



STATE LAND DEPARTMENT STATE OF ARIZONA

Right of Way

R/W No. 18-112914

THIS RIGHT OF WAY ("Right of Way") is entered into by and between the State of Arizona (as "Grantor") by and through the Arizona State Land Department and

TOWN OF PRESCOTT VALLEY

("Grantee"). In consideration of payment and performance by the parties of each of the provisions set forth herein, the parties agree as follows:

EXTENT OF DOCUMENT

"Additional Conditions", "Exhibits", and "Appendixes" are an integral part of this document. In case of a conflict between the printed boiler document and the additional conditions, exhibits, or appendixes, the applicable additional condition, exhibit, or appendix shall be considered the governing document and supersede the printed boiler, but only to the extent necessary to implement the additional condition, exhibit, or appendix, and only if the additional condition, exhibit, or appendix does not conflict with governing state or federal law.

ARTICLE 1 SUBJECT LAND

1.1 Grantor grants to Grantee a Right of Way on, over, through, and across the State lands described in Appendix A attached hereto ("Subject Land").

1.2 Grantee makes use of the Subject Land "as is", and Grantor makes no express or implied warranties as to the physical condition of the Subject Land.

ARTICLE 2 TERM

2.1 The term of this Right of Way commences on April 9, 2009 ("Commencement Date"), and expires on April 8, 2019 ("Expiration Date"), unless sooner canceled or terminated as provided herein or as provided by law.

FEE
\$8.50
\$8
\$5
\$1
\$8.50
MB



ARTICLE 3
RENT

3.1 Rental is due in advance for the term of this Right of Way document.

3.2 If the Grantee should fail to pay rental when due, or fail to keep the covenants and agreements herein set forth, the Commissioner, at his option, may cancel said Right of Way or declare the same forfeited in the manner provided by law.

ARTICLE 4
PURPOSE AND USE OF SUBJECT LAND

4.1 The purpose of this Right of Way is the location, construction, operation, and maintenance of:

A service road.

4.2 No material may be removed by Grantee or its contractors without the written approval of the Grantor.

4.3 Grantee shall not exclude from use the State of Arizona, its lessees, or grantees, or the general public the right of ingress and egress over this Right of Way.

4.4 Grantee shall acquire required permits prior to construction, and adhere to all applicable rules, regulations, ordinances, and building codes as promulgated by the local jurisdiction and any applicable State or Federal agencies.

4.5 All use of State land outside the Right of Way must be applied for and authorized in accordance with applicable law.

4.6 Grantee shall not sublet or assign this Right of Way or any portion thereof without the written consent of the Grantor.

4.7 The Grantor retains ownership of the Subject Land. The use of this Right of Way is to be non-exclusive. This Right of Way is sold subject to existing reservations, easements, or rights of way heretofore legally obtained and now in full force and effect.

4.8 When necessary for Grantee's reasonable use of this Right of Way for the purposes for which the grant is made, it shall be deemed to include the rights in, upon, over, and across the described Subject Land to erect, construct, reconstruct, replace, repair, and maintain the facilities authorized by this Right of Way.

4.9 Grantee shall have the right to erect, maintain, and use gates in all fences under the control of the Grantor which now cross or shall hereafter cross said Right of Way, 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 right herein provided.



4.10 Grantee shall not fence any portion of this Right of Way unless specifically authorized in the attached additional conditions without prior written consent of Grantor, nor shall Grantee exclude from the use of the surface thereof the State of Arizona or its lessees or grantees as reserved in Paragraph 10.1.

ARTICLE 5
CONFORMITY TO LAW

5.1 This Right of Way is subject to applicable laws and covenants relating to State lands.

ARTICLE 6
CANCELLATION, TERMINATION AND ABANDONMENT

6.1 This Right of Way is subject to cancellation pursuant to A.R.S. § 38-511.

6.2 If at any time the Right of Way ceases to be used for the purpose for which it was granted, it shall become void, and the right to use the Subject Land and all the rights of Grantee hereunder shall revert to the Grantor.

6.3 Upon revocation or termination of the Right of Way, the Grantee shall remove all equipment or facilities, and so far as is reasonably possible, restore and/or rehabilitate the Subject Land to its original condition, and to the satisfaction of the Grantor.

