

ORDINANCE S-35095

AN ORDINANCE AMENDING ORDINANCE NO. S-34209, ADOPTED JULY 2 2007, TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A RIGHT OF WAY DOCUMENT WITH THE ARIZONA STATE LAND DEPARTMENT FOR THE PURPOSE OF AN ACCESS ROAD AND SLOPE EASEMENT TO THE ADOBE MOUNTAIN COMMUNICATIONS SITE; FURTHER THIS AMENDMENT SHALL EXEMPT THE STATE LAND DEPARTMENT ITS OFFICERS, EMPLOYEES, AGENTS AND ASSIGNS, FROM THE REQUIREMENTS OF THE PHOENIX CITY CODE SECTION 42-13, THIS AMENDMENT SHALL ALSO PROVIDE THAT ANY CLAIM, CONTROVERSY OR DISPUTE ARISING OUT OF THE EXECUTED RIGHT OF WAY SHALL BE SETTLED BY ARBITRATION IN ACCORDANCE WITH THE APPLICABLE RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF; FURTHER AUTHORIZING THE CITY CONTROLLER TO DISBURSE THE FUNDS FOR ADMINISTRATIVE COSTS, AND FEES OR EXPENSES ASSOCIATED WITH THIS USE.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1: That Ordinance No. S-34209 adopted July 2, 2007, is amended to permit the City Manager or the City Manager's designee to enter into a right of way document with the Arizona State Land Department for the purpose of an access road and slope easement to the Adobe Mountain Communications Site.

SECTION 2: That Ordinance No. S-34209 is amended to exempt the State Land Department, its officers, employees, agents and assigns from the requirements of Phoenix City Code Section 42-13 concerning indemnification and assumption of liability by the City Phoenix.

SECTION 3: Further amending Ordinance S-34209 to provide that any claim, controversy or dispute arising out of the executed Right of Way shall be settled by arbitration in accordance with the applicable rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

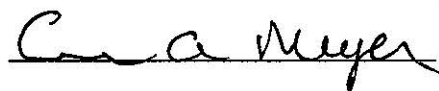
SECTION 4: The City Controller is hereby authorized to disburse the necessary funds for administrative costs, and fees or expenses associated with this use.

PASSED by the Council of the City of Phoenix this 28th day of May, 2008.



MAYOR

ATTEST:

 **ACTING**
City Clerk

APPROVED AS TO FORM:
 Acting
City Attorney

REVIEWED BY:
 City Manager
DAC: car, CM47, Item 54, 5/28/08, 747054_1



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