

AGENDA ITEM #: \_\_\_\_\_

DATE: July 13, 2020

CAR #: 2020-6993



## CITY COUNCIL ACTION REPORT

**SUBJECT:** Authorize the acceptance of a Temporary Non-Exclusive Easement to maintain drainage facilities upon the approval of the construction plans for Elwood Street and authorize the City Manager to execute documents, of which authorization to execute documents shall expire on December 31, 2020.

**STAFF PRESENTER(S):** Linda Beals, Real Estate Coordinator

**OTHER PRESENTER(S):** None

**Summary:** Authorize the acceptance of a Temporary Non-Exclusive Easement to Maintain Drainage Facilities (the "Drainage Easement") for the maintenance of drainage improvements along the north side Elwood Street west of Estrella Parkway, upon the approval of the construction plans for Elwood Street, and authorize the City Manager to execute the documents upon approval of the construction plans for Elwood Street.

**Recommendation:**

Authorize the acceptance of a drainage easement as described in the Temporary Non-Exclusive Easement to Maintain Drainage Facilities attached hereto (the "Drainage Easement"), following the approval of the construction plans for Elwood Street and provided the City receives the original Drainage Easement executed by the property owner, which shall be in the form attached hereto modified solely to include the information missing from the Drainage Easement attached hereto, before December 31, 2020; and provided the original executed Drainage Easement described herein is received before December 31, 2020, authorize the City manager to execute the original Drainage Easement accepting the easement on behalf of the City of Goodyear and the Memorandum of Termination of Non-Exclusive Drainage Facilities attached as an exhibit to the Drainage Easement.

**Fiscal Impact:** There will be no fiscal impact to the city in the fiscal year 2021 or future years related to the issuance of the Drainage Easement.

### Background and Previous Actions

Per the terms of the Development Agreement for Elwood Logistics Center by and between Elwood Logistics Center, LLC, a Delaware limited liability company ("Elwood Logistics"), and the City of Goodyear, approved by Council on April 22, 2019 and recorded on June 6, 2019 in the Official Records of Maricopa County, Arizona as Instrument No. 2019-0421761 (the

“Elwood Logistics Development Agreement”), Elwood Logistics, as the owner of the property commonly known as Elwood Logistics Center as described in the Elwood Logistics Development Agreement, is required to construct certain infrastructure improvements within the Elwood Street alignment that will result in full street improvements being completed within the section of Elwood Street from Sarival Avenue to Estrella Parkway (the “Elwood Improvements”).

Certain of the Elwood Improvements are to be constructed on the property owned by GY 160 Land Sub 3, LLC, an Arizona limited liability company (“Sub 3”). Sub 3 has agreed to provide a drainage easement in the form reflected in the Temporary Non-Exclusive Easement to Maintain Drainage Facilities (the "Drainage Easement") attached hereto, modified only to include the information that is missing from the form. The Drainage Easement is required for the construction and maintenance of drainage facilities required to retain storm water runoff from the Sub 3 property and from the adjacent section of Elwood Street that is to be constructed.

The terms of the Drainage Easement require the city to maintain the drainage facilities upon completion of the drainage facilities until such time the Sub 3 property is developed and permanent drainage facilities are installed.

Further, per the terms of the Drainage Easement the city is required to execute a Memorandum of Termination of Non-Exclusive Drainage Facilities to be provided to Fidelity National Title Agency to be held in escrow until the conditions of been met to terminate the Drainage Easement.

## **Staff Analysis**

The Elwood Logistics Development Agreement requires the construction of the Elwood Improvements, and the Drainage Easement is necessary for the development of the required improvements.

## **Attachments**

Temporary Non-Exclusive Easement to Maintain Drainage Facilities