



**Chandler • Arizona**  
*Where Values Make The Difference*

# 77

SEP 20 2007

**MEMORANDUM**

**Public Works Engineering - Council Memo ENG08-008**

**DATE:** September 20, 2007

**TO:** MAYOR AND COUNCIL

**THRU:** W. MARK PENTZ, CITY MANAGER  
DANIEL W. COOK, ACTING PUBLIC WORKS DIRECTOR  
SHEINA HUGHES, ACTING ASSISTANT PUBLIC WORKS  
DIRECTOR/CITY ENGINEER

**FROM:** CHARLES W. SMITH, ENGINEER

**SUBJECT:** Approval of Offsite Improvement and Construction Easement Agreement OA07-005 with Cooper Commons Office, L.L.C., deferring improvements to Pecos Road across the frontage of the Santan Crossing development, including turn lanes, a median break, concrete pavers, street lights, sidewalk, traffic signs, turn arrows, a reclaimed water stub-out, and overhead power relocations, and accepting a lump sum payment of \$256,110.

**RECOMMENDATION:**

Staff recommends that Council approve Offsite Improvement and Construction Easement Agreement OA07-005 with Cooper Commons Office, L.L.C., deferring improvements to Pecos Road across the frontage of the Santan Crossing development, including turn lanes, a median break, concrete pavers, street lights, sidewalk, traffic signs, turn arrows, a reclaimed water stub-out, and overhead power relocations, and accepting a lump sum payment of \$256,110.

**BACKGROUND AND DISCUSSION:**

A commercial development, to be known as Santan Crossing, is being constructed at the southwest corner of Pecos Road and Cottonwood Street. The developer is Cooper Commons Office, L.L.C. Associated with this development is a requirement to construct certain offsite improvements to Pecos Road, including two right turn lanes, a median break and left turn lane, concrete pavers for the hardscape portion of the Pecos Road median, ten traffic signs, two turn arrows, a 6' wide sidewalk, one 8" diameter reclaimed water stub-out, four street lights, the relocation of two 69 kilovolt power poles, and undergrounding of the existing 12 kilovolt power lines across the frontage of the property. The City has a planned capital improvement project (Project No. ST0602-401) that will include the improvement of this portion of Pecos Road. In order to minimize the need for coordination between two contractors and to prevent having traffic on Pecos Road disrupted twice, it was concluded that the preferred approach was to obtain

a lump sum payment from the developer and incorporate this work into the City project. Accordingly, a lump sum offsite improvement agreement has been prepared to cover this work.

Under the proposed agreement, the developer will make a lump sum payment to cover his obligation for these improvements, and in exchange for this lump sum payment, the developer will be relieved of any further responsibility for this work. The funds received will be held by the City in an appropriate account until the time when these improvements are constructed. At that time, these funds will be applied to the cost of the construction.

The estimated total cost for completing this work is \$256, 110. Under this agreement, that is the amount of the lump sum payment to be made by the developer

FINANCIAL IMPLICATIONS:

A lump sum payment, in the amount of \$256,110, will be received from the developer and held in an interest-bearing account until the time when these improvements are installed. At that time, these funds will be applied to the cost of the installation.

PROPOSED MOTION:

Move that Council approve Offsite Improvement and Construction Easement Agreement OA07-005 with Cooper Commons Office, L.L.C., deferring improvements to Pecos Road across the frontage of the Santan Crossing development, including turn lanes, a median break, concrete pavers, street lights, sidewalk, traffic signs, turn arrows, a reclaimed water stub-out, and overhead power relocations, and accepting a lump sum payment of \$256,110, and authorize the Mayor to sign the Agreement.

Attachments: Agreement No. OA07-005, Location Map

After Recording, Return  
Original Document to:

Chandler City Clerk  
PO Box 4008  
Mail Stop 606  
Chandler, AZ 85244-4008

**OFFSITE IMPROVEMENT  
AND CONSTRUCTION EASEMENT AGREEMENT  
(Lump Sum Payment)**

**AGREEMENT NUMBER: OA07-005**

This Agreement, effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, is entered into by and between the CITY OF CHANDLER, an Arizona municipal corporation (the "City"), and Cooper Commons Office, L.L.C., an Arizona limited liability company, (the "Developer").

