

RESOLUTION NO. 2946

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ACCEPTING AN OPEN SPACE EASEMENT FROM DONNEEN O'MALLEY, TRUSTEE OF THE O'MALLEY TRUST DATED OCTOBER 13, 2011 PERTAINING TO THE AMERICAN GULCH LINEAR PARK PROJECT.

WHEREAS, the Town of Payson, a municipal corporation and a political subdivision of the State of Arizona, is located entirely in Gila County and incorporated and organized under A.R.S. §§ 9-101 and 9-231; and

WHEREAS, pursuant to A.R.S. § 9-240 (B)(3), the Town Council shall also have power to exercise exclusive control over the streets, alley, easement, avenue, park, public place or sidewalk and to vacate, abandon, accept or abolish same within the town limits; and

WHEREAS, A.R.S. § 9-241 provides that the Town of Payson may receive real property necessary or proper to carry out the purposes of the municipal corporation, within or without its limits; and

WHEREAS, Donneen O'Malley, trustee of the O'Malley Trust dated October 13, 2011 has granted to the Town of Payson an Open Space Easement described on Exhibit "1" hereto; and

WHEREAS, it is the desire of the Town of Payson to accept said Open Space Easement; and

WHEREAS, said real property is located within the corporate limits of the Town of Payson,

NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the open space easement attached hereto as Exhibit "1" be and is hereby accepted and received by the Town of Payson for the purposes therein set forth.

Section 2. That the Town of Payson be and is hereby authorized to take such other and further actions as may be necessary or appropriate to perfecting the aforesaid open space easement and to the use and control thereof, including, but not limited to, the maintenance thereof, and the recordation of the easement document attached hereto as Exhibit "1".

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON this, _____ day of July, 2016 by the following vote:

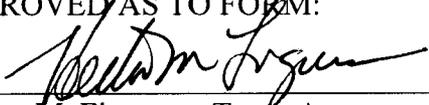
AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk



Hector M. Figueroa, Town Attorney

**EXHIBIT “1”
to Resolution No. 2946**

(O’malley Open Space Easement)

EXHIBIT "1"
to Resolution No. 2946

WHEN RECORDED, RETURN TO:

Silvia Smith, Town Clerk
Town of Payson
303 North Beeline Highway
Payson, Arizona 85541

OPEN SPACE EASEMENT
AMERICAN GULCH LINEAR PARK

KNOWN ALL MEN BY THESE PRESENTS:

In consideration of one dollar (\$1.00) and other good and valuable consideration paid to Donneen Omalley (hereinafter referred to as GRANTOR) by the Town of Payson, an Arizona municipal corporation, the receipt of which is hereby acknowledged herein. GRANTOR does hereby grant, bargain, sell, transfer and convey to the Town of Payson, an Arizona municipal corporation, (hereinafter referred to as GRANTEE) its successors and assigns, an open space easement. The Open Space easement is dedicated for the following purposes: A) public pedestrian and non-motorized access, landscaping, and benches; B) other hardscape amenities for the establishment of a linear park; and C) for the Town of Payson to construct and/or repair linear park improvements for the benefit of the GRANTOR and to be owned and maintained by the GRANTOR upon completion of the construction project situated in Gila County, State of Arizona, said land being described on Exhibit "A" attached hereto and made a part hereof. The land area within the easement may be used by the GRANTOR to satisfy minimum open space and/or landscaping requirements for development on or upon the parcel upon which the easement is located.

The consideration hereinabove recited shall constitute payment in full for the value of the interest granted herein and for any damages to the land of GRANTOR, their successors and assigns, by reason of the installation, operation and maintenance of the structures or improvements referred to herein. Each GRANTEE covenants to maintain the easement in good repair so that no unreasonable damage will result from its use to the adjacent land of GRANTOR, their successors and assigns.

IN WITNESS WHEREOF, the GRANTORS have executed this instrument this 7th day of July, 2016.

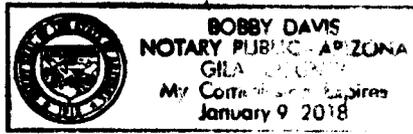
Donneen Omalley as trustee of the Omalley Trust dated October 13, 2011.

By Donneen Omalley
For Omalley Trust, its Trustee.

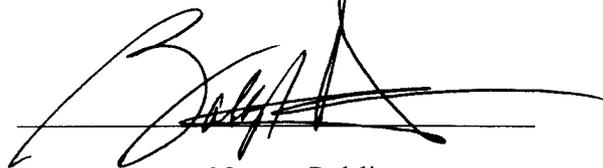
STATE OF ARIZONA)

) ss.

County of Gila)



The foregoing open space easement was acknowledged before me this 7 day of July, 2016, by Donna Cincely, the 7 of July, an Arizona corporation, for and on behalf of said corporation



 Notary Public

My Commission Expires:

Jan 9, 2018

LEGAL DESCRIPTION OF
AN OPEN SPACE EASEMENT
ON THE NORTH SIDE OF
AMERICAN GULCH

An Open Space Easement over a parcel of property located in the northeast quarter of Section 9, T 10 N, R 10 E, Gila and Salt River Meridian more particularly described as follows:

Commencing at the northeast corner of Section 9, T 10 N, R 10 E, Gila and Salt River Meridian;

THENCE, S 00°27'33"E, 364.81 feet;

THENCE, S 89°19'45"W, 259.40 feet;

THENCE, S 00°45'35"E, 9.51 feet to a point on the south right of way line of Main Street, said point also be a point on the north line Parcel One of the Final Plat of Sawmill Crossing as recorded as Map No. 728, Gila County Recorder's Office, Gila County, Arizona;

THENCE, N 89°59'22"W along said south right of way line and along said north line of Parcel One a distance of 656.88 feet to the northeast corner of Lot 4 of said Sawmill Crossing plat, said point also be the northwest corner of said Parcel One;

THENCE S 00°15'11"W along the west line of said Parcel One and the east line of said Lot 4 a distance of 67.04 feet to the TRUE POINT OF BEGINNING;

THENCE continuing, S 00°15'11"W along the west line of said Parcel One and the east line of said Lot 4 a distance of 24.85 feet to the southeasterly corner of said Lot 4;

THENCE, S 40°20'21"W along the southerly line of said Lot 4 a distance of 214.98 feet to a point of non-tangent curvature with a circular curve concave to the northwest and whose radius point bears N 42°03'19"W a distance of 173.17 feet;

THENCE, southwesterly along the arc of said curve a distance of 68.80 feet to a point of non-tangency, said point being on the west line of said Lot 4;

THENCE, N 00°27'27"W along the west line of said Lot 4 a distance of 17.01 feet to a point on a non-tangent curve whose radius point bears N 21°16'48"W a distance of 157.17 feet;

THENCE, northeasterly along the arc of said curve a distance of 55.95 feet to a point of non-tangency;

THENCE, N 40°20'21"E 232.86 feet to the TRUE POINT OF BEGINNING.

The above described easement encompassing 4,581.81 square feet, more or less.