
Contract and Grant of Easement
U.S. Department of the Interior, Bureau of Reclamation
April 19, 2012

RESOLUTION NO. _____

A RESOLUTION OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION AND TO GRANT AN EASEMENT FOR THE BENEFIT OF SALT RIVER PROJECT FOR IRRIGATION AND WATER DISTRIBUTION PURPOSES; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the United States currently owns an easement interest in real property located within the Town of Gilbert for the benefit and use by Salt River Project Agricultural Improvement and Power District ("SRP") for irrigation and water distribution purposes; and

WHEREAS, SRP has relocated its irrigation facilities from the current easement location to a new location; and

WHEREAS, the United States intends to abandon the current easement location upon the granting of an easement to the United States for the benefit of SRP at the new location; and

WHEREAS, the Town of Gilbert ("Gilbert") owns the fee title to the real property onto which the irrigation facility was relocated; and

WHEREAS, the Town Council of the Town of Gilbert finds that granting SRP an easement for the new location is in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the Town of Gilbert, Arizona:

1. That Gilbert hereby approves the Contract and Grant of Easement attached hereto as Exhibit A and incorporated herein by this reference; and

2. That the Mayor is authorized and directed to execute said Contract and Grant of Easement; and

3. That Staff is directed to return the fully executed original Contract and Grant of Easement to SRP for recording and for SRP to obtain title insurance.

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed.

BE IT FURTHER RESOLVED that if any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA THIS 19th DAY OF APRIL, 2012.

_____
John W. Lewis, Mayor

ATTEST:

_____
Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:

_____
Curtis, Goodwin, Sullivan, Udall & Schwab, PLC
Town Attorneys
By: Susan D. Goodwin

I hereby certify the above foregoing Resolution No. _____ was duly passed by the Council of the Town of Gilbert, Arizona, at a regular meeting held on April 19, 2012, and that quorum was present thereat and that the vote thereon was ____ ayes and ____ nays and ____ abstentions. ____ Council members were absent or excused.

_____
Catherine Templeton, Town Clerk, CMC
Town of Gilbert

The following exhibits are attached hereto and incorporated herein:

Exhibit A United States Department of the Interior, Bureau of Reclamation, Salt River Project Contract No. 12LE323996 – Contract and Grant of Easement

Exhibit A

United States Department of the Interior
Bureau of Reclamation

Contract No. 12LE323996
Contract and Grant of Easement

Contract No. 12LE323996
Case No. 10-013

ORIGINAL

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 **TOWN OF GILBERT, a political subdivision of the State of Arizona,** 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. 12LE323997 to Donald C. Williams and Dorothy J. Williams, husband and wife, as joint tenants with rights of survivorship, as to Lot 195; Donald James Kowall, as to Lot 196; Jose K. Sepulveda, Jr., an unmarried man as to Lot 197; Cesar A. Montijo and Elizabeth Montijo, husband and wife as community property with rights of survivorship, as to Lot 198; Nicolas Raul Murillo, a single man, also known as Raul Morillo, as to Lot 199, lying within Old West Estates No. 2A Amended, recorded in Book 200 of Maps, page 15, Maricopa County Records; and,

Randon Croshaw and Erin Lucinda Croshaw, husband and wife, as joint tenants with rights of survivorship, as to Lot 271; Keith W. Charles and Judith A. Charles, husband and wife, as community property with rights of survivorship, as to Lot 272; Vicki Elaine Morey, as Trustee of The Vicki E. Morey Family Revocable Trust dated August 19, 2005, as to Lot 273; Sheila

Conway and Paul Washeba, wife and husband, as joint tenants with rights of survivorship, as to Lot 274; Juan A. Estrada, married, sole & separate, as to Lot 275; Andrew Colin Macsween, an unmarried man, and Sandra Lynn Barker, an unmarried woman, as to Lot 276; Diane E. Gay, a single woman, as to Lot 277; Alan L. Zhu and Jamie Z. Weng, husband and wife, as joint tenants with rights of survivorship, as to Lot 278; Earlene H. Muirbrook, a single woman, as to Lot 279 and Samuel C. Weissberg and Julie Ann R. Weissberg AKA Julie A. Weissberg, husband and wife, as community property with rights of survivorship, as to Lot 280, lying within Madera Parc Amended, recorded in Book 317, page 10, Maricopa County Records; and,

