



# Report to the Board of Supervisors



Prepared by the Maricopa County Department of Transportation

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**Case #/Title:** PAB-0035 Federal Patent Easement Abandonment

**Meeting Date:** October 19, 2016 to set the hearing date.

**Supervisor District Effected:** 3

**Applicant:** Department of Transportation

**Request:** Approve the abandonment of that portion of the Patent easement as proposed by the owner of the property located at 37612 North 24<sup>th</sup> Street and being identified as Assessor Parcel No. 211-69-024E.

**Support/Opposition:** Request for comment has been circulated to all affected parties pursuant to County Ordinance P-34, Section 2d.

No comments in opposition have been received.

**Discussion:** Laws 2013, Chapter 46 amended Arizona Revised Statutes, Section 11-251.16 to allow a county, at the request of a property owner, to abandon a federal patent easement established by the Small Tract Act of 1938. On May 7, 2014 the Maricopa County Board of Supervisors (BOS) approved Ordinance No. P-34, adopting procedures for the abandonment of federal patent easements. The Maricopa County Department of Transportation (MCDOT) has considered and processed this request for abandonment in strict accordance with A.R.S. Section 11-251.16 and Ordinance No. P-34.

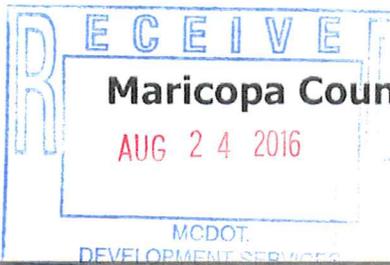
## Department Recommendation:

Having no known opposition and having not received any written comments in opposition from other County departments, other agencies, any utility or the public, the Department of Transportation (MCDOT), in accordance with Ordinance P-34, is recommending that the BOS approve the abandonment as requested.

Presented by: Jennifer Toth, P.E.,  
Director of Transportation/County Engineer

**Attachments:** Application / Proof of ownership / Application response checklist  
Aerial Exhibit / Patent Easement  
Initial Determination request / letter to requestor / Initial response checklist

**APPLICATION  
PROOF OF OWNERSHIP  
APPLICATION RESPONSE CHECKLIST**



# Maricopa County Department of Transportation Engineering Division

2901 West Durango Street • Phoenix, AZ 85009  
Phone: (602) 506-8609 • Fax: (602) 506-4009

### PATENT EASEMENT ABANDONMENT APPLICATION

Applicant Name: Jr FANTIN Homes Tracking NO: PAB- 0035  
 Mailing Address: 2802 E Clark Rd  
 City: CAVE CREEK STATE: AZ ZIP: 85331  
 Telephone: 602-881-8723  
 Email: Jr@fantin.ma Fax No: 480-488-8692

### PARCEL DETAIL

Assessor's Parcel Number: 211-69-024E

1. **Location of Request:** (ex: 3200 W. Dove Valley Road, Phoenix)

37612 N 24 ST & JOY RANCH

2. **Description of Request:** (ex: Abandon Easement bordering the south side of parcel 123-45-067A)  
abandon easement bordering the east side of parcel 211-69-024E, abandonment of the west 10' of the 50'

- Applicant is **REQUIRED** to be the current owner of the described property. A copy of your property deed must be attached to the application.
- If you have a mortgage, deed of trust, upon your property you are **REQUIRED** to provide a letter from the lender approving your request to abandon a patent easement. Applications submitted without lender approval will not be processed.
- If you don't have a mortgage or deed of trust on the subject property, you will need to sign, before a notary, the affidavit below attesting to that status.

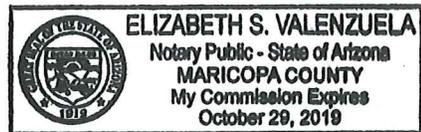
I, Jim FANTIN attest that I own the subject property and that it is not encumbered by mortgage or deed of trust.

SUBSCRIBED AND SWORN to before me this

My Commission Expires:

24<sup>th</sup> day of August, 2016

*[Signature]*  
NOTARY PUBLIC



### SIGNATURE

*[Signature]*

Signature of Applicant

8-24-16  
Date

**NOTE: The application fee is NOT refundable.**

### THIS PORTION TO BE COMPLETED BY MCDOT

Application Fee: <b>\$1,600.00*</b>	Total Received: <u>1350.00</u>	Received By: <u>EP</u>
Make check payable to: MCDOT 2901 West Durango Street Phoenix, AZ 85009	Check #: <u>5642</u>	Date: <u>8-24-16</u>
	Receipt # <u>PS 2016 3783</u>	

\* Application Fee will be \$1,350 (\$1,600 less \$250) if Initial Determination letter is provided; demonstrating an initial review of the parcel was conducted by the County within the last six months.

