



# City Council Report

**Date:** May 17, 2021  
**To:** City Council  
**Through:** Marc Heirshberg, Deputy City Manager  
**From:** Beth Huning, City Engineer  
Rob Kidder, Assistant City Engineer  
**Subject:** Extinguish a Drainage Easement and Release a Restrictive Drainage Covenant located at 5129 South Power Road  
Council District 6

## Purpose and Recommendation

The purpose of this report is to consider staff's recommendation to extinguish a drainage easement and release a restrictive drainage covenant located at 5129 South Power Road.

## Background

Arizona Revised Statutes Title 28 §§ 7201-7215 and Mesa City Code Title 9, Chapter 10, provide the City Council with authority to abandon, vacate or extinguish (collectively, hereafter, "abandon") unnecessary roadways, rights-of-way, or easements to which the City holds right or title to; the type of right or title the City owns (roadway, right-of-way, or easement) determines the law under which the City Council has its right to abandon. The term "abandon" is used in this Council Report to cover all three types of terminations of the City's rights or title. Additionally, the City generally maintains the right to release restrictive covenants it holds on real property.

Drainage easements and restrictive drainage covenants are granted to the City of Mesa to allow for the conveyance or retention of storm water from public streets onto private property. When an easement and restrictive drainage covenant is no longer needed, or conflicts with new development, the City Council may extinguish the easement and release the covenant to provide owners with the ability to fully utilize their property. To remove an easement and covenant from a property's title, City Council may approve a resolution to extinguish (abandon) the easement and release the restrictive covenant in accordance with provisions in the Mesa City Code Title 9, Chapter 10.

## Discussion

The drainage easement recorded in document no. 2019-0748181 and dedicated on the Final Plat of Gallery Park Phase 1A, recorded in Book 1491 of Maps, Page 33, records

of Maricopa County, Arizona, and the drainage covenant recorded in document number 2019-0748978 in the records of Maricopa County, Arizona. The development plan has since changed, and the owner is requesting the extinguishment of the drainage easement and the release of the restrictive drainage covenant to accommodate the new mixed-use development, Gallery Park. Staff has determined the drainage easement and the restrictive drainage covenant are no longer needed by the City. A new drainage easement will be granted with the new development.

### **Alternatives**

An alternative is to not extinguish the requested easement and restrictive covenant. Choosing this alternative would result in the existing drainage easement and restrictive drainage covenant conflicting with the development plan for Gallery Park.

### **Fiscal Impact**

The fiscal impact of this request is the \$750.00 processing fee collected from the applicant.

### **Coordinated With**

The Engineering, Planning and Development Services Departments concur with this request.