

RESOLUTION NO. 06-1110

RESOLUTION ORDERING THE IMPROVEMENT DONE AS DESCRIBED IN RESOLUTION OF INTENTION NO. 06-1098.

WHEREAS, on November 13, 2006, the Mayor and Council of the City of Goodyear, Arizona, passed and adopted Resolution No. 06-1098 (the "*Resolution of Intention*"), which Resolution of Intention declared the Council's intention to make the improvements described in the Preliminary Plans and Specifications on file with the Clerk (the "*Work*"); established the costs and expenses of such Work to be known as "*City of Goodyear, Arizona, McDowell Road Commercial Corridor Improvement District*" (the "*District*"); determined that improvement bonds shall be issued to represent the costs and expenses thereof; declared the Work to be of more than local or ordinary public benefit, and that the costs and expenses thereof shall be assessed upon the parcels and lots within the District; provided that the proposed Work shall be performed under the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, and all amendments thereto; and such Work, the District to be assessed and the improvement bonds to be issued were more fully described in the Resolution of Intention to which reference is hereby made for such description; and

WHEREAS, the property owners within the District have waived the requirement for publication of the Resolution of Intention and posting of the Notice of Proposed Improvement; and

WHEREAS, this date is the date set for hearing any protests against the proposed Work or objections to the extent of the District; and

WHEREAS, no protests against the proposed Work and no objections to the extent of the District described in the Resolution of Intention were filed with the Clerk during the time prescribed by law; and

WHEREAS, having found no protests against the proposed Work and no objections to the extent of the District, the Council hereby finds and determines that it has jurisdiction to order the improvement as described in the Resolution of Intention; and

WHEREAS, the Council having thereby acquired jurisdiction to order the Work and to acquire the property necessary therefor;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, ARIZONA, as follows:

Section 1. Ordering the Completion of the Plans and Ordering Improvement.

The Superintendent of Streets is hereby ordered and directed to cause the completion of the Preliminary Plans and Specifications. Upon completion of the Plans and Specifications, the Superintendent of Streets shall cause to be prepared and shall execute a notice of the passage of this resolution and notice inviting sealed proposals for the construction of the Work in substantially the form attached hereto as *Exhibit A*. The Superintendent of Streets is authorized

and directed to establish the date and time for such proposals to be received and to set forth such date in the notice. Such notice shall be posted and published as provided by law.

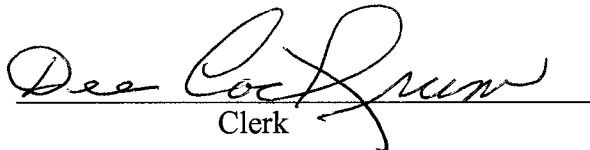
By virtue of the authority vested in the City pursuant to Title 48, Chapter 4, Article 2, Arizona Revised Statutes, and all amendments thereto, the Mayor and Council of the City of Goodyear, Arizona (the "City"), hereby order the Work done as described in the Resolution of Intention and in accordance with the Plans and Specifications as completed.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Goodyear, Arizona, on December 11, 2006.

ATTEST:

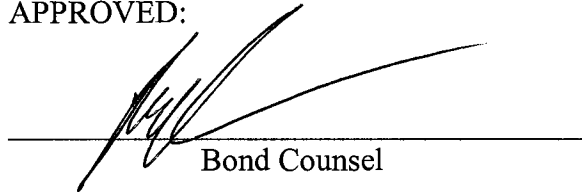


Mayor



Clerk

APPROVED:



Bond Counsel

CERTIFICATE

I hereby certify that the above and foregoing Resolution No. 06-1110 was duly passed by the Mayor and Council of the City of Goodyear, Arizona, at a regular meeting held on December 11, 2006, and that a quorum was present thereat.



