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NOV 20 2008

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MEMORANDUM **Real Estate Council Memo No. RE09-119**

DATE: NOVEMBER 20, 2008

TO: MAYOR AND COUNCIL

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

FROM: ERICH KUNTZE, REAL ESTATE MANAGER

SUBJECT: RESOLUTION NO. 4238 AUTHORIZING AND APPROVING THE ACQUISITION OF REAL PROPERTY NEEDED FOR THE MCQUEEN ROAD – QUEEN CREEK ROAD TO RIGGS ROAD IMPROVEMENTS PROJECT; AUTHORIZING AND APPROVING CONDEMNATION PROCEEDINGS AS NEEDED TO ACQUIRE SAID REAL PROPERTY AND TO OBTAIN IMMEDIATE POSSESSION THEREOF; AND AUTHORIZING AND APPROVING SUCH RELOCATION ASSISTANCE AS MAY BE REQUIRED BY LAW.

RECOMMENDATION: Staff recommends that Council pass and adopt Resolution No. 4238 authorizing and approving the acquisition of real property needed for the McQueen Road – Queen Creek Road to Riggs Road Improvements Project; authorizing and approving condemnation proceedings as needed to acquire said real property and to obtain immediate possession thereof; and authorizing and approving such relocation assistance as may be required by law.

BACKGROUND/DISCUSSION: On October 30, 2008 City Council approved the alignment for the McQueen Road – Queen Creek Road to Riggs Road Improvement (the "Project). The project requires acquisition of real property (road right-of-way and easements) from public and private property owners adjacent to, near, or related to the roadway being improved.

Subject to City Council approval, this Resolution authorizes acquisition of the real property at fair market value either by purchase or condemnation. A reasonable negotiation period will be allowed for property purchases, after which condemnation proceedings will be initiated as needed to acquire the real property and to obtain immediate possession. Relocation assistance is authorized where required by law. There are no full property acquisitions contemplated for this project. In addition, there are no anticipated impacts on existing commercial parking as a result of this work.

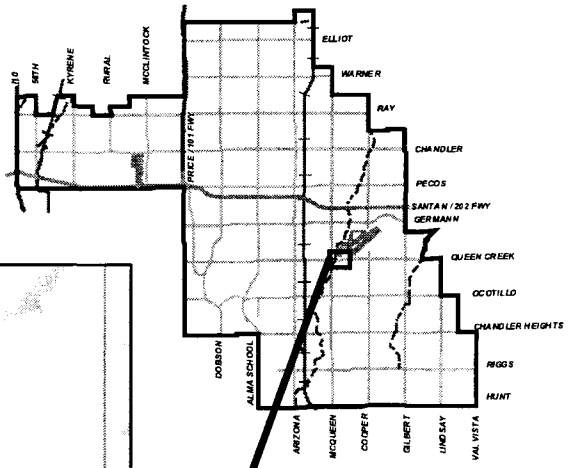
FINANCIAL IMPLICATIONS: Approximately 23 private parcels, 2 USA parcels and 6 City of Chandler parcels will be involved. A portion of the funds budgeted for the Project will be used for acquisition and relocation.

