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DEC 12 2013

MEMORANDUM

Municipal Utilities - Council Memo No. RE14-049

DATE: DECEMBER 12, 2013

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
MARSHA REED, ASSISTANT CITY MANAGER *MR*
DAVE SIEGEL, MUNICIPAL UTILITIES DIRECTOR *DS*

FROM: ERICH KUNTZE, REAL ESTATE COORDINATOR *EK*

SUBJECT: APPROVAL OF A SETTLEMENT WITH THE LANDOWNER ONLY IN A CONDEMNATION ENTITLED *CITY OF CHANDLER v. SWVP OCOTILLO LAND, LLC, ET AL., CV2013-010481*, IN THE AMOUNT OF \$8,400,000.

RECOMMENDATION:

Staff recommends City Council approve a settlement with the landowner only in *City of Chandler v. SWVP Ocotillo Land, LLC, et al., CV2013-010481*, in the amount of \$8,400,000.

BACKGROUND/DISCUSSION:

This condemnation action was filed to acquire approximately thirty-seven (37) acres of vacant land located adjacent to the southwest corner of Price and Queen Creek Roads, for the expansion of the existing Ocotillo Water Reclamation Facility. The City submitted its original offer in February 2013, in the amount of \$6,440,000 (\$4.00 per square foot), which was rejected by the property owner. Further negotiations failed to reach an agreement, and the City filed a condemnation action to acquire the property. Since the date of the City's original appraisal, market conditions in the Price Road Corridor have continued to improve and new comparable sales information became available. During the pendency of the condemnation action, the property owner provided an appraisal valuing the property at \$9,500,000 (\$5.90 per square foot). Negotiations have continued in an effort to reach a settlement.

Upon further review of the property owner's appraisal, discussions with the City's appraiser who provided an appraisal update letter stating that a price range from \$5.00 to \$5.50 per square foot is representative of the current market value, a settlement was reached with SWVP in the amount of \$8,400,000 (\$5.21 per square foot), subject to

Council approval. The settlement amount will be allocated as follows: \$8,375,000 payable to SWVP; \$10,000 payable to Maricopa County for back taxes owed by SWVP on the property; and \$15,000 to be held back by the City as an estimate of the association dues that SWVP would have paid over time prior to it actually developing the site.

This is a settlement with the landowner only and will allow a partial judgment to be reached with all parties except the Ocotillo Community Association (OCA). The OCA claims for the loss of anticipated income it would have received from SWVP, or a future owner, based on an annual assessment of approximately \$9,000 per year. While settlement negotiations continue with the OCA, a settlement has not been currently reached. The benefit of settling with SWVP now is that it allows the City access to the property and stops the running of interest on the judgment amount otherwise owed to SWVP.

FINANCIAL IMPLICATIONS:

Funding for this land acquisition was not part of the adopted FY 2013-14 Capital Improvement Program (CIP) budget. Savings of \$8,500,000 from the 6WW196-Collection System Facility Improvements project were transferred to this new project, 6WW651-Wastewater Land Acquisition to fund the purchase. The transfer included \$5,780,000 in System Development Fee appropriation and \$2,720,000 in Wastewater Bond appropriation for this land acquisition and other associated costs.

PROPOSED MOTION:

Move City Council approve a settlement with the landowner only in *City of Chandler v. SWVP Ocotillo Land, LLC, et al., CV2013-010481*, in the amount of \$8,400,000.

Attachments: Map



ACQUISITION OF APPROXIMATELY 37 ACRES OF VACANT LAND ADJACENT TO THE SWC OF PRICE RD AND QUEEN CREEK RD



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VACANT LAND