Town of Gilbert, a political subdivision of the State of Arizona as to the dedicated streets lying within Old West Estates No. 2, recorded in Book 179 of Maps, page 30, Old West Estates No. 2A, recorded in Book 188 of Maps, page 18, Old West Estates No. 2A Amended, recorded in Book 200 of Maps, page 15, and Madera Parc Amended, recorded in Book 317 of Maps, page 10, Maricopa County Records, 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.

TOWN OF GILBERT, a political subdivision of the State of Arizona

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 **TOWN OF GILBERT, a political subdivision of the State of Arizona**, 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

ACKNOWLEDGMENT

State of Arizona)
) ss.
County of Maricopa)

On this 26TH day of January, 2012, before me, Ellen L. Stender, a Notary Public in and for said County and State personally appeared Randy N. Chandler, Area Manager, Phoenix Area Office, Bureau of Reclamation, Department of the Interior, **UNITED STATES OF AMERICA,** known to me to be the person described in the foregoing instrument, and acknowledged to me that he/she executed the same on behalf of the United States in the capacity therein stated and for the purpose therein contained.

ELLEN L. STENDER
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires
August 2, 2015

Ellen L. Stender
Notary Public in and for
said County and State

LEGAL DESCRIPTION

PROPOSED 20' USA EASEMENT

All that part of Section 13, Township 1 South, Range 5 East of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

Commencing at the South Quarter corner of said Section 13, a two inch aluminum cap flush, stamped T1S R5E S13 S24 1 / 4 RLS 21782, from which the North Quarter corner of said Section 13, a Town of Gilbert brass cap in hand hole, bears North 01 degree 03 minutes 55 seconds East, a distance of 5272.30 feet;

thence North along the north-south mid-section line of said Section 13, a bearing of North 01 degree 03 minutes 55 seconds East, a distance of 2636.00 feet to the **Point of Beginning;**

thence North 89 degrees 46 minutes 10 seconds West, a distance of 4.94 feet;

thence North 47 degrees 49 minutes 25 seconds West, a distance of 35.91 feet;

thence North 89 degrees 46 minutes 10 seconds West, a distance of 160.26 feet;

thence North 19 degrees 37 minutes 29 seconds West, a distance of 31.66 feet;

thence North 00 degrees 13 minutes 50 seconds East, a distance of 340.23 feet to the beginning of a tangent curve concave southeasterly and having a radius of 556.16 feet;

thence northeasterly along said curve through a central angle of 21 degrees 55 minutes 45 seconds, an arc distance of 212.86 feet to the point of tangency;

thence North 22 degrees 09 minutes 35 seconds East, a distance of 226.08 feet to the beginning of a tangent curve concave northwesterly, having a radius of 788.06 feet;

thence northeasterly along said curve through a central angle of 21 degrees 52 minutes 20 seconds, an arc distance of 300.83 feet to the point of tangency;

thence North 00 degrees 17 minutes 15 seconds East, a distance of 85.26 feet;

thence North 70 degrees 15 minutes 21 seconds West, a distance of 29.24 feet;

thence North 89 degrees 42 minutes 45 seconds West, a distance of 416.43 feet;

thence South 68 degrees 21 minutes 57 seconds West, a distance of 44.20 feet;

thence North 89 degrees 42 minutes 45 seconds West, a distance of 44.64 feet to beginning of a non-tangent curve concave southeasterly, having a radius of 60.00 feet, a chord direction of North 23 degrees 41 minutes 30 seconds East and a chord length of 21.79 feet;

thence northerly along said curve through a central angle of 20 degrees 55 minutes 28 seconds, an arc distance of 21.91 feet to a point of non-tangency;

thence South 89 degrees 42 minutes 45 seconds East, a distance of 32.11 feet;

thence North 68 degrees 21 minutes 57 seconds East, a distance of 44.20 feet;

