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OCT 22 2009



Chandler · Arizona
Where Values Make The Difference

MEMORANDUM

Real Estate Council Memo No. RE10-075

DATE: OCTOBER 22, 2009

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
R. J. ZEDER, PUBLIC WORKS DIRECTOR
DANIEL W. COOK, DEPUTY PUBLIC WORKS DIRECTOR
SHEINA HUGHES, ASSISTANT PUBLIC WORKS DIRECTOR
CITY ENGINEER

FROM: ERICH KUNTZE, REAL ESTATE MANAGER

SUBJECT: RESOLUTION NO. 4343 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING CONDEMNATION PROCEEDINGS AS NEEDED TO ACQUIRE CERTAIN REAL PROPERTY REQUIRED FOR THE 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. 4343 authorizing condemnation proceedings as needed to acquire certain real property required for the Alma School Road and Ray Road Intersection Improvements Project No. ST-0704, and to obtain immediate possession thereof.

BACKGROUND/DISCUSSION: At its February 28, 2008 meeting, Council approved the alignment for the Alma School Road and Ray Road Intersection Improvements. At its May 22, 2008 meeting, Council approved Resolution No. 4135 authorizing the acquisition of the real property needed for the project and approving relocation assistance as may be required by law. Subsequently, the City has acquired two residential properties and relocated both families. In addition, the City acquired 3 commercial properties and has relocated 6 of the 8 businesses. Relocation is being completed for the last business at this time. At its March 12, 2009 meeting Council approved Resolution 4248 authorizing the use of eminent domain proceedings to acquire the commercial property located at 1029 N. Arizona Avenue (the Trails Store).

RE10-075 ek

Resolution No. 4343
October 22, 2009
Page 2

Shortly afterwards the Staff was able to reach a settlement with the property owner and Council approved the acquisition at its May 28, 2009 meeting. The property has been acquired and Staff is working to relocate the tenant.

The project requires the acquisition of portions of approximately 32 additional parcels from approximately 24 owners. One additional parcel has approximately 41 owners, each having a small percentage. There is a possibility that the City may be able to obtain additional stimulus funds that could be used to pay for a significant portion of this project. However, in order to have a chance to do so, the acquisition of the right-of-way must be accelerated and acquired prior to the end of January 2010. In order to meet this deadline, the use eminent domain proceedings will be required.

Construction is scheduled to begin in early 2011. Staff does not plan to change this date even if stimulus funds are received.

FINANCIAL IMPLICATIONS:

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

PROPOSED MOTION: Staff recommends that Council pass and adopt Resolution No. 4343 authorizing condemnation proceedings as needed to acquire certain real property required for the Alma School Road and Ray Road Intersection Improvements Project No. ST-0704, and to obtain immediate possession thereof.

Attachments: Resolution No. 4343
Location/Site Map

RESOLUTION NO. 4343

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING CONDEMNATION PROCEEDINGS AS NEEDED TO ACQUIRE CERTAIN REAL PROPERTY REQUIRED 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 Improvements 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, 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 owners 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 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 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. It is hereby determined that the acquisition of real property needed for the construction of the Alma School Road and Ray Road Intersection Improvements Project No. ST-0704, and the securing of immediate possession of such real property, 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 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 constructing the Alma School Road and Ray Road Intersection Improvement Project ST-0704, 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.

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. 4343 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