ARTICLE 7
ENVIRONMENTAL INDEMNITY

7.1 Grantee shall protect, defend, indemnify, and hold harmless the Grantor from and against all liabilities, costs, charges, and expenses, including attorneys' fees and court costs arising out of (or related to) the presence of (or existence of) any substance regulated under any applicable federal, state, or local environmental laws, regulations, ordinances, or amendments thereto because of: (a) any substance that came to be located on the Right of Way due to Grantee's use or occupancy of the lands by the Grantee before or after the issuance of the Right of Way; or (b) any release, threatened release, or escape of any substance in, on, under, or from the Right of Way that is caused, in whole or in part, by any conduct, actions, or negligence of the Grantee, regardless of when such substance came to be located on the Right of Way.

7.2 For the purposes of this Right of Way the term "regulated substances" shall include substances defined as "regulated substances", "hazardous waste", "hazardous substances", "hazardous materials", "toxic substances", or "pesticides" in the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation, and Liability Act; the Hazardous Materials Transportation Act; the Toxic Substance Control



Act; the Federal Insecticide, Fungicide, and Rodenticide Act; the relevant local and state environmental laws, and the regulations, rules and ordinances adopted, and publications promulgated pursuant to the local, state, and federal laws. This indemnification shall include, without limitation, claims, or damages arising out of any violations of applicable environmental laws, regulations, ordinances, or subdivisions thereof, regardless of any real or alleged strict liability on the part of Grantor. This environmental indemnity shall survive the expiration or termination of this Right of Way and/or any transfer of all or any portion of the Subject Land and shall be governed by the laws of the State of Arizona.

7.3 In the event any such action or claim is brought or asserted against the Grantor, the Grantee shall have the right, subject to the right of the Grantor, to make all final decisions with respect to Grantor's liability for claims or damages, (i) to participate with Grantor in the conduct of any further required cleanup, removal, or remedial actions and/or negotiation and defense of any claim indemnifiable under this environmental indemnity provision, having reasonable regard to the continuing conduct of the operation/business located on the Subject Land and (ii) to participate with the Grantor in negotiating and finalizing any agreement or settlement with respect to any such claim or cleanup.

ARTICLE 8 **INSURANCE REQUIREMENTS**

8.1 Grantee shall maintain in full force a commercial general liability insurance policy during the Right of Way term affording protection to the limit of not less than one million dollars. This policy shall contain a provision that Grantor, named as an additional insured, shall be entitled to recovery for any loss occasioned to it, its agents, and employees. Further, the policy shall provide that Grantee's coverage is primary over any other insurance coverage available to the Grantor, its agents, and employees. Insurance policies must contain a provision that the Grantor shall receive an advance 30 day written notice of any cancellation or reduction in coverage.

ARTICLE 9 **ENVIRONMENTAL MATTERS**

9.1 Grantee shall strictly comply with Environmental Laws relating but not limited to hazardous and toxic materials, wastes, and pollutants. Compliance means the Grantee shall act in accordance with the necessary reporting obligations, obtain and maintain all permits required, and provide copies of all documents as required by Environmental Laws. For purposes of this Right of Way the term "Environmental Law" shall include but not be limited to any relevant federal, state, or local laws, and applicable regulations, rules and ordinances, and publications promulgated pursuant thereto, including any future modifications or amendments relating to environmental matters.



ARTICLE 10
RESERVATIONS; RELINQUISHMENTS

10.1 Grantor reserves the right to grant other rights in, upon, over, and across the described Subject Land for any purpose whatsoever not inconsistent or incompatible with the use allowed by this indenture, and the Grantee agrees not to exclude the Grantor or its lessees or grantees from the use of the Subject Land herein described.

10.2 Grantor reserves all natural resources, timber, and minerals (including oil or gas) in or upon the described Subject Land, and the right to grant leases, permits, easements, and/or rights of way to extract such resources as provided by law and in a manner not inconsistent or incompatible with Grantee rights hereunder. Where inconsistent or incompatible uses exist, the Grantor will require the applicant therefor to indemnify Grantee for loss it might suffer by reason of such use.

10.3 Grantor reserves the right to relinquish to the United States pursuant to the U.S. Act of August 30, 1890, land needed for irrigation works in connection with a government reclamation project.

ARTICLE 11
LOCATION, CONSTRUCTION AND MAINTENANCE

11.1 Grantee shall ensure full compliance with the terms and conditions of this Right of Way by its agents, employees, and contractors (including sub-contractors of any tier), and the employees of each of them and shall include the terms and conditions in all contracts and sub-contracts which are entered into by any of them.