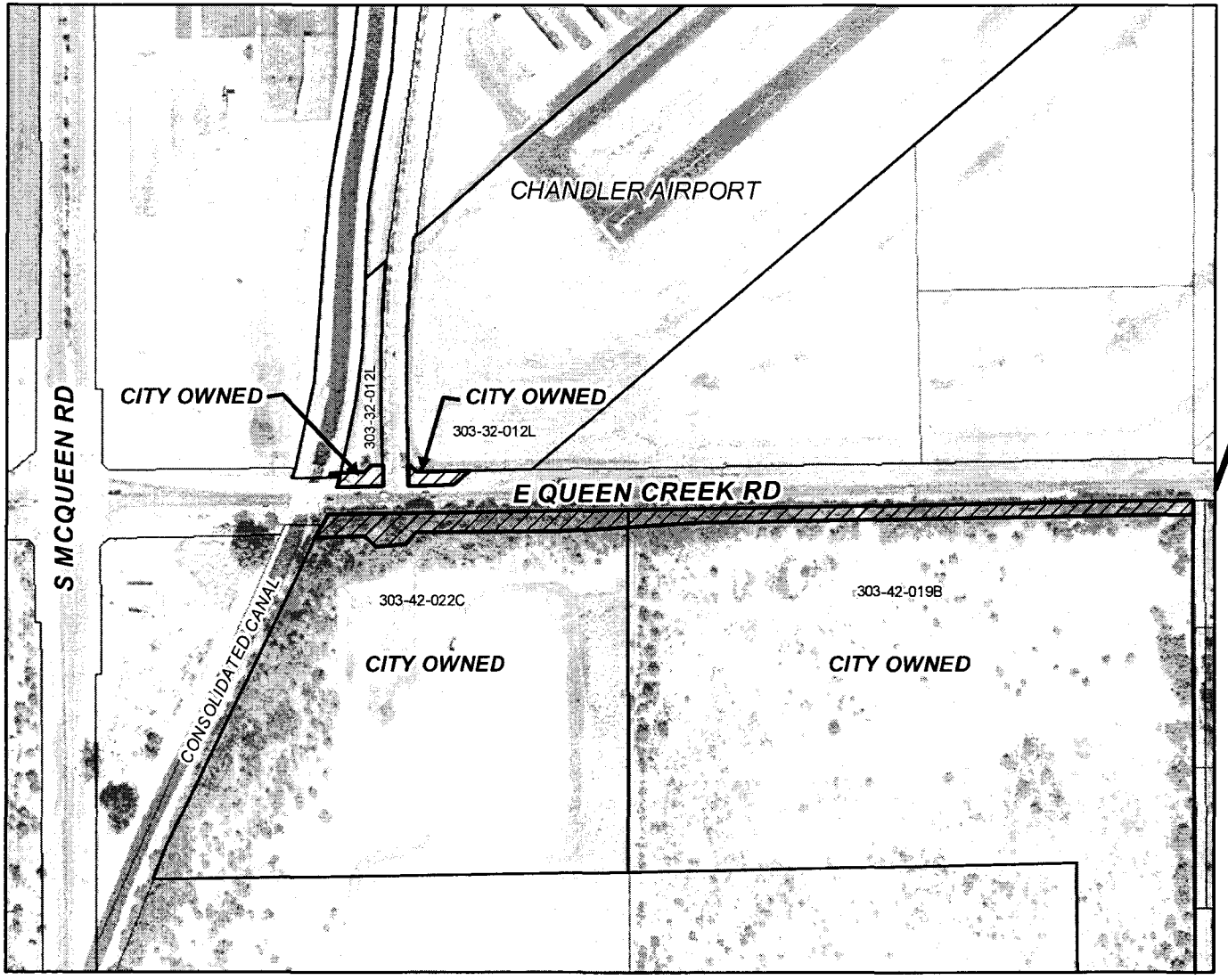
PROPOSED MOTION: Staff recommends that Council pass and adopt Resolution No. 4238 authorizing and approving the acquisition of real property needed for the McQueen Road – Queen Creek Road to Riggs Road Improvements Project; authorizing and approving condemnation proceedings as needed to acquire said real property and to obtain immediate possession thereof; and authorizing and approving such relocation assistance as may be required by law.

