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APR 24 2008

MEMO TO: Mayor and City Council

THRU: Mary Wade, City Attorney *MW*

FROM: Glenn A. Brockman, Assistant City Attorney *GAB*

SUBJECT: Approval of condemnation settlement in *City of Chandler v. Doms et al.*, Cause No. CV2007-090538

DATE: April 14, 2008

RECOMMENDATION: Staff recommends approval of settlement for the sum of \$225,000.00, plus statutory interest.

BACKGROUND/DISCUSSION: This concerns a condemnation action filed on April 4, 2007, in connection with the Dobson/Warner Intersection improvement project. The City is acquiring roadway in fee (6,418 sq. ft.) and a temporary construction easement (10,956 sq. ft), together with incidental site improvements (asphalt paving, concrete curbing, masonry wall, landscaping) from a retail center located around the southwest corner of Dobson Road and Warner Road. The City acquired immediate possession of the need property on May 11, 2007.

The City's appraisal had valued the property being acquired at \$124,105, which was based on a rate of \$10.00/sq.ft., plus an amount for certain improvement relocations and minor cost-to-cure items, but no severance damages. The landowner provided an appraisal valuing the acquisition \$262,424, which was based on a rate of \$16.00/sq.ft., plus certain cost-to-cure items, plus severance damages.

The City's appraisal had valued the subject property at a date almost 7 months earlier than the date suit was filed. At that time, the owner's had not yet begun construction on a separate commercial building pad at the north end of the retail center, but were in for building permit review. The owner's appraisal valued the site as of the date suit was filed. At that time, permits had been issued and construction had begun on the building pad. The City engaged a third, independent appraiser as a consulting expert to review the two appraisals and provide advice. He indicated that the just compensation or damages resulting from the acquisition would be at or near \$200,000.

The proposed settlement is at \$225,000, plus statutory interest. This amount is within the settlement range deemed acceptable by the consultant. Staff recommends settlement at this amount as a fair and reasonable compromise.

FINANCIAL IMPLICATIONS: Payment will come from funds budgeted for the road project.

PROPOSED MOTION: Move to approve settlement of *City of Chandler v. Doms et al.* for the sum of \$225,000.00, plus statutory interest.

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