

AUG 27 2009



Chandler • Arizona
Where Values Make The Difference

MEMORANDUM

Real Estate Council Memo No. RE10-046

DATE: AUGUST 27, 2009

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER ^{RTD}
R. J. ZEDER, PUBLIC WORKS DIRECTOR ^{ZZJ}
DANIEL W. COOK, DEPUTY PUBLIC WORKS DIRECTOR ^{DWC}
SHEINA HUGHES, ASSISTANT PUBLIC WORKS DIRECTOR/
CITY ENGINEER ^{SH}

FROM: ERICH KUNTZE, REAL ESTATE MANAGER ^{EK}

SUBJECT: RESOLUTION NO. 4335 AUTHORIZING AND APPROVING THE ACQUISITION OF REAL PROPERTY NEEDED FOR THE ARIZONA AVENUE BUS RAPID TRANSIT STATIONS PROJECT, NO. ST-0668; AUTHORIZING AND APPROVING SUCH RELOCATION ASSISTANCE AS MAY BE REQUIRED BY LAW AND DIRECTING FURTHER ACTION.

BACKGROUND/DISCUSSION: At the August 24, 2009 Study Session, Council requested a second option to Resolution 4319 that did not grant the authority to condemn that was included in Resolution 4319. Resolution 4335 does not have condemnation authority, but does provide the authority for acquisition at fair market value either by purchase or further action, relocation as may be required by law, and directing further action.

On June 18, 2009, the Transportation Commission reviewed the Arizona Avenue Bus Rapid Transit Stations Project (the "Project") and recommended that the City enter into an Intergovernmental Agreement ("IGA") with the Regional Public Transit Authority ("RPTA") to build the Project which is required to improve transit services for Chandler residents by providing additional, larger and improved stations for citizens using bus rapid transit services to connect with the light rail system.

All of the funding for the project will be paid by RPTA to the City of Chandler from Federal Stimulus Funds.

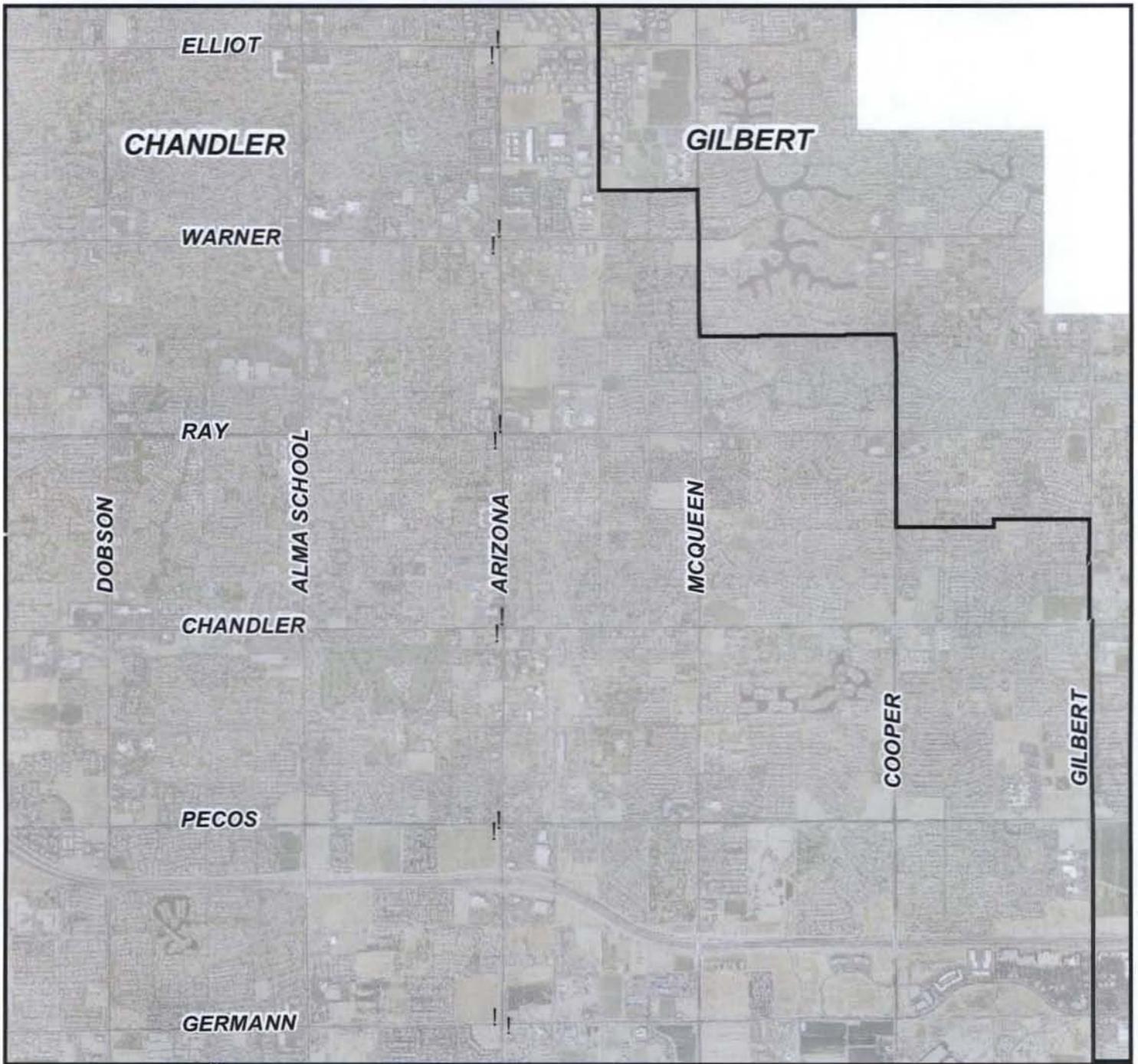
Memo # RE10-046
Council Meeting of 8/27/09
Page Two