GAB

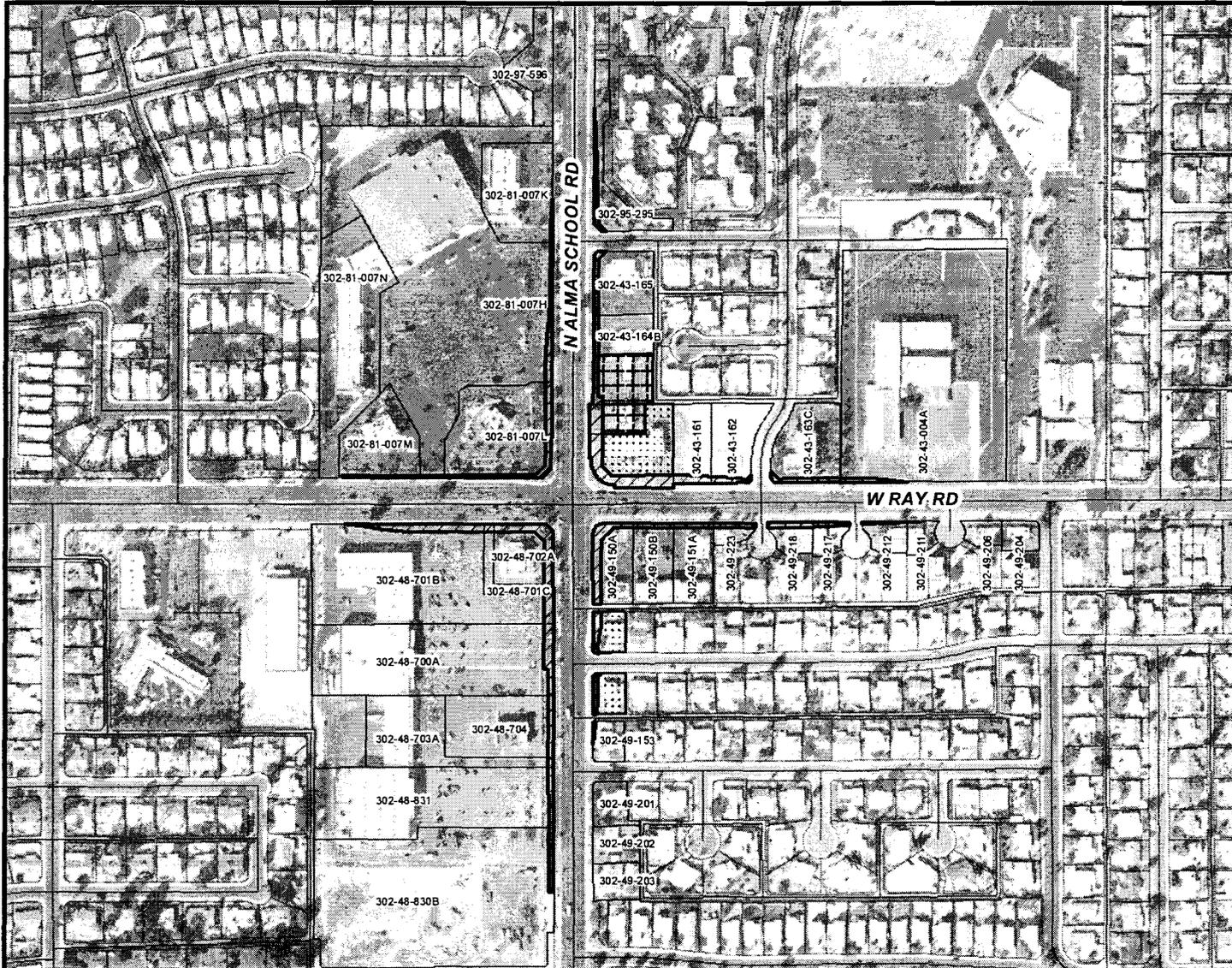
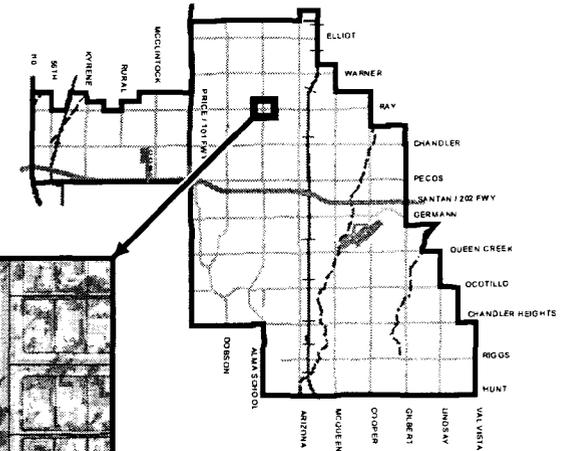
EXHIBIT "A"
PARCEL LIST

Assessor's Parcel Numbers

302-43-004A & 163A
302-43-161 & 162
302-43-164B
302-43-165
302-48-700A & 701C
302-48-701B
302-48-702A
302-48-703A
302-48-704
302-48-830B
302-48-831
302-49-150A, B & 151A
302-49-153
302-49-201
302-49-204
302-49-206
302-49-211
302-49-212 & 218
302-49-217
302-49-223
302-81-007H
302-81-007L
302-81-007M, N, and K
302-95-295
302-97-596



RIGHT-OF-WAY ACQUISITION APPROVAL ALMA SCHOOL ROAD/ RAY ROAD INTERSECTION IMPROVEMENTS



MEMO NO. RE10-075

RESOLUTION NO. 4343

LEGEND

-  POTENTIAL FULL RWACQUISITION
-  FULL RWACQUISITION
-  RW ACQUISITION REQUIREMENTS
-  STREET CENTERLINE