Attachments: Resolution 4238
Location/Site Map

AUTHORIZATION TO ACQUIRE, CONDEMN, AND RELOCATE FOR MCQUEEN ROAD IMPROVEMENTS PROJECT NO. ST0810-201

Chandler - Arizona





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PROPOSED R/W

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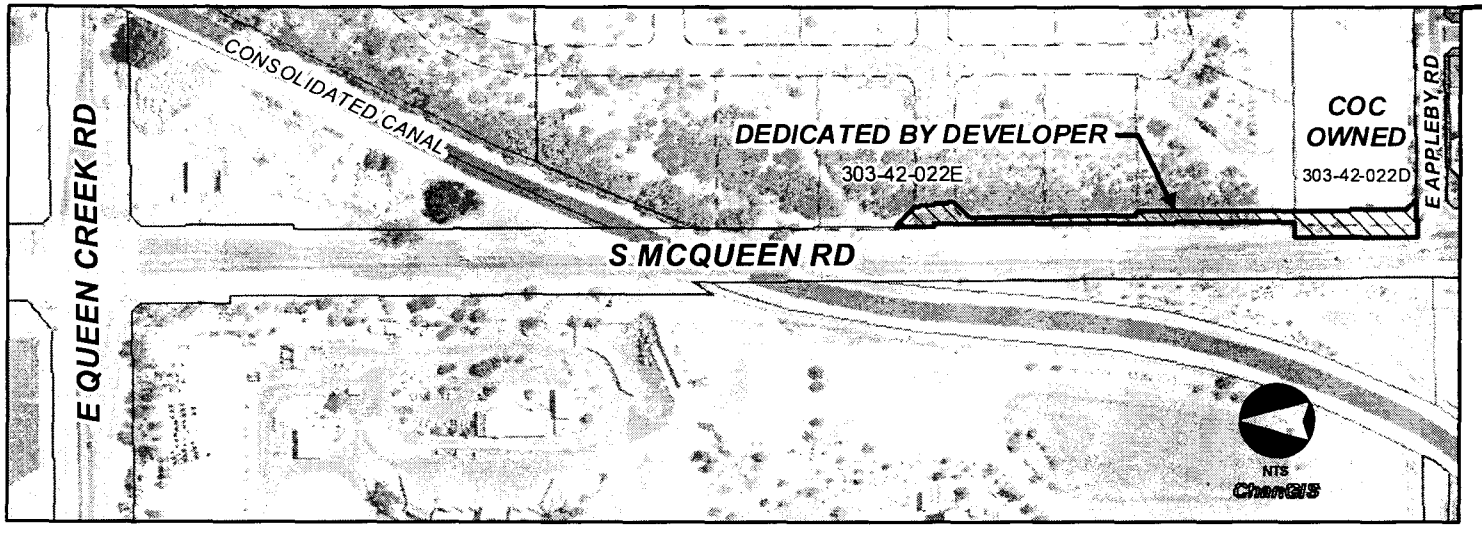