11.2 Failure or refusal of Grantee's agents, employees, contractors, sub-contractors, or their employees to comply with these terms and conditions shall be deemed to be the failure or refusal of Grantee.

ARTICLE 12
NATIVE PLANTS AND ARCHAEOLOGICAL RESOURCES

12.1 If the removal of plants protected under the Arizona Native Plant Law is necessary to enjoy the privilege of this Right of Way, the Grantee hereunder must obtain the written permission of the Grantor and the Arizona Department of Agriculture prior to removal of those plants.

12.2 Grantee shall promptly notify the Commissioner of the amount of flora, if any, which will be cut, removed, or destroyed in the construction and maintenance of said Right of Way and shall pay the Grantor such sum of money as the Commissioner may determine to be the full value of the flora to be so cut, removed, or destroyed. Grantee shall notify the Grantor and the Arizona Department of Agriculture 30 days prior to any destruction or removal of native plants to allow salvage of those plants where possible.



12.3 Prior to surface disturbance, the Grantee hereof shall provide evidence of archaeological clearance to the Department. Archaeological surveys and site mitigation must be conducted in accordance with rules and regulations promulgated by the Director, Arizona State Museum. In the event additional archaeological resources are detected by Grantee after receipt of archaeological clearance, all work shall cease and notification shall be given to the Director, Arizona State Museum, and Grantor.

ARTICLE 13
GRANTEE SHALL PROTECT AND RESTORE THE SUBJECT LAND

13.1 Grantee shall be required, upon completion of Right of Way construction, to make such rehabilitation measures on the State lands, including but not limited to restoration of the surface, revegetation, and fencing as determined necessary by the Grantor.

13.2 Grantee shall conduct all construction and maintenance activities in a manner that will minimize disturbance to all land values including but not limited to vegetation, drainage channels, and streambanks. Construction methods shall be designed to prevent degradation of soil conditions in areas where such degradation would result in detrimental erosion or subsidence. Grantee shall take such other soil and resource conservation and protection measures on the Subject Land under grant as determined necessary by the Grantor.

13.3 Costs incurred by the Grantee in complying with restoration and rehabilitation requirements, as determined by the Department, on State lands shall be borne by the Grantee.

13.4 Grantee shall conduct its operations on the Subject Land in such a manner as is consistent with good environmental practices. Grantee shall exert reasonable efforts to avoid damage of protected flora, and restore the surface to its condition prior to the occupancy thereof by Grantee.

ARTICLE 14
MISCELLANEOUS

14.1 The described Subject Land shall be used only for the purpose stated in Paragraph 4.1, and as may be further detailed elsewhere.

14.2 This Document is submitted for examination and shall have no binding effect on the parties unless and until executed by the Grantor (after execution by the Grantee), and until a fully executed copy is delivered to the Grantee.

14.3 In the event of a dispute between the parties to this Right of Way, it is agreed to use arbitration to resolve the dispute, but only to the extent required by A.R.S. § 12-1518. In no event shall arbitration be employed to resolve a dispute which is otherwise subject to administrative review by the Department.



14.4 The Grantor does not represent or warrant that access exists over other State lands which intervene respectively between the above Right of Way and the nearest public roadway.

14.5 Grantee agrees to indemnify, hold, and save Grantor harmless against all loss, damage, liability, expense, costs, and charges incident to or resulting in any way from any injuries to person or damage to property caused by or resulting from the use, condition, or occupation of the Subject Land.

14.6 If for any reason the State of Arizona does not have title to any of the Subject Land described herein, this Right of Way shall be null and void insofar as it relates to the land to which the State has failed to receive title.

14.7 Every obligation of the State under this Right of Way is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Right of Way, this Right of Way may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or any damages as a result of termination under this paragraph.

14.8 The parties agree to be bound by applicable State and Federal rules governing Equal Employment Opportunity, Non-discrimination and Disabilities, including Executive Order No. 99-4.