36712 N 24 Place,  
Lot 41

WHEN RECORDED RETURN TO:

JR Fantin Homes  
2802 E Cloud Rd.  
Cave Creek, AZ 85331

QUIT CLAIM DEED  
Exempt Per ARS 11-1134B6

For the consideration of: Ten Dollars, and other valuable considerations, I or we,

MAD Lands, LLC, an Arizona limited liability company

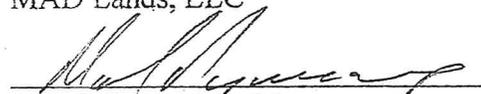
Conveys and quit claims to

JR Fantin Homes, LLC, a Utah limited liability company

All the right, title, or interest in the following real property situated in Maricopa County, Arizona:

See attached legal description

DATED: 6-30-16  
MAD Lands, LLC

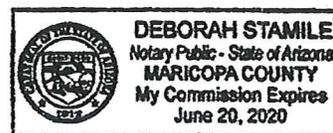
  
Mark Deymonaz, Manager

State of Arizona  
County of Maricopa

On this 30 day of June, 2016 before me, the undersigned Notary Public, personally appeared Mark Deymonaz as Manager of MAD Lands, LLC the person(s) who signed the foregoing instrument for the purposes therein contained.

  
NOTARY PUBLIC

My Comm. Expires:



Parcel 4

The East 199.25 feet of the South half of the Northeast quarter of the Northeast quarter of the Northeast quarter of Section 34, Township 6 North Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT all oil, gas and mineral deposits as reserved in Patent to said land recorded in Docket 3199, page 415, records of Maricopa County, Arizona.

RESERVING unto Grantors their heirs, successors and assigns, an easement for ingress, egress and public and/or private utilities, over the South 20 feet

Parcel 211-69-024E

**PATENT EASEMENT ABANDONMENT  
APPLICATION  
CHECKLIST**

Application ID: PAB-0035

A "YES" checked on any item on this list shall result in the letter of Initial Determination stating that pursuant to Section 5 of County ordinance (P-34) certain criteria do not meet abandonment requirements.

Disqualification Criteria	YES	NO
Road alignment has been Declared (Sect 5a) Road alignment is maintained by MCDOT Road alignment is needed for future r/w		x
Prop abandon shares border and is parallel to row dedicated to County or public (Sect 5b)		x
Objection from any affected utility, Arizona State land, BLM or BOR (Sect 5d)		x
Objection from any Municipality or Tribe, (Sect 5e)		x

Statement of fact and Documentation for Items identified as not meeting abandonment requirements:

		REVIEWER	COMMENT	DISQUALIFYING CRITERIA
	MCDOT	Bob Woodring	No Objection	
		Alfred Erives	No Response	
		Denise Lacey	No Response	
		Kevin Kottmer	No Objection	
		Angela Horn	No Objection	
b	COUNTY	Michael Norris - P&D	No Response	
		Darren Gerard – P&D	No Objection	
		Dennis Lindsey -Real Estate	No Objection	
		Don Rerick - FCD	No Objection	
		RJ Cardin & Kenneth Vonderscher - Parks	No Objection	
		Bill Wiley - FCD	No Objection	
c	UTILITIES	APS	No Objection	
		Century Link	No Objection	
		Cox	N/A	
		SRP	N/A	
		SWG	N/A	
		Scottsdale Water	N/A	
		Town of Cave Creek water	No Objection	
d	GOV AGENCIES	N/A		
e	MUNICIPALITIES / TRIBES	N/A		