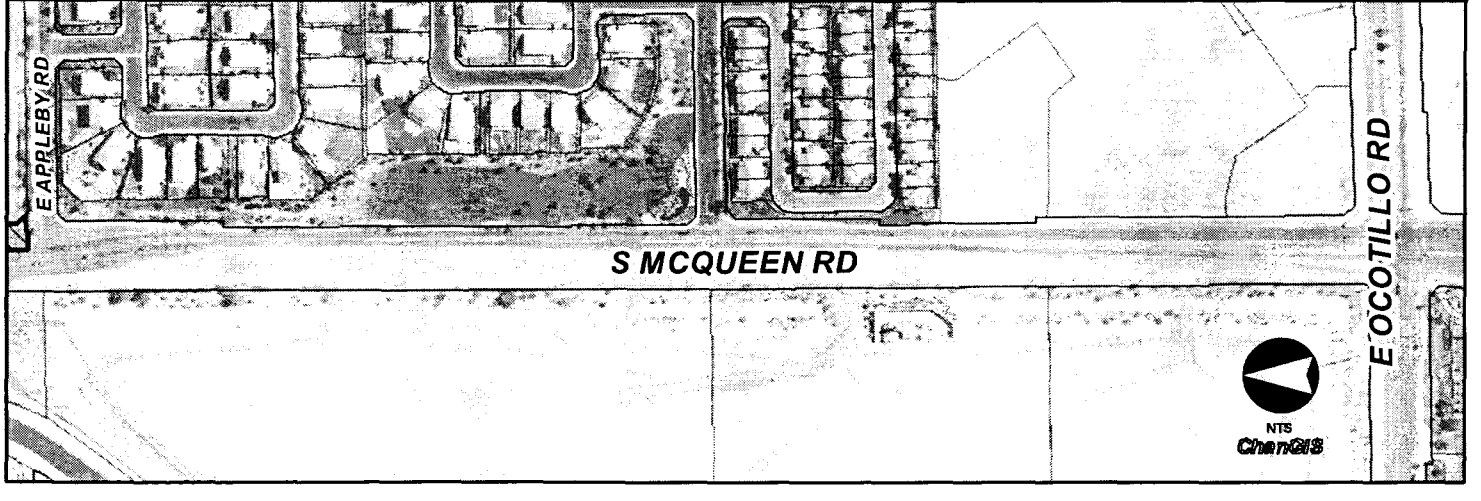

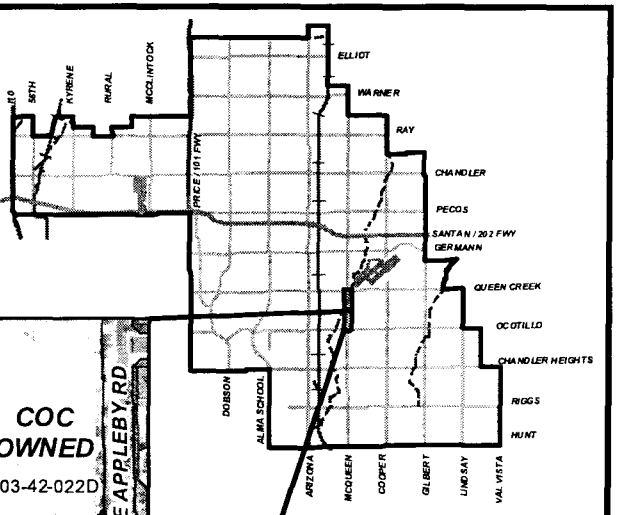

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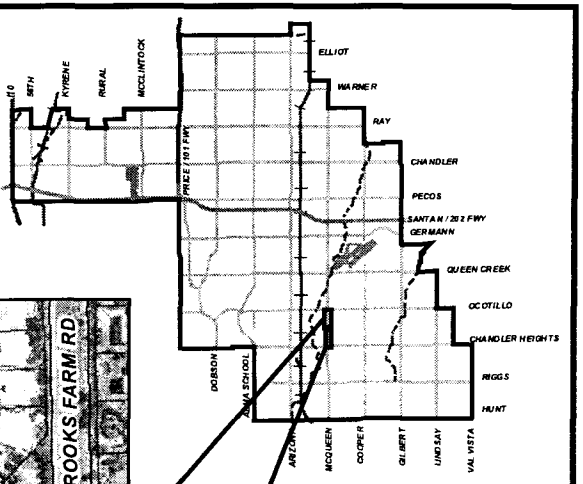