14.9 Within 30 days of project completion, Grantee shall submit a completed certificate of construction (copy attached).



ADDITIONAL CONDITIONS

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1. The legal description of this right-of-entry is detailed in Exhibit A. Subject to Grantor's rules and policies then in place and as a result of construction related restrictions, Grantor and Grantee may agree to modify the legal description by Grantee submitting "as built" or "proposed realignment" legals, depending on the situation, to the Grantor for Grantor's review. If approved by Grantor and additional acreage is impacted Grantee agrees to pay an appraised or pro-rated charge as the Grantor determines is appropriate. No refund will be made for a reduction in acreage.
2. Grantor reserves the right to grant additional access rights, or any other rights not in conflict with the rights granted herein, to other parties at Grantor's sole discretion.
3. Grantee shall acquire any permits necessary prior to maintenance of service roads.
4. Grantee shall not alter or cause ponding, or any damage up or down stream of any water crossing.
5. A survey may be required to determine if protected plants are present and if they must be salvaged. The Arizona Department of Agriculture shall be notified at least 60 days before the salvage work begins.
6. Service roads shall be maintained in substantially the same condition as they exist at the time the Permit is issued except, if not drivable they may be made drivable, subject to paragraph 12.
7. Grantee shall keep all gates closed and insure its contractors do the same. Grantor reserves the right to require cattle guards if Grantor determines gates are being left open or fencing has been removed or damaged by Grantee, its employees or contractors.
8. Any grazing related improvements removed or damaged due to construction, operation, and maintenance of this right-of-way shall be replaced and/or reconstructed immediately. Cost of replacement and reconstruction shall be the responsibility of the Grantee.
9. Grantee shall use existing roads unless approved otherwise in writing by the Grantor.
10. The Right-of-way shall be void upon non-issuance or cancellation from the Grantor's records of Permit No. 03-112920 or its successor and shall only be used by Grantee in conjunction with such permit.
11. Unless Grantee elects to relinquish this Right-of-way, Grantee shall relocate roads to a route selected by Grantor, upon Grantor's request, at Grantee's expense.
12. No altering of existing drainages or drainage structures are authorized under this instrument.



ADDITIONAL CONDITIONS

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13. Grantee shall notify the grazing lessee at least 15 days prior to the beginning of any construction.
14. If construction or maintenance occurs during periods of livestock grazing, the applicant will take necessary measures to achieve livestock protection and containment.
15. Material for construction (i.e. fill dirt, sand and gravel, etc.) may not be acquired from State lands without the proper permits and authorization.
16. All excess man-made materials or trash resulting from construction of this proposed project will be promptly removed from the site and disposed of properly.
17. Grantee will construct double "H-braces" with a metal Power River style where the road crosses all fences. These gates will be locked and clearly marked indicating no motorized vehicles and authorized personnel only.
18. Grantee will provide the Arizona State Land Department Prescott Range Resource Area Manager with a noxious weed management plan prior to construction of the communication site and maintenance of the dirt road. Grantee will be responsible for controlling weeds along the right of way and around the communication site for the duration of the right.
19. All vehicles/equipment entering State Land for the proposed project (construction or maintenance) will be power washed, including the undercarriage, to prevent the spread of noxious weeds.

EXHIBIT A

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B-4681 P-470
Page: 10 of 16
MISC 4328169

DAVA AND ASSOCIATES
310 EAST UNION STREET PRESCOTT, ARIZONA 86303
928-778-7587

GLASSFORD HILL COMMUNICATIONS SITE ACCESS EASEMENT

Description of land located in Sections 20 and 17 of, Township 14 North, Range 1 West of the Gila and Salt River Meridian, Yavapai County, Arizona. Said parcel of land being a strip of land 20.00 feet in width the westerly line of which is described as follows.

COMMENCING at the southeast corner of said Section 20, marked with a G.L.O.S. brass cap stamped 20, 21, 29, 28 from which the south quarter corner of said Section 20 marked with a G.L.O.S. brass cap stamped 20 | 29, bears, South 88°07'00" West, 2,565.58 feet;

thence, along the south line of said Section 20, South 88°07'00" West, 2,565.58 feet, to the **POINT OF BEGINNING.**

Thence, along the westerly line of said strip, North 53°05'55" East, 139.53 feet;

thence, continuing along said westerly line, North 50°46'05" West, 135.18 feet;

thence, continuing along said westerly line, North 26°01'35" East, 119.54 feet;

thence, continuing along said westerly line, North 04°24'30" West, 243.89 feet;

thence, continuing along said westerly line, North 03°19'55" East, 255.40 feet;

thence, continuing along said westerly line, North 08°37'30" East, 124.68 feet;

thence, continuing along said westerly line, North 21°47'50" East, 147.73 feet;

thence, continuing along said westerly line, North 11°23'05" East, 89.93 feet;

thence, continuing along said westerly line, North 04°09'45" East, 101.32 feet;

thence, continuing along said westerly line, North 02°35'50" East, 126.44 feet;

thence, continuing along said westerly line, North 64°50'50" West, 27.19 feet;

thence, continuing along said westerly line, North 36°49'10" West, 308.63 feet;

thence, continuing along said westerly line, South 13°21'50" West, 157.04 feet;



EXHIBIT A

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thence, continuing along said westerly line, North 52°17'55" West, 297.45 feet;
thence, continuing along said westerly line, North 16°58'05" West, 334.51 feet;
thence, continuing along said westerly line, North 02°30'55" East, 584.79 feet;
thence, continuing along said westerly line, North 01°56'05" East, 1,441.14 feet;
thence, continuing along said westerly line, North 01°26'45" East, 237.55 feet;
thence, continuing along said westerly line, North 51°57'25" East, 284.86 feet;
thence, continuing along said westerly line, North 04°31'30" East, 278.90 feet;
thence, continuing along said westerly line, North 31°45'25" West, 133.92 feet;
thence, continuing along said westerly line, North 60°38'40" East, 157.68 feet;
thence, continuing along said westerly line, North 11°37'50" West, 294.70 feet;
thence, continuing along said westerly line, North 45°49'05" West, 125.49 feet;
thence, continuing along said westerly line, North 73°52'10" West, 2.85 feet, to a point on
the south line of said Section 17, from which the southeast corner of said Section 17
marked with a G.L.O.S. brass cap stamped 17, 16, 20, 21, bears, North 87°41'03"
East, 656.96 feet;
thence, continuing along said westerly line, North 73°52'10" West, 377.91 feet;
thence, continuing along said westerly line, North 47°28'20" East, 309.06 feet;
thence, continuing along said westerly line, North 65°13'00" West, 385.13 feet;
thence, continuing along said westerly line, North 63°34'45" West, 220.58 feet;
thence, continuing along said westerly line, North 14°45'55" East, 206.25 feet;
thence, continuing along said westerly line, North 64°04'55" East, 206.15 feet;
thence, continuing along said westerly line, North 31°28'35" West, 83.72 feet;



EXHIBIT A

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The easterly side lines of said strip are to lengthened or shortened to meet at the angel points, at the south line of said Section 20 and at the southwesterly boundary of the 125' X 150' site.

Containing 3.64 acres.

I certify that, I, Thomas G. Callahan, am a Registered Land Surveyor in the State of Arizona, that this description was prepared under my direction and contains adequate information to allow retracement thereof.

