

STATE LAND DEPARTMENT STATE OF ARIZONA

RIGHT-OF-WAY

R/W No. 14 - 103486

THIS INDENTURE made October 8, 1998, by and between the State of Arizona, hereinafter called the Grantor and

CASAS DEL RIO HOMEOWNERS ASSOCIATION, INC., an Arizona corporation
hereinafter called the Grantee.

Grantor does hereby grant to the Grantee for the purpose of

a seawall and non-exclusive open area

subject to the terms herein set forth, over (and thru where applicable) the lands of the State of Arizona, more particularly described in Appendix A.

TO HAVE AND TO HOLD the same for the period ending October 7, 2023 and upon expiration, to be extended for such additional period and upon such terms and conditions as may be then mutually agreed upon by the parties hereto.

EASEMENT CONDITIONS

Grantee agrees and understands that in consideration of this conveyance:

1. The described lands shall be used only for the purpose stated above and as may be further stated in Paragraph 8 hereof.
2. Grantee shall not sublet or assign this Right-of-Way or any portion thereof without the written consent of the Grantor.
3. Grantor reserves the right to grant other rights in, upon, over and across the described premises 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 lands herein described.
4. Grantor reserves all natural resources, timber and minerals including oil or gas in or upon the described land, and the right to grant leases, permits, easements and/or rights-of-way to extract such resources as provided by law and the regulations of the State Land Department and in a manner not inconsistent or incompatible with Grantee rights hereunder; where inconsistent or incompatible uses exist, the Grantor will require the applicant therefore to previously indemnify Grantee for loss it might suffer by reason of such use.

5. In the event it becomes necessary due to public works for Grantee to abandon a portion of the alignment of this easement during the period that the adjacent and underlying property is owned by the Grantor, Grantor, to the extent Grantor may lawfully do so shall allow Grantee linear footage credit on a pro-rata basis against the additional easement necessary due to such relocation for the portion of this easement so abandoned. The Grantee will pay the Grantor additional compensation based on then current appraisal practices for any increase in land usage caused by such realignment.
6. In the event Grantee should abandon this easement prior to its automatic termination, it shall become void, and the right to use the land and all the rights of Grantee hereunder shall revert to the Grantor, whereupon the Grantee agrees to execute and deliver a complete release of all right, title and interest therein.
7. 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 land.
8. When necessary for Grantee's reasonable use of this easement for the purposes for which the grant is made, it shall be deemed to include the rights in, upon, over and across the described lands to erect, construct, reconstruct, replace, repair and maintain the facilities authorized by this easement.
9. This grant is subject to applicable laws and covenants relating to State lands.
10. 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 judgement, the same shall be necessary for the convenient and safe exercise of the right herein provided.
11. Grantee shall not fence any portion of this easement 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 3 above.
12. Grantee shall conduct its operations on the leased premises in such a manner as is consistent with good environmental practices, and shall exert reasonable efforts to avoid damage of protected flora and to restore the surface to its condition prior to the occupancy thereof by Grantee.
13. Grantor, in any lands sold by it herein described, shall reserve in issuing patents sufficient rights unto Grantee to insure the continuity of this easement to its full term plus any extension thereof.
14. With regard to the location, construction and maintenance of the Right-of-Way:
 - (a) Grantee shall ensure full compliance with the terms and conditions of this grant by its agents, employees and contractors (including sub-contractors of any tier), and the employees of each of them.