**RECITALS**

- A. Chapters 47 and 48 of the Chandler City Code require the Developer to prepare plans and specifications and to construct certain offsite improvements in conformance with municipal standards and requirements.
- B. Under Arizona law, the City is required to receive assurances from the Developer that the offsite improvements will be constructed.
- C. Under Section 48-12.2 of the Chandler Subdivision Code, the Developer is permitted to meet his responsibilities for construction of offsite improvements by participating in an improvement district if one is organized at the discretion of the City and the participating property owners.
- D. Under Section 47-11 of the Chandler City Code, the City's Public Works Director is authorized to defer construction of offsite improvements under certain conditions where the construction of such offsite improvements would not be practical at the present time.
- E. The Developer has prepared plans and specifications accepted by the City in connection with the required offsite improvements adjacent or related to the following described real property:

**SEE EXHIBIT "A", LEGAL DESCRIPTION, ATTACHED HERETO AND  
INCORPORATED HEREIN BY REFERENCE.**

3. In conjunction with final approval of the Developer's site plan for the above-described real property, the Developer shall pay to the City in a single, lump sum payment, of the costs as set out in "Exhibit B". Said payment in full shall constitute full satisfaction of the Developer's improvement obligation for all of the above-described offsite improvements and the Developer shall then have no further obligation with respect to the design and construction of the above-described improvements or for payment thereof.

4. The monies received by the City shall be placed in a separate fund and accounted for separately and, until such time as the Offsites are completed, shall only be used for the purpose of completing the improvements at a future date determined by the City.

5. This Agreement shall be construed in accordance with the laws of the State of Arizona.

6. If any court of competent jurisdiction declares any portion or portions of this Agreement invalid, the remaining provisions hereof shall remain in full force and effect provided that the purpose and intent of the parties in entering into this Agreement is met.

7. This Agreement may be enforced by either party in a court of law or equity and the prevailing party may be entitled to recover any costs and expenses including reasonable attorneys' fees. Nothing herein shall prevent or prohibit the City from enforcing this Agreement through such other non-judicial means as may be permitted by law, including, but not limited to, the withholding of building permits.

8. Time is of the essence in this Agreement.

9. In this Agreement, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

10. This Agreement shall run with the land and inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns.

F. The City's Public Works Director has determined that it is appropriate to defer construction of some of the required offsite improvements adjacent or related to the above-described real property for a fixed period of time. The offsite improvements which are appropriate to defer are described in paragraph 1 below.

G. In lieu of deferring construction of the offsite improvements for a fixed period of time through the posting of a bond or other security, the Developer desires to make a single lump sum payment to the City of the estimated total costs of his improvement obligation (the "Improvement Costs"), thereby making full satisfaction of that obligation.

H. The City is willing to accept such a lump sum payment as full satisfaction of the offsite improvement obligation for the offsite improvements described in paragraph 1 below provided that the Developer also covenants and agrees to grant an easement to the City granting City the right to use the above-described real property to the extent required by the City to complete the construction of the offsites described below.

### **COVENANTS**

NOW, THEREFORE, in consideration of the mutual covenants, promises and undertakings set forth below, the parties agree as follows:

1. Except as otherwise provided herein, the Developer is responsible for construction of the following offsite improvements (the "Offsites"), adjacent or related to the above-described property, as shown on plans prepared by Entellus for City of Chandler Project Number ST0602-402:

- Two right turn lanes in Pecos Road
- Median break and left turn lane in Pecos Road as shown in the plans.
- Concrete pavers for hardscape median in Pecos Road
- Ten Traffic signs and two turn arrows
- 6' sidewalk along Pecos Road across the frontage of the property
- One 8" reclaimed water stub-out
- Four street lights
- Relocation of two 69 kV power poles
- Undergrounding of 12 kV power lines across the frontage of the property

2. The net cost for the above referenced improvements is Two Hundred Fifty Six Thousand, One Hundred Ten Dollars and No Cents, (\$256,110.00). This amount has been determined by the City's Public Works Director or designee based upon estimates more fully itemized in Exhibit "B", attached hereto and incorporated by this reference, and is accepted by the Developer.

11. Any amendment to this Agreement shall be in writing.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date and year first stated above.

CITY OF CHANDLER

\_\_\_\_\_  
MAYOR

ATTEST

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY *GAB*

COOPER COMMONS OFFICE, L.L.C.