Clerk

Attachment - Exhibit "A" – Notice of Passage of Resolution and Notice Inviting Proposals for Construction of the Work

Exhibit A

NOTICE TO CONTRACTORS

ADVERTISEMENT FOR PROPOSALS

NOTICE

OF THE PASSAGE OF THE RESOLUTION ORDERING THE IMPROVEMENT AND INVITING SEALED PROPOSALS FOR THE IMPROVEMENT KNOWN AS CITY OF GOODYEAR, ARIZONA, McDOWELL ROAD COMMERCIAL CORRIDOR IMPROVEMENT DISTRICT

This notice is given pursuant to the provisions of §§ 48-571 to 48-619, inclusive, Arizona Revised Statutes, and amendments and supplements thereto.

On December 11, 2006, the Mayor and Council of the City of Goodyear, Arizona, duly passed and adopted its Resolution No. 06-_____ ordering that the work described in Resolution of Intention No. 06-1098 be done, said Resolution also directing this notice to be given.

THEREFORE, notice is hereby given that the City of Goodyear, Arizona, will receive proposals for furnishing of all labor, material, transportation, services and equipment for the improvement of certain streets within the Improvement District; each proposal to be made in accordance with the aforementioned Resolution of Intention on file in the office of the Clerk of said City; plans, specifications and other proposal documents and contract documents are now on file with the Clerk, whose office is located at the City Hall, 190 North Litchfield Road, Goodyear, Arizona 85338, and the Superintendent of Streets, whose office is located at 190 North Litchfield Road, Goodyear, Arizona 85338, where they may be examined. A set of such documents may be obtained from the Office of the Public Works Manager, City of Goodyear, 120 E. Western Avenue, Goodyear, Arizona 85338, telephone (623) 932-1637, upon a deposit of \$_____. This deposit will not be refunded.

Bidders must be eligible to do said work under and in accordance with, and must agree to conform to, the laws of the State of Arizona. The five percent (5%) preference pursuant to Arizona Revised Statutes § 34-241 does not apply to this project.

Each proposal shall be sealed in an envelope addressed to the Clerk of the City of Goodyear and bearing the following statement on the outside of the envelope: Proposal to Construct City of Goodyear, Arizona, McDowell Road Commercial Corridor Improvement District.

Each proposal shall be made out in the form set forth in the Contract Documents and all pages of said contract documents book must be submitted as part of the proposal and shall be accompanied by a bid bond payable to the City of Goodyear, Arizona for not less than ten percent (10%) of the amount of the bid. The above-mentioned bond shall be given as a guarantee that the bidder will enter into the contract if awarded to him, and will be declared

forfeited if the successful bidder refuses to enter into said contract after being requested to do so by the City Clerk. All proposals shall be filed with the Clerk at the City Hall, 190 N. Litchfield Road, Goodyear, Arizona 85338, on or before _____, 2007, at _:00 _m. All proposals will be opened thereafter and the total amounts so bid read aloud in a public meeting of the Mayor and Council to be held at the Council Chambers on _____, 2007 at _:00 _m.. All proposals will be tabulated by the Superintendent of Streets who shall report his findings to the Mayor and Council of the City. It is expected that the Mayor and Council will award the contract to the lowest and best responsible bidder on _____, 2007, at the Council meeting which shall be held at _:00 p.m. on such date.

The Mayor and Council reserve the right to reject any or all proposals, or to reject the bids of any persons who have been delinquent or unfaithful to any contract with the City of Goodyear, Arizona, and to waive any informalities or irregularities in the proposals.

The Mayor and Council have determined that improvement bonds will be issued to represent the construction cost and all of the incidental costs of such work and improvement, including engineering, printing, advertising and posting and preparation of proceedings; and notice is hereby given that such bonds shall be issued under the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, and amendments thereto, by the City of Goodyear, but payable only out of a special fund collected in twenty five (25) annual installments from the assessments of \$25.00 or over remaining unpaid at the end of the cash collection period. The bonds payable out of the first installment collected shall be payable on the first day of January in the year determined by the Mayor and Council and on the first day of January of each year thereafter until all are paid. Said bonds shall bear interest at a rate of not to exceed twelve percent (12%) per annum. Interest will be payable on the first days of January and July of each year.

