

**RESOLUTION NO. 12-61**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, EXCHANGING THE RIGHT OF WAY ON TAFT AVENUE ADJACENT TO BLOCK 6 AND BLOCK 3 WITHIN THE NORTH MARICOPA SUBDIVISION, MARICOPA, PINAL COUNTY, ARIZONA WITH AN APPROXIMATE 40 FOOT WIDTH OF RIGHT OF WAY ON EDISON ROAD ADJACENT TO LOTS 1 – 3 OF BLOCK 6 AND LOTS 2 AND 3 OF BLOCK 3 WITHIN THE NORTH MARICOPA SUBDIVISION, MARICOPA, PINAL COUNTY, ARIZONA.**

**WHEREAS**, the City is authorized pursuant to A.R.S. §28-7203 to exchange a roadway or portion of a roadway 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**, the City has received a request from SMS Investments, LLC, the owners of Block 6 and Block 3 of the North Maricopa Subdivision, to exchange the Taft Avenue Right of Way adjacent to their property that was previously dedicated for public use with an approximate 40 foot width of right of way on Edison Road adjacent to Lots 1-3 of Block 6 and Lots 2 and 3 of Block 3 within the North Maricopa Subdivision, as more specifically described in Exhibit A; and

**WHEREAS**, the owners of the property known as Block 6 and Block 3 of the North Maricopa Subdivision, Maricopa, Arizona, which said property abuts the right-of-way on Taft Avenue, agree to assume the cost of maintaining the right-of-way and agree to assume the liability for the abandoned right-of-way as evidenced by the Acknowledgment and Agreement attached as Exhibit B and incorporated herein; 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 exchange the right-of-way on Taft Avenue abutting the property located at Block 6 and Block 3 of the North Maricopa Subdivision, Maricopa, Arizona, with an approximate 40 foot width of right of way on Edison Road adjacent to Lots 1-3 of Block 6 and Lots 2 and 3 of Block 3 within the North Maricopa Subdivision.

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

1. That the right-of-way on Taft Avenue abutting the property located at Block 6 and Block 3 of the North Maricopa Subdivision, Maricopa, Arizona is hereby exchanged with an approximate 40 foot width of right of way on Edison Road adjacent to Lots 1-3 of Block 6 and Lots 2 and 3 of Block 3 within the North Maricopa Subdivision.

2. That pursuant to A.R.S. §28-7203, title to the portion of the right-of-way on Taft Avenue vests in the owners of the property located at Block 6 and Block 3 of the North Maricopa Subdivision, Maricopa, Arizona when this exchange is made.

3. That the owners to whom title to the right-of-way vests, agree to assume the cost of maintaining the abandoned portion of the right-of-way and agree to assume the liability for the abandoned portion of the right-of-way.

4. 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 exchange of the right-of-way on Taft Avenue adjacent to Block 6 and Block 3 within the North Maricopa Subdivision, Maricopa, Pinal County and vesting of title to said portion of the right-of-way in the owners of the abutting property located at Block 6 and Block 3 of the North Maricopa Subdivision, Maricopa, Arizona with an approximate 40 foot width of right of way on Edison Road adjacent to Lots 1-3 of Block 6 and Lots 2 and 3 of Block 3 within the North Maricopa Subdivision.

PASSED AND ADOPTED by the Mayor and City Council of the City of Maricopa, Arizona this 7<sup>th</sup> day of August 2012.

APPROVED:

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Christian Price  
Mayor

ATTEST:

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Vanessa Bueras, CMC  
City Clerk

APPROVED AS TO FORM:

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Denis Fitzgibbons  
City Attorney

# EXHIBIT A

# EXHIBIT "A"

## LEGAL DESCRIPTION: TAFT AVENUE ABANDONMENT

Commencing at a 1" pipe in concrete marking the Center quarter corner of Section 21, from which a 5/8" rebar with Pinal County Highway Department plastic cap marking the East quarter corner of Section 21 bears North 89°36'41" East a distance of 2677.29 feet and from which a 1/2" rebar marking the South quarter of Section 21 bears South 00°48'00" East a distance of 2632.59 feet. Thence North 89°36'41" East along the North boundary of the Southeast quarter of Section 21 a distance of 618.94 feet. Thence South 00°36'53" East along the alignment of the East boundary of Block 6 "North Maricopa" (Bk. 3 of Maps, p.8) a distance of 40.00 feet to the POINT OF BEGINNING.

