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JUN 12 2014

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MEMORANDUM Transportation & Development - Council Memo No. RE14-136

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: SHARON A. JOYCE, REAL ESTATE COORDINATOR SJ

SUBJECT: APPROVAL OF A SETTLEMENT WITH THE LANDOWNER IN A CONDEMNATION ENTITLED *CITY OF CHANDLER v. SCOTLAND YARD PROPERTIES, LLC*, CV2014-000177, IN THE AMOUNT OF $10,000

RECOMMENDATION: Staff recommends City Council approve a settlement with the landowner in a condemnation entitled *City of Chandler v. Scotland Yard Properties, LLC,* CV 2014-000177 in the amount of $10,000.

BACKGROUND/DISCUSSION: This condemnation action was filed to acquire approximately 160 square feet of land required for the Ocotillo Road (Arizona Avenue to McQueen Road) Improvement Project ST-0808 (the "Project"). In addition, 4,204 square feet of land was needed for a temporary drainage easement (TDE). The City made an offer of $3,733 based upon its appraisal of $3.00 per square foot to purchase the required property rights.

The property owner rejected our offer and did not formally counter back at any amount. Staff was required to refer the file for condemnation in order to meet project deadlines. The City obtained immediate possession on February 10, 2014, for the appraised value of $3,733. Prior to City Council proceeding to further litigation, an offer for $10,000 was made in hope of settling the case and avoid further condemnation costs, which would far exceed the additional $6,267 amount required to settle the case. The property owner has accepted this offer. As part of the settlement, the property owner will be transferring title to their underlying fee interest in Ocotillo Road that is contiguous with their property.

This additional land contains approximately 13,249 square feet.

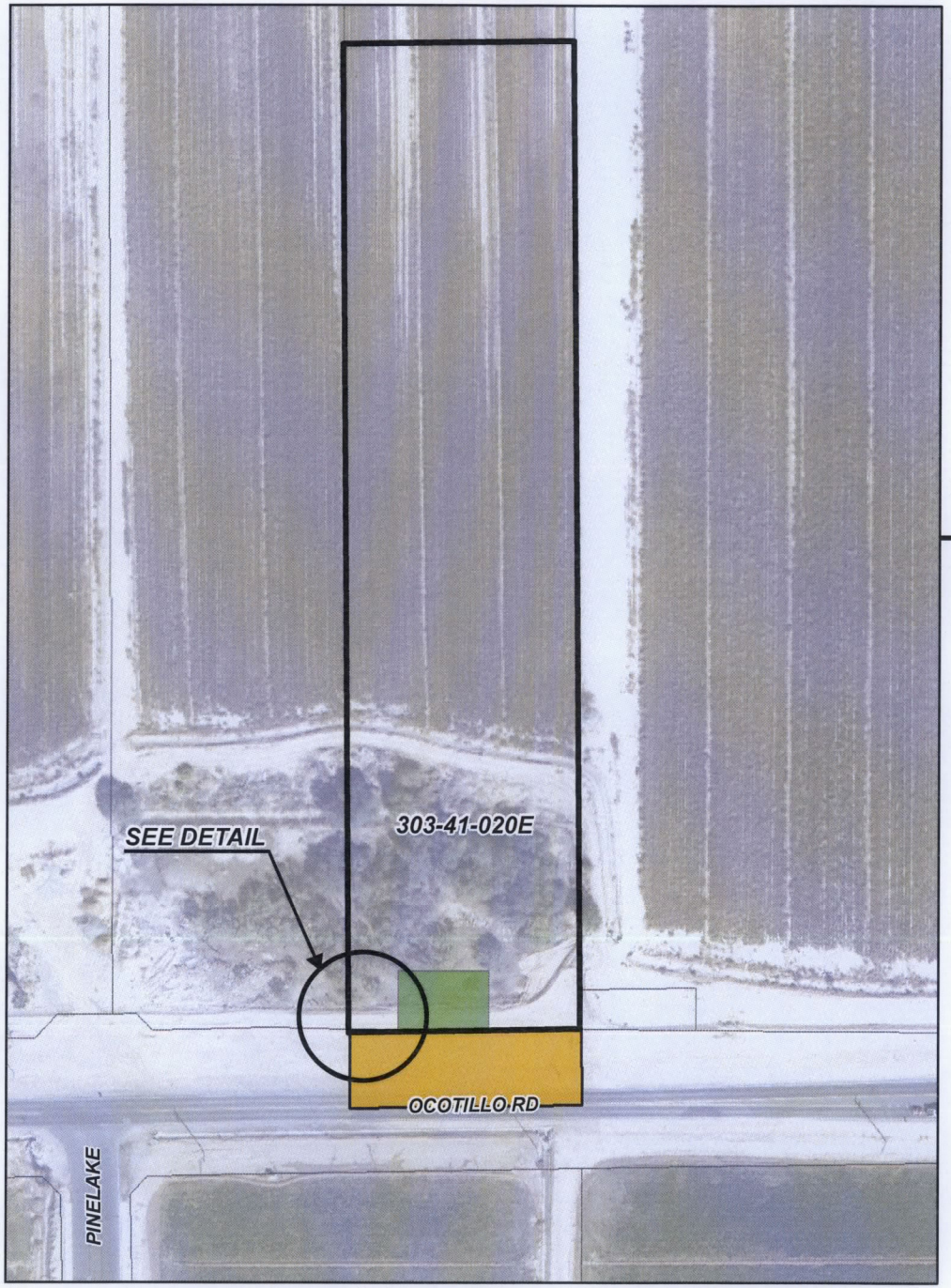
Staff recommends the settlement with Scotland Yard Properties, LLC, as a fair and reasonable compromise and is in the best interest of the Public.

