

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

CC: 5C
Amend No. _____

Date Prepared: June 2, 2008 Council Meeting Date: June 17, 2008

TO: Terry Ellis, City Manager
FROM:  David A. Moody, P.E., Engineering Director
THROUGH: Kristine Luna, Real Property Administrator 
PREPARED BY: Angela Manuel, Property Agent 
SUBJECT: Adopt a Resolution authorizing the acquisition of additional property from a parcel identified in Resolution 07-172 on the north side of Happy Valley east of Terramar Boulevard. Engineering Project No. P-0111

RECOMMENDATION:

That Mayor and Council adopt a Resolution authorizing the acquisition of additional property from a parcel of property previously identified in Resolution 07-172 on the north side of Happy Valley Road east of Terramar Boulevard, by donation, outright purchase, or the exercise of the power of eminent domain.

SUMMARY:

The Happy Valley Road Project (P-0111) requires rights-of-way and slope/drainage/utility easements to be acquired between Terramar and 67th Avenue. At the December 18, 2007 Council meeting, City Council adopted Resolution No. 07-172 authorizing the acquisition of rights-of-way and easements from parcels for the improvements of Happy Valley Road between 67th and 83rd Avenue as well as the 83rd Avenue widening north of Hatfield Road. At the time that the resolution was adopted this phase of the project was at 60% design. At the 95% design it was determined that an additional slope easement is required from one of the parcels.

The City has offered the property owner the appraised value of the property and we are currently in negotiations. If the negotiations should breakdown, Engineering staff will request, as a last resort, that the City Attorney file for condemnation.

This project is part of the City's 2008 Capital Improvement Program. Funds for the

CITY CLERK USE ONLY:

- Consent Agenda
- Carry Over to Date: _____
- Approved
- Unfinished Business (Date heard previous: _____)
- New Business
- Public Hearing: No Action Taken

ORD. # _____ RES. # 07-172A
LCON# _____ LIC. # _____
Action Date: _____

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additional acquisition is included in the Happy Valley Road Project, Municipal Development Authority (MDA) Fund, Land Account 4230-4230-540000-CIPST-PW00146 and the Streets Zone 2 Dev Fee Fund Land Account 7002-7052-540000-CIPST-PW00146.

Staff requests that the Mayor and Council adopt the attached Resolution authorizing the acquisition of the additional property described in the Resolution by donation, outright purchase or the exercise of the power of eminent domain as a supplement to the existing Resolution.

ATTACHMENTS:

1. Resolution to acquire property for roadway purposes

RESOLUTION NO. 07-172A

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 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 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" and set forth on the attached map designated as Exhibit "B" 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 number associated with the legal description in the attached Exhibit "A" is as follows:

201-09-009A – easement

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" and as designated on the map in Exhibit "B" 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 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.

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.

PASSED AND ADOPTED by a two thirds vote of all the members of the Mayor and Council of the City of Peoria, Maricopa County, Arizona, as set forth below this 17th day of June, 2008.

AYES:

NAYS:

Bob Barrett, Mayor

Resolution No. 07-172A

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June 17, 2008

ATTEST:

Mary Jo Kief, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

ATTACHMENTS:

1. Exhibit A - Legal Description
2. Exhibit B - Location Map



PARCEL NO. 201-09-009A

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION – NEW SLOPE & UTILITY EASEMENT

COMMENCING AT A CITY OF PEORIA BRASS CAP IN HANDHOLE, LOCATED AT THE SOUTH QUARTER CORNER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 1 EAST, GILA AND SALT RIVER BASE AND MERIDIAN;

THENCE N89°55'03"W ALONG THE SOUTH SECTION LINE OF SECTION 1, A DISTANCE OF 329.42 FEET TO A POINT ON EAST LINE OF PARCEL 201-09-009A;

THENCE N00°16'46"W ALONG SAID EAST LINE A DISTANCE OF 65.00 FEET TO THE POINT OF BEGINNING;

THENCE N89°55'03"W ALONG A LINE 65 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 1 A DISTANCE OF 329.39 TO A POINT ON THE WEST LINE OF SAID PARCEL 201-09-009A;

THENCE N00°15'03"W ALONG SAID WEST LINE A DISTANCE OF 8.00 FEET;

THENCE S89°55'03"E ALONG A LINE 73 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 1 A DISTANCE OF 329.38 TO A POINT ON THE EAST LINE OF SAID PARCEL 201-09-009A;

THENCE S00°16'46"E ALONG SAID EAST LINE A DISTANCE OF 8.00 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

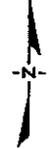
SAID AREA CONTAINS 2635.05 SQUARE FEET MORE OR LESS.

