

**LICENSE AGREEMENT
FOR USE OF REAL PROPERTY**

This License Agreement for Use of Real Property ("Agreement") is executed to be effective (as stated below) the 18th day of July, 2011 ("Effective Date"), between the City of Glendale, an Arizona municipal corporation ("Glendale") and the Central Arizona Water Conservation District, a multi-county water conservation district organized pursuant to A.R.S. §48-3701 et seq. for the purposes, among others, of assuming responsibility for the care, operation, maintenance and management of certain transferred works of the Central Arizona Project from the United State of America, who holds title to such works ("CAP").

WHEREAS, Glendale is the owner of certain real property located at 28101 North 63rd Avenue, Phoenix, Arizona 85083 known as Pyramid Peak Water Treatment Plant, located in Sections 30 and 31, Township 5 North, Range 2 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, ("City Property"); and

WHEREAS, CAP desires to install, operate and maintain an underground electrical power line on a portion of the City Property, as described in this Agreement and in attached Exhibit A, and depicted on attached Exhibit B ("Electrical Service Feed Site"); and

WHEREAS, Glendale is willing to grant to CAP a license to use the Electrical Service Feed Site for the uses described above.

THEREFORE, in consideration of the following mutual covenants and conditions, it is hereby agreed as follows:

1. LICENSED AREA.

The Electrical Service Feed Site, located within the East half of the East half of Sections 30 and 31, Township 5 North, Range 2 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and legally described on attached Exhibit A, is graphically depicted on attached Exhibit B. The Electrical Service Feed Site provides essential electrical power between City's Pyramid Peak Water Treatment Plant and CAP's water turnout structure which provides water specifically to said Pyramid Peak Water Treatment Plant.

2. REPRESENTATIONS AND WARRANTIES.

- A. Glendale represents and warrants to CAP that: (i) Glendale, and its authorized signatory, has full right, power and authority to execute this Agreement; and (ii) Glendale's execution and performance of this Agreement will not violate any laws, ordinances, covenants, mortgages, licenses or other agreements binding on Glendale.
- B. CAP represents and warrants to Glendale that: (i) CAP, and its authorized signatory, has full right, power and authority to execute this Agreement; and (ii)

CAP's execution and performance of this Agreement will not violate any laws, ordinances, covenants, mortgages, licenses or other agreements binding on CAP.

- C. CAP has studied and inspected the Electrical Service Feed Site and accepts the same "AS IS" without any express or implied warranties of any kind, other than those warranties contained in subsection (A) above, including any warranties or representations by Glendale as to title or its condition or fitness for any use. CAP has inspected the Electrical Service Feed Site and obtained information and professional advice as CAP has determined to be necessary related to this Agreement.

3. GRANT OF LICENSE; TERM.

- A. Nothing in this Agreement shall be construed as granting CAP the authority to use any property that is owned by any person or entity other than Glendale. CAP assumes sole responsibility for ensuring the placement of its electrical power line, for the purposes of this license, is on property owned by Glendale.
- B. This License Agreement is not intended to represent permission granted in perpetuity. Either party may terminate this Agreement without cause by giving one hundred eighty (180) days' advance written notice to the other of intent to terminate.
- C. If CAP continues to occupy the Electrical Service Feed Site after the expiration or termination of this Agreement, holding over will not be considered to operate as a renewal or extension of this Agreement.
- D. Notwithstanding any provision in this Agreement to the contrary or any negotiation, correspondence, course of performance or dealing, or other statements or acts by or between the parties, CAP's rights in the Electrical Service Feed Site are limited to the rights created by this Agreement, which create only a license in the Electrical Service Feed Site, which is revocable only as set forth expressly herein. Glendale and CAP do not by this instrument intend to create a lease, easement or other real property interest. CAP has no real property interest in the Electrical Service Feed Site. CAP's sole remedy for any breach or threatened breach of this Agreement by Glendale will be an action for damages. CAP's rights are subject to all covenants, restrictions, easements, agreements, reservations and encumbrances upon, and all other conditions of title to the Electrical Service Feed Site. CAP's rights under this Agreement are further subject to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions and orders of any local, state or federal agency, now or later having jurisdiction over the Electrical Service Feed Site or CAP's use of the Electrical Service Feed Site.
- E. This license Agreement is specific to CAP, and may not be transferred or assigned in any manner, without the prior written approval of Glendale.