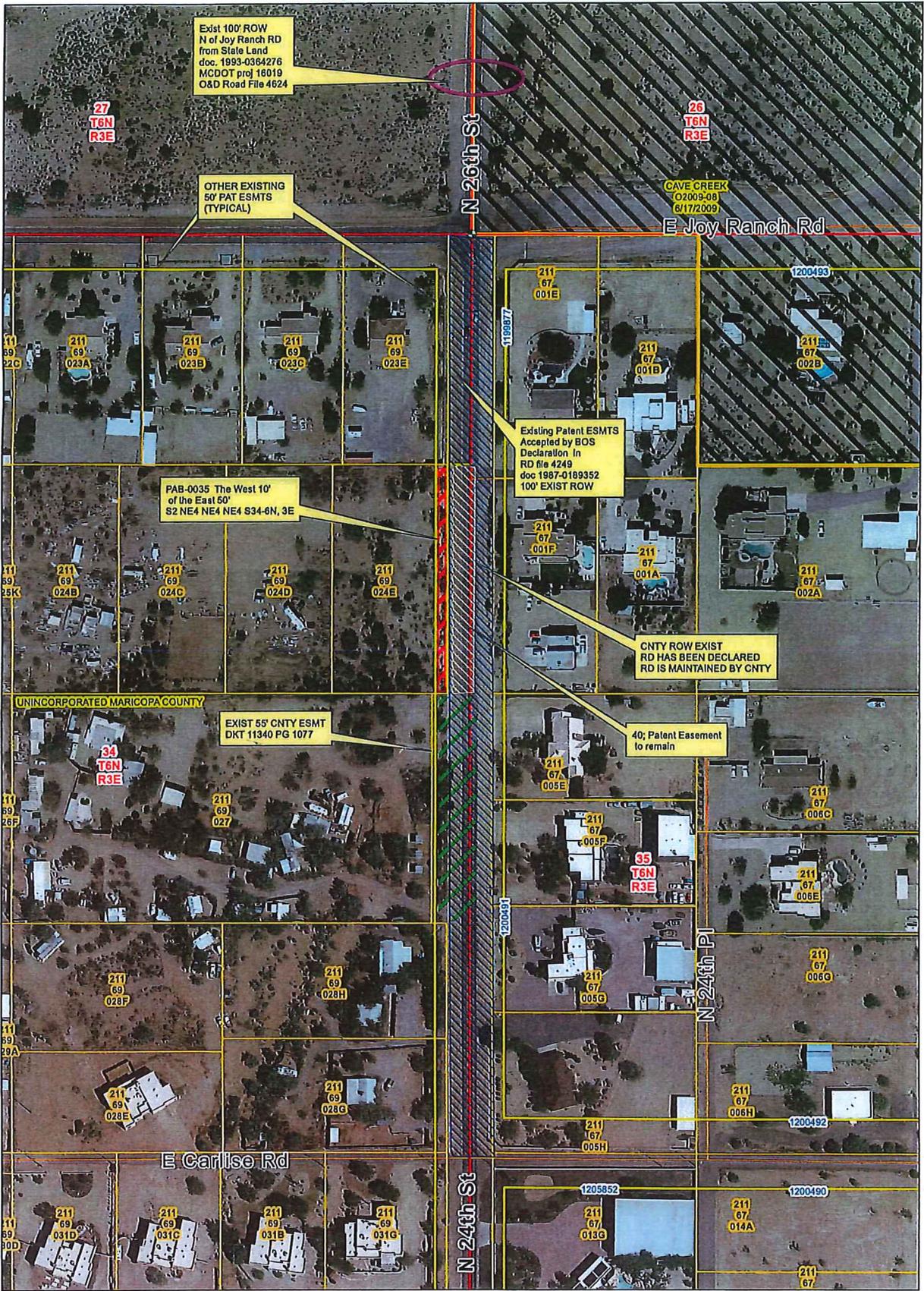
DATE: 9/27/2016

INIT: MM

**AERIAL EXHIBIT**  
**PATENT EASEMENT**  
**REPLACEMENT EASEMENT**

# PAB-0035 APN: 211-69-024E

## Aerial Revised 8/11/2016



Arizona 016197

# The United States of America,

To all whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at **Phoenix, Arizona,** has been issued showing that full payment has been made by the claimant

**Margaret H. Morris**

pursuant to the provisions of the Act of Congress approved June 1, 1938 (52 Stat. 609), entitled "An Act to provide for the purchase of public lands for home and other sites," and the acts supplemental thereto, for the following-described land:

**Gila and Salt River Meridian, Arizona.**

**T. 6 N., R. 3 E.,**

**Sec. 34, ~~SUBMERGED~~.**

The area described contains **5.00** acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, also, to the United States all oil, gas and other mineral deposits, in the land so patented, together with the right to prospect for, mine, and remove the same according to the provisions of said Act of June 1, 1938. This patent is subject to a right-of-way not exceeding **50** feet in width, for roadway and public utilities purposes, to be located **along the east boundary of said land.**

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the ~~TWENTY-SEVENTH~~ day of **OCTOBER** in the year of our Lord one thousand nine hundred and **FIFTY-NINE** and of the Independence of the United States the one hundred and **EIGHTY-FOURTH**.

