

AGENDA ITEM # _____

DATE: April 28, 2014

COAC NUMBER: 14-5260

**CITY OF GOODYEAR
CITY COUNCIL ACTION FORM**

SUBJECT: Interim Well Sharing Agreement for use of a city non-potable well located on the former Duncan Farms property

STAFF PRESENTER: Linda R. Beals
COMPANY: Cactus Lane Farms and CK5 Investment
CONTACT: Charlie Montgomery and Craig Kennedy

RECOMMENDATION:

Approve the issuance of an Interim Well Sharing Agreement “Agreement” for one year with four additional, optional, one-year terms for the non-potable Well located southwest of Indian School Road and Cotton Lane.

PURPOSE:

The Interim Well Sharing Agreement provides the ability for continued use of the non-potable well water serving two properties located on the northwest side of Indian School Road and Cotton Lane, as well as the City property located on the southwest side of the intersection. The Agreement provides for payments from the Well Users for repairs to the well, along with the cost of the water delivery services. (Linda R. Beals, Real Estate Coordinator)

BACKGROUND AND COMMUNITY BENEFIT:

As previously noted, there is a non-potable well located on the City’s property located at the southwest corner of Indian School Road and Cotton Lane “Duncan Farms Well” or “Well”. Historically, several parcels of land shared the water produced from this Well for their individual operations for non-potable purposes. The Well is in a state of disrepair and requires improvement to remain operational. The Well is not currently in the City’s municipal water system and there is currently is no municipal water system in place in the area.

The City has worked with the Duncan Farms Well Water Users “Water Users” to develop this Agreement which will provide for some necessary repairs to the Well to keep it functioning. The Well is to be used only for non-potable uses for a limited period of time, allowing the Water Users time to obtain a replacement source of water for the individual uses. Cactus Lane Farms is currently operating the Well and will continue to be responsible for the day to day operation of the Well.

PREVIOUS ACTIONS AND DISCUSSION:

The City had previously leased the rights to the Duncan Farms Well to Duncan Family Farms, who had operated and maintained the Well and provided the water to the Water Users. The City is in the process of renegotiating the agricultural lease with Duncan Family Farms and has agreed to remove the Well from the lessee’s obligations, since they are no longer using the site for their farm operations headquarters. The removal of the Well maintenance and operations from their proposed lease has created the need for the City to enter into an Agreement with the Water Users.

Staff is recommending the approval of the Agreement with Cactus Lane Farms, a general partnership and CK5 Investment, LLC, an Arizona limited liability company.

FISCAL ANALYSIS:

The Agreement requires the City to make repairs to the Well in the amount of \$10,711.46. The City will be responsible for 50% of this amount (\$5,355.73) and the agreement requires the payments of 45% (\$4,820.16) from Cactus Lane Farms and 5% (\$535.57) from CK5 Investment. These proportions are based upon the estimated usage amounts by the Water Users since there is no metering on the Well. Staff is recommending the City cover half of the necessary repairs as the well is a city asset and address safety concerns. There are funds available within the City's current utility budget to cover the City's share of the project (Acct. No. [411-5140-441-23-25](#)).

During the term of this agreement, the parties will be responsible for repairs that do not exceed \$5,000.00 in the same proportions as the initial repair. Repairs in excess of \$5,000.00 will require the consent of the parties. Further, the Water Users are also responsible for the payment \$200 each, per month (paid in advance, \$600 twice a year) to the City for cost of water delivery services.

Staff has met with all property owners to explain the necessary repairs to the non-potable well, purpose of the well, and terms of the agreement. All parties have agreed to the terms in the Interim Well Sharing Agreement.

ATTACHMENTS:

Interim Well Sharing Agreement
Location Map