

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

CC: 7C
Amend No. _____

Date Prepared: March 9, 2009

Council Meeting Date: April 7, 2009

TO: Honorable Mayor and Council
FROM: Steve Kemp, City Attorney 
SUBJECT: City of Peoria v. Jose Garcia, individually and as Trustee
of the Garcia Family Trust

RECOMMENDATION: That the Mayor and Council approve the settlement of City of Peoria v. Jose Garcia, individually and as Trustee of the Garcia Family Trust

SUMMARY:

In 2008, the City instituted legal proceedings for acquisition of certain real property for the Happy Valley Road Project. The City used its power of eminent domain to acquire real property for this public project from Jose Garcia, as Trustee of the Garcia Family Trust. Under the eminent domain laws, the City is required to pay just compensation to the owner of the property based on its highest and best use.

The value is determined either through a trial or by negotiation with the owner and their representative(s). The overwhelming majority of cases are settled through negotiation. The City has participated in a mandatory settlement conference with the property owner in this case and has reached a settlement. The City will pay the owner \$97,601.00 for a fee interest in all property it is condemning. (Thus, what was previously an easement interest shall also be acquired in fee.) See Attachment 1.

Fiscal Note: Funding for the acquisition is available in the Happy Valley Road Project (PW00146), however, a budget adjustment is necessary to move funds from construction to land acquisition. Therefore, staff requests a budget adjustment in the amount of \$51,480 from account 4230-4230-543001-CIPST-PW00146CO to account 4230-4230-540000-CIPST-PW00146LA. The additional amount (\$46,121) is available in the Streets Zone 2 Development Fee Account 7002-7052-540000-CIPST-PW00146LA.

ATTACHMENT:

1. Legal descriptions of the area taken.

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. # _____
LCON# 02309 LIC. # _____
Action Date: _____

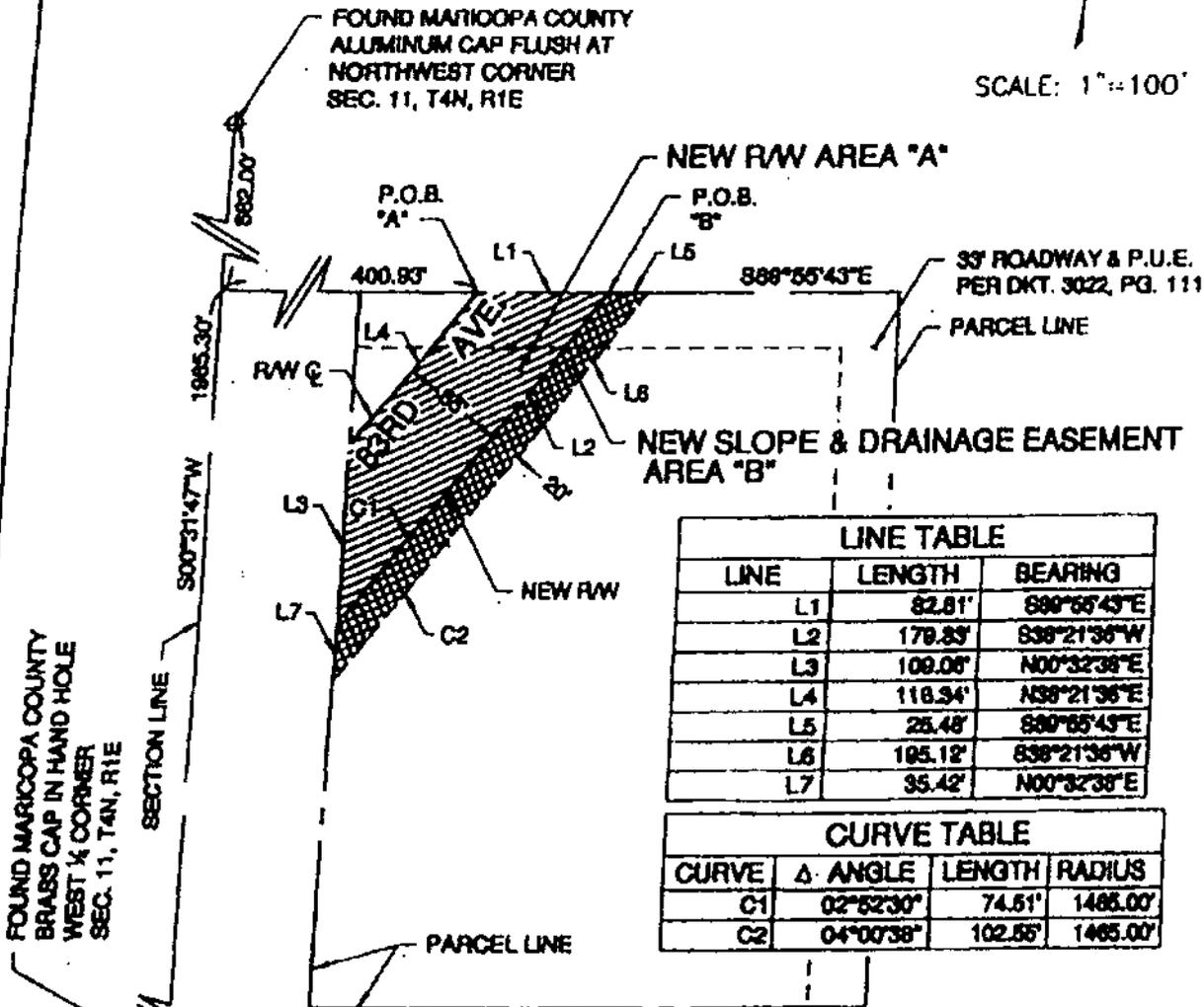
REV. 07/05



PARCEL NO. 201-14-012C EXHIBIT A SKETCH



SCALE: 1"=100'