[SEAL]

For the Director, Bureau of Land Management.

By *Richard T. ...*  
Acting Chief, Patents Section.

Patent Number 1200770

CenturyLink  
Network Real Estate  
5025 N. Black Canyon Hwy  
Phoenix, AZ 85015



9/13/2016

Approved

Maricopa County DOT  
2901 West Durango St.  
Phoenix, AZ 85009

**SUBJECT: PAB-0035 PUE Abandonment**  
**Project Name: 37612 N. 24<sup>th</sup> St.**  
**APN: 211-69-024-E**

**Re: Request for vacation of the utility easement on the east property line of APN 211-69-024-E at 37612 N. 24<sup>th</sup> St., Maricopa County, as described in more detail in the application, lying within the Northwest Quarter of Section 34 Township 6 North, Range 3 East, Gila and Salt River Meridian.**

To Whom It May Concern:

QWEST CORPORATION d/b/a CENTURYLINK QC has reviewed the request for the subject vacation and has determined that it has no objections with respect to the areas proposed for vacation.

It is the intent and understanding of CenturyLink that this Vacation shall not reduce our rights to any other existing easement or rights we have on this site or in the area.

CenturyLink agrees to the abandonment of the west 10' of the west 50'. CenturyLink is in receipt of the recorded easement 20160550509 dated 8-3-16 which gives us a 10' easement in this corridor.

This vacation response is submitted with the stipulation that if CenturyLink facilities are found within the vacated area as described, the Applicant will relocate the facilities at Applicant's expense and within guidelines set by CenturyLink and all regulating entities. All relocations will be done under the supervision of a CenturyLink Inspector.

If you have questions or concerns, please call Gladys Zeilstra at 480-560-0404.

Sincerely yours,

**Karen Caime**  
Right of Way Agent  
Qwest Corporation d/b/a CENTURYLINK QC

APN: 211-69-024-E Leaset #: P780034  
New River WCE: Jesus Arrieta

Return to CenturyLink  
Attn: Mary Hutton  
5025 North Black Canyon Hwy  
Phoenix, AZ 85015

MCMH080316-4-1-1--  
Garcia

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RECORDING INFORMATION ABOVE  
EASEMENT AGREEMENT

A1606444/PAB-0035

The undersigned **JR Fantin Homes, LLC a Utah limited liability company** ("Grantor") for and in consideration of \$10.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto **QWEST CORPORATION D/B/A CENTURY LINK QC**, a Colorado corporation ("Grantee"), whose address is 1801 California St., Suite 5200, Denver, CO 80202, Attn: Network Vice President, and its successors, assigns, affiliates, lessees, licensees, and agents, a perpetual easement to construct, reconstruct, modify, change, add to, operate, maintain, and remove such telecommunications facilities, electrical and gas facilities, and other appurtenances, from time to time, as Grantee may require upon, over, under and across the following described property situated in the County of Maricopa, State of Arizona, which Grantor owns ("Easement Area"):

**An easement which is described in its entirety on EXHIBIT "A" and "B" which is attached hereto and by this reference made a part hereof.**

Grantor further conveys to Grantee the right of ingress and egress over and across Grantor's lands to and from the Easement Area and the right to clear and keep cleared all trees and other obstructions as may be necessary for Grantee's use and enjoyment of the Easement Area.

Grantee shall indemnify Grantor for all damages caused to Grantor as a result of Grantee's negligent exercise of the rights and privileges herein granted. Grantee shall have no responsibility for pre-existing environmental contamination or liabilities or those not caused by Grantee.

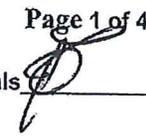
Grantor reserves the right to occupy, use and cultivate the Easement Area for all purposes not inconsistent with the rights herein granted.

Grantor covenants that Grantor is the fee simple owner of the Easement Area and that Grantor will warrant and defend title to the Easement Area against all claims.

Grantor hereby covenants that no excavation, building, structure or obstruction will be constructed, erected, built or permitted on the Easement Area and no change will be made by grading or otherwise to the surface or subsurface of the Easement Area or to the ground immediately adjacent to the Easement Area.