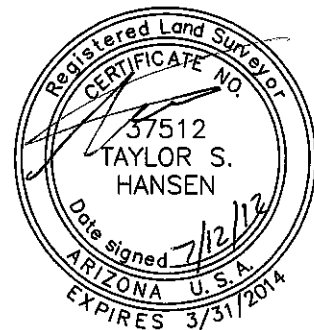
Thence South 00°36'53" East along the East boundary of Block 6 of North Maricopa (Bk. 3 of Maps, p.8) a distance of 490.68 feet

Thence North 89°20'59" East along the alignment of the South boundary of Blocks 6 and 3 of North Maricopa, a distance of 60.00 feet

Thence North 00°36'53" West along the West boundary of Block 3 of North Maricopa (Bk. 3 of Maps, p.8) a distance of 490.41 feet

Thence South 89°36'41" West parallel to and 40.00 feet South of the North boundary of the Southeast quarter of Section 21 a distance of 60.00 feet to the POINT OF BEGINNING

Comprising an area of 0.676 acres



**HANSEN**  
ENGINEERING & SURVEYING  
COOLIDGE, AZ  
520-723-3261

Job No. 120052

Drawn by: CK

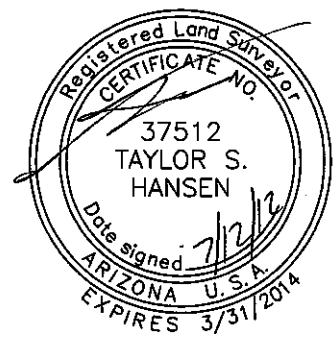
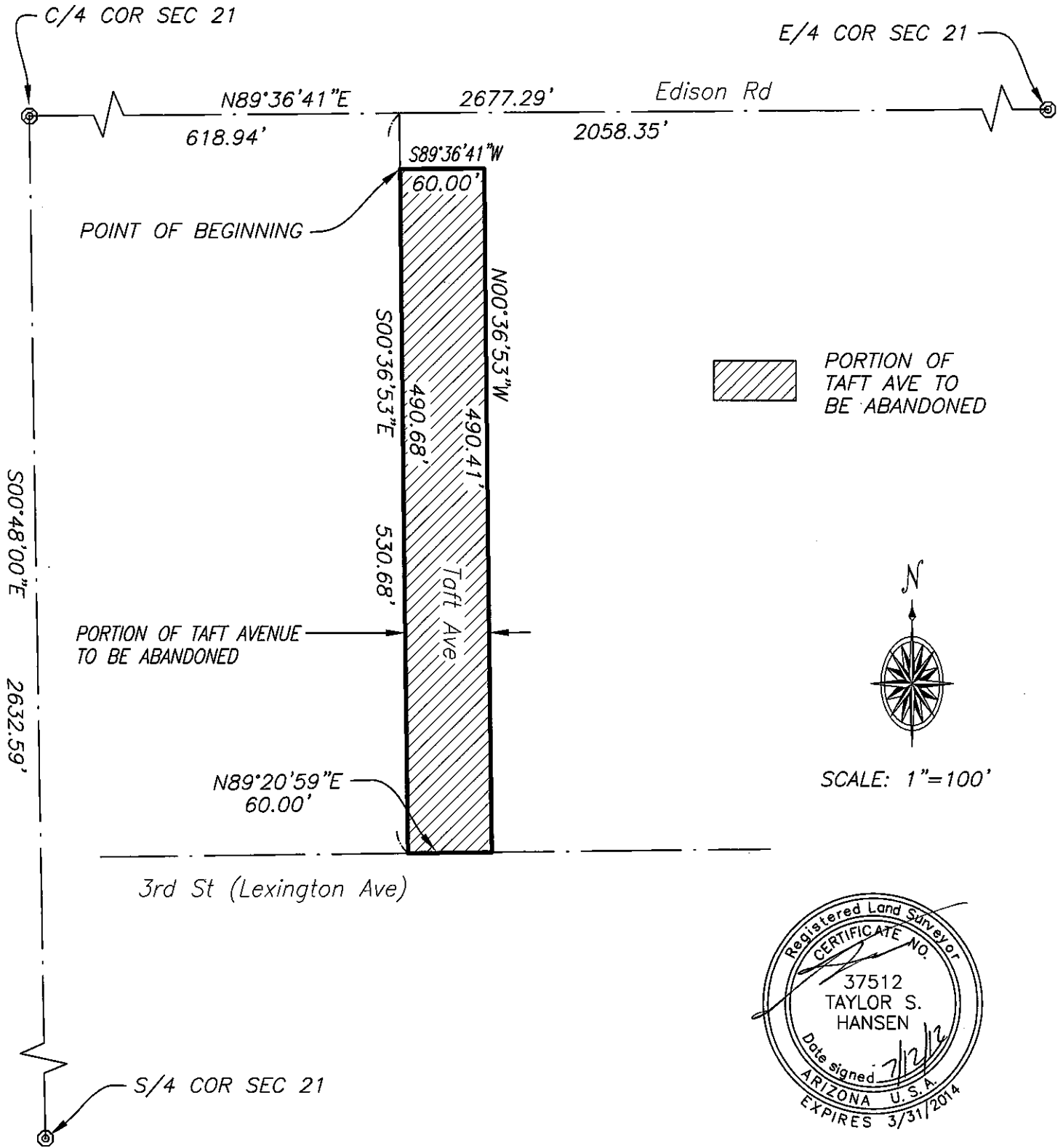
ABANDONMENT OF  
TAFT AVE.  
SEC 21, T4S, R3E