thence South 89 degrees 42 minutes 45 seconds East, a distance of 437.24 feet;

thence South 70 degrees 15 minutes 21 seconds East, a distance of 32.48 feet;

thence South 00 degrees 17 minutes 15 seconds West, a distance of 104.18 feet to the beginning of a tangent curve concave northwesterly, having a radius of 808.06 feet;

thence southwesterly along said curve through a central angle of 21 degrees 52 minutes 20 seconds, an arc distance of 308.47 feet to the point of tangency;

thence South 22 degrees 09 minutes 35 seconds West, a distance of 226.08 feet to the beginning of a tangent curve concave southeasterly, having a radius of 536.16 feet;

thence southwesterly along said curve through a central angle of 21 degrees 55 minutes 45 seconds, an arc distance of 205.20 feet to the point of tangency;

thence South 00 degrees 13 minutes 50 seconds West, a distance of 336.72 feet;

thence South 19 degrees 37 minutes 29 seconds East, a distance of 14.11 feet;

thence South 89 degrees 46 minutes 10 seconds East, a distance of 153.89 feet;

thence South 47 degrees 49 minutes 25 seconds East, a distance of 65.85 feet;

thence North 89 degrees 46 minutes 10 seconds West, a distance of 24.99 feet to said **Point of Beginning.**

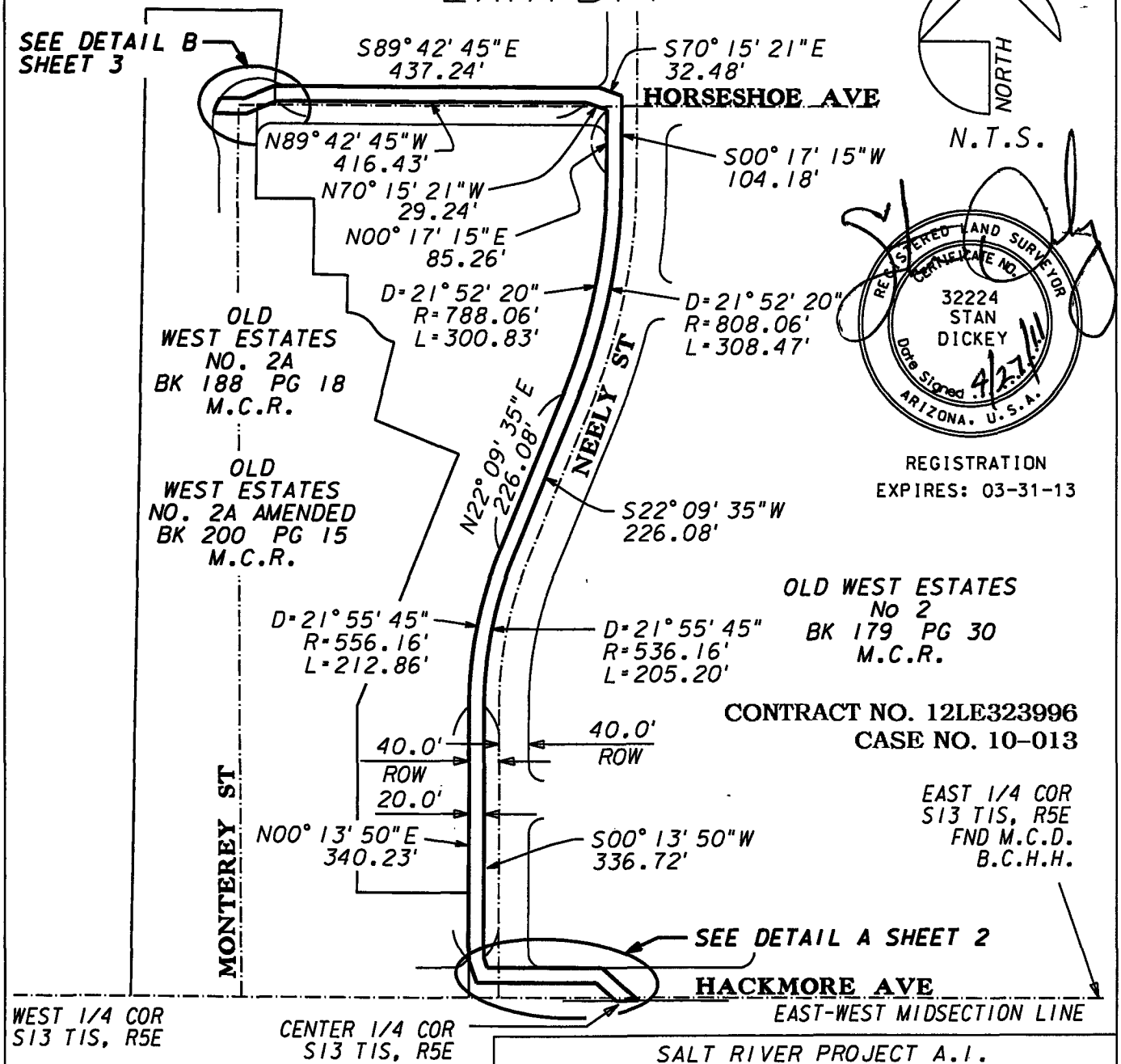
Said easement contains 0.8959 acre, more or less.