The rights, conditions and provisions of this Easement Agreement will run with the land and will inure to the benefit of and be binding upon Grantor and Grantee and their respective successors and assigns.

R/W# \_\_\_\_\_

Page 1 of 4  
Initials 

RECORDING INFORMATION ABOVE

GRANTOR(S):

JR Fantin Homes, LLC a Utah limited liability company

By: [Signature]

Name: Jim Fantin

Title: Owner

STATE OF Arizona )  
COUNTY OF Maricopa ) ss:

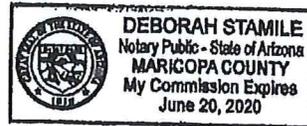
The foregoing instrument was acknowledged before me this 27 day of July, 2016, by Jim Fantin as Owner of 1

Witness my hand and official seal:

Deborah Stamile

Notary Public

My commission expires: 6-20-2020

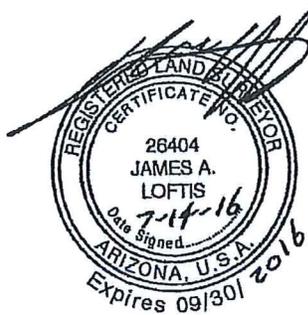


20160550509

EXHIBIT "A"

The West 10.00 feet of the East 50.00 feet of the South half of the Northeast quarter of the Northeast quarter of the Northeast quarter of Section 34, Township 6 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

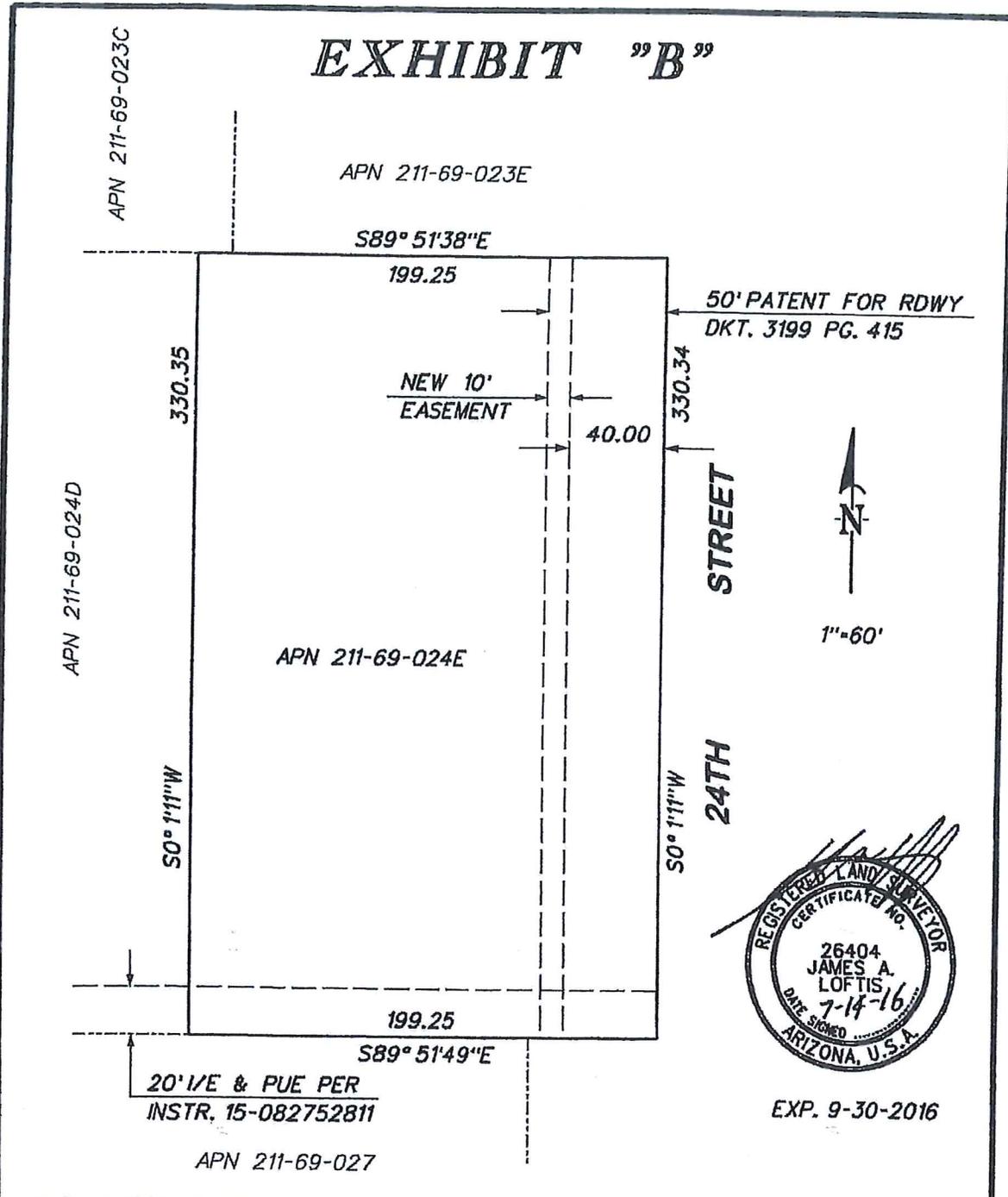
See Exhibit "B"



