

**CITY OF GOODYEAR  
COUNCIL ACTION REPORT**

<b>SUBJECT: Approval of Resolution and Development Agreement for Microsoft</b>	<b>STAFF PRESENTER:</b> Rebecca Zook, Engineering Director  <b>CASE NUMBER:</b> None  <b>OTHER PRESENTER:</b> Christopher Baker, Development Services Director
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**PROPOSED ACTION:**

ADOPT RESOLUTION NO. 2019-1942 APPROVING THE DEVELOPMENT AGREEMENT FOR MICROSOFT; DIRECTING THE CITY MANAGER TO EXECUTE THE DEVELOPMENT AGREEMENT FOR MICROSOFT; AUTHORIZING AND DIRECTING ACTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

**BACKGROUND AND PREVIOUS ACTIONS:**

This request is related to the development of approximately 279 acres of real property generally located south of MC 85 and north of Broadway Road, extending east of Bullard Avenue to west of Litchfield Road (the “Property”) owned by Microsoft within the City of Goodyear. The Property was rezoned from Final Planned Area Development with underlying C-2 (General Commercial) (I-1 (Light Industrial Park) and I-2) General Industrial) to the I-1 Light Industrial Park with a PAD overlay by Ordinance 2018-1418, which was adopted on December 17, 2018. In furtherance of the planned consolidation of various lots within the Property, the City Council adopted Resolution 2019-1931 on January 14, 2019 conditionally approving, pending such consolidation, the abandonment of certain undeveloped rights-of-way that run through the Property. And on February 11, 2019, the City Council adopted Resolution 2019-1937 authorizing the issuance of at-risk construction permits to allow the grading and compaction, including excavation and to allow the installation of utility pipes and a foundation.

**STAFF ANALYSIS:**

Microsoft has an accelerated construction schedule and is seeking an agreement that will allow commencement of construction of the Property prior to the completion of various requirements that would otherwise apply to the development of the Property, including the determination by the City of the on-site and off-site water, wastewater and industrial discharge infrastructure that will be needed to serve the Property at full build-out. Microsoft will be responsible for constructing or cause to be constructed any and all on-site and off-site water, wastewater and industrial discharge infrastructure that will allow the Property to be developed.

The City is willing to allow Microsoft to move forward with the construction of its first two buildings and associated on-site engineering work under a self-certification process and before the completion of various requirements that would otherwise be required to be completed before work on Property commenced, in exchange for Microsoft waiving any claims the City may have against the City and indemnifying the City for claims by third-parties related to the City allowing

Microsoft to proceed in this fashion. Depending upon the success of the self-certification process used for the construction of the first two-buildings, the City may allow Microsoft to move forward with the construction of additional buildings on the Property under a self-certification process, upon which would be subject to the same waiver and indemnification referred to above

The Property owner has been advised of the risks of proceeding at risk, including the risk that the results of the water and wastewater studies might require modifications or changes to the work that would be completed pursuant to any at-risk permit(s) granted. However, the Property owner is extremely sophisticated in terms of the construction of its facilities and has the financial resources available to it to handle such additional costs should they occur and is thus willing to undertake such risks. The Property owner is willing to indemnify the City from all claims from third parties and to waive any claims it might have against the City related to this unusual process.

### **FISCAL ANALYSIS:**

Although a fiscal impact analysis has not been conducted on the self-certification process, the city would not be collecting fees for plan review or permitting work for which they are not performing. The city will generate one-time revenues for the issuance of the building permit(s) and will be conducting the associated inspections. In addition, the future development will have an ongoing fiscal impact on the city. Future development is responsible for construction of all public infrastructure necessary to serve the site and will generate one-time revenue for the city through payment of plan review and permits, construction sales tax and development impact fees. Longer term fiscal impacts include increased demands for municipal services, the costs of which may or may not be offset by increased property values/tax levies, city sales tax, state shared revenues and the increased demand for commercial and retail development

### **RECOMMENDATION:**

Staff is recommending that the Mayor and Council approve Resolution 2019-1942 approving the development agreement for Microsoft; directing the City Manager to execute the development agreement for Microsoft; authorizing and directing actions; and providing for an effective date.

### **ATTACHMENTS:**

Resolution No. 2019-1942

Exhibit A – Legal Description

Exhibit B – Development Agreement w-Exhibits

Exhibit 1 – Legal Description

Exhibit 2 – Owners Certification Statement

Exhibit 3 – Professional Record of Statement

Exhibit 4 – Structural Peer Review Certificate

Exhibit 5 – Electrical Peer Review Certificate

Exhibit 6 – Engineering Inspection Items

Exhibit 7 – Inspection and Testing Agreement