THE CONTRACTOR WILL BE PAID WITH CASH PAYMENTS ONCE EACH MONTH, SUCH PAYMENTS TO BE ON THE BASIS OF NINETY PERCENT (90%) OF THE VALUE OF THE WORK ACTUALLY PERFORMED AS ESTIMATED BY THE SUPERINTENDENT OF STREETS. THE RETAINAGE WILL BE PAID AFTER THE MAYOR AND COUNCIL HAS APPROVED THE ASSESSMENT. APPROVAL OF THE ASSESSMENT IS EXPECTED TO OCCUR APPROXIMATELY FORTY-FIVE (45) DAYS AFTER THE WORK TO BE LET FOR THE IMPROVEMENT DISTRICT HAS BEEN CERTIFIED AS COMPLETED AND APPROVED BY THE SUPERINTENDENT OF STREETS TO THE MAYOR AND COUNCIL. THE CONTRACTOR WILL NOT BE REQUIRED TO ADVANCE INCIDENTAL EXPENSES. THE CONTRACTOR WILL NOT BE RESPONSIBLE FOR MAKING CASH COLLECTIONS FROM PROPERTY OWNERS.

Without charge, the City will provide the winning bidder with the opinion of Gust Rosenfeld P.L.C. concerning the validity of the proceedings to and including the execution of the construction contract. The fees of Gust Rosenfeld P.L.C. will be paid as a part of the incidental expenses.

No bidder may withdraw his proposal for a period of one hundred twenty (120) calendar days after the date set for the opening thereof.

The City reserves the right to cancel this notice at any time.

For information concerning the plans, technical specifications or bid forms, please contact the _____, _____, City of Goodyear, _____, _____, Goodyear, Arizona 85____, telephone (623) _____.

For information concerning the financing procedures and the issuance of bonds contact Mr. Keith C. Hoskins, Gust Rosenfeld P.L.C., 201 E. Washington Street, Suite 800, Phoenix, Arizona, 85004-2327, phone (602) 257-7967.

DATED: _____.

Superintendent of Streets

Publish: Twice in a daily paper or once in a weekly.

Post at or near the door of the Council Chambers for five days.

**CITY OF GOODYEAR
CITY COUNCIL ACTION FORM**

SUBJECT: Public Hearing Regarding Resolution Ordering Work for the McDowell Road Commercial Corridor and Recommendation to Adopt	STAFF PRESENTER: Kim Bendon, Management Assistant COMPANY CONTACT: Keith Hoskins, Gust Rosenfeld
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RECOMMENDATION:

1. City Council conduct a public hearing to consider adopting the Resolution Ordering Work for the McDowell Road Commercial Corridor Improvement District as described in the Resolution of Intention No. 06-1098 by Council on November 11, 2006. Council will review the sufficiency of any protests received against project and rule on any objections.
 - a. Open Public Hearing
 - b. Staff Presentation
 - c. Review, Determine Sufficiency, and Rule on Protests (if any)
 - d. Close Public Hearing

2. **RECOMMENDATION:** Adopt Resolution 06-1110, ordering the completion of plans and improvements for the McDowell Road Commercial Corridor Improvement District as described in the Resolution of Intention No. 06-1098.

COMMUNITY BENEFIT:

The successful development of the McDowell Road Commercial Corridor, generally bounded by Interstate 10 north to Virginia Avenue, and Bullard Avenue to PebbleCreek Parkway, and visually shown in the boundary map (Attachment 1), will generate substantial sales tax receipts, provide employment opportunities, and offer additional local goods and services to the City's residents. The adoption of this Resolution Ordering Work (ROW) to proceed with the Improvement District (ID) related to this corridor will expedite the construction of public infrastructure necessary for the eventual construction of more than two million square feet of commercial building development and coordinate the various construction projects in order to reduce the overall inconvenience to the public. In addition, the portion of the Bullard Wash regional park within the ID boundary will be constructed as part of the project, and includes tentative improvements such as lakes, trails, ramadas, drinking fountains, benches, shade structures, tot lot, exercise stations, bicycle rack and security lighting.