4. FEES.

Upon execution of the Agreement and upon City's proper invoicing of CAP, CAP shall pay City a first year license fee of ZERO DOLLARS (\$0.00) for entering into the Agreement. Thereafter, at the anniversary date of the Agreement and upon City's proper invoicing of CAP, CAP shall pay an annual License fee of ZERO DOLLARS (\$0.00) until such time as Agreement is terminated pursuant to the terms of this Agreement.

5. UTILITIES.

CAP is responsible for obtaining and paying for all utilities necessary for its use of the Electrical Service Feed Site.

6. USE RESTRICTIONS.

- A. CAP shall not remove, damage or alter in any way any existing improvements or personal property of Glendale within the Electrical Service Feed Site without Glendale's prior written approval, which shall not be unreasonably withheld. CAP shall repair any damage or alteration to Glendale's property to the same condition that existed before the damage or alteration, reasonable wear and tear excepted.
- B. CAP shall use the Electrical Service Feed Site solely for the purpose of installing, operating and maintaining an underground electrical power line.
- C. CAP shall have a non-exclusive right for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, for the authorized use, which right shall be exercised so as to not unreasonably interfere with any Glendale operations.
- D. CAP shall keep the Electrical Service Feed Site maintained, orderly and clean at all times.
- E. Subject to the terms set forth herein, CAP acknowledges that CAP's use of the Electrical Service Feed Site shall be subject and subordinate to, and shall not adversely affect, Glendale's use of the Electrical Service Feed Site.

7. HAZARDOUS WASTE.

CAP shall not produce, dispose, transport, treat, use or store any hazardous waste or toxic substance upon or about the Electrical Service Feed Site in violation of the Arizona Hazardous Waste Management Act, ARIZONA REVISED STATUTES ("ARS") § 49-901 *et seq.*, the Resource Conservation and Recovery Act, 42 UNITED STATES CODE ("USC") 6901 *et seq.*, the Toxic Substances Control Act, 15 USC 2601 *et seq.*, or any other federal, state or local law pertaining to hazardous waste or toxic substances. CAP shall not use the Electrical Service Feed Site in a manner inconsistent with any regulations, permits or approvals issued by any state agency. CAP shall defend, indemnify and hold Glendale harmless against any loss or liability incurred by reason of any hazardous waste or toxic substance on or affecting the Electrical Service Feed Site attributable to or caused in any way by CAP, and shall immediately notify Glendale of any hazardous waste or toxic substance at any time discovered or existing upon the Electrical Service

Feed Site. CAP shall promptly and without a request by Glendale provide Glendale's Environmental Program Manager with copies of all written communications between CAP and any governmental agency concerning environmental inquiries, reports or problems on the Electrical Service Feed Site.

8. CONSTRUCTION AND MAINTENANCE.

- A. CAP has, at its own cost, all responsibilities for the installation of all improvements proposed by CAP to the Electrical Service Feed Site as depicted on Exhibit B, including costs associated with construction, operation and maintenance, unless damage thereto is caused by Glendale or its agents or contractors;
- B. All improvements made by CAP to the Electrical Service Feed Site pursuant to the terms of this Agreement are subject to and must be in compliance with all applicable codes, ordinances and laws, including the Americans with Disabilities Act, and constructed in conformance with Glendale's approved design standards.
- C. CAP shall not permit any liens to be placed or remain on the Electrical Service Feed Site by virtue of any work performed under this Agreement.
- D. If maintenance pursuant to this Agreement is not completed in a reasonable time after notification of such need, Glendale may perform the necessary maintenance, either through the use of its own forces or through a hired contractor, and the cost thereof, including the cost of inspection and/or supervision, shall be paid by CAP within thirty (30) days after receipt of Glendale's invoice for same.