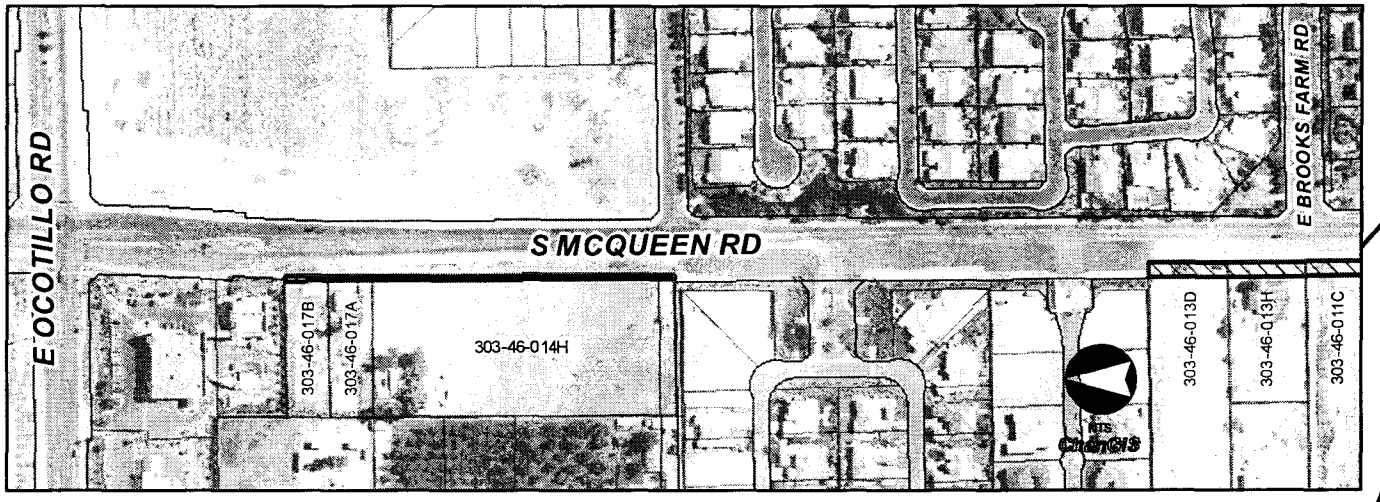

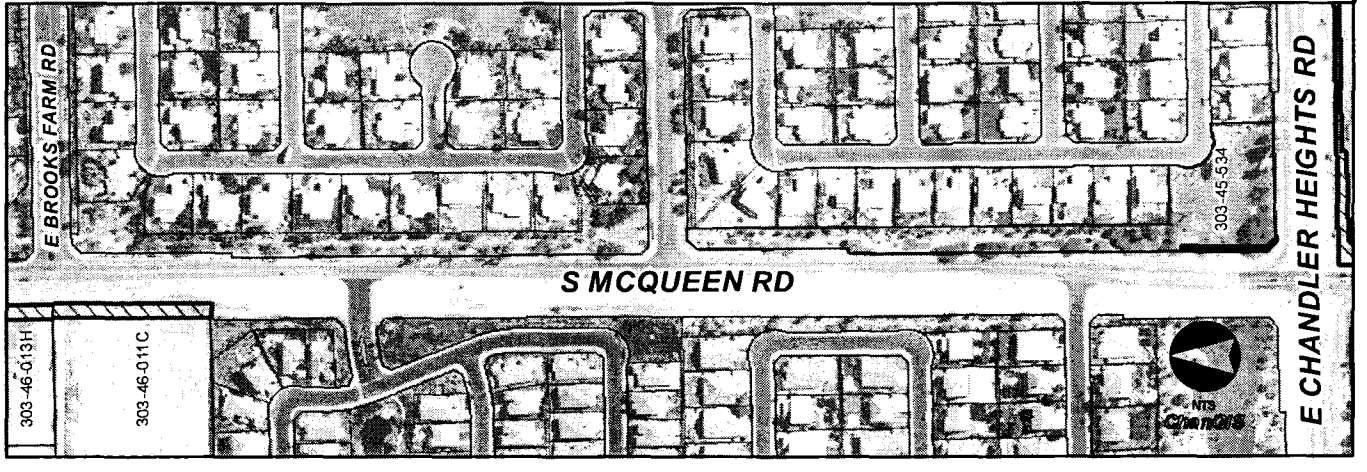

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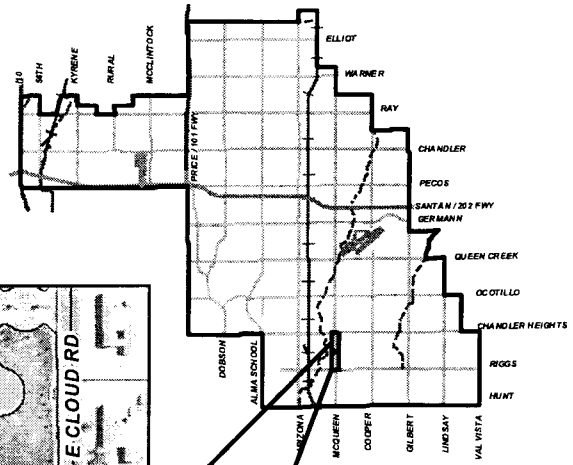