<p>Date: 3/08</p>	<p>City of Peoria - Happy Valley Road Median Improvements Terramar Boulevard to 67th Avenue</p>
<p>Preparing Firm: RITICH-POWELL & ASSOCIATES, INC. 3800 N. Central Ave., Suite 605 Phoenix, AZ 85012 Ph: 602-263-1177 Fax: 602-277-6286</p>	

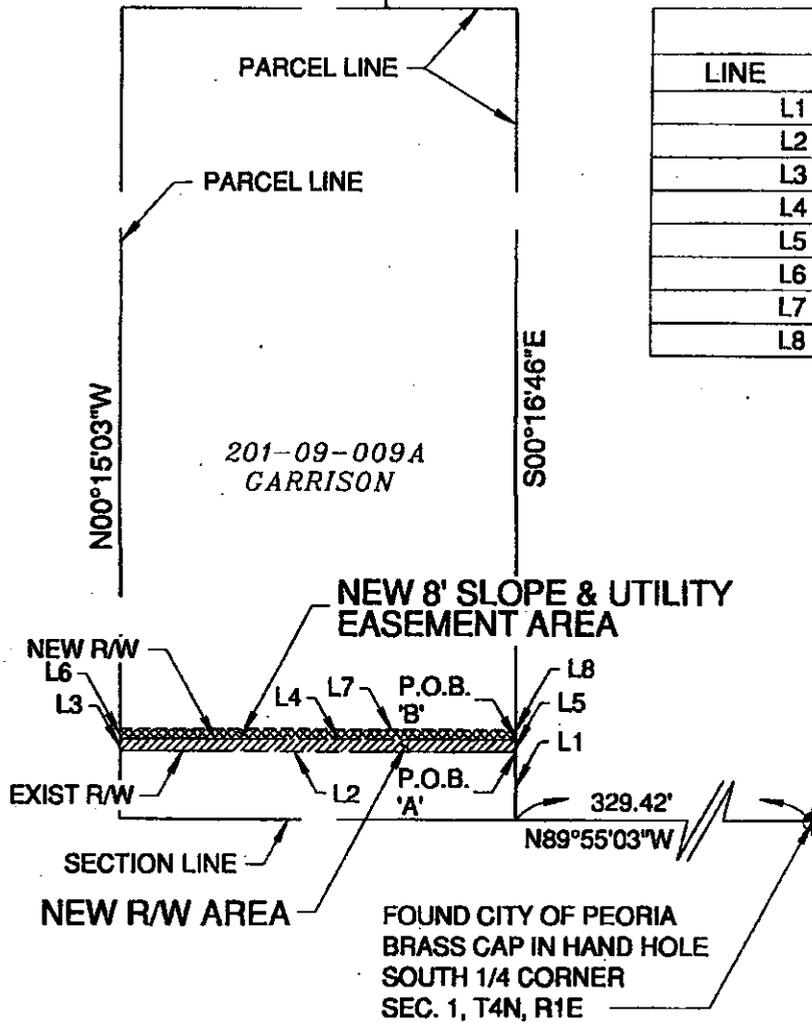




PARCEL NO. 201-09-009A EXHIBIT A SKETCH



SCALE: 1"=100'



LINE TABLE		
LINE	LENGTH	BEARING
L1	55.00'	N00°16'46"W
L2	329.39'	N89°55'03"W
L3	10.00'	N00°15'03"W
L4	329.38'	S89°55'03"E
L5	10.00'	S00°16'46"E
L6	8.00'	N00°15'03"W
L7	329.38'	S89°55'03"E
L8	8.00'	S00°16'46"E

NEW R/W AREA = 3,293.86 S.F.
NEW SLOPE & UTILITY EASEMENT AREA = 2,365.05 S.F.

**City of Peoria - Happy Valley Road
Median Improvements
Terramar Boulevard to 67th Avenue**

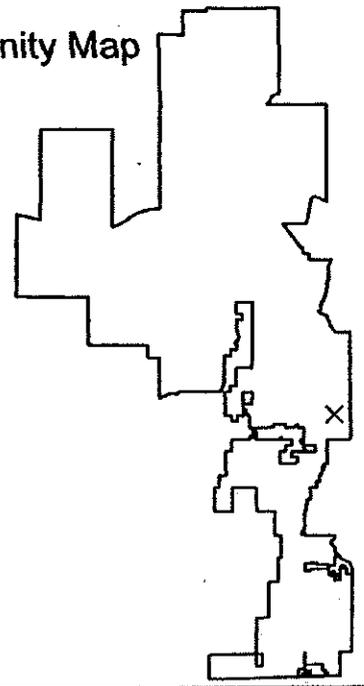
Date: 3/08

Preparing Firm: RITTOCH-POWELL & ASSOCIATES, INC.
3800 N. Central Ave., Suite 605
Phoenix, AZ 85012
Ph: 602-263-1177
Fax: 602-277-6286



BUCKSKIN TR

Vicinity Map



201-09-009A

GARRISON WILLIAM B/FRANCES K

8' Slope and Utility Easement

HAPPY VALLEY RD

Exhibit B

Legend

[Symbol] = 8' Slope & Utility Easement

Happy Valley Road Median Improvements Additional Acquisition Area Parcel 201-09-009A

Note: This map is based on imprecise source data, subject to change and for GENERAL REFERENCE ONLY

