

**RESOLUTION NO. 21-39**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, APPROVING AND ADOPTING THE SECOND AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MARICOPA, HOGENES FARMS, AN ARIZONA LIMITED PARTNERSHIP AND TRS 15, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, IN COMPLIANCE WITH A.R.S. §9-500.05.**

**WHEREAS**, pursuant to A.R.S. §9-500.05, Abraham and Barbara Hogenes, Hogenes Farms and the City of Maricopa entered into a pre-annexation development agreement dated April 7, 2007 related to the annexation and development of the certain real property generally located south of the Union Pacific Railroad tracks between the Green Road alignment and the Ak-Chin Community border, Maricopa, Arizona (“Agreement”);

**WHEREAS**, on April 20, 2021, City Council adopted Resolution 21-14, approving a First Amendment to the Agreement; and

**WHEREAS**, after the adoption of Resolution 21-14, Hogenes Farms requested revisions to the First Amendment to update the name of the development, clarify the City will purchase a piece of property needed for the right of way and added a provision that the City will offer to purchase the adjacent residence if still owned by Hogenes Farms at the time permits are pulled to construct the overpass which were approved by the Council’s adoption of Resolution 21-36 on August 3, 2021; and

**WHEREAS**, Hogenes Farms’ requested revisions were approved by City Council’s adoption of Resolution 21-36 on August 3, 2021 (“First Amendment”); and

**WHEREAS**, the parties now desire to amend the Agreement and First Amendment to remove the Permit Restriction, address payment of transportation impact fees and to prepare for the development of a portion of the property generally now known as Hogenes Farms.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and City Council of the City of Maricopa, Arizona, as follows:

**Section 1.** The City of Maricopa by the requisite vote of its City Council hereby approves and adopts, and authorizes and instructs its Mayor on behalf of the City of Maricopa to enter into the Second Amendment to Development Agreement with Hogenes Farms and TRS 15, LLC in the form attached to and made a part of this Resolution.


**Section 2.** Pursuant to A.R.S. §9-500.05(G), the provisions of this Resolution are not enacted as an emergency measure and shall not be effective for thirty (30) days.

**PASSED AND ADOPTED** by the Mayor and City Council of the City of Maricopa, Arizona this 21<sup>st</sup> day of September, 2021.

APPROVED:

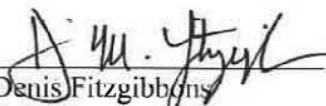
  
Christian Price  
Mayor

ATTEST:

  
Vanessa Bucras, MMC  
City Clerk



APPROVED AS TO FORM:

  
Denis Fitzgibbons  
City Attorney

82



OFFICIAL RECORDS OF  
PINAL COUNTY RECORDER  
Virginia Ross

When recorded return to:

City Clerk  
City of Maricopa  
39700 W Civic Center Plaza  
Maricopa, AZ 85138

DATE/TIME: 09/22/2021 1426  
FEE: \$15.00  
PAGES: 8  
FEE NUMBER: 2021-119743

**SECOND AMENDMENT TO  
DEVELOPMENT AGREEMENT  
(HOGENES FARMS)**

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (the "Second Amendment") is made as of the 21<sup>st</sup> day of ~~SEPTEMBER~~ 2021 ("Effective Date"), by and between CITY OF MARICOPA, ARIZONA, an Arizona municipal corporation ("City"), HOGENES FARMS, an Arizona limited partnership ("Owner") and TRS 15, LLC, an Arizona limited liability company ("TRS 15"). City, Owner and TRS 15 are sometimes referred to herein collectively as the "Parties," or individually as a "Party."

**RECITALS**

A. The City and Abraham and Barbara Hogenes and Hogenes Farms entered into that certain Pre-Annexation Development Agreement dated April 7, 2007, and recorded April 12, 2007, as Fee No. 2007-044578 in the official records of the Pinal County Recorder's office (the "Development Agreement"), in connection with the annexation and development of the Property, legally described therein (the "Hogenes Farms Property").

B. The Parties entered into that certain First Amendment to Pre-Annexation Development Agreement dated August 3, 2021, and recorded August 11, 2021, as Fee No. 2021-100876 in the official records of the Pinal County Recorder's Office to amend and restate the conditions of development for the Hogenes Farms Property (the "First Amendment").

B. The Owner and TRS 15 now desire and intend to prepare the Hogenes Farms Property for development in general accordance with the First Amendment and this Second Amendment and any applicable Rules and Regulations not in conflict with the terms of the First Amendment or this Second Amendment.

C. The First Amendment provided that after certificates of occupancy were issued for 800 lots within the Development Area, no further permits would be issued until a railroad overpass over Green Road ("Green Road Overpass") or Substitute Improvements are constructed by the City (the "Permit Restriction").

