

**CITY OF GOODYEAR
COUNCIL ACTION REPORT**

SUBJECT: Acceptance of Riggs Road Special Warranty Deeds	STAFF PRESENTER: Linda Beals, Real Estate Coordinator CASE NUMBER: None OTHER PRESENTER: None
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PROPOSED ACTION:

Accept the donation of right of way for Riggs Road by special warranty deeds from Madeira-Maricopa, LLC, a Delaware limited liability company and NNP III-EMR 4, LLC, a Delaware limited liability company.

BACKGROUND AND PREVIOUS ACTIONS:

In February 2000, the city entered into an Emission Reduction Credit Option Agreement with Pinnacle West Energy Corporation “PWE”, a parent company to Arizona Public Service Company “APS”, to reduce PM-10 (Particulate Matter with a diameter up to 10 microns) emissions on up to 16 miles of unpaved roads and /or alleys within the city of Goodyear that are within the PM-10 Serious Nonattainment Area. The benefit of this agreement to APS was that paving or dust control measures would generate PM-10 emission reduction credits that would be used by PWE to provide offsets for PWE's modification to add two new generating units to the West Phoenix Power Plant operated by APS. Maricopa County Environmental Services Department would review and approve all paving projects and the calculation of the PM-10 emission reduction credits generated from the projects.

The city identified the unpaved roads and alleys for paving projects, provided PWE with access to these roads and facilitated the paving projects, committing to maintain the roads and alleys following the paving projects for a minimum of 15 years to ensure the permanence of the PM-10 emission reduction credits. These roads included five miles of Riggs Road west of Bullard Avenue, 1.5 miles of Bullard Avenue south of Riggs Road that included a Box Culvert, alleys in Historic Goodyear, and a segment of Bullard Avenue north of I-10 that has since been improved to meet city roadway standards. For approximately fourteen years from the time of original construction of these roads to September 2014, the city performed routine maintenance as needed in order to fulfill the obligations in the agreement with PWE.

The Cost Sharing agreement between APS and the city expired on March 3, 2015. In September 2014, a 100-year storm event caused significant damage to Riggs Road and Bullard Avenue, which included a low flow crossing on Bullard Avenue immediately south of Riggs Road that had been constructed as part of the APS agreement with the city. The cost of storm damage repairs and construction of a concrete low flow crossing on Bullard Avenue was \$120,000, which was not available in the city’s annual roadway maintenance budget to fund the repairs. In August 2015, staff brought forward a council action that would allow the city and APS to share

the cost to construct improvements to the low flow crossing and maintain compliance with the February 2000 agreement. The improvements were completed in November 2015.

In December 2016, to ensure future integrity of the PM-10 energy reduction credits provided by the city in the 2000 Emission Reduction Credit Option Agreement, APS and the city entered into an Emission Reduction Credit Maintenance and Cost Sharing Agreement to continue the partnership consistent with the terms in the original agreement to equally share the cost for roadway improvements and ongoing maintenance. The city and APS agreed that these obligations will continue for an additional 15 years, which satisfies Rule 242 of the Maricopa County Air Pollution Control Regulations.

City staff worked with the Newland Real Estate Group “Newland” in order to obtain a right of entry to complete the low flow crossing repairs in 2016 and as part of that discussion and right of entry Newland agreed to donate the property they control which are required for the Riggs Road project. These portions of the rights of way are owned by Madeira-Maricopa, LLC, a Delaware limited liability company “Madeira” and NNP III-EMR 4, LLC, a Delaware limited liability company “NNP”.

STAFF ANALYSIS:

In order to meet the obligations set forth in the 2016 Emission Reduction Credit Maintenance and Cost Sharing Agreement the city needs to acquire all of the privately owned right of way for Riggs Road. As agreed, Newland has provided the signed special warranty deeds to donate portions of the Riggs Road property owned by Madeira and NNP. These donations account for approximately 90 percent of the road right of way needed for the project. City staff is in the initial stages of the right of way acquisition process for the remaining property needed to complete the project.

FISCAL ANALYSIS:

There will be no additional fiscal impact to the city in fiscal year 2018 or future years, related to the donations of the Riggs Road rights of way beyond the fiscal impact created by the agreements with APS and PWE.

RECOMMENDATION:

City staff recommends the approval of the acceptance of the special warranty deeds from Madeira and NNP for portions of Riggs Road.

ATTACHMENTS:

Special Warranty Deeds from Madeira (6)
Special Warranty Deeds from NNP (13)
Aerial Map Depicting Road R/W Ownership