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JUN 26 2008



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MEMORANDUM

Real Estate Council Memo No. RE08-208

DATE: JUNE 26, 2008

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
R.J. ZEDER, PUBLIC WORKS DIRECTOR
DANIEL W. COOK, DEPUTY DIRECTOR, PUBLIC WORKS
SHEINA HUGHES, ACTING ASSISTANT PUBLIC WORKS DIRECTOR
/ CITY ENGINEER
MIKE NORMAND, TRANSPORTATION SERVICES AND PLANNING
MANAGER

FROM: ERICH KUNTZE, REAL ESTATE OPERATIONS COORDINATOR

SUBJECT: RESOLUTION NO. 4159 AUTHORIZING AND APPROVING THE ACQUISITION OF REAL PROPERTY NEEDED FOR THE IMPROVEMENT OF RAY ROAD AND MCCLINTOCK DRIVE; AUTHORIZING AND APPROVING RELOCATION ASSISTANCE AS MAY BE REQUIRED BY LAW; AND DIRECTING FURTHER ACTION.

RECOMMENDATION: Staff recommends that Council pass and adopt Resolution No. 4159 authorizing and approving the acquisition of real property needed for improvement of Ray Road and McClintock Drive; authorizing and approving relocation assistance as may be required by law; and directing further action.

BACKGROUND/DISCUSSION: On February 28, 2008 Council did approve the alignment for the Ray Road-McClintock Drive Improvements (CIP Project ST0624). It allows for three through lanes, dual left turn lanes, right turn lanes, bus pullouts and bike lanes in each direction. This project will allow for additional improvements to traffic movement and public safety.

BACKGROUND/DISCUSSION – Continued:

The Project will require the acquisition of real property (road right-of-way and easements) from private property adjacent to, near or related to the roadway being improved. Approximately 17 parcels have been identified of which twelve (12) are partial acquisitions of commercial/retail parcels, four (4) tracts are owned by homeowner associations, and one (1) parcel will be a full acquisition of a single-family residence. Staff has discussed the possibility of these acquisitions with the property owners. Public meetings were held on December 12, 2006 and September 18, 2007 by City staff to present the proposed project and solicit public input for the project. Staff presented project information, responded to questions and comments, and received additional input from business owners and residents.

This Resolution authorizes acquisition of the real property at fair market value either by purchase or by further action. A reasonable negotiation period will be allowed for property purchases, after which further action will be initiated as needed to acquire the real property and to obtain immediate possession. Relocation assistance is authorized where required by law.

Construction is scheduled to start in 2010.

FINANCIAL IMPLICATIONS: A portion of the funds budgeted for this project will be used for property acquisition and relocation assistance.

PROPOSED MOTION: Staff recommends that Council pass and adopt Resolution No. 4159 authorizing and approving the acquisition of real property needed for improvement of Ray Road and McClintock Drive; authorizing and approving relocation assistance as may be required by law; and directing further action.

Attachments: Resolution 4159
Location/Site Map

RESOLUTION NO. 4159

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, DETERMINING THAT ACQUISITION OF REAL PROPERTY NEEDED FOR THE RAY ROAD AND MCCLINTOCK DRIVE IMPROVEMENTS IS A MATTER OF PUBLIC NECESSITY; AUTHORIZING THE PURCHASE OF SUCH REAL PROPERTY NEEDED FOR THE RAY ROAD AND MCCLINTOCK DRIVE INTERSECTION IMPROVEMENTS; AUTHORIZING RELOCATION ASSISTANCE AS MAY BE REQUIRED BY LAW AND DIRECTING FURTHER ACTION.

WHEREAS, On February 28, 2008, Council approved the alignment of a roadway improvement project, the Ray Road and McClintock Drive Improvements (the "Project"), which is intended to improve transportation safety and vehicular traffic movement within the City of Chandler; and

WHEREAS, in order to allow the Project to proceed in accordance with its schedule, the City of Chandler needs to acquire certain real property as rights-of-way in fee and/or easements from private property that is adjacent to, near by, or related to the approved alignment for the Project, as identified and depicted in Exhibit "A", attached hereto and incorporated herein by this reference; and

WHEREAS, the City is authorized by law to acquire such real property as is needed for public roadway purposes; and

WHEREAS, the acquisition of some of the real property for the Project may result in the relocation of persons, businesses or personal property;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Maricopa County, Arizona, as follows:

Section 1. It is hereby determined that the acquisition of real property needed for the Project, including without limitation the right-of-way fee and related easements from the tax parcels shown in attached Exhibit "A", is necessary for the public purpose of widening and improvement of a public roadway; is for a public necessity purpose; is in the best interest of the citizens of the city of chandler; and is located so that the acquisition for public use will be most compatible with the greatest public good and the least private injury.