D. The Owner and the City desire to amend the First Amendment in order to remove the Permit Restriction and address payment of transportation impact fees in compliance with the terms set forth herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual promises and covenants set forth herein, and for other consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree to revise First Amendment as follows:

1. ACCURACY OF THE RECITALS: The Parties hereby confirm the accuracy of the Recitals set forth above, which are incorporated herein by this reference.

2. EFFECTIVE DATE, TERM, AND RECORDING: Upon adoption of a Resolution by the City Council and execution by both parties and recording in the Pinal County Recorder's Office, this Second Amendment shall become effective and shall continue until all payment and performance obligations of the parties have been fully performed. No later than ten (10) days after this Second Amendment has been executed by the City and Owner, the City shall record the Second Amendment in its entirety with the Pinal County Recorder.

3. DEFINED TERMS: Capitalized terms used in this Second Amendment which are not otherwise defined herein shall have the same meanings given to such terms in the First Amendment.

4. AMENDMENT: The First Amendment shall be amended as follows:

(a) Paragraph 7 of the First Amendment shall be deleted in its entirety and replaced with the following:

7. LOT DEVELOPMENT:

7.1 Provided Owner and TRS 15 are in compliance with all terms and conditions of the First Amendment and this Second Amendment, the City agrees there shall be no Permit Restriction, moratoriums or certificate of occupancy holds with respect to the Hogenes Farms Property.

7.2 On or before the recordation of a final plat for the Hogenes Farms Property or any portion thereof, TRS 15 or their successor and assigns will prepay or cause to be prepaid to the City the transportation component of the City's impact fee then in effect for each and every lot included in the respective final plat (the "Prepaid Fees"). Notwithstanding the foregoing, with respect to Phase 1 of the Hogenes Farms Property, as more specifically described in Exhibit 1 attached hereto and incorporated herein by reference (approximately 404 lots), the Prepaid Fees shall be deemed to be \$3,500 per lot. The Prepaid Fees will be credited to TRS 15 or their successor or assigns in full when

a building permit is issued for the lots within the respective recorded final plat. The Prepaid Fees for Phase 1 shall be due on the earlier of the recordation of the final plat or December 15, 2021 unless otherwise agreed to by the Parties. The Prepaid Fees for Phase 2, as more specifically described in Exhibit 1 attached hereto and incorporated herein by reference (approximately 400 lots), shall be due on the earlier of the recordation of the final plat or December 31, 2022 unless otherwise agreed to by the Parties. The Prepaid Fees for each subsequent Phase shall be due on or before the recordation of a final plat. In the event the Prepaid Fees are not submitted to the City as set forth herein, the City shall have the option to withhold any building permit for all such lots within the respective final plat until all Prepaid Fees due and owing to the City for that respective final plat are paid.

7.3 The City will fund the construction of the Green Road Overpass or Substitute Improvements with the Prepaid Fees or other monies available to the City in an amount equivalent to the Prepaid Fees. If the City, in its sole and absolute discretion, decides to fund the construction of the Green Road Overpass or Substitute Improvements prior to the receipt of an equivalent amount of Prepaid Fees, then TRS 15 shall pay the City to carry such funds in an amount equal to 1.50% per annum simple interest on the difference between the cost of construction and the amount of Prepaid Fees received by the City ("Carrying Cost Reimbursement"). The obligation of TRS 15 to reimburse the City for the Carrying Cost Reimbursement shall be solely and exclusively from closing proceeds due TRS 15 from builders on the Hogenes Farms Property. The Carrying Cost Reimbursement shall expire on December 15, 2031.

(b) The following provision shall be added to the First Amendment:

DESIGN APPROVAL: TRS 15 shall submit architectural guidelines with respect to the PAD on the Hogenes Farms Property ("PAD Design Guidelines") to the City for review and approval. Upon approval of the PAD Design Guidelines, the City shall exempt the Hogenes Farms Property from all other City design review requirements.

5. Except as expressly amended by this Second Amendment, all other terms and conditions of the Development Agreement and First Amendment shall remain in full force and effect.

[balance of page intentionally left blank; signatures follow]

IN WITNESS WHEREOF, the Parties have executed this Second Amendment as of the date set forth above.

HOGENES FARMS, an Arizona limited partnership

By: [Signature]  
Name: Abraham Hogenes  
Its: Gen. Partner

STATE OF ARIZONA     )  
  ) ss.  
COUNTY OF PINAL     )

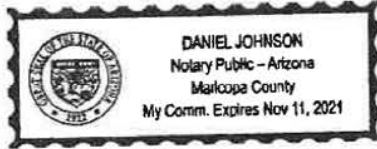
The foregoing was acknowledged before me this 31<sup>st</sup> day of August, 2021, by Al Hogenes, the General Partner of HOGENES FARMS, an Arizona limited partnership.