9. INDEMNIFICATION.

CAP shall defend, indemnify and hold harmless Glendale and its elected or appointed officials, agents, boards, commissions and employees (hereinafter referred to collectively as "Glendale" in this Section) from all loss, damages or claims of whatever nature, including attorney's fees, expert witness fees and costs of litigation (collectively, "Damages"), that arise out of any act or omission of CAP or its agents, employees and invitees (hereinafter referred to collectively as "CAP" in this Section) in connection with CAP's operations in the Electrical Service Feed Site and that result directly or indirectly in the injury to or death of any person or the damage to or loss of any property, or that are caused by the failure of CAP to comply with any provision of this Agreement except to the extent the Damages are caused by Glendale's, or its agents' negligence, fault or willful misconduct. Glendale shall give CAP prompt notice of any claim made or suit instituted that may subject CAP to liability under this Section, and CAP shall have the right to compromise and defend the same to the extent of its own interest. Glendale shall have the right, but not the duty, to participate in the defense of any claim or litigation with attorneys of Glendale's selection and at Glendale's sole cost without relieving CAP of any obligations under this Agreement. CAP's obligations under this Section survive one year after the termination of this Agreement.

10. INSURANCE.

- A. CAP shall procure and at all times maintain the following types and amounts of insurance for its operations in the Electrical Service Feed Site:
- (i) Commercial general liability and property damage insurance in the minimum amount of \$1,000,000 combined single limit.
 - (ii) Any other insurance as Glendale's Risk Manager determines to be necessary for CAP's operations, is universally required of similar tenants or licensees and is commercially reasonable.
- B. Insurance shall:
- (i) Be from a company rated at least A- by AM Best;
 - (ii) Name Glendale as an additional insured on the certificate of insurance;
 - (iii) Require twenty (20) days written notice to Glendale prior to cancellation (ten (10) days due to non-payment);
 - (iv) Include contractual liability coverage for the obligation of indemnity assumed in this Agreement, subject to standard policy provisions and exclusions; and
- C. CAP may satisfy the insurance requirements of this Section, in whole or in part, through self-insurance if deemed acceptable by Glendale.
- D. CAP shall provide appropriate certificates of insurance to Glendale for all insurance policies required by this Section. Absence of Glendale's request for proof of initial or renewal coverage does not waive any insurance requirements under this paragraph.

11. DAMAGE OR DESTRUCTION.

Glendale has no obligation to reimburse CAP for the loss of or damage to fixtures, equipment or other personal property, except for loss or damage as is caused by the negligence or fault of Glendale or its officers, employees or agents. CAP may insure all fixtures, equipment or other personal property for its own protection if it so desires.

12. SURRENDER OF POSSESSION.

Upon the expiration or termination of this Agreement, CAP's right to occupy the Electrical Service Feed Site and exercise the privileges and rights granted under this Agreement shall cease, and it shall surrender and leave the Electrical Service Feed Site in good condition, normal wear and tear and casualty not caused by CAP excepted.

16. ALTERNATIVE DISPUTE RESOLUTION; LITIGATION.

This Agreement shall be governed by the laws of the State of Arizona. If a dispute arises concerning any of the terms of this Agreement, the parties will meet and attempt in good faith to negotiate a resolution of the dispute. If a resolution is not reached, the parties will consider entering into an alternative dispute resolution process, including mediation and/or arbitration. This Section shall not foreclose the right of either party to file a court action. In the event of any litigation or arbitration between Glendale and CAP arising under this Agreement, the successful party shall be entitled to recover its attorney's fees, expert witness fees and other costs incurred in connection with the litigation or arbitration.

17. RULES AND REGULATIONS.

CAP shall at all times comply with all federal, state and local laws, ordinances, rules and regulations which are applicable to its operations and the Electrical Service Feed Site, including all laws, ordinances, rules and regulations adopted after the Effective Date. CAP shall display to Glendale, upon request, any permits, licenses or other evidence of compliance with the law.

18. RIGHT OF ENTRY RESERVED.

- A. Glendale may, at any time, enter upon the Electrical Service Feed Site for any lawful purpose, so long as the action does not unreasonably interfere with CAP's use or occupancy of the Electrical Service Feed Site.
- B. Without limiting the generality of the foregoing, Glendale and any furnisher of utilities and other services shall have the right, at their own cost, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Electrical Service Feed Site at all times to make repairs, replacements or alterations thereto that may, in the opinion of Glendale, be deemed necessary or advisable and from time to time to construct or install over, in or under the Electrical Service Feed Site the systems or parts thereof and, in connection with maintenance, use the Electrical Service Feed Site for access to other parts in and around the Electrical Service Feed Site; provided that in the exercise of the right of access, repair, alteration or new construction, Glendale shall not unreasonably interfere with the use and occupancy of the Electrical Service Feed Site by CAP.
- C. Exercise of any of the foregoing rights by Glendale or others pursuant to Glendale's rights shall not constitute an eviction of CAP, nor be made the grounds for any abatement of rent or any claim for damages.

19. CONFLICTS OF INTEREST.

This Agreement may be cancelled for conflicts of interest as described under A.R.S. § 38-511.

20. PROHIBITIONS.

CAP, and on behalf of any subcontractor, certifies, to the extent applicable under A.R.S. §§ 35-391 *et seq* and 35-393 *et seq*, that neither has “scrutinized” business operations, as defined in the preceding sections, in the countries of Sudan or Iran.

21. MISCELLANEOUS.

This Agreement constitutes the entire agreement between the parties concerning the subject matter stated and supersedes all prior negotiations, understandings and agreements between the parties concerning those matters. This Agreement shall be interpreted, applied and enforced according to the fair meaning of its terms and not be construed strictly in favor of or against either party, regardless of which party may have drafted any of its provisions. No provision of this Agreement may be waived or modified except by a writing signed by the party against whom the waiver or modification is sought to be enforced. This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument. The terms of this Agreement are binding upon and inure to the benefit of the parties’ successors and assigns.

[Signatures Appear on Following Page]

EXECUTED to have an Effective Date as of the date of the signature last affixed below.

APPROVED AS TO FORM:

CITY OF GLENDALE, an Arizona municipal corporation



Craig Tindall, City Attorney

Hereto signed for 7-18-11
Ed Beasley, City Manager Date

ATTEST:

(SEAL)



Pam Hanna, City Clerk

CENTRAL ARIZONA WATER
CONSERVATION DISTRICT, a multi-county
water conservation district organized pursuant
to A.R.S. §48-3701

Cal Pepper 7/13/2011
By: Cal Pepper Date
Its: Lands and Records Supervisor

ATTEST:

(SEAL)



EXHIBIT A
LEGAL DESCRIPTION OF
ELECTRICAL SERVICE FEED SITE

A PART OF THE SOUTHEAST (SE) QUARTER (1/4) OF SECTION THIRTY (30) AND NORTHEAST (NE) QUARTER (1/4) OF SECTION THIRTY ONE (31), TOWNSHIP FIVE (5) NORTH, RANGE TWO (2) EAST, GILA AND SALT RIVER BASELINE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, CONTAINING AN AREA OF 0.275 ACRES, MORE OR LESS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH-SOUTH MIDSECTION LINE OF SECTION 31 THAT BEARS SOUTH 1°28'01" EAST 252.16 FEET FROM A 2 ½ INCH RLS 11750 BRASS CAP IN CONCRETE AT THE NORTH QUARTER CORNER OF SECTION 31, PER GDACS SURVEY, MCR 2002-0297890;

THENCE LEAVING SAID MIDSECTION LINE NORTH 88°32'01" EAST 1.00 FOOT TO THE POINT OF BEGINNING;

THENCE NORTH 88°32'07" EAST 14.40 FEET TO THE SOUTHEAST CORNER OF AN EXISTING ELECTRICAL SWITCHGEAR CONCRETE PAD;

THENCE NORTH 2°24'20" EAST 22.32 FEET;

THENCE SOUTH 88°31'59" WEST 5.90 FEET;

THENCE NORTH 1°28'01" WEST 229.88 FEET TO A POINT ON THE COMMON SECTION LINE FOR THE NORTHEAST QUARTER SECTION 31 AND SOUTHEAST QUARTER SECTION 30;