These public improvements will be assessed against property within the ID, the owners of which include Globe Corporation, Westcor, Evergreen-Devco, and Tang Realty. In addition, the ID will purchase pre-funded improvements by W.M. Grace and improvements constructed by SunCor. The City will not be assessed.

DISCUSSION:

The formation of the ID streamlines the management, design, and consulting services related to construction of public infrastructure in this area, which includes public roadways, bridges, interchanges, traffic signals, sewer and water infrastructure, landscaping, and improvements to Bullard Wash.

On August 22, 2005, the City Council authorized staff to issue a request for qualifications (RFQ) for engineering design and consulting services related to public improvements and infrastructure to be completed through the creation of a public ID and/or Community Facilities District. Attachment 1 shows the boundary map of the area, which includes the anticipated developments of:

- Estrella Falls Mall, a Westcor project (1.3 million square feet);
- The Market at Estrella Falls (Westcor Power Center) (500,000 square feet);
- PebbleCreek Market Place, a W.M. Grace project (240,000 square feet) (outside the District, but paying its share in cash);
- Goodyear Centerpointe, an Evergreen-Devco project (300,000 square feet); and,
- A property owned by Tang Realty.

On January 13, 2006, Council approved a Notice to Proceed authorizing Wood-Patel to provide the following services associated with the public improvement district:

- Design and engineering services;
- Construction bidding services;
- Assessment district services (Improvement District formation/assessment);
- Construction management services;
- Coordination with several agencies including Arizona Department of Transportation, Maricopa County Flood Control District, LPSCo, APS, Roosevelt Irrigation District, and others; and,
- Coordination with infrastructure improvements by SunCor.

Other Council approval actions related to the anticipated formation of the ID include:

- On May 22, 2006, Council approved two prefunding and reimbursement agreements involving the City and Wood-Patel, one with Evergreen Devco and another with Westcor. These agreements provided funding for the design and construction of public infrastructure in anticipation of the ID formation;
- On September 11, 2006, Council approved the First Amendment to the May 22, 2006 agreement, providing for Westcor and four property owners to prefund to SunCor funding for construction of a portion of PebbleCreek Parkway that would later be purchased by the ID; and,
- On September 25, 2006, Council approved a prefunding agreement with Westcor, Evergreen Devco, and W.M. Grace to allow them to prefund construction of a portion of the infrastructure on PebbleCreek Parkway and McDowell Road within the anticipated ID, with the intent to reimburse them with ID bond proceeds and then assess them payments within the term of the bond repayment period.

- On November 13, 2006, Council approved Resolution 06-1098, Resolution of Intention to Form an Improvement District, which advised the public and landowners within the ID of this intention, set the not to exceed amount for the district at \$78,177,832.50; and set the date and time for the Hearing on Protests and Objections. Publication of the Resolution of Intention and posting of notice of the passage of the Resolution of Intention were waived by all of the Property Owners and each was provided a copy of the Resolution.

Arizona Revised Statutes have several requirements related to the formation of Improvement Districts, which have been and will continue to be strictly adhered to for this project.

Passage of this Resolution will set forth the following actions:

1. Final plans and project specifications will be finalized, followed by advertising for bids. After award of bid(s), a notice of the award is published in the newspaper. Within 15 days of the date of the first publication, property owners are given an additional opportunity to protest.
2. Special assessments are calculated based on the bid construction costs and the Warrant and Assessment are prepared. The Assessment becomes a lien upon the property within the District.
3. Each property owner is then notified of the amount assessed against the owner's property and given an opportunity to pay the assessment in cash. Council will receive from City Clerk a certified list of which assessments have been paid and which have not.
4. City Council, by resolution, may authorize issuance of ID Bonds for the amount of the unpaid assessments, plus capitalized interest expense. The proposed bonds terms are for a 25-year period. This action is anticipated to come before council in April 2007.
5. Bond proceeds are held in a special fund by the City Treasurer for payment of District costs. When monies are in hand, the Notice to Proceed is provided to the successful bidder (contractor).
6. Once construction is completed, the assessments are recapitulated to actual costs. If the final costs are less than the amount assessed, those landowners who paid cash would be eligible for cash refunds of the difference, while those whose property was assessed will receive a reduction to be applied toward the first assessment payment.

