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MAR 12 2009



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**MEMORANDUM**

**Real Estate Council Memo No. RE09-143**

**DATE:** MARCH 12, 2009

**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. 4248 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING CONDEMNATION PROCEEDINGS AS NEEDED TO ACQUIRE CERTAIN REAL PROPERTY NEEDED FOR ALMA SCHOOL ROAD AND RAY ROAD INTERSECTION IMPROVEMENTS, PROJECT NO. ST-0704, AND TO OBTAIN IMMEDIATE POSSESSION THEREOF.

RECOMMENDATION: Staff recommends that Council pass and adopt Resolution No. 4248 authorizing condemnation proceedings as needed to acquire certain real property needed for the Alma School Road and Ray Road Intersection Improvements, Project No. ST-0407, and to obtain immediate possession thereof.

BACKGROUND/DISCUSSION: Council previously approved the alignment for the Alma School Road and Ray Road Intersection Improvements at its February 28, 2008 meeting. Resolution No. 4135 authorizing the acquisition of the real property needed for the project and approving relocation assistance as may be required by law was approved by Council at its May 22, 2008 meeting. The project required the acquisition of five (5) full parcels (2 residential and 3 commercial). The two (2) residential parcels and two (2) of the commercial parcels have been acquired. The City has been unsuccessful in its negotiations with the third commercial property owner and must pursue condemnation to acquire the property located at 1029 N. Alma School Road. Staff met with the owners of 1029 N. Arizona Avenue at a public meeting and on-site to

Resolution No. 4248

March 12, 2009

Page 2

discuss their concerns and the acquisition of the property by the City. However, when the time came to make an offer to purchase, the property owner refused to meet with the City's acquisition consultant or Staff. Several attempts were made to meet, all of which were refused. Delivery of the offer was finally achieved by Certified Mail and confirmed by Return Receipt and telephonically with the property owners.

Construction will begin in early 2010.

FINANCIAL IMPLICATIONS:

A portion of the funds budgeted for this project will be used for property acquisition.

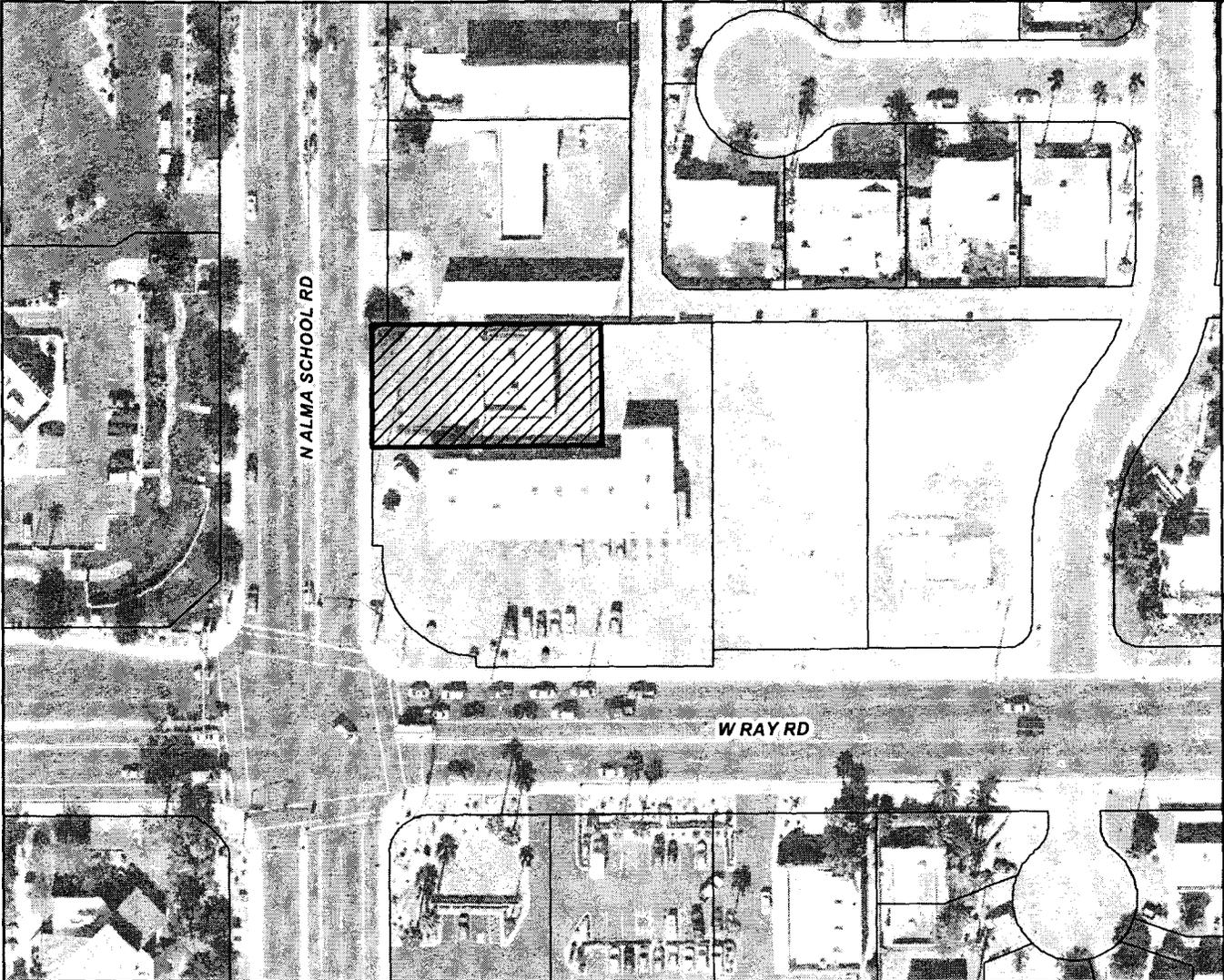
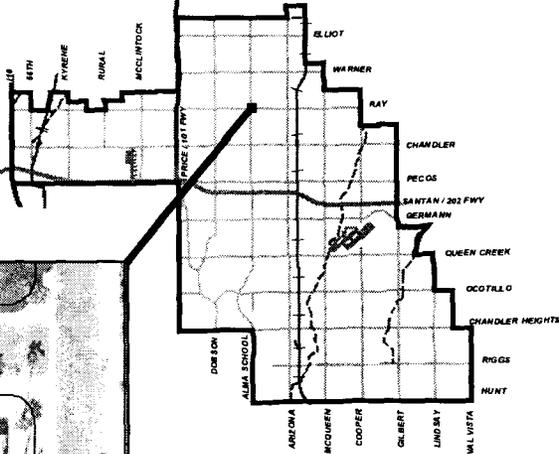
PROPOSED MOTION: Staff recommends that Council pass and adopt Resolution No. 4248 authorizing condemnation proceedings as needed to acquire certain real property needed for the Alma School Road and Ray Road Intersection Improvements, Project No. ST-0407, and to obtain immediate possession thereof.

