

ROAD WAY EXCHANGE AGREEMENT

THIS ROADWAY EXCHANGE AGREEMENT (“Agreement”) is entered into this ____ day of November, 2023, by and between the City of Maricopa, a municipal corporation (the “CITY”) and Maricopa Investments, LLC, a Michigan limited liability company (“Owner”).

WHEREAS, pursuant to A.R.S. §28-7203, “[a] roadway or portion of a roadway may be exchanged with an abutting owner for all or part of a new public roadway, and title vests in the grantee when the exchange is made”; and

WHEREAS, by Resolution No. 23-74 the CITY will exchange a portion of right-of-way in Section 28 of Township 4 South, Range 3 East of the Gila and Salt River Base and Meridian, generally located west of the current alignment of N. Maricopa Road south of W. Honeycutt Avenue, legally described and generally depicted on Exhibit “A” attached hereto (the “City Property”); and

WHEREAS, the Owner will exchange a portion of real property in Section 28 of Township 4 South, Range 3 East of the Gila and Salt River Base and Meridian, generally located at the southwest corner of the intersection of W. Honeycutt Road and N. Maricopa Road, legally described and generally depicted on Exhibit “B” attached hereto (the “Owner Property”);

WHEREAS, upon execution of this Agreement by City and Owner, the Owner agrees to assume the cost of maintaining the City Property and assume all liability for the City Property; and

WHEREAS, upon execution of this Agreement by City and Owner, the City agrees to assume the cost of maintaining the Owner Property and assume all liability for the Owner Property; and

WHEREAS, Owner also agrees that to reimburse the City for 50% of the costs of the installation of the improvements at W. Honeycutt Road and N. Maricopa Road when the real property generally known as Assessor Parcel No. 510-29-001B is developed; and

WHEREAS, the parties enter into this Agreement to set forth their understandings and agreement in connection with the City Property and Owner 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. **Acknowledgments.** The Owner hereby acknowledges that it is taking title to the City Property subject to the same encumbrances, liens, limitations, restrictions and estates as exist on the land to which it accrues. The City hereby acknowledges that it is taking title to the Owner 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 City Property and agrees that it shall be responsible to cause or provide for the maintenance of the City Property at its sole cost and expense and the Owner agrees to maintain the City Property in good condition and repair. The City hereby assumes the cost of maintaining the Owner Property and agrees that it shall be responsible to cause or provide for the maintenance of the Owner Property at its sole cost and expense and the City agrees to maintain the Owner Property in good condition and repair.

3. Use of Property. The Owner hereby agrees that any future use of the City Property or the property abutting the City 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. Intersection Improvements. The Owner hereby agrees that, when the real property generally known as Assessor Parcel No. 510-29-001B is developed, Owner or their successors and assigns shall reimburse the City for 50% of the costs of the installation of the improvements to the intersection of W. Honeycutt Road and N. Maricopa Road.

5. Indemnification by Owner. The Owner hereby assumes all liability for the City 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 City 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 City Property.

7. Indemnification by City. The City hereby assumes all liability for the Owner Property and, on behalf of itself and its successors and assigns and agrees to indemnify, defend and hold harmless the Owner, its 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 Owner, its officials, agents, attorneys, and successors on account of or arising out of the City's ownership of the Owner Property unless any such claim is wholly caused by Owner's gross negligence or willful conduct; provided, however, the City shall have no responsibility for pre-existing environmental contamination or liabilities on the Owner Property.

8. 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.

9. 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.

10. 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:

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 instrument was acknowledged before me this ____ day of _____, 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:

[Signatures Continue On Next Page]

OWNER:

Maricopa Investments, LLC, a
Michigan limited liability company

By: _____
Edward T. Peters, Member

STATE OF _____)
) ss.
County of _____)

This instrument was acknowledged before me this ____ day of _____, 2023, by Edward T. Peters, member of Maricopa Investments, LLC, a Michigan limited liability company, on behalf thereof.

Notary Public

Notary Seal and Expiration Date:

EXHIBIT A
CITY PROPERTY

EXHIBIT B
OWNER PROPERTY