END OF DESCRIPTION

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
32224
STAN
DICKEY
Date Signed 4-27-11
ARIZONA, U.S.A.

REGISTRATION
EXPIRES: 03-31-13

EXHIBIT



SRP JOB #
RAD-02040-300(31)

LEGEND

- SECTION OR CENTERLINE
- RIGHT OF WAY LINE
- LIMITS OF EASEMENT

NOTE: THIS EXHIBIT IS INTENDED TO ACCOMPANY A LEGAL DESCRIPTION, IT IS NOT A SURVEY AND SHOULD NOT BE CONSTRUED AS SUCH

SALT RIVER PROJECT A.I.
& POWER DISTRICT

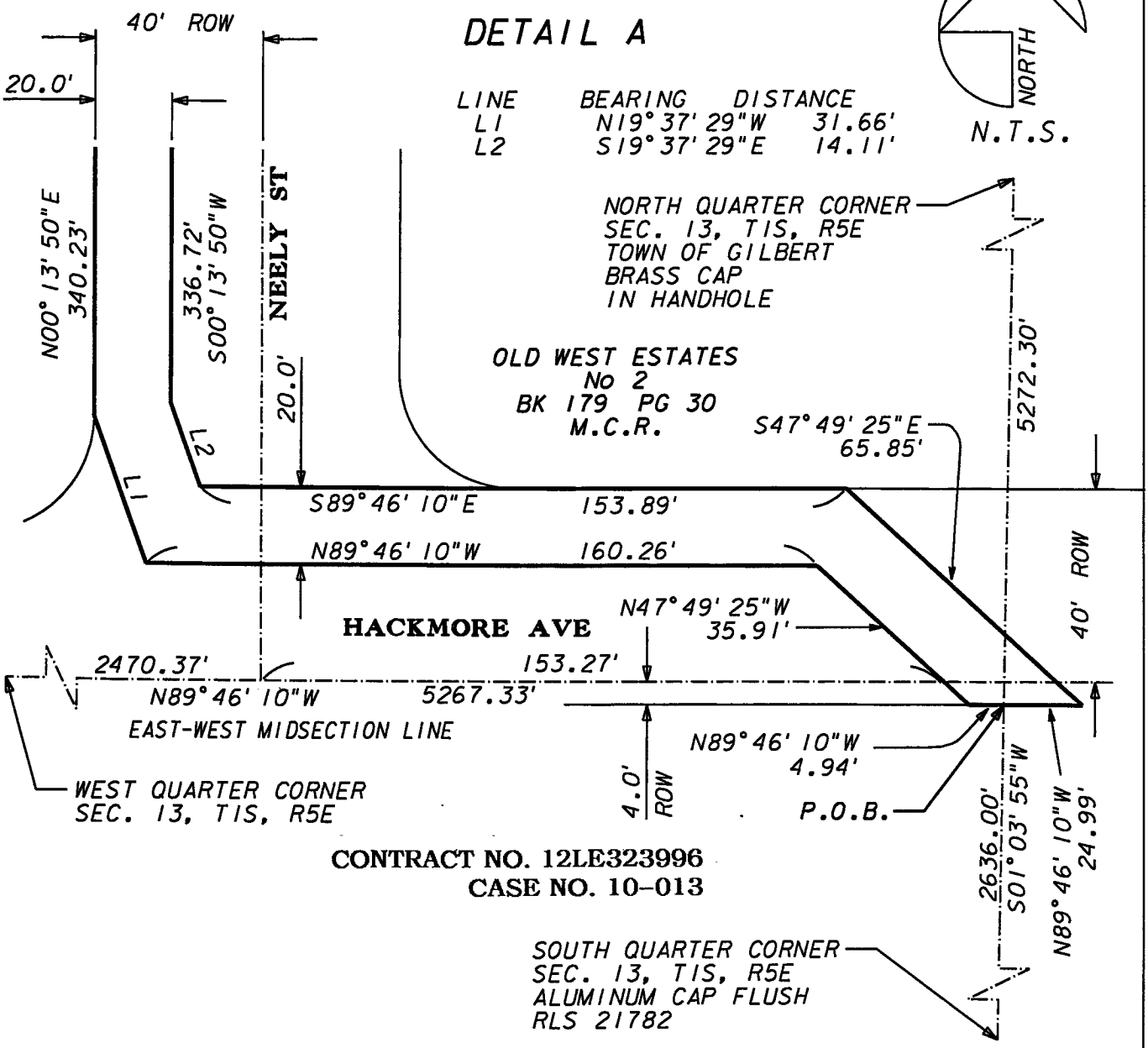
OLD WEST ESTATES No. 2
NW 1/4, S13, T1S, R5E G&SRM
NE 1/4, S13, T1S, R5E G&SRM

