

RESOLUTION NO. 2023-128

A RESOLUTION OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA DECLARING A PUBLIC NEED AND NECESSITY AND A PUBLIC USE; AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ACQUIRE ON BEHALF OF THE CITY OF PEORIA THROUGH DONATION, OUTRIGHT PURCHASE OR UNDER THE POWER OF EMINENT DOMAIN FOR PUBLIC PURPOSES OF ALL INTEREST IN CERTAIN DESCRIBED REAL PROPERTY IN THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, IN ORDER FOR THE CITY TO PROPERLY AND ADEQUATELY IMPROVE AND DEVELOP 67TH AVENUE FROM PINNACLE PEAK ROAD TO HAPPY VALLEY ROAD AS A MATTER OF PUBLIC NEED AND NECESSITY; REFERENCING TITLE 12 OF STATE LAW CONCERNING THE EXERCISE OF EMINENT DOMAIN FOR PUBLIC ROADS, STREETS, AND PUBLIC SAFETY PURPOSES; STATING THE CONCLUSION OF THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT THAT THE ACQUISITION IS IN CONFORMITY WITH THE ADOPTED GENERAL PLAN; AS A MATTER OF PUBLIC NEED AND NECESSITY AND DECLARING AN EMERGENCY.

THEREFORE IT IS RESOLVED by the Mayor and Council of the City of Peoria, Arizona as follows:

SECTION 1. AUTHORIZATION TO ACQUIRE

That the City Attorney on behalf of the City of Peoria, Arizona is authorized and directed to acquire and/or condemn all the real property described in the attached Exhibit "A" pursuant to Title 12, Chapter 8, Article 2, Arizona Revised Statutes and to file on behalf of the City such litigation as necessary to consummate the acquisition of such property under the power of eminent domain and to do all things necessary to accomplish this purpose, including but not limited to obtaining title reports and appraisals and other expert assistance for such purposes. The Assessor Parcel Numbers associated with the legal descriptions in the attached Exhibit "A" are:

APN 201-13-262 – Right of Way, Drainage Easement, Temp. Construction Easement

APN 201-13-005B – Right of Way

APN 201-13-006D – Right of Way

**SECTION 2. EMINENT DOMAIN AUTHORITY PURSUANT TO TITLE 12 OF
STATE LAW: AUTHORIZATION TO OBTAIN IMMEDIATE
POSSESSION**

That the City Attorney on behalf of the City of Peoria, Arizona is authorized to petition the Superior Court to enter an order that the City of Peoria be allowed immediate possession and full use of all of the real property described in Exhibit "A" pursuant to Title 12, Chapter 8, Article 2, Section 12-1116 and to immediately determine the probable damages resulting from City of Peoria being allowed to have immediate possession of the real property described in Exhibit "A" and to set the amount of a bond in a form to be approved by the Court or to deposit the equivalent amount of City funds budgeted and appropriated and to do all things necessary to accomplish this purpose.

SECTION 3. DETERMINATION OF CONFORMITY WITH GENERAL PLAN

That the Planning and Community Development Department, which is the designated "planning agency" for the City of Peoria for purposes of Arizona Revised Statutes Title 9, Chapter 4, Article 6 ("Municipal Planning"), has reviewed the acquisition of the Property for conformity with the adopted Peoria General Plan pursuant to A.R.S. § 9-461.07(C) and reported that the location, purpose, and extent of the acquisition of the Property conforms with the Peoria General Plan.

SECTION 4. EFFECTIVE DATE

WHEREAS, the immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety, an Emergency is declared to exist and this Resolution shall be in full force and effect from and after its passage by the Council as required by the City Charter and is exempted from the referendum clause of the Charter.

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PASSED AND ADOPTED by the Mayor and Council of the City of Peoria,
Arizona, this 12th day of December, 2023.

Jason Beck, Mayor

ATTEST:

Agnes Goodwine, City Clerk

APPROVED AS TO FORM:

Emily Jurmu, City Attorney

ATTACHMENTS:

Exhibit A - Legal Descriptions