

RESOLUTION NO. 23-17

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, VACATING AND ABANDONING, WITHOUT COMPENSATION, A PORTION OF NORTH HAMILTON AVENUE GENERALLY LOCATED SOUTH OF W. HONEYCUTT AVENUE BETWEEN N. TAFT AVENUE AND HOGENES BLVD WITHIN THE CITY OF MARICOPA.

WHEREAS, A.R.S. §28-7201, et. seq. provides that the City may dispose of a public roadway or portion thereof that is no longer necessary for public use; and

WHEREAS, the City is authorized pursuant to A.R.S. §28-7215(B) to abandon, without compensation, a portion of North Hamilton Avenue generally located south of W. Honeycutt Avenue between N. Taft Avenue and Hogenes Blvd, legally described and generally depicted on Exhibit "A" attached hereto, if the City determines that said portions of the right of way have no public use or market value and if the person taking title to said portions of the right of way agree to assume the cost of maintaining the abandoned portions of such right of way and agrees to assume the liability for the abandoned portions of such right of way; and

WHEREAS, pursuant to A.R.S. §28-7205, title to the abandoned portions of such right of way vests in the abutting property owner subject to the same encumbrances, liens, limitations, restrictions and estates as exist on the land to which it accrues; and

WHEREAS, the abutting property owner, Community of Hope Church, an Arizona non-profit corporation ("Owner") agrees to assume liability for the abandoned portions of such right of way as evidenced by the Agreement attached as Exhibit "B"; and

WHEREAS, the Mayor and City Council find that the portion of North Hamilton Avenue, legally described and generally depicted on Exhibit "A" attached hereto, has no public use; and

WHEREAS, the Mayor and City Council of the City of Maricopa, Arizona, find it to be in the best interest of the City to vacate and abandon a portion of North Hamilton Avenue generally located south of W. Honeycutt Avenue between N. Taft Avenue and Hogenes Blvd within the City of Maricopa without compensation.

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

1. That a portion of North Hamilton Avenue, legally described and generally depicted on Exhibit "A", is hereby vacated and abandoned without compensation.

2. That pursuant to A.R.S. §28-7205, title to the abandoned portion of the right-of-way vests in Owner as the owner of the abutting property, subject to the same encumbrances, liens, limitations, restrictions and estates as exist on land to which it accrues.

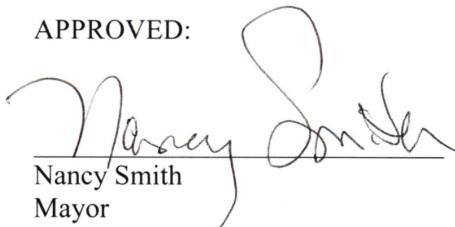
3. That the rights of way or easements of existing sewer, gas, water or similar pipelines and appurtenances and for canals, laterals, or ditches and appurtenances and for electric, telephone and similar lines and appurtenances shall continue as they existed prior to the vacation or abandonment thereof.

4. That Owner, to whom title to the abandoned portion of the right-of-way vests, agrees to assume the cost of maintaining such vacated and abandoned portions of said right-of-way and agrees to assume liability for such vacated and abandoned portions of said right-of-way.


5. That the City Clerk is hereby authorized and directed to record a copy of this Resolution with the Pinal County Recorder evidencing the City's vacation and abandonment of a portion of North Hamilton Avenue generally located south of W. Honeycutt Avenue between N. Taft Avenue and Hogenes Blvd, legally described and generally depicted on Exhibit "A" attached hereto, and vesting of title to said abandoned portion of said right-of-way in Owner, the owner of the abutting property.

PASSED AND ADOPTED by the Mayor and City Council of the City of Maricopa, Arizona this 4th day of April, 2023.

APPROVED:


Nancy Smith
Mayor

ATTEST:


Vanessa Bueras, MMC
City Clerk



APPROVED AS TO FORM:

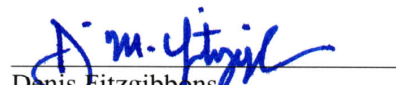

Denis Fitzgibbons
City Attorney

EXHIBIT A
Legal Description and Map

RIGHT-OF-WAY ABANDONMENT

That portion of right-of-way known as Hamilton Avenue located adjacent to and east of Maricopa Meadows, Parcels 2 and 3, as recorded in Cabinet E, Slide 42 of the Pinal County Recorder's Office (P.C.R.) and located adjacent to and west of that parcel recorded in document No. 2016-030293, records of the P.C.R., located in Section 28, Township 4 South, Range 3 East, Gila and Salt River Base and Meridian, being more particularly described as follows;

Commencing at a 3" brass cap monument located at the intersection of said Hamilton Avenue and Honeycutt Avenue, said point bears S 89°36'00" W a distance of 257.16 feet from a 3" brass cap monument located at the intersection of said Honeycutt Avenue and Taft Avenue;

Thence N 89°36'00" E along the centerline of said Honeycutt Avenue a distance of 30.03 feet;

Thence S 0°24'00" E a distance of 30.00 feet to a point on the south right-of-way line of said Honeycutt Avenue, said point being the **Point of Beginning**;

Thence S 01°56'00" W along the easterly right-of-way line of said Hamilton Avenue a distance of 705.60 feet;

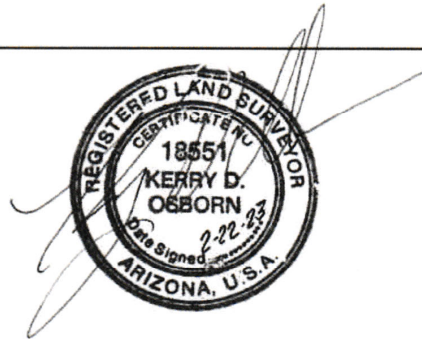
Thence continuing S 01°56'00" W along said easterly right-of-way line a distance of 2.01 feet to a point on the north line of Alterra North, as recorded in Cabinet E, Slide 88, P.C.R.;

Thence S 89°36'00" W a distance of 55.05 feet to a point on the westerly right-of-way line of said Hamilton Avenue and on the easterly line of said Maricopa Meadows;

Thence N 01°56'00" E along said westerly right-of-way line a distance of 6.51 feet to the southeast corner of said Maricopa Meadows Parcel 2;

Thence continuing N 01°56'00" E along said westerly right-of-way line a distance of 701.12 feet to a point on the southerly right-of-way line of said Honeycutt Avenue;

Thence N 89°36'00" E along said southerly right-of-way line a distance of 55.05 feet to the **Point of Beginning**.



AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into this 4th day of April, 2023, by and between the City of Maricopa, a municipal corporation (the “CITY”) and Community of Hope Church, an Arizona non-profit corporation (“Owner”).

WHEREAS, by Resolution No. 23-17 the CITY will vacate and abandon without compensation a portion of North Hamilton Avenue generally located south of W. Honeycutt Avenue between N. Taft Avenue and Hogenes Blvd, legally described and generally depicted on Exhibit “A” attached hereto (the “Abandoned Property”); and

WHEREAS, the Owner is the owner of the property that abuts the Abandoned Property;

WHEREAS, pursuant to A.R.S. §28-7205, title to the Abandoned Property vests in the Owner subject to the same encumbrances, liens, limitations, restrictions and estates as exist on the land to which it accrues;

WHEREAS, pursuant to A.R.S. §28-7215(B), the Owner agrees to assume the cost of maintaining the Abandoned Property and assume all liability for the Abandoned Property; and

WHEREAS, the parties enter into this Agreement to set forth their understandings and agreement in connection with the Abandoned Property.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Acknowledgment. The Owner hereby acknowledges that it is taking title to the Abandoned Property subject to the same encumbrances, liens, limitations, restrictions and estates as exist on the land to which it accrues.

2. Maintenance. The Owner hereby assumes the cost of maintaining the Abandoned Property and agrees that it shall be responsible to cause or provide for the maintenance of the Abandoned Property at its sole cost and expense and the Owner agrees to maintain the Abandoned Property in good condition and repair.

3. Use of Property. The Owner hereby agrees that any future use of the Abandoned Property or the property abutting the Abandoned Property shall be in compliance with any and all applicable City, State or laws, rules and regulations including, but not limited to, the City’s Zoning Code and Subdivision Ordinance.

4. Indemnification. The Owner hereby assumes all liability for the Abandoned Property and, on behalf of itself and its successors and assigns and agrees to indemnify, defend and hold harmless the CITY, its Council, Council Members, officials, agents, attorneys, and successors, for, from and against any and all claims, demands, liabilities, losses, damages, liens, costs and expenses (including reasonable attorneys’ fees and costs) which may be claimed or asserted against

the CITY, its Council, Council Members, officials, agents, attorneys, and successors on account of or arising out of the Owner's ownership of the Abandoned Property unless any such claim is wholly caused by CITY's gross negligence or willful conduct; provided, however, the Owner shall have no responsibility for pre-existing environmental contamination or liabilities on the Abandoned Property.

5. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, devisees, personal and legal representatives, successors and assigns.

6. Venue and Jurisdiction. This Agreement shall be construed in accordance with the laws of the State of Arizona, and the Pinal County Superior Court shall be the proper and exclusive venue for any litigation arising out of this Agreement.

7. Conflict of Interest. This Agreement is subject to the conflict of interest provisions set forth in A.R.S. Section 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first written above.

CITY OF MARICOPA,
a municipal corporation

By: Nancy Smith
Nancy Smith, Mayor

Attest:

By: Vanessa Bueras
Vanessa Bueras, MMC
City Clerk



Approved as to form:

By: Dennis M. Fitzgibbons
Dennis M. Fitzgibbons
City Attorney

Community of Hope Church,
an Arizona non-profit corporation

By: Clyde R. Ash
Its: Ash

STATE OF ARIZONA)
) ss.
County of Pinal)

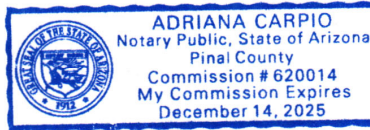
The foregoing instrument was acknowledged before me this 4th day of APRIL, 2023, by Nancy Smith, the Mayor of THE CITY OF MARICOPA, a municipal corporation of the State of Arizona, on behalf thereof.



Notary Public

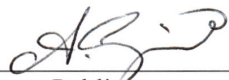
My commission expires:

12/14/2025



STATE OF ARIZONA)
) ss.
County of Pinal)

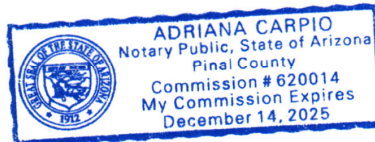
LLLOYD RUSSELL The foregoing instrument was acknowledged before me this 11th day of APRIL, 2023, by AKERS, the PASTOR of Community of Hope Church, an Arizona non-profit corporation.



Notary Public

My commission expires:

12/14/2025



RIGHT-OF-WAY ABANDONMENT

That portion of right-of-way known as Hamilton Avenue located adjacent to and east of Maricopa Meadows, Parcels 2 and 3, as recorded in Cabinet E, Slide 42 of the Pinal County Recorder's Office (P.C.R.) and located adjacent to and west of that parcel recorded in document No. 2016-030293, records of the P.C.R., located in Section 28, Township 4 South, Range 3 East, Gila and Salt River Base and Meridian, being more particularly described as follows;

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