Construction of the improvements is anticipated in two phases, as demonstrated in the project phasing map (Attachment 2). Phase I is scheduled to begin in December 2006, with expected completion in May 2007 (being pre-funded through the 9/25/06 Council-approved agreement with adjacent landowners and purchased by the ID). Phase II is anticipated to begin in June 2007 with completion in October 2008.

FISCAL IMPACT:

Prior to the formation of the ID, the City has funded \$228,000 to Wood-Patel to begin work on the design and engineering for the public infrastructure. This amount will be refunded to the City when bond proceeds are available, which are tentatively scheduled for April 2007.

The ID project costs are estimated at \$78,177,832.50, comprised as follows:

<u>ITEM</u>	<u>COST</u>
Construction, ROW, Purchased Improvements	\$58,977,140.50
Incidentals (1)	\$12,015,140.00
Capitalized Interest (2)	\$ 7,185,552.00
TOTAL	\$78,177,832.50

(1) Includes design, engineering, construction management, City fees, and bond issuance fees.

(2) The latter is the interest accrued between when bonds are issued (April 2007) and when assessment payments begin (January 2009).

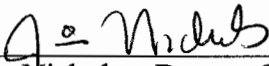
The City is not being assessed by the ID. The regional improvements, estimated at \$25 million, are being assessed to Westcor/Globe, and they will receive reimbursements as prescribed in a separate development agreement, which was approved by Council on September 25, 2006. The City has budgeted \$70 million on the expenditure side for the potential to form this ID, and an additional \$40 million for the balance of this and other districts.

Estimated assessments for developers (not including capitalized interest) within the ID are as follows:

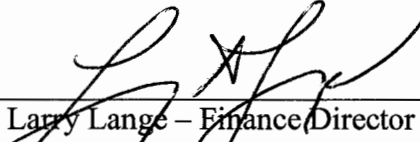
- Evergreen: \$3,155,663
- Tang: \$1,566,683
- Westcor: \$63,054,635

The ID Bonds represent a contingent liability to the City. If the owners of any of the assessed property do not make their semi-annual assessment payments, the City would be required to sell the assessment lien at the delinquent assessment sale. If no others bid at the sale the City must bid. The City may have to advance funds in advance of the sale to make payments to satisfy bondholder requirements. However, the City would either be repaid by the sale of the assessment lien to a purchaser at the delinquent assessment sale, by the property owner with penalties, or by acquiring title to, and selling, the property according to the statutory procedure.

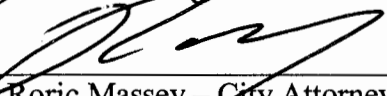
REVIEWED BY:



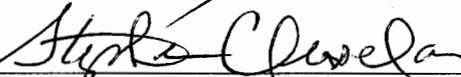
Jim Nichols – Deputy City Manager



Larry Lange – Finance Director




Roric Massey – City Attorney



Stephen Cleveland – City Manager

PREPARED BY:

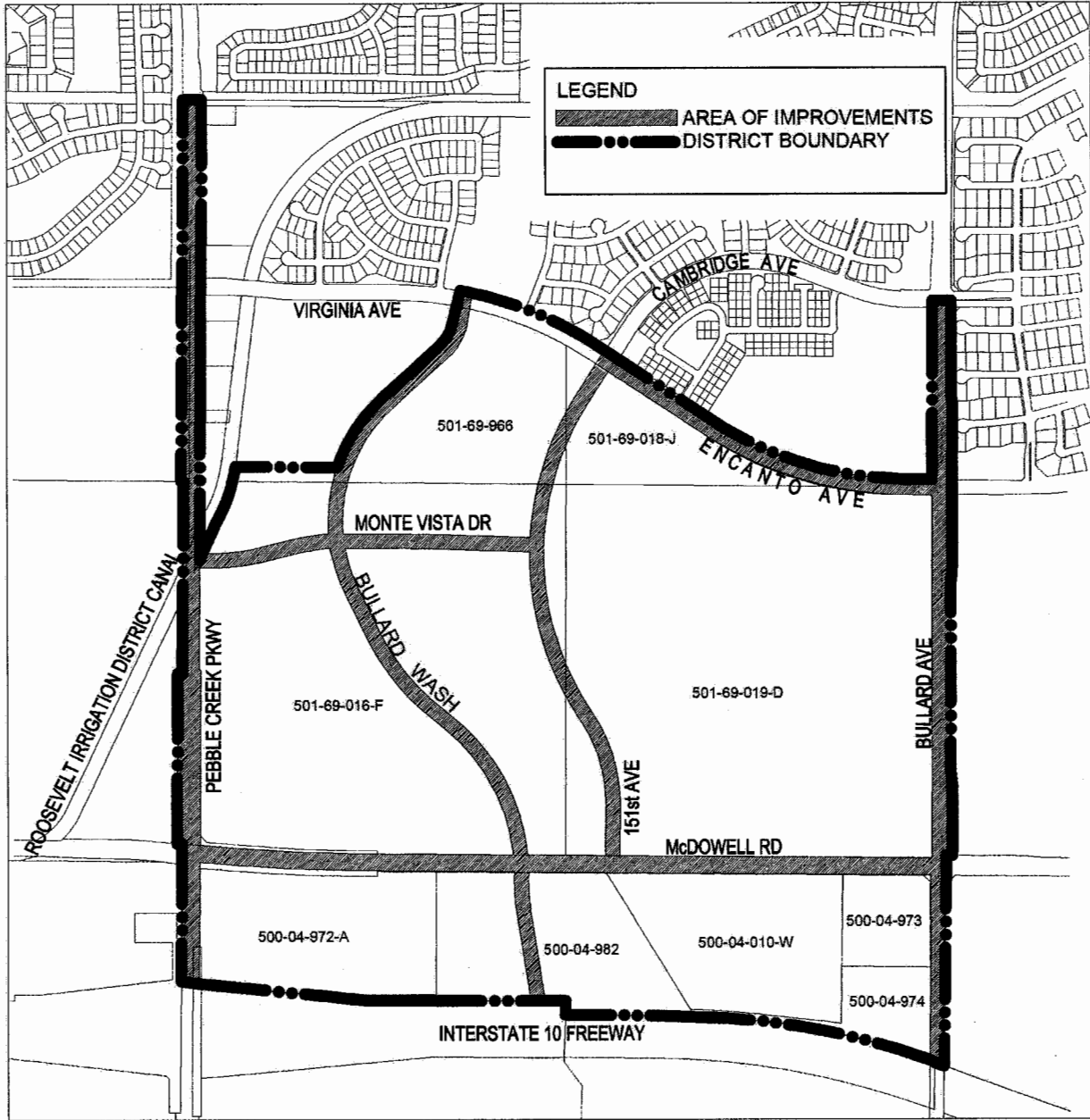


Kim Bendon – Preparer



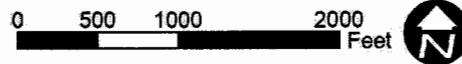
Brian Dalke – Deputy City Manager

Attachment 1



- PARCELS IN DISTRICT**
 500-04-974
 500-04-973
 500-04-010-W
 500-04-982
 500-04-972-A
 501-69-019-D
 501-69-016-F
 501-69-018-J
 501-69-966

**CITY OF GOODYEAR
 McDOWELL ROAD
 COMMERCIAL CORRIDOR
 IMPROVEMENT DISTRICT**



Attachment 2

