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**OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
Dana Lewis**

DATE/TIME: 06/28/2023 1413
FEE: \$15.00
PAGES: 11
FEE NUMBER: 2023-047646

RESOLUTION NO. 23-27

RESOLUTION NO. 23-27

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, VACATING AND ABANDONING, WITHOUT COMPENSATION, A PORTION OF SECTION LINE RIGHTS-OF-WAY IN SECTIONS 27 AND 28 OF TOWNSHIP 4 SOUTH, RANGE 3 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, GENERALLY LOCATED SOUTH OF THE UNION PACIFIC RAILROAD TRACKS AND NORTH OF W. HONEYCUTT AVENUE BETWEEN N. MARICOPA ROAD AND JOHN WAYNE PARKWAY 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 section line rights of way in Section 27 and 28 of Township 4 South, Range 3 East of the Gila and Salt River Base and Meridian, generally located south of the Union Pacific Railroad tracks and north of W. Honeycutt Avenue between N. Maricopa Road and John Wayne Parkway, 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, The Butz Family Trust dated August 12, 2011 ("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 section line rights of way in Section 27 and 28 of Township 4 South, Range 3 East of the Gila and Salt River Base and Meridian, generally located south of the Union Pacific Railroad tracks and north of W. Honeycutt Avenue between N. Maricopa Road and John Wayne Parkway, 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 section line rights of way in Section 27 and 28 of Township 4 South, Range 3 East of the Gila and Salt River Base and Meridian, generally located south of the Union Pacific Railroad tracks and north of W. Honeycutt Avenue between N. Maricopa Road and John Wayne Parkway 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 section line rights of way in Section 27 and 28 of Township 4 South, Range 3 East of the Gila and Salt River Base and Meridian, generally located south of the Union Pacific Railroad tracks and north of W. Honeycutt Avenue between N. Maricopa Road and John Wayne Parkway, 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.

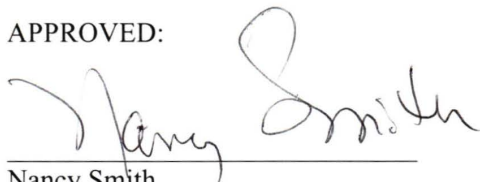
3. That the rights of way or easements of existing sewer, gas, water or similar pipelines and appurtenances and for canals, laterals, or ditches and appurtenances and for electric, telephone and similar lines and appurtenances shall continue as they existed prior to the vacation or abandonment thereof.

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 section line rights of way in Section 27 and 28 of Township 4 South, Range 3 East of the Gila and Salt River Base and Meridian, generally located south of the Union Pacific Railroad tracks and north of W. Honeycutt Avenue between N. Maricopa Road and John Wayne Parkway, 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.

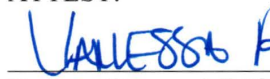
PASSED AND ADOPTED by the Mayor and City Council of the City of Maricopa, Arizona this 16th day of May, 2023.

APPROVED:



Nancy Smith
Mayor

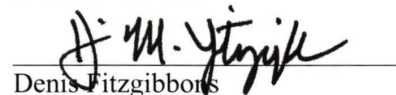
ATTEST:



Vanessa Bueras, MMC
City Clerk



APPROVED AS TO FORM:



Denis Fitzgibbons
City Attorney

EXHIBIT A
Legal Description and Map

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Abandonment of Right of Way

That portion of the Northwest quarter of Section 27, and the Northeast quarter of Section 28, Township 4 South, Range 3 East, Gila and Salt River Meridian, Pinal County, Arizona lying 33 feet on either side of the common north-south section line between said Section 27 and Section 28 as set forth as Right of Way in the Declaration of Roads, recorded in Docket 375, Page 574, that lies within the parcel of land described in Fee Number 2018-057055, as recorded in the office of the Pinal County Recorder.

AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into this 16th day of May, 2023, by and between the City of Maricopa, a municipal corporation (the “CITY”) and the The Butz Family Trust dated August 12, 2011 (“Owner”).

