



Legislation Details (With Text)

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File created:	11/10/2016	In control:	City Council		
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Title:	AUTHORIZATION TO ENTER INTO A SETTLEMENT AGREEMENT WITH THE ARIZONA SPORTS AND TOURISM AUTHORITY, THE ARIZONA CARDINALS FOOTBALL CLUB LLC, THE NEW CARDINALS STADIUM LLC, AND THE STADIUM DEVELOPMENT LLC AND APPROVE A GENERAL FUND CONTINGENCY REQUEST Staff Contact: Kevin R. Phelps, City Manager Staff Contact: Michael D. Bailey, City Attorney				

Sponsors:

Indexes:

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Attachments: 1. Final Settlement Agreement 11102016

Date	Ver.	Action By	Action	Result
11/14/2016	1	City Council	approved	Pass

AUTHORIZATION TO ENTER INTO A SETTLEMENT AGREEMENT WITH THE ARIZONA SPORTS AND TOURISM AUTHORITY, THE ARIZONA CARDINALS FOOTBALL CLUB LLC, THE NEW CARDINALS STADIUM LLC, AND THE STADIUM DEVELOPMENT LLC AND APPROVE A GENERAL FUND CONTINGENCY REQUEST

Staff Contact: Kevin R. Phelps, City Manager

Staff Contact: Michael D. Bailey, City Attorney

Purpose and Recommended Action

This is a request for City Council to authorize and direct the City Manager to enter into a Settlement Agreement (the "Agreement") between the City, the Arizona Sports and Tourism Authority, the Arizona Cardinals Football Club LLC, the New Cardinals Stadium LLC, and the Stadium Development LLC.

In accordance with the Agreement, it is requested that the City Council authorize the City Manager to sign the Agreement and to make the payment to the a) Arizona Sports and Tourism Authority (AZSTA) and b) the Arizona Cardinals Football Club LLC, the New Cardinals Stadium LLC, and the Stadium Development LLC (collectively referred to as the "Cardinals") in a settlement amount not to exceed Fourteen Million Eight Hundred Seventy-Five Thousand Dollars (\$14,875,000.00). A total of five payments are scheduled to be made through July 1, 2020. The City may exercise its right to reduce the settlement amount to Fourteen Million One Hundred Thousand Dollars (\$14,100,000.00) if the final scheduled payment is made prior to July 1, 2019.

This is also a request for City Council approval for a budget appropriation transfer from General Fund, Contingency (1000-11901-510200) to General Fund, Non-Departmental, Professional and Contractual (1000-11801-518200) in the amount of Three Million Dollars \$3,000,000.00 which represents the amount due in the current fiscal year under the agreement.

Background

Since the inception of a May 27th, 2003, Parking License and Agreement, the City has been required to make parking available to serve the University of Phoenix Stadium ("Stadium"). On May 2, 2012, a notice of claim for breach of contract was filed by AZSTA and the Cardinals in the amount of \$66.7 million for the City's failure to provide adequate assurance for Stadium parking.

On October 13, 2015, the City acquired approximately 96 acres of property for parking around the Stadium. It was anticipated that the property would assist in the settlement of the claim.

Subsequently, AZSTA, the Cardinals, and the City agreed to enter into good faith discussions with the mutual goal of a) resolving the claim.

Analysis

With the goal of resolving the current claim surrounding the Stadium, the proposed agreement attempts to "settle, resolve, and put behind them any and all controversies, claims, actions, disputes, and matters, whether known or unknown, that the Parties have or may have against each other, relating to, arising out of, or connected with the Notice of Claim or the subject matter thereof and, in connection therewith, to amend, modify and supersede the Existing Parking Agreements (as defined below) to the extent provided in this Settlement Agreement." Generally, the terms of the agreement outline the following:

- Settles the \$66.7 million claim
- Assures parking for the Stadium
- Assures access from parking to the stadium which addresses the changing load configuration
- Assures the efficient ingress and egress to/from the Stadium
- Assures the 95th Avenue infrastructure improvements are constructed which completes 95th Avenue from Bethany Home Road through Camelback Road.
- Assures a land exchange to facilitate the 95th Avenue infrastructure improvements

The total settlement amount is not to exceed Fourteen Million Eight Hundred Seventy-Five Thousand Dollars (\$14,875,000.00). A total of five payments are scheduled to be made through July 1, 2020. The City may exercise its right to reduce the settlement amount to Fourteen Million One Hundred Thousand Dollars (\$14,100,000.00) if the final scheduled payment is made prior to July 1, 2019. A summary of the settlement payments follows:

- November 17, 2016 (Three Business Days After the Settlement Effective Date) - \$3,000,000.00;
- July 3, 2017 (FY17-18) - \$3,000,000.00;
- July 2, 2018 (FY18-19) - \$3,000,000.00;
- July 1, 2019 (FY19-20) - \$3,000,000.00;
- July 1, 2020 (FY20-21) - \$2,875,000.00 - If this final schedule payment is made prior to July 1, 2019, it will total \$2,100,000.00.

As the 95th Avenue Infrastructure project is not budgeted, staff will seek Council approval in a subsequent Council Voting Meeting for the funding source and staff will seek Council approval for a budget appropriation transfer related to the project.

Community Benefit/Public Involvement

This agreement settles the \$66.7 million claim and resolves the issues surrounding the claim.

Budget and Financial Impacts

Staff is seeking City Council approval for a budget appropriation transfer from General Fund, Contingency (1000-11901-510200) to General Fund, Non-Departmental, Professional and Contractual (1000-11801-518200) in the amount of Three Million Dollars \$3,000,000.00 which represents the amount due in the current fiscal year under the agreement. Requests for subsequent fiscal year payments under this settlement will be made through the annual budget process.

Cost	Fund-Department-Account
\$3,000,000	General Fund, Non-Departmental, Professional and Contractual (1000-11801-518200)

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? Yes