

RESOLUTION NO. 2024-2433

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO APPROVE AND EXECUTE DOCUMENTS TERMINATING CERTAIN EASEMENTS PREVIOUSLY CONVEYED OR ACQUIRED BY THE CITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, one of City Council's focus areas is fiscal and resource management with the stated goal of ensuring that the city's business practices are efficient, business friendly, and ensure exceptional customer service to all stakeholders and citizens; and

WHEREAS, easements are conveyed or acquired by the city in support of development within the city, including, by way of example but not limitation, utility easements for city infrastructure, public utility easements for public utilities, drainage easements, and access easements; and

WHEREAS, changes in development plans often eliminate the need for all or portions of existing easements, and property owners' routinely ask the city to terminate all or portions of easements that are no longer needed; and

WHEREAS, pursuant to A.R.S. § 9-402, the city has the power to dispose of city-owned easements that are no longer needed; and

WHEREAS, City Council currently approves and authorizes the termination of all or portions of existing easements that the City Engineer or his/her designee have determined are no longer needed; and

WHEREAS, the city real estate staff have determined that no public utility companies have been allowed to construct improvements within the city right-of-way, the public utility easements and/or other city easements and/or that none of the entities that have licenses, franchise agreements, and/or any other agreement with the city that have a right to install improvements within the easements being terminated have improvements within the easement area being terminated (the "Clearance Process"); and

WHEREAS, all of the documents terminating all or portions of an existing easement that are presented to City Council are prepared by the city's real estate staff and reviewed by an attorney in the City Attorney's office or prepared by an attorney in City Attorney's office and are presented as consent agenda items as their acceptance is essentially proforma; and

WHEREAS, having the City Council approve terminations of all or portion of easements that that are no longer needed results in unnecessary delays in the development process; and

WHEREAS, pursuant to the Goodyear City Charter and Section 3-1-1 of the Goodyear City Code, City Council is authorized to grant powers and assign duties in addition to those powers and duties assigned to the Goodyear City Manager in the Goodyear City Charter, provided such additional powers and duties are not inconsistent with the Goodyear City Charter or other laws; and

WHEREAS, other than for the termination of easements conveyed for right-of-way, which is governed by A.R.S. § 28-7201 *et seq.*, which requires action by the City Council, City Council

has the power to grant the City Manager authority to terminate easements that are no longer needed; and

WHEREAS, authorizing the City Manager or their designee to terminate easements that do not legally require council approval when real estate staff have completed the Clearance Process and the City Engineer or his/her designee have determined the easements are no longer needed provides operational efficiencies resulting in better customer service to city stakeholders.

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

SECTION 1. Except for the termination of easements for public right-of-way, the City Manager or their designee is hereby authorized to approve the termination of easements and execute all documents needed to terminate easements granted to the City subject to the following:

1. A written determination by the City Engineer or his/her designee that the easement is no longer needed, which shall not be provided unless (i) any operational city improvements located within the easement area being terminated have been relocated or a determination has been made that the improvements are no longer required; and (ii) the improvements within the easement are to be removed or abandoned in place.
2. A written determination by city real estate staff that the Clearance Process, as described above, has been completed, or that the Clearance Process was not required because the terms of the easement and/or their licenses and franchises do not allow the construction of improvements within the easement being terminated.

SECTION 2. In the event an applicant wants the certainty that an easement will be terminated prior to the satisfaction of the requirements that must be satisfied before the City Manager is authorized to conditionally approve the termination of an easement subject to satisfaction of the foregoing conditions, but the actual documents terminating the easement shall not be executed and recorded until the foregoing conditions have been satisfied. The conditional approval provided for herein must be in writing, shall include the requirements that must be satisfied before the easement will be terminated, and shall include a time frame during which the conditional approval shall be effective. The property owner shall execute a copy of the written conditional approval.

SECTION 3. Resolution 2024-2433 shall be effective upon the date of its adoption.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 2024.

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney