

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

DATE: January 27, 2020

CAR #: 2020-6861



## CITY COUNCIL ACTION REPORT

**SUBJECT:** Quiet Title Action for Easements on the Goodyear Surface Water Treatment Facility Property

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

**OTHER PRESENTER(S):** None

**Summary:** City staff is requesting authority to enter into a quiet title action to obtain a judicial determination regarding the owners' interests in the Utility Easement and Temporary Construction Easement located on the Goodyear Surface Water Treatment Facility Property.

**Recommendation:**

ADOPT RESOLUTION NO 2020-2028 AUTHORIZING THE CITY ATTORNEY TO ENTER INTO QUIET TITLE ACTION(S), AS NECESSARY, TO OBTAIN JUDICIAL DETERMINATION(S) AS TO THE EASEMENT OWNERS' INTERESTS IN THE GOODYEAR SURFACE WATER TREATMENT FACILITY PROPERTY.

**Fiscal Impact:** Budgeted funds are available in the Capital Improvement Program for the Surface Water Project for land purchases and the other associated costs. The remaining budget is anticipated, based upon current estimates, to be sufficient to complete the project real estate acquisitions including resolving the property interests concern described in this action.

### Background and Previous Actions

In January 2017 Council approved the CAP/SRP Interconnection Facility Lease and Water Transportation Agreement with Salt River Project by City Council action 17-5965. The city entered into the agreement in February 2017. The agreement provided for the transportation of the city's allotment of Central Arizona Project surface water from their interconnection facility located at the Granite Reef Dam, to a connection point at approximately Avondale Boulevard and Broadway Road. In connection with the agreement, the city plans to construct facilities, including a pipeline, to convey the water from the connection point to a surface water treatment facility.

In January 2018 Council approved the purchase of the property for the Goodyear Water Treatment Facility "GWTF". The acquisition of this site was completed in February 2018.

There is a Utility Easement (Sewer) and a Temporary Construction Easement Agreement, “Easements” located along the southern and easterly portions of the GTWF property. The easements were created and recorded in 2006 primarily for the city’s benefit to accommodate future city sewer facilities.

City staff was aware of the Easements at the time of purchase of the GTWF property, but they were considered to be of no impact to the development of the GTWF since the original site plans did not contemplate structures being placed along the boundaries of the property. This subsequently changed and the current site plans have several structures placed along the easterly boundary of the GTWF property within the area impacted by the Easements requiring the extinguishment of the easements.

## **Staff Analysis**

As previously noted, the Easements were created primarily for the city’s benefit to accommodate future sewer needs. City staff and our outside eminent domain counsel have reviewed the easement documents and determined the placement of a sewer line in this location is not viable to the third parties’ easement interests and creates an unwarranted cloud on the GTWF property.

City staff and the city’s outside counsel have contacted all of the Easement Owners and requested they abandon any interests they may have in the easement. To date, the Easement Owners have not agreed to abandon their interests.

The next step to extinguish the easements is to enter into a quiet title action. This is a lawsuit which would request a court to make a judicial determination concerning the Easement Owners’ interests in the GTWF property.

## **Attachments**

Resolution 2020-2028

Exhibit A – Sewer Easement

Exhibit B – Temporary Construction Easement Agreement