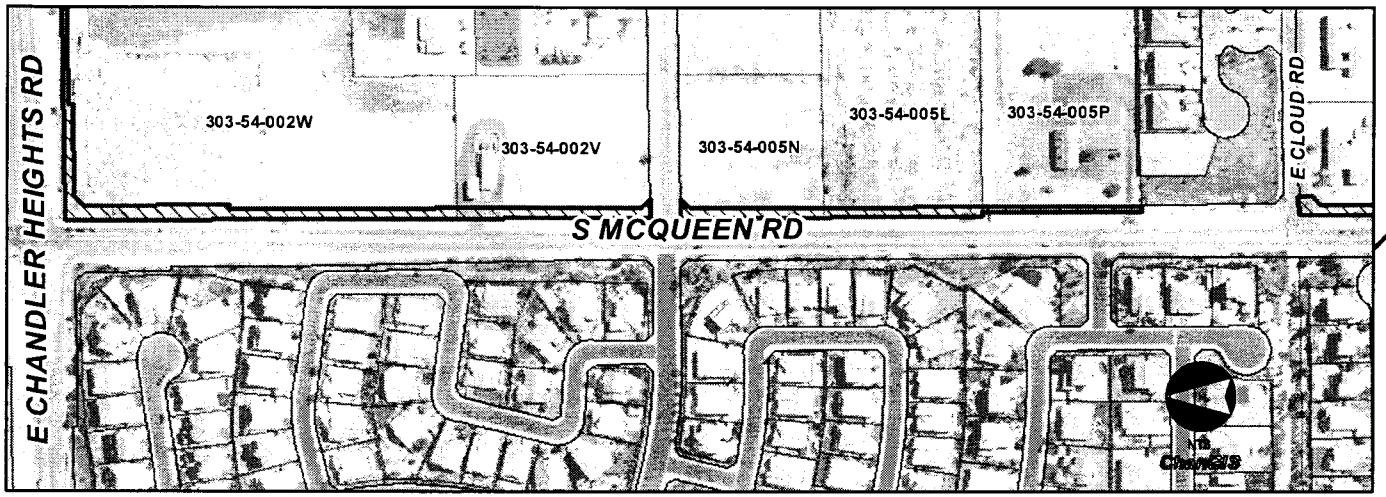

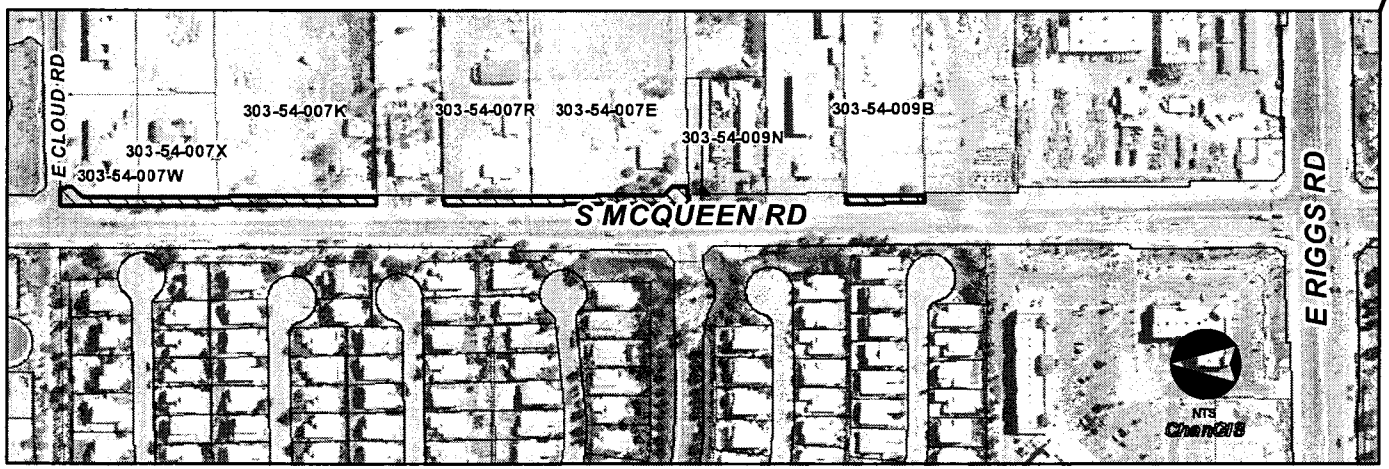

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RESOLUTION NO. 4238

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, DETERMINING THAT ACQUISITION OF REAL PROPERTY NEEDED FOR AND IN CONNECTION WITH THE IMPROVEMENT OF MCQUEEN ROAD FROM QUEEN CREEK ROAD TO RIGGS ROAD IS A MATTER OF PUBLIC NECESSITY; AUTHORIZING THE PURCHASE OF SUCH REAL PROPERTY; AUTHORIZING CONDEMNATION PROCEEDINGS AS NEEDED TO ACQUIRE THE REAL PROPERTY AND TO OBTAIN IMMEDIATE POSSESSION THEREOF; AND AUTHORIZING RELOCATION ASSISTANCE AS MAY BE REQUIRED BY LAW.

WHEREAS, on October 30, 2008, the Chandler City Council approved the alignment for a road improvement project for and in connection with McQueen Road form Queen Creek Road to Riggs Road (the "Project"), which is intended to improve transportation 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, nearby, or related to the approved alignment for the Project; and

WHEREAS, the City needs to obtain immediate possession of the real property needed for the Project in order to have access and use during the construction period of the Project; and

WHEREAS, the City is authorized by law to acquire, whether by purchase, dedication or condemnation proceedings (eminent domain), 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 and in connection with the improvement of McQueen Road from Queen Creek Road to Riggs Road, in accordance with the previously approved alignment for such a road improvement project, and the securing of immediate possession of such real property, is necessary for the public purpose of widening and improving public roadway, is for a

public and necessary purpose, and is in the best interest of the citizens of the City of Chandler.

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. Subject to Section 2 above, the City's Real Estate Manager, any City real estate officer acting on the Manager's behalf, or any retained right-of-way consultant acting at the direction of the Real Estate Manager, 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. Where any such written offer is not accepted within a reasonable period of time for negotiation, the Chandler City Attorney is hereby authorized and directed to commence condemnation (eminent domain) proceedings to acquire, in the name of the City of Chandler, said real property, including any improvements thereon, and to secure immediate possession of such real property, for the public purpose of widening and improving the public roadway on McQueen Road from Queen Creek Road to Riggs Road, and is further directed to do and to perform all acts necessary in furtherance of the acquisition of title to and immediate possession of said real property.

Section 5. The City is authorized to provide such relocation assistance, including benefits, as may be required by law. The City's Real Estate Manager 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. 4238 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