The project requires the partial acquisition of real property rights (road right-of-way and easements) from approximately 15 commercial properties, including the full acquisition of 1 multi-family residential property containing 3 units.

FINANCIAL IMPLICATIONS: A portion of funds budgeted for the Project will be used for acquisition and relocation.

PROPOSED MOTION: Move that Council pass and adopt Resolution No. 4335 Authorizing and approving the acquisition of real property needed for the Arizona Avenue Bus Rapid Transit Stations, Project No. ST-0668; authorizing and approving such relocation assistance as may be required by law and directing further action.

Attachments: Resolution 4335
Location/Site Map



**ACQUISITION OF
ARIZONA AVENUE BUS RAPID TRANSIT STATIONS
PROJECT NO. ST-0668**

MEMO NO. RE10-046

RESOLUTION NO. 4335



! PROPOSED BRT STATIONS



NTS
Chen GIS

RESOLUTION NO. 4335

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, DETERMINING THAT ACQUISITION OF REAL PROPERTY NEEDED FOR THE ARIZONA AVENUE BUS RAPID TRANSIT STATIONS PROJECT NO. ST-0668 IS A MATTER OF PUBLIC NECESSITY; AUTHORIZING RELOCATION ASSISTANCE AS MAY BE REQUIRED BY LAW AND DIRECTING FURTHER ACTION.

WHEREAS, the City of Chandler will be entering into an Intergovernmental Agreement (the "Agreement") with the Regional Public Transit Authority ("RPTA") to build the Arizona Avenue Bus Rapid Transit Stations Project No. ST-0668 (the "Project"); and

WHEREAS, in order to allow the Project to proceed and be constructed in accordance with its schedule, the City of Chandler needs to acquire certain real property as rights-of-way in fee and easements from private property that is adjacent to, or related to the Project; and

WHEREAS, the parcels of private property affected are listed by apparent tax parcel numbers in attached Exhibit "A" and the right-of-way and easements to be acquired are depicted in the map attached as Exhibit "B", both exhibits being incorporated herein by reference.

