



Item: Release Agreement – Marathon Oil, et al vs. City, et al.

From: David V. Gliko, City Attorney

Initiated By: David V. Gliko, City Attorney

Presented By: David V. Gliko, City Attorney

Action Requested: Approve the Release and authorize the City Manager to execute the Release

Suggested Motion:

1. Commissioner moves:

“I move the City Commission (approve/deny) the Release Agreement and (authorize/deny authorization) the City Manager to execute the same”

2. Mayor calls for a second, discussion, public participation, and calls for vote.

Staff Recommendation: Pursuant to a Court ordered Settlement Conference attended by all parties in April, 2008, Third Party Plaintiff, Marathon Oil, dismissed all claims against the City without compensation of any alleged damages and therefore, it is recommended the City Commission approve the release.

Background: Plaintiff property owners in the vicinity of 1700, 10th Avenue South filed legal action alleging petroleum contamination of ground water and soil originating from Keith’s Country Store. Marathon Oil filed a third party complaint against the City alleging the contamination resulted, in part, by transmission through the City’s sewer lines. However, expert analysis disclosed the sewer lines are under pressure and could not possibly be a conduit for petroleum seepage and transmission. Therefore, the City was able to successfully deny the claim and be dismissed out of the legal action without any compensation for alleged damages. The Release Agreement provides a mutual release by all parties.

Concurrences: City Manager concurs in the release.

Fiscal Impact: No payment of damages by the City.

Alternatives: The City could deny authorizing the release and may thereby suffer further legal action on breach of settlement claims by the other parties.