

RESOLUTION NO. 17-1843

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING A TEMPORARY DRAINAGE EASEMENT ON PROPERTY THAT IS TO BE CONVEYED TO RP PV VI LLC, PROVIDING DIRECTION REGARDING THE RECORDATION OF THE RESOLUTION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the power vested in the city of Goodyear (the “City”) by its Charter and pursuant to A.R.S. § 9-499.01, the Mayor and Council of the city of Goodyear have the power to establish temporary drainage easements on city owned property; and

WHEREAS, the City owns a certain parcel of real property at generally located at the southwest corner of Indian School Road and Cotton Lane (the “City Property”); and

WHEREAS, the City entered into that certain document, the Agreement for Sale and Purchase of Real Estate by and between AI Arizona DC, LLC, a Delaware limited liability company and the city of Goodyear (the “Aldi/City Agreement”) for the sale by the City to Aldi of a portion of the City Property; and

WHEREAS, the City entered into that certain document, the Agreement for Sale and Purchase of Real Estate between RP PV VI LLC and the city of Goodyear (the RPPV/City Agreement), for the sale by the City to RP PV VI LLC of the remainder of the City Property; and

WHEREAS pursuant to the terms of the Aldi/City Agreement and a separate agreement between AI Arizona DC, LLC and RP PV VI LLC, RP PV VI LLC is required to construct certain Offsite Infrastructure improvements that requires the establishment of public utility easements, temporary drainage easements and various utility easements; and

WHEREAS, the Offsite Infrastructure improvements to be constructed includes half-street improvements to sections of Indian School Road and to sections of Cotton Lane adjacent to the City Property; and

WHEREAS, pursuant to the city of Goodyear Engineering Design Standards and Policies Manual developments within the City are required to provide on-site retention sufficient to hold 100% of the storm water on their property from a 100-year 6-hour storm event and storm-water run-off from the adjacent roadways; and

WHEREAS, until RP PV VI LLC develops the property it is acquiring from the City, a temporary drainage easements are needed to retain storm water runoff within the sections of Cotton Lane and Indian School Road that are to be constructed.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. The Mayor and Council of the city of Goodyear find and determine that it is in the interest of the public health, safety and welfare of the City to establish, for the benefit of the public two temporary drainage easements in the locations described and depicted in Exhibit “A”, which is attached hereto and incorporated herein by reference.

SECTION 2 The Mayor and Council of the city of Goodyear hereby declares the establishment of temporary drainage easement on, over, under, across, above and through the real property described in Exhibit “A” attached hereto and incorporated herein by this reference (the “Easement Area”). The purpose of the easement is for the construction, installation, use, maintenance, repair, replacement and operation of surface and subsurface storm water channels, culverts, retention/detention areas and other drainage facilities and all related facilities and equipment (collectively the “Drainage Improvements”) and for the drainage, diversion, acceptance of water, use and/or storage of storm water runoff from the roadways adjacent to the property described in Exhibit “B” attached hereto and by reference incorporated herein. The easement granted herein shall include the right of reasonable ingress and egress with respect to the Drainage Improvements as may be required to construct, install, maintain and operate the same. Unless replacement Drainage Improvements are constructed that are capable of accommodating the storm water run-off from the roadways adjacent to the property described in Exhibit “B”, no buildings or structure or other above ground improvements other than the Drainage Improvements and paving, curb, gutter and other similar street improvements shall be constructed within the Easement Area that would impede the flow of water over, under or through the Easement Area or that would materially reduce the retention capacity of the Easement Area.

The temporary drainage easement established herein shall terminate when the owner of the property described in Exhibit “B” constructs permanent drainage improvements that will accommodate 100% of the storm water on the property described in Exhibit “B” from 100-year 6-hour storm event and storm-water run-off from the roadways adjacent to the property described in Exhibit “B” as approved by the City Engineer or his/her designee. The City Manager shall execute documentation in a form reasonably acceptable to the City Attorney to terminate this temporary drainage easements upon completion of the permanent Drainage Improvements.

SECTION 3. The Mayor and Council of the city of Goodyear hereby direct the City Manager or his/her designee to record or cause to be recorded this Resolution declaring a temporary drainage easement as part of the closing in which AI Arizona DC, LLC consummates the purchase of certain real property owned by the city of Goodyear pursuant to that certain Agreement for Sale and Purchase of Real Estate by and between AI Arizona DC, LLC, a Delaware limited liability company and the city of Goodyear approved by the Mayor and Council of the city of Goodyear on by Resolution 17-1813 on June 5, 2017.