THENCE NORTH 88°34'00" EAST 632.39 FEET ALONG SAID SECTION LINE TO A POINT THAT BEARS SOUTH 88°34'00" WEST 1,882.44 FEET FROM A 2 INCH MARICOPA COUNTY ALUMINUM CAP ON REBAR AT THE NORTHEAST CORNER OF SECTION 31/ SOUTHEAST CORNER SECTION 30, PER GDACS SURVEY, MCR 2002-0297890;

THENCE LEAVING COMMON SECTION LINE, NORTH 0°18'25" WEST 217.61 FEET;

THENCE NORTH 61°14'01" EAST 81.23 FEET TO A POINT ON THE WEST BOUNDARY OF THE CENTRAL ARIZONA PROJECT;

THENCE ALONG THE WEST BOUNDARY OF THE CENTRAL ARIZONA PROJECT, NORTH 39°43'32" WEST 10.00 FEET;

THENCE LEAVING THE WEST BOUNDARY OF THE CENTRAL ARIZONA PROJECT, SOUTH 61°21'26" WEST 85.28 FEET;

THENCE SOUTH 0°18'26" EAST 213.77 FEET;

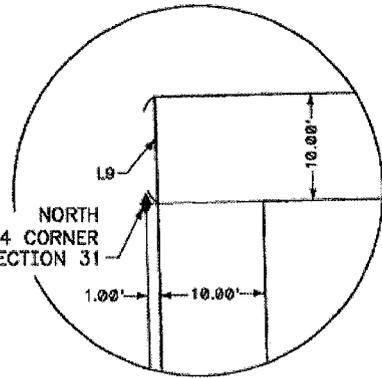
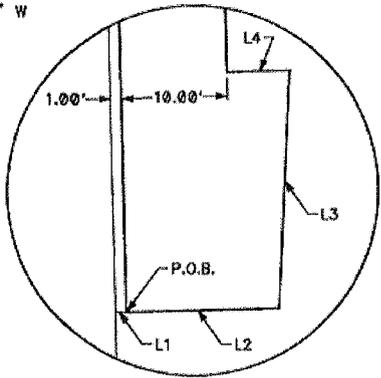
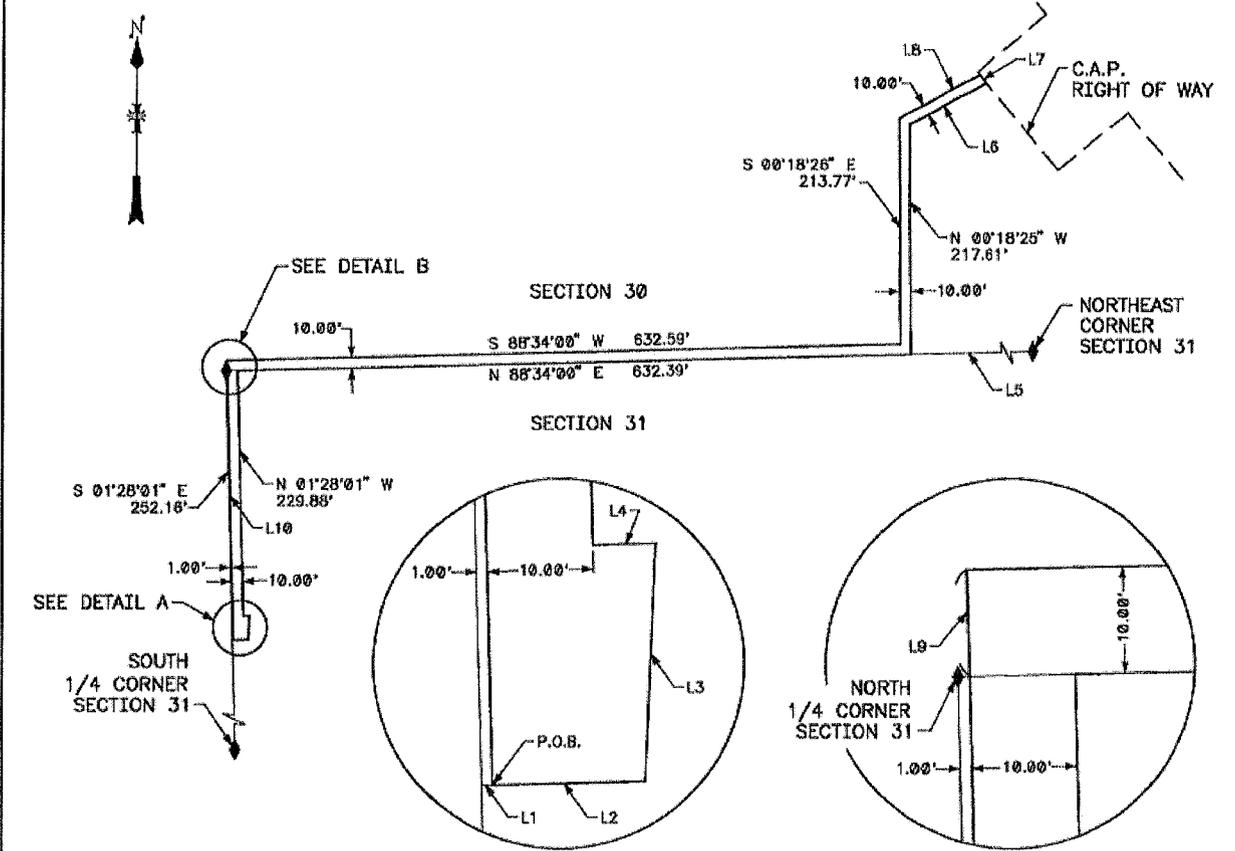
THENCE SOUTH 88°34'00" WEST 632.59 FEET;