Thomas G. Callahan
Thomas G. Callahan, R.L.S. 22752

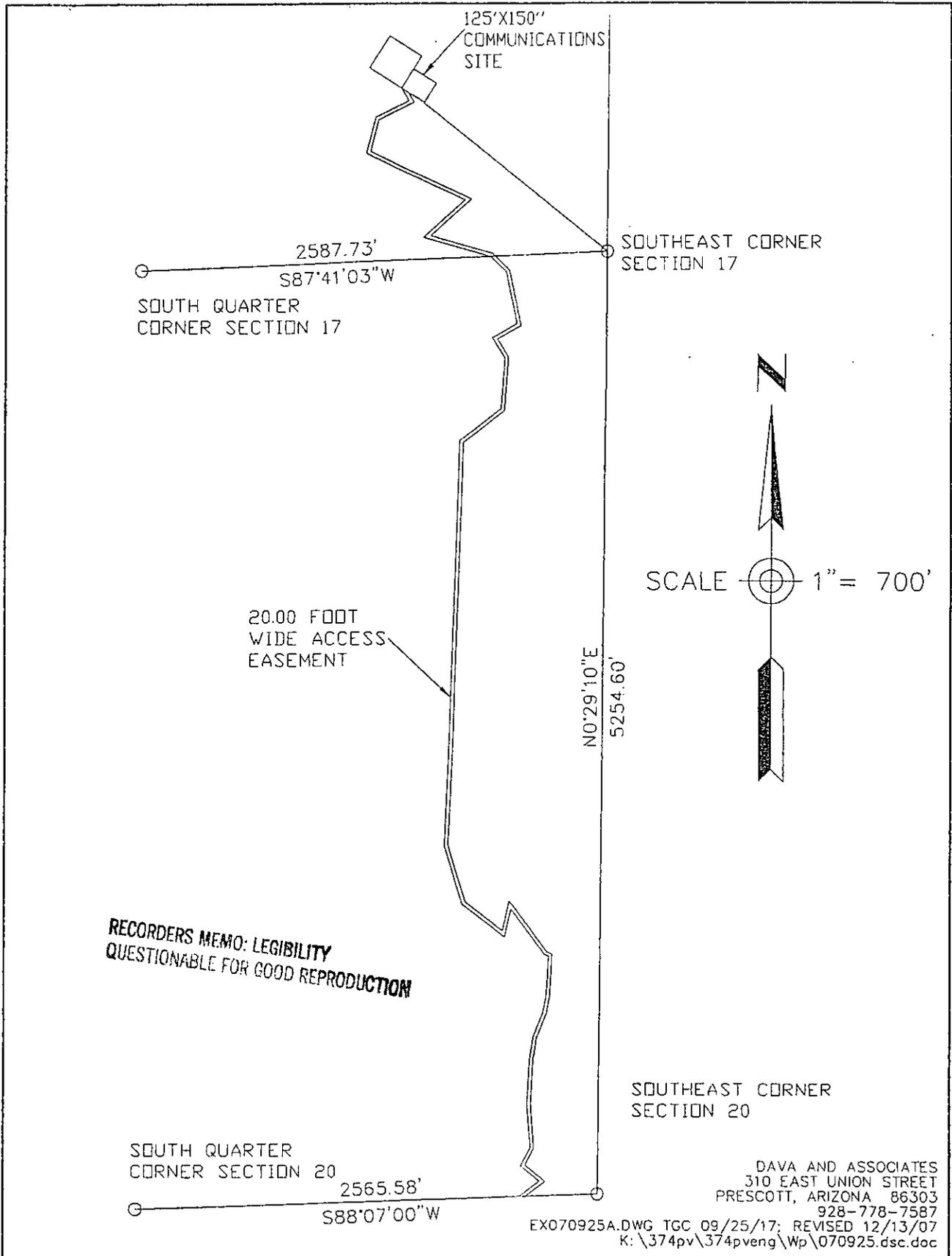




EXHIBIT A

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STATE OF ARIZONA LAND DEPARTMENT
1616 W. ADAMS
PHOENIX, AZ 85007

RUN DATE 09-APR-2009
RUN TIME: 13:04:21
APPENDIX A
PAGE: 001

KE-LEASE#: 018-112914-00-000 APPTYPE: NEW

AMENDMENT#: 0

| LAND# | LEGAL DESCRIPTION | AUS | ACREAGE |
|------------------------------|-------------------|------|---------|
| 14.0-N-01.0-W-17-13-031-9008 | M&B THRU SE | 0.00 | 0.820 |
| 14.0-N-01.0-W-20-13-031-9011 | M&B THRU E2E2 | 0.00 | 2.820 |
| TOTALS: | | 0.00 | 3.640 |

**RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION**



IN WITNESS HEREOF, the parties hereto have signed this Right of Way effective the day and year set forth previously herein.

STATE OF ARIZONA, GRANTOR
Arizona State Land Commissioner

By: Katalin Gordon 6-17-2009
Date



TOWN OF PRESCOTT VALLEY
GRANTEE

[Signature] 6/17/09
Authorized Signature Date

Mayor
Title

75016. Live Live
Address

Prescott Valley AZ 86314
City State Zip



GRANTEE'S CERTIFICATE OF CONSTRUCTION

RIGHT OF WAY NUMBER: _____

NAME OF GRANTEE: _____

DATE ISSUED: _____

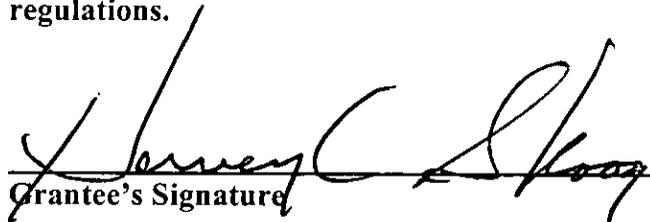
PERMITTED USE: _____

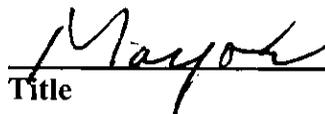
LAND DEPARTMENT ADMINISTRATOR: _____

DATE CONSTRUCTION STARTED: _____

DATE CONSTRUCTION COMPLETED: _____

I hereby certify that the facilities authorized by the State Land Commissioner, were actually constructed and tested in accordance with the terms of the grant, in compliance with any required plans and specifications, and applicable Federal and State laws and regulations.


Grantee's Signature _____ Date 6-26-09


Title _____

Return To: Arizona State Land Department
R/W Section
1616 W. Adams Street
Phoenix, AZ 85007