- (b) Unless clearly inapplicable, the requirements and prohibitions imposed upon Grantee by these terms and conditions are also imposed upon Grantee's agents, employees, contractors, and sub-contractors, and the employees of each of them.
 - (c) 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.
 - (d) Grantee shall require its agents, contractors or sub-contractors to include these terms and conditions in all contracts and sub-contracts which are entered into by any of them, together with a provision that the other contracting party, together with its agents, employees, contractors and sub-contractors, and the employees of each of them, shall likewise be bound to comply with these terms and conditions.
- 15. All access roads over State land outside the Right-of-Way must be applied for and authorized in accordance with applicable regulations.
- 16. No material may be removed by Grantee or its contractors without the written approval of the Commissioner.
- 17. 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 the project and shall pay the State Land Department 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 State Land Department 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.
- 18. 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 land under grant as determined necessary by the State Land Department.
- 19. 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 State Land Department.
- 20. 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 land to its original condition, to the satisfaction of the Commissioner.
- 21. Costs incurred by the Grantee in complying with restoration and rehabilitation requirements as determined by the State Land Department on State trust lands shall be borne by the Grantee.
- 22. Prior to surface disturbance, the Grantee hereof shall provide evidence of archaeological clearance to the Arizona State Land 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.

23. **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 a fully executed copy is delivered to the Grantee.
24. **IN THE EVENT OF A DISPUTE** between the parties to this Agreement, it is agreed to use arbitration to resolve the dispute but only to the extent required by A.R.S. §12-1518; and, in no event shall arbitration be employed to resolve a dispute which is otherwise subject to administrative review by the Department pursuant to statute or Department Administrative Rule.
25. 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.
26. Notice of authority to cancel this contract:

This contract is subject to cancellation pursuant to A.R.S. § 38-511.
27. Native Plant Law:

If the removal of plants protected under the Arizona Native Plant Law is necessary to enjoy the privilege of this Document, the Grantee hereunder must previously acquire the written permission of the Arizona State Land Department and the Arizona Department of Agriculture to remove those plants.
28. The State of Arizona, through its State Land Department, retains ownership of the land. The use of this Right-of-Way is to be non-exclusive. This easement is sold **SUBJECT** to existing reservations, easements or rights-of-way heretofore legally obtained and now in full force and effect.
29. The Department does not represent or warrant that access exists over other State lands which intervene respectively between the above Right-of-Way easement and the nearest public roadway.
30. Grantee shall adhere to all rules, regulations, ordinances and building codes as promulgated by local jurisdiction and any applicable agencies.
31. Grantee shall not exclude from use of State of Arizona, its lessees or grantees, or the general public the right of ingress and egress over this roadway.
32. Grantee shall acquire any necessary permits from the Arizona Department of Transportation and/or the County Highway Department prior to construction.

Within 30 days of project completion, Grantee shall submit a completed certificate of construction. (Copy Attached)

ENVIRONMENTAL INDEMNITY

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 said 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.

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 Premises and shall be governed by the laws of the State of Arizona.

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 Premises and (ii) to participate with the Grantor in negotiating and finalizing any agreement or settlement with respect to any such claim or cleanup.

ADDITIONAL CONDITIONS
14-103486

1. Grantee shall obtain all necessary permits from the Army Corps of Engineers and City of Bullhead City prior to construction.
2. Grantor shall not be liable for drainage caused by flooding or structure failure to property owners located downstream, upstream and adjacent to said right of way.
3. All said area lying in the area from said seawall to the high water mark shall remain open and available for public use. Grantee shall not place improvements other than those specified in the purpose. Also, said seawall shall not exceed a width of 36".

seawalls

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

RUN DATE: 20-oct-1998
RUN TIME: 14:31:36

KE LEASE NUMBER: 014-103486-00-000
AMENDMENT NUMBER: 0

Page 1

LAND#	LEGAL DESCRIPTION	C.C.	ACREAGE
10.0-N-19.0-W-22-15-165-9001	M&B THRU COLORADO RIVER BED	0.0	0.080
TOTALS:		0.0	0.080

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

STATE OF ARIZONA, GRANTOR
Arizona State Land Commissioner

[Signature] 3/3/99
By: _____ Date

(SEAL)

Agua Del Rio Condo Assoc Inc 3-1-99
GRANTEE _____ Date
[Signature] 3-1-99
By _____ Date

9170 Riverside Dr.
Address _____
Phoenix Ar 85344
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

Title

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