THENCE SOUTH 1°28'01" EAST 10.00 FEET TO A POINT ON THE COMMON LINE FOR SECTION 30 AND SECTION 31;

THENCE LEAVING THE COMMON LINE FOR SECTION 30 AND SECTION 31, SOUTH 1°28'01" EAST 252.16 FEET TO THE POINT OF BEGINNING.

EXHIBIT A

REVISION HISTORY						
REV	BY	DATE	WORK ORDER	DESCRIPTION	APPR.	DATE
A	EDA	05-03-11	525526	INITIAL RELEASE	DLG	05-03-11



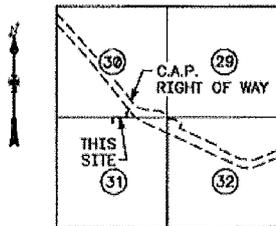
LINE	BEARING	DISTANCE
L1	N 88°32'01" E	1.00'
L2	N 88°32'07" E	14.40'
L3	N 02°24'20" E	22.32'
L4	S 88°31'59" W	5.90'
L5	S 88°34'00" W	1,882.44'
L6	N 61°14'01" E	81.23'
L7	N 39°43'32" W	10.00'
L8	S 61°21'26" W	85.28'
L9	S 01°28'01" E	10.00'
L10	S 01°28'01" E	252.16'



Expires 6-30-2012

0.275± ACRES
 PART OF THE SOUTHEAST QUARTER
 OF SECTION 30 AND NORTHEAST
 QUARTER OF SECTION 31, T5N, R2E,
 MARICOPA COUNTY, ARIZONA

CASE NO. 2011-051



DIVISION ENGINEERING			CENTRAL ARIZONA PROJECT 23838 NORTH 7th STREET - PHOENIX, ARIZONA 85024		
APPROVALS			GLEDALE TURNOUT		
DESIGNED BY:	D. DOMICO	05-03-11	PYRAMID PEAK WATER TREATMENT PLANT LICENSE IN SECTIONS 30 AND 31, T5N, R2E MAP		
DRAWN BY:	E. ALBER	05-03-11			
CHECKED BY:	T. FITZGERALD	05-03-11			
CHD/D BY:	R. MARTIN	05-04-11			
SUBMITTED BY:	P. DENT	05-04-11			
MANAGEMENT BY:	R. RANDOLPH	05-04-11	Size	Orig. W.O.	Dwg. No.
			A	525526	GLE-C-C14804
			Scale:	AS SHOWN	Sheet No.: 1 OF 1

EXHIBIT B

GRAPHICAL DEPICTION OF
ELECTRICAL SERVICE FEED SITE

