

AGENDA ITEM #: \_\_\_\_\_

DATE: October 28, 2019

CAR #: 2019-6807



## CITY COUNCIL ACTION REPORT

**SUBJECT:** Accept Public Utility, Sidewalk and Access Easement along a section of Osborn Rd and Cotton Lane and to authorize revisions to Final Plat of First Park PV 303 Phase 1

**STAFF PRESENTER(S):** Linda Beals, Real Estate Coordinator

**OTHER PRESENTER(S):** None

**Summary:** Authorization for City Manager to accept the dedication of a Public Utility, Sidewalk and Access Easement along a section of the Osborn Road alignment and Cotton Lane and to authorize revisions to the Final Plat of First Park PV 303 Phase 1 to reflect the dedication by separate instrument.

**Recommendation:**

Authorize the City Manager to accept the dedication of a Public Utility, Sidewalk and Access Easement substantially in the form attached to this Council Action Report; authorize the City Attorney or his designee to make non-substantive changes to the easement including changes to reflect current ownership and signatory authority and to include terms for any lender on the property to subordinate lender's loan(s) to the easement; and authorize the revisions to the Final Plat of First Park PV 303 Phase 1 to reflect the dedication of the Public Utility, Sidewalk and Access Easement being approved herein.

**Fiscal Impact:** There will be no fiscal impact to the city in the fiscal year 2020 or future years related to the dedication of this easement or the revision to the Final Plat.

### Background and Previous Actions

On August 19, 2019, Council approved a Final Plat of First Park PV 303 Phase 1 ("Final Plat") subdividing property at the southwest corner of Indian School Road and Cotton Lane. The Final Plat upon recording will result in the creation of two lots, Lot 1 and Lot 2 and the dedication of public utility easements. The approval of the Final Plat was subject to certain conditions, including the requirement that a sewer easement needed for wastewater service to be provided to the Property be granted to Liberty by separate instrument and recording number inserted onto the Final Plat prior to recordation. An updated title report is also required to be provided and the Final Plat be revised to reflect the current ownership and lenders on the Property.

## **Staff Analysis**

The property owner has been having difficulty in getting plan approvals from Liberty Utilities that are needed before the sewer easement and final plat can be recorded. These delays are delaying the development of the Property to be subdivided by the Final Plat. The property owner has asked to proceed “at risk” with the construction of dry utilities needed for the development of an APS substation. To accommodate this request, the property owner must dedicate by separate instrument a public utility, sidewalk and access easement along sections of the Osborn Road alignment and Cotton Lane, the acceptance of which Council must authorize.

Time is of the essence and staff has not been provided the necessary documentation needed to confirm ownership of the easement area, to identify any lenders that will need to consent to the easement and to confirm the signatory’s authorization to execute the easement on behalf of the owner. Accordingly, a form of the easement and the legal description of the location of the easement has been prepared in the name of the entity that staff believes currently owns the easement area. Staff is recommending that Council to authorize the City Manager to accept the dedication of a Public Utility, Sidewalk and Access Easement generally in the form attached to this Council Action Report as it may be revised by the City Attorney or his/her designee to reflect current ownership and signatory authority and to include terms for any lender on the property to subordinate lender’s loan(s) to the easement and to authorize the revisions to the Final Plat of First Park PV 303 Phase 1 approved on August 19, 2019 to reflect the dedication of the Public Utility, Sidewalk and Access Easement being approved herein.

## **Attachments**

1. Form of Public Utility, Sidewalk and Access Easement