By: PARAGON COOPER COMMONS OFFICE LLC

Its: MANAGER

*[Signature]*

ITS: MANAGER

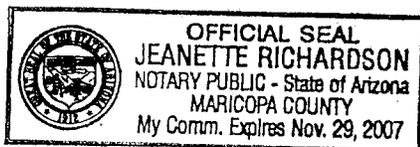
STATE OF ARIZONA     )  
  ) ss.  
County of Maricopa     )

On this 11 day of September, 2007, before me, the undersigned Notary Public, personally appeared Bruce Dunn, \_\_\_\_\_ (Title), and being authorized so to do, executed the foregoing Agreement in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My Commission Expires:

Jeanette Richardson  
Notary Public



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

A PORTION OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

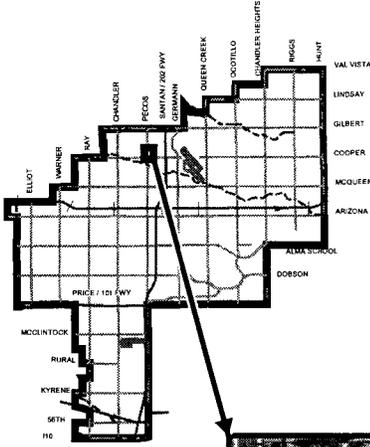
BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 1;  
THENCE NORTH 89 DEGREES 28 MINUTES 10 SECONDS EAST ALONG THE NORTH LINE OF SAID SECTION 1, A DISTANCE OF 1325.34 FEET;  
THENCE SOUTH 00 DEGREES 21 MINUTES 22 SECONDS EAST 384.95 FEET;  
THENCE SOUTH 89 DEGREES 38 MINUTES 42 SECONDS WEST 579.87 FEET;  
THENCE SOUTH 41 DEGREES 17 MINUTES 04 SECONDS WEST 26.37 FEET;  
THENCE SOUTH 00 DEGREES 26 MINUTES 53 SECONDS EAST 213.18 FEET  
THENCE SOUTH 89 DEGREES 33 MINUTES 11 SECONDS WEST 140.00 FEET;  
THENCE SOUTH 54 DEGREES 41 MINUTES 05 SECONDS WEST 85.32 FEET;  
THENCE SOUTH 89 DEGREES 33 MINUTES 11 SECONDS WEST 517.31 FEET TO THE WEST LINE OF SAID NORTHWEST QUARTER OF SECTION 1;  
THENCE NORTH 00 DEGREES 26 MINUTES 49 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 663.72 FEET TO THE POINT OF BEGINNING.

**EXHIBIT "B"**  
**COST BREAKDOWN OF DEFERRED IMPROVEMENTS**  
**FOR SANTAN CROSSING**

Improvement costs of the offsites is Two Hundred Fifty Six Thousand, One Hundred Ten Dollars and No Cents, (\$256,110.00) which has been determined as follows:

Description	Est. Qty.	Unit	Unit Price	Extended Price
Earthwork/Roadwork Excavation	328	CY	4.58	1,502.00
Pavement, 6" AC on 3" ABC on 6" Lime	1,179	SY	35.24	41,548.00
Haul Off	328	CY	12.71	4,169.00
Remove Single Curb	480	LF	5.47	2,626.00
Install Single Curb	210	LF	12.62	2,650.00
Install 6" Vertical Curb & Gutter	498	LF	14.67	7,306.00
Remove Curb & Gutter	658	LF	5.90	3,882.00
Install 6' Sidewalk	2,988	SF	3.09	9,233.00
Install Handicapped Ramps	4	EA	1,936.00	7,744.00
Install 4" PVC Sleeve	215	LF	19.13	4,113.00
Install Brick Pavers	404	SF	5.10	2,060.00
Install Arrow Symbols	3	EA	150.00	450.00
Install 8" white stripe	200	LF	0.40	80.00
Install 6" white stripe	610	LF	0.30	183.00
Install raised pavement markers	18	EA	5.00	90.00
Install sign posts and foundations	2	EA	195.00	390.00
Paint Median Nose	2	EA	110.00	220.00
2 1/2" Street Light Conduit	880	LF	8.50	7,480.00
1" SCH 40 PVC Conduit	20	LF	8.75	175.00
Install SRP Supplied Pull Boxes	4	EA	150.00	600.00
Install Street Light Pole w/Luminaire	4	EA	1,425.00	5,700.00
Install 8" Reclaimed Water Stub	40	LF	80.00	3,200.00
Remove Existing Landscape	-	SF	0.50	0
Repair Remaining Landscape	990	SF	1.50	1,485.00
Mobilization	1	LS	0	0
Traffic Control	1	LS	0	0
City Contractor Work Item Direct Costs				106,886.00
Overheads				21,929.00
Contingency				5,344.00
Engineering				10,689.00
<i>Subtotal</i>				144,848.00
Underground 765 LF of 12 kV Power Lines				80,325.00
Relocate Two 69 kV Power Poles				40,000.00
Credit for temporary power installation				(9,063.00)
<b>Grand Total</b>				<b>256,110.00</b>

# LOCATION MAP FOR SANTAN CROSSING OFFSITE AGREEMENT NO. OA07-005



MEMO NO. ENG08-008

