

## **RESOLUTION NO. 2019-1939**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, VACATING/ABANDONING CERTAIN STREETS AND RELINQUISHING ALL INTEREST IN CERTAIN PUBLIC UTILITY EASEMENTS PREVIOUSLY DEDICATED TO THE CITY IN THE PLAT FOR AIRPORT COMMERCENTER SUBDIVISION NO. 4; PROVIDING FOR AN EFFECTIVE DATE OF THE ABANDONMENT AND IMPOSING REQUIREMENTS AND CONDITIONS FOR THE ABANDONMENT TO BECOME EFFECTIVE; AND IMPOSING A DEADLINE FOR COMPLETION OF THE ABANDONMENT.

WHEREAS, in December 1983 the Goodyear City Council approved a final plat for that certain parcel of land known as the Airport Commercenter Subdivision No. 2, which was recorded on December 8, 1983 in the records of the Maricopa County Recorder at Book 259, Page 44 and is generally located west of El Cielo and south of Maricopa County 85 (“Subdivision No. 2 Plat”); and

WHEREAS, in June, 1985 the Goodyear City Council approved a final plat for that certain parcel of land known as the Airport Commercenter Subdivision No. 4, which was recorded on August 8, 1985 in the records of the Maricopa County Recorder at Book 286, Page 20 and is generally located at the northeast corner of Bullard Avenue and Broadway Road (“Subdivision No. 4 Plat”); and

WHEREAS, the Subdivision No. 2 Plat and the Subdivision No. 4 Plat included dedications of the right-of-way for the streets identified in the two plats and the dedications of the public utility easements (“PUE”) identified in the two plats; and

WHEREAS, all of the lots (Lots 1 through 40 inclusive) within the Subdivision No. 2 Plat and parcels A and B within the Subdivision No. 4 Plat were recently sold, and the new owner (hereinafter referred to as the “Property Owner”) is in the process of re-platting the property it acquired into one plat that will include all of the lots and tracts within the Subdivision No. 2 Plat and Parcels A and B of the Subdivision No. 4 Plat (“PHX 10-11 Phase 1 Plat”); and

WHEREAS, the consolidation of the lots and tract as reflected in the PHX 10-11 Phase 1 Plat requires the abandonment of certain streets and public utility easement dedicated in the Subdivision No. 2 Plat and in the Subdivision No. 4 Plat; and

WHEREAS, the Property Owner cannot finalize the PHX 10-11 Phase 1 Plat until the property owner and city agree upon the infrastructure the Property Owner must construct or cause to be constructed for the city to provide water and wastewater service to the property; and

WHEREAS, even though the justification for the abandonment of the streets and the relinquishment of the easements is the consolidation of existing lots that will occur upon the recordation of the re-plats that are being processed and even though the re-plat consolidating the lots and tract cannot be approved or recorded until the water and wastewater infrastructure requirements have been resolved, the City, in anticipation of such final plat, approved Resolution No. 2019-1931

conditionally approving the abandonment of the right-of-way in the Street Abandonment Area and the relinquishment of the public utility easements in the PUE Abandonment Area; and

WHEREAS, pending the completion of the PHX 10-11 Phase 1 Plat, the Property Owner is desirous of proceeding with construction on parcels A and B within the Subdivision No. 4 Plat and is in the process of preparing a minor land division to combine parcels A and B into one parcel ("Minor Land Division"); and

WHEREAS, the consolidation of Parcels A and Parcel B in Subdivision No. 4 Plat requires the abandonment of Airport Way, as depicted and legally described in Exhibit A attached hereto and incorporated herein by this reference (the "Street Abandonment Area"), and the relinquishment of the public utility easements adjacent to the east and west side of Airport Way and the adjacent to the south side of La Estrella, as depicted and legally described in Exhibit B attached hereto and incorporated herein by this reference (the "PUE Abandonment Area"), which were dedicated in Subdivision No. 4 Plat; and

WHEREAS, the Street Abandonment Area described in Exhibit A and the PUE Abandonment Area described in Exhibit B are included within the legal descriptions of the streets and public utility easements that were to be abandoned by Resolution No. 2019-1931; and

WHEREAS, no improvements have been constructed within the Street Abandonment Area, and city staff has received clearances from utility providers providing service in the area that there are no utility lines within the Street Abandonment Area; and

WHEREAS, city staff has received clearances from utility providers providing service in the area that there are no utility lines within the PUE Abandonment Area; and

WHEREAS, city staff has confirmed that the abandonment of the right-of-way within the Street Abandonment Area will not impair access to any of the parcels and tracts within the Subdivision No. 4 Plat; and

WHEREAS, city staff has confirmed that the public utility easements within the PUE Abandonment Area being relinquished are not needed to provide utility services to any of the parcels and tracts within the Subdivision No. 4 Plat; and

WHEREAS, pursuant to A.R.S. § 9-402, the City Council of the City of Goodyear is vested with the power to dispose of easements owned by the City that are no longer needed; and

WHEREAS, pursuant to A.R.S. § 28-7202, the Goodyear City Council is vested with the power to dispose of streets owned by the City that are not necessary for public uses as a roadway; and

WHEREAS, the City Council finds that neither the Street Abandonment Area nor the PUE Abandonment Area are necessary for public use; and

WHEREAS, the City Council finds that consideration and other public benefit commensurate with the value of the City's interest in the Street Abandonment Area and the PUE Abandonment Area,

giving due consideration to its degree of fragmentation and marketability, will be provided to the City by the owners of the abutting property in the form of tax revenues gained by the development of the abandoned property, the elimination of the City's responsibility for such rights-of-ways and relief from potential liability for property damages, injury or death that may occur in the abandoned property;

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

SECTION 1. ABANDONMENT

Subject to the conditions and requirements below, the right-of-way for the streets depicted and legally described in Exhibit A attached hereto and incorporated herein by this reference and the public utility easements depicted and legally described in Exhibit B attached hereto and incorporated herein by this reference are vacated, abandoned and relinquished and title to the streets transferred pursuant to ARS § 28-7205.

SECTION 2. EFFECTIVE DATE OF THE ABANDONMENT

The vacating/abandonment of the streets and the relinquishment of the public utility easements provided for in Section 1 above shall become effective upon the recordation of this Resolution No. 2019-1939 and its exhibits with the office of the County Recorder for Maricopa County, Arizona.

SECTION 3. RECORDATION OF RESOLUTION

The City Clerk shall record this Resolution No. 2019-1939 with the office of the County Recorder for Maricopa County, Arizona following its adoption by the Mayor and Council of the city of Goodyear, Maricopa County.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Georgia Lord, Mayor

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Darcie McCracken, City Clerk

\_\_\_\_\_  
Roric Massey, City Attorney

## CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

I, the undersigned Darcie McCracken, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Resolution No. 2019-1939 is a true, correct and accurate copy of Resolution No. 2019-1939, passed and adopted at a regular meeting of the Council of the city of Goodyear, Maricopa County, Arizona, held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at which a quorum was present and, by a \_\_\_\_\_ vote, \_\_\_\_\_ voted in favor of said resolution.

Given under my hand and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

seal

City Clerk

**EXHIBIT “A”**  
**Legal Description of Street Abandonment Area**

**EXHIBIT “B”**  
**Legal Description of PUE Abandonment Area**