PROPOSED U.S.A. EASEMENT PROPERTY
MARICOPA COUNTY, ARIZONA

DESIGNED		AGENT	P.HICKS
DRAWN	SMITH	APPROVED:	
DATE	4-27-11	CHECKED BY:	
SCALE	N.T.S.	SHEET	1 OF 3

EXHIBIT

DETAIL A



CONTRACT NO. 12LE323996
CASE NO. 10-013

SRP JOB #
RAD-02040-300(31)

LEGEND

- SECTION OR CENTERLINE
- PROPERTY LINE
- LIMITS OF EASEMENT

NOTE: THIS EXHIBIT IS INTENDED TO ACCOMPANY A LEGAL DESCRIPTION, IT IS NOT A SURVEY AND SHOULD NOT BE CONSTRUED AS SUCH

SALT RIVER PROJECT A.I. & POWER DISTRICT

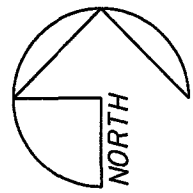
OLD WEST ESTATES No. 2
NW 1/4, S13, T1S, R5E G&SRM
NE 1/4, S13, T1S, R5E G&SRM

PROPOSED U.S.A. EASEMENT PROPERTY
MARICOPA COUNTY, ARIZONA

DESIGNED		AGENT	P.HICKS
DRAWN	SMITH	APPROVED:	