Exhibit  
Map

July 2012

1 of 2

# EXHIBIT "B"



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COOLIDGE, AZ  
520-723-3261

Job No. 120052 Drawn by: CK

ABANDONMENT OF  
TAFT AVE.  
SEC 21, T4S, R3E

Exhibit Map	July 2012
	2 of 2

# EXHIBIT B

## ***ACKNOWLEDGMENT AND AGREEMENT***

***THIS ACKNOWLEDGMENT AND AGREEMENT*** (“Agreement”) is entered into this 7<sup>th</sup> day of August, 2012, by and between SMS INVESTMENTS, LLC, an Arizona limited liability company (“SMS”) and the CITY OF MARICOPA, a municipal corporation (the “CITY”).

WHEREAS, by Resolution No. 12-61, the CITY will exchange the right-of-way on Taft Avenue abutting the property located at Block 6 and Block 3 of the North Maricopa Subdivision, Maricopa, Arizona (the “Taft Avenue Right-of-Way”) with an approximate 40 foot width of right of way on Edison Road adjacent to Lots 1-3 of Block 6 and Lots 2 and 3 of Block 3 within the North Maricopa Subdivision, as more specifically described in Exhibit A to Resolution 12-61;

WHEREAS, SMS are the owners of the property located at Block 6 and Block 3 of the North Maricopa Subdivision, Maricopa, Arizona (the “SMS Property”) which said property abuts the Taft Avenue Right-of-Way;

WHEREAS, pursuant to A.R.S. §28-7203, title to the Taft Avenue Right-of-Way vests in SMS when the exchange is made;

WHEREAS, SMS agrees to assume the cost of maintaining the Taft Avenue Right-of-way and assume all liability for the Taft Avenue Right-of-Way;

WHEREAS, the parties enter into this Agreement to set forth their understandings and agreement in connection with the Taft Avenue Right-of-Way.

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. SMS hereby acknowledge that they are taking title to the Taft Avenue Right-of-Way subject to the same encumbrances, liens, limitations, restrictions and estates as exist on the land to which it accrues.

2. Maintenance. SMS hereby assumes the cost of maintaining the Taft Avenue Right-of-Way and agree that they shall be responsible to cause or provide for the maintenance of the Taft Avenue Right-of-Way at their sole cost and expense and SMS agrees to maintain the Taft Avenue Right-of-Way in good condition and repair.

3. Indemnification. SMS hereby assume all liability for the Taft Avenue Right-of-Way and, on behalf of themselves and their successors agree 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 SMS' ownership of the Taft Avenue Right-of-Way; provided, however, SMS shall have no responsibility for pre-existing environmental contamination or liabilities on the Taft Avenue Right-of-Way.

4. 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.

5. 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.

6. 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: \_\_\_\_\_  
Its Mayor

**Attest:**

By: \_\_\_\_\_  
City Clerk

**Approved as to form:**

By: \_\_\_\_\_  
City Attorney

**SMS:**

By: \_\_\_\_\_  
Its



STATE OF ARIZONA                    )  
  ) ss.  
County of Pinal                        )

The foregoing instrument was acknowledged before me this \_\_\_ day of August, 2012, by CHRISTIAN PRICE, the Mayor of THE CITY OF MARICOPA, a municipal corporation of the State of Arizona, on behalf thereof.

\_\_\_\_\_  
Notary Public

My commission expires:  
  
\_\_\_\_\_

STATE OF ARIZONA                    )  
  ) ss.  
County of Pinal                        )

The foregoing instrument was acknowledged before me this \_\_\_ day of August, 2012, by \_\_\_\_\_, the \_\_\_\_\_ of SMS Investments, LLC, an Arizona limited liability company, on behalf thereof.

\_\_\_\_\_  
Notary Public

My commission expires:  
  
\_\_\_\_\_