

TOWN OF PINETOP-LAKESIDE

RESOLUTION NO. 14-1310

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, AMENDING PRIOR RESOLUTION NO. 130 (NOW 87-130) WHICH ABANDONED RIGHT-OF-WAY FROM THE TOWN TO BLUE RIDGE UNIFIED SCHOOL DISTRICT #32, IN ORDER TO ACCOMMODATE THE CONSTRUCTION OF PEDESTRIAN IMPROVEMENTS ALONG STATE ROUTE 260 (WHITE MOUNTAIN BOULEVARD); AND APPROVING A PEDESTRIAN AND BICYCLE EASEMENT AGREEMENT.

WHEREAS, on March 21, 1986, the Arizona Transportation Board, by Resolution 86-03-A-24 in accordance with Arizona Revised Statutes, abandoned a portion of the right-of-way for State Route 260 to the Town of Pinetop-Lakeside (“Town”); and

WHEREAS, on December 3, 1987 the Mayor and Town Council of Pinetop-Lakeside approved and adopted Resolution No. 130 (now designated as Resolution No. 87-130 in the Records of the Town Clerk), which abandoned fifty feet (50’) in width of the right-of-way along State Route 260 (White Mountain Boulevard) from the Town to the owner of Assessor Parcel Number (“APN”) 212-30-025, Blue Ridge Unified School District #32 (“BRUSD”), extending the length of said parcel adjoining the right-of-way; and

WHEREAS, Resolution No. 130 (No. 87-130) (Exhibit “1”) reserved ten feet (10’) in width adjoining and behind the State right-of-way line running the length of APN 212-03-025 for future utility and pedestrian easements; and

WHEREAS, the owner of assessor parcel number 212-30-025, BRUSD, executed (as a condition to the abandonment) an “Agreement of Acceptance of Restrictions of Abandonment” (Exhibit “2”), which was recorded along with Town of Pinetop-Lakeside Resolution No. 130 (No. 87-130) at Docket 897, pages 864 to 869 inclusive, on December 21, 1987 in the Records of the Navajo County Recorder (copies of both recorded documents are attached hereto and by reference incorporated herein); and

WHEREAS, the Town and the Arizona Department of Transportation desire to construct improvements to accommodate safer pedestrian and bicyclist use in the area adjacent to Blue Ridge Schools, but further removed from the retained ten-foot (10’) wide easement area; and

WHEREAS, Resolution No. 130 (No. 87-130) of the Town of Pinetop-Lakeside and the “Agreement of Acceptance of Restrictions of Abandonment” executed by BRUSD should be amended to allow the construction of the planned improvements with the continued maintenance and repair being the responsibility of the Town of Pinetop-Lakeside; and

WHEREAS, this amendment to Resolution No. 130 (No. 87-130) will not be effective and is not allowed to be recorded except with a properly executed "Approval and Acceptance of Amendment—2014" (Exhibit "3") by the affected land owner, BRUSD; and

WHEREAS, the planned eight foot (8') pathway is to be located within a fifteen foot (15') wide pedestrian and bicycle easement, location for which must be approved by BRUSD and will be in accordance with and subject to the "PEDESTRIAN AND BICYCLE EASEMENT AGREEMENT" which is attached hereto as Exhibit "4".

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Pinetop-Lakeside hereby amend Resolution No. 130 (No. 87-130) of the Town of Pinetop-Lakeside and amend the "Agreement of Acceptance of Restrictions of Abandonment" executed by BRUSD by adopting the amendments as follows:

1. Town of Pinetop-Lakeside Resolution No. 130 (No. 87-130) is amended by:
a) adding to the third "WHEREAS" paragraph, third line, after the word "landscaping", the segment ", pedestrian/bicycle improvements," and b) in the final paragraph on page 1, changing the width of the retained "future" pedestrian and bicycle pathway width from ten feet (10') to up to fifteen feet (15') that can be located within the fifty feet (50') area abandoned to parcel 212-30-025A but the location must be approved by BRUSD and in accordance with the attached "Pedestrian and Bicycle Easement Agreement" (Exhibit "4").

2. The "Agreement of Acceptance of Restrictions of Abandonment" executed on December 1, 1987 recorded at Docket 897 pages 868 and 869 records of Navajo County is amended as follows:

A. by revising stipulation No. 5 to read "5. Except as otherwise provided in that certain Pedestrian and Bicycle Easement Agreement entered into between property owner and the Town, that the perpetual maintenance of such improvement shall be the responsibility of the current and future property owner or owners of the assessor number 213-30-025A, Pinetop-Lakeside, Navajo County, Arizona."

B. by deleting stipulation No. 6.

C. by revising the parcel reference number in stipulation No. 7 to "212-30-025A".

3. The attached "Approval and Acceptance of Amendment—2014" must be approved and executed by the BRUSD Board before this Resolution may be recorded, and will be recorded at the same time as this Resolution.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Pinetop-Lakeside, this 15th day of May, 2014.

TOWN OF PINETOP-LAKESIDE

DARA VANESIAN, Vice Mayor

ATTEST:

LEAH CHAVEZ, Town Clerk

APPROVED AS TO FORM:

W. KENT FOREE, Town Attorney