DATE	4-27-11	CHECKED BY:	
SCALE	N.T.S.	SHEET 2 OF 3	

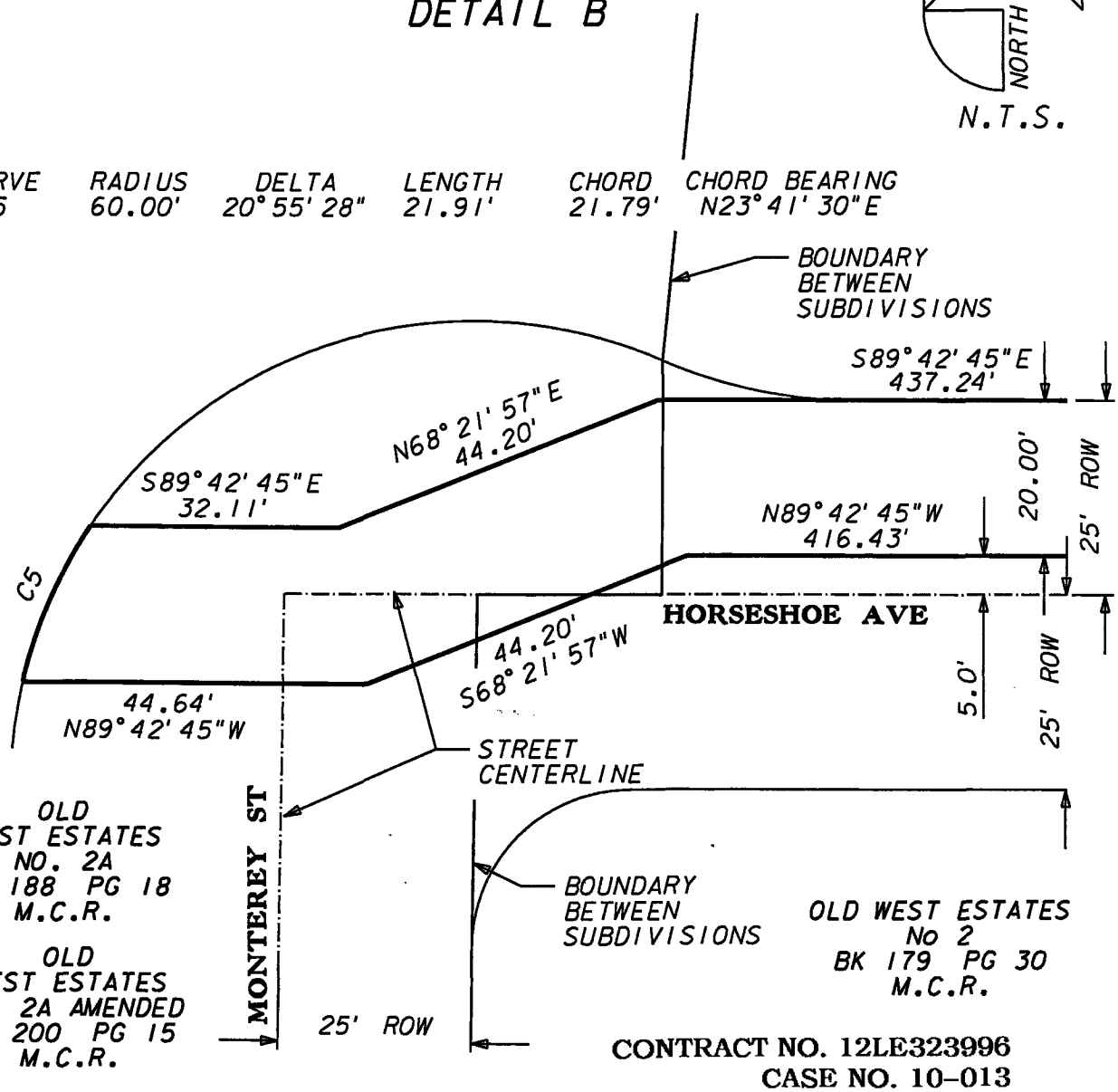
EXHIBIT

DETAIL B



N.T.S.

CURVE	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
C5	60.00'	20°55'28"	21.91'	21.79'	N23°41'30"E



CONTRACT NO. 12LE323996
CASE NO. 10-013

SRP JOB #
RAD-02040-300(31)

LEGEND

- SECTION OR CENTERLINE
- PROPERTY LINE
- LIMITS OF EASEMENT

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SALT RIVER PROJECT A.I. & POWER DISTRICT

OLD WEST ESTATES No. 2
NW 1/4, S13, T1S, R5E G&SRM
NE 1/4, S13, T1S, R5E G&SRM

PROPOSED U.S.A. EASEMENT PROPERTY
MARICOPA COUNTY, ARIZONA

DESIGNED		AGENT	P.HICKS
DRAWN	SMITH	APPROVED:	
DATE	4-27-11	CHECKED BY:	
SCALE	N.T.S.	SHEET 3 OF 3	