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 construction of the Arizona Avenue Bus Rapid Transit Stations Project No. ST-0668 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. For each parcel of real property to be acquired for the Project, the Real Estate Manager, or any person acting under the Manager's direction or on the Manager'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 Manager, 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, then City staff shall request authority from the Chandler City Council to approve such a settlement; or

b. Such an administrative settlement is not possible, then City staff shall request authority from the Chandler City Council to commence condemnation (eminent domain) proceedings to acquire, in the name of the City of Chandler, 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 and through its Real Estate Manager or persons acting under the Manager's direction or on the Manager's behalf 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 _____, 2009.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4335 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

APPROVE AS TO FORM



CITY ATTORNEY

EXHIBIT "A"
ARIZONA AVENUE BRT
PARCEL NUMBERS

303-33-009A and B - SEC AZ/Germann

303-28-017C – NEC AZ/Germann

303-28-030D – N NEC AZ/Germann (r/w 33' not 55')

303-17-002 – NEC AZ/Pecos (Pecos Lounge)

303-17-004 – N of NEC AZ/Pecos (auto body shop)

303-27-024Q – SB AZ/Pecos 202 Loop

302-62-041B – Full acquisition 3 residential rental units on C-3 land

302-62-037 – Commercial N of triplex – may need small TCE

302-40-004R – NEC Arizona/Ray

302-56-034A and 027B SWC Arizona/Ray (McDonalds)

302-56-026B – S of SWC AZ/Ray (motel)

302-29-010L – NEC AZ/Warner

302-41-311A – SWC AZ/Warner

302-24-421A – NEC AZ/Elliot

302-26-005L – SWC AZ/Elliot



ACQUISITION OF ARIZONA AVENUE BUS RAPID TRANSIT STATIONS PROJECT NO. ST-0668

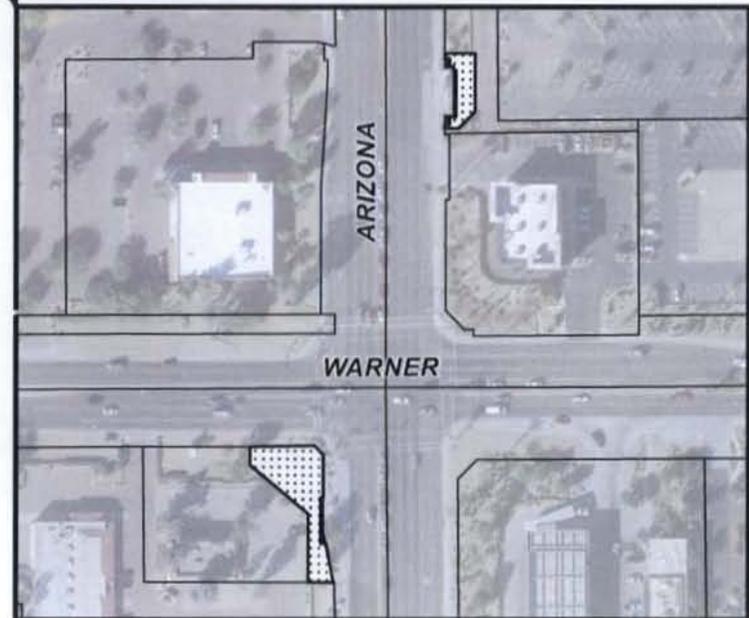


MEMO NO. RE10-046

RESOLUTION NO. 4335

SHEET 1 OF 2

-  RIGHT OF WAY
-  TEMPORARY CONSTRUCTION EASEMENT





ACQUISITION OF ARIZONA AVENUE BUS RAPID TRANSIT STATIONS PROJECT NO. ST-0668



MEMO NO. RE10-046

RESOLUTION NO. 4335

SHEET 2 OF 2

- FULL ACQUISITION
- RIGHT OF WAY
- TEMPORARY CONSTRUCTION EASEMENT