**EVERETTALAN  
{ GROUP }**

6300 E. Cave Creek Road, Ste. 202 ☐ Cave Creek, Arizona 85331  
Phone 480.990.0545 ☐ Fax 480.994.9097 ☐ [www.EverettAlanGroup.com](http://www.EverettAlanGroup.com)  
Job No. 151113

# EXHIBIT "B"



**EVERETTALAN**  
**{ GROUP }**

6300 East Cave Creek Road, Suite 202  
Cave Creek, Arizona 85331  
Phone 480.990.0545 Fax 480.994.9097  
www.EverettAlanGroup.com

JOB NO.  
151113



September 1, 2016

Michelle Markson  
Maricopa County Department of transportation  
Engineering Division  
2901 W. Durango Street  
Phoenix, AZ 85009

RE: Patent Easement Abandonment PAB-0035

Dear Ms. Markson,

Per the request of the property owner at 37612 N. 24<sup>th</sup> St., the Town of Cave Creek is willing to abandon its patent easement to the west 10 feet of the easterly 50 feet of the property as shown in the attached diagram you provided.

Sincerely,

David Snow, P.E.  
Assistant Town Engineer  
Town of Cave Creek



ARIZONA PUBLIC SERVICE

**David Schlief**  
*Land Agent II*  
*Land Services Department*

Mail Station 3286  
P.O. Box 53933  
Phoenix, AZ 85072-3933  
T: 602 - 371-7295  
F: 602 - 371-6586  
david.schlief@aps.com

August 25 2016

Michelle Markson  
Maricopa County Department of Transportation  
Engineering Division  
2901 W. Durango Street  
Phoenix, AZ 85009

**RE: Right of Way Release Concurrence**

Dear Ms. Markson

Per your request for Arizona Public Service Company's (APS) concurrence to release that portion of the retained Easement over the westerly 10 feet of the easterly 50 feet of the property located 37612 North 24<sup>th</sup> Street, Phoenix, Arizona 85086, described in your request dated April 6, 2016, the following information is provided.

I have researched our records and found that the subject property is situated within the APS service territory.

These records show that there are existing overhead facilities within said retained easement along said easterly 50 feet.. APS has received an easement over the westerly 10 feet of the easterly 50 of said property from the current land owner.

This letter shall advise that APS does consent to the release of the above described 10 foot portion of the Patent easement described in your request.

Should you have further questions concerning this matter, please contact me at (602) 371-7295 or david.schlief@aps.com.

Sincerely,

A handwritten signature in black ink that reads "David Schlief". The signature is written in a cursive, flowing style.

David Schlief R.L.S.  
Land Agent II  
Land Services Department  
Arizona Public Service Company

**INITIAL DETERMINATION REQUEST**

**LETTER TO REQUESTOR**

**INITIAL RESPONSE CHECKLIST**



# Maricopa County Department of Transportation Engineering Division

2901 West Durango Street • Phoenix, AZ 85009  
Phone: (602) 506-8609 • Fax: (602) 506-4009

### PATENT EASEMENT ABANDONMENT INITIAL DETERMINATION REQUEST

Applicant Name: MADLANDS LLC Tracking NO: PAB-0035  
 Mailing Address: 4210 W OPPORTUNITY WAY  
 City: ANTHEM STATE: AZ ZIP: 85086  
 Telephone: 6023739404  
 Email: MARK@TaylorTours.com Fax No: 6234450333

### PARCEL DETAIL

Assessor's Parcel Number: 211-69-024E

- Location of Request:** (ex: 3200 W. Dove Valley Road, Phoenix)  
37612 N 24th ST 24th St & Joy Ranch  
PHOENIX 85086
- Description of Request:** (ex: Abandon Easement bordering the south side of parcel 123-45-067A)  
ABANDON EASEMENT BORDERING THE EAST SIDE OF  
PARCEL 211-69-024E

### SIGNATURE

 4-7-16  
 Signature of Applicant\* Date

\* Applicant is NOT required to be the current owner of the described property.

