

ORDINANCE NO. 2016-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF,
ABANDONING WHATEVER RIGHT, TITLE OR INTEREST IT HAS IN AN
APPROXIMATELY 82 SQUARE FOOT PORTION OF PUBLIC RIGHT-OF-WAY
GENERALLY LOCATED AT THE NORTHWEST CORNER OF ASPEN
AVENUE AND BEAVER STREET TO FMH ENTERPRISES, LLC**

RECITALS:

WHEREAS, A.R.S. Sec. 28-7201 *et seq.* provides that a city may dispose of a roadway or a portion thereof when said property or portion thereof is no longer necessary for public use; and

WHEREAS, the City Council has considered the proposed abandonment of the portion of roadway legally described and depicted in Exhibit "A" attached hereto (the "Abandoned Parcel"); and

WHEREAS, the City Council finds that the Abandoned Parcel is no longer necessary for public use as a roadway; and

WHEREAS, pursuant to A.R.S. Sec. 28-7205, title to the Abandoned Parcel will vest in the owner of the land abutting the Abandoned Parcel, FMH Enterprises, LLC;

WHEREAS, as compensation for the Abandoned Parcel, FMH Enterprises, LLC has agreed to either deduct the assessed value of the Abandoned Parcel from the purchase price of property along Humphreys Street that is being sold to the City or, if the City does not purchase the property along Humphreys Street, make payment to the City in the amount of the assessed value;

WHEREAS, the City Council finds that consideration and other public benefit commensurate with the value of the Abandoned Parcel, giving due consideration to its degree of fragmentation and marketability, has been provided to the City by the owner of the abutting property, FMH Enterprises, LLC.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF
AS FOLLOWS:**

SECTION 1. That subject to the reservations below, the Abandoned Parcel is abandoned as a public right-of-way and whatever title the City of Flagstaff has in the Abandoned Parcel vests in the abutting property owner, FMH Enterprises, LLC.

SECTION 2. That all of the following interests are reserved to the City of Flagstaff and excluded from this abandonment:

- 2.1 Those easements, if any, running over, on or through the Abandoned Parcel as of the effective date of this abandonment.
- 2.2 Such rights and interests, if any, as are required to be reserved by A.R.S. Sec. 28-7210 and A.R.S. Sec. 28-7215.

SECTION 3. The City Clerk is hereby directed to cause this Ordinance to be recorded in the Office of the Coconino County Recorder, but in no event earlier than thirty (30) days following the date that this Ordinance is passed and adopted. The abandonment described in this Ordinance will become effective when the Ordinance is recorded.

SECTION 4: That the City Manager, the City Attorney, the City Clerk, the Finance Director, the Assistant to the City Manager for Real Estate, or their designees or agents, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

SECTION 5: That if any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the City Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of February, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT A

The following is a description of a parcel of land, being a portion of Lot 1 of Block 2A of The Townsite of Flagstaff, File 1 Map 1 and Book 1 Page 16, Coconino County Records, situate in the SE¼ section 16, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

Beginning at the southeast corner of said Lot 1, Block 2A, which is a beginning of a non-tangent curve, concave to the northwest, having a radius of 15.00 feet, and to which a radial line bears South 20°52'32" West;

Thence southerly and westerly along said curve a distance of 23.57 feet through a central angle of 90°02'54" to a south corner of said Lot 1;

Thence North 65°51'05" East along the existing Right-of-Way a distance of 21.22 feet to the Point of Beginning.

Said parcel of land contain 64 sq. ft. of land more or less as shown on Exhibit B which by this reference is made a part hereof

Right-of-Way Abandonment



Expires: 3/31/18

Mogollon Engineering and Surveying, Inc.

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