LINE TABLE		
LINE	LENGTH	BEARING
L1	82.81'	888°55'43"E
L2	179.83'	838°21'36"W
L3	109.08'	N00°32'38"E
L4	118.34'	N38°21'36"E
L5	25.48'	888°55'43"E
L6	195.12'	838°21'36"W
L7	35.42'	N00°32'38"E

CURVE TABLE			
CURVE	Δ ANGLE	LENGTH	RADIUS
C1	02°52'30"	74.51'	1465.00'
C2	04°00'38"	102.55'	1465.00'

NEW RW AREA "A" = 11,995.94 S.F.
NEW SLOPE & DRAINAGE EASEMENT AREA "B" = 5,513.71 S.F. Page 1 of 3

City of Peoria - 83rd Avenue Widening
Calle Lajas to Jomax Road

Date: 11/07

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



Resolution 07-172



PARCEL NO. 201-14-012C
EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION - NEW RIGHT OF WAY

AREA "A"

COMMENCING AT A MARICOPA COUNTY ALUMINUM CAP FLUSH, LOCATED AT THE NORTHWEST CORNER OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 1 EAST, GILA AND SALT RIVER BASE AND MERIDIAN;

THENCE S00°31'47"W ALONG THE WEST LINE OF SAID SECTION 11, A DISTANCE OF 882.00 FEET TO A POINT;

THENCE S89°55'43"E A DISTANCE OF 400.83 FEET TO A POINT ON THE NORTH LINE OF PARCEL 201-14-012C AS DESCRIBED IN RECORDING NUMBER 20010091338, M.C.R., ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE CONTINUING S89°55'43"E ALONG THE NORTH LINE OF SAID PARCEL A DISTANCE OF 62.81' TO A POINT;

THENCE S38°21'38"W A DISTANCE OF 178.33' TO A POINT OF CURVATURE OF A TANGENT CURVE CONCAVE TO SOUTHEAST HAVING A RADIUS OF 1485.00 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°52'30", AN ARC DISTANCE OF 74.51 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL;

THENCE N00°32'38"E ALONG THE WEST LINE OF SAID PARCEL A DISTANCE OF 109.06 FEET TO A POINT;

THENCE N38°21'38"E A DISTANCE OF 116.34 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

SAID NEW RIGHT OF WAY CONTAINS 11,995.94 SQUARE FEET, MORE OR LESS.

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City of Peoria - 83rd Avenue Widening
 Calle Lejos to Jomax Road

Date: 11/07

Preparing Firm: **RITTOCH-POWELL & ASSOCIATES, INC.**
 3800 N. Central Ave., Suite 605
 Phoenix, AZ 85012
 Ph: 602-263-1177
 Fax: 602-277-8288



Resolution 07-172



PARCEL NO. 201-14-012C
EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION - NEW SLOPE & DRAINAGE EASEMENT

AREA "B"

COMMENCING AT A MARICOPA COUNTY ALUMINUM CAP FLUSH, LOCATED AT THE NORTHWEST CORNER OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 1 EAST, GILA AND SALT RIVER BASE AND MERIDIAN;

THENCE $800^{\circ}31'47''$ W ALONG THE WEST LINE OF SAID SECTION 11, A DISTANCE OF 882.00 FEET TO A POINT;

THENCE $889^{\circ}55'43''$ E A DISTANCE OF 483.74 FEET TO A POINT ON THE NORTH LINE OF PARCEL 201-14-012C AS DESCRIBED IN RECORDING NUMBER 20010001338, M.C.R., ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE CONTINUING $889^{\circ}55'43''$ E ALONG THE NORTH LINE OF SAID PARCEL A DISTANCE OF 25.48 FEET TO A POINT;

THENCE $538^{\circ}21'38''$ W A DISTANCE OF 195.12 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE CONCAVE TO SOUTHEAST HAVING A RADIUS OF 1485.00 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $04^{\circ}00'38''$, AN ARC DISTANCE OF 102.85 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL;

THENCE $N00^{\circ}32'38''$ E ALONG THE WEST LINE OF SAID PARCEL A DISTANCE OF 35.42 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 1485.00 FEET WHOSE CENTER BEARS $S74^{\circ}19'50''$ E;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $02^{\circ}52'30''$, AN ARC DISTANCE OF 74.51 FEET TO A POINT;

THENCE $N38^{\circ}21'36''$ E A DISTANCE OF 179.33 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

SAID NEW SLOPE & DRAINAGE EASEMENT CONTAINS 5,613.71 SQUARE FEET, MORE OR LESS.

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