

## ***AGREEMENT***

***THIS AGREEMENT*** (“Agreement”) is entered into this \_\_\_\_ day of May, 2023, by and between the City of Maricopa, a municipal corporation (the “CITY”) and Wildcat Landscape Supply, LLC, an Arizona limited liability company (“Owner”).

WHEREAS, by Resolution No. 23-26 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,

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:**

**Approved as to form:**

By: \_\_\_\_\_  
Vanessa Bueras, MMC  
City Clerk

By: \_\_\_\_\_  
Denis M. Fitzgibbons  
City Attorney

**Wildcat Landscape Supply, LLC,**  
an Arizona limited liability company

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

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:

\_\_\_\_\_

STATE OF ARIZONA                    )  
  ) ss.  
County of Pinal                        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, the \_\_\_\_\_ of Wildcat Landscape Supply, LLC, an Arizona limited liability company.

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

My commission expires:

\_\_\_\_\_

## **EXHIBIT A**