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY DRAINAGE EASEMENT

All that certain lot, tract, or parcel of land, situated in a portion of the Northeast Quarter of Section 26, Township 2 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found City of Goodyear brass cap flush for the Northeast corner of said Section 26, from which a found aluminum cap for the East Quarter corner of said Section 26 bears South 00 deg. 17 min. 08 sec. West (Basis of Bearings) - 2641.42 feet;

THENCE South 00 deg. 17 min. 08 sec. West along the East line of the Northeast Quarter of said Section 26, a distance of 1675.52 feet;

THENCE North 89 deg. 42 min. 52 sec. West departing said East line, a distance of 55.00 feet to the **TRUE POINT OF BEGINNING**;

THENCE North 89 deg. 59 min. 49 sec. West, a distance of 144.83 feet;

THENCE North 00 deg. 01 min. 24 sec. East, a distance of 136.05 feet;

THENCE South 89 deg. 42 min. 52 sec. East, a distance of 145.45 feet;

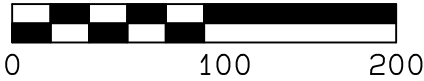
THENCE South 00 deg. 17 min. 08 sec. West being 55.00 feet West of and parallel with the East line of the Northeast Quarter of said Section 26, a distance of 135.34 feet to the **POINT OF BEGINNING**, containing 19,695 square feet or 0.452 acres of land, more or less.

Exhibit attached and made a part hereof.



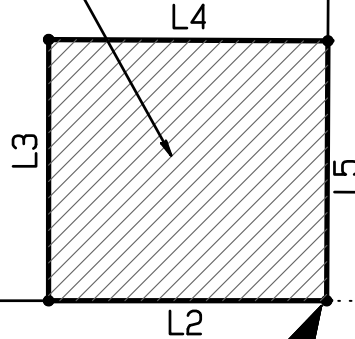
EXPIRES 3/31/2019

GRAPHIC SCALE 1"=100'



CITY OF GOODYEAR
2003-0588322, MCR

**TEMPORARY DRAINAGE
EASEMENT**
19,695 SQ. FT.,
0.452 ACRES



FUTURE R/W LINE

2
N. COTTON LANE 1675.52'
EAST LINE OF THE NE 1/4 OF SEC. 26, T2N, R2W
S 00°17'08" W 2641.42'

**POINT OF
COMMENCING**

BASIS OF BEARINGS

LINE TABLE

LINE	BEARING	DISTANCE
L1	N89°42'52"W	55.00'
L2	N89°59'49"W	144.83'
L3	N00°01'24"E	136.05'
L4	S89°42'52"E	145.45'
L5	S00°17'08"W	135.34'

**POINT OF
BEGINNING**

RP PV VI, LLC
2010-0605237, MCR

33' R/W PER
BK. 3 OF ROAD MAPS, PG. 32, MCR
BK. 5 OF ROAD MAPS, PG. 34, MCR

965.90'

MONUMENT NOTES

- 2 FOUND CITY OF GOODYEAR BRASS CAP
FLUSH NORTHEAST CORNER OF SECTION
26, T2N R2W, AT THE INTERSECTION OF
INDIAN SCHOOL ROAD AND COTTON LANE
- 3 FOUND ALUMINUM CAP WEST QUARTER
CORNER OF SECTION 25, T2N, R2W,
ALONG COTTON LANE

EXHIBIT "A"

**TEMPORARY DRAINAGE EASEMENT
PORTION OF THE NORTHEAST QUARTER OF SECTION 26, T2N, R2W
OF THE G.&S.R.B.&M., MARICOPA COUNTY, ARIZONA**

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**GOODWIN AND
MARSHALL INC.**

CIVIL ENGINEERS ~ PLANNERS ~ SURVEYORS
2705 S. ALMA SCHOOL RD. #2, CHANDLER, AZ 85286
(602) 218-7285

Scale: 1"=100'

Date: 11/14/2017

Job No.: 10590A

Drafted: B.A.J.

Checked: J.N.R.



EXPIRES 3/31/2019

EXHIBIT "B"

All that certain lot, tract, or parcel of land, situated in a portion of the Northeast Quarter of Section 26, Township 2 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit,

COMMENCING at a found City of Goodyear brass cap flush for the Northeast corner of said Section 26, from which a found aluminum cap for the East Quarter corner of said Section 26 bears South 00 deg. 17 min. 08 sec. West (Basis of Bearing) – 2641.42 feet,

THENCE South 00 deg. 17 min. 08 sec. West along the East line of the Northeast Quarter of said Section 26, a distance of 1675.25 feet,

THENCE North 89 deg. 50 min. 49 sec. West departing said East line, a distance of 55.00 feet to the TRUE POINT OF BEGINNING,

THENCE North 89 deg. 59 min. 49 sec. West, a distance of 1039.01 feet,

THENCE North 00 deg. 17 min. 08 sec. East, a distance of 444.10 feet,

THENCE South 89 deg. 59 min. 41 sec. East, a distance of 1039.01 feet,

THENCE South 00 deg. 17 min. 08 sec. West, being 55.00 feet West of and parallel with the East line of the Northeast Quarter of said Section 26, a distance of 444.07 feet to the POINT OF BEGINNING, containing 461,403 square feet or 10.592 acres of land, more or less.