

## **RESOLUTION NO. 2019-1947**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY VACATING, ABANDONING AND RELINQUISHING CERTAIN RIGHTS-OF-WAY AND PUBLIC UTILITY AND SIDEWALK EASEMENTS PREVIOUSLY DEDICATED TO THE CITY IN THE PLAT FOR AIRPORT GATEWAY BUSINESS CENTER; PROVIDING FOR AN EFFECTIVE DATE OF THE ABANDONMENT; IMPOSING REQUIREMENTS AND CONDITIONS FOR THE ABANDONMENT TO BECOME EFFECTIVE; PROVIDING FOR THE EXPIRATION OF THE ABANDONMENT APPROVAL; AND PROVIDING AN EFFECTIVE DATE OF THE RESOLUTION.

WHEREAS, in March, 2007 the Goodyear City Council approved the Airport Gateway Business Center final plat ("AGBC Plat"), which was recorded on January 29, 2008 in the records of the Maricopa County Recorder at Book 969 of Maps, Page 24; and

WHEREAS, the AGBC Plat subdivided approximately 26.42 acres of property generally located west of Litchfield Road and north of Yuma Road into ten lots (the "AGBC Property"); and

WHEREAS, the AGBC Plat included dedications of right-of-way for the streets ("ROW") and public utility and sidewalk easements (hereinafter collectively referred to as "PUEs") identified in the AGBC Plat; and

WHEREAS, although no private development has occurred within the AGBC Property, all of the streets that were identified within the AGBC Plat were constructed, City owned water and wastewater utilities were installed within such streets, and private electrical utilities were installed within the PUES as needed for the operation of street improvements; and

WHEREAS, the AGBC Property is in the process of being sold to one purchaser (hereinafter referred to as the "Purchaser"); and

WHEREAS, the Purchaser, with the authorization of the current owner, is in the process of replatting the AGBC Property under the name of Final Plat for Project Rapid; and

WHEREAS, the Final Plat for Project Rapid, which is being presented for approval concurrently with this Resolution, will consolidate all ten (10) lots in the AGBC Plat into two (2) lots; and

WHEREAS, the Final Plat for Project Rapid requires sections of the existing streets and utilities constructed within previously dedicated ROW to be removed and the ROW to be abandoned and that requires the existing electrical utilities installed within previously dedicated PUEs to be removed and the PUEs relinquished; and

WHEREAS, there is a ground water monitoring well and related well infrastructure known as EPA-MW-65A ("Well MW-65A") that was installed by Crane Co., a Delaware corporation ("Crane") within a section of South 140<sup>th</sup> Drive that is to be abandoned; and

WHEREAS, Well MW-65A was installed pursuant to that certain Environmental Access and Remediated Groundwater Reuse Agreement between Crane and the City of Goodyear dated October 22, 2012 (the “City Access Agreement”); and

WHEREAS, the sections of the ROW and PUES to be abandoned and relinquished are located within the area depicted and legally described in Exhibit A attached hereto and incorporated herein by this reference (the “Abandonment/Relinquishment Area”); and

WHEREAS, city staff has confirmed that the ROW and PUES within the Abandonment Relinquishment area will not be needed to provide access or public utility services to the lots within the Final Plat for Project Rapid; and

WHEREAS, city staff has been provided Utility Clearance Letters from all utility companies providing services in the area consenting to the City’s abandonment of the Abandonment/Relinquishment Area, except for clearance letters from Arizona Public Service, which has utilities within the Abandonment/Relinquishment Area and the City of Goodyear, which has water and wastewater utilities within the Abandonment/Relinquishment Area; and

WHEREAS, the City Council finds that the ROWs and PUEs within the Abandonment/Relinquishment Area will not be necessary for public use once the following have occurred:

1. The City Engineer or his/her designee has received Utility Clearance Letters from the remaining companies, other than the City of Goodyear, that provide utility services in the area consenting to the City’s abandonment of the Abandonment/Relinquishment Area; and
2. A permit has been issued by the City for: the removal of the street improvements and the City water and wastewater improvements located within the Abandonment/Relinquishment Area; the construction of the street improvements for the cul-de-sac at the intersection of South Camino Oro and West Grant Street reflected on the Final Plat for Project Rapid; and the installation of additional water and wastewater utility infrastructure within South Camino Oro and West Grant Street, required to be installed as a result of the removal of the water and wastewater improvements within the Abandonment Relinquishment Area; and
3. The City Engineer has received financial assurances in the form of a cash bond or a fully funded escrow account acceptable to the City Attorney or his designee that assures the following; (i) the completion of the removal of the street improvements and the City water and wastewater improvements located within the Abandonment/Relinquishment Area; (ii) the completion of the street improvements for the cul-de-sac at the intersection of South Camino Oro and West Grant Street reflected on the Final Plat for Project Rapid; and (ii) the installation of additional water and wastewater utility infrastructure within South Camino Oro and West Grant Street, required to be installed as a result of the removal of the water and wastewater improvements; and
4. The City Engineer or his/her designee has received an amendment to the City Access Agreement, in a form acceptable to the City Attorney or his/her designee, executed by Crane expressly consenting to the abandonment of the right-of-way and the removal of Well MW-65A from the Crane Access Agreement; and

5. Authority from property owner to record the Final Plat for Project Rapid being approved concurrently with this Resolution.

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 consideration and other public benefit commensurate with the value of the City's interest in the Abandonment/Relinquishment 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 terms and conditions set forth below, the right-of-way for all of the streets ("ROW") and the public utility and sidewalk easements ("PUEs") contained within the area depicted and legally described in Exhibit A 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 and relinquishment of the ROW and PUEs within the area depicted and legally described in Exhibit A attached hereto and incorporated herein by this reference shall become effective upon the recordation of this Resolution No. 2019-1947 and its exhibit with the office of the County Recorder for Maricopa County, Arizona.

SECTION 3. RECORDATION OF RESOLUTION

This Resolution No. 2019-1947 shall not be recorded until all of the following have occurred:

1. The City Engineer or his/her designee has received Utility Clearance Letters from the remaining companies, other than the City of Goodyear, that provide utility services in the area consenting to the City's abandonment of the Abandonment/Relinquishment Area; and

2. A permit has been issued by the City for: the removal of the street improvements and the City water and wastewater improvements located within the Abandonment/Relinquishment Area; the construction of the street improvements for the cul-de-sac at the intersection of South Camino Oro and West Grant Street reflected on the Final Plat for Project Rapid; and the installation of additional water and wastewater utility infrastructure within South Camino Oro and West Grant Street, required to be installed as a result of the removal of the water and wastewater improvements within the Abandonment Relinquishment Area; and
3. The City Engineer has received financial assurances in the form of a cash bond or a fully funded escrow account acceptable to the City Attorney or his designee that assures the following; (i) the completion of the removal of the street improvements and the City water and wastewater improvements located within the Abandonment/Relinquishment Area; (ii) the completion of the street improvements for the cul-de-sac at the intersection of South Camino Oro and West Grant Street reflected on the Final Plat for Project Rapid; and (ii) the installation of additional water and wastewater utility infrastructure within South Camino Oro and West Grant Street, required to be installed as a result of the removal of the water and wastewater improvements; and
4. The City Engineer or his/her designee has received an amendment to the City Access Agreement, in a form acceptable to the City Attorney or his/her designee, executed by Crane expressly consenting to the abandonment of the right-of-way and the removal of Well MW-65A from the Crane Access Agreement; and
5. The City Engineer or his/her designee is prepared and has received direction to record the Final Plat for Project Rapid approved this 4<sup>th</sup> day of March, 2019. The Final Plat for Project Rapid shall be recorded in the office of the County Recorder for Maricopa County, Arizona immediately following the recordation of this Resolution No. 2019-1947.

#### SECTION 4. EXPIRATION OF ABANDONMENT APPROVAL

If this Resolution is not recorded within eighteen (18) months of the date this Resolution is passed and adopted by the Mayor and Council of the city of Goodyear, Maricopa County, then the Resolution shall not be recorded and the ROW and PUES within the area depicted and legally described in Exhibit A attached hereto and incorporated herein by this reference shall not be vacated, abandoned and/or relinquished pursuant to this Resolution, in which case the property owner shall be responsible for reconstructing all improvements that were removed in anticipation of the ROW and PUES within the area depicted and legally described in Exhibit A attached hereto and incorporated herein by this reference being vacated abandoned and relinquished.

## SECTION 5. EFFECTIVE DATE OF RESOLUTION

This Resolution shall become effective upon 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. 2019-1947 is a true, correct and accurate copy of Resolution No. 2019-1947, 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 on following page