Attachments: Resolution No. 4248  
Location/Site Map



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# AUTHORIZE EMINENT DOMAIN PROCEEDINGS ON 1029 N ALMA SCHOOL RD



MEMO NO. RE09-143

 APN 302-43-001E



NTS  
Chandler

RESOLUTION NO. 4248

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING CONDEMNATION PROCEEDINGS AS NEEDED TO ACQUIRE CERTAIN REAL PROPERTY NEEDED FOR ALMA SCHOOL ROAD AND RAY ROAD INTERSECTION IMPROVEMENTS, PROJECT NO. ST-0704, AND TO OBTAIN IMMEDIATE POSSESSION THEREOF.

WHEREAS, on February 28, 2008, the Chandler City Council approved the alignment for the Alma School Road and Ray Road Intersection Improvement Project No. ST-0704; and

WHEREAS, on May 22, 2008, the Chandler City Council passed and adopted Resolution No. 4135, and therein: (i) determined the public necessity of acquiring the real property and/or property interests identified in the Resolution; (ii) authorized the purchase of said real property and/or property interests; and (iii) authorized such relocation assistance as may be required by law; and

WHEREAS, the City, by and through its Real Estate Manager or persons acting under the Manager's direction or on the Manager's behalf, has/have tendered written purchase offers, which do and were intended to comply with statutory pre-condemnation requirements; and

WHEREAS, despite the City tendering purchase offers and negotiating for the real property and/or property interests identified in Resolution No. 4135, the Public Works Director has determined that the real property and/or property interests identified in Exhibit "A", attached hereto and incorporated herein by this reference, cannot be acquired by purchase or through an administrative settlement in lieu of litigation for an amount which is reasonable, prudent, and in the public interest; and

WHEREAS, the Chandler City Council is now requested to authorize acquisition by condemnation;

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

Section 1. This Resolution No. 4248 is intended to amend and supplement the authority granted to the City pursuant to previously approved Resolution No. 4135.

Section 2. The Chandler City Attorney is authorized to commence condemnation (eminent domain) proceedings to acquire, in the name of the City of Chandler, the real property and/or property interests identified in attached Exhibit "A", including, where applicable, any improvements thereon, and to secure immediate possession of the real property affected by any such condemnation proceeding, and is further directed to do and to perform all acts necessary in

furtherance of the acquisition of the real property and/or property interests and immediate possession of the real property affected by such acquisition.

PASSED AND ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this \_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

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

\_\_\_\_\_  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4248 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2009, and that a quorum was present thereat.

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

APPROVED AS TO FORM:

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

**EXHIBIT "A"**

The property located at 1029 N. Alma School Road, also known as Assessor's Parcel Number 302-43-001E.