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 Ocotillo Road (Arizona Avenue to McQueen Road) Improvement Project ST-0808.

PROPOSED MOTION: Move City Council approve a settlement with the landowner in a condemnation entitled *City of Chandler v. Scotland Yard Properties, LLC,* CV2014-000177 in the amount of $10,000.

Attachments: Map

OCOTILLO ROAD IMPROVEMENTS
SETTLEMENT WITH SCOTLAND YARD PROPERTIES, LLC
PROJECT NO. ST0808
PARCEL 303-41-020E



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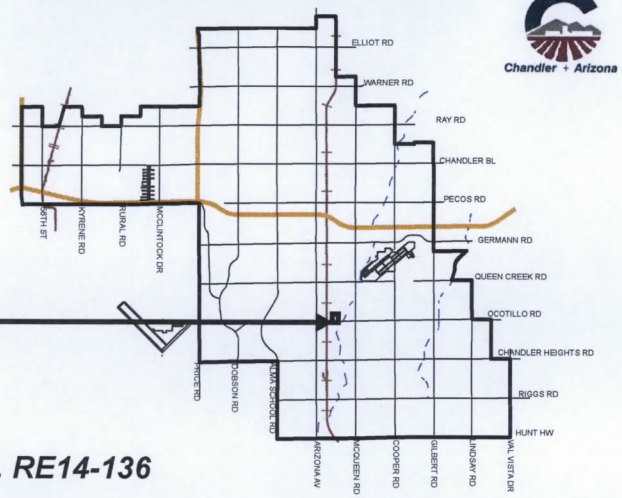
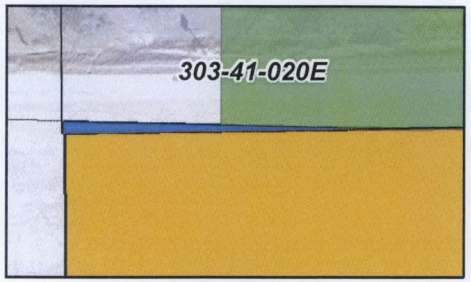


MEMO NO. RE14-136

- PARCEL 303-41-020E
- DRAINAGE EASEMENT
- UNDERLYING FEE
- RIGHT-OF-WAY



DETAIL

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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. SCOTLAND YARD PROPERTIES, LLC, an Arizona limited liability company; IRA GAINES, Trustee of the Paradise Wire & Cable, Inc. Defined Benefit Pension Plan; BALJJ HOLDINGS I, LLC, and Arizona limited liability company; RANDOLPH O. PERSSON, Trustee of the Randolph O. Perrson Trust dated May 1, 2000; and COUNTY OF MARICOPA, a political subdivision of the State of Arizona, Defendants. APN: 303-41-020E	No. CV2014-000177 **STIPULATED JUDGMENT** (Hon. Douglas Rayes)

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

1. All Defendants were properly served.

2. Plaintiff has judgment condemning a fee simple and drainage easement interests in the real property described in Exhibit "A" attached (the "subject property").

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

4. Defendants SCOTLAND YARD PROPERTIES, LLC, an Arizona limited liability company; IRA GAINES, Trustee of the Paradise Wire & Cable, Inc. Defined Benefit Pension Plan; BALJJ HOLDINGS I, LLC, and Arizona limited liability company; and RANDOLPH O. PERSSON, Trustee of the Randolph O. Perrson Trust dated May 1, 2000, have

judgment against Plaintiff in the amount of $10,000.00, including statutory interest, as total just compensation for the taking of any and interest they have in the subject property.

5. Plaintiff having previously deposited the sum of $3,733 with the Clerk pursuant to the Order for Immediate Possession, Plaintiff shall deposit with the Clerk the additional sum of $6,267.00. Upon receipt of the additional sum, the Clerk shall, without additional order, pay by check to IRA GAINES, Trustee of the Paradise Wire & Cable, Inc. Defined Benefit Pension Plan; BALJJ HOLDINGS I, LLC, and Arizona limited liability company; and RANDOLPH O. PERSSON, Trustee of the Randolph O. Perrson Trust dated May 1, 2000. Said check shall be mailed to Glen Hotchkiss, Buchalter Nemer, 16435 North Scottsdale Road, Suite 440, Scottsdale, AZ 85254.

6. Upon receipt of the funds, counsel for Defendants Gaines, Baljj and Persson shall execute and file with the Court a Satisfaction of Judgment.

7. Once the funds specified in paragraph 4 above have been paid, this Court shall enter its Final Order of Condemnation vesting fee simple and drainage easement interests in the subject property to 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, 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 January 9, 2014, Document No. 2014-0016017 is hereby adjudged and decreed to be without any right, title or

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

DONE IN OPEN COURT this _____day of_____, 2014.

_____
The Honorable Douglas Rayes
JUDGE OF THE SUPERIOR COURT

Stipulated as to Form and Content:

The Law Offices of Diane M. Miller, PLLC

DATED:_____

_____
Diane Miller
Attorney for The City of Chandler

SCOTLAND YARD PROPERTIES, LLC

DATED: May 27, 2014

_____
By: Gene Michuk, Managing Member

BUCHALTER NEMER

DATED: May 27, 2014

_____
Glen Hotchkiss
Attorneys for Gaines, Baljj & Persson

ORIGINAL e-filed this _____ day
of _____, 2014.

_____