**NOTE: The fee for this review is NOT refundable.**

04-13-16P02:51 RCVD

### THIS PORTION TO BE COMPLETED BY MCDOT

<b>Initial Determination Fee:</b> <b>\$250.00</b>  Make check payable to: MCDOT 2901 West Durango Street Phoenix, AZ 85009	Total Received: <u>250.<sup>00</sup></u>	Received By:
	Check #: <u>1063</u> Date: <u>4-8-16</u>	



**Maricopa County**  
Department of Transportation

August 11, 2016

Transportation Systems  
Management Division  
2901 W. Durango Street  
Phoenix, AZ 85009  
Phone: 602-506-8676  
Fax: 602-506-8758  
www.mcdot.maricopa.gov

MadLands, LLC.  
4210 West Opportunity Way  
Anthem, AZ 85086

Attn: Mr. Mark Taylor

Maricopa County Department of Transportation (MCDOT) has completed the Initial Determination for possible abandonment of the Federal patent easement on your property identified as Assessor Parcel 000-00-000, tracking No. PAB-0035.

MCDOT has received the following responses from reviewing agencies:

MCDOT does not have an objection to the abandonment of the west 10 feet of the patent easement.

No objections have been received from other County Departments.

Objections have been resolved from APS and CenturyLink.

If your decision is to proceed, go to the MCDOT website at:

<http://www.mcdot.maricopa.gov/easements/home.htm> and open up the Patent Easement Link at the left side of the page. Print the Abandonment Application and submit it as instructed in the application along with all documentation required in the application.

**NOTE:**

Be advised, that although no objections have been received, all reviewing entities reserve the right to change their original review position, which may affect the final recommendation to the Board of Supervisors to approve or deny the application.

Upon receipt of the application and payment of the fee, a notice by letter will be sent to all abutting property owners. The proposed abandonment area will have a notice posted. The abutting owners and other public users of the road have the right to object in writing or appear before the Board of Supervisors.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise Lacey", written over a horizontal line.

Denise Lacey  
Systems Planning Branch Manager  
Phone: 602-506-6172

Enclosure:

cc: PAB-0035 - file

**PATENT EASEMENT ABANDONMENT  
INITIAL DETERMINATION  
CHECKLIST**

Application ID: PAB-0035

A "YES" checked on any item on this list shall result in the letter of Initial Determination stating that pursuant to Section 5 of County ordinance (P-34) certain criteria do not meet abandonment requirements.

Disqualification Criteria	YES	NO
Road alignment has been Declared (Sect 5a) Road alignment is maintained by MCDOT Road alignment is needed for future r/w		x
Prop abandon shares border and is parallel to row dedicated to County or public (Sect 5b)		x
Objection from any affected utility, Arizona State land, BLM or BOR (Sect 5d)		x
Objection from any Municipality or Tribe, (Sect 5e)		x

Statement of fact and Documentation for Items identified as not meeting abandonment requirements:

		REVIEWER	COMMENT	DISQUALIFYING CRIITERIA
	MCDOT	Bob Woodring	N/A	
		Alfred Erives	No Response	
		Angela Horn	Agrees to 10 ft abandonment	
		Kevin Kottmer	No Objection	
		Denise Lacey	No Response	
b	COUNTY	P&D	No Objection	
		Real Estate	No Objection	
		Parks	No Objection	
		FCD	No Objection	
c	UTILITIES	APS	No Objection	
		Century Link	No Objection	
		Cox	N/A	
		SRP	N/A	
		SWG	N/A	
		Scottsdale Water	N/A	
		Town of Cave Creek water	N/A	
d	GOV AGENCIES	N/A		
e	MUNICIPALITIES / TRIBES	N/A		

DATE: 8/11/2016

INIT: MM