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JUN 12 2014

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MEMORANDUM Transportation & Development - Council Memo No. RE14-134

DATE: JUNE 12, 2014

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER RD
MARSHA REED, ASSISTANT CITY MANAGER MR
R. J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR RJZ

FROM: ERICH KUNTZE, REAL ESTATE COORDINATOR

SUBJECT: APPROVAL OF A SETTLEMENT WITH THE LANDOWNER IN A CONDEMNATION ENTITLED *CITY OF CHANDLER v. CHANDLER HEIGHTS MCQUEEN LENDER, LLC,* CV2014-005431, IN THE AMOUNT OF $240,000

RECOMMENDATION: Staff recommends City Council approve a settlement with the landowner in a condemnation entitled *City of Chandler v. Chandler Heights McQueen Lender, LLC*, CV2014-005431, in the amount of $240,000.

BACKGROUND/DISCUSSION: This condemnation action was filed to acquire approximately 31,471 square feet of land required for roadway for the McQueen Road (Ocotillo Road to Riggs Road) Improvement Project ST-0810 (the "Project"). In addition, 22,310 square feet of land is needed for a temporary drainage easement (TDE) and 1,307 square feet total for two temporary construction easements (TCE). The City made an offer of $213,500 based upon its appraisal of $250,000 per acre to purchase the required property rights.

The property owner rejected our offer and countered back at $295,000 per acre or $251,800 total for the purchase of the property rights. In support of their opinion of value the property owner provided additional information regarding offers to purchase their land from two different developers for a price of $305,000 to $316,000 per acre, as well as other supporting information. Upon further review of this information by Staff and our appraiser, a settlement in the amount of $240,000 was reached with the property owner subject to Council approval. This settlement represents an increase of $26,500 (12%) over the original offer price of $213,500. As part of the settlement, it was agreed that the property owner transfer title to their underlying fee interest in

McQueen Road and Chandler Heights Road to the City (see attached map). This additional land contains approximately 86,368 square feet.

Staff recommends the settlement with Chandler Heights McQueen Lender, LLC, as a fair and reasonable compromise and is in the best interest of the Public.

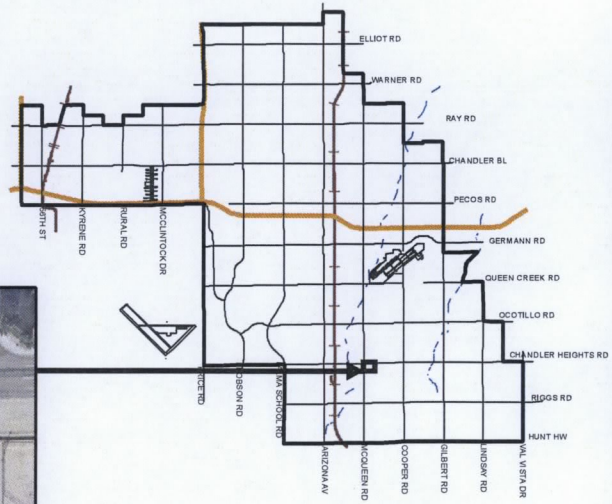
FINANCIAL IMPLICATIONS: Funding for this land acquisition will come from money set aside in the project budget for acquisition of real estate required for the McQueen Road (Ocotillo Road to Riggs Road) Improvement Project ST-0810.

PROPOSED MOTION: Move City Council approve a settlement with the landowner in a condemnation entitled *City of Chandler v. Chandler Heights McQueen Lender, LLC,* CV2014-005431, in the amount of $240,000.

Attachments: Map
Stipulated Judgment

Chandler + Arizona

SETTLEMENT WITH CHANDLER HEIGHTS
MCQUEEN LENDER, LLC



MEMO NO. RE14-134

- UNDERLYING FEE
- DRAINAGE EASEMENTS
- RIGHT OF WAY
- TEMPORARY CONSTRUCTION EASEMENT

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THE LAW OFFICES OF DIANE M. MILLER, PLLC
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DM@DianeMillerLaw.com
Attorneys for Plaintiff City of Chandler

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

THE CITY OF CHANDLER, a municipal corporation of the State of Arizona, Plaintiff, v. CHANDLER HEIGHTS MCQUEEN LENDER, LLC, an Arizona limited liability company; LISSBERGER MGT. LLC, a limited liability company; and COUNTY OF MARICOPA, a political subdivision of the State of Arizona, Defendants. APN: 303-54-002W	CV2014-005431 **STIPULATED JUDGMENT** Hon. Maria del Mar Verdin

IT IS ORDERED, ADJUDGED, AND DECREED that judgment is entered as follows:

1. All Defendants were properly served.

2. Plaintiff shall have judgment condemning a fee simple interest, a drainage easement and a temporary construction easement, in the real property in Maricopa County, Arizona, particularly described in attached Exhibit "A" (the "subject property").

3. Defendant County of Maricopa, having disclaimed any interest, shall take nothing by this judgment.

4. Defendants CHANDLER HEIGHTS MCQUEEN LENDER, LLC and LISSBERGER MGT. LLC shall have judgment against Plaintiff in the amount of $240,000.00, including statutory interest, as total just compensation for the taking of any and all interest they have in the subject property.

5. Plaintiff has previously deposited the sum of $225,000.00 with the Clerk pursuant to the Order for Immediate Possession, and Defendants have withdrawn said amount. Within

fifteen (15) days after entry of this judgment, Plaintiff shall pay Defendants the additional sum of $15,000.00 by mailing a check in that amount, payable to LISSBERGER MGT. LLC, to Chandler Heights McQueen Lender, LLC, c/o Lending Group, LLC, P.O. Box 1169, Carefree, AZ 85377.

6. Upon receipt of the funds, a Satisfaction of Judgment executed by Defendants shall be filed with the Court.

7. Once the funds specified in paragraph 4 above have been paid, this Court shall enter its Final Order of Condemnation vesting title to the said fee simple, drainage easement and temporary construction interests in the subject property in Plaintiff.

8. Upon payment of this judgment, the assets, interest and claims of all Defendants herein shall be fully terminated, and title to and possession of the subject property shall not be subject to or encumbered by any existing or future rights, liens, claims or other encumbrances, including, but not limited to, taxes and assessments upon or against the property while owned or possessed by Defendants or by any persons, firms, or corporations claiming any interest in the subject property under or by virtue of said Defendants.

9. No other person, firm, or corporation has any right, title or interest in and to the subject property, or any part thereof, and any person, firm or corporation claiming any interest in or to the subject property, or any part thereof, subsequent to the recording of the Notice of the Lis Pendens in this matter, in the office of the County Recorder, on March 11, 2014, Document No. 2014-0153372, is hereby adjudged and decreed to be without any right, title or interest in or to the subject property.

9. Each party shall bear its own costs and attorney's fees.

DONE IN OPEN COURT this _____day of _____, 2014.

_____
Hon. Maria del Mar Verdin
JUDGE OF THE SUPERIOR COURT

. . .

Stipulated as to form and content:

THE LAW OFFICE OF DIANE M. MILLER pllc

_____
Diane M. Miller
Attorney for the City of Chandler

CHANDLER HEIGHTS MCQUEEN LENDER, LLC
By: Lending Group, LLC, its Administrative Member

_____
By: Sterling Johnson, its Manager

LISSBERGER MGT. LLC
By: The John Lissberger Revocable Trust

_____
By John Lissberger, Trustee

Original E-filed this ___ day
of _____, 2014.

_____

Stipulated as to form and content:

THE LAW OFFICE OF DIANE M. MILLER pllc

_____
Diane M. Miller
Attorney for the City of Chandler

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