Section 2. The City is authorized and directed to purchase said real property for an amount equal to the fair market value of the property as determined by appraisal. Written offers shall be in a form approved by the Chandler City Attorney and each purchase agreement entered

into with a property owner shall be individually approved as to form by the Chandler City Attorney prior to being deposited into escrow.

Section 3. The City's Real Estate Operations Coordinator, any City Real Estate Officer acting on the Coordinator's behalf, or any retained right of way consultant acting at the direction of the Real Estate Operations Coordinator, is authorized to make written offers for said real property and, where accepted, to execute, deliver and deposit into escrow the approved purchase agreement, along with all other documents and instructions necessary to consummate the purchase of said real property.

Section 4. For each parcel of real property to be acquired for the Project, the Real Estate Operations Coordinator, or any person acting under the Coordinator's direction or on the Coordinator's behalf, shall make a reasonable effort to negotiate the purchase of the real property at the amount of the written offer. If, as a result of such negotiation, the Public Works Director, in consultation with the City's Real Estate Operations Coordinator, the City Attorney, and the City Manager, determines that:

a. The real property can be acquired through an administrative settlement in lieu of litigation for an amount that is in excess of the written offer, but which is reasonable, prudent, and in the public interest, and provides written justification, which states what available information, including trial risks, support such a settlement, written support for that determination, then the City shall request authority from the Chandler City Council to approve such a settlement; or

b. Such an administrative settlement is not possible, then the City shall request authority from the Chandler city Council to acquire the real property through the use of condemnation action.

Section 5. The City is authorized to provide such relocation assistance, including benefits, as may be required by law. The City's Real Estate Operations Coordinator shall make the initial determination of any claim received for relocation benefits; any administrative appeal from such decision shall be considered and acted upon by the Chandler City Manager or the City Manager's designee for such purpose, whose decision shall be final in accordance with applicable law.

PASSED AND ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this ___ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4159 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2008, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY *GAB*

EXHIBIT "A"

Identified Parcels

**Ray Road and McClintock Road
17 Identified Parcels**

Location: SW Quadrant

Assessor's Tax Parcel No. **308-10-400-Tract 5A**
Assessor's Tax Parcel No. **308-10-343**
Assessor's Tax Parcel No. **308-10-403 Tract 5D**

Location: SE Quadrant:

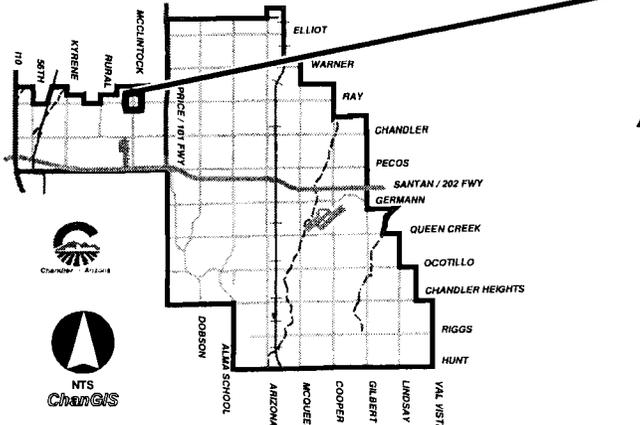
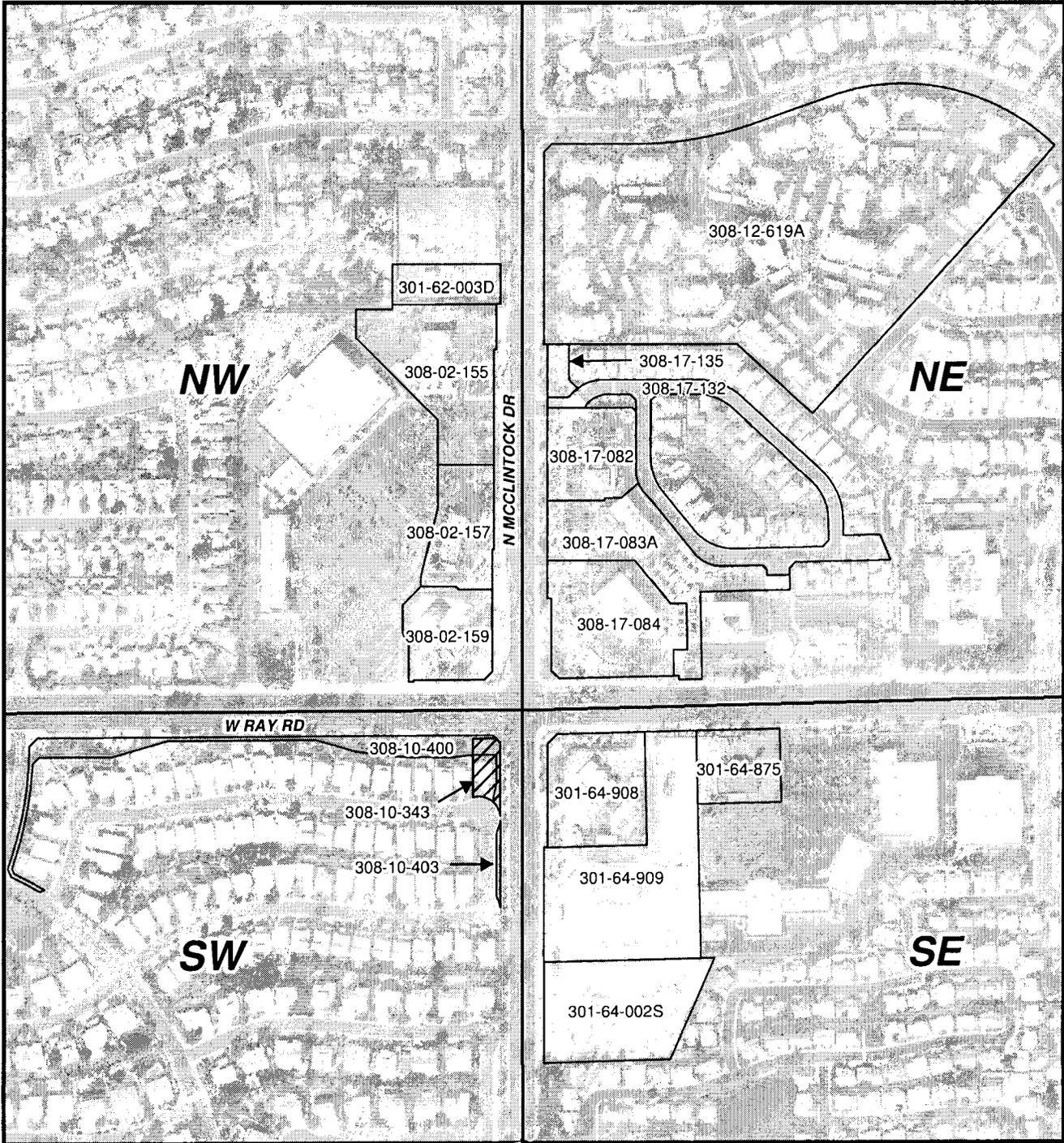
Assessor's Tax Parcel No. **301-64-908**
Assessor's Tax Parcel No. **301-64-909**
Assessor's Tax Parcel No. **301-64-002S**
Assessor's Tax Parcel No. **301-64-875**

Location: NE Quadrant:

Assessor's Tax Parcel No. **308-12-619A**
Assessor's Tax Parcel No. **308-17-135**
Assessor's Tax Parcel No. **308-17-132**
Assessor's Tax Parcel No. **308-17-082**
Assessor's Tax Parcel No. **308-17-083A**
Assessor's Tax Parcel No. **308-17-084**

Location: NW Quadrant:

Assessor's Tax Parcel No. **301-62-003D**
Assessor's Tax Parcel No. **308-02-155**
Assessor's Tax Parcel No. **308-02-157**
Assessor's Tax Parcel No. **308-02-159**



AUTHORIZATION TO ACQUIRE AND RELOCATE

MEMO NO. RE08-208

RESOLUTION NO. 4159

 POTENTIAL LOT PURCHASE