[Signature]  
Notary Public

My Commission Expires:

11/11/21

(scal)



IN WITNESS WHEREOF, the Parties have executed this Second Amendment as of the date set forth above.

TRS 15, LLC, an Arizona limited liability company

By: Taproot Consulting, LLC  
Its: Manager

By: [Signature]  
John Wittrock, Manager

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA )

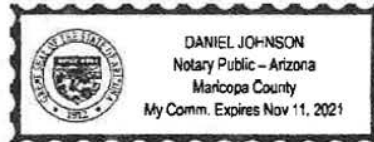
The foregoing was acknowledged before me this 30<sup>th</sup> day of August, 2021, by John Wittrock, the Manager of TRS 15, LLC, an Arizona limited partnership.

[Signature]  
Notary Public

My Commission Expires:


11/11/21

(seal)




IN WITNESS WHEREOF, the Parties have executed this Second Amendment as of the date set forth above.

CITY OF MARICOPA, ARIZONA, an Arizona municipal corporation

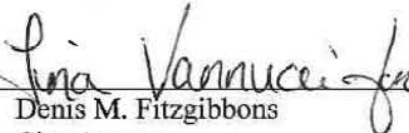
  
By: Christian Price  
Its: Mayor

ATTEST:

APPROVED AS TO FORM:

By:   
Vanessa Bueras, MMC  
City Clerk



By:   
Denis M. Fitzgibbons  
City Attorney

STATE OF ARIZONA     )  
  ) ss.  
COUNTY OF PINAL     )

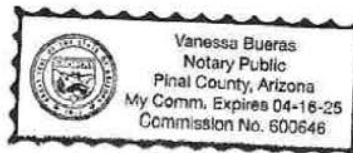
The foregoing was acknowledged before me this 21<sup>ST</sup> day of SEPTEMBER, 2020, by Christian Price, the Mayor of City of Maricopa, Arizona, an Arizona municipal corporation, who acknowledged that he signed the foregoing instrument on behalf of City.

  
Notary Public

My Commission Expires:

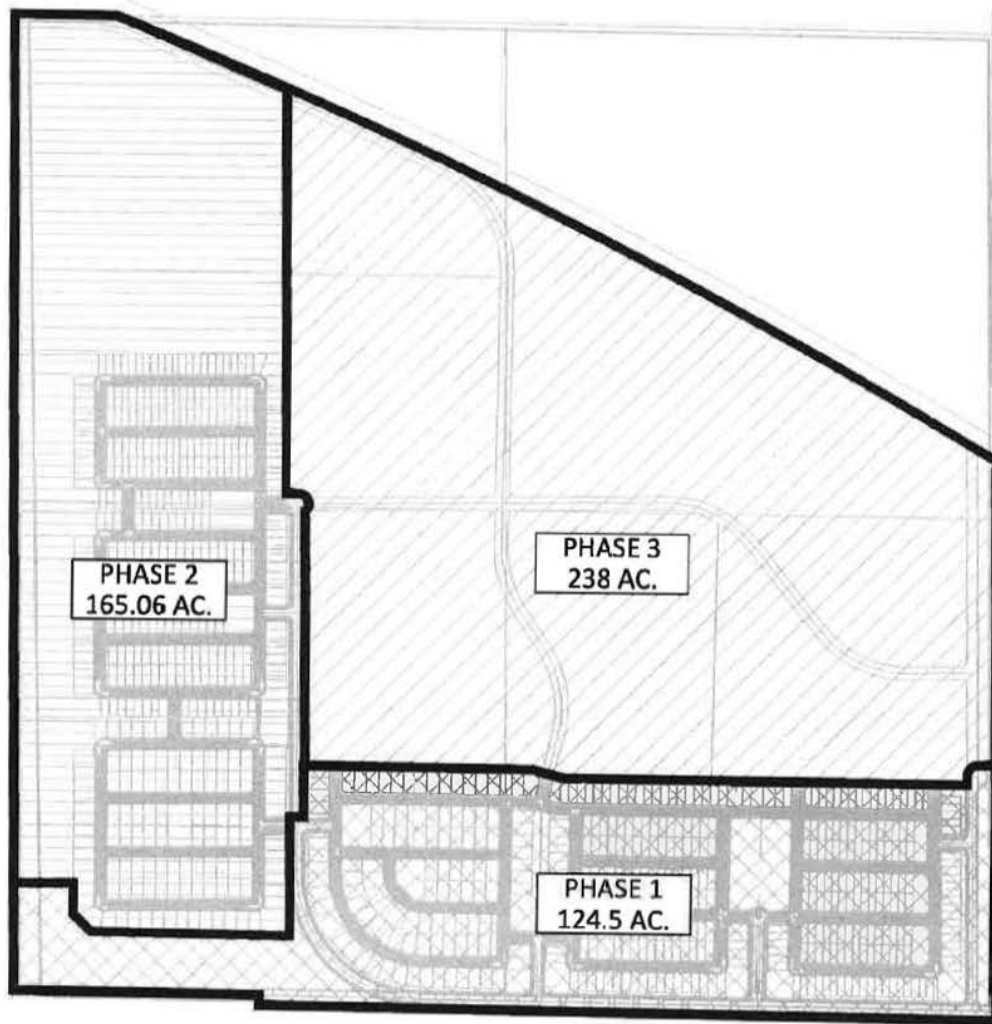
4/16/2025

(seal)





**EXHIBIT 1**  
**Phase 1 and Phase 2**  
**Hogenes Farms Property**



VICINITY MAP

N.T.S.

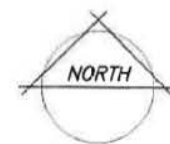
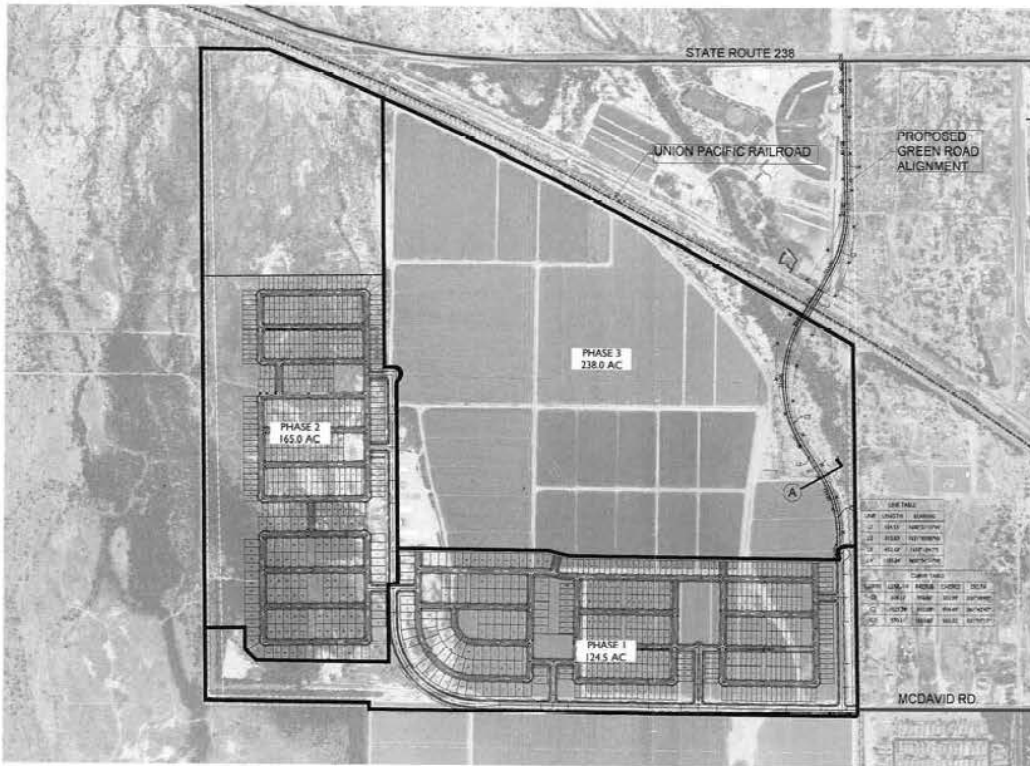


EXHIBIT "A"

HOGENES FARMS - PHASES 1, 2 AND 3

Maricopa, AZ

9/13/2021



ITEM	WIDTH	LENGTH	TOTAL
SIDEWALK	5.00 FT	12,000 FT	60,000 SF
PARKING	10.00 FT	8,100 FT	81,000 SF
DRIVEWAY	10.00 FT	2,250 FT	22,500 SF
DRIVE	20.00 FT	3,900 FT	78,000 SF
LOCAL STREET	30.00 FT	3,900 FT	117,000 SF
COLLECTOR	40.00 FT	3,900 FT	156,000 SF
ARTERIAL	60.00 FT	3,900 FT	234,000 SF
FREEWAY	120.00 FT	3,900 FT	468,000 SF



**EXHIBIT "D"**  
**DEDICATED PROPERTY FOR RIGHT-OF-WAY**  
 Maricopa Meadows II

Maricopa, AZ | 50 mph Green Rd Bridge Exhibit

4/7/2021