WHEREAS, by Resolution No. 23-27 the CITY will vacate and abandon without compensation a portion of Section Line right-of-way for Sections 27 and 28 of Township 4 South, Range 3 East of the Gila and Salt River Base and Meridian, generally located north of W. Honeycutt Ave. between N. Maricopa Rd. and John Wayne Pkwy., 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,

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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.

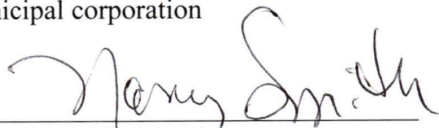
5. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, devisees, personal and legal representatives, successors and assigns.

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

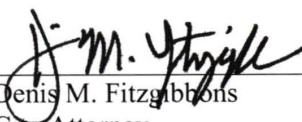
By: 
Nancy Smith, Mayor

Attest:

By: 
Vanessa Bueras, MMC
City Clerk



Approved as to form:

By: 
Denis M. Fitzgibbons
City Attorney

The Butz Family Trust dated August 12, 2011

By: _____
Emil Paul Butz, Trustee

STATE OF ARIZONA)
) ss.
County of Pinal)

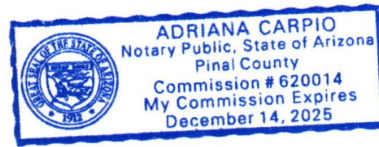
The foregoing instrument was acknowledged before me this 16TH day of MAY, 2023, by Nancy Smith, the Mayor of THE CITY OF MARICOPA, a municipal corporation of the State of Arizona, on behalf thereof.



Notary Public

My commission expires:

DEC. 14, 2025



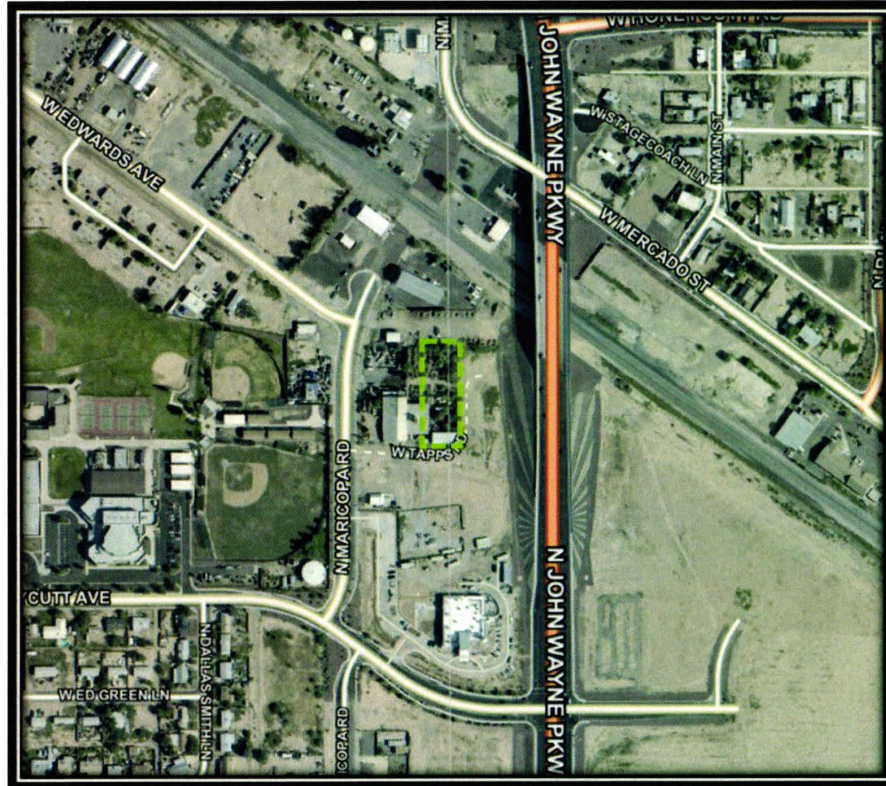
STATE OF ARIZONA)
) ss.
County of Pinal)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by Emil Paul Butz, the Trustee of The Butz Family Trust dated August 12, 2011.

Notary Public

My commission expires:

AERIAL MAP OF ABANDONMENT AREA



..... Right-of-way to be abandoned.



